

December 21, 2009

EMMAUS BOROUGH COUNCIL

**Emmaus Borough Council  
Agenda  
Monday, December 21, 2009, 7:00 PM**

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

December 7, 2009

7. Decision on Bids
8. Communications
  - a. Linda Waddell, 976 N. 7<sup>th</sup> St. Circle – Reappointment to the Emmaus Arts Commission. (Term Expires 2/01/2010)
  - b. Carl C. Gingrich, 840 Lawrence Dr. – Letter of resignation from the Library Board. (Term Expires 1/01/2010)
  - c. Teryl Madison, Emmaus Main Street Program – SnowBlast Winter Festival request.
  - d. Suzanne Beck, Crime Victims Council of the Lehigh Valley – Community Park rental fee waiver for fund raiser.
  - e. John J. Zettlemoyer, Emmaus General Authority – Request reappointment of Carol Bastian to the Emmaus General Authority. (Term Expires 1/01/2010)
  - f. Chris A. DeFrain, 181 Harrison St. – Budget concerns.
  - g. Jill Weiss – Proposed Tax Increase for 2010.
9. Borough Engineer's Report
10. Solicitor's Report
  - a. **Ordinance No. 1065 – An Ordinance of the Borough of Emmaus, Lehigh County, Pennsylvania, Amending the Code of Ordinances, Chapter 1, Part C, Article VII of Exhibit A, Entitled “Borough of Emmaus Police Pension Plan” to Comply with Act 600 of 1956, as Amended by Act 51 of 2009, the Emergency and Law Enforcement Personal Death Benefits Act, Effective as Provided in the Amendment. (1<sup>st</sup> Reading 12/21/09)**

December 21, 2009

EMMAUS BOROUGH COUNCIL

11. Unfinished Business, Part I

- a. **Ordinance No. 1056 – An Ordinance Amending Chapter 15, Sections 403 and 404(a), Abandoning No Parking Zone and Establishing Restricted Parking Zones and Bus Parking Zones on School Days Along East Minor Street Associated with the Seven Generations Charter School. (90 day trial period expires 11/15/09) (1<sup>st</sup> Reading 12/21/09)**
- b. **Adopt 2010 Fiscal Year Budget – Resolution 2009 - 36**
- c. **Ordinance No. 1063 – An Ordinance Levying Taxes for the Fiscal Year 2010 for the Borough of Emmaus at the Rate of 13.086 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania. (1<sup>st</sup> Reading 12/07/09) (2<sup>nd</sup> Reading 12/21/09)**
- d. **Ordinance No. 1064 – An Ordinance Establishing and Providing for the Imposition of a Business Privilege Tax, for the Collection Thereof, and for Penalties to be Imposed for Failure to Pay the Business Privilege Tax. (1<sup>st</sup> & 2<sup>nd</sup> Reading 12/21/09)**
- e. **Schedule of Fees for 2010 – Resolution 2009 - 37**

12. New Business

- a. **Ordinance No. 1066 – An Ordinance Repealing Chapter 24, Part 6, of the Borough Codified Ordinances, Otherwise Known as the Sign Tax Ordinance. (1<sup>st</sup> Reading 12/21/09)**

13. Unfinished Business, Part II

- a. Ordinance No. 1062 – An Ordinance Amending Chapter 27, Section 704, to Include a Definition of Commercial Advertising Signs. (1<sup>st</sup> Reading 12/07/09) (2<sup>nd</sup> Reading 1/04/10)

14. Items Not on Agenda, Subject to Rule 9

15. Mayor's Report

16. Committee Reports

**Public Works/(Highway, Water & Sewer) (Labenberg, Waddell, Brown)**  
Next Meeting – To be determined.

1. Committee

- a. EPA Order – I & I Elimination
- b. I & I Elimination Report
- c. Sidewalk Repairs
- d. Weiders Lane Status

December 21, 2009

EMMAUS BOROUGH COUNCIL

2. Solicitor

**Health, Sanitation, and Conservation** (Reinhard, Labenberg, Holtzhafer)

Next Meeting – To be determined.

1. Committee

- a. Conservation
- b. Riparian Buffer Ordinance
- c. Appointment of Joan Schwartz to the Board of Health (Term 01/01/2010—01/01/2015)
- d. Appointment of Dale Arndt to the Sanitation Board (Term 01/01/2010—01/01/2012)

2. Solicitor

**Parks and Recreation** (Barrett, Labenberg, Holtzhafer)

Next Meeting – To be determined.

1. Committee

- a. Ice Rink/Skate Park
- b. Raven Mill Trail Project (Trail Name)
- c. Geese at Furnace Dam

2. Solicitor

**Public Safety** (Gilbert, Barrett, Brown)

Next Meeting – To be determined.

1. Committee

- a. Trailer Truck Parking
- b. Tractor Trailer Unloading
- c. **Parking Zones for Seven Generations Charter School – Ordinance No. 1056 (1<sup>st</sup> Reading 12/21/09)**
- d. **Mulberry Street—One Way Southbound**
- e. **Car Show/Bed Race Detour**

2. Solicitor

**General Administration** (Waddell, Gilbert, Barrett)

Next Meeting – December 23, 2009 at 9:00 a.m.

1. Committee

- a. Historical Sites and Park Ordinance
- b. Email for Council People
- c. Definition of Commercial Advertising Signs – Ordinance No. 1062
- d. **Amendment to Police Pension Plan – Ordinance No. 1065 (1<sup>st</sup> Reading)**

December 21, 2009

EMMAUS BOROUGH COUNCIL

1. Committee (continued)
  - e. **Contribution to Police Pension Plan - Resolution 2009 – 35**
  - f. General Authority Vacancy

2. Solicitor

**Budget and Finance** (Holtzhafer, Gilbert, Reinhard)

Next Meeting – January 4, 2010 at 6:45 p.m.

1. Committee
  - a. **Real Estate Tax Rate – Ordinance No. 1063 (2<sup>nd</sup> Reading)**
  - b. **Business Privilege Tax – Ordinance No. 1064 (2<sup>nd</sup> Reading)**
  - c. **Repealing the Sign Tax Ordinance – Ordinance No. 1066 (1<sup>st</sup> Reading)**
  - d. **Adopt 2010 Fiscal Year Budget – Resolution 2009-36**
  - e. **Schedule of Fees for 2010 – Resolution 2009 - 37**
  - f. **Bill List – Resolution 2009-38**
  - g. Policy for Use of Tax ID Number
  - h. 2009 Celebration – Overtime
  - i. Senior Refuse Fee Reduction Consideration
  - j. Per Capita Tax Ordinance

2. Solicitor

**Community Relations/Development** (Brown, Waddell, Reinhard)

Next Meeting – To be determined.

1. Committee
  - a. South Side Master Plan
  - b. Downtown Master Plan – Parking Deck, VFW, David’s Electric
  - c. Triangle Project Expansion
  - d. Parking Deck Feasibility Study Request for Proposals
  - e. Emmaus Community Car Show / Emmaus Bed Race

2. Solicitor

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

Next Meeting – To be determined.

Community/School Relations

- a. Junior Council Member Draft Resolution Review and Application

17. Personal Appeals, Part II

December 21, 2009

EMMAUS BOROUGH COUNCIL

18. Borough Manager's Report

a. **Significant Revenue and Expense Items for First Half of December 2009**

19. President's Business

a. **Personnel Issue**

20. Adjournment

Next Resolution #39  
Next Ordinance #1067

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The Emmaus Borough Council met in regular session on December 21, 2009 in Borough Council Chambers, 28 S. 4<sup>th</sup> Street, Emmaus, PA 18049.

CALL TO ORDER

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

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

PERSONAL APPEALS – PART 1

a. **Josephine Sadrovitz, 130 N 4<sup>th</sup> Street**, voiced concerns over residents not receiving tax bills in a timely fashion. She also commented that she feels open communication between the Fire Department and Borough Council is needed.

b. **Otto Slozer, 121 E. Elm Street**, commented that in 1997 two fire trucks were purchased for \$500,000 with a 2% Penn Vest loan. He questioned whether the Borough researched this type of loan for purchasing a new aerial fire truck. Fire Chief Reiss stated that a 2% Penn Vest loan was researched, and the Fire Department could receive a \$150,000 loan. If the aerial fire truck is purchased in the State of Pennsylvania, the Fire Department could receive \$160,000. Mr. Slozer stated that \$160,000 at a 2% loan would be better than 3.75%. Mr. Slozer voiced concern about the Borough borrowing \$1.5 million and extending the debt.

