

**BOROUGH OF WIND GAP  
29 MECHANIC STREET  
WIND GAP, PA 18091  
610-863-7288**

The Council meeting of the Borough of Wind Gap on Monday, August 5, 2002 was called to order at 7:30 p.m. by Council President Winton Male, Jr., at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Lewis Paulhamus, Jack Hannon, Mitchell D. Mogilski, Sr., and Richard Getz. Also in attendance were Borough Solicitor, Len Zito, Borough Engineer Ronald Madison and Borough Secretary Louise Firestone. Mayor Kenneth George and Councilman William Pysher were absent.

Councilman Kerry Gassler arrived at approximately 7:32 p.m.

**Approval of Minutes -**

**On motion** by Richard Getz to approve the minutes of July 16, 2002 and the special meeting of July 26, 2002 and seconded by Jack Hannon. Roll call vote taken. Motion carried unanimously.

**Approval of Expenditures -**

**On motion** by Kerry Gassler to approve the July expenditures in the amount of \$23,502.22 and seconded by Richard Getz. Mitch questioned the bill from David's Electric which included 23.5 hours for ditch digging. It was explained that David charged 23.5 hours of labor for the entire job at the Park which included time for ditch digging. Roll call vote taken. Motion carried unanimously.

**Public Comment -**

1. John Snuggs. John questioned if steps have been taken to purchase a gun safe for the Police Department? Winton replied he does not know and he has not been updated on that issue.

John reported that a light is out on the south side of the Police building.

John stated that he understands that the Police Department is losing a part-time officer and asked if steps are being taken to replace him before the full-time officers are exhausted. Winton replied that the plan is to hire at least one part-time officer.

2. Leroy Albanese. Leroy questioned Council if anything is being done about Seventh Street? Winton stated that no one has proposed that anything be done on West Seventh Street and consensus seems to be that Council stay out of any problems that might arise from dedicating that street before there is good reason to do so. A good reason would be if a development was proposed and the developer would agree to pay for the street. Leroy asked

that this issue be discussed at a meeting. Winton added that if Council dedicates this street then Council would be obligated to invest some money in the street. Leroy stated that Wind Gap Electric is one of the biggest employers in the Borough right now and it seems that Council is not interested in the industrial part of town. Leroy asked Council to inform him and the other property owner what their intention is for Seventh Street. Kerry stated that Council ordained some streets last year that were not improved and Leroy is just asking for the same consideration. He is asking Council to deed the street, not put the street in. Lewis asked why Council can't discuss it this year and ordain it this year. Winton stated that it is his opinion that it is not in the best interest of the Borough to ordain that street at this time. Council should consider what might be developed, what the contribution of the developer is going to be and how much it is going to cost the taxpayers to open a road to somebody's business, is it going to pay, are they going to get a return on their investment? Leroy stated that the Borough Solicitor gave Council the option of accepting the street as already being ordained, not accepting it, or do nothing. Leroy accused Council of doing nothing and is that what Council is all about doing nothing? Leroy stated that there is 600 feet of property along that street that could be developed into industrial area. He said are you going to let me do it, one day he'll just go up and do it because Council won't co-operate with getting the street deeded. Winton stated that it is not in the best interest for the Borough to have more apartments in the Borough. Leroy disagreed with him and stated that it brings in a lot of money to the Borough. Winton explained that when the issue arose regarding helping the ambulance corps he did some figuring regarding increasing the millage and how many memberships the apartments at Colonial Springs would support based on their tax. The way that those apartments are assessed would have only supported 66 memberships out of 250 residents who reside in those apartments. Winton replied that if that street is dedicated, then the same developer will come back stronger than ever. Leroy asked how can you deny access to his land? Winton stated that Council just has to do what they believe is best for the Borough.

Engineer Ron Madison stated that the developer never formally re-submitted plans to Planning. Kerry stated that nothing is before Planning right now. It is IC commercial, and Council is not putting in the street or the curbs in and Council is not being challenged for any of the streets ordained last year and this street should be treated the same. Leroy stated that Council is collecting fuel tax on the street that doesn't belong to the Borough. Kerry corrected and stated that it is only on a portion of the street the Borough collects fuel tax.

