

September 8, 2009

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council
Agenda

Tuesday, September 8, 2009, 7:00 PM

1. Call to Order
2. Pledge of Allegiance
3. Personal Appeals, Part I
4. Community Minute
5. Special Presentations
6. Reading of Minutes

August 17, 2009

7. Decision on Bids
8. Communications
 - a. Diane Davison, President, No Kill Lehigh Valley – Lehigh County Humane Society’s funding.
 - b. Don Marron, St. Ann’s Church Fall Fest Chair – Fall Fest requests.
 - c. Judith C. Lieberman, 333 Ridge Street – Miscellaneous concerns.
 - d. RCN TV – 2009 Concert in the Park Schedule.
 - e. Kathleen Haney, Shops of Emmaus – Permission for sign on Triangle.
 - f. Phil Arnold, Seven Generations Charter School – Field usage fee waiver.
 - g. Kathleen Mintzer – Emmaus Halloween Committee – Halloween Parade and Trick-or-Treat Night.
 - h. Vickie Gruver, 672 Chestnut Street – Snow Plowing Railroad and Bank Streets.
 - i. Teri J. Madison, Emmaus Main Street Program – “No Pets Allowed” on Triangle.
 - j. Gene Clock, Emmaus Main Street Program – Release of funds.
9. Borough Engineer’s Report
10. Solicitor’s Report
11. Unfinished Business, Part I
12. New Business

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13. Unfinished Business, Part II

- a. **Ordinance No. 1056 – An Ordinance Amending Chapter 15, Sections 403 and 404(a), Abandoning No Parking Zone and Establishing Restricted Parking Zones and Bus Parking Zones on School Days Along East Minor Street Associated with the Seven Generations Charter School.**

14. Items Not on Agenda, Subject to Rule 9

15. Mayor's Report

16. Committee Reports

Public Works/(Highway, Water & Sewer) (Labenberg, Waddell, Brown)

Next Meeting – September 9, 2009 at 8:00 a.m.

1. Committee
 - a. I & I Elimination Report
 - b. Sidewalk Repairs

2. Solicitor

Health and Sanitation (Reinhard, Labenberg, Holtzhafer)

Next Meeting – September 10, 2009 at 3:30 p.m.

1. Committee
 - a. **Refuse and Recycling Bid Specifications**
 - b. **Ordinance No. 1057 – An Ordinance Amending Chapter 20 of the Borough's Code of Ordinances Adopting Amendments to the Borough's Solid Waste Disposal Ordinance, Governing the Collection, Transportation, and Disposal of Solid Waste Generated in the Borough of Emmaus**
 - c. Conservation

2. Solicitor

Parks and Recreation (Barrett, Labenberg, Holtzhafer)

Next Meeting – October 6, 2009 at 3:30 p.m.

1. Committee
 - a. Ice Rink/Skate Park
 - b. Raven Mill Trail Project (Trail Name)
 - c. Meadow Pool
 - d. Geese at Furnace Dam
 - e. **Seven Generations Field Use Request/Fee Waiver**

2. Solicitor

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Public Safety (Gilbert, Barrett, Brown)

Next Meeting – September 10, 2009 at 9:00 a.m.

1. Committee
 - a. Trailer Truck Parking
 - b. Tractor Trailer Unloading
 - c. Seven Generations Charter School Parking Restriction Recommendations

2. Solicitor

General Administration (Waddell, Gilbert, Barrett)

Next Meeting – September 9, 2009 at 9:00 a.m.

1. Committee
 - a. Historical Sites and Park Ordinance
 - b. Email for Council People
 - c. A-Frame Signs/Sign Ordinance

2. Solicitor

Budget and Finance (Holtzhafer, Gilbert, Reinhard)

Next Meeting – September 21, 2009 at 6:45 p.m.

1. Committee
 - a. **Bill List – Resolution 2009-27**
 - b. Historical Financial Research Project
 - c. Policy for Use of Tax ID Number
 - d. 2009 Celebration - Overtime

2. Solicitor

Community Relations/Development (Brown, Waddell, Reinhard)

Next Meeting – September 23, 2009 at 4:00 p.m.

1. Committee
 - a. South Side Master Plan
 - b. Downtown Master Plan – Parking Deck, VFW, David’s Electric
 - c. Triangle Project Expansion

2. Solicitor

Ad Hoc Committees (Holtzhafer, Gilbert, Barrett, Neely, Mayor Iobst)

Next Meeting – To be scheduled.

