

**BOROUGH OF WIND GAP  
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The Council meeting of the Borough of Wind Gap on Tuesday, October 20, 2020 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, David Manzo, Joyce McGarry, Mike McNamara and Jeff Yob. Also participating were Borough Solicitor Ronald Karasek, Borough Engineer Brian Pysker, and Borough Manager Louise Firestone. Absent was Mayor Mitchell D. Mogilski Sr.

Councilman Jeff Yob joined the meeting at 7:03 p.m.

**PUBLIC COMMENT**

1. Matt and Jill Silvius, 24 South Lehigh Avenue – Noise Control – Matt and Jill Silvius came before Council regarding the alleyway behind their property, a neighbor parks the cab section of a semi-trailer truck. Th truck regularly idles for hours at a time, occasionally very early in the morning or late at night. The idling causes a rippling of vibration that can be felt throughout their house. They have contacted the Police, but an enforceable ordinance is necessary for any action to be taken. While Pennsylvania does have idling laws, the Wind Gap Zoning Officer, Tina Serfass lead them to believe that Wind Gap does not have a specific ordinance related to trucks idling or noise vibration resulting from the idling. They spoke with the local State Representative who suggested that they draft an ordinance and propose it to Council for a speedy and effective remedy. They have a drafted ordinance that had been adapted from the Environmental Protection Agency in compilation of Local, State and County idling regulations. They would like to politely urge that Wind Gap Borough immediately adopt this ordinance adjusting as they see fit.

Attorney Karasek said that if there is a Federal ordinance, it would take precedence over a local municipal ordinance. Dave Manzo said that he looked over the ordinances that the borough has and none of them refer to vehicle idling. Attorney Karasek said that Council needs to determine as of a matter of policy, whether they want to consider this or not. Dave Hess said that the borough does not have an ordinance that pertains to this issue and acknowledges that the borough needs to look into adopting one as soon as possible.

2. Adrienne Fors, Waste Management, came before Council with the landfill operations neighborhood update.

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 2500 tons per day
2. The fall gas project did get started on Monday. They are working on a horizontal gas collection for cell 17.

3. If anyone is interested, she is working on tours for the Boroughs and Townships, for the second or third week in November.
4. Our Temp Cap which has been laid down at the top is about 95% complete. She did post some pictures to their social media page.
5. She would like to thank Wind Gap Fire Company for participating in our learning experience a few weeks ago.
6. They recently submitted a donation for the Fire Company. This was put through the Marketing. Hopefully we will see that soon.

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

## **APPROVAL OF MINUTES**

**On motion** by Dave Manzo to approve the October 5, 2020 minutes and seconded by Steve Bender. Roll call taken. In favor: S. Bender, D Hess, G. Hinton, D. Manzo, J. McGarry, and M. McNamara. Abstained: J. Yob. Motion carried 6–0–1.

## **NEW BUSINESS**

1. 2021 Slate Belt Regional Police Budget – Dave Hess said that the budget was done differently this year, it was not done solely by the Chief of Police, it was done with the Interim Chief, Police Administrator, and the Managers from each of the three municipalities. They met several times, put together four options and the Police Commission unanimously chose the most practical budget option. He would like to thank Louise for her input and all the time she spent on this. Louise explained the formula used and some of the decision making that went into the budget.

**On motion** by George Hinton to send the Police budget back to the Police Commission with the approval from Wind Gap Borough and seconded by Jeff Yob. Roll call taken. In favor: D Hess, G. Hinton, D. Manzo, J. McGarry, M. McNamara, and J. Yob. Opposed: S. Bender. Motion carried 6–1.

2. Park – Athletic Association - Louise Firestone reported that a letter was sent to the Wind Gap Area Athletic Association (WGAAA) President Tony Borger along with copies to Mr. DeCesare and Mr. Siegfried regarding the scheduled demolition of the fieldhouse and the request to remove the contents of the fieldhouse. Although the building was emptied, it was not done in a timely manner and some of the contents were taken and put in a shed in Plainfield Township. The equipment that was taken off site should have been discarded because it was exposed to the mice infestation and water when the fieldhouse would flood.

