

December 04, 2017

**Emmaus Borough Council
Agenda
December 04, 2017 7:00 PM**



1. Attendance of Council Members
2. Public Hearing
 - 2.1. Public Hearing on the Conditional Use Request 004 - Cave Brewing Company LLC, 850-1 Broad Street, Emmaus, PA 18049 - Applicant is requesting to operate a Craft Beverage production facility in accordance with Z.O. Section 306 Table of Permitted Uses and the requirements of Z.O. Section 402.AAA. Site is located in a B-C Zoning District.
3. Solicitor Comments
4. Public Comments
5. Council Comments
6. Adjournment

December 04, 2017

**Emmaus Borough Council
Agenda
December 04, 2017 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
 - 6.a. Council Meeting Minutes - November 20, 2017
7. Decisions on Bids
8. Communications
 - 8.a. Lee Ann Gilbert - Letter of Resignation from the Borough Council.
 - 8.b. Nathan Brown - Letter of Resignation from the Borough Council.
 - 8.c. Bill Schram, Interim Pastor, Faith Presbyterian Church - Request use of Triangle Park December 24, 2017.
9. Borough Engineer's Report
10. Solicitor's Report
11. Unfinished Business, Part I
 - 11.a. Ordinance No. 1165 - An Ordinance Establishing a Deferred Retirement Option Plan for the Emmaus Police Department in Accordance with the Provisions of Pennsylvania Act 44 of September 18, 2009, P.L. 396 No. 44, 53 P.S. § 895 (1st Reading 11/6/2017) (2nd Reading 12/4/2017).

December 04, 2017

- 11.b. Ordinance No. 1166 - An Ordinance Amending Chapter 15, Section 214, Establishing a Stop Sign at the Intersection of South Sixth (6th) Street and Bank Street on Bank Street (1st Reading 11/6/2017) (2nd Reading 12/4/2017).
- 11.c. Ordinance No. 1167 - An Ordinance Amending Chapter 15 §404(a) of the Codified Ordinances, Eliminating Parking on Portions of South Sixth (6th) Street (1st Reading 11/6/2017) (2nd Reading 12/4/2017).

12. New Business

- 12.a. Ordinance No. 1169 - An Ordinance Levying Taxes for the Fiscal Year 2018 for the Borough of Emmaus at the Rate of 5.9715 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania and a Revenue Neutral Levy Based on the 2013 Lehigh County Tax Reassessment, Split between the General Fund Tax of 4.8754 Mills and a Fire Fund Tax of 1.0961 Mills (1st Reading 12/4/2017).

13. Unfinished Business, Part II

- 13.a. Ordinance No. 1168 - An Ordinance of the Borough of Emmaus, Lehigh County, Pennsylvania, Amending Ordinance 1099 and Chapter 15 §602.2.A of the Emmaus Borough Code, Removing a Residential Handicapped Parking Sign on the Public Street Located in Front of 653 Furnace Street and 130 S. 4th Street Within the Borough of Emmaus (1st Reading 11/20/2017) (2nd Reading 12/18/2017).

14. Items Not on Agenda
Subject to Rule 9

15. Mayor's Report

16. Committee Reports

Public Works/(Highway, Water & Sewer) (Brown, Anders, DeFrain)
Next Meeting – December 11, 2017 at 3:00 p.m.

Health, Sanitation, and Codes (Shubzda, DeFrain, Brown)
Next Meeting – December 21, 2017 at 4:15 p.m.

Refuse Hauler

Parks and Recreation (Anders, Barrett, Labenberg)
Next Meeting – December 5, 2017 at 4:00 p.m. (Cancelled)

Public Safety (Gilbert, Barrett, Brown)
Next Meeting – December 6, 2017 at 3:00 p.m.

Appointment of Olin Perkins as a Volunteer EMT for the Ambulance Corps

December 04, 2017

Ordinance No. 1167 - 2nd Reading

Ordinance No. 1168 - 2nd Reading 12/18/2017

General Administration (Barrett, Labenberg, Gilbert)

Next Meeting – December 7, 2017 at 9:00 a.m.

Public Works Collective Bargaining Agreement

Temporary Agreement with IAFF Local 5004

Ordinance No. 1165 - 2nd Reading

Next Meeting - December 7, 2017 at 9:00 a.m.

Budget and Finance (Labenberg, Shubzda, Gilbert)

Next Meeting – December 18, 2017 at 6:45 p.m.

Proposed 2018 Budget

Resolution 2017-34: Bill List

Resolution 2017-35: 2018 Delinquent Tax Collection

Resolution 2071-36: Berkheimer Appointment Resolution

Resolution 2017-37: Confidentiality Resolution

Resolution 2017-38: Imposition of Costs

Resolution 2017-39: Tax Hearing Appointment

Committee Meeting Notes - November 20, 2017

Community Relations, Planning and Development (DeFrain, Shubzda, Anders)

Next Meeting – December 14, 2017 at 4:00 p.m.