Community/School Relations

- a. Junior Council Member Draft Resolution Review and Application

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17. Personal Appeals, Part II

18. Borough Manager's Report
 - a. **Significant Revenue and Expense Items for August 2009**
 - b. **Resolution 2009 – 25 – Lehigh County Tax Collection Representative**
 - c. **Resolution 2009 – 26 – 618 Furnace Street Planning Module**
 - d. **Metered Parking Ordinance**

19. President's Business

20. Adjournment

Next Resolution #28
Next Ordinance #1058

The Emmaus Borough Council met in regular session on September 8, 2009 in Borough Council Chambers, 28 S. 4th Street, Emmaus, PA 18049.

CALL TO ORDER

Council Vice President Gilbert called the meeting to order at 7:00 p.m.

Michael Waddell, President	Absent
Lee Ann Gilbert, Vice President	Present
Brent Labenberg	Present
Wesley Barrett	Present
Nathan Brown	Present
Brian Holtzhafer	Present
R. Erick Reinhard	Present
Winfield Iobst, Mayor	Present
Frank Procyk, Solicitor	Present
Craig Neely, Borough Manager	Present

PERSONAL APPEALS, PART I

a. **Otto Slozer, 121 E. Elm St**, congratulated the Borough on the success of the 2009 Anniversary Celebration Weekend. He raised concerns about receiving a letter from the National Rifle Association stating that Mayor Iobst joined a national anti-gun group, "Mayors Against Illegal Guns."

Mayor Iobst replied that he was misled by the representative from the group and advised that he will be dropping his membership.

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Mr. Slozer thanked Mr. Neely for mailing him a copy of the contract between the Borough and Aqua Duck. He questioned the amount of water that Aqua Duck is using to fill swimming pools. In particular, he stated that on September 3 they picked up 14 loads of water. He stated that the water truck was followed and was being evasive. He questioned whether the Borough verifies the amount of water that is being picked up by Aqua Duck.

b. Anthony Groller, 1302 S. 10th St, stated that he feels that the Borough taxpayers are paying for non-residents to participate in the Soap Box Derby. He asked Mr. Labenberg how many man-hours were used by the Public Works Department for set-up and cleanup for the event. He asked Mr. Holtzhafer how the Borough funds the Derby. He asked Mr. Barrett how much profit the event makes. Mr. Labenberg stated that the Soap Box Derby gives a donation to the Borough after the event. Mr. Neely stated that a part-time summer park employee, who is already scheduled to work that day, will help with set-up and cleanup for the event. He also stated that the Derby has given a \$300.00 donation in the past, which exceeds the cost of the man-hours.

c. Josephine Sadrovitz, 130 N. 4th St, commented on how wonderful the past weekend's Hymn Sing was and thanked Pastor Coutts from the Emmanuel Assembly of God Church for a \$150.00 donation to the Borough.

d. Frank Sadrovitz, 130 N. 4th St, questioned what happened to the trees on Broad Street between 7th and 10th Streets, down from the Air Products building. He believes that they were sprayed and now they look like they are dying. Referred to the Shade Tree Commission.

e. Teryl Madison, Emmaus Main Street Program, stated that a letter was mailed out to over 600 businesses in the Borough about a meeting to be held on Wednesday, September 9, 2009 at 6:00 p.m. at the Clock Building to discuss plans for future community events.

COMMUNITY MINUTE

Mrs. Gilbert reminded everyone that school has started and to be mindful of students walking to and from school. Mr. Brown reminded everyone that there are still souvenirs available at Town Hall for the 2009 Anniversary Celebration.

SPECIAL PRESENTATIONS – None.

READING OF MINUTES

Motion by Mr. Barrett, seconded by Mr. Labenberg to dispense with the formal reading of the August 17, 2009 Minutes. There were 6 ayes. Motion carried.

Motion by Mr. Labenberg, seconded by Mr. Reinhard to adopt the August 17, 2009 Minutes as drafted. There were 5 ayes, 1 abstention (Mr. Brown). Motion carried.

DECISION ON BIDS – None.

COMMUNICATIONS

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- a. Diane Davison, President, No Kill Lehigh Valley – Lehigh County Humane Society’s funding. Mr. Neely reported that the issue will be monitored.
- b. Don Marron, St. Ann’s Church Fall Fest Chair – Fall Fest requests. Referred to staff.
- c. Judith Lieberman, 333 Ridge Street – Miscellaneous concerns. Dr. Waddell contacted Mrs. Lieberman about her issues.
- d. RCN TV – 2009 Concert in the Park Schedule. Mr. Neely understood from Josephine Sadrovitz that RCN’s taping of the concert at Emmaus Community Park went very well and that no solicitation occurred.
- e. Kathleen Haney, Shops of Emmaus – Permission for sign on Triangle for “Just Say ‘Yes’ to Scarecrows” event.

