

The regular monthly meeting of the Ebensburg Borough Council was called to order on Monday, November 23, 2020 at 6:30 p.m. via Zoom, by President, Doug Tusing.

Present: Doug Tusing, President  
Dave Kuhar, Vice President  
Theresa Jacoby  
Scot May  
Mike Owatt  
Cecilia Houser  
Will Westrick, Jr. Councilor

Absent: Jeff Ball

Others: Randy Datsko, Mayor  
Daniel Penatzer, Borough Manager  
Blair Pawlowski, Solicitor  
Danea Koss, Community Development Director  
Dirk Johnson, Recreation Director  
Jeff Evans, Public Works Director  
Kristen Baudoux, The Mountaineer Herald  
Mark Pesto, The Tribune Democrat  
Julia Horvath

Audience: 8

A. The Pledge of Allegiance was recited.

**B. Junior Councilor**

Mr. Penatzer reported that the junior councilor position was first created by Borough Council in 2002 by Resolution #2002-02. Council recognized the importance of involving residents of all ages in the decision-making process, and that, while not yet able to vote for its elected representatives, youth nonetheless have an interest in the operation of borough government. The position was last occupied in 2012 and there have been no applicants since then. William Westrick, a junior at Central Cambria High School, wishes to be named to that position.

The Junior Councilor must be a borough resident completing the junior year of high school. The term is June-May. The junior member is permitted to attend all meetings of Council (except executive sessions) and all committee meetings and is permitted to participate fully in those proceedings, except shall not be afforded the right to vote.

Mayor Datsko administered the oath of office to Mr. Will Westrick.

**C. Public Comments**

Mr. Wayne Templeton, 902 N. Caroline Street, asked Council again not to rezone the former Middle School football field property. He also stated that the developer has projects across the street that have been left unfinished for an extended period of time.

Mr. Joe Sinclair of Central Commons stated that the project in question will be starting and there was a delay on the other projects due to the Dollar General Store.

**D. Consent Agenda**

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

1. It is a matter of record that Robert Stofko has been hired as a janitor effective 10/19/2020.
2. It is a matter of record that Michael Kush has been hired as a tennis assistant effective 11/2/2020.
3. Approve the minutes of the October 26, 2020 regular monthly meeting of Borough Council.
4. Approve the Financial Statement.
5. Approve payment of bills.
6. Award a contract to Midstate Consultants in the amount of \$1,975.00 to conduct an IFE for the airport taxiway rehabilitation project.

**E. Appointment to Address Council**

Ms. Julie Horvath, 709 E. Sample Street, is asking Council to consider a proposed skatepark. She prepared and presented a PowerPoint presentation for Council's review.

**F. Mayor's Report** – None.

**G. Council President** – None.

**H. 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.

3. **AWOP Award** – Mr. Kuhar reported that the PaDEP has selected Ebensburg's water treatment plant to receive an Area Wide Optimization Program Award. AWOP is a national filter plant optimization effort among various states, the EPA and the Association of Safe Drinking Water Administrators. The award recognizes outstanding efforts toward optimizing filter plant turbidity performance. This year the 31 top-performing filter plants received the award. \

#### **4. Water/Sewer Projects**

Mr. Kuhar reported that at the September meeting staff discussed one small water project on North Spruce Street and two small sewer projects on North Marian Street and East Ogle Street. At that time, Council approved seeking bids for all three projects. After further consideration, the cost of none of the three projects will be high enough to require bidding. There are enough underground unknowns to make developing specifications for bidding impossible without incurring additional costs for engineering.

The most cost-effective approach for these projects is a joint effort between borough crews and a private contractor. Kev's Excavating would be used for excavation and site work on a time and material basis. Borough crews will procure and install all piping and connections.

The sewer project in the 700 block of East Ogle Street will be delayed. The collector line currently at the rear of those properties is under porches and will need to be relocated to the front of the properties.

