

November 3, 2008

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council
Agenda
Monday, November 3, 2008 7:00 PM

1. Call to Order
2. Pledge of Allegiance
3. Presentation by State Rep. Douglas Reichley on Legislative Issues
4. Personal Appeals, Part I
5. Reading of Minutes

October 20, 2008
6. Decision on Bids
7. Communications
 - a. Daniel J. Helffrich, 1340 Arch St., Emmaus – Letter of Resignation from Emmaus Parks and Recreation Commission
8. Borough Engineer's Report
9. Solicitor's Report
 - a. Ordinance No. 1043 – An Ordinance Allowing for Installment Payment of Real Estate Taxes for Residents of the Borough of Emmaus (2nd Reading Awaiting Budget & Finance Committee Review)
 - b. 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)
10. New Business
11. Unfinished Business
12. Items Not on Agenda, Subject to Rule 6
13. Mayor's Report

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14. Committee Reports

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

1. Committee
2. Solicitor

Health and Sanitation (Holtzhafer, Labenberg, Brown)

1. Committee
 - a. Borough Energy Usage
 - b. Recycling Needs
2. Solicitor

Parks and Recreation (Barrett, Labenberg, Holtzhafer)

1. Committee
 - a. Raven Mill Property Swap
 - b. Skate Park
 - c. Park Comp Plan
 - d. No Smoking at Parks
 - e. Parks & Rec. Commission Member needs to be appointed on the Arts Commission
 - f. Dog Park
 - g. **Appoint a New Parks & Rec. Commission Member**
 - h. Sandbox at Community Park
 - i. Ice Rink
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)
 - 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

General Administration (Neely, Gilbert, Barrett)

1. Committee
2. Solicitor

14. Committee Reports (continued)

Budget and Finance (Waddell, Gilbert, Holtzhafer)

1. Committee
 - a. **Refuse Collection Assessment Fees (Resolution – 29)**
 - b. **Bill List (Resolution – 30)**
 - c. **Matching Funds**
 - d. **Borough Installment Plan**
 - e. **2009 TAN/TRAN**
 - f. **Main Street Program**
 - g. **2009 Budget Status**

2. Solicitor

Community Relations/Development (Brown, Waddell, Neely)

1. Committee
 - a. Southside Industrial Master Plan
 - b. Triangle Park Construction
 - c. 2009 Anniversary Celebration
 - d. Public Parking Project – “Jubilee Parking Lot”
 - e. **DCED Grant**

2. Solicitor

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

Community/School Relations

15. Personal Appeals, Part II

16. Borough Manager’s Report

- a. Significant Revenue and Expense Items for October 2008

17. President’s Business

18. Adjournment

Next Resolution #31
Next Ordinance #1047

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The Emmaus Borough Council met in regular session on November 3, 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	Present

SPECIAL PRESENTATION – LEGISLATIVE ISSUES

State Representative, Douglas Reichley, explained that Senate Bill 1063, Act 32-2008, has been signed into law. Starting in January 2012, municipalities will no longer collect local earned income tax; that will be done by the County. This was done to streamline earned income tax throughout the State. Starting in January 2009, the Department of Community and Economic Development will provide a list of tax collection districts and every municipality will have a member on the Board of the committee of the tax collection district. The tax collector costs will be shared by all members of the district.

House Bill 1329 & 1330 was passed by Governor Rendell. These were done to alleviate the aspect of litigation in which a Borough or Township would be challenged about a technical aspect of an ordinance being passed.

Mr. Reichley said the most wide ranging piece of legislation passed in the last year was the “Right to Know Law”. Senate Bill 1 provides for access to public record, legislative records, and financial records created and maintained by state and local agencies. One of the changes is that when an applicant requests a document from the Borough, the Borough would need to demonstrate why the record should not be released; there are some exceptions. There is a five day time limit for the Borough to act upon a request. If the Borough does not produce the record within five days, it’s deemed as a refusal by the Borough. Mr. Reichley recommends an identified Open Records Officer and a backup person.

