

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, February 4, 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, Mitchell D. Mogilski, William Pysher, Richard Getz and Kerry Gassler. Also in attendance were Mayor Kenneth George, Borough Solicitor Leonard Zito, Borough Engineer Ronald Madison and Borough Secretary Louise Firestone. Councilman Charles Sutter participated via telephone.

Approval of Minutes -

On motion by Bill Pysher to approve the January 15, 2002 minutes and seconded by Kerry Gassler. Roll call vote taken. Motion carried.

Approval of Expenditures -

On motion by Kerry Gassler to approve the expenditures of \$21,719.75 and seconded by Richard Getz. Kerry asked that the expense of \$62.44 from Hanover be put in either general engineering expense or the Landfill stormwater expense. Correction to be made. Mitch questioned why there are invoices from GPU and PPL both charged to the Fire Company. GPU is the electric and PPL is the gas used by the Fire Company. Roll call vote taken. Motion carried unanimously.

Public Comment -

Prior to Public Comment, Mr. Male stated that many instances in the past Council has not been able to complete the agenda and for this reason he is making a suggestion to impose a five minute limit per resident or taxpayer or representative speaking during public comment. Discussion regarding the legality of imposing a public comment time limit. Official action can be taken at the discretion of Council at any time during the year. Mr. Zito stated that Council is obligated to provide a reasonable opportunity for citizens and taxpayers to be heard on any matter that is either before or may come before Council, so that if someone has two different matters they should be afforded five minutes per opportunity to exhaust each individual matter.

On motion by Richard Getz to pass a resolution to permit public comment to a maximum of five minutes per resident, taxpayer or representative per concern and seconded by Bill Pysher. Roll call vote taken. In favor: K. Gassler, R. Getz, W. Male, B. Pysher, C. Sutter. Opposed: M. Mogilski, L. Paulhamus. Motion passed with a vote of 5-2.

1. Mike McNamara, 328 Alpha Avenue, Wind Gap. Mr. McNamara addressed the issue regarding Pine Alley and the fact that Council has maintained the position that this is a civil matter. Mr. McNamara submitted a petition signed by five of the eight homeowners and pictures regarding Pine Alley. He stated that this dispute has escalated to the front of house. Mr. Male to make copies for Council and Mr. Zito.

2. Robert Matlock, 346 Alpha Avenue, Wind Gap. Mr. Matlock also submitted a petition regarding Pine Alley and to leave Pine Alley as it was untouched and strictly as a civil matter.

Mr. Matlock's second concern is the parking of tractor trailers in a residential neighborhood. He feels that having them parked is degrading to the property and should not be allowed. He stated that Fairview Avenue (street above Alpha), street below and street below that all institute no trucks permitted. Residential area is free of commercial vehicles and commercial buildings. Mr. Matlock asked Council to be consistent when designating streets no trucks. He is concerned for the safety of cars traveling on Alpha having to go around the parked truck.

Mr. Matlock's third concern was in regard to the painting of the curb in front of his property. He removed the old paint and repainted according to the dimensions previously set when the Borough painted the curb two years ago. The Mayor referenced Ordinance 333 which states "...it shall be the sole responsibility of the Chief of Police, with the cooperation of the Street Chairman of the Borough Council, to designate those areas within the Borough situate along Borough thoroughfares, and near curb cutouts, which are to be designated as no parking zones". Mr. Matlock stated that he has a copy of this particular ordinance, but he read and interpreted it to mean that it pertained only to when Mr. Trilli was Council President. He said that Mr. Mogilski authorized John to paint upper Broadway on either side of the driveway openings yellow and asked why it is done there and not throughout the Borough? Mitch replied that it was a safety concern and PennDOT had no problem with them painting it because it is a PennDOT road. Mr. Matlock asked why the Borough is spending taxpayer dollar on a public road? Mitch replied that the Borough gets paid to take care of PennDOT roads and receives \$1,050 a year.