**On motion** by Lewis Paulhamus to ordain Seventh Street. Winton replied that it is not on the agenda and this topic should have been discussed at a workshop meeting and approved for this agenda.

Leroy asked Mr. Zito for his opinion on this issue. Mr. Zito replied that Council enacted a resolution which regulates the business of this meeting and the workshop meeting. He believes that the business of the agenda is addressed by that resolution.

Winton replied that this item will be put on the agenda for the workshop meeting. This will be discussed and then hopefully a decision will be made.

3. George Hinton submitted the report from the State regarding the inspection of the refreshment stand. George asked that a copy be forwarded to the Park Board. He stated that as long as the Borough is showing progress everything does not have to be done immediately.

George submitted the financial report from the Fire Company.

4. John Snuggs asked if the light bar fits on the new police car? Winton stated that it has not been tried yet.

5. Bob Matlock stated that he has a couple comments in regard to the Police Department. He has heard that the full-time police officers have made demands for benefits and wages. He asked if sometime in the future Council could enact an ordinance for these officers to take a competency test every two years or so. He believes that there are a lot of officers not only in Wind Gap, that do not know the law. He stated that the part-timers only work when they want to and not when they are needed. He asked if he has two cars he is not driving, can he park them up in the lot. He created a no-parking zone up at his house and the Chief was sent to have the situation corrected. He would like to park his cars in the lot by the red Chevy. Winton replied no. Bob asked if it was prejudice to deny him access to the municipal lot. Winton made a note to mention this to the police. He stated that cars are parked the wrong way on the wrong side of the street. He said that things are going on in the Borough and if it is not brought to the attention of the officers then it doesn't get done. He stated that a single color car should have been purchased instead of the two-toned car because it would be less money. He asked if a physical could be administered to all police officers because we have an officer who has heart trouble now. What would happen if that officer has a heart attack on the job. Winton replied that it might be covered by worker's compensation. Bob stated that the Borough would be responsible for taking care of him for the rest of his life. He is just suggesting that for all the money that the officers are being paid, they should know the law, be able to do their job without anyone having to tell them what is wrong and what needs to be fixed and be physically capable of doing the job.

6. Roger Bet. Roger asked about the storm sewer projects. He is concerned about the work on Park Avenue above his home and the potential for water problems to occur. Where is the water going to run coming down Fairview and Park because he doesn't believe that it will flow down Park? Ron Madison replied that those areas were in the long range plan of the storm sewer projects, but not to be done in the near future. The project out to bid now is for the bottom of Fairview Avenue for the water to go underneath East West Street.

7. Kay Stampone. Kay asked about the progress of the traffic study for a light at Third Street and South Broadway. The Borough Secretary replied that both the school and the bus company have been contacted and no response has been received to date. Kay emphasized that the study must be done during school and will mention this at the School Board meeting to have the letters of support for the traffic light.

8. Paul Levits asked about Ordinance 395-A being on the agenda. Winton explained that this ordinance has been on the books and is a definition of a yard sale. Paul cautioned that home occupations or for profit enterprises should not be allowed to be involved with the yard sale and that they should be policed. Paul suggested having the sale at the Park with a minimal \$5.00 a table fee for all interested people. If this would take place at the Park then the concession stand could be opened and could benefit the Fire Company or the Ambulance Corps.

9. Councilman Jack Hannon referenced John Snugg's letter to the Editor in the Express-Times on July 28, 2002. In Mr. Snugg's letter he stated that several Councilmen endorsed the elimination of the Police Department in favor of state police coverage. Jack wanted to state for the record that as far as he knew no Councilman endorsed this option. Mike Gassler, Borough appointed arbitrator in the police contract, stated this at the July 16 Council meeting and that was strictly his opinion. Jack added that Borough and Townships should take of their own police. The taxpayers will have to pay for the additional classes that come through the Hershey State Police Academy if more state troopers are needed.

### **Solicitor's Report**

Len Zito stated that his issues are for the Executive Session.

