

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 Monday, January 7, 2002, was called to order at 7:30 p.m. by Mayor Kenneth George, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Charles Sutter, Lewis Paulhamus, Winton Male, Jr., Mitchell D. Mogilski, Sr. William Pysher, Richard Getz and Kerry Gassler. Also in attendance were Borough Solicitor Leonard Zito and Secretary/Treasurer Louise Firestone.

Administering the Oath of Office to Councilmen - At this time Mayor George administered the Oath of Office to Councilmen: Richard W. Getz, William Pysher, Mitchell D. Mogilski, Sr., Winton S. Male, Jr. and Charles F. Sutter, Jr.

Mayor George then proceeded with the order of business by seeking nominations for Council President. Council made the following: nomination by Richard Getz for Winton Male, Jr. for Council President. Show of hands was unanimous for Winton Male.

The next item of business was Mayor George seeking nominations for Council Vice President. Council made the following: Nomination by Lewis Paulhamus for Mitchell D. Mogilski, Sr. for Council Vice President. Show of hands in favor: K. Gassler, M. Mogilski, L. Paulhamus, Charles Sutter.

Mayor George turned the meeting over to Council President Winton Male.

Approval of Minutes –

1. **On motion** by Mitchell D. Mogilski, Sr. to approve the minutes of December 18, 2001 and seconded by Winton Male. Kerry questioned page 3, his motion for a letter to be sent to J. H.

Beers to give them permission to go in and brush hog the stream in the Park. Kerry stated that J. H. Beers wants Council to give them approval in writing. Mr. Male was concerned about the content of the letter and that Council should have something from the Army Corp of Engineer in writing other than an e-mail message from Amanda Muscavage, Environmental Engineer, USACE, Philadelphia District. The Mayor asked Mr. Zito for his advice. Mr. Zito reiterated that the question is if this activity violates any environmental laws which may pertain to streams or stream bed regulations enforced by both the Army Corp of Engineers and the Department of Environmental Resources. Kerry explained that since J.H. Beers did the Lehigh Avenue Culvert Project there is a stormwater erosion and sedimentation control plan in effect. If the water is muddied it will be clean by the time it leaves. Kerry asked Jeff Buzzard to let it into effective until the spring. Mr. Zito stated that he did not see any of this documentation, but he wants Borough Council to know that if there is a provision that the contractor has to comply and obtain all permits that are required by any State or Federal Agency and it fails to do so then the contractor is liable. There is no liability upon the Borough for the contractor violating those ordinances nor could there be any liability for the Borough to send out a letter to the contractor and specifically advise the contractor that it is authorized to proceed provided that the contractor complies with all the rules and regulations that pertains. The Borough is not immune from an action by the DEP or the Army Corp of Engineers for violating environmental laws. It could be held liable for clean up. Mr. Zito stated that the letter should clearly state that the letter is not a waiver, or is not to suggest that the Borough is condoning a violation of any laws or not getting the permits to do the work. Kerry stated that J.H. Beers concern was that the Park Board is initiating the clean up, but the Borough is the owner of the property and they wanted a letter stating that the Borough is aware this is being done. Copy of e-mail letter to be attached.

Roll call vote taken. In favor: K. Gassler, W. Male, M. Mogilski, L. Paulhamus, C. Sutter. Abstained: R. Getz, W. Pysher. Motion carried with a vote of 5-0-2.

2. **On motion** by Kerry Gassler to approve the minutes of December 27, 2001 and seconded by Lewis Paulhamus. Mitch pointed out on page 2, #3 Lewis Paulhamus' name was missing from the roll call. Correction to be made. Roll call vote taken. In favor: K. Gassler, W. Male, M. Mogilski, L. Paulhamus, C. Sutter. Abstained: R. Getz, W. Pysher. Motion carried with a vote of 5-0-2.

Re-Appointments for 2002

1. **On motion** by Charles Sutter to re-appoint Chief Armitage, Sergeant Pepe, Full-time Officers Troy Daily and Brian Redmond, Part-time Officers, Mark Herman, Steven Stout and Anthony Mondello and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

2. **On motion** by Charles Sutter to re-appoint Street Leader John Zucal and Part-time Worker John Case and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

3. **On motion** by Lewis Paulhamus to re-appoint Secretary/Treasurer Louise Firestone and seconded by

Kerry Gassler. Roll call vote taken. Motion carried unanimously.

