

**Borough of Edinboro  
Council Meeting Minutes  
April 8, 2019**

**CALL TO ORDER:**

Monday, April 8, 2019 the regularly scheduled meeting was called to order by Mayor Aaron Gast at 6:30 PM.

**Pledge of Allegiance**

**ROLL CALL:**

Council members present were Jim Kiley, Aaron Gast, Fred Langill, Mary Ann Horne, Pat Davis, Alyssa Dobson, and Nathan Latimer.

Other officials present were Solicitor Tim Wachter, Borough Manager Kevin Opple, and Finance Director Jason Spangenberg. Citizens present were Curtis Hals, Henry Clark, Jim Porter, Michael Feikles, Cal Robinson, Alex Topor, Debbie McElroy, and Mary Schenck.

**MINUTES:**

Mary Ann Horne moved to approve the March 11, 2019 regular meeting minutes as presented. Jim Kiley seconded, and the motion passed 7-0.

**PUBLIC PARTICIPATION:**

No speakers were present.

**COMMITTEE REPORTS:**

**Finance Committee:**

Mary Ann Horne moved to approve bills paid March 25, 2019 totaling \$105,394.62; and bills paid April 8, 2019 totaling \$28,443.45. Alyssa Dobson seconded, and the motion passed 7-0.

Mary Ann Horne moved to approve payroll paid March 15, 2019 totaling \$74,831.16; and payroll paid March 29, 2019 totaling \$76,805.10. Alyssa Dobson seconded, and the motion passed 7-0. Note: the incorrect amount for March 15 was printed on the agenda, so this motion was moved to the end of the meeting when the correct amount could be gathered.

Ms. Horne mentioned that the committee met with the auditors for the presentation of the 2018 financial audit report, and a clean audit was reported. Thanks were given to Jason Spangenberg.

**Ordinance Review Committee:**

Alyssa Dobson stated that a firework permitting process would be required in order for the University to host a firework display, so Ordinance 616 (shown below) was drafted for this purpose. She added that most of the language comes from the state statute.

*BOROUGH OF EDINBORO  
Erie County, Pennsylvania  
Ordinance No. 616*

***AN ORDINANCE OF THE BOROUGH OF EDINBORO, ERIE COUNTY, PENNSYLVANIA AMENDING CHAPTER 13 OF THE BOROUGH CODE TO CREATE A NEW PART 10 ENTITLED FIREWORKS DISPLAY PERMIT; PROVIDING FOR DEFINITIONS; ESTABLISHING PERMIT AND BOND PROCEDURES, A PROCEDURE TO REQUEST AN EXTENSION, A PERMIT APPLICATION PROCEDURE, FIRE AND EMERGENCY MEDICAL PERSONNEL REQUIREMENTS, PERMIT LIMITATIONS, A PERMIT FEE, INSURANCE REQUIREMENTS, AND REASONS FOR THE DENIAL OR REVOCATION OF A PERMIT; PROVIDING FOR PENALTIES FOR THE VIOLATION OF THE ORDINANCE, AND AN APPEAL PROCESS, PROVIDING FOR A REPEALER, SEVERABILITY, BOROUGH MANAGER FILING INSTRUCTIONS, AND AN EFFECTIVE DATE.***

*WHEREAS, the Home Rule Borough of Edinboro (the "Borough") has previously codified enacted ordinances as the Borough Code (the "Code"); and*

*WHEREAS, the Borough desires to amend Chapter 13 of the Code to establish a new Part 10, entitled "Fireworks Display Permit" to be applied for and issued for certain events held within the Borough; and*

*WHEREAS, the Borough has the power and duty to enact ordinances to promote the health, safety, and general welfare of Borough residents and visitors.*

*NOW THEREFORE, on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the Home Rule Borough of Edinboro hereby ordains and enacts the following:*

**Section 1.** *That the Borough Code be amended through the creation of a new Part 10 as follows:*

**Part 10**

**Display Fireworks**

**§10-101 Definitions.**

*As used in this Part, the following terms shall have the meanings indicated:*

**BOROUGH**

*The Borough of Edinboro.*

**BOROUGH COUNCIL**

*The Borough Council of the Borough of Edinboro*

**BOROUGH MANAGER**

*The Borough Manager of the Borough of Edinboro*

## **CONSUMER FIREWORKS.**

(a) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) and complies with the provisions for "consumer fireworks" as defined in APA 87-1, the sale, possession and use of which shall be permitted throughout this Commonwealth.

