

BOROUGH OF WIND GAP

29 MECHANIC STREET

WIND GAP, PA 18091

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The Council meeting of the Borough of Wind Gap on Tuesday, February 19, 2002, was called to order at 7:30 p.m. by Council President Winton Male, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Lewis Paulhamus, Mitchell D. Mogilski, Sr., Richard Getz and Kerry Gassler. Also in attendance were Mayor Kenneth George and Secretary/Treasurer Louise Firestone. Councilman Charles Sutter participated via telephone. Absent was Councilman William Pysher.

Approval of Minutes –

On motion by Kerry Gassler to approve the minutes of February 4, 2002 and seconded by Mitchell D. Mogilski, Sr. Mitch asked for a copy of the signed petition submitted by Mike McNamara at the previous Council meeting as noted in the minutes. He also asked for February 4 minutes to include his comments to Paul Levits regarding pooling Council for their opinion when addressing Walden III topic. Kerry pointed out a typo on page 4. Corrections to be made.

Roll call vote taken. Motion carried unanimously.

Public Comment

1. Trudy Pepe, concerning Sgt. Robert Pepe and the Heart and Lung Benefits. She asked Council to approve the Heart and Lung benefits for his heart attack, based on the extreme overexertion and significant stresses that he has encountered directly out of his employment as a police officer in the Borough. She stated that all municipalities should know about the Heart and Lung Act because it is the Law in Pennsylvania. He stopped a DUI in 1989 and a struggle ensued during which Bob came in contact with blood from the driver. At the hearing the attorney for the defendant informed the arresting officers that the defendant had AIDS. After three years, the officers were informed that the man did not have AIDS. In 1990, during a domestic dispute Bob was cut on the hand by a woman with a butcher knife. In 1992, he stopped a DUI driver, arrested him, took him to the DUI processing center and released him to his residence. Two hours later, the young man committed suicide. Officer Pepe felt

responsible for his death and does so even today. In 1997, there was the fire at the old school in Wind Gap. He put the community before himself and his family and entered the burning building looking for people. Mrs. Pepe stated that all these stresses have gone home with him. She also provided another letter from Dr. Schiavone relating to his care of Officer Pepe's heart attack.

2. Roger Bet, 20 Fairview Avenue, Wind Gap. Roger asked Council to re-consider reducing the Park Board from seven volunteers to five volunteers. As a member of the current Park Board, Roger feels that they have made the Park a better place to visit. Roger suggested putting off the vote until the Town Meeting on Thursday. In the recent State of the Union Address, President Bush asked all Americans to commit at least two years or 4,000 hours over the rest of your lifetime to service of your neighbors or nation.

3. Paul Levits, 125 West Street, Wind Gap. Paul stated that his first issue is since the minutes were modified to include his name he wanted to make sure that these minutes include that it is his right through the Constitution that if he has a grievance this is the forum to address it and if Council doesn't want to answer him, then Council doesn't want to answer and they have to go by their own conscience. Council should address the grievances of the people when they have legitimate questions.

His second topic is Borough Ordinance 374 Landlord Status. He received his form that states that the purpose of this Ordinance is to provide for uniform and equal distribution of Borough tax levies on our residents. Paul has commercial rental property in the Borough. Mr. Male clarified that the letter was misleading because the original letter was intended to go to known landlords. Since then all the properties in the Borough have been put in the computer. In order to complete the property database, the Borough needs to have clarification on some of the properties because owners have two two tax id numbers, but there is no indication if this property is vacant or house that might be rented out, so Mr. Male asked for everyone's cooperation in completing these forms. Once the database is complete, this letter will not have to be sent out annually to everyone.

His third issue was in regard to the five minute rule. The Constitution clearly states you cannot abridge the freedom of speech or of the press... part of the First Amendment. Dictionary definition, abridge means to reduce or lessen in duration or scope. He asked Council to review this issue.

4. Kay Stampone asked Council to consider having public comment at the beginning of the meeting and then once things are discussed during the meeting the public would have the opportunity to make further comments. She suggested that if time is so pressed to limit public comment then maybe Council should consider starting a half-hour earlier.

5. George Hinton, 630 Washington Street, Wind Gap. George asked about the streets. He stated that Liberty has no curbs done, but the street is in shambles. Woodward from 512 to Liberty is in need of repair, Maple needs repaired and the curbs are done. Curbs are all in on Washington Street and Third Street. He urged Council to get the streets out to bid. Do not hold up the streets in the Borough just

because some houses have not completed their curb repairs. This is the sixth year that streets have not been done, please get them out to bid this year.