December 21, 2009

EMMAUS BOROUGH COUNCIL

He stated that this would build in tax increases for the future because of the need to pay the debt service. He commented that in the Minutes Mr. Barrett stated that if the non-union employees do a good job they should receive a raise regardless of the state of the economy. He stated that typically taxes aren't raised in a downward economic cycle. He commented that one decade ago the millage rate was 7.25%, which is an 8 ½ -9% increase per year. He commended the Borough for promoting local businesses but stated that instituting a Business Privilege Tax will crush home based businesses. He also feels that it is a disincentive to tax businesses more based on the number of employees. He voiced concern about spending approximately \$1 million dollars on a baseball field at Emmaus Community Park. He stated that he heard Dr. Seidenberger say that the East Penn School Board has put the Trexlertown project on hold and asked if this correct. Mr. Neely answered that there is a budget of \$100,000 in the Capital Reserve Fund toward improving the Legion Baseball Field. He stated that the baseball field would have bleachers and an outfield fence. He also stated that the East Penn School District would be contributing funds and the Borough has access to the Lehigh County Green Future Fund as well as other grant money. Mr. Neely stated that the Borough received a general cost estimate from the Borough Engineer. The design can be scaled back as needed. Mr. Neely also stated that if the East Penn School District would contribute \$300,000, the Lehigh County Green Future Fund could match the \$300,000, the Borough would contribute \$100,000 from the Capital Reserve Fund, and the other grant money would add up to approximately \$40,000, then the Borough would have \$740,000 towards the field. Mr. Neely stated that contributing \$100,000 and obtaining a \$740,000 improvement could be positive for the Borough. He also noted that the baseball field is only in the discussion phase. Mr. Slozer stated that he has done research and some of the County Commissioners and the East Penn School Directors are unaware of contributing towards this project. He also noted that Council would have had to approve to extend the public funds to start the project. Mr. Neely responded that there are budgeted funds for the Borough Engineer's services and Committees and Council have reviewed it.

**Motion by Mr. Labenberg, seconded by Mr. Barrett to extend Mr. Slozer's time another five minutes for his Personal Appeal. There were 7 ayes. Motion carried.**

Mr. Slozer thanked Council for extending his time. He encouraged Council to control spending and reminded that raising taxes 8 ½% - 9% a year is unsustainable on the residents because inflation has not increased at the same rate. He also recommended not proceeding with the baseball stadium project and to reevaluate giving pay raises to employees. He stated that he is not in favor of instituting a Business Privilege Tax.

Mr. Barrett clarified that he feels that if employees do good jobs they should be rewarded with a raise; however, he failed to say that he was referring specifically to the Department Heads. Mr. Slozer acknowledged that he realizes taking raises away is a very difficult thing but there are other ways to reward employees.

Mr. Labenberg questioned whether Borough Council needed to approve all work being done by the Borough Engineer. Mr. Clapper responded that the Borough Engineer has offered his opinion on several projects without Council approval. Mr. Labenberg questioned whether the Borough Engineer drew plans up for the baseball stadium. Mr. Neely responded that he has. Mr. Labenberg commented that he would like to see the plans and that Council should be voting on the concept for a baseball stadium. Mr. Neely responded that the plans

December 21, 2009

EMMAUS BOROUGH COUNCIL

were reviewed at the Parks & Recreation Committee, the General Administration Committee, and the Community Relations/Development Committee level.

**c. Josephine Garber, 423 Beechwood Street,** presented facts about various residents and their struggles. She noted that there are many organizations to help residents, but the programs are limited and there are restrictions with the programs. She stated that she is proud of Emmaus, but feels that there are more important issues facing the community than building a new baseball stadium, renovating a street, or giving raises to employees. She also stated that Emmaus was founded by people whose goal was to help each other. She stated that she wants Emmaus to be a community that cares about its neighbors.

**d. Chris Defrain, 181 Harrison Street,** raised concerns that if the 2010 Budget passes, the Borough's Real Estate Taxes will have increased 21.5% in two years, 14.4% in 2009 and 6.2% this year. He commended Mr. Labenberg for forwarding his research on ways other municipalities have minimized tax increases and cut items from their budgets. He commented that he doesn't know when the economy will rebound and stated that during economic hardships he would rather make the mistake of being cautious instead of proactive. He does not support the Business Privilege Tax. He questioned what happens if the refuse fee would increase \$300,000 for the contractor? Would the Borough pass the fee along to the residents who pay the refuse bills or would the increase be funded through a Real Estate Tax increase? Dr. Waddell answered that the refuse fee would increase. Mr. Defrain stated that the refuse fee is decreasing by \$96,000 and the revenue that is being lost from lowering the double refuse on business is \$87,000, which leaves the Borough \$9,000 to put towards the General Fund to pay expenses. He stated that the reason the Business Privilege Tax is being put into effect is because the Borough's other costs are going up and if the Borough did not have the ability to put the Business Privilege Tax in place, the taxes would be increasing more than 6.2%. He stated that the economy is not in a position to put taxes on a business. He does not feel that the Borough is presenting the Business Privilege Tax correctly. It is because the Borough's spending on other items is going up and the Borough needs to find more revenue. He commented that he agrees businesses will save money with a Business Privilege Tax but when the 6.2% tax increase is included, businesses will not save money. He also stated that he feels employees need to contribute to their health insurance benefits. He stated that there will be a day in the future when the Borough will collect \$125,000 or so a year in Real Estate Transfer Tax, \$100,000 - \$150,000 in Earned Income Tax, \$40,000 - \$50,000 in Local Services Tax, and believes some of the capital spending needs to be pushed off until that day.

**e. Jill Weiss, 16 W. Greenleaf Street,** stated that she worked for the Borough 7 or 8 years ago and does not feel the public is aware of how great the benefits are for Borough workers. She voiced concerns that Borough employees do not contribute to health insurance premiums for themselves or their families and feels that they should. She feels that none of the Borough employees will leave if they have to contribute towards their health care. She also feels Council should reconsider employee raises.

**f. Jim Woodeshick, 108 Seem Street,** voiced concerns about the Borough borrowing money because of low interest rates, and feels that the Borough can put off several projects, including the Broad Street project, until a later date. He noted that many residents will not be able to afford new sidewalks if the project is completed. He read Emmaus Borough Ordinance No. 635, stating that weeds on the sidewalks, curbs, and gutter areas are the property owner's responsibility and should be enforced by the Weed/Snow Enforcement

December 21, 2009

EMMAUS BOROUGH COUNCIL

Officer. He stated that money should be spent on crack sealing rather than spraying weeds on sidewalks.

**g. Gregory Brittenburg, 6252 Indian Creek Road, Zionsville,** stated that he has a business at 15 S. 10<sup>th</sup> Street and was a previous Council member. He appreciates the difficulties faced by Borough Council. He stated that due to the economic climate, special attention should be paid to any frivolous spending.

**h. Gene Clock, 328 Main Street,** stated that he understands the Borough's need to increase revenue and voiced his appreciation to Borough Council for lowering the refuse fee and eliminating the Sign Tax. He voiced concerns about the Borough instituting a Business Privilege Tax which will take away some of the savings and will be placed in the Borough's operating fund. He stated that it appears to be a double tax with no additional benefit to business owners. He noted that there are less than 2% vacant store fronts in the Borough and is not aware of any other community in the Lehigh Valley that has a Business Privilege Tax that goes solely to the operating expense of the local government. He is aware that some businesses are struggling and may not be operating after February 1, 2010 and the stigma of a Business Privilege Tax will hurt bringing new businesses to the Borough. He stated that from an economic development standpoint it would be a benefit to the Borough to have reduced refuse fees, no Sign Tax, and no Business Privilege Tax.

**i. Susan Roberts, 1245 Chestnut Street,** who owns Wally's Deli, voiced concerns about the Business Privilege Tax. She noted that once the Business Privilege Tax is established, there is always a chance of it increasing yearly. She thanked the Borough for supporting her business, but stated that because of the economy it is difficult to hire another employee if the Tax would be based on the number of employees. She also commented that a flat rate will hurt smaller businesses and benefit larger ones.

BUDGET & FINANCE COMMITTEE

Dr. Waddell stated that the Budget process is very time consuming and very difficult and thanked the residents for voicing their opinions and concerns over the 2010 Budget. He also thanked the Borough Department Heads for being present at the Meeting. He asked Council to be brief with comments and to stay on point.

Mr. Holtzhafer stated that the Committee's order of business will be to approve the Bill List, approve the schedule of fees, and approve the 2010 Budget before addressing the Business Privilege Tax Ordinance, Real Estate Tax Rate Ordinance, and repealing the Sign Tax Ordinance.

Mr. Holtzhafer noted a discrepancy on page 3 of the Bill List. The fourth line down, check #2993, should be paid in the amount of \$327.29, not \$427.29.

Mr. Holtzhafer read Resolution 2009-38 with the change, authorizing payment of the December 21, 2009 Bill List, as follows:

Bill List	\$ 122,313.23
Payroll #25	\$ 116,448.79
Payroll Taxes	\$ <u>35,426.97</u>

December 21, 2009

EMMAUS BOROUGH COUNCIL

Total                      \$ 274,188.99

Done this 21st day of December, 2009.

**Motion by Mr. Holtzhafer, seconded by Mrs. Gilbert to approve the December 21, 2009 Bill List as amended. There were 7 ayes. Motion carried.**

**Motion by Mr. Holtzhafer, seconded by Mrs. Gilbert to read Resolution 2009-37 – A Resolution Of The Council Of The Borough Of Emmaus, Lehigh County, Pennsylvania, Confirming And Establishing A Schedule Of Fees And Charges For Permits And Services in short title. There were 7 ayes. Motion carried.**

Mr. Holtzhafer read Resolution 2009-37 in short title.