(b) The term does not include devices as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

**DISPLAY FIREWORKS.** Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to: (1) salutes that contain more than two grains or 130 milligrams of explosive materials; (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and (3) other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table). Display Fireworks shall not include rifle salutes performed by the ROTC or established veterans organizations, or the shooting off of a ceremonial cannon at sporting events hosted by Edinboro University.

## **FIRE CHIEF**

The Fire Chief of the Edinboro Volunteer Fire Department.

### **§10-102 Permit and Bond Required.**

(a) Display fireworks may be possessed and used by a person holding a permit from the Borough at the Display covered by the permit or when used as authorized by a permit for any of the following:

(1) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

(2) By railroads or other transportation agencies for signal purposes or illumination.

(3) In quarrying or for blasting or other industrial use.

(4) In the sale or use of blank cartridges for a show or theater.

(5) For signal or ceremonial purposes in athletics or sports.

(6) By military organizations or organizations composed of veterans of the armed forces of the United States.

(b) Age limitation. A display fireworks permit may not be issued to a person under 21 years of age.

(c) Bond. The permittee shall, as a condition of application for a permit issued pursuant to this Part, submit to the Borough Manager a bond in an amount not less than \$50,000 conditioned for the payment of all damages which may be caused to a person or property by reason of the Display and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee.

### **§10-103 Request for Extension.**

(a) Authorization. If, because of unfavorable weather, the Display for which a permit has been granted does not occur at the time authorized by the Permit, the person to whom the Permit was issued may within 24 hours apply for a request for extension to the Borough Manager.

(b) Contents of Request. The request for extension shall state under oath that the Display was not made, provide the reason that the Display was not made and request a continuance of the permit for a date designated within the request, which shall be not later than one week after the date originally designated in the permit.

(c) Determination. Upon receiving the request for extension, the Borough Manager, if he or she believes that the facts stated within the request are true, shall extend the provisions of the permit to the date designated within the request, which shall be not later than one week after the date originally designated in the permit.

(d) Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of the Display occurring at the extended date and in the same manner and to the same extent as if the Display had occurred at the date originally designated in the permit.

### **§10-104 Permit Application.**

1. *A person seeking issuance of a Display Fireworks Permit shall file an application with the Borough Manager, or designee, on a form provided by the Borough.*
2. *An application for a Display Fireworks Permit shall be filed with the Borough Manager, or designee, no less than twenty-eight (28) days in advance of the proposed event date. Where good cause is shown, the Borough Manager, or designee, shall have the authority to consider any application hereunder and/or any revision to a previously submitted application which is filed less than twenty-eight (28) days in advance of the proposed Display date.*
3. *The following information shall be included on a Display Fireworks Permit application:*
  - A. *Name, address, and telephone number of the person seeking to conduct such Display and requesting the Display Fireworks Permit.*
  - B. *If the Display is proposed to be conducted for, on behalf of or by any organization, the name, address, and telephone number of the headquarters of the organization and the names of the individuals responsible for the organization.*
  - C. *The date when the Display is to be conducted and the hours when such Display will start and terminate.*
  - D. *A list of all vendors who will be present at and/or participate in the Display.*
  - E. *A Certificate of Insurance, naming the Borough as an additional insured.*
  - F. *The name, address and any certifications of the operator who will be conducting the Display.*
  - G. *Any additional information which the Borough Manager shall find reasonably necessary in order to make a fair determination as to whether a Display Fireworks Permit should be issued.*
4. *The Display Fireworks Permit application shall be submitted to the Borough Manager, or his designee, who, after reviewing the application for completeness, shall submit it to the Fire Chief. The Fire Chief shall review the application and any other information he may require and make a determination as to whether the Display is of a character and is to be so located, discharged or fired, so as to not be hazardous to property or endanger any person.*