Motion by Mr. Labenberg, seconded by Mr. Barrett to grant permission to the Shops of Emmaus to place a 24”x36” sign on the Triangle for the “Just Say ‘Yes’ to Scarecrows” event. There were 6 ayes. Motion carried.

- f. Phil Arnold, Seven Generations Charter School – Field usage fee waiver for Klines Lane multi-purpose field.

Mr. Neely reported that the Seven Generations Charter School is requesting that the field usage fee be waived at the Klines Lane Athletic Fields for the schools use of the fields for recess.

Motion by Mr. Barrett, seconded by Mr. Labenberg to waive the field usage fee for the Seven Generations Charter School’s use of the Klines Lane athletic fields until December 31, 2009.

Mr. Labenberg suggested that the motion needs to be amended to require that the School provide a Certificate of Insurance.

Motion amended by Mr. Barrett and Mr. Labenberg to include that the Seven Generations Charter School provide evidence of insurance coverage. There were 6 ayes. Motion carried.

Mr. Arnold, who is the Director of Organizational Development for the Seven Generations Charter School, stated that the School is community-oriented and is planning a community event on Saturday, September 19, when it has a scheduled clean-up day at Emmaus Community Park. He stated that the School will help the community in any way that it can.

- g. Kathleen Mintzer-Emmaus Halloween Committee – Halloween Parade and Trick-or-Treat Night.

Motion by Mr. Barrett, seconded by Mr. Brown to reschedule the Monday, October 19, 2009 Council Meeting to Tuesday, October 20, 2009 due to the possibility of

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a rain date for the Emmaus Halloween Parade. There were 4 ayes, 2 opposed (Mr. Labenberg, Mr. Holtzhafer). Motion carried.

h. Vicki Gruver, 672 Chestnut St. - Snow Plowing Railroad and Bank Streets. Referred to the Public Works Committee.

i. Teryl Madison, Emmaus Main Street Program – “No Pets Allowed” on Triangle. Mr. Neely stated that the Emmaus Main Street Program is asking for “No Pets Allowed” relief from Borough Council for the Lehigh German Shepherd Dog Club and the First State Greyhound Rescue Club to participate in events on the Triangle for Heritage Days on Saturday, September 12, 2009.

Motion by Mr. Labenberg, seconded by Mr. Brown to waive the “No Pets Allowed” rule on the Triangle on September 12, 2009, between 9:00 a.m. until 8:00 p.m. for the Lehigh German Shepherd Dog Club and the First State Greyhound Rescue Club. There were 5 ayes, 1 opposed (Mr. Holtzhafer). Motion carried.

j. Gene Clock, Emmaus Main Street Program – Request for Release of Funds. Referred to Budget and Finance Committee.

k. Teri Sorg-McManamon – Main Street Program Community Survey. Referred to Community Relations/Development Committee.

l. David Biles, Evergreen St – Request for 25mph speed limit sign on Evergreen Street – referred to Public Safety Committee.

BOROUGH ENGINEER’S REPORT – None.

SOLICITOR’S REPORT – None.

UNFINISHED BUSINESS, PART I – None.

NEW BUSINESS – None.

UNFINISHED BUSINESS, PART II – None.

ITEMS NOT ON AGENDA, subject to Rule 9 – None.

MAYOR’S REPORT

Mayor Iobst reported that he received parking complaints about the Seven Generations Charter School and that he has made the Emmaus Police aware of them. He also reported that the yellow lines need to be painted at the Post Office by the mailbox on Ridge Street. He stated that he will discuss it at the upcoming Public Safety Committee Meeting.

Progress.

COMMITTEE REPORTS

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a. Public Works Committee

Mr. Labenberg reported that the next meeting will be on September 9, 2009 at 8:00 a.m. The Committee will be reviewing updating the employee rules and regulations.

Progress.

b. Health, Sanitation, and Conservation Committee

Mr. Reinhard reported that the Refuse and Recycling Bid Specifications are completed and that the Committee report will include the differences between the Specifications and prior Bid Specifications.

Mr. Neely stated that he drafted a Memorandum dated September 8, 2009 in regards to whether to include Christmas trees and yard waste pickup in the Bid Specifications. He stated that in 2004 Christmas trees and yard waste were included in the Bid Specifications and in the Bid Form as deductions for each of the items. The deductions were subtracted off the Bid, which left the final contract price. The Committee voted 2-1 to not include Christmas trees and yard waste pickup in the Bid Specifications. Attached to the Memorandum is yard waste and Christmas tree language that could be used if Council decides to include these items in the Bid Specifications.