17. Boards and Commissions

17.a. Emmaus Public Library Board of Trustees Meeting Minutes - October 17, 2017

17.b. Zoning Hearing Board Meeting Minutes - November 21, 2017

17.c. November Budget Worksheet

18. Personal Appeals, Part II

December 04, 2017

19. Borough Manager's Report

19.a. Significant Revenue and Expense Items for November, 2017

20. President's Business

20.a. Executive Session - Contract Negotiations

21. Adjournment

EMMAUS BOROUGH COUNCIL

CALL TO ORDER

A Public Hearing was held at 7:00 p.m., prior to the start of the December 4, 2017 Council Meeting.

ATTENDANCE

Mayor Winfield Iobst; Council President Brent Labenberg; Council Vice President Wesley Barrett; Councilman Roy Anders; Councilman Nathan Brown; Councilman Chris DeFrain; Councilwoman Lee Ann Gilbert; Councilman Jeff Shubzda; Borough Manager Shane Pepe; and Solicitor Jeffrey Dimmich.

PUBLIC HEARING ON CONDITIONAL USE REQUEST 004

Conditional Use Request 004 - Cave Brewing Company LLC, 850-1 Broad Street, Emmaus, PA 18049 – Applicant is requesting to operate a Craft Beverage production facility in accordance with Z.O. Section 306 Table of Permitted Uses and the requirements of Z.O. Section 402.AAA. Site is located in a B-C Zoning District.

Solicitor Dimmich explained that the Public Hearing is being held for a Conditional Use Request from Cave Brewing Company, LLC for their brewing and tap room operations. He explained that a Conditional Use is the same thing as a Special Exception to the Zoning Hearing Board except that a Conditional Use request is presented before Council. Solicitor Dimmich invited Mr. Jeffrey Bonner to approach the podium. Solicitor Dimmich stated that there are conditions that must be met for approval of the Conditional Use. He stated that one of the conditions is that the applicant must present a valid state license. He stated that the more critical condition is parking. According to the Borough's Zoning Ordinance 602.K – Shared Use, if there is a property that has one use and there are hours that the property is not being used for parking, another individual can use the property during the off hours for parking. The brewing operation has proposed business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. The tap room has proposed business hours of Thursday and Friday from 5:00 p.m. to 8:00 p.m., Saturday from 12:00 p.m. to 8:00 p.m., and Sunday from 12:00 p.m. to 5:00 p.m. According to the Borough Zoning Ordinance, the number of parking spaces required is 4 for the employees and 50 spaces for patrons. The minimum number of parking spaces required is 54. NAPA is open on Saturday and Sunday and they use 5 parking spaces. Because of this, Council could either require 59 parking spaces or 54 parking spaces. Solicitor Dimmich stated that the Borough complied with the laws by advertising the meeting, posting the property, and notifying adjoining neighbors about the meeting. Solicitor Dimmich invited Mr. Jeffrey Bonner to make his presentation. Mr. Bonner handed out a presentation to Council. He stated that he enclosed a copy of the state license in the presentation packet. Mr. Bonner stated that he agrees with Mr. Farnsworth concerning parking and is requesting 54 parking spaces. He stated that he is requesting 54 parking spaces because the spaces available for shared use is 74. Mr. Bonner stated that there will be no physical changes to the outside of the building except for a sign. He stated that there will be no outside noise, odors, vibrations, or discharges. He also stated that the business will mostly be open when the other businesses in the building are closed. He stated that opening the facility will provide for jobs in the

EMMAUS BOROUGH COUNCIL

Borough. He also stated that there are two existing breweries in the Borough and he will promote the other breweries. Mr. Bonner presented a concept layout and photos of the site.

Council Comments

Mr. Shubzda asked if there is more than one restroom in the building. Mr. Bonner responded that there are two restrooms and a shower. One restroom and the shower are ADA compliant. Mr. Bonner stated that according to Mr. Farnsworth, two restrooms must be ADA compliant and he will convert the ADA shower to another restroom. Mr. Shubzda asked if Mr. Bonner will be placing food trucks at the site and how many parking spaces food trucks would utilize. Mr. Bonner responded that he does anticipate having food trucks when the weather is good. He stated that the food truck will utilize two parking spaces. Mr. Barrett asked if Mr. Bonner anticipates opening the overhead door and placing a tent outside. Mr. Bonner responded that he does not anticipate placing a tent at the facility immediately, but does not want to rule it out in the future. Solicitor Dimmich reminded Council that they could place a condition on placing tents outside the facility. Mr. Anders asked if there will be any storage located outside. Mr. Bonner responded that all storage will be located inside. Mr. Labenberg asked Mr. Bonner why his hours of operation are only until 8:00 p.m. on Thursday, Friday, and Saturday. Mr. Bonner responded that he will be running the operation by himself and does not anticipate later hours. Mr. Anders asked Mr. Bonner if he has held discussions with the neighboring businesses concerning the shared spaces. Mr. Bonner responded that he has. He also stated that NAPA may be moving out of the space that they currently utilize. Mr. Barrett clarified that in order for Mr. Bonner to expand his operation, he would need to complete the Conditional Use process again. Solicitor Dimmich stated that Mr. Barrett is correct. Mr. Shubzda asked Mr. Bonner if he will hold 1- day can release events. Mr. Bonner responded that he will not immediately, but he may in the future. Mr. Bonner clarified that one of the food vendors is a tent, not a truck. The tent takes up approximately 3 parking spaces.