### **Engineer's Report**

Ron reported that pre-bid meetings were held this morning for two stormwater projects. One contract is the Mechanic Street inlet project to use up the remaining Community Development Block Grants to put in three inlets at the intersection of Mechanic and Water Street. The water in the inlets will be piped down to the new culvert on Mechanic Street. The other project is the East West Street stormwater project that was bid last year. It will provide stormwater conveyance underneath East West Street and provide inlets at the intersection of East West Street and Fairview Avenue. The difference from last year is the extent of wetlands disturbance. The bid due date is Thursday, August 15, 2002 at 2:00 p.m. in the Borough office. Ron will have the tabulations and results for the Council workshop meeting on Tuesday, August 20. Ron is asking for Council to award these projects at the workshop meeting because of the timing needed to complete these projects prior to the imposed deadline. The Pennsylvania American Water Company executed the easement agreement for the north side of East West Street for the property that runs along the back of the houses that front Fairview Avenue. They have executed the agreements that provides the required easements for the intercepting swale for \$1.00.

Winton asked Mr. Zito if this is normal business that Council can vote on this evening because of the urgency of the construction? Mr. Zito replied yes. Winton asked about awarding the contracts at the workshop meeting? Mr. Zito replied that Council can vote at the workshop meeting.

**On motion** by Kerry Gassler to accept Pennsylvania American Water Company easement agreement and seconded by Jack Hannon. Roll call vote taken. Motion carried unanimously. After the contracts are awarded, Ron will take a look at what grant monies are available and what the estimated bills will be so a report can be provided to Council. Council can submit prior engineering bills paid out of the general fund for reimbursement by the County so that the grant money is maximized and no money is left over.

Ron was contacted by the Park Restroom Committee to provide a cost estimate for two alternative sewer service systems. Option 1 would consist of replacing manhole #69 across Lehigh Avenue and running a six-inch (6") PVC lateral with cleanouts every 100 feet. The restroom buildings and two existing concession stands would also be serviced by new grease

traps. The preliminary cost estimate is approximately \$30,160. Option 2 would consist of replacing manhole #71 located within the Park and running an eight-inch (8") PVC line across the parking lot, with two additional manholes. The restrooms and concession stands would be served. Ron stated that the two new manholes lids are more vandal-proof than the seven cleanouts required in Option 1. The preliminary cost estimate is approximately \$31,700. Ron's recommendations would be Option 2 because of the larger main line and because it is more vandal-proof. The Municipal Authority requires each of the concession stands to have a grease trap which is a costly item, but is a necessary item.

Ron met with Terry Miklas, Sewer Authority Superintendent, Doug Hunsinger, Municipal Authority Engineer, and Councilman Kerry Gassler were at this meeting. Jack questioned the feasibility of Option 2 because of the replacement of the macadam in the parking lot at the Park. Ron replied that the cost is included in the price quoted. Jack asked about a possible third option. Paul Levits provided Council with a copy of a letter from Terry Miklas stating that the meeting was an informational meeting only and that Council would still need to submit a plan and get Municipal Authority's approval. Terry did agree that he would favor Option 2 only because the manholes are more vandal-proof and because of the 8" pipe. Paul stated that the original design made by Terry and Kerry should be reviewed because the cost of that option was only approximately \$15,000. Kerry stated that when that option was bid out it was labor only and did not include the cost of the manhole, pipe or stone. The final cost would be a little higher. The Park Board was going to call and get the manholes so the markup would be eliminated. The cost of the restoring the street was included in the bid. George Hinton asked if the questionnaire from the town meeting indicating having the restroom in front of the present facility is being contemplated? Winton replied that yes this is the location being discussed. George stated that at previous meetings the idea of going through the ballfields was discussed because Council decided to hold off until fall when all the sports were over. Winton explained that the intent of the committee is to gather information and more meetings will be held were the public would be welcome. Winton stated that he has been trying to get in touch with a representative from the state to get approval to use some funds for engineering. He wants to be cautious about spending any of the grant money until the signed contract has been received. He hopes to have an answer in the next week or so.

Kerry to provide Ron with a copy of the map used by Terry and Kerry for the third option.

