

January 5, 2009

EMMAUS BOROUGH COUNCIL

Emmaus Borough Council  
Agenda  
Monday, January 5, 2009 7:00 PM

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

December 29, 2008
5. Decision on Bids
6. Communications
  - a. Leslie Heffron, Emmaus Arts Commission – SnowBlast Winter Festival Requests
  - b. Mr. & Mrs. Art Worman, 628 Cherokee St. – Snow Plowing Concerns
  - c. Dolores & Tom Mulkern, 942 Donald Dr. – Ambulance Services
  - d. Chris A. DeFrain – Interest in Council Vacancy
7. Borough Engineer's Report
8. Solicitor's Report
  - a. Ordinance No. 1044 – An Ordinance Approving the Agreement for the Exchange and Trade of Certain Real Estate Between Raven R. Mill and Mary M. Mill and the Borough of Emmaus (2nd Reading Awaiting Raven Mill's Attorney)
  - b. Ordinance No. 1047 – An Ordinance Amending the Provisions of Chapter 15, Section 404(d), and Establishing that Parking shall be Prohibited in the 600 Block of Pine Street in Excess of One Hour on any Vehicle Without an Approved Resident Parking Permit (1<sup>st</sup> Reading 12/1/08)
  - c. **Ordinance No. 1050 – An Ordinance of the Borough of Emmaus, Lehigh County, Pennsylvania, Amending the Code of Ordinances, Chapter 1, Part B, Article VII of Exhibit A, Entitled "Borough of Emmaus Employees Pension Plan", to Comply with the Pension Funding Equity Act of 2004, Pension Protection Act of 2006, and the Final Regulations Issued Under Internal Revenue Code Section 415, Effective as Provided in the Amendment (1<sup>st</sup> Reading 1/5/09)**

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- d. **Ordinance No. 1051 – 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 the Pension Funding Equity Act of 2004, Pension Protection Act of 2006, and the Final Regulations Issued Under Internal Revenue Code Section 415, Effective as Provided in the Amendment (1<sup>st</sup> Reading 1/5/09)**

9. New Business

10. Unfinished Business

11. Items Not on Agenda, Subject to Rule 6

12. Mayor’s Report

13. Committee Reports

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

1. Committee

- a. Sidewalk Ordinance
- b. 2009 Compost Site Hours

2. Solicitor

**Health and Sanitation** (Holtzhafer, Labenberg, Brown)

1. Committee

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

2. Solicitor

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

1. Committee

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

2. Solicitor

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

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

**General Administration** (Gilbert, Barrett)

1. Committee
  - a. Police and Employees' Pension Plan
  - b. "Community Announcements" Agenda Item
  - c. **John Zettlemoyer Reappointment-General Authority (1/5/09)**
  - d. Susan Schmidt Reappointment – Zoning Hearing Board
  - e. **2009 Appointments – Resolution 2009-1**
2. Solicitor

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

1. Committee
  - a. **Bill List – Resolution 2009-2**
  - b. Borough Installment Plan
2. Solicitor

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

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

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

Community/School Relations

- a. Junior Council Member

14. Personal Appeals, Part II

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15. Borough Manager's Report
  - a. Significant Revenue and Expense Items for First Half of January 2009
  - b. Council Vacancy
16. President's Business
17. Adjournment

Next Resolution #3  
Next Ordinance #1052

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The Emmaus Borough Council met in regular session on January 5, 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
Winfield Iobst, Mayor	Present
Frank Procyk, Solicitor	Present
Craig Neely, Borough Manager	Present

PERSONAL APPEALS, PART I

- A. Jim Woodeshick, 108 Seem St.,** gave a summary of the Weed/Snow Officer position duties. There were a substantial amount of notices sent in 2008. Mr. Woodeshick addressed issues with properties that were mentioned in Mr. Gruver's correspondence at the December 29, 2008 meeting. He feels that the budgeted amount for 2009 is appropriate. President Waddell thanked Mr. Woodeshick for his service.
- B. Teri Madison, Main Street Program,** thanked all who attended the 2009 Celebration kick-off dance and Council Member Labenberg for providing the music. She presented Council with 2009 Celebration magnets for each Borough Department and for public officials' cars.
- C. Karen Poshefko, Shade Tree Commission,** explained that there is an issue with replacing a street tree by a property owner who has refused to do so. The Shade Tree

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Commission filed a civil complaint and won. Referred to the General Administration Committee.