Public Comments

Ted Iobst, 413 S. 5th Street – applauded Mr. Bonner for choosing a location with adequate parking and does not oppose the Conditional Use request. Mr. Iobst stated that he believes that this is an excellent opportunity to place reasonable conditions on this application regarding a property owner who doesn't necessarily comply with Borough regulations. Mr. Iobst presented a violation letter dated August 29, 2016, from the Lehigh County Conservation District, addressed to Mr. Reitz. The Conservation District visited the site on May, 25, 2017, and sent Mr. Reitz another letter for non-compliance. Mr. Iobst stated that he visited the Lehigh County Conservation District and was informed that Mr. Reitz continues to ignore what the county Conservation District requires. Mr. Iobst stated that the property is very close to Leibert's creek and Borough water wells. Mr. Iobst encouraged Council to consider approving the application but delay the certificate of occupancy until Mr. Reitz complies or deny the application pending compliance by the landlord. Mr. Labenberg asked Mr. Iobst if the Lehigh County Conservation District has enforcement tools. Mr. Iobst

EMMAUS BOROUGH COUNCIL

responded that the Conservation District is able to fine the party in violation with the cooperation of the governing municipality and the municipalities' Zoning Officer. Mr. Labenberg asked Mr. Iobst how long he believes the permitting processing would take. Mr. Iobst stated that he believes that it would take 30-45 days to submit a plan and obtaining the permits would take approximately 6 months. Mr. Pepe thanked Mr. Iobst for bringing the issue before Council. Mr. Pepe stated that Mr. Reitz was before the Planning Commission on one occasion for this matter and has not attended a meeting since then. Mr. Pepe stated that there is a major issue with the property owner. Mr. Labenberg asked if Mr. Reitz can be fined. Solicitor Dimmich stated that Mr. Reitz is the landlord and Mr. Bonner is the applicant for Cave Brewing Company, LLC. He stated that the court holds that there are other remedies available and that the applicant has no control over the landlord. Mr. Barrett stated that a gym was previously in the location and Mr. Reitz could rent to someone that does not require a Conditional Use. Mr. Iobst stated that he feels that the Borough has been doing a great job dealing with problem properties and he just wanted to bring the issue to Council's attention. He stated that this is a problem property and reminded Council that the Borough's water supply is not far from the location. Mr. Pepe stated that the Borough will involve the Solicitor to resolve the issue.

Conditions:

1. 59 Parking Spaces
2. No outside storage without Council's permission
3. No outside expansion without Council's permission
4. Keep, maintain & produce state license
5. Hours of operation:
 - Business Operations – Monday through Friday, 7:00 a.m. to 4:30 p.m.
 - Tap Room – Thursday, 5:00 p.m. to 8:00 p.m.; Friday, 5:00 p.m. to 11:00 p.m.;
 - Saturday, 12:00 p.m. to 11:00 p.m.; Sunday, 12:00 p.m. to 5:00 p.m.

Mr. Labenberg adjourned the Public Hearing at 7:46 p.m.

Shane Pepe
Borough Manager

Transcribed by: Paula Weiant
Administrative Assistant
December 5, 2017

EMMAUS BOROUGH COUNCIL

The Emmaus Borough Council met in regular session on December 4, 2017 in Borough Council Chambers, 28 S. 4th Street, Emmaus, PA 18049.

CALL TO ORDER

Mr. Labenberg called the Meeting to order at 7:47 p.m.

Brent Labenberg, President	Present
Wesley Barrett, Vice President	Present
Roy Anders	Present
Nathan Brown	Present
Chris DeFrain	Present
Lee Ann Gilbert	Present
Jeffrey Shubzda	Present
Winfield Iobst, Mayor	Present
Jeffrey Dimmich, Solicitor	Present
Shane Pepe, Borough Manager	Present

PERSONAL APPEALS, PART I – None.

COMMUNITY MINUTE

Mr. Pepe stated that the Old-Fashioned Christmas event was held over the past weekend. He stated that the event was very well attended and that the Main Street Partners did a fantastic job hosting the event. He thanked the Emmaus Main Street Partners, all of the volunteers, and the Public Works Department for their hard work. Mr. Anders stated that he visited the Emmaus Historical Society during the event and they were very busy. He stated that the event was very successful.

SPECIAL PRESENTATIONS – None.