Louise expressed her concern on whether or not the Wind Gap Athletic Association is serving the children of the borough to the best of its ability. In the past, comments have been made regarding the existence of an agreement between the Park Board and the WGAAA although she has never seen paper work in any of the files. Also, the WGAAA has only one board member, the president, and they have not had a meeting since November 2019. Holding meetings in person have been a concern because of COVID-19, but there have been reports that some athletic games are being played related to the WGAAA.

Attorney Karasek was asked how Wind Gap Borough could start over and form a new youth athletic association. Attorney Karasek said that Council can do that if the present one is not doing its job, but the question becomes if the existing WGAAA was established by ordinance or resolution, if there was anything in it about the termination or the closure of the association

prior to starting a new one. Attorney Karasek said if nothing is on record, the borough has the power under the Borough Code to adopt an athletic association. Jeff Yob said that he is pretty sure that the WGAAA IS a separate 501.C.3, a stand-alone organization. Attorney Karasek advised to double check with the borough insurance company regarding rules and regulations or participation and activities at the park, etc. George Hinton asked about the equipment from Wind Gap being stored in Plainfield Township, if it was purchased with money raised for WGAAA in Wind Gap or donated, is that an issue. Attorney Karasek said if the borough had no direct control over the purse-strings, and it wasn't a borough organization utilizing borough funding, he is not sure if there is anything that the borough can do. If the borough was not actually involved, whoever ran that committee could do what they want with the money. Dave Manzo said that the WGAAA has not been forthcoming with their finances, nobody knows how much money they have or how it is spent, there are no board members, so this is not much of an organization. Jeff said he believes that this has nothing to do with the borough. Dave Hess said the WGAAA uses the borough park. Dave Manzo that he received a text from Tony Berger asking when the park project would be done so he can get in there and use it for next spring, so they are planning on continuing to use the park. Jeff said we need to certify the legitimacy and their current standing from a liability standpoint as well as if they still are a non-profit certified by the Federal Government or not. We need to find that out and make a decision to allow them on the property, if they are not conforming with what needs to occur then they should not have access to the property. Dave Hess said that if we don't want them on the property, we need another alternative so the youth do not suffer. If they start over clean, fresh, and new it will be an easier sell and people will be more excited about it and they will think it is a legitimate run organization. Jeff said they have a charter, bylaws, and they are an incorporated organization. We have to make sure we are protected and they are no longer viable, we need to take the steps needed to protect ourselves. Jeff asked Attorney Karasek if there is a way for the borough to obtain a copy of their charter, articles of incorporation and find out if they are a viable 501.3.C. Attorney Karasek said yes, assuming they were incorporated here in Pennsylvania, there is a method that you can request that information from the Corporation Bureau. You can get a copy of the Article of Incorporation and as to the 501.3.C, he is not sure if they amended their Articles of Incorporation in that regard that would be something you could find on the internet. Jeff said the if we do not have a current copy of their liability insurance they should not be allow on the property. Attorney Karasek said that is a policy call, you want to make sure that whoever is using the property is covered. Are we talking about the association or the young men and woman that are using the park and what is being covered? In some situations, the Athletic Associations is distinct from the Borough Organization. Dave Manzo would like to know if Pennsylvania requires more Board of Directors, in this organization there is only one board member. Attorney Karasek said that in Pennsylvania you only need one board member. Jeff said they would go back to what their charter stipulates.

**On motion** by Jeff Yob to empower Attorney Karasek to do the research on the Wind Gap Area Athletic Association to verify if they are registered as a 501.C.3 and seconded by George Hinton. Roll call vote taken. Council agreed unanimously.

Dave Manzo would also like Attorney Karasek to look into IRS regulations regarding the 501.3.C, if that requires any additional issued that must be met by the Athletic Association in order to be a viable 501.3.C. Not just the State and 501.3.C., he would also like to see if the IRS regulations are being applied.

