

The regular monthly meeting of the Ebensburg Borough Council was called to order on Monday, June 22, 2020 at 6:30 p.m. at the Ebensburg Municipal Building, 300 W. High Street, Ebensburg, by President Doug Tusing.

Present: Doug Tusing, President
Dave Kuhar, Vice President
Theresa Jacoby
Scot May
Cecilia Houser
Mike Owatt
Jeff Ball

Others: Daniel Penatzer, Borough Manager
Randy Datsko, Mayor
Blair Pawlowski, Solicitor
Terry Wyland, Police Chief
Danea Koss, Community Development Director
Dirk Johnson, Recreation Director
Mark Pesto, The Tribune Democrat
Kristin Baudoux, The Mountaineer Herald
Patricia Keith, The Altoona Mirror
Amanda Lee, WTAJ
WJAC Staff Member

Audience: 22

A. The Pledge of Allegiance was recited.

B. **Public Comments** – Ms. Annalisa McCann, 600 W. Crawford Street, a member of the group “Inclusive Ebensburg,” stated that Ebensburg is not immune to hate and that we have to do better as a community to be more welcoming and celebrate diversity.

C. **Consent Agenda**

Ms. Jacoby made a motion to approve the consent agenda containing the following items. (Houser) Motion passed unanimously.

1. Approve the minutes of the May 18, 2020 regular monthly meeting of Borough Council.
2. Approve the Financial Statement.
3. Approve payment of bills.

D. **Appointment to Address Council** – Mr. Mark Alex, 10 Tanner Street, expressed his discontent with the condition of a neighboring property owned by Jeff & Jack Moschgat LLC.

E. **Mayor’s Report** – None.

F. **Council President** – None.

G. Water/Wastewater Committee

1. Report from Inframark on Wastewater Plant Operations

Mr. Kuhar reported that Inframark provided written reports for wastewater plant and they were provided in Council's packets.

2. Report from Inframark on Water Treatment Plant Operations

Mr. Kuhar reported that Inframark provided written reports for the water plant and they were provided in Council's packet.

H. Recreation Committee

1. Nathan's Divide

Ms. Jacoby reported that the access road to the reservoir off Center Street has been improved and a float dock has been installed. Area residents have already been using the reservoir for non-fuel boating. There are details that remain to be resolved with the lease arrangement between the municipal authority and Nathan's Divide. The Authority has approved the recreational use of the reservoir. Additional information will be made in the upcoming newsletter.

2. Memorial Field Improvements

Mr. May reported that the two grass infields have been skinned, leveled and new infield mix is being installed by borough crews. When those two are completed, the softball field will be leveled and covered with new infield mix.

I. Street Committee

1. 2020 Sidewalk Project

Ms. Houser reported that work is progressing on East Crawford Street.

2. Fairview Street

Mr. Penatzer reported that Fairview Street is a non-ordained street extending from Caroline Street to Center. There are two properties along Caroline Street that border Fairview Street and one property on the north side of Fairview at its midpoint. Fairview has a 50 feet wide right-of-way.

Over the years, property owners have been encroaching into the street. There are several references to it in Council minutes dating back to 1966 and as recent as 2018. The possible opening of Fairview Street has been an issue in the past and will likely be raised again in the future. The private improvements completed over the years constitute zoning violations as they far exceed the minimum setback regulations. While some can be considered to be pre-existing non-conforming uses, the most recent ones should be removed, the street right-of-way should be preserved, and property owners should be instructed on regulations concerning property lines and setbacks.

Staff recommends notifying the three affected property owners to confine structural and restrictive improvements and plants to the borders of their own properties and to vacate the street.

J. Administration Committee – None.

K. General Business

1. Sale of Vehicle

Mr. Penatzer reported that a 2008 dump truck was recently replaced and is now available to be sold. Bids were advertised and a lone bid was received from Timothy George of Mineral Point in the amount of \$17,000.00.

Mr. May made a motion to approve the sale of a 2008 Ford dump truck to Timothy George for \$17,000.00. (Jacoby) Motion passed unanimously.

2. Confederate Flag

Mr. Penatzer reported that objections have been received following the display of a confederate flag by a participant during the Memorial Day parade. A town hall was conducted by Council on June 17th to further discuss the issue. The Solicitor has issued a legal opinion relative to Council's ability to regulate the display of the flag, or any other expressions, and how such displays are protected under the 1st Amendment.

Mr. Penatzer continued with the following proposals for Council's consideration:

- 1) Since the Solicitor's legal opinion indicates that Council is unable to regulate such displays, staff suggests that the Borough cease its direct involvement in events. The Main Street Partnership is a corporate body independent of borough government, is capable of sponsoring and managing its own events, and is free to develop and enforce its own rules without government assistance.

