

BOROUGH OF WIND GAP

29 MECHANIC STREET

WIND GAP, PA 18091

863-7288

FAX 863-1011

The Council meeting of the Borough of Wind Gap on Tuesday, January 15, 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: Charles Sutter, Lewis Paulhamus, Mitchell D. Mogilski, Sr., William Pysher, Richard Getz and Kerry Gassler. Also in attendance were Borough Solicitor Leonard Zito and Secretary/Treasurer Louise Firestone. Absent was Mayor Kenneth George.

Approval of Minutes –

On motion by Kerry Gassler to approve the minutes of January 7, 2002 and seconded by William Pysher. Roll call vote taken. Motion carried unanimously.

Old Business

1. Wind Gap Borough Park. The Park Board received three bids for the installation of the sewer line in the Park. Mr. Male questioned the bidding process because the one project was split into two separate contracts - one for the municipal authority to install the manhole and lateral line to the curb line and the other bid was for the Borough's service line to the existing restroom and kitchen grease trap. Kerry explained that the bids came in as two work orders and according to the Municipal Authority's new rules and regulations they will contract the work to the curb of the property. Once this is done the property owner will pay this invoice. The Borough would then be responsible for getting a contractor to do the work on Borough property. Mr. Male stated that the bids did not include materials. The Park Board would be using monies from their budget line items. Kerry added that the bids were put out to bid for strictly labor only. The Municipal Authority's new rules stipulate that when a manhole is replaced thirteen feet prior to the manhole has to be replaced with new pipe. The two bids totaled more than \$10,000.

Mayor George arrived at approximately 7:35 p.m.

Mr. Zito distributed copies of Ordinance 173 enacted in 1955. Mr. Zito referenced page 2, section 8 which states that "all contracts and agreements or purchases for the development of Wind Gap Park shall be subject to the limitations and regulations for contracts under the Borough Code and shall be approved by Borough Council". The Park or Recreation Board of the Borough serves at the will of Council and at the discretion of Borough Council. The Borough Code requires projects that exceed \$10,000 to be put out for public bid. Discussion regarding the project being one or two separate projects. Mr. Zito was asked for his interpretation of the bidding requirements. He made Council aware of the penalties against circumventing or permitting the Park Board to circumvent the bidding requirements. According to Borough Code Section 1403, prohibiting any member of Council from evading the competitive bidding requirements of Section 1402 or to engage in piecemeal transactions (segment a transaction in an effort to avoid the bidding requirements) it is a violation of the Borough Code and also the Pennsylvania Crimes Code. Section B 1403 willful evasion of the bidding requirements by a Council member who knows or ought to know. It places an obligation to scrutinize every expenditure of public funds. The penalty is a misdemeanor offense and would be the proper matter of a personal surcharge assessed on each individual Councilman who would vote to avoid the bidding requirements. Mr. Zito reviewed the bids received by the Park Board. Mr. Zito stated that Council should not put themselves in the position of apparently awarding bids to avoid the bidding requirements. Kerry explained that the Park Board felt that it would be wise to use the same contractor so that the project would be one continuous process. Mr. Zito stated that Council has to make the decision whether to look at these bids as one complete bid, which did comply with the bidding requirements for contracts over \$10,000, but Council would not be able to award these to two separate contractors because that would circumvent the bidding requirements. Council may approve the process by the Park Board, and determine whether the contract is fully integrated, meaning it contains all of the improvements for which public funds in excess of \$10,000 will be spent. Mr. Male asked Council to revisit this project prior to acting on the bids received. Anticipated Grant money cannot be spent from the new park restroom facility on this project. Mr. Zito added that Council should determine that all improvements are included in the bids and make it one complete transaction. He stated that if Council has any question, then they should error on the side of conservative with respect to this bidding issue.

On motion by Bill Pysher to put the whole project out to bid again 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.

On motion by Lewis Paulhamus to re-bid this project as soon as possible and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, R. Getz, L. Paulhamus. Opposed: W. Male, M. Mogilski, B. Pysher, C. Sutter. Motion defeated with a vote of 3-4.

2. Mr. Male made the recommendation to reduce the number of members on the Park Board from 7 to 5 because they have been unable to find a 7th member. He suggested it may be easier to work with five and that it would be more flexible to have five. Kerry stated that more heads you have the better off it is for the board.

