

June 17, 2019

**Emmaus Borough Council
Agenda
June 17, 2019 7:00 pm**



1. Attendance of Council Members

2. Public Hearing
 - 2.1. Public Hearing on the Conditional Use Request 006 - South Mountain Cycle & Cafe 316-318 Main St., Emmaus, PA 18049. Applicant is requesting to operate a Craft Beverage restaurant in accordance with Z.O. Section 306 Table of permitted uses and the requirements of Z.O. Section 402.ZZ. Site is located in a B-C zoning district.

3. Solicitor Comments

4. Public Comments

5. Council Comments

6. Adjournment

June 17, 2019

**Emmaus Borough Council
Agenda
June 17, 2019 7:00 pm**



1. Call to Order
2. Pledge of Allegiance
3. Personal Appeals, Part I
4. Community Minute
5. Special Presentations
 - 5.a. Fire Department Retirements:

Robert Martrich
Jeffrey Kuhns
John Reiss
6. Reading of Minutes
 - 6.a. Council Meeting Minutes - May 20, 2019
7. Decisions on Bids
 - 7.a. Janitorial Services
8. Communications
 - 8.a. Jason Jesmain, 915 Chestnut Street - Notice of resignation from the Recreation and Entertainment Commission (term expires 6/7/2019).
 - 8.b. Sarah Plaza, 428 S. 7th St. - Request appointment to the Emmaus Arts Commission.
 - 8.c. Lindsey Kleinberg, 515 N. 2nd Street - Request appointment to the Emmaus Arts Commission.
9. Borough Engineer's Report
10. Solicitor's Report
11. Unfinished Business, Part I

June 17, 2019

12. New Business

12.a. Ordinance No. 1191 – An Ordinance Amending the Borough of Emmaus Zoning Ordinance of 1993, as Amended, to Delete Definitions and Regulations Relating to “Place of Worship” and to Substitute Therefore a New Definition and Provide Regulations Identifying Permitted Accessory Uses and Further Authorizing the Use of Certain Accessories for Commercial Reasons Subject to Conditional Use Approval by Borough Council. (1st Reading 6/7/19)(2nd Reading 8/19/19).

13. Unfinished Business, Part II

14. Items Not on Agenda
Subject to Rule 9

15. Mayor’s Report

16. Committee Reports

Public Works/(Highway, Water & Sewer) (Anders, Sorg-McManamon, Labenberg)

Next Meeting – July 10, 2019 at 4:00 p.m.

Committee Meeting Notes - June 12, 2019

Health, Sanitation, and Codes (Shubzda, Sorg-McManamon, Anders)

Next Meeting – June 26, 2019 at 4:30 p.m.

Resolution 2019-26: Conditional Approval of Chestnut Ridge at Rodale

Assistant Code Official Job Description

Committee Meeting Notes - May 29, 2019

Parks and Recreation (Baumgartner, Anders, Shubzda)

Next Meeting – July 2, 2019 at 4:30 p.m.

Swimming Pool Study RFP

Committee Meeting Notes - June 4, 2019

Public Safety (DeFrain, Hart, Baumgartner)

Next Meeting – July 10, 2019 at 9:15 a.m.

Committee Meeting Notes - June 12, 2019

General Administration (Labenberg, Baumgartner, DeFrain)

Next Meeting – June 20, 2019 at 9:00 a.m.

South Mountain Cycle - Conditional Use Approval - Craft Brewery / Winery

June 17, 2019

Resolution 2019-27: Disposal of Municipal Records

Ordinance 1191 - Places of Worship Conditional Use

Committee Meeting Notes - May 23 and June 6, 2019

Budget and Finance (Hart, DeFrain, Labenberg)

Next Meeting – July 15, 2019 at 6:45 p.m.

Resolution 2019-25: Bill List

Significant Revenue and Expense Items for May 2019

Committee Meeting Notes - May 20 and June 6, 2019

Community Relations, Planning and Development (Sorg-McManamon, Hart, Shubzda)

Next Meeting – June 20, 2019 at 4:30 p.m.