New Business

1. Street Committee. Mr. Male re-iterated that he felt having a committee is getting too close to violating the Sunshine Act and he has since reduced the Street Committee from three members to two members - Richard Getz and Kerry Gassler. Mitch asked for a reason for his removal from the street committee. He referenced his correspondence to Mr. Male, copying all of Council. His letter stated the he and Winton had a meeting on Wednesday, February 13. His letter stated that Mr. Male had discussed with Kerry and Dick how fantastic it would be with me off streets with my arrogant attitude and inability to deal with people. He said complaints were received last summer about the Borough streets, but the messages were never forwarded to him, because of their friendship. Mitch added that if you want a friend in politics, buy a dog. Kerry stated that the only discussion with Winton was the reduction of the street committee and asked if he would be willing to give up one of his committees. Richard wanted to re-iterated that Winton and he never had a conversation like that and Mitch should have at least come back and asked if there was any truth to the comments. Mr. Male stated that he never said anything like that and the reason for taking Mitch off streets was in the best interest of the Borough and we could get a lot more done and there are other things that Mitch could be doing.

Mitch read from a "Guide to Borough Council Meetings" which states the president is supposed to maintain a neutral and impartial attitude throughout the proceedings. When a matter is under discussion, the president tries to recognize and give the floor to persons of opposing views. The president does not enter into discussion except in very rare instances and then must leave the chair and hand over the gavel to the vice-president, or to another member of council if the vice-president is absent. Only then may the president state an opinion on the merits of the question under discussion. Moreover, the president does not immediately resume the chair after giving an opinion. The president must wait to do so until the matter under consideration has been disposed of. The president should limit the occasions when he leaves the chair to take part in discussion on matters that are considered to be of great or unusual importance.

2. Part-time Street Worker. John Case resigned as the part-time Street Worker effective immediately. **On motion** by Lewis Paulhamus to advertise for a part-time worker in both papers and regretfully accept his resignation and seconded by Mitchell D. Mogilski, Sr. Street committee to give verbage to Borough Secretary for the ad. Roll call vote taken. Motion carried unanimously.

The budget for 2002 included the part-time worker to work April 15 - November 9 at \$10.25/ hour 32 hours a week. The hourly rate will not be included in the ad. **On motion** by Richard Getz to offer \$7.00 - \$9.00 an hour potentially to a part-time employee and seconded by Charles Sutter.

Roll call vote taken. In favor: K. Gassler, R. Getz, W. Male, M. Mogilski, C. Sutter. Opposed: L. Paulhamus. Motion carried with a vote of 5-1. Mr. Male appointed Kerry, Richard and himself to conduct the interviews.

3. **On motion** by Lewis Paulhamus to accept the application of Christopher Bruch and appoint him to the Park Board and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, R. Getz, L. Paulhamus. Opposed: W. Male, M. Mogilski, C. Sutter. Mayor George voted to break the tie with a vote in favor. Motion carried with a vote of 4-3.

Mitch asked to make a motion on the Part-time Street Worker interviews. **On motion** by Mitchell D. Mogilski, Sr. that all interviews be conducted by Kerry Gassler and Richard Getz and if they choose an alternate that it be William Pysher and seconded by Lewis Paulhamus. Mr. Male stated that he already appointed a committee. Mitch stated that he is asking Council to override Mr. Male's appointment. Roll call vote taken. In favor: K. Gassler, W. Male, M. Mogilski, L. Paulhamus, C. Sutter. Opposed: R. Getz. Motion carried with a vote of 5-1.

Old Business

1. Oaten Garage Rental. Mr. Male informed Jon Faust that the Borough requires a commercial insurance policy, it is not appropriate to have a homeowner's extension or he cannot be endorsed on Harry Oaten's policy because he is a renter from the Borough. Jon asked what exactly the coverages should be to rent. Mr. Male replied that General Liability insurance must be comprehensive to include fire, legal, liability and Mr. Oaten is providing \$1M per accident and \$3M per occurrence. The Borough needs to be named as an additional insured on the policy.

2. Curb and Sidewalk Draft Ordinance. Kerry and Richard compiled the draft ordinance. Richard explained that the ordinance was drafted from a combination of Tobyhanna, Pen Argyl, Wind Gap, Hanover Township, and Fountain Hill. The idea is make a comprehensive ordinance and the street committee is asking Council to review and act upon it. Richard stated that a few items need corrected regarding the typing of the document. Mitch questioned the need to call in the Borough Engineer and who would bear the cost. Kerry explained that most of the other municipalities' ordinances had the Borough Engineer involved with the replacement and installment of the curbs and sidewalks. Mitch questioned whether all the documents from the American Society for Testing and Materials and PennDOT forms would be available at the Borough Office. Richard replied that most contractor are aware of the standards. Mitch asked about the backfilling after at least 72 hours, what would be approved materials. Richard said it depends on what is adjacent to the curb, topsoil if the lawn has to be replaced. Mitch expressed concern that this has to be addressed further. Richard suggested and Kerry agreed that Council may want to add that Borough Council may waive the permit fee, whenever, reconstruction is required for the purpose of improving or repaving an existing street. Discussion regarding a paragraph that states, "when

Borough Council approves a street improvement, construction or reconstruction which includes the replacement of deteriorated curb and sidewalk, the following standards shall be used by the Borough Engineer for determination of requirements to replace existing curb and sidewalk. It may be misleading because it gives the impression that the following would only apply when the streets are being paved. Copy of draft ordinance to be sent to Ron Madison and Len Zito for review.