On motion by Mitchell D. Mogilski, Sr. to reduce the number of members on the Park Board from 7 to 5 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.

On motion by Charles Sutter to authorize the Borough Solicitor to amend Ordinance 382 and seconded by Bill Pysher. 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.

Executive Session - Council adjourned to Executive Session to discuss the Wind Gap Police Association Agreement at 8:07 p.m. and reconvened at 8:29 p.m. Borough Solicitor Leonard Zito excused himself from the Council meeting at 8:30 p.m.

On motion by Mitchell D. Mogilski, Sr. to appoint to the Park Board, Cathie Yob, Nicole Weber, Victor Zucal, Lewis Paulhamus, and Roger Bet. Roll call vote taken. In favor: R. Getz, W. Male, M. Mogilski, L. Paulhamus, B. Pysher, C. Sutter. Opposed: K. Gassler. Motion carried with a vote of 6-1.

3. Schoor DePalma, from Clinton, New Jersey and Hanover Engineering, Associates, Bethlehem, Pennsylvania were both invited to this meeting to present the qualifications and capabilities of their respective firms in an attempt to be appointed the Borough Engineer. Mr. Male expressed his concern that Schoor DePalma has been invited to the Borough and seems to have low-balled the current Borough Engineer, Hanover Engineering Associates. Mr. Male contacted several municipalities from the reference list provided by Schoor DePalma in their qualification book distributed to Council at a previous meeting. Mr. Male inquired current rates paid by the municipalities of Phillipsburg, New Jersey and Borough of Alpha. Phillipsburg pays Schoor DePalma \$100/hour and Alpha pays \$108/hour. Schoor DePalma asked Council their wishes regarding making another presentation similar to the one presented on November 20, 2001.

On motion by Kerry Gassler to have Schoor DePalma make their presentation and Hanover do their presentation 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.

Russ Benner, head of the Municipal Services Department, re-introduced himself, Kirk Croasmun, Project Manager, in the Municipal Services Group and he introduced Karen Williamson, Parks and Landscape Director of Pennsylvania. They gave a power point presentation overviewing their capabilities. He stated that Schoor DePalma retains their professionals for long periods of time and that

adds continuity with their clients. Schoor DePalma has six office locations in New Jersey and one in Pennsylvania (Kulpsville), with plans to open their Chester County office in Exton in the middle of February and anticipating their Lehigh Valley office to open by the end of 2002. They currently are township engineer of record in four municipalities and two boroughs in Pennsylvania. Mr. Benner reiterated that Mr. Croasmun lives only about two miles out of Wind Gap and would be easily accessible to the Borough.

Kirk took over the presentation. He explained that Municipal Services is made up of four (4) subgroups - Municipal Services, Parks and Landscape Architecture, GIS, and Land Use Planning.

Kirk introduced Karen Williamson. She explained the experience of her group and the needs/projects related to the Borough Park from initial conception through implementation and construction. They have background in different funding programs such as: grant preparation, historical museum commission and even private foundations. If the application is small they have completed the application at no charge, but for the more detailed applications, a fee will be charged.

In response to Mr. Male's comments regarding Schoor DePalma's fees charged to other municipalities, Mr. Benner explained the rate structure is somewhat different in Pennsylvania compared to New Jersey. They would provide Wind Gap with a rate sheet up front and the level of service will be the same no matter what the rate. They will not arbitrarily raise their rates without previous notice to the borough.

Kerry asked if the borough would be charged per hour for the entire scope of work or by the project? Russ replied that they would get a scope of work for capital improvement projects and make Council aware of the cost prior to the start. A subdivision land development reviews will be charged for time and material. General engineering will be charged on an hourly rate because they are on a small basis. They will conduct their business based on the Borough's needs.

4. Jim Birdsall, President of Hanover Engineering, Associates and Ron Madison, current Borough Engineer were in attendance representing Hanover. Mr. Birdsall thanked Council for allowing Hanover to re-introduce themselves to Council. Mr. Birdsall distributed a listing of their services as a municipal engineering firm. Hanover is based in Bethlehem, Pennsylvania and their employees are trained in civil engineering. Hanover is a smaller firm, but they target to municipal clients. They have had the same management and style of management for 30 years. They have community representation in Pennsylvania in the Borough of Fountain Hill, East Allen Township, Allen Township, Moore Township. They have done work for the County primarily in the Parks Department. They have an office in Effort to serve that area. Mr. Birdsall expressed his gratitude for the work they have been allowed to perform in the Borough in the past. He touched upon their rate structure and explained that they have a very low overhead rate, because they do not have advertising expenses and they do not have a marketing department. He stated that at Hanover's current scale they are able to keep their overhead rate low and thus keep their rates low and still provide full service to their clients with trained, educated and experience individuals.