**§10-105 Fire Personnel and Emergency Medical Personnel.**

*The Display Operator shall separately contract with the Edinboro Volunteer Fire Department to ensure that proper emergency medical and fire personnel are in attendance at the Display for the purpose of providing aid as may be needed. The Display is to be conducted under the supervision of the Fire Chief, or designee, who may require, at any time, and based on his or her sole opinion, that the Display not occur if it is determined that the discharge or fire any Display Firework would be hazardous to property or endanger any person.*

**§10-106 Limitations on Permit.**

*No Display Fireworks Permit issued hereunder shall authorize or excuse any breach of the law or any trespass upon the rights of the citizens of the Borough or render the Borough liable whatsoever for any damage committed and/or caused by any organization in receipt of a Display Fireworks Permit.*

**§10-107 Permit Fee.**

*The Borough Council shall have the express authority to pass a Resolution which shall set the fee for issuance of a Display Fireworks Permit. The Borough Council shall have the express authority and sole discretion to waive said fee for any events that are held for a charitable purpose.*

**§10-108 Insurance.**

*Each person filing an application for a Display Fireworks Permit shall provide the Borough with a Certificate of Insurance, from an insurance company authorized to do business in the Commonwealth of Pennsylvania, evidencing that said person maintains insurance for personal injury claims, including accidental death, as well as claims for property damages which may arise from the conduct of the Display. The Certificate of Insurance shall name the Borough as an additional insured. The minimum coverage of such insurance required for each Display Fireworks Permit shall be determined by the Borough Manager, or designee, on a case-by-case basis.*

**§10-109 Denial or Revocation of Permit.**

1. *The Borough Manager shall have the authority to deny the issuance of a Display Fireworks Permit for any of the following reasons:*
  - A. *The application for Display Fireworks Permit is not fully completed and executed.*
  - B. *The applicant has not tendered the required Certificate of Insurance or the required Bond.*
  - C. *The application for Display Fireworks Permit contains a confirmed material falsehood or representation.*
  - D. *The applicant is legally unable to contract or to sue or be sued.*
  - E. *The applicant or the person on whose behalf the application for Display Fireworks Permit was made has on prior occasions damaged property of the Borough or has outstanding and unpaid debts to the Borough.*
  - F. *The proposed Display would conflict with previously planned programs organized and conducted by the Borough and previously scheduled for the same time and location.*
  - G. *The proposed Display would present an unreasonable danger to the health or safety of the citizens of the Borough.*
  - H. *The proposed Display is prohibited by law, by this Part or by the Code of the Borough.*
2. *If a Display Fireworks Permit is denied by the Borough Manager, the denial shall clearly explain the reason for the denial and any steps necessary to remediate a future application.*
3. *The Fire Chief or designee, shall have the authority to withdraw permission to conduct any Display if they feel that, due to severe adverse weather and/or other conditions, the event would be unsafe for the citizens of the Borough.*
4. *The Borough Manager, or Fire Chief, or their respective designees, may, at any time, revoke any Display Fireworks Permit if there has been a breach of any of the terms and conditions under which the Display Fireworks Permit was issued or a violation of the provisions of this Part has occurred. Said revocation shall become effective upon giving of a Notice of Revocation, in writing, to the person to whom the permit was issued. Said Notice of Revocation shall clearly state the reasoning for the revocation and the necessary steps, if any, that must be taken to correct the Notice of Revocation. The Borough Manager, or the Fire Chief, or their respective designees, may rescind a revocation and reinstate a Display Fireworks Permit at any time.*

**§10-110 Violations and Penalties.**

*Any violations of this Ordinance may result in action being brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.*