Mr. Labenberg stated that he opposed Christmas tree and yard waste pickup because the prices charged by the refuse hauling companies who responded to the previous bid were too high. He stated that the Public Works Department can handle the tree and yard waste pickup for much less money. He wants to keep the process as simple as possible.

Mr. Holtzhafer stated that he also opposes including Christmas tree and yard waste pickup as part of the Bid Specifications because the Public Works Department offers the residents a valuable service by picking up the trees and the yard waste.

Mr. Reinhard stated that he is in favor of the Christmas tree and yard waste pickup being included because it allows the Borough to approximate the value of the Public Works Department's services. He also stated that he feels it would offer the most flexibility in awarding the contract. Mr. Neely reported that the Public Works Director agrees with Mr. Reinhard and feels that Christmas trees and yard waste pickup should be included in the Bid Specifications.

Motion by Mr. Labenberg, seconded by Mr. Holtzhafer to leave Christmas Trees and yard waste pickup out of the 2009 Bid Specifications for refuse and recycling. There were 4 ayes, 2 opposed (Mr. Reinhard, Mr. Barrett). Motion carried.

Mr. Neely explained that the Bid Specifications, the proposed contract, and the bid forms are integrated with Ordinance No. 1057, which makes substantial changes in how the Borough manages refuse and recycling collection. Historically, businesses have been charged a double refuse fee, which Mr. Neely explained could be replaced with a business privilege tax. He also stated that the Borough has determined that it is in its best interest to adopt a policy of "single stream recycling." All recyclables will be placed by residential and

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commercial entities into a single, approved container. Mr. Labenberg read the list of “approved recyclables” for the contract, which will be included in the Solid Waste Ordinance.

Motion by Mr. Labenberg, seconded by Mr. Reinhard to approve the 2009 Refuse and Recycling Collection Disposal and Marketing Request for Bids. There were 6 ayes. Motion carried.

Motion by Mr. Reinhard, seconded by Mr. Labenberg to read Ordinance No. 1057 in short title on its 1st Reading. There were 6 ayes. Motion carried.

Mr. Reinhard read Ordinance No. 1057 – An Ordinance Amending Chapter 20, Solid Waste, of the Code of Ordinances of the Borough of Emmaus to Provide for Changes Regarding Refuse and Recycling Rates, Collection, and Administrative Responsibilities.

Mr. Neely noted that the Ordinance should have an effective date of January 1, 2010.

Motion by Mr. Holtzhafer, seconded by Mr. Labenberg to adopt Ordinance No. 1057 on its 1st Reading. Roll Call Vote: Mr. Brown, aye, Mr. Reinhard, aye, Mr. Barrett, aye, Mr. Holtzhafer, aye, Mr. Labenberg, nay, Mrs. Gilbert, aye. Motion carried.

Mr. Labenberg stated that he does not agree with the provision that the owner or possessor of a dwelling unit that is used as a Home Office or a Home Occupation should be assessed 1 ¼% of an Annual Assessment for refuse services at the owned or possessed property. He stated that a home business should be paying for the garbage that is being placed out for collection.

Mr. Reinhard is in favor of the assessment because with a home based occupation, two entities function out of the single dwelling, the residence and the business. The business receives a tax advantage and he views it as a fair and equitable way for the home and business to receive refuse service.

Mr. Brown stated that historically there was a double refuse fee, and the 1 ¼% would be much less and would be a benefit to the business.

Mr. Holtzhafer stated that a home occupation or home business may not have to pay a business tax. He stated that a home occupation will typically produce more garbage than a resident and agrees with the 1 ¼% annual assessment.

Mr. Reinhard reported that he attended the last Environment Advisory Council Meeting as the Committee representative.

The next Committee meeting will be on September 10, 2009 at 3:30 p.m. and the next Board of Health Meeting will be on September 17, 2009 at 7:00 p.m.

Progress.

c. Parks and Recreation Committee

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Mr. Barrett reported that the Committee met on September 1, 2009 at 3:30 p.m.

Progress.

d. Public Safety Committee

The next meeting will be on September 10, 2009 at 9:00 a.m.

Progress.

e. General Administration Committee – No report.