4. **On motion** by Charles Sutter to re-appoint Assistant Borough Secretary Millie Del Negro and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.
 5. **On motion** by Charles Sutter to re-appoint Zoning Officer John Blick and seconded by Winton Male. Roll call vote taken. Motion carried unanimously.
 6. **On motion** by Lewis Paulhamus to re-appoint Planning Commission: Charles Sutter, William Sisolak, Sarah Branham and Joan Valley. Roll call vote taken. Motion carried unanimously. **On motion** by Charles Sutter to appoint John Hannon and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.
 7. **On motion** by Charles Sutter to re-appoint Zoning Hearing Board: Mark Sharp, Tony Curcio, Andrew Biondo and John Snuggs as alternate and seconded by Richard Getz.
 8. Park Board appointments tabled.
 9. **On motion** by Charles Sutter to re-appoint John Zucal, Marlyn & Evelyn Werner, Merrell & Marlene Simons to the Recreation Board and seconded by Richard Getz. Roll call vote taken. Motion carried unanimously.
 10. **On motion** by Lewis Paulhamus to re-appoint Chief Administration Officers of Police Pension Plan: Mayor Kenneth George, Council President Winton Male, Secretary/Treasurer Louise Firestone and seconded by William Pysher. Roll call vote taken. Motion carried unanimously.
 11. **On motion** by Charles Sutter to re-appoint Neil Stackhouse as Emergency Management Coordinator and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.
 12. **On motion** by Charles Sutter to re-appoint Brown & Brown as Borough Insurance Broker and Police Liability Insurance Carrier and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.
13. **On motion** by Charles Sutter to re-appoint Auditor France, Anderson, Basile and Company and seconded by Winton Male. Roll call vote taken. Motion carried unanimously.
14. **On motion** by Lewis Paulhamus to re-appoint Vacancy Board Chairman John Hannon and seconded by Charles Sutter. Question as to Mr. Hannon serving on Planning Commission and also as Vacancy Board Chairman. Lewis withdrew his motion. **On motion** by Mitchell D. Mogilski, Sr. to re-appoint John Hannon as long as there is no conflict in the Borough Code and seconded by Charles Sutter. Roll call vote taken. Motion carried unanimously.
15. **On motion** by Lewis Paulhamus to re-appoint the Civil Service Commission: David Saveri, Cathie Yob and Charles Sutter and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.
16. **On motion** by Charles Sutter to re-appoint Borough Secretary and Assistant Borough Secretary as Parliamentarian and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

17. **On motion** by Charles Sutter to reappoint Zito, Martino and Karasek as Borough Solicitor and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

18. **On motion** by Charles Sutter to reappoint Cassebaum, McFall and Layman as Borough Planning Solicitor and seconded by William Pysher. Roll call vote taken. Motion carried unanimously.

19. **On motion** by Lewis Paulhamus to reappoint to John Molnar, The Molnar Law Office as Borough Zoning Solicitor and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

20. **On motion** by Lewis Paulhamus to appoint Schoor DePalma as Borough Engineer and seconded by Kerry Gassler. Kerry stated that they have an office in Pennsylvania with one coming to the Lehigh Valley, they waived printing and fax expenses, all stormwater projects would be under a lump sum fee (scope of project), they have a yearly contract and it can be renewed annually. Kerry stated that the rate is \$3.00/hour cheaper than Hanover's rate. He added that the Borough is not in the middle of any projects. Mr. Male replied that Hanover Engineering knows the Borough and that Schoor DePalma has come in with a low ball figure to get the business from the Borough.

Bill Pysher expressed his concern that he does not have enough information to make a decision tonight and recommended that they both firms make a presentation at next week's workshop meeting. Lewis withdrew his motion. **On motion** by Kerry Gassler to have a presentation by both Hanover Engineering and Schoor DePalma at the next meeting and then a decision can be made and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

On motion by Mitchell D. Mogilski, Sr. to have Hanover Engineering continue for the next week with anything that may come up and seconded by Charles Sutter. Roll call vote taken. In favor: R. Getz, W. Male, M. Mogilski, W. Pysher, C. Sutter. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 5-2.

21. **On motion** by Kerry to approve the Fire Company as follows: Tom Wills, President, Randy George, Chief, Jeff Thomas, First Assistant, Second Assistant, Shawn Shoemaker. Roll call vote taken. Motion carried unanimously.