Mr. Labenberg questioned if there were changes to the fee schedule. He noted that, historically, changes are noted on the fee schedule and he noted that his fee schedule does not reflect any changes. Mr. Neely commented that there is a separate version with strike-outs and changes.

**Motion by Mr. Labenberg, seconded by Mr. Brown to table Resolution 2009-37 - A Resolution Of The Council Of The Borough Of Emmaus, Lehigh County, Pennsylvania, Confirming And Establishing A Schedule Of Fees And Charges For Permits And Services. There were 6 ayes, 1 opposed (Reinhard). Motion carried.**

Mr. Holtzhafer reported that next on the Agenda is the adoption of the 2010 Fiscal Year Budget – Resolution 2009-36. Mr. Holtzhafer thanked all Department Heads for being present at the Council Meeting and operating at bare boned budgets for 2009. He also thanked them for preparing their 2010 budgets with minimal increases. Mr. Holtzhafer stated that the Budget does not need to be reviewed page by page, and individual Council members should state their concerns. Mr. Barrett stated that he would prefer to review the 2010 Budget page by page. Dr. Waddell stated that he would prefer to review it page by page also. Mr. Holtzhafer stated that he would prefer to review the Budget page by page but not review Mr. Neely's Budget Analysis as well.

Dr. Waddell noted that at the December 7, 2009 Council Meeting there was a discussion about charging parking fees for residents that park on the Borough owned parking spaces on Jubilee Street. He questioned whether this should be addressed at the committee level. Mr. Labenberg stated that if the Borough rents out 20 parking spaces at \$150 per year, it would be \$3,000. He noted that all small savings add up. Dr. Waddell referred it to the General Administration Committee.

Mr. Labenberg stated that he sent newspaper articles to all Council Members and questioned the current budget for Line Item 301.100, Real Estate Transfer Tax. Mr. Reinhard stated that as of December 2, 2009, on the Budget Performance Report, the Real Estate Transfer Tax is \$107,306. Mr. Labenberg noted that the Real Estate Transfer Tax is on budget for 2009. Mr. Labenberg referred to the Sunday paper Real Estate Section on home sales. He read a quote from Patt White, Senior Vice President of Prudential Real Estate, who noted that Northampton County foreclosures are rising, but Lehigh County foreclosures are decreasing. Mr. Labenberg commented that the Real Estate Transfer Tax should be increased

December 21, 2009

EMMAUS BOROUGH COUNCIL

by \$5,000 to \$130,000 because that would be a sale of only 6-10 more homes. He noted that the federal program for first time home buyers has been extended until April 30, 2010. Mr. Holtzhafer stated that if the Borough comes in at \$115,000 that is an 8.7% increase for 2010. He noted that \$130,000 would be a 13.4% increase over what should be brought in for 2009. Mr. Labenberg stated that the housing market increased 86.7% at the end of November. Mrs. Gilbert noted that Mr. Labenberg made a motion about this line item at the December 7, 2009 Meeting, and the motion failed. She asked Solicitor Procyk to clarify whether Mr. Labenberg could make another motion on this subject.

**Motion by Mr. Labenberg to increase Line Item 301.00, Real Estate Transfer Tax, by \$5,000. Motion died for lack of a second.**

Dr. Waddell asked Ambulance Chief Nonnemacher if he is comfortable with the 2010 Budget. Chief Nonnemacher answered that the Ambulance Corps revenues as of December 21, 2009 will be \$659,000 and projects another \$10,000-\$15,000 being received. He stated an increase in calls has increased revenue. Chief Nonnemacher stated that Line Item 357.070, Ambulance 3<sup>rd</sup> Party Billing, is currently at \$568,000. It was budgeted for \$560,000 and there could be another \$5,000-\$8,000 arriving before the end of the year.

Mr. Labenberg asked when wages and insurance will be discussed. Dr. Waddell stated that it may be easier to review all of the wage and insurance issues at once. Mr. Labenberg stated that non-union employees do not contribute towards medical insurance for individuals or families and pay a \$10.00 co-pay for a doctor's visit. He stated that the industry standard for health care is for workers to pay 20% towards health care, which is equal to \$250.00 per month for a family. At the request of Mr. Labenberg, Christine Snyder, Treasurer, stated in a Memorandum that the Borough would generate \$7,440 per year from non-union employees paying \$20.00 per month for single coverage and \$45.00 per month for family coverage toward their health insurance. It is equivalent to paying 3% of the premium. He also asked Christine Snyder to contact the insurance cooperative to see how much the premiums would be reduced if the co-pay would be increased from \$10.00 to \$20.00. Ms. Snyder responded that the insurance company has deductibles of \$250.00 per individual and \$500.00 per family, and she will supply information at a later date.

**Motion by Mr. Labenberg, seconded by Mr. Barrett to require non-union employees to pay \$20.00 per month for individual health care benefits and \$45.00 per month for family benefits beginning January 1, 2010. There were 6 ayes, 1 opposed (Reinhard). Motion carried.**

Mr. Holtzhafer agreed that the Borough employees' health care benefits are very good but stated that he is not comfortable voting on the change in non-union employee's health benefits without having a discussion with the employees before the vote. Mr. Brown asked Mr. Neely about how the non-union employees will feel having to pay for health benefits. Mr. Neely stated that most people do not like benefits being taken away without knowing about it first. He does not feel that there will be a negative impact on job performance because the Borough has very dedicated employees. Mr. Reinhard questioned whether, if a motion is passed, could it be implemented at any time or does action have to be taken immediately? Mr. Neely stated that the next collective bargaining agreement will expire at the end of 2010 for the Emmaus Police Officers Association and noted that the union workers should be aware that the general public is in favor of Borough union employees contributing to their health

December 21, 2009

EMMAUS BOROUGH COUNCIL

care benefits. He stated that Council could take a position to go to arbitration over the matter. Mr. Reinhard asked what would happen if the motion is defeated and two months later is back on the agenda and is approved, would the motion be able to be implemented prior to the next budget? Mr. Neely responded that it would depend on what the insurance cooperative agreement allows. Mr. Labenberg noted that having non-union employees contribute to their health insurance benefits for an individual paying \$20.00 per month would cost them .66 cents per day for health insurance

Mr. Holtzhafer noted that the addition of health care would increase Revenue Line Item 380.156, Health Insurance Reimbursement, which is budgeted at \$20,828. The Line Item would increase \$7,440 and the total for that Line Item would be \$28,268.

Mr. Labenberg noted that in the salary savings projection the savings would be based on a 1%, 2%, or 3% increase. He noted that if Borough employees receive a 2.0% increase instead of 3.9% it would be a savings of \$23,336.02, which is \$2,900 short of one tenth of a mill.

**Motion by Mr. Labenberg to decrease employee raises from 3.9% to 2.0% beginning January 1, 2010. Motion died for lack of a second.**

Mr. Neely stated that he prepared a summary of electricity rates assuming an alternative generator of electricity, and assuming that the rates would increase approximately 20%. He noted that he reviewed all the line items in the Budget and updated the Budget to reflect a 20% increase instead of a 30% increase. The combined difference in the General Fund and Parks and Recreation Fund is \$12,460. He also stated that his Summary includes a savings in the Water Fund, Sewer Fund, and Liquid Fuels Fund. The difference is \$1,790 in the Water Fund, \$625 in the Sewer Fund, and \$9,800 in the Liquid Fuels Fund. Mr. Neely stated that he spoke to Mr. Clapper concerning the Capital Budget and the roadwork that needs to be done and Mr. Clapper voiced concern that there may not be enough money in the Water, Sewer and Liquid Fuels Funds to complete the necessary roadwork. Mr. Neely noted that the Water, and Sewer Funds have a balanced budget for 2010, and he suggested placing the \$1,790 and \$625 into road work. Mr. Holtzhafer commented that he agrees with Mr. Neely and hopes that the cost savings is more rather than less than the amounts stated. Mr. Holtzhafer noted that the well pumps use a very large amount of electricity and asked Mr. Clapper if there is any way that money could be saved at the well pumps. Mr. Clapper explained that the pumps are operated on off peak hours from 3 – 7 p.m. and feels that the price of electricity will continue to go up instead of down. He stated that Well #7 costs the most and is only run every 2 weeks. Mr. Labenberg stated that he called PPL and went on the PPL website and questioned what the Borough currently pays for electricity. Mr. Clapper stated that the national average is ten cents per kilowatt hour and stated that the rate fluctuates depending on the type of service. Mr. Labenberg commented that Allentown is saving \$840,000, Parkland is saving \$600,000, and Southern Lehigh is saving \$270,000. He noted that Constellation New Energy is the lowest price at eight cents per kilowatt hour. He stated that he feels a 20% increase is more realistic than a 30% increase in the 2010 Budget. Dr. Waddell thanked Mr. Neely for his research into lowering the electricity increase. Mr. Neely noted that he prepared a Memorandum with a history of the Borough's bills and a copy of a Request for Proposal and hopes that the Borough will have bids back at the end of January.

