

**BOROUGH OF WIND GAP
545 East West Street
WIND GAP, PA 18091
610-863-7288
FAX 610-863-1011**

The Council meeting of the Borough of Wind Gap on Monday, March 1, 2021 was called to order at 7:00 p.m. by Council President Dave Hess, through Zoom Video Conferencing. Louise Firestone informed everyone that the meeting was being recorded.

A verbal roll call was taken by Borough Manager Louise Firestone – participating via Zoom computer link or Zoom phone link were Council members: Steve Bender, George Hinton, Dave Manzo, Joyce McGarry, Mike McNamara, and Jeff Yob. Also participating were Mayor Mitchell D. Mogilski Sr., Borough Solicitor Ronald Karasek, Borough Engineer Brian Pysner, and Borough Manager Louise Firestone.

PUBLIC COMMENT

1. Michael Peter, General Code – Mr. Peter, Account Manager for General Code, joined the meeting to explain and discuss the proposal that was submitted to the Borough for codification of ordinances. Codification takes all of the Borough ordinances, of a general and permanent nature, that the Borough is still enforcing and brings them all together in a stylized book that they refer to as a code book. A code book is designed to allow for change because a municipality is constantly amending existing ordinances, adding new ones and repealing old ones that this book will change over time. Codification is a publishing discipline that allows those changes to keep the book easily up to date, easily referenced, and easy to share information. The code book is made to be easily available to view online by taking all of those ordinances and lining them up organizing them according to subject matter. General Code would only put in the ordinances that are currently being enforced with part of this effort to appeal things that the Borough has not taken time to enforce over the past number of years. The online version would allow a user the ability to just search a topic by a word. They will examine all the ordinances and set aside repealed ordinances. Local municipalities pass ordinances to give shape to the community so the ordinances should be organized and easy to use, easy to access and reference for residents, staff and business community to understand the rules and regulations of the Borough. General Code will create a draft version of the book and deliver that book with an Editorial and Legal Analysis. The code gets a thorough analysis, complete read through by experienced editors, and they bring these areas of concern to the Borough's attention. They will make a final draft that can be reviewed by the Borough and their Solicitor before it will be published. They will also provide an adopting ordinance that specifies every change made to the ordinances, things that were identified in the analysis.

On motion by to Steve Bender to contract with General Code to gather, sort and publish our ordinances with a start-up cost of \$13,995.00 followed by annual maintenance fee of \$1,195.00 and seconded by Dave Manzo. Roll call vote taken. Roll call vote taken. Council agreed unanimously.

2. David Drake, President & CEO, W2A Design Group – Maintenance Garage Update – David Drake stated that there is an issue with the water hammer and a couple of issues with KC Mechanical. He will be at the maintenance garage tomorrow morning to do a walk through and understand what items still need to be addressed and completed. Brian Pyscher reported that the plumber replaced the water hammer with a different style and it seemed to fix the problem until last week when the banging noise returned. He spoke with Blaine Bauer from Warko Group and determined that maybe there should have been additional features in the design or if an adjustment could be made on the incoming water pressure because they already had to install a reducer as part of the water service. Brian sent an e-mail out this morning to the engineers to get their opinion regarding the plumbing issue. The fan manufacturer was supposed to schedule a meeting to come look at the large fan in the maintenance garage to determine why it is making so much noise and there is a control issue with the fan that does the exhaust fans in both the bathrooms and shower room. K.C. Mechanical was on site last Monday to meet with the boiler inspector. The inspector wants to equip the boiler with two temperature-operated controls. Brian said that if David comes up, they can follow up on the rest of the punch list items. The majority of all items have been completed, but there are some issues that need to be resolved.

George Hinton stated that Council still has outstanding bills to pay to the contractors. David Drake said that Council may want to consider paying down some of those bills because there are some hefty amounts. He suggested that if Council is not comfortable paying the invoices in full, maybe a percentage of the bill could be paid, particularly for the contractors that are finished or hold a portion of their retainage.

3 Adrienne Fors, Waste Management

Grand Central Landfill is committed to keeping the community informed. Below, you will find the most recent copy of the landfill operations neighborhood update.

1. Landfill Operations: We are currently accepting an average of 1800 tons per day.
2. The facility is preparing for 8 acres of final capping on cell 17. Bids for the project are due in March with the project expected to begin sometime in April.
3. Grand Central Landfill will host a bird walk on March 13th at 11am. Registration is required.
4. Charitable donations in March: \$1,500 to PUMP, 24 Event Boxes valued at \$240

The Grand Central Landfill website continues to be updated and includes the monthly landfill update notices. www.grandcentrallandfill.com. Residents can also learn more about us by visiting our Facebook page as well.