READING OF MINUTES

Motion by Mr. DeFrain, seconded by Mr. Shubzda to adopt the November 20, 2017 Council Minutes as drafted. There were 7 ayes. Motion carried.

DECISION ON BIDS – None.

COMMUNICATIONS

- a. Lee Ann Gilbert – Letter of Resignation from the Borough Council.

EMMAUS BOROUGH COUNCIL

Motion by Mr. Anders, seconded by Mr. DeFrain to accept Lee Ann Gilbert's Letter of Resignation from the Borough Council, effective 1/1/2018. There were 6 ayes, 1 abstention (Gilbert). Motion carried.

- b. Nathan Brown – Letter of Resignation from the Borough Council.

Motion by Mr. Shubzda, seconded by Mr. Anders to accept Nathan Brown's Letter of Resignation from the Borough Council, effective 1/1/2018. There were 6 ayes, 1 abstention (Brown). Motion carried.

- c. Bill Schram, Interim Pastor, Faith Presbyterian Church – Request use of Triangle Park December 24, 2017. Mr. Labenberg referred the item to staff.

- d. Kendrick Smith – Request to hold race at South Mountain Trail on Saturday, March 24, 2018. Referred to the General Administration Committee.

- e. Phil Atkins, N. 5th Street – J.P. Mascaro concerns.

- f. Everett Henry, 514 Alpine Circle – J.P. Mascaro concerns.

BOROUGH ENGINEER'S REPORT – None.

SOLICITOR'S REPORT

Solicitor Dimmich reported that the City of Allentown has sent a letter stating that the Borough is in violation of its contract with them. Solicitor Dimmich also reported that on Wednesday, December 6, 2017, the Schmidt grievance hearing will be held at Town Hall.

Progress.

UNFINISHED BUSINESS, PART I

Ordinance No. 1165 – An Ordinance Establishing a Deferred Retirement Option Plan for the Emmaus Police Department in Accordance with the Provisions of Pennsylvania Act 44 of September 18, 2009, P.L. 396 No. 44, 52 P.S. § 895 (1st Reading 11/6/2017) (2nd Reading 12/4/2017).

Motion by Mr. Brown, seconded by Mrs. Gilbert to adopt Ordinance No. 1165 - An Ordinance Establishing a Deferred Retirement Option Plan for the Emmaus Police Department in Accordance with the Provisions of Pennsylvania Act 44 of September 18, 2009, P.L. 396 No. 44, 53 P.S. § 895 on its 2nd Reading. Roll call vote: Mr. DeFrain, aye; Mr. Barrett, aye; Mrs. Gilbert, aye; Mr. Brown, aye; Mr. Shubzda, aye; Mr. Anders, aye; Mr. Labenberg, aye. There were 7 ayes. Motion carried.

Ordinance No. 1166 – An Ordinance Amending Chapter 15, Section 214, Establishing a Stop Sign at the Intersection of South Sixth (6th) Street and Bank Street on Bank Street (1st Reading 11/6/2017) (2nd Reading 12/4/2017).

EMMAUS BOROUGH COUNCIL

Motion by Mr. Brown, seconded by Mrs. Gilbert to adopt Ordinance No. 1166 - An Ordinance Amending Chapter 15, Section 214, Establishing a Stop Sign at the Intersection of South Sixth (6th) Street and Bank Street on Bank Street on its 2nd Reading. Roll call vote: Mr. DeFrain, aye; Mrs. Gilbert, aye; Mr. Barrett, aye; Mr. Brown, aye; Mr. Shubzda, aye; Mr. Anders, aye; Mr. Labenberg, aye. There were 7 ayes. Motion carried.

Ordinance No. 1167 – An Ordinance Amending Chapter 15 §404(a) of the Codified Ordinances, Eliminating Parking on Portions of South Sixth (6th) Street (1st Reading 11/6/2017) (2nd Reading 12/4/2017).

Motion by Mrs. Gilbert, seconded by Mr. Brown to adopt Ordinance No. 1167 - An Ordinance Amending Chapter 15 §404(a) of the Codified Ordinances, Eliminating Parking on Portions of South Sixth (6th) Street on its 2nd Reading. Roll call vote: Mr. DeFrain, aye; Mrs. Gilbert, aye; Mr. Barrett, aye; Mr. Brown, aye; Mr. Shubzda, nay; Mr. Brown, aye; Mr. Labenberg, aye. There were 6 ayes, 1 opposed (Shubzda). Motion carried.

NEW BUSINESS

Ordinance No. 1169 – An Ordinance Levying Taxes for the Fiscal Year 2018 for the Borough of Emmaus at the Rate of 5.9715 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania and a Revenue Neutral Levy Based on the 2013 Lehigh County Tax Reassessment, Split between the General Fund Tax of 4.8754 Mills and a Fire Fund Tax of 1.0961 Mills (1st Reading 12/4/2017).