17. Jr. Council Member's Report

18. Boards and Commissions

18.a. Emmaus Public Library Board of Trustees Meeting Minutes - May 21, 2019

18.b. Board of Health Meeting Minutes - May 16, 2019

18.c. Employee Safety Committee Meeting Minutes - May 22, 2019

18.d. Zoning Hearing Board Meeting Minutes - May 23, 2019

18.e. Budget Report

18.f. EMSP Board Meeting - June 5, 2019

18.g. Public Works Department Report

18.h. Ambulance Corps Report

18.i. Planning Commission Minutes - June 13, 2019

19. Personal Appeals, Part II

20. Borough Manager's Report

20.a. Hired Daniel Bowser and Erin LaCorte as PT EMT's

June 17, 2019

21. President's Business

21.a. Executive Session - Personnel

22. Adjournment

EMMAUS BOROUGH COUNCIL

A Public Hearing was held at 7:00 p.m., prior to the start of the June 17, 2019 Council Meeting.

CALL TO ORDER

Mayor Lee Ann Gilbert; Council President Brent Labenberg; Council Vice President Chris DeFrain; Councilman John W. Hart; Councilman Roy Anders; Councilwoman Shana Baumgartner; Councilman Jeff Shubzda; Councilwoman Teri Sorg-McManamon; Jr. Councilman Jonas Hausmann, Jr.; Borough Manager Shane Pepe; and Solicitor Tom Dinkelacker.

PUBLIC HEARING ON CONDITIONAL USE REQUEST 006 –

Conditional Use Request 006 – South Mountain Cycle & Café, 316-318 Main St., Emmaus, PA 18049. Applicant is requesting to operate a Craft Beverage restaurant in accordance with Z.O. Section 306 Table of Permitted Uses and the requirements of Z.O. Section 402.ZZ. Site is located in a B-C Zoning District.

Solicitor Dinkelacker stated that the purpose of the hearing is to hear testimony from the applicant. Council will determine whether or not the applicant complies with the requirements of the Zoning Ordinance that relates to Conditional Uses. He explained that a Conditional Use is a Use that is permitted once the conditions of the Zoning Ordinance are met. He stated that the public is invited to offer comments either for or against the Conditional Use. Solicitor Dinkelacker explained the requirements of the Borough's Zoning Ordinance Chapter 27, Section 202 and Ordinance No. 1183. He explained the requirements of the Ordinance that Council will need to consider when making their decision.

Applicant Testimony

The applicants were sworn in to present testimony.

1. Linda Rice, Mountain View Vineyards, 2332 Walters Road, Stroudsburg, PA
2. Randy Rice, Mountain View Vineyards, 2332 Walters Road, Stroudsburg, PA
3. Chad Balliet, Owner South Mountain Cycle, 316-318 Main Street, Emmaus, PA

Linda Rice presented an LCB-approved winery license for 316-318 Main Street, Emmaus, PA. She stated that Mountain View Vineyards holds manufacturing licenses for wine, beer, and distilled spirit production. Mr. Balliet stated that the proposed use is to add the addition of sales of wine, beer, and spirits to 316-318 Main Street. He stated that there will be no changes to the outside of the building at this time, but that the state did approve seating for outside of the building. Ms. Rice stated that they will be tenants in the building and will only sell Mountain View Vineyard products.

Public Comments – None.

EMMAUS BOROUGH COUNCIL

Council Questions

Mr. Shubzda asked for clarification of the hours of operation. Mr. Balliet stated that Pennsylvania allows hours of operation until 2:00 a.m. Solicitor Dinkelacker stated that if Borough Council approves the Conditional Use, they are able to place conditions on it. Mr. Anders asked if Mr. Balliet plans on staying open until 2:00 a.m., to which Mr. Balliet responded negatively. He stated that he anticipates remaining open until 11:00 p.m. Ms. Rice stated that their winery closes at 6:00 p.m. Mr. Pepe asked Mr. Balliet for his future plans. Mr. Balliet responded that he anticipates updating the kitchen and has two different thoughts for the future. Mr. Hart asked if he is aware of any other cycle cafés that have entered into this realm. Mr. Balliet responded that this is a very popular concept in Europe and throughout the United States and is very successful. Mr. Labenberg asked the Solicitor if there are any restrictions on music or entertainment. Solicitor Dinkelacker stated that there are no restrictions placed on music or entertainment.

Mrs. Sorg-McManamon asked if the winery will remain open until 11:00 p.m. Solicitor Dinkelacker stated that Council is able to set conditions on hours of operation. Mr. Labenberg asked if Council set conditions for hours of operations for the other Conditional Use requests that have been made and stated that he cannot recall. Solicitor Dinkelacker stated that he does not recall there being any conditions placed on hours.