December 21, 2009

EMMAUS BOROUGH COUNCIL

**Motion by Mr. Labenberg, seconded by Mr. Holtzhafer to reduce the General Fund and Parks and Recreation Fund, Electricity, from a 30% to 20% increase in the 2010 Budget, with a savings of \$12,460. There were 7 ayes. Motion carried.**

Mr. Holtzhafer noted that the motion only accounted for the General Fund and the Parks and Recreation Fund and a motion is needed for Water, Sewer and Liquid Fuels.

**Motion by Mr. Labenberg, seconded by Mr. Holtzhafer to reduce Water, Sewer, and Liquid Fuels Funds from a 30% to a 20% increase in the 2010 Budget. There were 7 ayes. Motion carried.**

**Motion by Mr. Holtzhafer, seconded by Mr. Brown to place the revised amounts of \$1,790 for the Water Fund, \$625 for the Sewer Fund and \$9,800 for the Liquid Fuels Fund to be used for road work. There were 7 ayes. Motion carried.**

Mr. Labenberg stated that he would prefer that the revised amounts for the Water, Sewer, and Liquid Fuels Funds be placed into the Contingency Fund. Mr. Neely reminded that there is a Contingency Line Item in the Sewer Fund, but there is not one set up in the Water Fund, and the Liquid Fuels Fund must be used for road work.

**Motion by Mrs. Gilbert, seconded by Mr. Labenberg to authorize the Borough Manager to submit a Request for Proposals for price quotes on electricity. There were 7 ayes. Motion carried.**

Mr. Holtzhafer thanked Police Chief Faust for the memorandum showing the savings the Borough was promised in 2009. Mr. Labenberg commented that the motions made tonight are purely based on economic times and are not reflections on the performance of the Borough Department Heads.

Mr. Holtzhafer reviewed the Police, Fire, and Ambulance Department's budgets and noted that the increases in the budgets are minimal.

Dr. Waddell questioned whether Council is in agreement with placing \$3,000 in Line Item 414.138, Snow/Weed Enforcement. Mr. Labenberg mentioned that at the last Council Meeting he suggested that staff handle these duties. Mr. Neely stated that he spoke to Mr. Farnsworth about it and Mr. Farnsworth felt that staff does not have enough time to do a proper job. Mrs. Gilbert asked Mr. Clapper his opinion. Mr. Clapper stated that the position requires a lot of work. Mr. Clapper encouraged Council to increase the Budget for this item. Mr. Labenberg questioned historically what the Snow/Weed Enforcement Officer is paid per hour and feels that an individual could be hired for \$8.00 per hour.

Mr. Brown questioned if the \$6,500 charged by Lehigh County for composting is charged by the hour. Mr. Clapper answered that Lehigh County calculates it by the hour.

Mr. Holtzhafer thanked Mr. Clapper for preparing his budget and asked him what he perceives the life span of the street cleaner that the Borough currently uses to be. Mr. Clapper answered that he feels that the street cleaner has a life span of ten more years. He stated that the Public Works Department spends a significant amount of time performing maintenance it.

December 21, 2009

EMMAUS BOROUGH COUNCIL

Mr. Labenberg questioned whether Line Item 439.246, Crack Sealing, is budgeted high enough at \$5,000 and asked if there is another line item for it. Mr. Clapper responded that the line item refers to what the Borough buys for materials. Mr. Labenberg questioned how much is budgeted for crack sealing. Mr. Neely responded that there is \$25,000 in the 2010 Budget for crack sealing.

Mr. Holtzhafer noted that in the General Fund the revenues will be up \$7,440 from health care contributions and our expenses will be down \$12,460 from electricity reduction.

Mr. Labenberg questioned if it would be possible to eliminate one lifeguard position. Mr. Clapper stated that there are many part-time people hired that are not used but are hired as standby. Eliminating a position would simply eliminate a part-time position that could be used for standby.

Dr. Waddell questioned the rationale for moving the historic sites into Line Item 457.501, Civic Celebrations. Mr. Holtzhafer stated that the Civic Celebrations Line Item is used in the event that a specific program runs out of its budgeted money and has a need for additional funds. Dr. Waddell asked for clarification on Line Item 457.502, 1803 House Contribution. Mr. Holtzhafer answered that having a Civic Celebration Line Item offers more flexibility. Dr. Waddell asked if the intent behind the Civic Celebration Line Item could be discussed further at the next Budget & Finance Committee Meeting and be presented at a future Council Meeting.

Mr. Labenberg stated that the Main Street Program is being funded by the taxpayers in the amount of \$15,000. He thinks that the amount should be reduced. He also stated that the State of Pennsylvania set the Program up to be self-sufficient three years after it was started. He noted that the Program was self-sufficient until the Borough began to give money to it. He feels that the Main Street Program should be funded by the businesses downtown. Dr. Waddell noted that the Main Street Program provided a memorandum detailing its role in the Borough.

Mr. Labenberg asked for clarification on the Senior Citizens Line Item and asked if it was a private organization that we give money and if it is used for something specific. Mr. Neely stated that he is not sure how the organization uses the money. Mr. Barrett stated that doesn't think the Line Item was always in the Budget, and noted that the Borough also used to budget money for the Lehigh County Senior Citizens but decided to budget money for the Emmaus Senior Citizens only.

**Motion by Mr. Labenberg to remove Line Item 457.504, Emmaus Senior Citizens, in the amount of \$1,500 from the 2010 Budget. Motion died for lack of a second.**

Mr. Labenberg questioned budgeting \$1,000 for the Wildlands Conservancy, which he said is a private organization outside of the Borough. Mr. Holtzhafer stated that the Wildlands Conservancy worked very closely with the Borough to develop the trails on South Mountain and a donation to them benefits the community. Mr. Brown questioned whether the allocation will be in the budget permanently. Mr. Labenberg stated that he does not feel public money should be used for a private organization. Mr. Barrett asked if the Conservancy asked the Borough for money and if it is for a particular project. Dr. Waddell questioned whether it

December 21, 2009

EMMAUS BOROUGH COUNCIL

is a contribution or does the Conservancy have to ask the Borough for the money. Mr. Holtzhafer replied that the Borough is making a contribution of \$1,000 to the Conservancy. Mr. Labenberg stated that he feels the Borough needs to stop making contributions to programs outside of the Borough. Mr. Barrett stated that he personally supports the Wildlands Conservancy but feels that due to the tough economic times he does not support this Line Item. Dr. Waddell asked Mr. Clapper if the Public Works Department performs in kind work for the Wildlands Conservancy. Mr. Clapper responded that the Public Works Department has worked together with the Wildlands Conservancy on projects.

**Motion by Mr. Labenberg, seconded by Mr. Brown to remove Line Item 457.601, Wildlands Conservancy, in the amount of \$1,000 from the 2010 Budget.**

Mr. Holtzhafer noted that Mr. Labenberg made the same motion at the last Council Meeting and questioned whether he is able to make the same motion again. Mr. Labenberg stated that he has a second on the motion and at the last meeting he did not. Solicitor Procyk stated that he is unable to make a motion again because there was official action not to take action. Mr. Labenberg asked if someone else could make the motion. Solicitor Procyk stated that it was the subject matter being dealt with, not the person who made the motion and that the motion needs to be withdrawn because it was improper.

Mr. Labenberg withdrew the motion but asked if the matter could be reopened when a new Council Member takes office. Dr. Waddell asked if Mr. Labenberg could make a motion with a new dollar amount. Mrs. Gilbert stated that the 2010 Budget must be adopted and when the new Council Member takes office the Budget can be reopened. Dr. Waddell reiterated that Mr. Labenberg is able to make a motion for the same subject matter with a new dollar amount. Mr. Neely commented that if a motion is brought up and not seconded, the motion has never been brought up to Council for deliberation and stated that he feels that procedurally the motion should be able to be brought to the floor. Mr. Labenberg stated that \$1.00 should remain in the Line Item and be carried over to the next budget.

**Motion by Mr. Labenberg, seconded by Mr. Barrett to remove \$999.00 from Line Item 457.601, Wildlands Conservancy, in the 2010 Budget. There were 4 ayes, 3 opposed (Holtzhafer, Reinhard, Gilbert). Motion carried.**

Mr. Holtzhafer reviewed pages 16 and 17, Water Fund. Mr. Labenberg questioned Line Item 448.235, Roadway Patching, and asked if it was crack sealing. Mr. Clapper replied that the line item is used for roadway patching, not crack sealing.

Mr. Holtzhafer noted that Line Item 448.361, Electrical Service, will be reduced. Mr. Labenberg questioned if Line Item 448.830, Road Work, includes the \$25,000 for Crack Sealing. Mr. Clapper answered that it does. Mr. Labenberg asked about Line Item 429.195, Training. Mr. Clapper answered that it includes training that is split between Water, Sewer, and Public Works.

Dr. Waddell questioned if Line Item 429.365, Sewer User LCA, could be reduced based on our infiltration remediation Program. Mr. Neely answered that he does not believe so based on the billings that we have seen so far. Mr. Holtzhafer commented that the Borough still has the fourth quarter billing to pay for and estimated that the current budgeted amount is appropriate.