The Local Services Tax requires municipalities and school districts that impose a combined tax of more than \$10, to exempt those whose total income is less than \$12,000. Taxpayers, who expect to make less than \$12,000, can file an exemption certification with their employer. The municipality that levies the tax must enact regulations to provide refunds for those who are eligible for a low income exemption. The tax money must be used for emergency services, road construction or maintenance, or the reduction of local property taxes.

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House Bill 1438 and Senate Bill 1247 were passed dealing with the third class County and the fourth to the eighth class Counties, which prevents spot assessments. These assessments would increase the value of properties, resulting in increased school and property tax. The legislation was passed, and then the Governor vetoed it. In October 2008, there was an attempt to combine the two bills into one piece of legislation to address spot assessments for third through eighth class counties and the Governor vetoed it again. This will more than likely be brought up in the next legislative year.

Regarding the legislative calendar, Mr. Reichley said there are four voting days left in the State House and then will be out of existence starting November 30th and reconvene in January. Issues to still be dealt with are property taxes, electricity rate cap, healthcare costs, and road and bridge repairs. Mr. Reichley reported that after four months into the fiscal year, the State is behind budget projections by five hundred million dollars. It is estimated that the budget will be one billion dollars in the red, or more, by the end of the fiscal year. He said this will call for a lot of cut backs and reductions in funding to all sorts of organizations, including municipalities.

Council Member Labenberg asked what direction the body is going with regards to tolling highways or leasing the turnpike. Mr. Reichley said there is a lot of opposition to the Governor's proposal to lease the turnpike. Act 44 was enacted and then was struck down by the Federal Government. It would've allowed for the tolling of I-80 and taken over by the Turnpike Commission, who would have paid back to the State approximately 750 million dollars a year. The Federal Government was not in favor because the toll money was not going to be strictly for operation and maintenance of I-80. Mr. Reichley said the Turnpike Commission is still on the hook to pay the Commonwealth 450 million dollars a year to aid mass transit agencies throughout the State. A bond measure will be issued to raise money to help with bridge repairs throughout the Commonwealth, but there still is not enough money to take care of the road and bridge projects. The Governor then revived the Turnpike proposal. A bid was placed, but then was found not to be financially sound. The bid was taken off the table and the issue is back to square one.

Council Member Labenberg asked if Mr. Reichley foresees any progress with property taxes. Mr. Reichley said there are 500 different school districts throughout the State and 203 members representing those school districts; no two are alike. Mr. Reichley voted in favor of the last budget because it addressed the needs of growing school districts like East Penn and Parkland, which were receiving less State assistance and putting more pressure on local property taxes. Mr. Reichley said there were only 49 votes out of 203 to have small increases on multiple taxes to eliminate property taxes. He said there are a number of different proposals.

Regarding the Local Service Tax, Council Member Neely asked if the County will be collecting the money or a third party. Representative Reichley said that will be decided by the Tax Collection Committee. Mr. Neely is concerned about charges involved if a third party collects the fees and then gives the money to the County, who then distributes the money to the municipalities. Mr. Reichley said this is why every municipality in a County is represented on the Tax Collection Committee.

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Mr. Reichley will get information for a resident questioning the grant distribution process for the energy bill. He said there has been a lot of interest in his office about the solar grants.

PERSONAL APPEALS, PART

- A. Bob Boehmer 372 N. 3rd St.**, Chair, Emmaus Arts Commission, reported on all the successful events that were held this fall. The Best of Show winners of the Student Horror Film Festival were presented a trip to New York City to be on the set of a Hollywood film. The EAC kicked off a fourth annual Christmas card fundraiser. The theme is the 1803 House. Mr. Boehmer thanked all the participating merchants. The EAC will kick off 2009 with the SnowBlast Winter Festival. Council Members Neely and Labenberg thanked Mr. Boehmer and the Arts Commission. Mr. Neely said the talent and arts they bring to Emmaus is phenomenal. President Waddell said it is a privilege to be on the EAC and to see what they do.