22. Sewage Enforcement Officer tabled until the workshop meeting.

23. Municipal Authority appointments tabled.

24. **On motion** by Charles Sutter to have Council meetings and Committee meetings to begin all meetings at 7:30 p.m. and seconded by William Pysher. Roll call vote taken. Motion carried unanimously.

Kerry asked what the problem is re-appointing the Municipal Authority and the Park Board because the past three years Borough Council has approved all boards in November and

December. Mr. Zito stated that he was asked to render an opinion on accelerated appointments. Mr. Zito referenced his memo to Council which read that the law states that no vacancy occurs until the term expires and Council may not accelerate that term or pre-vote to approve someone who is currently in that office until the vacancy does occur. There is a distinction between the appointments of the solicitors and engineers and municipally created boards and this specific vacancy question pertained to the Municipal Authority vacancy. Members of an appointed board serve until their successors are appointed by the governing body so even though the vacancy has expired for any member, they continue to serve as a member until the governing board either re-appoints that person or some other applicant is appointed.

25. **On motion** by Mitchell D. Mogilski, Sr. to re-appoint Charles Sutter as President Pro-Tem and seconded by Richard Getz. Roll call vote taken. Motion carried unanimously.

New Business

1. **On motion** by Kerry Gassler to advertise Zoning meetings on the first Wednesday of the month, Planning on the first Thursday of the month, Park on the second Tuesday of the month and seconded by Charles Sutter. Roll call vote taken. Motion carried unanimously.

1. **On motion** by Kerry Gassler to approve President, Vice President and Secretary / Treasurer sign the 2002 Bank Signature Cards and seconded by Charles Sutter. Roll call vote taken. Motion carried unanimously.

Old Business

1. Zoning Fee Schedule - Ordinance 427. Ordinance to be reviewed by new members of Council. Advertising approval of Zoning Fee Schedule tabled until January 15, 2002 meeting.

2. Waste Tire Grant Agreement. Mr. Male asked Council to approve the Tire Grant Agreement since it has been reviewed by Mr. Zito. **On motion** by Mitchell D. Mogilski, Sr. to sign the grant agreement in the amount of \$400,000 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

3. Wind Gap Police Association Contract. Mayor George stated that a letter was received from the Wind Gap Police Association. They are granting the Borough an extension of three months, but they are requesting negotiation sessions begin the week of January 13, 2002 and these sessions be held weekly until March 31, 2002. Mr. Male recommended that Mr. Zito be brought up to speed with what has transpired to date.

4. Charles Sutter asked about the Grand Central Sanitation Agreement and the offer of "free service" in 2002. Mr. Zito stated that in order for Borough Council to act on the letter that was sent by Waste Management there should be a resolution which not only accepts the conditions of the letter, but also

would serve as a modification of the existing Waste Management contract. An appropriate written document needs to amend the contract and that Grand Central will pay all the cost involved with the preparation of the resolution amendment.

On motion by Charles Sutter to authorize Mr. Zito to proceed with the amendment to the existing garbage contract with the terms and conditions that are stated in the December 28, 2001 letter from Waste Management and seconded by Mitchell D. Mogilski, Sr.

Lewis stated that the Wind Gap Municipal Authority sent a letter to the Borough asking that the Borough negotiate for free sludge and screening collections for the users of the Wind Gap Municipal Authority at that same time. Discussion regarding the fact that Waste Management made the offer to the Borough. The reason for the offer was that Waste Management had an application to submit and they had to put in the application what benefit they provide to Wind Gap and that is where the idea came from for free service.

Rick Keenhold stated that as a business owner, this free service should include apartment buildings even if they currently have commercial pickup. Some small businesses currently have collection and they would benefit from the free service, but some apartments under the current contract who have four units or more have to provide private collection and they would not benefit from free collection. Rick suggested at least having Council ask the question about having pick up for all citizens. The service being provided is a garbage service to the residents whether they reside in a house or an apartment building.

Charles Sutter amended his motion to include authorizing Mr. Zito to prepare this amendment and getting enough information to define what the terms of the letter mean with respect to the designation of residential and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

5. **On motion** by Mitchell D. Mogilski, Sr. to order nameplates for William Pysher and Richard Getz and correct Lewis Paulhamus and Charles Sutter nameplates to include Jr. and seconded by Charles Sutter. Roll call vote taken. Motion carried unanimously.

6. **On motion** by Mitchell D. Mogilski, Sr. to send thank you letters to Jeff Yob and Todd Beil and any other expired board members and seconded by Charles Sutter. Roll call vote taken. Motion carried unanimously. Kerry will take old nameplates to Jeff and Todd.