Motion by Mr. Brown, seconded by Mrs. Gilbert to adopt Ordinance No. 1169 - An Ordinance Levying Taxes for the Fiscal Year 2018 for the Borough of Emmaus at the Rate of 5.9715 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania and a Revenue Neutral Levy Based on the 2013 Lehigh County Tax Reassessment, Split between the General Fund Tax of 4.8754 Mills and a Fire Fund Tax of 1.0961 Mills on its 1st Reading. Roll call vote: Mr. DeFrain, aye; Mrs. Gilbert, aye; Mr. Barrett, aye; Mr. Brown, aye; Mr. Shubzda, aye; Mr. Anders, aye; Mr. Labenberg, aye. There were 7 ayes. Motion carried.

Mr. Brown stated that he will not support the proposed 2018 Budget due to the Fire Fund Tax. He stated that he recognizes that volunteer fire fighters are dwindling quickly. He stated that he believes that it is important to have staff during the day but supplement with volunteers during the evening and overnight. He stated that he believes that the state needs to be more proactive than they currently are and that he is disappointed in the Borough's Fire Fighter's union. He stated that he believes that there is more than enough money in the current budget to support the Firefighters. Mr. Pepe thanked Mr. Brown for his opinion but reminded Mr. Brown that this issue has nothing to do with the current budget or Council wanting to increase the Fire Fund Tax, it has to do with a Pennsylvania Supreme Court case

EMMAUS BOROUGH COUNCIL

which ruled against the Borough of Emmaus and stated that the Borough's Firefighters are employees. He stated that there are two choices to be made, shut down the Fire Department or recognize the fact that the Firefighters are employees. He stated that Borough Council has recognized that they are employees. Mr. Pepe stated that the tax increase is an increase of .465 mills, and will generate \$360,375. The average tax bill will increase by 8.44%. The average house worth \$163,000 will see a tax increase of \$75.84. He stated that the tax increase is not due to the Borough not having enough money in the budget or Council wanting to do it, it is solely to coverage the wages of the Fire Department. He also stated that it is important to note that the tax increase covers less than one half of the wages and staffing requirements that the Fire Department union previously requested in contract proposals and believes that this may not be the last of the tax increases. He stated again, that the Borough has two choices, to either negotiate with the Fire Department or to shut it down and Council does not believe that shutting it down is a feasible and viable option to this community. He stated that Borough Council wishes that there was another solution and this is not a political stance. He stated that if the Fire Department is successful with contract negotiations, there will be a yearly tax increase of approximately \$200. Mr. Barrett clarified that the tax increase would not be happening if the Borough would not have lost the case at the Supreme Court level. Mr. Barrett stated that he has struggled with this position more than any other during his time in office. He stated that the Borough is no way anti-emergency service, but it has been a very difficult situation and he is extremely disappointed that this is the direction that the Borough needs to take. He noted that even if they cut other items from the budget, it still wouldn't cover it. Mr. DeFrain stated that the only silver lining is that the Borough should have even better emergency services because of this. Mr. Anders stated that every Council member and Mr. Pepe have spent countless hours trying to resolve this situation. Mr. Labenberg stated that the Borough is budgeting for next year blindly because the Borough is unsure of the outcome of the union contract. Mr. Labenberg stated that he is disappointed in Mr. Brown's statement because Council had over 20 hours of budget meetings and he does not remember Mr. Brown ever voicing the opinion that was voiced tonight. He stated that Mr. Brown had countless opportunities to voice his opinion and he does not recall him ever doing so. He asked Mr. Brown to reconsider because Borough Council worked very hard on this budget. Mr. Brown clarified that he did make his opinion known in front of full Council before and he is disappointed in the Pennsylvania legal system. He is disappointed that the residents of the Borough will suffer because of the legal decision. Mr. Pepe responded that he respects Mr. Brown's opinion and his vote is his vote, he will not ask him to change his decision. He stated that the Borough should not be disappointed in the Fire Department, it should be disappointed in mistakes that were made by Council 20 years ago and should have been fixed 20 years ago, 10 years ago, and Council did try to fix them 5 years ago.

UNFINISHED BUSINESS, PART II

Mr. Labenberg stated that Ordinance No. 1168 will have its 2nd Reading at the December 18, 2017 Council Meeting.

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

EMMAUS BOROUGH COUNCIL

MAYOR'S REPORT

Progress.

COMMITTEE REPORTSa. Public Works Committee

Mr. Brown reported that the next Committee meeting is December 11, 2017 at 3:00 p.m.

Mr. Pepe asked Mr. Brown if he would like a road list work proposal from Mr. Dychala. Mr. Brown responded affirmatively and asked for a status on Public Works' projects.