ADJOURNMENT

Motion by Mr. Anders, seconded by Mr. Hart to adjourn the June 20, 2019 Public Hearing meeting. There were 7 ayes. Motion carried.

Mr. Labenberg adjourned the Public Hearing at 7:25 p.m.

EMMAUS BOROUGH COUNCIL

The Emmaus Borough Council met in Regular Session on June 17, 2019 in Borough Council Chambers, 28 S. 4th Street, Emmaus, PA 18049.

CALL TO ORDER

Mr. Labenberg called the Meeting to order at 7:25 p.m.

Brent Labenberg, President	Present
Chris DeFrain, Vice President	Present
Roy Anders	Present
Shana Baumgartner	Present
John W. Hart	Present
Jeffrey Shubzda	Present
Teri Sorg-McManamon	Present
Jonas Hausmann, Jr. Council Member	Present
Lee Ann Gilbert, Mayor	Present
Tom Dinkelacker, Solicitor	Present
Shane Pepe, Borough Manager	Present

PERSONAL APPEALS, PART I - None.

COMMUNITY MINUTE

Mr. Labenberg stated that he and several Council members attended the ribbon cutting for South Mountain Cycle & Café. He stated that he believes the Café will be a destination spot and wished them the best of luck. Mr. Anders stated that the Emmaus Public Library held its Summer Kick-Off on Saturday, June 15, 2019. Mrs. Sorg-McManamon stated that the Emmaus Main Street Partners' Golf outing was held today and the Emmaus Borough team was awarded 2nd Place. Mr. Labenberg stated that the Flag Day Ceremony was held on Friday, June 14, 2019. Mayor Gilbert stated that the event was well attended, it was a beautiful evening, and it was the 50th Flag Day Ceremony. Mr. Pepe stated that Police Officer Polster was the Keynote Speaker.

SPECIAL PRESENTATIONS

Fire Chief Price and Deputy Director Miller recognized and presented plaques to Robert Martrich, Jeffrey Kuhns, and John Reiss for their years of service to the Emmaus Fire Department. John Reiss, who retired as Assistant Fire Chief, served for 25 years and responded to 3,220 calls, Jeffrey Kuhns, who retired as Captain of Fire Police, served for 39 years and responded to 6,429 calls, and Robert Martrich, served for 12 years and responded to 1,393 calls.

EMMAUS BOROUGH COUNCIL

READING OF MINUTES

Motion by Mr. Hart, seconded by Mr. DeFrain to adopt the May 20, 2019 Council Minutes as drafted. There were 7 ayes. Motion carried.

DECISION ON BIDS

Mr. Labenberg stated that the Borough is exploring different options for Janitorial Services and that the motion will remain tabled.

COMMUNICATIONS

- a. Jason Jesmain, 915 Chestnut Street – Notice of resignation from the Recreation and Entertainment Commission (term expires 6/7/2019). Mr. Pepe and Mr. Labenberg thanked Mr. Jesmain, who was in attendance, for his service to the community.
- b. Sarah Plaza, 428 S. 7th Street – Request appointment to the Emmaus Arts Commission. Mr. Labenberg referred the item to the Community Relations, Planning and Development Committee.
- c. Lindsey Kleinberg, 515 N. 2nd Street – Request appointment to the Emmaus Arts Commission. Mr. Labenberg referred the item to the Community Relations, Planning and Development Committee.

BOROUGH ENGINEER’S REPORT – None.

SOLICITOR’S REPORT

Progress

UNFINISHED BUSINESS, PART I – None.

NEW BUSINESS

Ordinance No. 1191 – An Ordinance Amending the Borough of Emmaus Zoning Ordinance of 1993, as Amended, to Delete Definitions and Regulations Relating to “Place of Worship” and to Substitute Therefore a New Definition and Provide Regulations Identifying Permitted Accessory Uses and Further Authorizing the Use of Certain Accessories for Commercial Reasons Subject to Conditional Use Approval by Borough Council (1st Reading 6/7/19) (2nd Reading 8/19/19).

Mr. Pepe explained that this Ordinance will allow Places of Worship to request Conditional Use approval. He stated that the size of the lot required was reduced from 30,000 SF to 20,000 SF. Mr. Shubzda asked if the conditions of the Ordinance will include restrictions on sound. Solicitor Dinkelacker explained that each Conditional Use will be determined on a case by case basis.