Mr. Kerdzaliev said that he did treasurer work for a charitable organization, if you go to the IRS website, every charitable organization that is registered with the IRS is searchable for their 990's that they have to file every year and he went to the site and it is the Wind Gap Area Athletic Association, according to the website, it seems that they have not filed a 990 since 2009. He said you would also have to ask the question; would the Athletic Association be the only organization that would fulfill the purpose of that organization or could it be filed by an extension of the Plainfield Township Athletic Association or another organization.

## **OLD BUSINESS**

1. 29 Mechanic / 125 Water Street – Real Estate Sale – Louise Firestone reported that after the last meeting she went through the file and found the old market values for the borough properties and sent everyone a copy along with the letter from Brian Pysher outlining the zoning district and the permitted uses, and pieces from the two appraisals. The question is, does Council want to use the appraisal that was on done in May 2016 for the borough building and the appraisal done for the borough garage in December 2016. Attorney Karasek said if Council wants to sell the property, by bid or auction, you Council should know the fair market value of those properties. Dave Hess said that we should get this done as close to the selling point as we can. Louise will put this on the December agenda to discuss when we get closer to an actual move in date at the new municipal garage. Dave Hess said that we will find out how quickly an appraisal can be done and deal with it meeting by meeting.

2. A. Scott Enterprises - \$19,529.85 – Brian Pysher reported there was some backfill areas that was not completed. A. Scott Enterprises did come back and backfill all the required areas, spread topsoil and seeded the area in front of the building where the water line was installed. In conjunction with Pennsylvania American Water Company, pressurized the new water service was pressurized in the building, all checked out good. Everything that they billed for has been completed and tested.

**On motion** by Mike McNamara to pay A. Scott Enterprises \$19,529.85 and seconded by Steve Bender. Roll call taken. In favor: D. Manzo, J. McGarry, M. McNamara, J. Yob, S. Bender, D. Hess. Opposed: G. Hinton. Motion carried with a vote of 6 - 1.

3. ScoreCard Sports Bar and Grill – Roshawn Kerdzaliev – Sketch Drawing – Roshawn Kerdzaliev said the Council should be in receipt of a letter of code issues from Keller Zoning dated October 2, 2020. Roshawn is here to see where Council stands on his plan and to answer any questions to keep this project moving. Dave Manzo said that he would have to address the zoning issues. Roshawn said that he did file a zoning application, which is what triggered this recommendation. Attorney Karasek explained that if Mr. Kerdzaliev submitted a zoning application, Ms. Serfass, Zoning Officer, has to either approval or deny the permit, if denied then he would file for an appeal before the Zoning Hearing Board. Deb Harbison said that when his application came in the Zoning Officer said to forward it to Borough Engineer, Brian Pysher for planning review. Roshawn said that he did receive an e-mail for Tina saying if parking is the issue, then Planning Commission Review and Zoning Hearing Board will be required and that the next step would depend on a decision by Council. Attorney Karasek said that her job is to look at the zoning application and to either deny or grant the permit, not to wait for Council to tell her what to do. She has to be told to either approve or deny this permit so Mr. Kerdzaliev can keep this matter moving. Brian Pysher said that he did get notification from Tina about asking if this project needed Land Development. Based on the definition in the ordinance he determined it does, this is what brought the application for a waiver from land development before Council. There were questions brought up about parking about a certain specific capacity for 445 patrons, but that does not coincide with the zoning requirement. The Zoning

Ordinance has its own specific calculations for parking requirements. Brian said he agrees with Attorney Karasek, she needs to write a zoning letter to determine if he is in compliance so he can proceed with the land development, if not he will need to go the Zoning Hearing Board. Council needs to know if there are any zoning requirements. Planning and Council need the knowledge prior to acting on a land development plan if there are zoning requirement/variances are required.

4. 2021 Budget – Louise Firestone presented the first draft of the 2021 budget to Council. Attorney Karasek said the budget has to be passed by the end of December.

## **OLD BUSINESS**

1. EMS – Dave Manzo reported that the Ambulance responded to 108 calls, 18 ALS calls and 34 BLS calls in Northampton County, 17 ALS calls and 8 BLS calls in Monroe County, and 31 non-emergency transports. Response time is 2.8 minutes.