December 21, 2009

EMMAUS BOROUGH COUNCIL

Mr. Holtzhafer reviewed Page 21. Mr. Brown asked if Line Item 480.833, Capital Reserve, comes from borrowed money. Mr. Neely answered, "No."

Mr. Labenberg stated that if the Borough borrows \$1.5 million it will be paying approximately \$530,000 in principal and interest for the next ten years, which is equal to a little over 2 mils of real estate tax. He does not feel it is the correct economic climate to borrow \$1.5 million dollars just because the rates are low. He agrees with Mr. Defrain that when the economy picks up would be a better time to borrow money.

Mr. Holtzhafer reviewed Page 23. Mr. Brown asked for a clarification on Line Item 409.660, Borough Hall Upgrades. He stated that at the last meeting, there was a motion to decrease it from \$42,500 to \$5,000. Mr. Neely stated that it is correct. Mr. Holtzhafer stated that he would like to have the Line Item increased to \$21,500. Mr. Labenberg questioned what would be done with the \$21,500. Mr. Holtzhafer responded that the \$21,500 would realize some of the cost savings that energy efficiency will provide. He also stated that he would like to see the Line Item increased to its original amount of \$42,500 to make Borough Hall as energy efficient as possible. Mr. Labenberg questioned why the Borough would replace windows or study energy efficiency during an economic downturn. Mrs. Gilbert stated that there is a Capital Reserve Account for \$37,500 in the 2010 Budget. Mrs. Gilbert asked if Mr. Holtzhafer would like to keep the Capital Reserve Account and increase Borough Hall Upgrades. Mr. Holtzhafer answered that he would. Mr. Brown stated that he believes that Borough Hall Upgrades could be accomplished in a period of time without borrowing money. Mr. Labenberg commented that the windows have been in Borough Hall since 1939 and does not believe that the Borough should borrow money for windows. Dr. Waddell clarified that there is a Capital Reserve Fund for \$37,500 in the 2010 Budget. Mr. Reinhard stated that an energy efficiency study should be completed at Borough Hall. Mr. Labenberg stated that the Budget is going to be increased by \$15,500 on this Line Item. Dr. Waddell corrected that the amount would be \$16,500. Mr. Barrett stated that he believed the motion was to remove \$37,500 completely from the Budget and commented that all of the Budget expenditures benefit the public as a whole, but that the Borough Hall Upgrades benefits the least amount of people. Mrs. Gilbert clarified that there was a motion made by Mr. Holtzhafer, seconded by Mr. Reinhard to add a \$37,500 Contingency Line Item in the Capital Reserve Fund.

**Motion by Mr. Holtzhafer, seconded by Mr. Labenberg to increase Line Item 409.660, Borough Hall Upgrades, from \$5,000 to \$21,500. There was 1 aye, 6 opposed (Reinhard, Barrett, Labenberg, Brown, Gilbert, Waddell). Motion defeated.**

Dr. Waddell asked Police Chief Faust to comment on why the Police Department is requesting two police cars in the 2010 Budget. Chief Faust explained that in 2009 the Police Department did not request any new police cars and typically the Police Department buys 1 police car per year. Since the Department did not request any in 2009, the Police Department is requesting two cars in 2010. He stated that historically a police car uses 25,000 to 30,000 miles per year and due to wear and tear lasts approximately 3 ½ years before it results in high maintenance costs. Mr. Labenberg questioned if there are any maintenance problems with the cars, if there is one car that is breaking down more than others, and if there are maintenance records kept on the vehicles. Chief Faust answered that detailed maintenance records are kept on the vehicles and there have been three cars that have had transmissions replaced in 2009.

December 21, 2009

EMMAUS BOROUGH COUNCIL

Mr. Reinhard commented that 2009 was particularly difficult budget wise and the Borough was in a hole after last year, but it is important to remain proactive. Mr. Labenberg stated that the Borough is digging a hole by borrowing money.

Mr. Labenberg stated that out of the money the Borough is considering borrowing, the aerial fire truck remains the most questionable. He thanked Fire Chief Reiss for his Budget Memorandum. He questioned whether the fire truck could be used for the next several years. Chief Reiss responded that the fire truck has required maintenance and was out of service for 8 weeks because it needed repairs to a hydraulic swivel. Mr. Labenberg responded that the Fire Department has other fire trucks and questioned whether the aerial fire truck being out of service for 8 weeks caused any safety issues. He also mentioned that the Borough has other fire trucks and that we have back up from other communities. Mr. Brown commented that the Borough services surrounding communities, not just the Borough of Emmaus. He also commented that the life span of a fire truck is approximately twenty years. Dr. Waddell read part of Chief Reiss's Memorandum and noted that each year that passes without the purchase of the fire truck lowers the resale value of the currently owned truck, and adds \$50,000 to the price. Mr. Barrett stated that the last time a fire truck was purchased in 1989 the cost was \$315,000, and wondered if adding \$50,000 per year to the cost was a bit high. Chief Reiss responded that purchasing a fire truck in 2011 will cost the Borough an additional \$50,000. Mrs. Gilbert asked Chief Reiss to explain the Fire Department's current insurance rating. Chief Reiss stated that the Insurance Service Organization rates fire companies and that out of 2,600 Fire Departments in the state of Pennsylvania, the Emmaus Fire Department is currently rated as a level three by the ISO. He stated that the rating is based on training, equipment, water supply and other factors. The rating lowers the cost of homeowner's insurance for Emmaus property owners. He also stated that the Fire Department could fall to a level 9 due to the age of the fire truck. Mr. Labenberg questioned whether the insurance would go up if the Fire Department purchased a new truck. Chief Reiss answered that it would not go up. Mrs. Gilbert clarified that the ISO rating lowers insurance rates for the residents. Mr. Labenberg commented that eliminating the fire truck, the reconstruction of Broad Street, and the Legion Baseball Field Line Items would lower the Capital Reserve Budget \$1,000,000. He also commented that he would prefer to see the Borough borrow \$500,000 rather than \$1.5 million dollars and have ten years of lower payments.

**Motion by Mr. Labenberg to eliminate Line Item 411.837 from the 2010 Budget.**

Mr. Barrett noted that official action has already been taken on this issue and Mrs. Gilbert stated that it can not be voted on again. Solicitor Procyk stated that action was already taken on this item and asked what Mr. Labenberg was specifically asking for. Mr. Labenberg responded that he would like to make a motion and would change the dollar amount from his previous motion. Mr. Neely stated that if those who defeated the prior motion asked for it to be rescinded, the motion could then be made again.

Mr. Barrett asked if there are any other avenues for funding the purchase of a fire truck so that the Borough's budgeted amount can be lowered. Chief Reiss answered that the Fire Department would be taking a 2% loan out to purchase the truck and is not sure if there is any other money available. Mr. Neely stated that if there was grant money available it would be used in lieu of taking out a 2% loan.

December 21, 2009

EMMAUS BOROUGH COUNCIL

Mr. Labenberg asked Solicitor Procyk what the time frame is for applying for the \$1.5 million dollar loan and whether there would be enough time for the new Council to reopen the 2010 Budget. Solicitor Procyk asked what the time frame of the paperwork is. Mr. Neely responded that it would take approximately 6 weeks to process the loan and it is up to Council to approve the execution of documents to apply for the loan. Mr. Labenberg questioned whether the application would be completed by February 12, 2010. Mr. Neely stated that the loan specialist would like to have the application completed as soon as possible because the rates are low.

**Motion by Mr. Brown, seconded by Mr. Labenberg to eliminate Line Item 430.752, Storm Water – 12<sup>th</sup> /PA Ave, in the amount of \$150,000 from the 2010 Budget. There were 3 ayes, 4 opposed (Holtzhafer, Waddell, Reinhard, Gilbert). Motion defeated.**

Dr. Waddell asked Mr. Clapper if the Public Works Department has done any work on the project. Mr. Clapper stated that the planning is done, and the engineering is completed. The Public Works Department will begin the project if Council approves it. He stated that the project will eliminate several drainage issues as well as safety hazards. Mr. Barrett questioned how long people have been complaining about it. Mr. Clapper answered that people have been complaining since at least 1995. Mr. Labenberg stated that the Borough has been proactive as far as drainage and water problems in the Borough. He questioned if the project could be put off for 1 or 2 years. Mr. Brown asked if any homes are being affected by the drainage problems. Mr. Clapper stated that there is a significant drainage problem. It is a safety issue driving during heavy rains and he receives a large amount of complaints from residents. Mr. Barrett asked what quantity of rain affects this area most. Mr. Clapper responded that every time it rains there is a problem.