**On motion** by Richard Getz to have Hanover revisit the site for a third option through the ballfield and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

## **New Business**

1. Resolution 2002-2 CAO Non-uniform pension plan. **On motion** by Kerry Gassler to accept Resolution 2002-2 and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

2. Resolution 2002-3 establishing the contribution for the police pension for 2000, 2001 and 2002. **On motion** by Kerry Gassler to accept Resolution 2002-3 and seconded by Richard Getz. Roll call vote taken. Motion carried unanimously.

3. Fire Company Truck Fund. Winton explained that the Borough Auditor stated that there is nothing to prevent the Borough from making the budgeted donation to the Fire Company for their new fire truck, but he does not recommend turning the funds over until the truck is purchased. Mitch stated that it was previous practice to write a check to the Fire Company and then they would use that money to pay on the principal of the loan. Richard stated that once the funds are turned over, they will be completely in the Fire Company's control and no longer the control of the Borough. George Hinton stated that they have money invested and are receiving 4.5% on their investment. Jeff added that it is a Treasury Note and the amount is insured so there is no risk.

**On motion** by Lewis Paulhamus to turn the money over and seconded by Jack Hannon. Roll call vote taken. Motion carried unanimously.

4. Planning Commission draft ordinance. Discussion regarding the ability of the Borough to have a five member commission. Richard suggested a three member board because of the difficulty of finding and keeping five members. He asked Mr. Zito if it is appropriate to have an alternate to the Planning Commission? Mr. Zito replied that at this time there is no provision in the MPC to allow for an alternate. Lewis questioned the meetings that occurred when only three members were present for the Planning Commission. Mr. Zito replied that the number of members were believed to be appropriate so any decisions made for citizens or developers, their rights are vested in the approvals through the recommendations of the commission. Borough Council needs to augment its previous action in reducing the number of members of the Planning Commission by enacting an ordinance. The MPC does require a follow-up ordinance. If Council decides to reduce the commission to three members, once the ordinance is created the Planning Commission terms would expire automatically at the conclusion unless there are resignations which have to be filled and then the ordinance would take effect.

**On motion** by Mitchell D. Mogilski, Sr. to authorize Mr. Zito to advertise Ordinance 430 as five members and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously. Mr. Zito stated that the Planning Commission can currently meet with a four member board.

5. Zoning Board Appointment. Council received a letter of interest from Kelly Ronalds to serve on the Zoning Hearing Board as an alternate. Richard explained that the current alternate is not active. **On motion** by Richard Getz to appoint Kelly Ronalds as an alternate to the Zoning Hearing Board and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. In favor: K. Gassler, R. Getz, J. Hannon, M. Mogilski. Opposed: L. Paulhamus. Motion carried with a vote of 4-1. The Zoning Hearing Board Chairman would be responsible for contacting an alternate from the panel for a meeting should one be needed.

6. Road Millings. Mitch asked Kerry if he is storing the road millings on his property for the Borough? Kerry replied that they are not road millings, but clay material mixed in with some millings from Park Avenue and he is not storing it. Mitch asked if he is not storing it why does he have it? Kerry answered that it is just fill material and he was just going to spread it out. If the Borough would like, Kerry stated that he will load it up and haul it for Council when they tell him where to take it in the Borough. Mitch replied that in the past, the millings have

been stored at the Park. Kerry again stated that it is not millings, but fill with some millings in it. He added that the last street done was Wood Street and the material was hauled to MSG and Mitch called that material topsoil. Kerry asked if he found the topsoil? Mitch stated that it wasn't the soil that was taken over to MSG. Kerry explained that when they scraped down into the clay there is some millings mixed in. Mitch stated that Kerry should have asked Council prior to taking the fill. Winton agreed that it would have been appropriate for Kerry to ask permission of Council prior to hauling the fill to his property.

**On motion** by Lewis Paulhamus to leave the millings and fill dirt on Gassler's property there, any other millings will be retained by the Borough and fill dirt to be decided by Council and seconded by Richard Getz. Roll call vote taken. In favor: R. Getz, J. Hannon, L. Paulhamus. Opposed: M. Mogilski. Abstained: K. Gassler. Motion carried with a vote of 3-1-1.