2. Fire – Mike McNamara reported that the fire company had 13 call for the month of September, for a total of 102 calls for this year. Dave Hess said there is ladder truck in the garage and he is concerned that it is going to be a financial burden on the Fire Company and also a liability. The truck is not in the best of shape and he does not know if the fire company volunteers are trained to use it. Mike McNamara said all those topics were discussed at last night's fire company meeting. The fire company that the truck was purchased from will be coming to work with them.

3. Regional Police – Dave Hess reported that Police Department responded to a total of 479 calls for service, 158 were for Wind Gap.

On Thursday, September 29<sup>th</sup> Officers were called to the Travel Inn regarding a drug complaint. Officers made contact with an individual who possessed an active arrest warrant and a brief foot chase ensued. During the course of the chase, Officer Wales suffered an injury to his left hamstring and will be on temporary leave. He had an MRI and his hamstring is torn completely off of the bone so he will out for several months.

4. Emergency Management – Dave Hess reported that the State is hot on NIMS topic. Wind Gap Borough did pass a resolution identifying the borough as a NIMS Borough. All elected and appointed officials must take the on-line training. He will get that information to Louise and she will forward to everyone.

5. Zoning – Deb Harbison reported that the Zoning Officer has several applications that she is currently working on to complete. The Zoning Officer will be contacted regarding the ScoreCard zoning application.

6. Planning – Dave Manzo reported that the meeting was cancelled due to JERC request to be taken off the agenda.

7. Municipal Authority – Dave Manzo reported that the last meeting was short and held in the park. The next meeting will be held at the Wind Gap Fire Company Social Hall. The issues discussed were BioSpectra requesting a refund of their escrow money, which was returned and a development on Church Road which originally started as 65 units and is now down to 16 units.

8. Streets – Dave Hess reported that the backhoe was delivered yesterday. George Hinton reported that as far as the bucket truck the hydraulics slip. When they put the bucket up it comes back down, it is not holding pressure. An evaluation on the cost of repair would be our first step and we can make a decision from there. Louise said Rich has an appointment on November 9<sup>th</sup> to get a diagnostic evaluation completed. George said line striping was done on Alpha Road, Constitution Avenue and Longcore Road. Dave Hess said that leaf collection will be starting on Monday, October 26, 2020.
9. Park/Athletic Fields – Nothing to report.  
Walking Trail – Nothing to report.  
Community Garden – Nothing to report.
10. Tipping Fees – Louise Firestone reported that the borough received the third quarter check from Waste Management. She updated and sent out the report. The total received from Waste Management in tipping fees for 2020 is \$262,351.22, which is approximately \$12,000 over what was projected for 2020.
11. C.O.G. – George Hinton had nothing to report, the next meeting is scheduled for Wednesday, October 28, 2020.
12. Slat Belt Rising – Louise Firestone reported that they reviewed the budget and discussed the annual meeting. They talked about doing the annual meeting virtually, but decided that a video will be put together that showcases what Slat Belt Rising accomplished for the year, which she will forward to Council to see once it is completed.
13. Multi-Municipal Plan – Louise Firestone reported the next meeting will be done virtually.
14. Mayor’s Report – Mayor Mogilski reported that the storm jetty and tar buggy came in, we can put our name on the list to use them.
15. International Property Maintenance Code (IPMC) – Dave Manzo reported that the committee will sit down to review old ordinances and report back to Council.
16. Louise Firestone reported that the borough received a grant from Northampton County Relief Block Grant (CRBG) for \$42,000 to install a generator at the Social Hall. She spoke with Tina Smith for the County, and was informed that it was a good application because it is needed in this area, volunteers serviced 1700 families with food this summer. The grant money has to be spent by December 31<sup>st</sup> of this year.
17. Attorney Karasek said the double checked the code and confirmed that the budget has to be adopted by December 31, 2020. There is work prior to that, where the budget has to be prepared, available for inspection, and advertised in the newspaper and an ordinance enacted.

## **ADJOURNMENT**

**On motion** by Joyce McGarry to adjourn the meeting of October 20, 2020. Council agreed unanimously. The meeting of October 20, 2020 adjourned at 8:51 p.m.

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Louise Firestone, Borough Manager