Mr. Brown questioned Page 24, Line Item 430.749, Road Reconstruction for \$67,500. He asked what the amount will be used for. Mr. Neely responded that the Line Item is for road projects approved by the Public Works Committee. Dr. Waddell asked what the engineering costs for Broad Street will be. Mr. Clapper stated that there are several variables that could affect the cost of the study. His best estimate is \$15,000-\$20,000. Mr. Clapper said that if the roadway was going to just be paved, the Public Works Department could draw up the design. If the project were to be bid on, the contractors would need to have engineering drawings. He stated that the budgeted amount for the Line Item is based on having contingency money for the project. Dr. Waddell stated that he would prefer to see the engineering drawings and have it budgeted for 2011. Mr. Barrett agreed. Mr. Neely stated that if the Borough borrows the \$450,000, the money can be placed into an account and the project can be carried over to 2011. Mr. Labenberg stated that he would prefer completing the engineering and if the economy improves, the Borough would not have to borrow as much money. Mr. Barrett asked what a realistic number is to budget for the engineering. Mr. Neely responded \$15,000-\$20,000. He noted that in the 2011 Budget \$135,000 will need to be budgeted for the Pension Plans, and there will be increases in health insurance. He also noted that if the Borough needs to fund \$430,000 for the Broad Street Reconstruction in 2011 it will be very difficult and the project will most likely be put off. Mr. Barrett commented that in 2009 he reviewed the Budget very closely and this year has spent twice the amount of time reviewing the Budget and is unsure of whether to borrow the money or wait on the projects. He stated that there is too much unpredictability in the economy and would prefer to be safe and only see the engineering work. Mr. Brown commented that the Borough can accomplish

December 21, 2009

EMMAUS BOROUGH COUNCIL

the smaller projects first and save for the larger items. Mr. Labenberg noted that the Borough has not been able to save money because it is always borrowing money and questioned when Council will cut spending. Mr. Holtzhafer responded that the Department Heads have cut spending drastically two years in a row, and the next time that the Borough can borrow funds is 2019. Mr. Neely stated that the cost of borrowing \$500,000 will be the same as the cost of borrowing \$1.5 million. He stated that it is not worth borrowing \$500,000 because of the cost. Mr. Labenberg responded to Mr. Holtzhafer's comment that the Department Heads have increased their budgets 1% and noted that during tough economic times most businesses cut their costs.

Ambulance Chief Nonnemacher responded that currently there is no heat in the Emmaus Ambulance Corps secretarial office. The building is 30 years old and it is very difficult to find parts to fix the heat. There is a 4 year old truck with a blown head gasket with anti-freeze leaking all over the place and a heater that doesn't work in the truck where the patients are. He stated that all Department Heads are very frugal with their money and are running as lean as possible. He stated that a new truck costs approximately \$100,000 and voiced concerns about being able to replace one. He stated that only half of the roof got replaced and the ambulance side did not and is now leaking. He commented that in 2009 there was an EMT and a paramedic position cut and the ambulance calls have increased by 10%. Mr. Labenberg clarified that he never said there was fluff in the Department Head's budgets. Chief Nonnemacher reminded Council that in 2008 he was told he needed to cut 15% of his budget, and he has no further room to cut. He also reminded Council that there are portions of the budget that are fixed and can't be cut. He noted that the largest portion of the budget is fixed.

**Motion by Mr. Barrett, seconded by Mr. Holtzhafer to reduce Line Item 430.827, Reconstruction of Broad Street, from \$450,000 to \$50,000. There were 4 ayes, 3 opposed (Holtzhafer, Reinhard, Gilbert). Motion carried.**

**Motion by Mr. Brown, seconded by Mr. Labenberg to eliminate Line Item 454.818, Legion Baseball Field, in the amount of \$100,000 from the 2010 Budget. There were 2 ayes, 5 opposed (Holtzhafer, Reinhard, Barrett, Gilbert, Waddell). Motion defeated.**

Mr. Holtzhafer reviewed Page 25. Dr. Waddell stated that he feels that the money spent on the Legion Baseball Field project will be returned to the Borough if the project is completed. He also stated that Mr. Neely has been very involved with the project, but commented that he does not feel that there was enough communication about the project before the budget review. Mr. Reinhard believes that this line item is a potential revenue maker for the Borough. Mr. Labenberg commented that the original memorandum received stated that there will be between 500 and 1100 seats at the stadium and believes parking will become a major concern. He also commented that the project will change the complexion of the park and it will no longer be a green land because there will be a large baseball stadium in the middle of the park. He noted that he has not seen any numbers concerning revenue but there will be expenses associated with the stadium. He does not feel that the Borough will be able to recover the \$700,000 that will be spent on the project. Mr. Brown asked what the projected date of completion would be. Mr. Neely responded that the East Penn School District would have the money available in 2010. He also responded that the Borough would be eligible for the Green Future Fund in 2010 and that the Lehigh County Commissioners do

December 21, 2009

EMMAUS BOROUGH COUNCIL

not become aware of a project until Jan Creedon from Lehigh County processes the application. The project could be started in fall of 2010. He reported that Dr. Seidenberger, Superintendent of the East Penn School District, approached him about the project and was interested in keeping the project within the Borough and the taxpayers would only be funding \$100,000 to have a \$750,000 asset. Mr. Neely described the stadium in more detail. Mr. Barrett stated that the stadium in Coplay is very run down and feels that if a stadium is built in Emmaus, it will become the premier spot in the Lehigh Valley to hold games. Mr. Brown asked if the Borough would use all of the Green Future Funds. Mr. Neely said that most of the remaining \$335,000 would be used. Mr. Labenberg stated that the concept of the project has not been approved by Council and does not want the project to be built. He stated that he would prefer to see the Green Future money used for Borough parks. Mr. Brown stated that he feels the Borough could save for the project. Mr. Barrett stated that if the Borough does not partner with the East Penn School District, the District will look to a different community in which to build the stadium. Mr. Brown stated that if the School District knows that we are going to partner with them, perhaps it would wait for the Borough to save the money. Mr. Barrett stated that there is not an exclusive agreement for the School District to work with the Borough. The District is eager to begin the project. Mr. Brown asked if Dr. Seidenberger could be invited to a Council Meeting to discuss the project.

Dr. Waddell stated that due to the changes in the Budget, the Budget cannot be currently voted on. Mr. Neely suggested a Special Council Meeting be held on December 31, 2009 at 5:00 p.m.

**Motion by Mrs. Gilbert, seconded by Mr. Reinhard to hold a Special Council Meeting on December 31, 2009 at 5:00 p.m. There were 7 ayes. Motion carried.**

Mr. Labenberg commented that he is disappointed that the Budget process was late this year. Mr. Barrett stated that he is unavailable to meet on December 31, 2009 at 5:00 p.m.

COMMUNITY MINUTE – None.

SPECIAL PRESENTATIONS - None.

READING OF MINUTES

**Motion by Mr. Reinhard, seconded by Mrs. Gilbert to dispense with the formal reading of the December 7, 2009 Minutes. There were 7 ayes. Motion carried.**

Mr. Reinhard noted that on Page 184, the Minutes read, “The Committee met on November 19, 2009. Mr. Holtzhafer reported that Mr. Ritter, the Health Officer, received computer upgrades from the state. It should read, “The Committee met on November 19, 2009. Mr. Reinhard reported that Mr. Ritter, the Health Officer, received computer upgrades from the state.

Mr. Barrett noted that on page 192, he made the motion to change Line Item 409.660, Borough Hall Upgrades, not Mr. Labenberg. The tape was reviewed and the Minutes are correct.

December 21, 2009

EMMAUS BOROUGH COUNCIL

**Motion by Mr. Brown, seconded by Mrs. Gilbert to approve the December 7, 2009 Minutes as amended. There were 7 ayes. Motion carried.**

DECISION ON BIDS – None.

COMMUNICATIONS

- a. Linda Waddell, 976 N. 7<sup>th</sup> St. Circle – Reappointment to the Emmaus Arts Commission. Referred to General Administration Committee.
- b. Carl C. Gingrich, 840 Lawrence Drive – Letter for not being appointed to the Library Board.

**Motion by Mr. Barrett, seconded by Mr. Reinhard to accept Carl C. Gingrich’s letter of non-reappointment to the Library Board. There were 7 ayes. Motion carried.**

- c. Teryl Madison, Emmaus Main Street Program – SnowBlast Winter Festival request to use the Triangle from 5-10 p.m. on Friday, February 5, 2010. Mr. Barrett noted that he will be donating musical entertainment. Mr. Brown asked if a section of the road will be closed. Mrs. Gilbert stated that she did not see a request for it. Referred to the Mayor.

**Motion by Mr. Brown, seconded by Mr. Labenberg to authorize the Emmaus Main Street Program and SnowBlast Winter Festival to use the Triangle from 5-10 p.m. on Friday, February 5, 2010. There were 7 ayes. Motion carried.**

**Motion by Mr. Reinhard, seconded by Mr. Labenberg to allow the Emmaus Main Street Program and SnowBlast Winter Festival to serve alcoholic and non-alcoholic drinks at the Triangle from 5-10 p.m. on Friday, February 5, 2010. There were 5 ayes, 2 opposed (Gilbert, Holtzhafer). Motion carried.**

Mrs. Gilbert questioned what type of alcohol would be served. Ms. Madison responded that vodka would be poured through blocks of ice and there will also be beer and soft drinks. She also responded that she met with Mr. Clapper and the ice blocks will be around the top of the fountain and the bartender will stand in the fountain. Mr. Holtzhafer stated that he is not in favor of serving vodka.