3. Richard Dentith, 204 Third Street, Wind Gap. Mr. Dentith stated that he protests the present Park Board because they passed an ordinance to eliminate pets from the Park. He stated that 11 retired citizens of the Borough are responsible with their pets. He added that 3 or 4 young people are good with their animals and utilize the Park every day and that now they cannot use the Park. He asked Council to take the No Pet signs down.

Committee Reports

1. **EMS - Tom Knitter, Wind Gap Ambulance, reported** that the ambulance made 481 trips in 2001. 327 trips were billable, 154 were not billable. He submitted a current roster for the Wind Gap Ambulance for the Borough files. Mr. Male asked Tom if he has the combination for the front door on the Oaten building. Tom replied that he believes Mr. Hendershot, Hendershot Doors from Nazareth reset the combo, but he would check with Mr. Hendershot.
2. **Police - Bill Pysner reported** that he and the Mayor met with Troy Daily, President of Wind Gap Police Association, relative to contract negotiations on January 25, 2002. He believes that they are in some good faith negotiations about that contract. Bill is asking for some direction from Council in regard to salary and fringe benefits and that will be discussed in Executive Session. They are scheduled to meet again on February 8, 2002. The Mayor added that the Police reports have been distributed and include 9 motor vehicle accidents and 36 citations for the month of January.
3. **Streets - Winton Male reported** that a street committee had been set up with the intent of getting information together so this could be made part of an administrative process. He acknowledged that a problem arose once the conferences got going because the conferences did not only provide information, but became work related to the curb and sidewalk ordinance. He will make some changes so there is no exposure of violating the Sunshine Act.

The F350 Street Truck has been taken to J.H. Beers because of a steering problem. The shop foreman indicated that it would not pass a safety inspection. J.H. Beers gave a price of \$525 to purchase and install the steering box. John is in the process of getting another quote from MSG. Mitch suggested fixing it after receiving another price. Mitch stated that he, Richard and Kerry all sat behind the wheel and did not perceive a problem. Kerry added that he did not think that it is a major mechanical problem, but if it is a safety issue then it has to be looked at immediately. He reiterated that the Borough needs a four-wheel utility truck. Richard stated that the truck needs repaired. The repairs to be discussed at the workshop meeting.

Mitch contacted PennDOT regarding moving back the stop bars on the road at the intersection of Center and Broadway. PennDOT looked at it and gave their approval. He suggested that PennDOT should inspect after it has been approved to give their okay. The Chief stated that someone from PennDOT should come out to specifically state how far the lines are to be moved back. Mitch stated that it was up to the Chief to determine the distance and that PennDOT would not specify how far.

Mr. Male reported that Council has received a memo from the Chief regarding the safety issue at the intersection of Alpha and Lehigh regarding the timing of the light. Mr. Male stated that he was informed that when the inspection was done to issue the permit for the new County Industrial

Park the inspector directed the County to have that light repaired because the timing was off. He added that no one will admit to this at the County level so it is time that the Borough get this corrected because of the safety issue to school buses and other traffic and it should be taken care of immediately.

On motion by Kerry Gassler to contact EMR to fix the light and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

4. **Finance - Winton Male reported** he has distributed information regarding archiving software that was demonstrated to him, Louise and Millie at the Borough office. He is asking authorization to make purchase of the software and related scanner for \$4,190.

On motion by Richard Getz to purchase the necessary archiving equipment and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously. Mitch questioned whether other quotes had been solicited since the price exceeds the \$4,000 limit. On the advice of Mr. Zito because the bid exceeds the Borough Code requirements, Mr. Male will try to solicit more bids and report back to Council.

On motion by Bill Pysher to place the bid notice in the newspaper for the removal of the tires according to the DEP Tire Grant to be opened on Thursday, February 21, 2002 and seconded by Winton Male. Roll call vote taken. Motion carried unanimously. Mr. Male informed Council that the Borough is asking for the bids, but that the results of the bids are to be reviewed by DEP to give approval before a contractor is awarded the contract.