#### **5. Water Loss**

Mr. Kuhar reported that the unaccounted water loss on our water distribution system had been as high as 47%. While we want water loss to be as low as possible, 20% is the accepted target. Our own public works crews have worked diligently to detect system leaks and to make repairs. They have also worked closely with Inframark to better coordinate the various meter readings at the treatment plant and storage tanks, and with office staff to coordinate the calculation of water sold through customer meters. All of that work has our current water loss rate down to 26%. There is one valve and flow meter at the treatment plant yet to be replaced. Our loss rate will likely hover between 20-30% due to the age of the distribution lines.

#### **6. Ongoing Byproducts Violations**

Mr. Kuhar reported that November's quarterly test results continue to show elevated HAA5 and TTHM levels in the water being purchased from Greater Johnstown's Saltlick system. Those are byproducts of the chlorine used to disinfect the water. They are not considered serious health risks but do constitute violations of the maximum contaminant level (MCL) and therefore require public notification. The problem affects only those customers that actually receive water purchased from Saltlick, primarily those few along Route 22. Regardless, regulations require that all customers on our system be notified.

Greater Johnstown completed the installation of an aeration system on the Saltlick reservoir earlier this year. It is intended to decrease the byproducts in the water. Test results have been trending lower during 2020 but the running average of test results remains slightly above the MCL. We remain hopeful that the running average will soon drop below the MCL and that public notifications will no longer be necessary.

**I. Recreation Committee**

**1. Skatepark Presentation**

Mr. Tusing referred back to the skatepark presentation given by Ms. Horvath. He explained that the group that is interested in undertaking the skatepark project is looking for direction from Council, with the understanding that there will be caveats with a final design and location.

Ms. Jacoby made a motion to approve the general concept of the skatepark. (Houser)  
Motion passed unanimously.

**J. Street Committee**

**1. 2020 Sidewalk Project**

Mr. Owatt reported that all primary work on this project has been completed. The contract as awarded was \$1,371,061. The final cost is \$1,316,800 due to slightly lower quantities of curb and sidewalk. The final bill has been paid less retainage for several small items. We retained \$1,800 for some reseeding and blacktop repair that needs to be redone in the spring. The contractor was given the option of foregoing payment and having our crew take care of it. There was \$10,000 retained for alleged damage to a foundation wall. We asked only that the contractor respond in writing to the owner's claim. Any disagreement on the actual damages will be between the contractor and the owner.

**K. Administration Committee**

**1. Borough Manager Retirement**

Ms. Jacoby reported that the upcoming vacancy in the Borough Manager position has been advertised. Nineteen applications were received. The administration committee has reviewed those applications and sought additional information from twelve of the candidates. Initial interviews will likely occur during December. The committee hopes to agree on a candidate in early January with a start date of February 22<sup>nd</sup>. That will allow for a 2-week period of overlap during which the outgoing manager can assist with orientation.

**2. Non-Uniform Pension Plan**

Ms. Jacoby reported that the non-uniform employee pension plan is a defined-benefit plan. It provides a pre-determined retirement benefit and the employer is responsible for providing that benefit. The annual minimum municipal obligation (MMO) calculation is intended to assure that the employer deposits into the plan each year the amount required to fund the future pension obligations.

Public employee pension plans, with the exception of police pension plans which are governed by Act 600, are now permitted to be defined-contribution plans for newly hired employees. In such a plan, the annual contribution is always a simple, flat percentage of wages paid, much like a 401(k). The advantages to the employer are that the pension

contributions are known in advance, they are not at the mercy of the market, the reporting is much simplified, and there is little need to incur actuarial costs.

Those non-uniformed employees currently in the defined-benefit plan must remain in that plan. The proposed change would only apply to new hires. The old plan would be gradually phased out through attrition. Converting to a defined-contribution plan for new public works hires requires bargaining with AFSCME. The current collective bargaining agreement expires December 2022. It requires that the current plan remain in force until then. The Borough will negotiate new language at that time. In the meantime, all non-union new hires will be enrolled in the new defined-contribution plan.

Mockenhaupt has drafted Ordinance #658 amending the non-uniform pension plan creating a defined-contribution component for new hires.