*The fine for such violations shall not be less than \$100.00 nor more than \$1,000 for each violation. A separate offense shall arise for each day in which a violation is found to exist. Any person found guilty of violating this Ordinance shall be assessed court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings brought in accordance with this Ordinance.*

**§10-111 Appeal from Denial or Revocation of Permit.**

*Any applicant for a Display Fireworks Permit or renewal, who is aggrieved by the denial, refusal or revocation of a permit, may submit a written appeal to the Borough Council of the Borough of Edinboro within five (5) days from the date of the denial, refusal or revocation. After a reasonable opportunity for the appellant and the Borough to be heard, the Borough Council shall consider such appeal at the next regularly scheduled meeting of the Borough Council.*

**Section 2. Repealer.**

*Any ordinances, rules of resolutions, or parts or ordinances, rules or resolutions, in conflict herewith shall be, and the same are hereby repealed.*

**Section 3. Severability.**

*The provisions of this Ordinance are severable. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.*

**Section 4. Direction to Borough Manager.**

*The Borough Manager is hereby directed to affix the Borough Seal upon this Ordinance, insert the date of enactment upon the same, record the ordinance in the Borough Ordinance Book and to take all such actions as are required by the Home Rule Charter of the Borough and to amend the Borough Code as may be necessary.*

**Section 5. Effective Date.**

*This Ordinance shall be effective on the tenth day following the enactment of this Ordinance, as indicated below.*

*ORDAINED AND ENACTED by the BOROUGH COUNCIL OF THE HOME RULE BOROUGH OF EDINBORO on the date first indicated above.*

Alyssa Dobson moved to approve Ordinance 616 as presented. Mary Ann Horne seconded, and the motion passed by 7-0 roll call vote: Alyssa Dobson, yes; Fred Langill, yes; Nathan Latimer, yes; Mary Ann Horne, yes; Pat Davis, yes; Jim Kiley, yes; and Aaron Gast, yes.

Ms. Dobson discussed the proposed Ordinance 617, which would create an earned income tax credit for volunteer firefighters. The tax credit would be on the Borough portion of the earned income tax, up to \$1,000. Volunteers would earn points by serving, 1 point per hour of emergency service and ½ of a point per hour of fundraiser volunteer work, with 250 points required to earn the credit. Jim Kiley asked if any other EVFD municipality had passed such an ordinance. Ms. Dobson replied that we would be the first EVFD municipality, and Millcreek is the only other in the County to have passed such an ordinance already. Mayor Gast asked how the tax credit would be administered. Jason Spangenberg said that the fire department would

track the points and submit a list of eligible volunteers at the end of the year to the Borough, and then the tax collector Berkheimer would handle the tax credit process from there. Solicitor Wachter said that he had reviewed the ordinance and had no issues. He noted that the ordinance was modeled after one prepared by the Erie Area Council of Governments, and that Erie County is the first in the area to create these tax credits. Mayor Gast moved to have a public hearing for Ordinance 617 on May 13, 2019 at 6:15 PM. Alyssa Dobson seconded, and the motion passed 7-0.

## **MANAGEMENT REPORTS:**

Manager Oppe presented his report. ECGRA has awarded the Borough of Edinboro \$250,000 distributed over the next three years to improve the look of the downtown as well as help businesses be competitive. Aside from façade grants to businesses, the money will go to streetscaping to include refurbishing the light-poles and new heads, crosswalks, a social media workshop for businesses, and more.

The Personnel Committee met earlier today to review the new Civil Service Commission rules. There are also several resolutions from the Civil Service Commission to support the hiring of a new officer and promotions to sergeant and corporal of current officers.

The fireworks committee is still in process of organizing the event. The location is tentatively set to be shot over Mallory Lake on campus on July 3<sup>rd</sup> and they have organized four food vendors for the event. The Concert Band of Northwest Pennsylvania is also set to play the same evening in front of nearby Cole Auditorium, so there is been discussion of doing the two events close together in time so that people can listen to the concert, then watch the fireworks.