EMMAUS BOROUGH COUNCIL

Motion by Mr. Shubzda, seconded by Mr. Anders to adopt Ordinance No. 1191 - An Ordinance Amending the Borough of Emmaus Zoning Ordinance of 1993, as Amended, to Delete Definitions and Regulations Relating to “Place of Worship” and to Substitute Therefore a New Definition and Provide Regulations Identifying Permitted Accessory Uses and Further Authorizing the Use of Certain Accessories for Commercial Reasons Subject to Conditional Use Approval by Borough Council on its 1st Reading. Roll call vote: Mrs. Sorg-McManamon, aye; Mr. Shubzda, aye; Mr. Anders, aye; Ms. Baumgartner, aye; Mr. DeFrain, aye; Mr. Hart, aye; Mr. Labenberg, aye. There were 7 ayes. Motion carried.

Mr. Pepe explained that there are several steps that must be taken prior to the 2nd Reading and it will be held at the August 19, 2019 Council Meeting.

UNFINISHED BUSINESS, PART II – None.

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

MAYOR’S REPORT

Progress.

COMMITTEE REPORTSa. Public Works Committee

Mr. Anders stated that the Committee met on June 12, 2019 at 4:00 p.m. Mr. Anders asked for an update on the pool. Mr. Pepe responded that the pool will be open on Tuesday, June 18, 2019. Mr. Anders reported that the Borough is in the process of a manhole replacement project and it will continue throughout the summer.

Progress.

b. Health, Sanitation, and Codes Committee

Resolution 2019-26 – A Resolution Conditionally Approving the Preliminary/Final Lot Consolidation and Preliminary/Final Land Development Plans of Phoebe Richland Health Care Center (Chestnut Ridge at Rodale).

Solicitor Dinkelacker explained that there are two plans, one for a Lot Consolidation and the other is for Preliminary/Final Land Development for the old Rodale property on South 10th Street. Attorney Bubba stated that he represents Phoebe. He stated that Phoebe entered into an agreement of sale with Rodale contingent upon Phoebe obtaining approval to establish an independent living facility. He stated that this community is the first step in an aging in-place model. He stated that instead of going right to nursing homes, these types of

EMMAUS BOROUGH COUNCIL

communities will allow independent members of the elder community who need very few services to begin transitioning over time to more intense services. He stated that the Zoning Hearing Board approved 122 units split between two buildings. Mary McMahon, Phoebe's Vice President of Health Care Services, noted that Phoebe is trying hard to incorporate the local community into the residency. She stated that there will be many amenities and presented a conceptual design of the outside and inside of the building. She stated that the community is estimated to generate 35 jobs and will have a dining venue with a pub, activity spaces, a fitness room, a bike storage area, and a pet watch station. Attorney Bubba stated that the day care will remain for intergenerational activities. He also stated that as part of the sidewalk waiver, Phoebe will build a connective sidewalk from South 10th Street all the way into town. He stated that the walking trail on the former Rodale campus will be open to the public and will be maintained by Phoebe. Solicitor Dinkelacker stated that he believes that if the trail is going to be open to the public, Council must decide on the indemnity issue. Mr. Pepe asked Solicitor Dinkelacker what his recommendation is. Solicitor Dinkelacker stated that if the Borough accepts a trail easement, in the indemnity clause the only grounds for indemnifying Phoebe would be if the Borough is negligent and the only reason that Phoebe is being sued is because of the Borough's negligence. Solicitor Dinkelacker stated that the Resolution is drafted to reflect limited indemnification and the Resolution requires no changes. Attorney Bubba stated that the plans were presented to the Planning Commission and the Planning Commission gave Final Approval to the Lot Consolidation and Preliminary/Final Plan. Mr. Pepe voiced concern about stormwater issues. Chris Williams, Barry Isset & Associates, stated that the existing campus has two detention basins controlling the release of stormwater into the Borough sewer on South 10th street. He stated that Phoebe will reduce the amount of impervious cover to the site, so the two stormwater detention basins will be able to function as they were originally designed with no modifications. Solicitor Dinkelacker stated that the Borough will have an Operation and Maintenance Agreement with Phoebe; and if Phoebe does not maintain the basins, the Borough will have the right to maintain the basins. Mr. Labenberg asked if he should abstain from the vote because he is a Phoebe employee. Solicitor Dinkelacker responded that he does not have to abstain because he has no monetary interest in Phoebe.

