



**Ebensburg Borough Council Meeting**  
**Monday, January 25, 2021**  
**6:30 p.m.**

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**Borough Council**  
Doug Tusing, President  
Dave Kuhar, Vice-President  
Jeffrey Ball  
Cecilia Houser  
Theresa Jacoby  
Scot May  
Michael Owatt  
William Westrick, Jr. Councilor  
**Mayor**  
Randy Datsko

***AGENDA***

**CALL TO ORDER & PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

*Members of the public are invited to comment at this time on any item appearing on the agenda.*

**1. CONSENT AGENDA**

*All items listed on the Consent Agenda are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council request specific items to be removed for separate action.*

Item 9A: Approve the minutes of the December 21, 2020 regular monthly meeting of Borough Council and the January 18, 2021 public hearing.

Item 9B: Approve the financial statement.

Item 9C: Approve payment of bills.

Recommended Action – Approve the consent agenda.

**2. APPOINTMENTS TO ADDRESS COUNCIL**

**Item 2A: Julie Horvath**

Julie Horvath of 709 East Sample Street wishes to update Council on plans for a proposed skatepark.

**3. MAYOR'S REPORT**

**Item 3A: Report on Police Department**

**4. COUNCIL PRESIDENT COMMENTS**

**5. WATER, WASTEWATER & STORMWATER COMMITTEE** **Ball & Kuhar**

**Item 5A: Report from Inframark on Wastewater Treatment Plant Operations**  
Q&A on the written report submitted and on projects and activities at the wastewater plant.

Recommended Action – No action required.

**Item 5B: Report from Inframark on Water Treatment Plant Operations**  
Q&A on the written report submitted and on projects and activities at the water plant.

Recommended Action – No action required.

**6. RECREATION COMMITTEE** **Jacoby, May & Owatt**

**7. STREET COMMITTEE** **Ball, Houser & Owatt**

**Item 7A: 2021 Sidewalk Project**  
The 2021 sidewalk and curb project involves West Sample Street, West Crawford Street and West Horner Street. Bids have been advertised for construction and tree cutting and are due on February 15<sup>th</sup>. A pre-bid meeting is scheduled for February 5<sup>th</sup>.

Recommended Action – No action required.

**8. ADMINISTRATION COMMITTEE** **Houser, Jacoby & Kuhar**

**Item 8A: Borough Manager Vacancy**  
Council’s administrative committee has completed its review of the applications received for the position. The recommended candidate was interviewed by the full Council on January 5<sup>th</sup>. All pre-employment checks and verifications have been completed. The committee is expected to propose a name tonight for Council’s consideration. The start date for the new Borough Manager is February 22<sup>nd</sup>. The annual salary is \$75,000.

Recommended Action – Approve the employment contract with the new Borough Manager.

**9. DIVERSITY COMMITTEE** **May, Kuhar & Houser**

**10. GENERAL BUSINESS**

\* Item 10A: Minutes of Previous Meeting(s)  
The minutes of the December 21, 2020 regular meeting and the January 18, 2021 public hearing are presented for Council review and approval.

Recommended Action – Approve the minutes of the previous meeting(s).

\* Item 10B: Financial Statement

The financial statement for December 2020 is presented for approval.

Recommended Action – Approve the December 2020 financial statement.

\* Item 10C: Bills

A list of bills totaling \$693,414.04 is submitted for approval.

Recommended Action – Approve payment of the bills as submitted.

**Item 10D: Zoning Amendment, Fences**

Ordinance #659 is proposed amending the Zoning Ordinance relative to front yard fences. A public hearing was conducted on January 18<sup>th</sup> at which three residents spoke. During the hearing, one resident suggested that Council alter the proposed Ordinance to allow front yard fences, but no closer to the street than the "building line" of nearby properties (as is the case for side fences on corner lots per the proposed Ordinance).

Staff recommends that the Ordinance not be amended as suggested above for various reasons. First of all, staff concurs with the recommendation of the Borough Planning Commission that the prohibition of installing front yard fences remains in place. Secondly, if the Ordinance were to be amended as suggested, it is important to realize that in the vast majority of blocks within the Borough, one or more homes is positioned far enough behind the "building line" such that a front yard fence would be permitted. This could lead to the proliferation of front yard fences across the borough, which would be inconsistent with the look and feel of our current neighborhoods.

Also, at the public hearing, a question was raised concerning the applicability of special exceptions and whether they could be applied to fences. After review by staff, it is determined that they can.

A special exception is a permission granted to use land for a purpose other than that generally permitted outright in that district. The special exception is granted by the Zoning Hearing Board in accordance with the Zoning Ordinance, provided that the proposed use would not prove injurious to the public interest. In this case, the public interest is maintaining an open, green and welcoming character along residential streets and preventing a maze of front yard fences of varying size and design.