- d. Suzanne Beck, Crime Victims Council of the Lehigh Valley – Emmaus Community Park rental fee waiver for “The Rally Through the Valley” fund raiser. Referred to Parks and Recreation Committee.
- e. John J. Zettlemoyer, Jr., Esq., Emmaus General Authority – Recommendation from the Emmaus General Authority to reappoint Carol A. Bastian to the Authority. Referred to General Administration Committee.
- f. Chris A. Defrain, 181 Harrison St. – Budget concerns. Dr. Waddell commended Mr. Defrain for his time and effort on his Budget concerns memorandum and stated that the memo is available for review at Town Hall.

December 21, 2009

EMMAUS BOROUGH COUNCIL

g. Jill Weiss – Proposed Tax Increases for 2010. Dr. Waddell read Ms. Weiss’s letter.

Mr. Barrett questioned if the time of the Special Council Meeting on December 31, 2009 can be changed. He stated that he would be able to attend the meeting if the time is changed.

**Motion to rescind the previous motion made by Mrs. Gilbert, seconded by Mr. Reinhard to hold a Special Council Meeting on December 31, 2009 at 5:00 p.m. There were 7 ayes. Motion carried.**

**Motion by Mr. Barrett, seconded by Mr. Reinhard to hold a Special Council Meeting on December 31, 2009 at 3:00 p.m. There were 7 ayes. Motion carried.**

SOLICITOR’S REPORT

Ordinance No. 1065 – An Ordinance of the Borough of Emmaus, Lehigh County, Pennsylvania, Amending the Code of Ordinances, Chapter 1, Part C, Article VII of Exhibit A, Entitled, “Borough of Emmaus Police Pension Plan” to Comply with Act 600 of 1956, as Amended by Act 51 of 2009, the Emergency and Law Enforcement Personal Death Benefits Act, Effective as Provided in the Amendment. (1<sup>st</sup> Reading 12/21/09).

**Motion by Mrs. Gilbert, seconded by Mr. Reinhard to read Ordinance No. 1065 in short title. There were 7 ayes. Motion carried.**

Solicitor Procyk explained that it is a compliance Amendment based on legislation signed by Governor Rendell on October 9, 2009. The Ordinance removes payment of the death benefit from the Borough’s pension plan and defers it to the State of Pennsylvania. Mrs. Gilbert questioned if it was discussed at the Pension Plan meeting. Mr. Neely stated that the Ordinance does not affect the benefits; it only affects who pays for the pension and that the state of Pennsylvania is now required to pay the benefit.

**Motion by Mr. Labenberg, seconded by Mrs. Gilbert to adopt Ordinance No. 1065 – An Ordinance of the Borough of Emmaus, Lehigh County, Pennsylvania, Amending the Code of Ordinances, Chapter 1, Part C, Article VII of Exhibit A, Entitled, “Borough of Emmaus Police Pension Plan” to Comply with Act 600 of 1956, as Amended by Act 51 of 2009, the Emergency and Law Enforcement Personal Death Benefits Act, Effective as Provided in the Amendment on its first reading. Roll call vote: Mr. Brown, aye, Mr. Reinhard, aye, Mrs. Gilbert, aye, Mr. Labenberg, aye, Mr. Holtzhafer, aye, Mr. Barrett, aye, Dr. Waddell, aye. There were 7 ayes. Motion carried.**

UNFINISHED BUSINESS, PART I

a. Ordinance No. 1065 – An Ordinance Amending Chapter 15, Section 403 and 404(a), Abandoning No Parking Zone and Establishing Restricted Parking Zones and Bus Parking Zones on School Days Along East Minor Street Associated with the Seven Generations Charter School. (90 day trial period expires 11/15/09) (1<sup>st</sup> Reading 12/21/09).

**Motion by Mr. Brown, seconded by Mrs. Gilbert, to read Ordinance No. 1065 in short title. There were 7 ayes. Motion carried.**

December 21, 2009

EMMAUS BOROUGH COUNCIL

Dr. Waddell read Ordinance No. 1065 - An Ordinance Amending Chapter 15, Section 403 and 404(a), Abandoning No Parking Zone and Establishing Restricted Parking Zones and Bus Parking Zones on School Days Along East Minor Street Associated with the Seven Generations Charter School in short title.

**Motion by Mrs. Gilbert, seconded by Mr. Brown to adopt Ordinance No. 1065 - An Ordinance Amending Chapter 15, Section 403 and 404(a), Abandoning No Parking Zone and Establishing Restricted Parking Zones and Bus Parking Zones on School Days Along East Minor Street Associated with the Seven Generations Charter School on its first reading. Roll call vote: Mr. Barrett, aye, Mr. Holtzhafer, aye, Mr. Labenberg, aye, Mr. Brown, aye, Mr. Reinhard, aye, Mrs. Gilbert, aye, Dr. Waddell, aye. Motion carried.**

Mrs. Gilbert stated that the Ordinance is for establishing two parking zones, one for buses and parents dropping children off and for abandoning a no parking zone that is on the north side of Minor Street. The Ordinance was on a 90-day trial period.

Solicitor Procyk questioned whether the trial period needs to be extended. Mrs. Gilbert reported that the second reading will be on January 4, 2009.

**Motion by Mrs. Gilbert, seconded by Mr. Brown to extend the trial period of Ordinance No. 1056 until January 18, 2010. There were 7 ayes. Motion carried.**

Resolution 2009 – 36, Adoption of 2010 Fiscal Year Budget – on hold until the Special Council Meeting on December 31, 2009 at 3:00 p.m.

Ordinance No. 1063 – An Ordinance Levying Taxes for the Fiscal Year 2010 for the Borough of Emmaus at the Rate of 13.086 Mills Pursuant to Section 1310 of the Borough Code of the Commonwealth of Pennsylvania. (1<sup>st</sup> Reading 12/07/09) (2<sup>nd</sup> Reading 12/21/09). – on hold until the Special Council Meeting on December 31, 2009 at 3:00 p.m.

Ordinance No. 1064 – An Ordinance Establishing and Providing for the Imposition of a Business Privilege Tax, for the Collection Thereof, and for Penalties to be Imposed for Failure to Pay the Business Privilege Tax.

Mr. Neely explained that the original proposed business tax was to be based on the number of employees. After receiving a phone call from Mr. Barrett, Mr. Neely noted that the application of the number of employees' concept may be difficult and having a flat fee may be more suitable. Mr. Neely stated that Ordinance No. 1064 could establish a flat fee of \$150.00 or a three tiered tax based on the number of employees. Mr. Labenberg stated that Mr. Neely commented that the Borough lost money and wanted to know what money he was talking about. Mr. Neely responded that the Borough thought the refuse fee was going to go up, plus the Borough is losing the money from the double refuse fee, and the sign tax. Mr. Labenberg commented that the Borough is netting \$20,000 plus because of the refuse costs being lower, even with the elimination of the double refuse fee. He stated that he is not in favor of a Business Privilege Tax. Dr. Waddell asked Mr. Barrett how he decided that the \$150.00 flat fee would benefit the businesses. Mr. Barrett noted that he researched it and found out that the majority of the store front businesses have 1-4 employees. It would save

December 21, 2009

EMMAUS BOROUGH COUNCIL

businesses by going to a flat rate fee. Mr. Labenberg stated that most businesses start at home and then move to a store front. He doesn't feel there should be a burden placed on a home based business owner by placing a business tax on them. He stated that he would prefer a three tier system instead of a flat rate because he feels that most businesses are small businesses and the three tier system would benefit them. He also stated that perhaps there could be an exemption, as with the local services tax, for home based businesses that earn \$12,000 or less. Mr. Barrett stated that the business owners he spoke to were either indifferent or were in favor of the flat rate because it would be a reduction in total expenses. He noted that many business owners felt that the \$15,000 being requested by the Emmaus Main Street Program should come from business owners. He noted that there should be an exemption for first year businesses to encourage new businesses to move to the Borough. Mr. Barrett asked if it was logistically possible to use the LST standard. Mr. Neely stated that it would be very difficult to enforce it. Dr. Waddell questioned in what line item the funds from the Business Privilege Tax would be placed. Mr. Neely answered that the funds would be placed into the General Fund. He stated that the business owners might feel more comfortable with the Business Privilege Tax if it were placed under a special line item. Mr. Neely responded that most Business Privilege Taxes are placed into the General Fund. Mr. Labenberg noted that there are no other business taxes except for the Sign Tax and that businesses should not be taxed. He stated that he is not in favor of a Business Privilege Tax. Mr. Barrett stated that most businesses will save money. Mr. Labenberg questioned how the Business Privilege Tax will be enforced. Mr. Neely noted that he has a comprehensive database of businesses and home based businesses. Mr. Neely commented that the double refuse fee was started because in November 1, 1988, business privilege taxes on gross receipts became illegal. Mr. Fosselman, who was the Borough Manager, was under the impression that a business privilege tax could not be charged. Mr. Neely stated that the business privilege tax was masquerading as a double refuse fee. He stated that the Budget & Finance Committee intended for the Business Privilege Tax to equalize taxes for businesses.