Progress.

b. Health, Sanitation, and Codes Committee

Mr. Labenberg invited J.P. Mascaro representatives to the podium. Mr. Shubzda thanked them for attending tonight's Council Meeting. He stated that he has received many emails from residents concerning refuse/recycling being picked up late. He asked for an explanation of why this is occurring, especially on the specific dates of November 8th, 15th, and 29th. Mr. Augustine introduced himself and responded that he has been with J.P. Mascaro for many years as Director of Sales. He stated that he understands every aspect of the business and tries to make himself aware of the overall customer service to the municipalities. Mr. Augustine introduced Chris Caras. Mr. Augustine stated that the Borough extended J.P. Mascaro's contract and he is appreciative of this. He stated that the contract clearly states what is to be expected of them and the cut-off times for collection are ample. He stated that the Borough allows Mascaro to begin collection at 4:00 a.m. and they should be done by 4:00 p.m. Several Council members stated that the contract lists 2:00 p.m. Mr. Augustine stated that he is aware of the contract, but believes that the Borough verbally authorized Mascaro to complete collection during the daylight. He stated that there are no reasons that issues are occurring and they need to be rectified. Mr. Barrett questioned why some of the issues are occurring. Mr. Augustine responded that there is a shortage of CDL drivers. He stated that management needs to train drivers and that there is a shortage of drivers throughout the industry, but it is not an excuse. He also stated that management needs to be certain that all of the routes are properly covered. Mr. Barrett asked how the Borough can be assured that change will take place. Mr. Augustine responded that he believes there will be better service as of Wednesday, December 6, but that over Christmas and New Year trash is extremely heavy. Mr. Barrett asked if it is realistic that the Borough will see a change in the service, to which Mr. Augustine answered affirmatively. Mr. DeFrain stated that there are provisions in the contract that the Borough is able to fine Mascaro and believes that beginning January 1st, the Borough should begin fining Mascaro if collection is not completed by 4:00 p.m. Mr.

EMMAUS BOROUGH COUNCIL

Labenberg stated that he is in favor of instituting fines after January 1st. Mr. Anders asked if Mascaro has back- up trucks. Mr. Augustine responded that they do. Mr. Anders stated that he has no faith in Mascaro because Council was told before that collection issues would be taken care of. Mr. Anders stated that he is in favor of instituting fines after January 1st and the Borough should stick to the stated contract time of 2:00 p.m. He stated that Borough residents are unhappy with the service. Mr. Brown stated that he is concerned about safety issues when there is only one person driving and picking up trash and hopes that Mascaro hires more CDL drivers. Mr. Augustine stated that Mascaro is a very safe company and assured Council that they will do whatever it takes to rectify the issues. Mrs. Gilbert stated that the schools must have their refuse/recycling picked up by 8:00 a.m. Mr. DeFrain stated that the Borough can break the contract through Section 25 for nonperformance. He stated that he appreciates that Mr. Augustine is not making excuses and thanked him for that. Mr. Shubzda stated that most of the complaints that he receives are concerning recycling issues. He complimented Christine Lopez on the promptness of her email responses. Mr. Pepe also thanked Chris Caras for his prompt response to the Borough's emails and/or phone calls. Mr. Labenberg voiced concerns about how refuse and recycling is picked up and the cans being placed back in the street rather than on the curb. He stated that he had an incident with broken glass and he was told by the driver that they have no way of cleaning up broken glass. Mr. Labenberg stated that these incidents need to be addressed. Mr. Augustine agreed. Mr. Labenberg thanked Mr. Augustine for addressing a situation with an employee who acted unprofessionally towards him. Mr. Labenberg reinforced that the Borough will follow the contract and will begin fining Mascaro after January 1, 2018. He restated that all refuse/recycling must be picked up by 2:00 p.m. Mr. Augustine asked if he could have a meeting with the Borough concerning the pick-up time. Mr. Labenberg invited Mr. Augustine to attend the next Health, Sanitation and Codes meeting to be held on Thursday, December 21, 2017 at 4:15 p.m.

Mr. Shubzda reported that the next Committee meeting is December 21, 2017 at 4:15 p.m.

Progress.

c. Parks and Recreation Committee

Mr. Anders reported that the December 5, 2017 Committee meeting is cancelled.

Progress.

d. Public Safety Committee

Mrs. Gilbert reported that Olin Perkins was appointed as a volunteer for the Emmaus Ambulance Corps.

Mrs. Gilbert stated that she would like to cancel the December 6, 2017 Committee meeting unless staff has something that needs to be acted upon. She made Council aware that

EMMAUS BOROUGH COUNCIL

the curb has been painted and the No Parking signs have been placed on S. 6th Street by Funk Brewery.

Progress.

e. General Administration Committee

Motion by Mr. Barrett, seconded by Mrs. Gilbert to authorize Mr. Pepe and Mr. Labenberg to sign the Collective Bargaining Agreement between the Borough of Emmaus and Teamster's Local #773, the Emmaus Public Works Department, effective January 1, 2018 through December 31, 2021. There were 7 ayes. Motion carried.