READING OF MINUTES

Motion by Council Member Neely, seconded by Council Member Barrett to dispense with the formal reading of the October 20, 2008 minutes. There were 7 ayes. Motion carried.

Motion by Council Member Barrett, seconded by Council Member Neely to adopt the October 20, 2008 minutes as drafted. There were 7 ayes. Motion carried.

DECISION ON BIDS – None

COMMUNICATIONS

- a. Daniel J. Helffrich, 1340 Arch St., Emmaus – Letter of resignation from Emmaus Parks and Recreation Commission.

Motion by Council Member Barrett, seconded by Council Member Holtzhafer to accept the resignation of Daniel J. Helffrich from the Parks and Recreation Commission. There were 7 ayes. Motion carried.

Council Member Barrett asked that a thank you letter be sent to Mr. Helffrich. Last month, two very qualified individuals were interviewed for one position on the Parks and Recreation Commission. That position was filled and the other individual could fill Mr. Helffrich's position.

Motion by Council Member Barrett, seconded by Council Member Labenberg to appoint Jeff Shubzda to the Parks and Recreation Commission for a term to expire in May 2011.

Council Member Labenberg said it was a tough decision between the two applicants and is glad to appoint Mr. Shubzda.

There were 7 ayes. Motion carried.

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The Parks and Recreation Commission will decide who the designee to the Emmaus Arts Commission is.

- b. Ed Schreiter, Runs food stand at pool – Sent check for \$3,007.47 for the 2008 pool season. Requested to run the stand in 2009. Mr. Schreiter would give ten percent back to the Borough with a minimum of \$2,500.00 after taxes.

Motion by Council Member Holtzhafer, seconded by Council Member Labenberg to renew Ed Schreiter’s contract and ten percent, with a minimum of \$2,500, is given back to the Borough.

Council Member Neely recalls this contract going out for bid a few years ago and Mr. Schreiter was the only bidder. Council Member Barrett said there have not been any complaints.

There were 7 ayes. Motion carried.

BOROUGH ENGINEER’S REPORT – None

SOLICITOR’S REPORT

Solicitor Procyk made revisions to Ordinance No. 1043, which will be advertised for 1st Reading of the amended Ordinance.

Progress

NEW BUSINESS – None

UNFINISHED BUSINESS – None

ITEMS NOT ON AGENDA, subject to Rule 6 – None

MAYOR’S REPORT – Progress

COMMITTEE REPORTS

- a. Public Works Committee

The next meeting will be November 5th at 8 a.m.

Progress

- b. Health and Sanitation Committee – Progress

- c. Parks and Recreation Committee

For budgeting reasons, there is a concern about putting up the ice rink. Council Member Barrett said it costs about \$1,000 to put up the rink, which is mainly for hay bales.

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He is in favor of putting up the rink because it is a great activity when in use. Council Member Labenberg is also in favor of it because it is part of the SnowBlast Festival. He would like to give it a try for the third year. Council Member Brown confirmed that the rink is a budgeted expense. He wondered if the farmer would donate the hay bales. Council discussed using and storing cinder blocks every year instead of purchasing hay bales. Council Member Holtzhafer is in favor of installing the rink this year since it was part of the 2008 budget.

Motion by Council Member Holtzhafer, seconded by Council Member Labenberg to provide the ice rink this year and direct Mr. Clapper to purchase the hay bales needed.

Council Member Neely is torn on the idea, but will go with the recommendation. He said if it doesn't work out again this year, he's not sure about setting it up a fourth year. Council Member Barrett said that so many people would use it if the weather was more consistent and that maybe a permanent ice rink may be the solution. Council Member Labenberg wonders if less water in the rink may be the solution. Council Member Brown suggested saving the budgeted money for this year and applying that to a permanent rink. Mr. Barrett said the permanent rink is too distant to look at.

There were 7 ayes. Motion carried.

Progress

d. Public Safety Committee

Motion by Council Member Gilbert, seconded by Council Member Barrett to appoint Charles Chiaverelli to the Fire Department contingent upon passing a physical.

Mr. Chiaverelli has all his necessary training, including NIMS.