Mr. Kuhar made a motion to grant tentative approval to Ordinance #658 amending the Non-Uniform Pension Plan to include a defined-contribution component for new hires. (May) Motion passed unanimously.

**3. 2021 Annual Budget**

Ms. Jacoby reported that council last month granted tentative approval to the 2021 budget. The 2021 Operating Budget calls for revenues of \$6,115,030 and expenditures of \$6,063,450. The general fund budget is balanced with no increase in real estate taxes.

	Revenues	Expenditures	Surplus
General Fund Budget	\$2,14025,530	\$2,125,250	\$15,280
Water Fund Budget	\$1,810,500	\$1,794,140	\$16,360
Wastewater Fund Budget	\$1,938,000	\$1,918,060	\$19,940
Stormwater Fund Budget	<u>\$ 226,000</u>	<u>\$ 226,000</u>	<u>\$ 0</u>
Total Operating Fund	\$6,115,030	\$6,063,450	\$ 51,580

The budget has been advertised for public inspection and is ready for final adoption.

Ms. Jacoby made a motion to grant final approval to the 2021 annual budget. (Kuhar) Motion passed unanimously.

**4. 2021 Salary Resolution**

Ms. Jacoby reported that a Resolution is adopted each year to establish the wages to be paid to borough employees, as recommended by the administrative committee, reviewed last month with Council, and included in the 2021 budget. AFSCME, FOP and non-union wages increase 2½%.

Ms. Jacoby made a motion to adopt Resolution #2020-14 establishing wages for 2021. (Kuhar) Motion passed unanimously.

L. **Diversity Committee** – Mr. May reported that the Diversity Committee members are in talks with the local universities to explore the idea of hosting diversity “TED Talks” in Ebensburg.

M. **General Business**

1. **Middle School Football Field**

Mr. Kuhar reported that a request is pending to rezone the former middle school football field from single-household residential to multi-household residential. A public hearing was conducted on October 19<sup>th</sup> at 6:30. The matter was forwarded to the Cambria County Planning Commission for comment and to the Ebensburg Borough Planning Commission for a recommendation. The issue was tabled last month.

The Zoning Enforcement Officer, having considered all comments received, recommends that the request be approved.

Mr. Kuhar made a motion to grant tentative approval to Ordinance #659 amending the Zoning District Map changing the zoning district of property situated at North Center Street and Bolton Street, and formally occupied as the middle school football field, to Multi-Household Residential. (Houser) Roll call was taken.

Owatt	No	Houser	Yes
May	No	Kuhar	Yes
Jacoby	No	Tusing	Yes

Mayor Datsko was called upon to break the tie vote and voted “No”. Motion did not pass.

2. **Zoning Amendment, Fence**

Mr. Penatzer reported that a request for a zoning amendment relative to front yard fences was received and referred to the Ebensburg Borough Planning Commission. The matter was reviewed at the planning commission’s November 5<sup>th</sup> meeting. The minutes of the planning commission’s meeting are included in Council’s packet.

The planning commission recommends that the prohibition on front yard fences continue. They do not believe that the term “fence” was ever intended to apply to low decorative bricks and borders or to plants and hedges. They recommend language that reflects a more conventional interpretation of what is and is not a fence. They also recommend that owners be permitted to properly maintain a pre-existing non-conforming fence.

Ordinance #660 is proposed amending the Zoning Ordinance relative to fences. While continuing the prohibition on front yard fences, it clarifies the following:

- 1) Pre-existing non-conforming fences may continue to be maintained.
- 2) Hedges are not included in the definition of fence.
- 3) Retaining walls are permitted in front yards.
- 4) Plants, landscaping materials and low retaining walls are excluded from the definition of fence. Decorative landscaping items less than three feet in height are permitted in front yards.

Mr. Kuhar made a motion to grant tentative approval to Ordinance #660 amending the Ebensburg Borough Zoning Ordinance relative to fences. (Jacoby) Roll call was taken.