Motion by Mr. Barrett, seconded by Mrs. Gilbert to adopt the Department of Public Works Rules and Safety Regulations, effective January 1, 2018. There were 7 ayes. Motion carried.

Motion by Mr. Barrett, seconded by Mrs. Gilbert to enter into a Temporary Agreement with the Borough of Emmaus and IAFF Local 5004. There were 7 ayes. Motion carried.

Mr. Pepe explained that now that the Fire Department has employees, per the Pennsylvania Supreme Court, the Borough must be in compliance with the Federal Fair Labor Standards Act. The Firefighters now must be paid 100% of the time that they are working. The Firefighters have agreed on a temporary wage rate. Beginning on January 1, 2018, each employee will receive minimum wage for every hour of work until the contract is reached with whatever wage is agreed upon.

Motion by Mr. Barrett, seconded by Mr. Anders to grant Conditional Use Request 004 – Cave Brewing Company LLC, 850-1 Broad Street, Emmaus, PA 18049, subject to the following conditions: 1. 59 shared parking spaces. 2. No expansion without Council's approval. 3. No storage placed outside without Council's approval. 4. Keep, maintain, and produce state license. 5. Hours of operation: Business Operations – Monday through Friday, from 7:00 a.m. to 4:30 p.m., Tap Room - Thursday, 5:00 p.m. to 8:00 p.m.; Friday, 5:00 p.m. to 11:00 p.m.; Saturday, 12:00 p.m. to 11:00 p.m.; Sunday, 12:00 p.m. to 5:00 p.m.

Mr. Barrett stated that he believes that Cave Brewing should be approved for tent usage at tonight's meeting rather than returning to appear before Council. Mr. Brown stated that the Pennsylvania LCB has the authorization to grant permission to extend their occupancy outside of the building. Mr. Labenberg reminded Council that Mr. Bonner stated that the premises is large and he does not believe at this time he will need to place a tent outside. Mr. Shubzda stated that he is not in favor of placing a tent outside of the building due to safety concerns. Mr. Pepe explained that the motion can be amended to include obtaining Council's

EMMAUS BOROUGH COUNCIL

approval prior to placing a tent(s) outside. Mr. Barrett amended his motion and Mr. Anders amended his second.

Motion by Mr. Barrett, seconded by Mr. Anders to grant Conditional Use Request 004 – Cave Brewing Company LLC, 850-1 Broad Street, Emmaus, PA 18049, subject to the following conditions: 1. 59 shared parking spaces. 2. No expansion without Council’s approval. 3. No storage placed outside without Council’s approval. 4. Keep, maintain, and produce state license. 5. Hours of operation: Business Operations – Monday through Friday, from 7:00 a.m. to 4:30 p.m., Tap Room - Thursday, 5:00 p.m. to 8:00 p.m.; Friday, 5:00 p.m. to 11:00 p.m.; Saturday, 12:00 p.m. to 11:00 p.m.; Sunday, 12:00 p.m. to 5:00 p.m. 6. Must obtain Council’s approval prior to placing a tent(s) outside of the premises. There were 7 ayes. Motion carried.

Motion by Mr. Barrett, seconded by Mr. DeFrain to authorize Mr. Pepe to advertise for two Borough Council vacancies for a two-year term. There were 7 ayes. Motion carried.

Mr. Barrett stated that the next Committee meeting is Thursday, December 7, 2017 at 9:00 a.m.

Progress.

f. Budget and Finance Committee

Motion by Mrs. Gilbert, seconded by Mr. DeFrain to authorize the Borough Manager to advertise the proposed 2018 Budget. There were 7 ayes. Motion carried.

Mr. Labenberg thanked staff, the department heads, Mr. Pepe, and Christine Snyder for their hard work and effort preparing the proposed 2018 Budget. Mr. Pepe stated that the budget is approximately \$16,000,000, with approximately \$1,600,000 in transfers, bringing the actual budget to \$14,900,000. He stated that \$1,323,804 is grant money, with \$500,000 of the grant money being designated for the Library addition, \$167,980 for rescue equipment, \$238,777 for the 10th Street Culvert project and \$260,000 for the manhole inflow and infiltration grant. He stated that road work projects will be budgeted at \$668,000. He also stated that the Borough will spend \$45,000 to eliminate reservoir two, \$75,000 for water meter replacements, \$405,000 to address sewer I & I issues, with \$260,000 being funded by a grant. He also stated that the Borough is spending \$48,000 on a track camera allowing the Borough to get into the water, sewer, and storm sewer lines to help direct repairs. He stated that the Borough will be repairing the Knauss Homestead and Library roofs which will cost approximately \$68,000 and will be spending \$83,000 towards Police vehicles. Mr. Labenberg stated that beginning in 2018, for the first time, staff will begin contributing to the Borough’s health care.