Since it was first formed in January 2013 under Resolution 2013-01, the Main Street Partnership Board members have been appointed by Council. Since acquiring its 501(c)3 status, members of the Partnership have continued to be appointed by Council. The proper method is for the Partnership to appoint members to its own Board since it is in fact a corporate body separate from borough government. The Partnership should amend its own by-laws implementing that change.

The Borough would continue to provide contracted services to the Partnership such as staff support and office space. The Borough will provide any services to the Partnership's events that we would provide to any event, regardless of the sponsor; i.e. street sweeping, increased police staffing, etc. This relationship

should be expressed in an Operating Agreement similar to that which exists between the Borough and Ebensburg Municipal Authority.

- 2) Since the events and parades are to be separate from the Borough, there should be a procedure for event organizers to seek a permit from the Borough for any event that would result in a street closure, additional police or public works staff, or occupy a public space.
- 3) The Inclusive Ebensburg group has floated the idea of a formal "Diversity Committee" that would be a part of Borough government, similar to our current Recreation Board. This idea needs further evaluation to determine the pros/cons of creating such a board, and staff is prepared to meet with Inclusive Ebensburg and/or its representatives to acquire additional information and discuss alternatives.

Ms. Houser made a motion to instruct staff to 1) develop an Operating Agreement with the Main Street Partnership; 2) draft a Resolution rescinding Resolution 2013-01; 3) draft a Resolution to divest the Borough from any organizational role in any parade or event; 4) draft an Ordinance creating a permit process for events and parades; 5) meet with members of Inclusive Ebensburg to further explore the idea of a Diversity Committee. (May) Motion passed unanimously.

Mr. May made a motion to adopt Resolution 2020-05 denouncing the display of the confederate flag. (Houser) Motion passed unanimously.

Mr. Tusing made a correction to a statement he had made at the Town Hall meeting. He clarified that the names of approximately 3,000 Cambria County soldiers listed on the plaques in Soldiers & Sailors Park had served rather than perished in the war.

L. **Department Report**

1. **Police Department** – Chief Wyland reported that there was a peaceful Black Lives Matter protest on Saturday, June 20th and there were no problems. He also added a reminder to Borough residents that fireworks are not permitted to be set-off within 150 ft of a structure.
2. **Public Works Department** – Mr. Evans was not present but Mr. Tusing reported that Johnstown has finished their aeration project and we are hopeful that this has corrected the problem with chlorine by-products.

3. **Community Development Department** – Ms. Koss reported on behalf of the Main Street Partnership that the Downtown Shutdown has been cancelled, as well as events at Lake Rowena on the evening of Homecoming. They are still confirming events throughout the day and several are still taking place. Additionally, the Movie in the Park and Concerts in the Park will continue. Unfortunately, the Partnership made the difficult decision to cancel PotatoFest. Additionally, the EMSP has earned 2020 National Main Street Center accreditation. Lastly, the restaurants are hosting a Wing Walk this Thursday in place of Wheels & Wings.
4. **Recreation Department** – Mr. Johnson reported that the pool and the YPCC are now open and there haven't been any issues with overcrowding. Classes have resumed and have been well attended. 80 passes have been sold. Mr. Johnson thanked public works for their work on the fields.

M. **Media Comments/Questions** – None.

N. **Public Comments**

Mr. Pat Lauer, 313 E. Horner Street, asked if the steps in front of his home will stay within the sidewalk project.

Ms. Ann Poole, 518 W. Horner Street, stated that she was unaware that racial bias was a problem in Ebensburg. She encouraged the group, if they want to end injustice, to come and join the fight against abortion.

Mr. Pat Lauer, 313 E. Horner Street, stated that he doesn't have a water shut-off and wishes to have one added during the sidewalk project.

Ms. June Fether, 122 E. Alton Street, commended Council for addressing the confederate flag issue.

Mr. Rick Ardini, 202 W. High Street, stated with the cancelling of events, businesses want to come up with their own events and are being told they can't call them events. He added that the businesses will need to use the Penn Eben parking lot for their Wing Walk on Thursday.

Ms. Gale DeArmin, 800 W. Alton Street, expressed pride that members of Council are taking the issue of the confederate flag seriously.

Mr. Chris Miller, 733 N. Marion Street, stated that racism is here and that some families didn't feel they could speak up.

Ms. Raquel Lemelle, 418 E. Horner Street, thanked Council for denouncing the confederate flag.

- O. **Adjournment** – There being no further business, Mr. Owatt made a motion to adjourn. (Jacoby) Motion passed unanimously.

Meeting Adjourned 7:31 PM

Minutes Recorded by: Danae Koss, Community Development Director