It is important to realize that the term special exception is somewhat of a misnomer. It is neither special nor is it an exception. It is not a deviation from the Zoning Ordinance. An applicant for a special exception is following the Zoning Ordinance. A special exception is a use envisioned within the Zoning Ordinance that includes specific standards and criteria which go above and beyond the basic requirements for a particular zone or use. If the additional requirements are met (in the judgement of the Zoning Hearing Board), the use is one permitted by the Ordinance.

Special exceptions exist because choosing uses permitted and prohibited for each zone is too narrow for sound planning. Many matters fall in between what is consistent and that which is inconsistent with a zoning classification. When specific special exceptions are listed in the Zoning Ordinance, the Zoning Hearing Board then has the opportunity to thoroughly examine

the proposed land use to assure that the public interest is not violated and to attach any reasonable conditions or safeguards that they believe are necessary to implement the intent of the Ordinance. The board is vested with discretion in evaluating the evidence presented to it.

If Council believes that there are or could be certain instances in which front/side yard fences could be appropriate but are otherwise prohibited or restricted, and therefore wishes to allow them to be considered as special exceptions, the following language can be added to the draft Ordinance.

“The Zoning Hearing Board is hereby authorized to consider and grant Special Exceptions to the requirements set forth in Section 607. Special Exceptions may be granted by the Board provided that it is demonstrated that:

1. The intent of the prohibition, i.e. the preservation of open and green space along the frontage of residential properties, is preserved.
2. The size, configuration or other unusual characteristic(s) of the lot requires an exception from the zoning requirements in order to provide a reasonable fenced area without creating significant harm to adjacent properties or the neighborhood.
3. The grant of the Special Exception will not adversely affect the appearance and character of the neighborhood or adjacent properties.
4. The wall or fence is compatible with the existing residence/building in terms of materials, color, design.

Upon consideration of the factors set forth in this section, the Board may attach such conditions to the granting of the special exception as it deems necessary.”

Staff does not recommend including a special exception clause applicable to front yard fences. As stated above, staff concurs with the Planning Commission recommendation to retain the current prohibition on front yard fences without exception. The appearance and feel of our residential neighborhoods is important, not only when looking down the street line, but also when driving or walking along the street in front of individual properties. Fences, by definition, are a barrier that closes off a particular area of property. We recognize that property owners may want to segregate a portion of their property for privacy, for the safe use of children or pets, or for many other reasons. As such, both the current and proposed Ordinances allow for side and rear yard fences with few limitations. In particular, larger properties generally have more side and/or rear yard area where fences can be installed, so there would appear to be little true need for enclosing even more of the property with a front yard fence. In the end, the current prohibition on front yard fences prevents a property from presenting the appearance of a gated compound, estate or fortress which would be completely out of character from the rest of the neighborhood.

Recommended Action – Grant tentative approval to Ordinance #659, as proposed, and to advertise for public inspection.

## 11. DEPARTMENT REPORTS

### Item 11A: Police Department

Chief Wyland has submitted a written report on the police department’s activities during the month.

**Item 11B: Public Works Department**

Public Works Director Jeff Evans has submitted a written report on the public works department’s activities during the month.

**Item 11C: Community Development**

Community Development Director Danae Koss has submitted a written report on the community development department’s activities during the month.

**Item 11D: Recreation Department**

Recreation Director Dirk Johnson has submitted a written report on the recreation department’s activities during the month.

\* Item 11E: Codes Enforcement

A monthly codes enforcement report was forwarded to Council.

\* Item 11F: Ebensburg Municipal Authority

A copy of the minutes of the last municipal authority meeting is included in Council’s packet.

\* Item 11G: Ebensburg Planning Commission – No activity

\* Item 11H: Ebensburg Zoning Board – No activity

**12. MEDIA COMMENTS/QUESTIONS**

*Representatives of the media are invited to comment and ask questions at this time on any issues, whether or not on the agenda.*

**13. PUBLIC COMMENTS**

*Members of the public are invited to comment at this time on any issues, whether or not on the agenda.*

**14. ADJOURNMENT**

*Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are available for public inspection the Thursday before each regularly scheduled meeting at the Borough office, located at 300 West High Street, Ebensburg, Pa. Any documents subject to disclosure that are provided to members of the Borough Council regarding any item on this agenda are available for public inspection at the Borough office or at [www.ebensburgpa.com](http://www.ebensburgpa.com).*

*In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Borough office (814) 472-8780 or [eburg@ebensburgpa.com](mailto:eburg@ebensburgpa.com). Notification 48-hours before the meeting will enable the Borough to make reasonable arrangements to ensure accessibility to this meeting.*