COMMITTEE REPORTS, PART I. President Waddell moved the General Administration Committee report forward on the Agenda.

a. General Administration Committee

**Motion by Council Member Gilbert, seconded by Council Member Labenberg to reappoint John J. Zettlemoyer to the Emmaus General Authority to a five year term expiring January 1, 2014.**

Council Member Labenberg noted that the vacancy was advertised.

**There were 6 ayes. Motion carried.**

**Motion by Council Member Gilbert, seconded by Council Member Barrett to appoint Susan Schmidt to the Zoning Hearing Board to a three year term expiring January 1, 2012.**

Council Member Labenberg confirmed with Council Member Gilbert that there was a general advertisement for vacancies on Boards and Commissions. President Waddell confirmed with Ms. Gilbert that the only applicant for the Zoning Hearing Board was Ms. Schmidt. Mr. Labenberg feels there should be a specific advertisement for a vacancy, as was done in the past. Council Member Barrett feels that the policy should be followed and that we should advertise for each vacancy. Mr. Labenberg supports Ms. Schmidt's appointment, but will be voting against the motion because of the advertising issue.

**There were 4 ayes, 2 opposed (Labenberg, Holtzhafer). Motion carried.**

Council Member Gilbert presented and read Resolution 2009-1, appointing officials for a term to expire January 4, 2010.

**RESOLUTION 2009 – 1**

**BE IT HEREBY RESOLVED** by Emmaus Borough Council to appoint the following officials to their designated positions for a term expiring on January 4, 2010:

Ambulance Corps Chief	Mike Nonnemacher
Animal Control Officer	Richard Hontz
Borough Manager/Secretary	Craig B. Neely
Borough Treasurer	Christine L. Snyder
Certified Public Accountant	France/Anderson
Emergency Management Coordinator	Dean Bruch
Engineer (General)	TMG Consulting Engineers

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Engineer (Water/Sewer)	Hanover Engineering
Fire Chief	James Reiss
Health Officer	Garry Ritter
Pension Consultant-Police/Non-uniform	Conrad Siegel
Public Works Director	Jeffery Clapper
Asst. Public Works Director	John Dychala
Public Works Inspector/ Code Enforcement Officer	James Farnsworth
Sewage Enforcement Officers	Scott J. Brown Jeffrey T. Huff
Borough Solicitor	Fonzone & Ashley
Civil Service Commission Solicitor	Jeffrey Dimmich, Esq.
Zoning Hearing Board Solicitor	Ronald Corkery, Esq.

**DONE** this 5th day of January, 2009.

**Motion by Council Member Barrett, seconded by Council Member Brown to adopt Resolution 2009-1. There were 6 ayes. Motion carried.**

Progress.

READING OF MINUTES

**Motion by Council Member Labenberg, seconded by Council Member Barrett to dispense with the formal reading of the December 29, 2008 minutes. There were 6 ayes. Motion carried.**

**Motion by Council Member Labenberg, seconded by Council Member Barrett to adopt the December 29, 2008 minutes as drafted. There were 6 ayes. Motion carried.**

DECISION ON BIDS – None.

COMMUNICATIONS

- a. Leslie Heffron, Emmaus Arts Commission – SnowBlast Winter Festival requests. Referred to Staff. Council Member Holtzhafer confirmed with President Waddell that there will be a temporary ice rink placed where the Triangle tree is currently standing. The tree is scheduled to come down in January. Borough Manager Neely suggested that Council vote on the Arts Commission using the Triangle.