Committee Appointments

1. Finance - Winton Male and Louise Firestone
2. Police - William Pysher
3. Streets - Mr. Male explained that the Streets will consist of a committee. The committee members are: Kerry Gassler, Richard Getz, Mitchell D. Mogilski, Sr. Mr. Male to participate in the discussion, but will not be able to vote on any recommendations made by the Committee to

Council.

4. Buildings / Grounds - Charles Sutter declined the offer. Mr. Male to review and appoint at next meeting.
 5. Parks / Recreation - Lewis Paulhamus will remain as liaison. Park Committee for long term planning will include: Bill Pysher, Richard Getz, Victor Zucal.
 6. Fire Company: Kerry Gassler
 7. Zoning / Planning: Richard Getz
 8. Refuse / Recycling: Charles Sutter
 9. Sewer Authority: Kerry Gassler
 10. Insurance: Winton Male
 11. EMS: Kerry Gassler
 12. Land Use Committee: Bill Pysher, Richard Getz, Winton Male
13. Joint Comprehensive Plan Committee: Bill Pysher, Winton Male

Rick Keenhold, WGMA reported that the WGMA would appreciate any information regarding an update on Walden III and their plans.

Rick representing the Park Board asked about the appointments for the Park Board Committee. Mr. Male explained that the Committee will be involved with long-term planning and make recommendations to Council.

On motion by Mitchell D. Mogilski, Sr. to have any park expenses be approved by Council before anything is done. Discussion whether once a budget is set does the Park Board or any department/board have the authority to spend specific line items. Bill Pysher asked Mr. Zito if there is set dollar amounts without getting approval from Council. Mr. Zito replied that it can, but this question takes into consideration ordinances that have previously been passed by Council. Mr. Zito stated that he has reviewed this issue and replied approximately 2 years ago to Council. Mayor stated that he did not believe that this was done by ordinance or resolution. Mr. Zito suggested reviewing the ordinances to see how Council relates the Park Board. Mitch to look through the ordinances. Bill suggested a reasonable amount in the case of emergency.

Public Comment

1. Mike Gassler, 220 Constitution Avenue, Wind Gap. Mr. Gassler congratulated Richard Getz and Bill Pysher and the re-elected Councilman. Mr. Gassler questioned why the Borough had to raise taxes by 1 mill when money is sitting in an account just collecting interest. The Mayor stated that money is in the account because no streets have been done in five years. Mr. Male replied that the amount of money in the savings accounts would not be sufficient to cover any emergency. He said that it would not be wise to have to borrow money from the bank and then have to pay interest to the bank with taxpayer's money. Mr. Gassler asked Council to repeal the 1 mill increase. He also suggested publishing the financials in the monthly newsletter.

2. Bob Matlock, 346 Alpha Avenue, Wind Gap. Mr. Matlock stated that in front of his house is a fire hydrant. The curb on either side of the hydrant has typically been painted yellow by the Borough every year. The curb has not been painted since 2000 and the paint was peeling off. Mr. Matlock removed the old paint and only re-painted the curb yellow where it had previously been defined by the Borough. There was some dispute about how far the curb should be painted from a fire hydrant. Mr. Matlock complained that there is no consistency for many issues within the Borough as related to curbing, sidewalks, etc. Mr. Matlock stated that he complied with all Zoning issues when he proceeded with his cutout driveway, but he does not understand why the vehicle code does not control the side streets in the Borough. He reminded Council that he has asked them to address prohibiting tractor and/or tractor trailers from a residential area. Chief Armitage explained that if a Borough has an ordinance and the State has a law or statute that parallels that ordinance the police have to go by the State because it will always oversee a Borough ordinance. The Chief stated that he can look in the State Code the distance in feet to be painted from a fire hydrant and an intersection. Council agreed that there should be a standard. Mr. Matlock insisted that he did nothing wrong by painting over what the Borough had always painted in the past. He concluded by saying that he would appreciate it if until the Borough decides on a constant, that no one from the Borough come up to his property and paint the yellow curb white.

On motion by Lewis Paulhamus to have President or Vice President come to Park Board meeting. Discussion to invite one or both Councilmen to the Park Board meeting tomorrow night.

There being no further business, the following motion was made to adjourn: on motion by Charles Sutter and seconded by Bill Pysher to adjourn the meeting of January 7, 2002 at 9:40 p.m., motion carried.

Louise M. Firestone, Secretary / Treasurer