EMMAUS BOROUGH COUNCIL

Resolution 2017-34, authorizing payment of the December 4, 2017 Bill List, as follows:

Bill List	\$	86,740.10
Payroll #24	\$	138,437.95
Payroll Taxes	\$	<u>48,880.13</u>
Total	\$	274,058.18

Done this 4th day of December 2017.

Motion by Mr. Shubzda, seconded by Mrs. Gilbert to adopt Resolution 2017-34. There were 7 ayes. Motion carried.

Resolution 2017-35 – A Resolution of the Governing Board of Emmaus Borough, Lehigh County, Pennsylvania, Appointing the Law Firm of Dimmich & Dinkelacker as the Official Delinquent Tax Collection Agency for the Borough of Emmaus.

Motion by Mrs. Gilbert, seconded by Mr. Shubzda to adopt Resolution 2017-35. There were 7 ayes. Motion carried.

Mr. Barrett asked if the correct name of the firm is Dimmich, Dinkelacker & Anewalt to which Solicitor Dimmich responded affirmatively. Mr. Pepe stated that the Resolution will be amended.

Resolution 2017-36 – A Resolution of the Governing Board of Emmaus Borough, Lehigh County, Pennsylvania, Authorizing, Empowering and Directing the Proper Officers of the Governing Board to Execute an Agreement with Berkheimer Whereunder Berkheimer is Retained as the Exclusive Tax Officer for the Collection, Administration, Receipt and Enforcement of the Provisions of the Respective Tax Enactment of the Governing Board Levying and Assessing the Per Capita Tax for the Term Herein Defined, Together with Such Extensions as May be Agreed Upon, Said Tax Enactment Having Been Adopted Under and Pursuant to the Authority of the Pennsylvania Local Tax Enabling Act (Act 511, P.L. 1257); and Approving and Adopting the Rules and Regulations Prepared by Berkheimer to Administer and Enforce the Per Capita Tax.

Motion by Mr. Anders, seconded by Mr. Barrett to adopt Resolution 2017-36. There were 7 ayes. Motion carried.

Resolution 2017-37 – A Resolution of the Governing Board of Emmaus Borough, Lehigh County, Pennsylvania, Authorizing, Empowering and Directing the Proper Officers of the Governing Board to Appoint a Liaison Between it and Berkheimer, the Duly Appointed Collector of the Per Capita Tax for the District, for the Express Purpose of Sharing Confidential Tax Information with the District for Official Purposes.

EMMAUS BOROUGH COUNCIL

Motion by Mrs. Gilbert, seconded by Mr. DeFrain to adopt Resolution 2017-37. There were 7 ayes. Motion carried.

Resolution 2017-38 – A Resolution of the Governing Board of Emmaus Borough, Lehigh County, Pennsylvania, Authorizing and Empowering Its Local Tax Collector, Berkheimer, to Impose and Retain Costs of Collection on Delinquent Taxes.

Motion by Mr. DeFrain, seconded by Mr. Barrett to adopt Resolution 2017-38. There were 7 ayes. Motion carried.

Resolution 2017-39 – A Resolution of the Governing Board of Emmaus Borough, Lehigh County, Pennsylvania, Authorizing, Empowering and Directing the Proper Officers of the Governing Board to Appoint Berkheimer as its Tax Hearing Officer Under and Pursuant to the Local Taxpayers Bill of Rights for the Express Purpose of Adjudicating Appeals Thereunder.

Motion by Mr. DeFrain, seconded by Mr. Shubzda to adopt Resolution 2017-39. There were 7 ayes. Motion carried.

Mr. Labenberg reported that the next Committee meeting is December 18, 2017 at 6:45 p.m.

Progress.

g. Community Relations, Planning and Development Committee

Mr. DeFrain reported that the next Committee meeting is December 14, 2017 at 4:00 p.m.

Progress.

PERSONAL APPEALS, PART II – None.

BOROUGH MANAGER’S REPORT

Mr. Pepe reported that the Significant Revenue and Expense Items for November 2017 are in the iPads and entertained questions about them.

Mr. Pepe thanked Council for their hard work preparing the proposed 2018 Budget.

Progress.

EMMAUS BOROUGH COUNCIL

PRESIDENT'S BUSINESS

Mr. Labenberg thanked Mr. Pepe for his hard work preparing the proposed 2018 Budget.

Mr. Labenberg recessed the meeting at 9:20 p.m. for an Executive Session to discuss contract issues with no anticipated official action.

Mr. Labenberg reconvened at 9:50 p.m. with no official action taken.

Mr. Labenberg stated that a communication was missed and read a letter by Attorney John Ashley requesting reappointment as Solicitor for the Civil Service Commission.

Progress.

ADJOURNMENT

Motion by Mr. DeFrain, seconded by Mr. Brown to adjourn the December 4, 2017 Emmaus Borough Council Meeting. There were 7 ayes. Motion carried.

The Meeting adjourned at 9:51 p.m.

Shane M. Pepe
Borough Manager

Transcribed by: Paula Weiant
Administrative Assistant
December 5, 2017