Discussion about the fill to be dug up during the stormwater projects. If the contractor cannot find an inexpensive way to dispose of the fill locally they typically haul it away. Mitch believes that the residents should have an opportunity to get the fill at no cost.

**On motion** by Mitchell D. Mogilski, Sr. to advertise in future for millings/fill not able to be stored to those who may need it and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

## Old Business

1. Zoning Fee Schedule - Ordinance 427. Winton stated that Ordinance 427 has been properly advertised and is ready for final approval. Mitch asked that one thing be changed. Winton replied that it has already been advertised as is and Council must make a decision one way or the other.

**On motion** by Richard Getz to approve Ordinance 427 and seconded by Jack Hannon. Roll call vote taken. In favor: R. Getz, J. Hannon. Opposed: K. Gassler, M. Mogilski, L. Paulhamus. Mr. Zito explained as a procedural matter Winton may vote in the absence of the Mayor on this motion. Winton voted in favor, making the vote a tie 3-3. Mr. Zito advised Council that a special meeting must be held within ten (10) days and the Mayor must be given five (5) days notice of that special meeting to break the tie. The meeting must be duly advertised.

2. Borough Wide Yard Sale. Ordinance 395-A is applicable and that is how the yard sale was run before and how this one will be run for residents only. Winton stated that from his perspective this yard sale will be run in accordance with the ordinance. If in the future, Council decides to have a Borough wide sidewalk sale to include businesses that would be discuss then. Lewis suggested having the Zoning Officer available. John Blick replied that he is not empowered to enforce this ordinance. Kerry asked that someone is out checking to make sure that other commercial stuff is not being sold. The Yard Sale is not intended for the sale of retail items such as: Home Cosmetic sales (Mary Kay, Avon), Baskets (Longaberger), home crafters or any such related enterprises. This will be put in the Borough newsletter. Police will be on duty that day and they will be responsible for checking.

3. SPCA Agreement. Winton informed Council that from the last meeting, Chief Armitage expressed his concern about leaving the Borough unpoliced while a stray animal is being

dropped off at the shelter. Winton stated that he is sympathetic to their cause, but he is not sure that the Borough should sign an agreement with them. He stated that it is not an issue of money, but it would be costly as far as time lost and the expense of having an officer running back and forth to Easton. Suggestion made to offer them a table at the Firemen's Picnic or the Car Show to get information to residents of the Borough about their organization. Bob Matlock asked about current procedures for the strays. Winton replied that if an animal is picked up, they are put in the pen behind the Police Station and the state is called to have them picked up. Bob stated that he and Valerie McNulty have taken water and food to the animals. Discussion about the Borough having compassion for animals who may run away and the chance for owners to find them either at the Police Station or at the shelter of the SPCA. Bob Matlock offered to volunteer for one month to run animals to the shelter, as did George Hinton and Lewis Paulhamus. Richard stated that the Borough could still call the state if necessary, but we will try to get volunteers to transport the animals.

**On motion** by Richard Getz to take the service agreement for \$175 this year with the SPCA of Northampton County and seconded by Lewis Paulhamus. Roll call vote taken: In favor: R. Getz, J. Hannon, M. Mogilski, L. Paulhamus. Opposed: K. Gassler. Motion carried with vote of 4-1.

Prior to Executive Session, Winton stated that at the last meeting Mr. Levits made a decision not to mention that the Wind Gap Municipal Authority made a change in the chairmanship of the Authority. He stated that this information should have been reported to Council so as not to expose the Borough Council to a cover-up in anyway. The public had no knowledge of this change in the chair position. Jack stated that Council received a registered letter regarding the feasibility study and Mr. Dieter signed as Chairman. Paul stated that it was his oversight in not mentioning it in his report. Paul said it was his understanding that he is quoted word for word in the minutes, is everyone? Winton replied that all comments are to be in the minutes.

**Executive Session.** Council adjourned to Executive Session at 9:45 p.m. to discuss personnel issues.

Council adjourned due to the 10:00 p.m. curfew.

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Louise Firestone  
Borough Secretary