We received feedback that the vendors who get permits to be stationed across from the beach at Lakeside were not present many weekends last summer including holidays. In the past, the fees were set relatively low to incentivize vendors. Permits were for the entire summer season, but often other opportunities arose, so they would miss weekends at Lake Edinboro. Borough employees have come up with a new plan to have weekly permits to allow more flexibility, for which a fee resolution would need approved. Final details are being worked out for the plan to balance flexibility for vendors as well as ensure that residents and visitors to the Lake have amenities during the weekends in the summer.

Docks are scheduled to be installed around May 1<sup>st</sup> by the contractor.

Manager Oppe gave a reminder that he will be in St. Mary's for the PML Regional Conference this coming Wednesday and returning Thursday afternoon.

The annual Knox Law municipal symposium will occur on 30 April at the Ambassador Center in Erie.

**Police:**

Pat Davis moved to approve Resolution 11-2019:

**BOROUGH OF EDINBORO  
RESOLUTION NO. 11-2019**

*A RESOLUTION, of the Home Rule Borough of Edinboro, Erie County, Pennsylvania.*

*WHEREAS, the previous Rules and Regulations of the Home Rule Borough of Edinboro Civil Service Commission were adopted February 22, 1999; and*

*WHEREAS, said Rules and Regulations were extensively reviewed by the Police Chief and Borough Manager beginning 2018; and*

*WHEREAS, the Police Chief and Borough Manager have composed a revised Rules and Regulations document which corrects numerous issues and is easier to understand; and*

*WHEREAS, at their March 13, 2019 meeting, the Civil Service Commission voted to unanimously adopt and approve the attached amended Rules and Regulations.*

*NOW, THEREFORE, BE IT RESOLVED by the members of the Borough Council, that the attached amended Rules and Regulations of the Civil Service Commission of the Home Rule Borough of Edinboro are approved.*

*ADOPTED this 8<sup>th</sup> day of April, 2019.*

Alyssa Dobson seconded. Manager Oppl explained the changes to the Rules and Regulations from the previous version, and he mentioned that the Civil Service Commission had already unanimously approved these new Rules. The motion passed by 7-0 roll call vote: Pat Davis, yes; Jim Kiley, yes; Fred Langill, yes; Nathan Latimer, yes; Mary Ann Horne, yes; Alyssa Dobson, yes; and Aaron Gast, yes.

**Public Works:**

The following bids were received for paving, opened at 2 PM on April 2, 2019:

| <u>Name</u>             | <u>Address</u>                    | <u>Bid Amount</u> |
|-------------------------|-----------------------------------|-------------------|
| Russell Standard Corp.  | P.O. Box 86, Union City, 16438    | \$243,916.88      |
| Sharon Paving           | 100 Canal St., Sharpsville, 16150 | \$259,522.28      |
| Mayer Bros. Const.      | 1902 Cherry St., Erie, 16502      | \$287,207.60      |
| Joseph McCormick Const. | 3340 Pearl Ave., Erie, 16512      | \$278,718.00      |
| Cross Paving            | 8955 Wattsburg Rd., Erie, 16509   | \$233,120.52      |

Manager Opple recommended approval of Cross Paving as low bidder. Mary Ann Horne moved to award the paving contract to Cross Paving, including the two optional bid items included in the bid total. Alyssa Dobson seconded, and the motion passed 7-0.

Mary Ann Horne moved to approve Resolution 12-2019:

**BOROUGH OF EDINBORO  
RESOLUTION NO. 12-2019**

*A RESOLUTION, of the Home Rule Borough of Edinboro, Erie County, Pennsylvania.*

*WHEREAS, Erie County receives an annual Grant from the Pennsylvania Department of Transportation (PennDOT) to be disbursed to the County's municipalities as County Aid from Liquid Fuels Tax income; and*

*WHEREAS, Erie County must distribute their allocated budget based on the 50-22-28 formula approved by the Liquid Fuels Formula Committee on September 14, 1982, and the formula is recalculated annually using current mileage, population, and millage rates; and*