Mr. Male reported that the Borough received notification from Erie Insurance that the Wind Gap Athletic Association insurance policy will be cancelled February 23, 2002 at 12:01 a.m. **On motion** by Lewis Paulhamus to pay the \$1,500 budgeted to the help WGAA pay their insurance. Motion died for lack of a second. Mayor George stated that the WGAA should let us know what is going on since this is the second time this has happened. Mitch stated that the parents have a right to know that the AA is having their insurance cancelled. Mr. Male to contact Tony Borger to find out what is going on with the WGAA insurance.

5. **911 - Winton Male reported on behalf of Charles Sutter** that the Borough received a letter from 911 to allow the County to use the F4, Blue Mountain Fire Ground, frequency when necessary. Mr. Zito stated that historically when the Borough has allowed the County to use the Borough owned frequencies it was done with a specific writing and a filing with Federal Communications Commission so that there is absolutely no question that they are only allowed to use the frequency and they will not assert any ownership rights of the frequency. Any applicant who wanted to use the Borough's frequency must enter into an agreement to use the frequency and the FCC was notified that use of the frequencies was permissive and not intended to convey any proprietary right. Northampton County has an escrow account with the Borough to defray all of the expenses incurred in preparing that documentation so it is at no expense to the Borough.

On motion by Charles Sutter to authorize Mr. Zito draw up the necessary paperwork and to be paid for by the 911 escrow account and then to forward to Todd Weaver at the County 911 Center and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

6. Zoning / Planning - Richard Getz reported there is nothing at this time.

7. Parks - Lewis Paulhamus stepped down from the Council table at 8:30 p.m. to join the Park Board members in the audience. Cathy Yob asked what prompted Council to reduce the number of Park Board members from 7 to 5 at the January 15, 2002 Council meeting? Mitch replied that he felt the Park spending was an issue. Cathy replied that the Park Board has done more in the Park while staying within their budget then had been done in the previous two years. Mr. Male added that the differences of opinions were an issue and that the general feeling was the Park Board would run more efficiently with five members. Richard stated that the Park Board use to operate with five members and that is all that is needed to manage the two workers in the Park. Cathy and Roger Bet both stated that they were opposed to Council making this discussion without the courtesy of soliciting the Park Board's input. Cathy stated that at this time, the Park Board would continue to run with six members because the ordinance has not been enacted. Mr. Zito confirmed that the ordinance becomes effective when it is voted upon. Cathy asked how Council was going to determine which volunteer to remove from the volunteer board? Mr. Male replied that Council did not reappoint Rick Keenhold to the Park Board. Cathy replied that Council did reappoint Rick Keenhold on November 5, 2001 and reappointments have been done prior to the term expiring the last five years by the Borough. Mr. Zito did issue an opinion to Council after legally researching the question as to the timeliness of appointments and the law is quite clear as it applied to Boroughs that an accelerated appointment is void and an appointment can only be filled when the vacancy occurs and not before. He added that he was asked to research the issue at hand and not to review how things had been done in the past whether correct or not. A person would serve on municipal authority or a municipal related body until his until his replacement was appointed or until his term expires. If his term did expire and no replacement was appointed then he would continue to serve until his replacement was named. Regarding the institution of the No Pets Allowed, the Park Board researched the surrounding Parks and their rules regarding the pet issue and determined that it was a safety issue and that is why the ordinance was changed, with Council's approval. Cathy invited Council to the next Park Board meeting if this ordinance passes to explain to the Park Board how they are going to reduce their board by one member. Cathy stated that it is deplorable to kick off one volunteer member from a board.

The discussion continued with the bids presented for the sewer hook up in the Park at the last meeting. Cathy stated that the bids were solicited to hook up the present bathrooms with allocated funds in the Park budget for 2002. Paul Levits, Sewer Authority, stated that according to the rules/regulations the Park has to be hooked up to the sewer. The engineering has been completed for the project without a cost to the Borough because individuals from the Borough and the Sewer Authority met. According to the Authority's rules and regulations, from the main to the curblin nobody touches, but the Sewer Authority's approved contractors. The Sewer Authority considers that these projects are

two separate projects. The property owner (the Borough) is responsible for paying for the work done by the contractor hired by the Sewer Authority and also responsible for paying the contractor who does the work on the Park property. Bill Pysher stated that Council had a legal opinion from the Solicitor that a project over \$10,000 should be put out for public bid and not to circumvent that process when it could become an a liability issue to Councilmen.