4. Ron DeCesare explained to Council that the Vac & Sew on Park Avenue is currently on the market and is comprised of a retail area and a one-bedroom apartment on the second floor. This property is under agreement and the potential buyer has already approached the Wind Gap Zoning Officer regarding the use of the apartment. The potential buyer is scheduled to go before the Planning Commission on April 1st and the Zoning Hearing Board on April 7th to allow both uses: of a one-bedroom apartment and retail space. In order to comply with zoning and planning, he has paid the fees, but they are asking if Council could waive the need for ten full sets of site plans which would cost three to four thousand dollars. Brian Pyscher explained that the Zoning Officer issued a denial letter citing multiple sections in the Borough Zoning Ordinance and the process of a Zoning Variance requires a site plan to be submitted to the

Planning Commission. Attorney Karasek explained that the applicant is asking for relief from the number of plans that have to be submitted as required in order to save some money, which is an administrative matter. Ron DeCesare said that the potential buyer is not only asking for a reduction in the number of plans that have to be submitted, but also the extent of the details on the plans because they are not going to make any changes to the ground, exterior, or interior of building. Attorney Karasek cautioned Council in attempting to assist this applicant because a precedence is being set that other developers could request. Attorney Karasek said that if the Planning Commission is going to review this plan on April 1st, the applicant can go to planning and say that this is what they want to do, here is one plan, do we need more, etc. and get input from the Wind Gap Planning Commission on how to proceed. Mr. DeCesare thanked Council for their time.

APPROVAL OF MINUTES

On motion by Dave Manzo to approve the February 1, 2021 minutes and seconded by Mike McNamara. Roll call vote taken. Roll call vote taken. In favor: D. Hess, G. Hinton, D. Manzo, J. McGarry, M. McNamara, S. Bender. Abstained: J. Yob. Motion carries 6-0-1.

On motion by Dave Manzo to approve the February 16, 2021 minutes and seconded by Joyce McGarry. Roll call vote taken. Council agreed unanimously.

APPROVAL OF EXPENSES

On motion by Dave Manzo to approve the General Expenses in the amount of \$66,638.50 and seconded by Jeff Yob. Roll call vote taken. Council agreed unanimously.

On motion by George Hinton to table the K.C. Mechanical – Application No. 5 in the amount of \$38,222.50 until the workshop meeting in two weeks and seconded by Dave Manzo. Roll call taken. Council agreed unanimously.

On motion by George Hinton to approve Warko Group – Application No. 4 in the amount of \$6,930.00 and seconded by Jeff Yob. Roll call vote taken. In favor: M. McNamara, J. Yob, S. Bender, G. Hinton, D. Manzo, J. McGarry. Opposed: D. Hess. Motion carries 6-1.

On motion by George Hinton to approve Warko Group – Application No. 5 in the amount of \$3,195.00 and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

On motion by George Hinton to approve Warko Group – Application No. 6 in the amount of \$1,704.60 and seconded by Jeff Yob. Roll call vote taken. Council agreed unanimously.

On motion by George Hinton to approve Wind Gap Electric – Application No. 6 in the amount of \$4,914.00 and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

SOLICITOR'S REPORT

MEETINGS ATTENDED

February 1, 2021 – attendance at regular monthly meeting of Borough Council.

February 4, 2021 – attendance at regular monthly meeting of Borough Planning Commission.

February 16, 2021 – Attendance at regular mid-month meeting of Borough Council.

SUBDIVISION MATTERS: None

LAND DEVELOPMENT MATTERS:

E-mails and Telephone Calls with Applicant's Attorney and Preparation of Indemnification Agreement for Earth Moving without Improvements Agreement or Performance Security re JERC LD Plan.

Receipt, Review and Administration of Easement Agreement for Cul-de-Sac re Klump LD Plan – Third Street.

Receipt, Review and Administration of Site Plan and related Documents for SALDO Waiver Request for Garden Center Addition to K-Mart Existing Building.

Receipt, Review and Administration of e-mails from Applicant's Contractor, Borough EIT and Telephone Conference with Applicant's Contractor re Reduction in Security Request in Water's Edge - Dream Lehigh Valley LD Plan.

ZONING AND OTHER LAND USE MATTERS:

Receipt, Review and Administration of e-mails, Correspondence from Borough EIT and Borough Architect and Preparation of Demand Correspondence to Complete Open Punch List Mechanical Items at New Borough Maintenance Garage re KC Mechanical.