**Motion by Mr. Holtzhafer, seconded by Mrs. Gilbert to read Ordinance No. 1064 in short title. There were 7 ayes. Motion carried.**

Dr. Waddell read Ordinance No. 1064 - An Ordinance Establishing and Providing for the Imposition of a Business Privilege Tax, for the Collection Thereof, and for Penalties to be Imposed for Failure to Pay the Business Privilege Tax, in short title.

Mr. Labenberg stated that there should be an exemption for anyone making \$12,000 or less a year. Dr. Waddell questioned how it would be determined who would get the exemption. Mr. Barrett stated that you would only be exempt if you estimated and how this would work administratively. Mr. Neely stated that he is not sure how it would work. Mr. Barrett questioned how exemptions for \$12,000 would affect revenue because there is no way to know how many businesses would be exempt. Mr. Brown questioned how it would affect the revenue if the flat fee would be \$100.00. Mr. Barrett asked if the Ordinance needs to be approved on December 31, 2009. Mr. Neely stated that it should be approved by January 4, 2009. Mr. Barrett asked if the Borough will still be re-financing. Mr. Neely stated that he is concerned that the Borough will pay the same amount to refinance no matter how much is borrowed.

**Motion by Mr. Labenberg, seconded by Mr. Brown to table Ordinance No. 1064 - An Ordinance Establishing and Providing for the Imposition of a Business Privilege**

December 21, 2009

EMMAUS BOROUGH COUNCIL

**Tax, for the Collection Thereof, and for Penalties to be Imposed for Failure to Pay the Business Privilege Tax until January 4, 2010. There were 2 ayes, 5 opposed (Reinhard, Gilbert, Holtzhafer, Barrett, Waddell). Motion defeated.**

**Motion by Mr. Holtzhafer, seconded by Mr. Reinhard to adopt Ordinance No. 1064 - An Ordinance Establishing and Providing for the Imposition of a Business Privilege Tax, for the Collection Thereof, and for Penalties to be Imposed for Failure to Pay the Business Privilege Tax on its first reading. Roll call vote: Labenberg, no, Holtzhafer, aye, Barrett, aye, Brown, no, Reinhard, aye, Gilbert, aye, Waddell, aye. There were 5 ayes, 2 opposed (Labenberg, Brown). Motion carried.**

Resolution 2009-37, Fees and Charges for Permits and Services – on hold until the Special Council Meeting held on December 31, 2009 at 3:00 p.m.

Ordinance No. 1066 – An Ordinance repealing Chapter 24, Part 6, of the Borough Codified Ordinances, Otherwise Known as The Sign Tax Ordinance (1<sup>st</sup> Reading 12/21/09).

**Motion by Mr. Holtzhafer, seconded by Mr. Brown to read Ordinance No. 1066 in short title. There were 7 ayes. Motion carried.**

Dr. Waddell read Ordinance No. 1066 in short title.

Mr. Labenberg stated that he will be voting against Ordinance No. 1066 because he feels the \$17,000 from the Sign Tax could be used to help eliminate the Business Privilege Tax.

**Motion by Mr. Holtzhafer, seconded by Mr. Reinhard to adopt Ordinance No. 1066 - An Ordinance repealing Chapter 24, Part 6, of the Borough Codified Ordinances, Otherwise Known as The Sign Tax Ordinance on its first reading. Roll call vote: Mr. Brown, aye, Mr. Reinhard, aye, Mrs. Gilbert, aye, Mr. Labenberg, nay, Mr. Holtzhafer, aye, Mr. Barrett, aye, Dr. Waddell, aye. There were 6 ayes, 1 opposed (Labenberg). Motion carried.**

UNFINISHED BUSINESS, PART II – None.

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

MAYOR'S REPORT - Progress.

COMMITTEE REPORTS

a. Public Works Committee

The next meeting date is to be determined.

Progress.

b. Health, Sanitation, and Conservation Committee

December 21, 2009

EMMAUS BOROUGH COUNCIL

Mr. Reinhard reported that the Health, Sanitation, and Conservation Committee is recommending the appointment of Joan Schwartz to the Board of Health with a term of 1/1/2010 to 1/1/2015. The item will be on the January 4, 2010 Agenda.

Mr. Reinhard also reported that the Health, Sanitation, and Conservation Committee is recommending the appointment of Dale Arndt to the Sanitation Board with a term of 1/1/2010 to 1/1/2012. The item will be on the January 4, 2010 Agenda.

Mr. Reinhard thanked Council for the opportunity to serve on Borough Council.

Progress.

c. Parks and Recreation Committee

Progress.

d. Public Safety Committee

Mrs. Gilbert reported that the Public Safety Committee met to discuss a proposed detour for the car show/bed race that is being planned for May 16, 2010. Mr. Neely stated that Police Chief Faust designed a proposed detour that diverts truck traffic onto Harrison Street at its intersection with State Avenue and onto North Street at its intersection with Cedar Crest Blvd. The Police Chief is suggesting that the area to be closed on Main Street would be from Keystone Avenue to 5<sup>th</sup> Street. The Chief estimated the cost for fire police to be \$1,198. The entire cost for establishing and manning the detour would be paid for by the event organizers. The Motion that Council passed at the last Council Meeting was to authorize Mr. Neely to seek PENNDOT approval to close Main Street from 2<sup>nd</sup> to 4<sup>th</sup> Street. Because the proposed detour entails more than just that closing, Council would need to pass a motion authorizing Mr. Neely to submit a request to PENNDOT incorporating the plan details outlined by Chief Faust. Mr. Labenberg asked if the events would be held rain or shine. Dr. Waddell confirmed that they are rain or shine.

**Motion by Mrs. Gilbert, seconded by Mr. Brown authorizing Mr. Neely to supply the required paperwork to PENNDOT, asking for authority to close Main Street from Keystone Avenue to 5<sup>th</sup> Street on May 16, 2010. There were 7 ayes. Motion carried.**

Mrs. Gilbert requested an executive session to discuss a personnel issue.

Progress.

e. General Administration Committee

Dr. Waddell read Resolution 2009-35, A Resolution Requiring that each Employee Full Time Police Officer of the Borough of Emmaus, Hereafter Referred to as Active Member of the Emmaus Police Pension Plan, as a Condition of Participation in the Plan, Must Contribute, on an After-Tax-Basis, 3.1% of the Participant's Compensation into the Emmaus Police Pension Plan Effective January 1, 2010. Mr. Reinhard questioned if this was an amendment to the Collective Bargaining Agreement. Mr. Neely stated that it is. Mr. Neely stated that Chris Snyder uses a formula every year to determine what the percentage will be.

December 21, 2009

EMMAUS BOROUGH COUNCIL

**Motion by Mrs. Gilbert, seconded by Mr. Barrett to adopt Resolution 2009-35, A Resolution Requiring that each Employee Full Time Police Officer of the Borough of Emmaus, Hereafter Referred to as Active Member of the Emmaus Police Pension Plan, as a Condition of Participation in the Plan, Must Contribute, on an After-Tax-Basis, 3.1% of the Participant's Compensation into the Emmaus Police Pension Plan Effective January 1, 2010. There were 7 ayes. Motion carried.**

Progress.

f. Community Relations/Development Committee

Mr. Brown reported that the Committee Meeting scheduled for December 23, 2009 was cancelled.

Progress.

g. Ad Hoc Committee – Community/School Relations

Progress.

PERSONAL APPEALS, PART II

a. **Chris Defrain, 181 Harrison Street**, voiced concerns that Council only cut \$20,000 out of an \$8 million General Fund Budget. He stated that he appreciates the work that the Department Heads do. He asked Mr. Neely if capital spending for the Triangle and the trail could affect the General Fund. Mr. Neely answered that grant money is specifically designated for the Triangle Project and walking trail. He stated that there are specific Intergovernmental Revenue Line Items that total \$234,500, so there is no impact.

b. **Otto Slozer, 121 E. Elm Street**, stated that Council is to follow Roberts Rules of Order and feels that there was a misinterpretation of the Rules of Order concerning who can vote on reconsideration of an issue. He stated that it applies to every motion, resolution or issue. He stated that state law requires Council to take two votes on the budget.

c. **Frank Sadrovitz, 130 N 4<sup>th</sup> St**, voiced concerns about the Borough spending money and instituting a Business Privilege Tax. He questioned whether a vendor at the Farmer's Market would have to pay the Tax. Mr. Neely stated that vendors at the Farmer's Market would not be charged a Business Privilege Tax because they don't have an address or phone number in the Borough. Mr. Sadrovitz stated that he does not feel it is fair.

BOROUGH MANAGER'S REPORT

Progress.

PRESIDENT'S BUSINESS

Dr. Waddell recessed the meeting at 12:10 p.m. for an Executive Session to discuss a brief personnel issue, without official action being anticipated.

December 21, 2009

EMMAUS BOROUGH COUNCIL

Dr. Waddell reconvened the Meeting at 12:15 p.m. with no official action taken.

ADJOURNMENT

**Motion by Mr. Reinhard seconded by Mr. Barrett to adjourn. There were 7 ayes. Motion carried.**

The meeting of the Emmaus Borough Council was adjourned at 12:16 a.m. on December 22, 2009.

Craig B. Neely  
Borough Manager

Transcribed By: Paula Weiant  
Administrative Assistant  
December 22, 2009