Cathy concluded by stating that she personally communicates after each meeting with Council and Council can verify all the work that has been accomplished since this current Park Board has taken over through the minutes. She told Council to reconsider this ordinance and that they will have to decide who will be eliminated from the board.

8. Building / Grounds - Winton Male reported that a letter was received from John Faust asking Council to consider renting out the front of the Oaten garage to him. He would utilize the space to work on his racecar and for storage in between races and during the winter months. Mr. Male expressed his concern about the lack of security between the two buildings, and the fact that only toilet facility exists. Kerry suggested trying a 30-day rent and work out with Harry regarding the electricity.

On motion by Mitchell D. Mogilski, Sr. to rent out at \$100.00/month with the stipulation that if it starts to turn into a business then Council can terminate the lease with seven days advanced notice and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, M. Mogilski, L. Paulhamus, C. Sutter Opposed: R. Getz, W. Male. Abstained: B. Pysher. Motion carried with a vote of 4-2-1.

Discussion followed the motion regarding the necessary insurance coverage needed by Mr. Faust. It will be checked into and reported on at the next meeting.

9. Fire Company - Mitch Mogilski reported the Fire Company had seven incidents in December and for the year 145 responses. The Firemen's Picnic will be June 27, 28, 29 with the clean-up day being June 30, 2002.

10. Wind Gap Municipal Authority - Paul Levits reported that Terry Miklas has contacted the Chief of Police regarding an incoming fuel smell in the plant. He asked the Borough to be aware of any suspicious tankers in the area of the sewer plant or around town near any manholes. He addressed the Park issue and the bidding out of the contract for the septic line installation. The Firemen's Picnic and the Kiwanis Run are both big events in the Park and the restroom should be hooked up before these events. Municipal Authority questions the status of Walden III and whether a Cease and Desist Order has been issued. John Blick stated that he was under the impression that the issues were being addressed between the Municipal Authority and Mr. Cassidy and he added that he does not currently have an occupancy permit. Paul replied that no conversations have been going on, but the Authority did receive notice that Mr. Cassidy has selected an attorney and notified the Authority's administrator. Paul stated that there is no consistency with issues relating to planning and zoning within the Borough. Paul asked

Mr. Mogilski if he remembers discussion of Mr. Cassidy not being in compliance at prior meetings. Mitch replied, "I don't believe in someone pooling Council and that's my answer".

Paul asked about a letter sent to Mr. Zito pertaining to a subdivision plan for the pumping station in the Wind Gap Plaza. Mr. Zito reported that he received a letter from the Attorney who represents Guistine locally questioning whether or not Guistine is exempt from the requirements of the Subdivision Ordinance in conveying property to the Wind Gap Authority on which is located a pumping station. Mr. Zito forwarded a copy to the Borough Engineer and the Authority's Solicitor. He asked Council for approval prior to issuing an opinion and whether that is proper subject for a waiver. Paul explained the history behind the pumping station and how it was put in as a private owned pumping station. The property in the shopping plaza is two different deeds. The pumping station cannot be a privately owned and the Authority is suppose to be the owner. The Authority is the permittee and has always been the permittee for that pumping station. All maintenance costs and responsibilities are borne by Guistine. Pumps were burning out due to the amount of grease being deposited in the pumping station. The Authority has requested that the pumping station be brought up-to-date. Easements should be in place. Mr. Male replied that once Mr. Zito has all the information, he will forward to all.

11. Insurance - Winton Male reported that the Police / Public Official Liability Insurance Policy came in a couple hundred dollars over budget.

The money has been approved for the Joint Comprehensive Plan and will cover the cost for relationship with Plainfield and Pen Argyl.