3. Draft Amendment to Waste Management Contract need approval for signatures. The contract remains the same, but the Borough is recognizing that the residents will be receiving the service at no charge. This free service will remain in effect as long as Waste Management receives at least 1200 tons of refuse a day at the landfill.

On motion by Mitchell D. Mogilski, Sr. to sign the amendment to the refuse contract and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

4. Charles questioned the date of the town meeting. The town meeting is set for Thursday, February 21, 2002 at 7:00 p.m. at the Wind Gap Fire Hall.

5. Ordinance 427 Zoning Fee Schedule. Kerry questioned the renovations of existing construction listed under commercial because the fee is \$40 plus \$5 per \$1,000 per cost. If the renovations are residential the permit fee is to be \$40. Kerry expressed his disagreement with charging a commercial rate to someone who purchases a house to renovate and then resell because it really is not a commercial property. He disagreed with miscellaneous permit fees that pertain to excavation, filling or grading permit being \$25 plus engineer's review fees, if applicable. He stated that the Borough is penalizing a resident who may have a large piece of land to install a fence based on a minimum of \$20 plus \$.05 per lineal feet. Kerry stated that the Borough should encourage people to fix their property up and not charge them an arm and a leg. They get a permit to notify the Borough for the purpose of taxes so don't kill them with permit fees. He understands the need for permits, but the fees should be minimal. The Borough has an ordinance on the books having to do with the inspection of the Mobile Home Park, but it has not been done. Mr. Male explained that the permit fee schedule was compiled and recommended by the Land Use Committee which includes the Borough Engineer, the Borough Solicitor, the Planning Solicitor, the Zoning Solicitor, plus committee members.

On motion by Lewis Paulhamus to have the Land Use Committee review the fees and lower them and seconded by Kerry Gassler. Lewis revised his motion to be, have Kerry, Mitch and Lewis review the ordinance, make any necessary changes and then make their recommendation to Council. Roll call vote taken. In favor: K. Gassler, R. Getz, M. Mogilski, L. Paulhamus, C. Sutter. Opposed: W. Male. Motion carried with a vote of 5-1.

6. Enactment of Ordinance 429 - Park Board Reduction. Mitch stated that when Council appointed Chris Bruch to the Park Board it defeated this ordinance. Kerry asked permission to table this issue until after the meeting. Mr. Male stated that it was advertised to be acted upon at this meeting.

On motion by Kerry Gassler to drop Ordinance 429 and it stays with a seven member board with the Park and seconded by Lewis Paulhamus. Roll call vote taken. In favor: K. Gassler, M. Mogilski, L. Paulhamus. Opposed: R. Getz, W. Male, C. Sutter. Mayor George voted to break the tie with a vote in favor. Motion carried with a vote of 4-3.

On motion by Kerry Gassler to reappoint Rick Keenhold back onto the Park Board for another term which he asked for back in November to make the full seven members, providing that the prior appointment of November 5, was illegal and seconded by Lewis Paulhamus. Roll call vote taken. In favor: K. Gassler, L. Paulhamus. Opposed: R. Getz, M. Mogilski, W. Male, C. Sutter. Motion defeated with a vote of 2-4.

7. Mr. Male wanted to update Council regarding the Archive Software. Council had previously approved the purchase of the software and it has been determined that it does not have to be put out to bid because General Code has a state contract. Mr. Male is putting the purchase of the software on hold because more technical information is needed.

Mr. Male called for an Executive Session to hold discussion on the Police Contract. Mitch requested that Council take a vote because it was not an agenda item.

On motion by Mitchell D. Mogilski, Sr. to adjourn to an Executive Session and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, R. Getz, M. Mogilski, W. Male, L. Paulhamus. Council adjourned to Executive Session to discuss the Police Contract at 8:56 p.m. and reconvened at 9:35 p.m.

There being no further business, the following motion was made to adjourn: **on motion** by Charles Sutter and seconded by Kerry Gassler to adjourn the meeting of February 19, 2002 at 9:36 p.m., motion carried.

Louise M. Firestone, Secretary / Treasurer