Tusing	Yes	May	No	
Kuhar	Yes	Jacoby	Yes	
Houser	Yes	Owatt	Yes	Motion passed.

3. **LERTA Ordinance**

Ms. Jacoby reported that the Local Economic Revitalization Tax Assistance Act (LERTA) exists to encourage economic opportunities and prevent deterioration of underdeveloped properties by tax exemptions granted to such properties. The site of the former Cambria County Prison is one such property. Cambria County and the Central Cambria School District agree that repurposing of the building will be difficult without some positive assistance. Establishment of a LERTA tax exemption will result in improving the economic, physical, and social conditions of the parcel by creating new employment and diminishing blight. The LERTA designation is for a period of ten year with the following abatement schedule:

Year 1 & 2: 100%	Year 3 & 4: 80%
Year 5 & 6: 60%	Year 7 & 8: 40%
Year 9 & 10: 20%	

Ms. Jacoby made a motion to approve Ordinance #657 establishing a LERTA property tax exemption for the former prison site and advertise for final inspection. (Owatt) Motion passed unanimously.

4. **2021 Fee Resolution**

Mr. Penatzer reported that a Resolution is required each year to establish fees charged for services for the coming year. The only change in 2021 is the addition of the recently approved \$10 zoning opinion fee.

Mr. Kuhar made a motion to adopt Resolution #2020-15 establishing the fees to be charged in 2021 for various purposes. (Houser) Motion passed unanimously.

5. **Disposal of Municipal Records**

Mr. Penatzer shared that the Borough files current municipal records in a file room next to the front office. Those records are eventually archived in storage upstairs. From time to time, due to lack of storage space, it becomes necessary to permanently dispose of municipal records. That was last done in 2012, and we are now again out of storage space.

Regulations require Borough Council to approve of the permanent disposal of municipal records. The detention time of specific records is regulated by Act 428 of 1968 and prescribed in the Municipal Records Manual. Resolution #2020-16 lists the municipal records to be disposed of.

Many of the records contain private financial and tax information, and many of the records are police files. Thus, all records will be shredded. Burgmeier's Hauling will pick up the records at our site and provide the shredding service.

There are also several miscellaneous pieces of obsolete computer hardware that should be disposed of.

Mr. Kuhar made a motion to adopt Resolution #2020-16 authorizing the disposal of certain municipal records, documents and hardware. (Jacoby) Motion passed unanimously.

**M. Department Report**

1. **Police Department** – None.
2. **Public Works Department** – Mr. Evans reported that the Borough property behind St. Ann's has been cleaned up and the yard waste disposal site has been closed for the year. He added that the crew is still working to locate a leak at the swimming pool. Mr. Evans suggested considering the ground by the Tennis Center as a possible site for a skatepark plan.
3. **Community Development Department** – Ms. Koss reported that the Main Street Partnership has decided to cancel Light Up Night due to the spike in Covid cases in our area. She added that plans are still in place for a Roving Christmas Parade and the route and number of vehicles/participants are still being finalized.
4. **Recreation Department** – None.
5. **Ebensburg Planning Commission**  
**Front Yard Fences**



The Planning Commission discussed provisions in the Zoning Ordinance relative to front yard fences. The commission's recommendation was to continue to prohibit front yard fences, but to amend the definition of fence to a more conventional meaning.

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

O. **Public Comments**

Mr. Derek Kauffman, 600 Crawford Street, explained that with regard to his interest in installing a fence at his property, his situation is unique because their property takes up the whole block. He also stated that the fence they are proposing for their front yard would sit 17' back from the road and they would like Council to once again consider giving them until January 1<sup>st</sup> to install the fence.

Mr. Wayne Templeton, Caroline Street, thanked Council for retaining the R1 zoning for the former Middle School Football Field.

Mr. Tusing stated that next month's meeting would be on the third Monday of the month which falls on the 21<sup>st</sup> of December.

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

Meeting Adjourned 8:03 PM

Minutes Recorded by: Danae Koss, Community Development Director