*WHEREAS, based on the aforementioned formula, Erie County has budgeted the amount of \$16,507 to be distributed to the Home Rule Borough of Edinboro for 2019 Liquid Fuels County Aid; and*

*WHEREAS, municipalities are obligated to approve the use of the County Aid distribution by annual Resolution.*

*NOW, THEREFORE, BE IT RESOLVED by the members of the Borough Council, that the Home Rule Borough of Edinboro approves the 2019 Liquid Fuels County Aid, in the amount of \$16,507, to be used for road maintenance.*

*ADOPTED this 8<sup>th</sup> day of April, 2019.*

Jim Kiley seconded, and the motion passed by 7-0 roll call vote: Jim Kiley, yes; Fred Langill, yes; Nathan Latimer, yes; Alyssa Dobson, yes; Pat Davis, yes; Mary Ann Horne, yes; and Aaron Gast, yes.

**Recreation:**

Mary Ann Horne moved to approve Resolution 13-2019:

**BOROUGH OF EDINBORO  
RESOLUTION 13-2019**

*A RESOLUTION, of the Home Rule Borough of Edinboro, Erie County, Pennsylvania, adding a new fee for food vendors near the beach on Lakeside Drive. All other fees and rates set by Resolutions 1-2019 and 7-2019 remain in effect.*

*WHEREAS, the Borough has established three food vendor spaces near the beach on Lakeside Drive with provided electricity for vendors to offer food to beach patrons from Memorial Day weekend through Labor Day weekend; and,*

*WHEREAS, a fee must be charged to cover the cost of the electricity and the renting of public property; and,*

*WHEREAS, the below fees shall be established and added to the Recreational Fees section of the annual Fee Resolution:*

*\$10 per week for vendors needing a space with 20 amps available electricity*

*\$15 per week for vendors needing a space with 30 amps available electricity*

*\$50 no-show fee*

***NOW, THEREFORE BE IT RESOLVED THAT*** by the Borough Council of the Home Rule Borough of Edinboro that the above food vendor fees be established immediately, and that vendors taking part in this service shall not need to acquire a solicitation/peddling permit, so long as they do not intend to sell within the Borough on public property outside of this service.

***RESOLVED this 8<sup>th</sup> day of April, 2019.***

Jim Kiley seconded. Council discussed briefly and determined that local vendors and those who have served food for us before should be given preference in reserving the vendor spaces. The motion passed 7-0 by roll call vote: Mary Ann Horne, yes; Pat Davis, yes; Alyssa Dobson, yes; Nathan Latimer, yes; Jim Kiley, yes; Fred Langill, yes; and Aaron Gast, yes.

Manager Ople recommended approval of the 2019 3 on 3 basketball summer camp, noting that the schedule had been changed slightly to not conflict with other local camps. Mary Ann Horne moved to approve the 3 on 3 basketball, Jim Kiley seconded, and the motion passed 7-0.

## **COMMUNITY LIAISONS:**

### **Lakeside Association:**

Pat Davis discussed the positive vibe at recent Lakeside Association meetings, and she mentioned that all are welcome to become members, not just Lakeside residents.

### **EVFD:**

Mary Ann Horne said that the EVFD is happy about the potential tax credit being discussed by Council, and that the paid EMS service continues to work well.

## **NEW BUSINESS:**

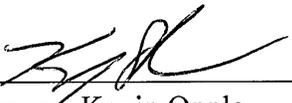
Jim Kiley stated his interest in appointing three members of Council to form a group with Washington Township Council members for the purpose of regular discussions between the two sides. Mayor Gast supported this idea, and added that it need not be a formal committee appointed by Council. Solicitor Wachter confirmed that a formal committee appointed by Council would not be necessary.

**ADJOURNMENT:**

Jim Kiley moved for adjournment, and the meeting was adjourned at 7:15 PM.

Council then entered executive session to discuss real estate.

ATTEST:

  
\_\_\_\_\_  
Manager Kevin Oppe

  
\_\_\_\_\_  
Mayor Aaron Gast