**Motion by Council Member Barrett, seconded by Council Member Brown to grant approval for the Emmaus Arts Commission to use the Triangle for the Annual SnowBlast Festival. There were 6 ayes. Motion carried.**

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- b. Mr. & Mrs. Art Worman, 628 Cherokee St. – Snow plowing concerns. Referred to Staff. President Waddell asked Borough Manager Neely to talk to Public Works about how fast the snow plows travel, causing the snow to be thrown over the sidewalk. Council Member Labenberg will also address it at the next Public Works Committee meeting.
- c. Dolores & Tom Mulkern, 942 Donald Dr. – Thanks for ambulance services. A letter of thanks will be sent to Tina Schantz of the Ambulance Corps.
- d. Chris A. DeFrain – Interest in Council vacancy. Referred to the General Administration Committee.

BOROUGH ENGINEER'S REPORT – None.

SOLICITOR'S REPORT

Solicitor Procyk presented Ordinance No. 1050 for its 1<sup>st</sup> Reading. He explained that the Borough receives a yearly memo from the actuary explaining what codification changes are needed to adopt changes required by the IRS.

**Motion by Council Member Labenberg, seconded by Council Member Barrett to read Ordinance No. 1050 in short title. There were 6 ayes. Motion carried.**

President Waddell read Ordinance No. 1050 in short title: An Ordinance of the Borough of Emmaus, Lehigh County, Pennsylvania, Amending the Code of Ordinances, Chapter 1, Part B, Article VII of Exhibit A, Entitled “Borough of Emmaus Employees Pension Plan”, to Comply with the Pension Funding Equity Act of 2004, Pension Protection Act of 2006, and the Final Regulations Issued Under Internal Revenue Code Section 415, Effective as Provided in the Amendment.

**Motion by Council Member Labenberg, seconded by Council Member Gilbert to adopt Ordinance No. 1050 on its 1<sup>st</sup> Reading. Roll Call Vote: Brown aye, Gilbert aye, Labenberg aye, Holtzhafer aye, Barrett aye, Waddell aye. Motion carried.**

Solicitor Procyk presented Ordinance No. 1051 for its 1<sup>st</sup> Reading.

**Motion by Council Member Labenberg, seconded by Council Member Gilbert to read Ordinance No. 1051 in short title. There were 6 ayes. Motion carried.**

President Waddell read Ordinance No. 1051 in short title: 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 the Pension Funding Equity Act of 2004, Pension Protection Act of 2006, and the Final Regulations Issued Under Internal Revenue Code Section 415, Effective as Provided in the Amendment.

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**Motion by Council Member Gilbert, seconded by Council Member Brown to adopt Ordinance No. 1051 on its 1<sup>st</sup> Reading. Roll Call Vote: Labenberg aye, Holtzhafer aye, Barrett aye, Brown aye, Gilbert aye, Waddell aye. Motion carried.**

Progress.

NEW BUSINESS – None.

UNFINISHED BUSINESS – None.

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

MAYOR'S REPORT – Progress.

COMMITTEE REPORTS, PART 2

b. Public Works Committee

The next meeting is scheduled for January 28<sup>th</sup> at 8 a.m. Progress.

c. Health and Sanitation Committee

No meeting scheduled for January. Progress.

d. Parks and Recreation Committee

No meeting scheduled for January. Meetings for 2009 will be at 3:30 p.m. on the 1<sup>st</sup> Tuesdays of each month. Progress.

e. Public Safety Committee

Next meeting scheduled for Thursday, January 8<sup>th</sup> at 9:00 a.m. Progress.

f. Budget and Finance Committee

**Motion by Council Member Gilbert, seconded by Council Member Holtzhafer to adopt the January 5, 2009 Bill List.**

<b>Bill List</b>	<b>\$ 383,901.75</b>
<b>Payroll #27</b>	<b>\$ 97,871.95</b>
<b>Payroll Taxes</b>	<b>\$ 32,636.51</b>
<b>Total</b>	<b>\$ 514,410.21</b>

**Done this 5<sup>th</sup> day of January 2009. There were 6 ayes. Motion carried.**

Council Member Holtzhafer questioned whether Payroll #27 is being paid out of the 2008 or 2009 Budget. Borough Manager Neely confirmed that Payroll #27 is for the last payroll in 2008 and is being paid out of the 2009 funds.