Receipt, Review and Administration of Comprehensive Correspondence from Applicant's Attorney for Zoning Text or Zoning Map Change for Truck Depot re 62 North Broadway.

Receipt, Review and Administration of e-mail from Property Owner re continuing issues with 40 South Broadway.

Brief Review of Bridge Inspection Report for Male Street Bridge.

DEVELOPMENTS ON OUTSTANDING LITIGATION: None

COURT DECISIONS ON BOROUGH CASES: None

MISCELLANEOUS:

Receipt, Review and Administration of E-MAILS AND Telephone Conference with Legal Representative re T. Dailey Pension.

Receipt, Review and Administration of Water – Shut off Notice(s) from Wind Gap Municipal Authority.

Preparation of Borough Planning Commission February 2021 Meeting Agenda.

Preparation of Borough Planning Commission February 2021 Meeting Minutes.

Preparation of Monthly Solicitor's Report.

OUTSTANDING ITEMS:

Property Maintenance Code

Stop Sign Ordinance

Dog Park Ordinance

1. Indemnification Agreement – JERC Partners, LII, LLC – 550 Male Road – Attorney Karasek reported that the Indemnification Agreement meets with his approval. Attorney Zator has indicated that as written the agreement meets with his approval also.

On motion by George Hinton to proceed with the Indemnification agreement with the Male Road JERC project and seconded by Steve Bender. Roll call taken. Council agreed unanimously.

2. Tractor Supply Site Plan – Recommendation for Grant and/or Denial of SALDO Waiver Requests – Attorney Karasek reported that Tractor Supply came before the Planning Commission last month and requested a complete waiver of Land Development for the garden center that they would like to install in the existing area of the old K-Mart building, for the corner of the building, not the entire building. He did prepare a recommendation for Grant of SALDO Waiver Forms. A motion was made by the Planning Commission to recommend the SALDO Waiver on two conditions, the display area is limited to what is reflected on the Site Plan and that the Borough Fire Chief inspect the site to be certain that there is no fire hazard.

On motion by Jeff Yob to grant the SALDO Waiver for Land Development with three (3) conditions, 1) that the display area(s) is limited to what is reflected on the site plan, 2) that the sidewalk area contain at least a minimum of five feet of clearance, and 3) that the Borough Fire Chief inspect the site to be certain that there is no fire hazard, and seconded by J McGarry. Roll call taken. Council agreed unanimously.

ENGINEER'S REPORT

1. Delaware Avenue Paving - Brian Pysher reported that the advertisement was sent to the Express-Times for the paving project on Delaware Avenue which should appear in the paper on Wednesday. He anticipates awarding the paving project at the first meeting in April.

2. Maintenance Garage – Brian Pysher stated that after the onsite meeting tomorrow a final punch list will be made and completed shortly.

3. Preliminary/Final Land Development Plans for JERC Partners, LII, LLC - Cost Estimate Review - Brian reported that as far as the preliminary plan for JERC goes, this was covered in the Indemnification Agreement. He is working with the developer to make sure all of their conditions are met with regards to the final plan approval.

4. Benchmark Civil Engineering Services, Inc. - Traffic Review Services for CRG Acquisitions Industrial Development - Brian Pysher reported in the past Wind Gap Borough has contracted with Traffic Planning and Design (TPD) to review plans with regard to traffic impact. During initial discussions regarding the NAPER land development in Plainfield Township, which is partly in Wind Gap as well, the developer is using TPD. Brian contacted the traffic engineers, Benchmark Civil Engineering, who provide a traffic reviews for Plainfield Township. Brian asked the firm if they would be interested in reviewing the plan for Wind Gap and if so, could they provide a professional services fee schedule. Traffic is the Borough's main concern with this project and would make sense to have the same engineering firm for both Plainfield Township and Wind Gap Borough and he recommends getting them on board as soon as possible.

On motion by Jeff Yob to contract with Benchmark Civil Engineering Services, Inc for traffic review services for the propose Perin property project and seconded by George Hinton. Roll call taken. Council agreed unanimously.

OLD BUSINESS

1. Letter – Mrs., Josephine Pacovich – 51 East Fourth Street – Dave Hess reported that everyone received a copy of a letter received in the office from Mrs. Pacovich complaining about the Borough's snow plowing efforts.

OLD BUSINESS

1. Snow Emergency – Emergency Route Streets – Louise Firestone reported that this is on the agenda as a reminder. Dave Hess said that if anyone has any questions or comments, you can get them to him or Louise.

