



**Ebensburg Borough Council Meeting**  
**Monday, June 22, 2020**  
**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  
**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 May 18, 2020 regular monthly meeting of Borough Council and the June 1, 2020 special meeting.

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: Mark Alex**  
Mr. Alex of 10 Tanner Street wishes to complain about the condition of a neighboring property.

**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**

**Item 6A: Nathans Divide**  
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 Nathans Divide. The Authority has approved of the recreational use of the reservoir. Additional information will be made available in the upcoming newsletter.

Recommended Action – No action required.

**Item 6B: Memorial Field Improvements**  
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.

Recommended Action – No action required.



**7. STREET COMMITTEE**

**Ball, Houser & Owatt**

**Item 7A: 2020 Sidewalk Project**  
Work is progressing on East Crawford Street.

Recommended Action – No action required.

**Item 7B: Fairview Street**  
Fairview Street is a non-ordained street extending from Caroline Street to Center Street. 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 along Fairview Street have encroached into the street. Trees, shrubs, a shed and now 6x6 barriers have been placed beyond the private property line boundaries and in the street.

The first reference to Fairview Street in Council minutes is in 1966 regarding sewer line grades on Caroline Street. The second reference is in 1991 when Neiderer met with Council’s street committee to discuss opening the street. The next reference is in 1994 when DeSalvo

requested that it be opened to allow for a house to be constructed. In 1997 Resolution 97-7 was adopted “granting use of the unopened street and limiting the borough’s future liability for its maintenance.” The most recent reference is in 2018 when Sinclair inquired about a proposed stormwater line crossing it. It’s meets and bounds have also been referenced in several zoning amendments.

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.



**Recommended Action** – Notify 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.

## 9. GENERAL BUSINESS

- \* Item 9A: Minutes of Previous Meeting(s)  
The minutes of the May 18, 2020 regular meeting and June 1, 2020 special meeting are presented for Council review and approval.

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

- \* Item 9B: Financial Statement  
The financial statement for May 2020 is presented for approval.

Recommended Action – Approve the May 2020 financial statement.

- \* Item 9C: Bills  
A list of bills totaling \$381,906.83 is submitted for approval.

Recommended Action – Approve payment of the bills as submitted.

### **Item 9D: Sale of Vehicle**

A 2008 dump truck was recently replaced and is now available to be sold. Bids were advertised for the truck. A lone bid was received from Timothy Frank of Mineral Point in the amount of \$17,000.00.

Recommended Action – Approve the sale of a 2008 Ford dump truck to Timothy George for \$17,000.00.

### **Item 9E: Confederate Flags**

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 17<sup>th</sup> to further discuss the issue. The Solicitor has issued a legal opinion relative to Council's ability to regulate the display of the flag, and how such displays are protected under the 1<sup>st</sup> Amendment.

There are several proposals offered here 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.

Recommended Action #1 – 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.

Recommended Action #2 – Adopt Resolution 2020-05 denouncing the display of the confederate flag.

## 10. DEPARTMENT REPORTS

### **Item 10A: Police Department**

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

### **Item 10B: Public Works Department**

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

### **Item 10C: Community Development**

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

### **Item 10D: Recreation Department**

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

### \* Item 10E: Codes Enforcement

A monthly codes enforcement report was forwarded to Council.

### \* Item 10F: Ebensburg Municipal Authority

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

- \* Item 10G: Ebensburg Planning Commission – No activity
- \* Item 10H: Ebensburg Zoning Board
  1. Kaufmann, 609 East Crawford Street  
The Zoning Hearing Board denied a variance for a front yard fence.

## **11. 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.*

## **12. PUBLIC COMMENTS**

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

## **13. 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.*