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Committee Members requested that Borough Manager Neely provide them with an update on the Borough's financial status at its meeting on January 19, 2009. Progress.

g. Community Relations/Development Committee

Council Member Brown reported that his Committee met with Chris Barebo of Otterbine Barebo, Inc. He discussed the two types of fountains being considered; one is an architectural fountain made by Hobbs, the other is an aerator style fountain made by Barebo. Hobbs is a turnkey operation, designing and constructing architectural fountains. Barebo designs ponds and aerators. There has been a concern as to the cost of maintaining the fountains. The Hobbs fountain would need to be maintained on a regular basis. A Barebo fountain would be maintained once a year. We are currently using a Barebo product at Furnace Dam. Barebo is a local company from Vera Cruz. We can purchase a maintenance kit for \$150 from Barebo. Barebo also charges approximately \$70-\$75/hr. for labor. Mr. Brown did not have warranty information from Hobbs; however he said that Barebo will give a five year warranty. The cost of a Hobbs fountain would be \$230,000 to \$250,000. The cost for a Barebo fountain would be purchasing the equipment for less than \$10,000. A pool and vault would need to be provided. Tony Ganguzza, Borough Engineer, said it could be built for no more than \$75,000 from start to end. It was noted that a decision needs to be made quickly as to the type of fountain before going out for bid.

Council Member Gilbert reminded President Waddell that this issue was tabled two meetings ago.

**Motion was made by Council Member Labenberg, seconded by Council Member Holtzhafer to remove it from the table. There were 6 ayes. Motion carried.**

Borough Manager Neely reminded Council that this item will be going out to bid. The two companies were used for informational purposes. Council needs to determine which type of fountain to go out to bid.

**Motion was made by Council Member Labenberg, seconded by Council Member Holtzhafer to go with the aerator concept versus the architectural fountain.**

Mr. Barrett confirmed that the \$10,000 is just for equipment, and an additional \$65,000 for everything else, including the design. Of that \$65,000 all of it will come from the Green Futures Fund.

President Waddell said Council does not have to vote on it tonight. He would like to see a sample of the fountain and get more information from Barebo before voting.

Council Member Labenberg said \$250,000 for an architectural fountain will be coming from the Green Futures Fund and doesn't feel we should be spending all that money on a fountain. Instead he would rather see the money spent on trails and green

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parts of the Borough rather than a fountain. He is getting to the point of not doing anything at all; either put up the fountain in the future, or put up a statue. Council continued discussing the differences between the two fountains.

Council Member Gilbert confirmed that a vault will be needed with the Barebo design. Borough Manager Neely said the discussions of an aerator included a vault because of the chlorination equipment needed, which would be different from the fountain used at Furnace Dam. The other equipment needed to be paid for would be the pond. The Borough Engineer would have to spec the pond and vault. The Engineer said both can be done, and he could have the specs done by mid-March. The bidding can be split, removing the fountain from the bid. Council needs to decide on a fountain, and then place the fountain out for bid.

Council Member Labenberg rescinded his motion and made a new motion to eliminate the fountain from the design. Council Member Holtzhafer rescinded his second.

**Motion by Council Member Labenberg, seconded by Council Member Holtzhafer to remove the fountain from the design concept.**

Council Member Brown confirmed that the fountain had previously been approved by Council several meetings before.

Mr. Labenberg said the fountain could be built in the future. President Waddell didn't agree and said it would be unlikely it would be done in the future. Council Member Barrett thinks it would be more costly to put the fountain in later.

Council Member Brown encouraged everyone to go to the Emmaus Historical Society to view pictures of the fountain placed on the Triangle years ago.

Council Member Barrett confirmed that the money being spent is coming out of the Green Futures Fund and grants, not from the taxpayer's budget.

**There were 2 ayes, 4 opposed (Gilbert, Brown, Barrett, and Waddell)  
Motion failed.**

There is no deadline to make a decision. Since the bidding is being split, a decision does not have to be made immediately, but should be made as soon as Council feels comfortable.