Motion by Mr. Shubzda, seconded by Mr. Hart to adopt Resolution 2019-26. There were 7 ayes. Motion carried.

Motion by Mr. Shubzda, seconded by Mr. Anders to adopt the Assistant Code Official Job Description. There were 7 ayes. Motion carried.

Mr. Shubzda entertained questions about the Committee notes and stated that the next Committee meeting is Wednesday, June 26, 2019 at 4:30 p.m.

Progress.

EMMAUS BOROUGH COUNCIL

c. Parks and Recreation Committee

Motion by Ms. Baumgartner, seconded by Mr. Shubzda to authorize Mr. Pepe to advertise the Swimming Pool Study Request for Proposal. There were 7 ayes. Motion carried.

Ms. Baumgartner reviewed the Committee notes and entertained questions about them. She stated that the next Committee meeting is July 2, 2019 at 4:30 p.m.

Progress.

d. Public Safety Committee

Mr. DeFrain entertained questions about the Committee notes and stated that the next Committee meeting is July 10, 2019 at 9:15 a.m.

Progress.

e. General Administration Committee

Motion by Mr. Hart, seconded by Mrs. Sorg-McManamon to grant Conditional Use Request 006 – South Mountain Cycle & Café, 316-318 Main Street, Emmaus, PA 18049. There were 7 ayes. Motion carried.

Resolution 2019-27 – A Resolution in Accordance with the Municipal Records Act of January 18, 1968 (P.L. 961, No. 428) as Approved for Local Government Records by the Pennsylvania Historical and Museum Commission Bureau of Archives and History, as Approved by the Commonwealth of Pennsylvania on December 18, 2008 and Amended July 23, 2009, Authorizing the Borough of Emmaus to Dispose of Certain Municipal Records.

Motion by Mr. DeFrain, seconded by Mrs. Sorg-McManamon to adopt Resolution 2019-27. There were 7 ayes. Motion carried.

Mr. Labenberg entertained questions about the Committee notes.

Progress.

f. Budget and Finance Committee

Resolution 2019-25, authorizing payment of the June 17, 2019 Bill List as follows:

Bill List	\$	276,324.34
Payroll #11 & #12	\$	342,176.49
Payroll Taxes	\$	<u>108,786.15</u>
Total	\$	727,286.98

EMMAUS BOROUGH COUNCIL

Done this 17th day of June 2019.

Motion by Mr. Hart, seconded by Mr. DeFrain to adopt Resolution 2019-25. There were 7 ayes. Motion carried.

Mr. Hart reported that the Committee discussed the Pension Audit and entertained questions about the Committee notes.

Mr. Hart reported that the next Committee meeting is July 15, 2019 at 6:45 p.m.

Progress.

g. Community Relations, Planning and Development Committee

Mrs. Sorg-McManamon reported that the next Committee meeting is Thursday, June 20, 2019 at 4:30 p.m.

Progress.

h. Junior Council Member's Report

Mr. Hausmann reported that the last day of school is Tuesday, June 18, 2019. He stated that he will be joining the Community Relations, Planning and Development Committee and will attend the meeting on Thursday, June 20, 2019 at 4:30 p.m.

PERSONAL APPEALS, PART II – None.

BOROUGH MANAGER'S REPORT

Mr. Pepe reported that staff hired Daniel Bowser and Erin LaCorte as part-time EMT's with the Emmaus Ambulance Corps at an hourly rate of \$14.82.

Progress.

PRESIDENT'S BUSINESS

Mr. Labenberg recessed the meeting at 8:48 p.m. for an Executive Session to discuss personnel matters with no action anticipated.

Mr. Labenberg reconvened the meeting at 9:17 p.m.

Progress.

EMMAUS BOROUGH COUNCIL

ADJOURNMENT

Motion by Mr. Hart, seconded by Mr. DeFrain to adjourn the June 17, 2019 Emmaus Borough Council Meeting. There were 7 ayes. Motion carried.

The Meeting adjourned at 9:17 p.m.

Shane M. Pepe
Borough Manager

Transcribed by: Paula Weiant
Administrative Assistant
June 25, 2019