

December 29, 2008

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council
Agenda
Monday, December 29, 2008 7:00 PM

1. Call to Order
2. Pledge of Allegiance
3. Personal Appeals, Part I
4. Reading of Minutes

December 15, 2008
5. Decision on Bids
6. Communications
 - a. John J. Zettlemoyer, Jr., Esq., 53 N. Third St. – Request Reappointment to the Emmaus General Authority
 - b. James Woodeshick, 108 Seem St. – Letter of Resignation as Weed/Snow Enforcement Officer
 - c. Renea Flexer – Letter of Resignation as Administrative Assistant
7. Borough Engineer's Report
8. Solicitor's Report
 - a. Ordinance No. 1044 – An Ordinance Approving the Agreement for the Exchange and Trade of Certain Real Estate Between Raven R. Mill and Mary M. Mill and the Borough of Emmaus (2nd Reading Awaiting Raven Mill's Attorney)
 - b. Ordinance No. 1047 – An Ordinance Amending the Provisions of Chapter 15, Section 404(d), and Establishing that Parking shall be Prohibited in the 600 Block of Pine Street in Excess of One Hour on any Vehicle Without an Approved Resident Parking Permit (1st Reading 12/1/08)
 - c. **Ordinance No. 1048 – An Ordinance Levying Taxes for the Fiscal Year 2009 for the Borough of Emmaus at the rate of 12.32 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania (2nd Reading 12/29/08)**
 - d. **Ordinance No. 1049 – An Ordinance Amending Chapter 18, Sewer and Sewerage Disposal Rates for the Fiscal Year 2009, of the Code of Ordinances of the Borough of Emmaus, Pennsylvania (2nd Reading 12/29/08)**
9. New Business

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10. Unfinished Business
11. Items Not on Agenda, Subject to Rule 6
12. Mayor's Report
13. Committee Reports

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

1. Committee
 - a. Sidewalk Ordinance
2. Solicitor

Health and Sanitation (Holtzhafer, Labenberg, Brown)

1. Committee
 - a. Borough Energy Usage – Department Head Input Forms
 - b. Recycling Needs and Costs
2. Solicitor

Parks and Recreation (Barrett, Labenberg, Holtzhafer)

1. Committee
 - a. Raven Mill Property Swap - Letter of Intended Use
 - b. Skate Park
 - c. Park Comp Plan
 - d. No Smoking at Parks
 - e. Sandbox at Community Park
 - f. Ice Rink
 - g. Field Use Revenue Line Item
2. Solicitor

Public Safety (Gilbert, Barrett, Brown)

1. Committee
 - a. Request for Permit Parking – 600 Block of Pine Street (90-Day Trial Period Expires 11/18/08) – Ordinance No. 1047
 - b. Trailer Truck Parking
 - c. Parking at Fairview/6th Streets (Santo's)
 - d. Public Safety Issues Raised by Lori Washburn, 420 Broad St.
2. Solicitor

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General Administration (Neely, Gilbert, Barrett)

1. Committee
 - a. Police and Employees' Pension Plan
 - b. **Appointment of Borough Manager**
 - c. **Open Records Act – Resolution 2008-32**
 - d. "Community Announcements" Agenda Item
 - e. **Vacancy on Emmaus General Authority**
 - f. **James Woodshick – Resigning as Weed/Snow Enforcement Officer**
 - g. **Renea Flexer – Resigning as Administrative Assistant**
 - h. **Police Officer Pension Plan Contribution - Resolution 2008-37**
 - i. John Zettlemoyer Reappointment-General Authority (1/5/09)
 - j. Susan Schmidt Reappointment – Zoning Hearing Board

2. Solicitor

Budget and Finance (Waddell, Gilbert, Holtzhafer)

1. Committee
 - a. **Bill List – Resolution 2008-38**
 - b. Borough Installment Plan
 - c. **2009 Budget - Resolution 2008-35**
 - d. **2009 Fee Schedule - Resolution 2008-36**

2. Solicitor

Community Relations/Development (Brown, Waddell, Neely)

1. Committee
 - a. Southside Industrial Master Plan
 - b. **Triangle Park Construction**
 - c. 2009 Anniversary Celebration – Reserving Pavilions for August 15, 2009
 - d. Public Parking Project – "Jubilee Parking Lot"

2. Solicitor

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

Community/School Relations

- a. Junior Council Member

14. Personal Appeals, Part II

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15. Borough Manager's Report
 - a. Significant Revenue and Expense Items for December 2008
16. President's Business
17. Adjournment

Next Resolution #39
Next Ordinance #1052

The Emmaus Borough Council met in a special meeting on December 29, 2008 in Borough Council Chambers, 28 S. 4th Street, Emmaus, PA 18049.