A. Mayor's Report - Ken George reported collection of \$600.00 for the month of January for Contractor's Licenses. Slate Belt Municipalities meeting is February 20, 2002 at 7:30 p.m. Charles Sutter to continue to act as alternate. The Mayor and Winton Male attended an Emergency Management Meeting at the Washington Township Firehouse sponsored by the County regarding responding to an emergency related to the aftermath of September 11, 2001. Mayor will advise the Police and Fire when the next meeting is scheduled. He mentioned that Ordinance 333 addresses the issue of the curb painting previously discussed by Bob Matlock and he asked Council to review.

B. Solicitor's Report - Len Zito reported he has forwarded copies of correspondence from David Ceraul, Attorney for Joseph Alfred regarding the proposed condemnation and the removal of survey pins along the stretch of property donated by the Rubensteins. The office staff to re-check the files for any further information regarding this property.

C. Engineer's Report - Ron Madison reported that he sent correspondence for the Year End Status Report dated February 1, 2002 regarding the status of all projects in the Borough through December 31, 2001. He asked for any comments and provide direction on proceeding with the funds. He again explained that it is the County's desire to have all the Landfill Postclosure Funds expended by December 31, 2002. Also, some funds exist in the Community Development Block Grant (Mechanic Street / Water Street should Council wish to review any options for additional projects in this neighborhood. He asked

if Council would advise if they plan on moving forward with the traffic study on Third Street.

New Business

1. Town Meeting is set for Thursday, February 21, 2002 at 7:00 p.m. at the Wind Gap Fire Hall.
2. Hanover Engineering has been contacted by DEP that a Bog Turtle Habitat Study is required. Ron explained that this study has to be done prior to any issuance of a small projects permit for a swale within the wetlands from East West Street down to the creek as part of Project No. 4 to fix all storm drainage on East West Street near Fairview Avenue. Only a few companies are recognized as being qualified to complete the study. The quote received by Hanover from Delaware Valley Consulting and forwarded to the Borough is \$2,500. Fish and Wildlife requested this of DEP because they are part of the permit process. Ron made the recommendation not to brushhog until this study is done.

On motion by Lewis Paulhamus to have the Bog Turtle Habitat Study done. Motion died for lack of a second.

Mr. Male to call DEP, Gene Trowbridge, Wilkes-Barre Office, to find other qualified contractors to complete this study.

3. **On motion** by Mitchell D. Mogilski, Sr. to appoint Hanover Engineering Associates Borough Engineer for 2002 and seconded by Winton Male. Roll call vote taken. In favor: R. Getz, W. Male, M. Mogilski, B. Pysher, C. Sutter. Opposed: K. Gassler, L. Paulhamus. Motion carried with vote of 5-2.

On motion by Kerry Gassler to appoint Schoor DePalma as an alternate engineer and seconded by Lewis Paulhamus. Roll call vote taken. In favor: K. Gassler, R. Getz, M. Mogilski, L. Paulhamus, B. Pysher, C. Sutter. Opposed: W. Male. Motion carried with a vote of 6-1.

4. **On motion** by Mitchell D. Mogilski, Sr. to advertise Ordinance 427 - Fee Schedule and seconded by Charles Sutter. Kerry questioned renovations to existing construction - letter C under the ordinance.

5. **On motion** by Lewis Paulhamus to drop Ordinance 429 for the reduction in Park Board from 7 - 5 and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, L. Paulhamus. Opposed: R. Getz, W. Male, M. Mogilski, B. Pysher, C. Sutter. Motion did not pass with a vote of 2-5.

On motion by Mitchell D. Mogilski, Sr. for Ordinance 429 to be advertised and seconded by Charles Sutter. Roll call vote taken. In favor: R. Getz, W. Male, M. Mogilski, B. Pysher, C. Sutter. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 5-2.

Councilman Lewis Paulhamus left the meeting at 9:45 p.m.

Executive Session - Council adjourned to Executive Session to discuss Sgt. Pepe's Heart and Lung and

the Police Contract at 9:46 p.m. and reconvened at 10:31 p.m.

Meeting adjourned at 10:32 p.m.

Louise Firestone Borough Secretary