2. Park – COVID-19 Protocol – Louise Firestone asked if Council would discuss the reopening of the borough park this evening because the office is receiving calls regarding park reservations. Dave Hess said he thinks the borough can open the park, since as recent as today some restrictions have been lifted throughout the State. He suggests that we follow the CDC guidelines for parks and outdoor events such as organized events like concerts and adjust them as they are adjusted by the State. Smaller gatherings like family picnics and graduation parties, will come back because typically the numbers are smaller. Jeff Yob said he would be in favor of that and any reservations we have to stipulate that it is at their own risk. Louise stated that the street workers are going to have to put extra effort in cleaning to reopen because basically the bathrooms have been shut down for close to two years.

On motion by Jeff Yob to plan on reopening the park, turning on water and getting the facilities cleaned up on May 1st and all rentals will be at your own risk and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

3. Wind Gap Borough Youth Sports – Louise Firestone reported that this item was put on the agenda to open up some discussion regarding youth sports in Wind Gap. Council passed a motion not allowing the Wind Gap Area Athletic Association to use the fields because they do not have tax returns completed and filed and they lost their non-profit status. Is there a way to start up a youth organization, is that something that we, as a Borough, could or even should be involved in or just be a guiding hand? Dave Hess said that since they are not allowed to use the park, we have to do something for the kids. Dan Sinclair said that he is getting e-mails asking what to do next. Jeff Yob said that he knows that Dan has taken over some responsibility can you get insurance, are there any funds left in the accounts? Dan Sinclair said that there are definitely funds there, but he was told that there was a mix up with the 501(c)(3) status and the IRS and taxes. Dave Hess said that he does not think that this will be cleaned up anytime soon.

Dave Manzo said that he does not think it can be under the Wind Gap Athletic Association, it should be under another name. George Hinton asked what has to be done to get 501(c)(3) status. Attorney Karasek replied that 501(C)(3) generally is a corporation that has various conditions met in respect to assisting the public, being educational, etc. with a very involved application of about twenty-five pages long that has to be completed and submitted to the IRS for their approval. He is not sure if the Borough wants to be in the business with being involved with a sports association and do what is necessary in order to get the application in and filed. If you look on the internet, there are a lot of companies that will file an application for you for a fee. If the Wind Gap Athletic Association does not have its house in order, and he does not know that for a fact because he has not checked on that, it would seem to him that another organization needs to be incorporated and get a 501(c)(3) approval. Jeff Yob said that Dan should be able to remedy the issue with the IRS, it has been done before. Dan said that he does not want to get caught up in all the past stuff that went on there because discussions occurred that no taxes have been filed from 2009 to present. Mr. Borger is telling them that was just a signature issue that is being addressed, but there is a lot of gaps between everything here. In the end he does not want the kids to suffer and unfortunately the softball sign ups have already been done and if we abolish this, he doesn't know if the Junior Knights can take the softball over even for just this year until all the paperwork has been corrected with the State and with the IRS. Dave Manzo stated that to allow it to continue under the Wind Gap Athletic Association is not helping the kids, it is not helping the parents who are paying the money,

raising money, or having to pay because they did not sell enough candy or something. It does not help the sponsors who believe that they are getting the ability to write off something when they can't because the 501(c)(3) is gone. Dave Hess agrees that the easiest thing to do is to start over but that is not a quick thing and the spring season is here. The challenge is what to do short term, we know what to do long term. Dan asked where to get the funds to get this started. Dave Hess said that it would be an organization forming, you would get people together, start fundraising, and push your ideas and start from the ground up, but this is time consuming and labor intensive. Jeff Yob suggested that Dan Sinclair and Ronnie DeCesare get together and discuss what options may be available to correct what is wrong and have a season for all the sports.

4. Louise Firestone reported that Northampton Counties Real Estate Assessment Change Report was received for the month of January. The County reassessed the property owned by Dream Lehigh Valley which was previously assessed at \$63,500 when it was just a slate quarry. After construction and completion of several buildings, the current assessment has been changed to \$623,800.00 which means the base rate of property tax on 16 mills that was \$1,016.00 is now up to \$9,980.80.

Louise also reported that the annual Tax Delinquency Report for the Borough was received with an outstanding total of \$115,595.00 with one property owner making up for 73% of that, almost \$85,000.00. If anyone has any questions, please let her know.

ADJOURNMENT

On motion by Joyce McGarry to adjourn the meeting of March 1, 2021. Council agreed unanimously. The meeting of March 1, 2021 adjourned at 8:55 p.m.

Louise Firestone, Borough Manager