He asked Council to consider four things: the first, he believes that Hanover Engineering brings a continuity of service to the Borough because of their familiarity with the road system, sewer system and their conditions, the municipal contacts and the office staff. Second, they bring long-term experience in civil engineering. Third, they have local ownership and control and they have a reputation in the Lehigh Valley they wish to uphold. Finally, he stated that they have low and consistent rates and he would appreciate it if Council would check with other communities that Hanover represents to see what their rate structure is with them. Their rates are the same whether they are working on a municipal project or a developer reimbursable project.

Kerry asked that if a stormwater project is done this year by Hanover, would they be willing to provide a price and stick to it? Mr. Birdsall stated that some communities ask for a price proposal. As long as the scope of services is understood, the price will be honored, but they will ask that if there is a change of scope or additional work is requested then Council allow a change of scope of work during the project. Kerry expressed his concern with the amount of engineering done for the stormwater projects completed to date. He stated that he feels the percentage is way out of line for the projects. Ron Madison explained that Hanover has spent a great deal of time trying to get easements for the stormwater projects and other municipalities take care of this in-house. Bill asked about the fee schedule for meeting attendance. Ron stated that Hanover bills \$100/meeting no matter the duration of the meeting. Ron attends Planning Commission meetings along with the regular business meeting of Council. He stated that if he is asked to attend workshop meetings they charge the same flat rate of \$100.

Kerry asked when was the last land development plan in Wind Gap? Ron replied that there has not been much since last year. Kerry asked why no plans are coming forward in this community and that there may be a problem in this area. Ron stated that the Borough has a subdivision land development ordinance and a zoning ordinance and the Borough engineer is only asked to review the plans to point out what complies and what does not comply. Hanover does not make the ordinance and they do not apply them inconsistently. Mr. Male stated that it is not the engineers fault that land development is not happening in the Borough right now.

Bill Pysher suggested that the Council might consider using an engineering firm that has certain expertise for a special project in the Borough.

On motion by Kerry Gassler to appoint the firm of Schoor DePalma at the rate of \$64/hour and seconded by Lewis Paulhamus. Roll call vote taken. In favor: K. Gassler, L. Paulhamus. Opposed: R. Getz, W. Male, M. Mogilski, B. Pysher, C. Sutter. Motion defeated with a vote of 2-5.

Council was set to adjourn due to the 10:00 p.m. curfew. Discussion regarding holding public comment prior to adjournment was upheld.

Public Comment

1. Mike Gassler, 220 Constitution Avenue, Wind Gap. Mr. Gassler asked Council to repeal the 21%

tax increase. Mr. Gassler stated that the Borough has a \$350,000 fund. The Mayor repeated that the money has not been spent because no streets have been done for six years. Mr. Male added that the money is used for daily operating expenses until the tax revenue comes due in March/ April.

2. Chris Bruch informed Council that the tree problem on A Street is no longer a problem in regard to the houses, but should be a concern to the Borough since the tree has roots which are raising the road. He stated that the tree was cut back by the property owner and does not hang over to the adjacent property. Council to check this out.
3. Paul Levits stated that he thinks that Council has not served the taxpayers of the Borough. He feels that Council should feel responsible to hire the lowest qualified bidder. He believes that this Borough is not a friendly Borough to work with and that is the image projected to businessmen in the area.

4. Lewis Paulhamus stated that he is stepping down as Councilman at this time so he can ask Council to re-advertise for the park restroom sewer connection as soon as possible. Mr. Male stated that Council will address this issue shortly.

There being no further business, the following motion was made to adjourn: on motion by Charles Sutter and seconded by Mitchell D. Mogilski, Sr. to adjourn the meeting of January 15, 2002 at 10:12 p.m., motion carried.

Louise M. Firestone, Secretary / Treasurer