Progress.

f. Budget and Finance Committee

Mr. Holtzhafer read Resolution 2009-27, authorizing payment of the September 8, 2009 Bill List as follows:

Bill List	\$ 245,361.75
Payroll #16	\$ 119,519.24
Payroll Taxes	<u>\$ 36,189.42</u>
Total	\$ 401,070.41

Done this 8th of September, 2009.

Motion by Mr. Holtzhafer, seconded by Mr. Reinhard to adopt the September 8, 2009 Bill List. There were 6 ayes. Motion carried.

Mr. Holtzhafer reported that the next Committee Meeting will be on September 24, 2009 at 3:30 p.m. The Committee will discuss the Business Privilege Tax, the Per Capita Tax, and the 2010 Budget.

Progress.

g. Community Relations/Development Committee

Mr. Brown reported that the Seven Generations Charter School is open, where he completed a site visit on Monday.

Mr. Brown reported that if the 2009 Anniversary Committee sells all of its souvenirs, it will have a profit of approximately \$7,000. He conversed with Dr. Whitcomb, Anniversary Committee Treasurer, who feels that almost three quarters of the profit could be applied to reimburse the Borough for expenses related to the Anniversary Celebration.

He thanked Weis Markets for its contribution toward the 2009 Anniversary Celebration. He stated that he will be attending Schuylkill Haven's Borough Appreciation Day on September 26, 2009. He also stated that he will be attending the "Let's Keep the Momentum Going" Meeting on September 9, 2009 at the Clock Building.

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The next Committee Meeting will be on September 23, 2009 at 4:00 p.m. The Committee will be reviewing the Southside Master Plan.

Progress.

- h. Ad Hoc Committee – Community/School Relations - None.

Progress.

PERSONAL APPEALS, PART II

- a. **Otto Slozer, 121 E. Elm St**, thanked Mayor Iobst for his response to his previous personal appeal.
- b. **Chris DeFrain, 181 Harrison St**, asked for an explanation of the Business Privilege Tax. He is concerned that the Borough will be penalizing Emmaus businesses. He is also concerned over the 1 ¼% Refuse Assessment for home-based businesses.

Mr. Neely explained that the Business Privilege Tax will be based on a flat fee and offered to send Mr. DeFrain a copy of the Memorandum that he wrote to Council concerning the issues.

- c. **Gene Clock, President, Emmaus Main Street Program** – asked for clarification on the refuse pick-up days for downtown under the Bid Specifications. Mr. Neely stated that refuse pick-up days for Chestnut and Main Streets will be Tuesday and Friday mornings.

BOROUGH MANAGER'S REPORT

Mr. Neely noted the Significant Revenue and Expense Items for August 2009.

Motion by Mr. Reinhard, seconded by Mr. Barrett to adopt Resolution 2009-25 – A Resolution Appointing the Borough Manager as the Representative and the Borough Treasurer as the Alternate Representative to the Lehigh County Tax Collection Committee. There were 6 ayes. Motion carried.

Mr. Neely reviewed a new requirement of the Pennsylvania Department of Environmental Protection to submit a Resolution for every subdivision or other action that requires a Planning Module. He advised Council that a Planning Module is a document that confirms that a proposed development will have sanitary sewerage service that does not negatively impact the environment.

Motion by Mr. Barrett, seconded by Mr. Reinhard to adopt Resolution 2009-26, A Resolution for Plan Revision for New Land Development for the 618 Furnace Street Subdivision. There were 6 ayes. Motion carried.

Mr. Barrett questioned if there are any changes to the actual subdivision requirements. Mr. Labenberg asked who is requiring the Resolution. Mr. Neely stated that the Planning

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Module was always required. Previously, the Borough Engineer approved the Planning Module without Council's review. The state is requiring the Resolution.

Mr. Neely suggested repealing the Parking Meter Ordinance since the Borough has no parking meters.

Motion by Mr. Labenberg, seconded by Mr. Reinhard to direct the Solicitor to draft an ordinance repealing the Metered Parking Ordinance in its entirety. There were 5 ayes, 1 opposed (Mr. Barrett).

Mr. Barrett questioned repealing the Metered Parking Ordinance because the Borough could utilize meters for parking in the future. Mr. Labenberg stated that a new ordinance would have to be adopted, since, among other things, the rate charged for parking will have increased significantly.

Progress.

PRESIDENT'S BUSINESS - No report.

ADJOURNMENT

Motion by Mr. Holtzhafer, seconded by Mr. Reinhard to adjourn. There were 6 ayes. Motion carried.

The meeting of the Emmaus Borough Council adjourned at 8:31 p.m.

Craig B. Neely
Borough Manager

Transcribed by: Paula Weiant
Administrative Assistant
September 9, 2009