CALL TO ORDER

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

Michael Waddell, President	Present
Craig Neely, Vice-President	Present
Brent Labenberg	Present
Lee Ann Gilbert	Present
Wesley Barrett	Present
Nathan Brown	Present
Brian Holtzhafer	Present
Winfield Iobst, Mayor	Present
Frank Procyk, Solicitor	Present
Mark Vasoli, Interim Borough Manager	Absent

PERSONAL APPEALS, PART I

- A. Roger Whitcomb 402 Mountain Blvd.** announced the kickoff dance on January 2, 2009 at the VFW for the 2009 Celebration. He also recommended reappointing John Zettlemoyer to the Emmaus General Authority.

READING OF MINUTES

Motion by Council Member Gilbert, seconded by Council Member Barrett to dispense with the formal reading of the December 15, 2008 minutes. There were 7 ayes. Motion carried.

Council Member Holtzhafer pointed out on page 184, 3rd line from the end, should state "two year old", not "two year hold". Correction made. He also pointed out on page 188, 4th paragraph from the bottom, states that every alley in the Borough will be paved, but the intent is to pave every alley that needs to be paved in the Borough. The recording was checked and the minutes were changed.

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Motion by Council Member Gilbert, seconded by Council Member Barrett to adopt the December 15, 2008 minutes as amended. There were 7 ayes. Motion carried.

DECISION ON BIDS – None

COMMUNICATIONS

- a. John J. Zettlemoyer, Jr. Esq., 53 N. Third St. – Request reappointment to the Emmaus General Authority. Council Member Labenberg supports Mr. Zettlemoyer, but feels Council should follow protocol and advertise the position. Council Member Gilbert said that Mr. Haas's position on the General Authority was advertised and the only two replies were from Mr. Zettlemoyer and Mr. Wieder. To be addressed under the General Administration Committee report.
- b. James Woodeshick, 108 Seem St. – Letter of resignation as Weed/Snow Enforcement Officer.

Motion by Council Member Gilbert, seconded by Council Member Barrett to accept the resignation of James Woodeshick as Weed/Snow Enforcement Officer. There were 7 ayes. Motion carried.

Motion by Council Member Neely, seconded by Council Member Gilbert to advertise to fill the vacancy for the Weed/Snow Enforcement Officer position.

Council Member Labenberg suggested cutting this position from the budget, and have the Zoning Officer perform those duties. Council Member Barrett said the Weed/Snow Officer line item was reduced in the budget. Mr. Labenberg confirmed with Mr. Woodeshick that there are a substantial number of notices sent in a year.

There were 7 ayes. Motion carried.

- c. Renea Flexer – Letter of resignation as Administrative Assistant.

Motion by Council Member Gilbert, seconded by Council Member Barrett to accept the resignation of Renea Flexer as Administrative Assistant.

Council Member Labenberg said Ms. Flexer was a great worker and will be missed.

There were 7 ayes. Motion carried.

Motion by Council Member Labenberg, seconded by Council Member Barrett to advertise for an Administrative Assistant. There were 7 ayes. Motion carried.

- d. Bill Gruver, 672 Chestnut St. – Enforcement issues with vegetative growth and snow removal.

BOROUGH ENGINEER'S REPORT – None.

SOLICITOR'S REPORT – Progress.

NEW BUSINESS – None.

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UNFINISHED BUSINESS – None.

ITEMS NOT ON AGENDA, subject to Rule 6 – None.

MAYOR’S REPORT

Mayor Iobst reported that it was a good time on December 20th during the Shops of Emmaus Santa and Elf event. Progress.

COMMITTEE REPORTS

- a. Public Works Committee – Progress.
- b. Health and Sanitation Committee – Progress.
- c. Parks and Recreation Committee – Progress.
- d. Public Safety Committee – Progress.
- e. Budget and Finance Committee

Motion by Council Member Holtzhafer, seconded by Council Member Gilbert to adopt the December 29, 2008 Bill List.