Next Committee meeting is scheduled for January 28<sup>th</sup> at 4:00 p.m.

h. Ad Hoc Committees

Community School Relations

The next meeting is scheduled for Tuesday, January 27<sup>th</sup> at 3:30 p.m. at the school district administrative building. Council Member Holtzhafer said that an issue would be a Junior Council Member, and to introduce Borough Manager Neely to the District

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representatives. He asked Council Member Gilbert to check with Chief Faust to see if he has anything for them. Progress.

### PERSONAL APPEALS, PART II

- A. Josephine Sadrovitz, 130 N. 4<sup>th</sup> St.,** agrees with Council Member Labenberg and would like to see the fountain replaced with something that shows how the Borough began, who we are, and what we did.
- B. Otto Slozer, 121 E. Elm St.,** agreed with Ms. Sadrovitz's suggestion. He would like to see something placed on the Triangle detailing the past history of the Borough, which would be more beneficial for future generations than a fountain. He feels the money should be spent on other projects that are needed. Mr. Slozer said we are in economic hard times now and doesn't feel the money should be spent on a fountain. Council Member Barrett asked if Mr. Slozer has any suggestions about what to put on the Triangle.
- C. James Woodeshick, 108 Seem St.,** suggested that the Borough install a crosswalk or sign to help employees of the East Penn Bank who try to cross Chestnut Street at 8<sup>th</sup> Street. Mr. Woodeshick spoke to Mr. Brown about using the 2008 concrete contractor, who might be willing to donate some time and material for the fountain. He also mentioned options for installing a vault.
- D. Chris DeFrain, 181 Harrison St.,** has been to Chris Barebo's home to see the fountain. He said that if Barebo gets the bid, he believes they would do a good job. Mr. DeFrain also stated that there are a lot of other projects in the Borough that the money could be used for.
- E. Karen Poshefko, Shade Tree Commission,** attended a "tree tenders" training in September that was offered through a DCNR matching grant. Ms. Poshefko asked if there was money in the budget to match the grant and Council said no. She also asked if Green Futures Fund monies left over from the Triangle project could be used for replacing trees along Main & Chestnut Streets. Borough Manager Neely will check the guidelines.

### BOROUGH MANAGER'S REPORT

Borough Manager Neely noted that he prepared a memo regarding the vacancy on Borough Council, which is in Council's binders. The position will be advertised in this week's East Penn Press with letters of interest due by January 14<sup>th</sup>. Those individuals would then be invited to attend the January 19<sup>th</sup> Council meeting, at which time they would be interviewed by Borough Council, and Council would vote on the person to fill the remainder of the term expiring December 31, 2009. We are also advertising for the Vacancy Board, which is a registered voter from Emmaus interested in volunteering to serve and would only become relevant if there would be a tie vote for the Council vacancy. Letters of interest are due on January 14<sup>th</sup> and Council can vote on filling the vacancy on the 19<sup>th</sup>. Should there be a tie on the 19<sup>th</sup>, the Vacancy Board can be composed, meet, and make a decision. Council Member Barrett asked if we received any inquiries for the Vacancy Board. Mr. Neely said

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none were received yet since the advertisement was just going into the paper. Mr. Neely also confirmed that Mr. DeFrain was the only inquiry for the Council position.

PRESIDENT'S BUSINESS

The General Authority kindly offered to give the Borough \$90,000, which can be used as needed in the coming months and not just for capital expenditures. Dr. Waddell said that it was appreciated and asked Mr. Gerhart, Chairman of the General Authority, to relay our appreciation to the other members of the Authority. President Waddell thanked everyone involved with the 2009 Celebration kick-off dance.

President Waddell stated that once the Council vacancy is filled, there may be a need to change some of the committees.

ADJOURNMENT

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

The meeting of the Emmaus Borough Council adjourned at 8:27 p.m.

Craig B. Neely  
Borough Manager

Transcribed by: Renea Flexer & Kathy Yaindl  
Administrative Assistants  
January 13, 2009