There were 7 ayes. Motion carried.

Progress

e. General Administration Committee

The Committee discussed putting a note in the newsletter asking people to put their name on a no obligation volunteer list, kept at Borough Hall. These individuals could then be contacted when events come up and not have to attend monthly meetings. Council Members feel that is a great idea.

Progress

f. Budget and Finance Committee

Borough Manager Vasoli explained that the refuse extension will increase resident rates from \$295 per year to \$306 per year.

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Motion by Council Member Labenberg, seconded by Council Member Holtzhafer to read Resolution 2008-29 in short title. There were 7 ayes. Motion carried.

President Waddell read Resolution 2008-29 in short title: Establishing Refuse Collection Assessment Fees in the Borough of Emmaus, Lehigh County, Pennsylvania, for the Calendar Year 2009.

Motion by Council Member Labenberg, seconded by Council Member Brown to approve Resolution 2008-29.

Council Member Neely pointed out there is still a \$10 discount if paid by March 9, 2009 and pay \$296 for 2009.

There were 7 ayes. Motion carried.

Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to adopt the November 3, 2008 Bill List.

Bill List	\$ 182,881.33
Payroll #22	\$ 113,764.55
Payroll Taxes	\$ 38,493.20
Total	\$ 335,139.08

Done this 3rd day of November 2008. There were 7 ayes. Motion carried.

The Budget and Finance Committee reviewed a Matching Funds request from the Shops of Emmaus and recommend that this is looked at again at the next meeting.

Solicitor Procyk, based on the recommendations from Tax Collector Gouldy, revised Ordinance No. 1043. Changes included installment payment dates, only homesteads are eligible, increase the penalty, and failure to make first installment payment will trigger the taxes to be payable in full. Solicitor Procyk suggested advertising for a 1st Reading.

Motion by Council Member Labenberg, seconded by Council Member Brown to put Ordinance No. 1043 on the November 17, 2008 agenda.

Council Member Neely did not think an Ordinance needed to be advertised for the 1st Reading; only the 2nd Reading.

There were 7 ayes. Motion carried.

President Waddell reported that the budget is challenged and that the Budget and Finance is working on it.

Progress

g. Community Relations/Development Committee

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There will be a Southside Industrial Master Plan meeting on November 14th.

The Committee will discuss ornamental fountain options for the Triangle Park project. Council Member Brown reported that the Triangle project projection cost was \$472,000 and the Borough received a grant from the State for \$236,000. Borough Manager Vasoli said it looks like there will be no Borough money used for the construction because there is a Green Futures Grant Fund available. The State grant can be used as the matching grant for the Green Futures fund.

Motion by Council Member Brown, seconded by Council Member Labenberg to execute the New Communities Grant Contract with the State for \$236,325 in funds for project #36677. There were 7 ayes. Motion carried.

Council Member Brown expressed his appreciation for these funds. Council Member Labenberg said that after hearing from Representative Reichley tonight, he's not sure that the Borough would see State money for awhile. He said this is money that residents have paid to the State and will now get back. Council Member Neely said the Borough's history of execution of grants have been tangible results. He also said that the Main Street Program has helped the Borough in raising the State's awareness as to what is going on in town.

The next Committee meeting is November 26th at 4 p.m.

Progress

h. Ad Hoc Committees

Community School Relations – Progress

PERSONAL APPEALS, PART II – None

BOROUGH MANAGER'S REPORT – Progress

PRESIDENT'S BUSINESS – Progress

ADJOURNMENT

Motion by Council Member Labenberg, seconded by Council Member Brown to adjourn. There were 3 ayes, 4 opposed (Barrett, Gilbert, Neely, Brown). Motion denied.

Motion by Council Member Neely, seconded by Council Member Gilbert to adjourn. There were 6 ayes, 1 opposed (Waddell). Motion carried.

The meeting of the Emmaus Borough Council adjourned at 8:08 p.m.

Mark Vasoli
Interim Borough Manager

Transcribed by: Renea Flexer
Administrative Assistant
November 7, 2008