Bill List	\$ 141,036.29
Payroll #25 & #26	\$ 212,671.24
Payroll Taxes	\$ 67,848.90
Total	\$ 421,556.43

Done this 29th day of December 2008. There were 7 ayes. Motion carried.

President Waddell presented Resolution 2008-35 adopting the Budget for the 2009 fiscal year.

Motion by Council Member Holtzhafer, seconded by Council Member Gilbert to adopt Resolution 2008-35. There were 7 ayes. Motion carried.

President Waddell presented Resolution 2008-36 adopting a schedule of fees effective January 1, 2009.

Motion by Council Member Holtzhafer, seconded by Council Member Gilbert to adopt Resolution 2008-36.

Council Member Barrett confirmed that on page 16, the title “Special Events Fee Schedule”, should remain even though that is where the cost of sporting events was removed.

There were 7 ayes. Motion carried.

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Motion by Council Member Neely, seconded by Council Member Labenberg to dissolve the Full Time EMT position from the 2009 Budget. There were 7 ayes. Motion carried.

Motion by Council Member Neely, seconded by Council Member Gilbert to read Ordinance No. 1048 in short title. There were 7 ayes. Motion carried.

President Waddell read Ordinance No. 1048 in short title: An Ordinance Levying Taxes for the Fiscal Year 2009 for the Borough of Emmaus at the Rate of 12.32 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania.

Motion by Council Member Neely, seconded by Council Member Holtzhafer to adopt Ordinance No. 1048 on its 2nd Reading. Roll Call Vote: Brown aye, Neely aye, Gilbert aye, Labenberg aye, Holtzhafer aye, Barrett aye, Waddell aye. Motion carried.

Motion by Council Member Labenberg, seconded by Council Member Gilbert to read Ordinance No. 1049 in short title. There were 7 ayes. Motion carried.

President Waddell read Ordinance No. 1049 in short title: An Ordinance Amending Chapter 18, Sewer and Sewerage Disposal Rates for the Fiscal Year 2009, of the Code of Ordinances of the Borough of Emmaus, Pennsylvania.

Motion by Council Member Labenberg, seconded by Council Member Gilbert to adopt Ordinance No. 1049 on its 2nd Reading. Roll Call Vote: Labenberg aye, Holtzhafer aye, Barrett aye, Brown aye, Neely aye, Gilbert aye, Waddell aye. Motion carried.

Progress.

f. Community Relations/Development Committee

President Waddell explained that, after reading a newspaper article about the Triangle fountain, Charlie Barebo of Otterbine Barebo, Inc. contacted the Borough because he feels that they could do the Triangle fountain job for approximately \$10,000, excluding the concrete cost for the base. There would be no engineering fees. Council Member Neely explained the different types of fountains and the significant difference in the way the fountains work. He said that \$10,000 would cover the lighting and the fountain, excluding the concrete base. Mr. Neely explained that the Hobbs fountain was an architectural fountain that was much more involved. Mr. Barebo presented brochures during a meeting with Mr. Neely and Dr. Waddell explaining the fountain design he's offering. Maintenance would also be easier. It will be looked into further and will be addressed at the next Council meeting. Council Member Labenberg confirmed with Mr. Neely that the change would reduce the amount being used from the Growing Greener Fund.

The Committee will meet to discuss the fountain on January 5th. The next regularly scheduled meeting is January 28th at 4 p.m. Progress.

President Waddell recessed the meeting at 7:36 p.m. for an executive session regarding a personnel item.

President Waddell reconvened the meeting at 8:05 p.m. with no official action needed.

g. General Administration Committee

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Council Member Neely presented Resolution No. 2008-32: A Resolution Establishing the Position of 'Open Records Officer' and Providing for the Terms and Conditions Governing the Borough's Compliance with the Pennsylvania Right-To-Know Law.

Council Member Neely explained that the General Administration Committee prepared the Resolution and forwarded it to Solicitor Procyk, who had slight changes and additions.

Motion by Council Member Neely, seconded by Council Member Gilbert to adopt Resolution 2008-32.

Council Member Neely stated that the time frame, concerning response to a request, is straight out of the Open Records Law. The Borough Manager will be appointed as the Open Records Officer, who will have the authority to designate an employee of the Borough to do ministerial acts. Under the Act, Mr. Neely said that electronically stored correspondence, which includes emails, are considered records and are subject to disclosure. The General Administration Committee is working on an internal policy concerning emails.

There were 7 ayes. Motion carried.

The General Administration Committee interviewed Carl Wieder, who previously served on the Zoning Hearing Board, to fill the vacancy resulting from Herbert Haas's resignation. The Committee recommended appointing Mr. Wieder to the General Authority to fulfill the term expiring on January 1, 2011.

Motion by Council Member Neely, seconded by Council Member Gilbert to appoint Carl Wieder to the Emmaus General Authority to a term expiring on January 1, 2011. There were 7 ayes. Motion carried.

Council Member Neely stated that John Zettlemoyer cannot be reappointed to his position on the General Authority at this time because his term does not expire until January 1, 2009.

Council Member Neely presented Resolution 2009-37, stating that the Police Officer Pension Plan Contribution, effective January 1, 2009, will be 2.95%. He explained that two years ago the Emmaus Police Officers Association asked Council to come up with a formula to determine what the EPOA Member contribution would be. As part of the agreement, Council agreed to adopt by Resolution every year, what that contribution would be.

Motion by Council Member Neely, seconded by Council Member Gilbert to adopt Resolution 2008-37. There were 7 ayes. Motion carried.

Council Member Neely read a letter of resignation as Councilman, effective immediately.

Motion by Council Member Gilbert, seconded by Council Member Labenberg to accept the resignation of Craig Neely as Councilman, effective immediately. There were 6 ayes, 1 abstained (Neely). Motion carried.

Motion by Council Member Brown, seconded by Council Member Holtzhafer to appoint Lee Ann Gilbert as Council Vice President. There were 5 ayes, 1 abstained (Gilbert). Motion carried.

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Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to advertise for the vacancy on Council.

Solicitor Procyk stated that under the Borough Code, there is a 30 day period to fill the vacancy. If the vacancy is not filled, a Vacancy Board must be appointed and created.

There were 6 ayes. Motion carried.

Council Member Gilbert said the General Administration Committee met in executive session on December 17th to conduct follow-up interviews for the two top candidates for Borough Manager.

Motion by Council Member Gilbert, seconded by Council Member Barrett to appoint Craig B. Neely of Emmaus to the position of Borough Manager at a salary of \$80,000 a year along with the terms outlined in a Conditional Offer of Employment letter dated December 18, 2008, signed by the President of Council and Mr. Neely with a starting date of January 2, 2009. There were 6 ayes. Motion carried.

Motion by Council Member Gilbert, seconded by Council Member Barrett to advertise for the position of Chairperson for the Vacancy Board.

Council Member Gilbert explained that if Council fails to replace Mr. Neely's position on Council within 30 days, a Vacancy Board must be in place, which is Council, excluding the Mayor, along with one individual that is an elector of the Borough and that person should be assigned to the position of Chairperson. President Waddell stated that this is something that is supposed to be done every year and has not been done.

There were 6 ayes. Motion carried.

Progress.

h. Ad Hoc Committees

Community School Relations – Progress.

PERSONAL APPEALS, PART II – None.

BOROUGH MANAGER'S REPORT – Progress.

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PRESIDENT'S BUSINESS

Council Member Barrett explained that the interview process for a new Borough Manager was an extremely extensive process and that going through that entire process was very beneficial to the Borough. He thanked both Dr. Waddell and Ms. Gilbert for their countless hours they put into the budget process and with General Administration. Mr. Barrett expressed his appreciation to Council for all the debating and discussions that happened over the last few months. President Waddell expressed his thanks to everyone involved and said that he knows that Mr. Neely will do a great job for the Borough. Mayor Iobst is pleased that Mr. Neely was appointed Borough Manager and wished him well. He said that Mr. Neely loves Emmaus and will do a good job. President Waddell also thanked Mr. Neely for serving 11 years on Borough Council. Mr. Neely thanked Council for giving him the opportunity and is excited to get started. Progress.

ADJOURNMENT

Motion by Council Member Gilbert, seconded by Council Member Labenberg to adjourn. There were 6 ayes. Motion carried.

The special meeting of the Emmaus Borough Council adjourned at 8:20 p.m.

Craig B. Neely
Borough Manager

Transcribed by: Renea Flexer
Administrative Assistant
January 2, 2009