

**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, July 1, 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, William Pysher, Richard Getz and Kerry Gassler. Also in attendance were Mayor Kenneth George, Alyssa Lopiano-Reilly from Solicitor Zito's Office, Borough Engineer Ronald Madison and Borough Secretary Louise Firestone. Councilman Mitchell D. Mogilski, Sr. was absent.

### **Approval of Minutes -**

**On motion** by Richard Getz to approve the minutes of June 18, 2002 and seconded by Winton Male. Typo to be corrected on page 7. Kerry stated that the minutes referenced the Borough ordered a new car, when did Council approve this? Bill responded that it was discussed and was in the budget. Kerry said that Council did not discuss buying a new car. Bill stated that Council did earlier in the year. It is a contract price from the state and you do not negotiate. Kerry stated that he did not remember a motion to purchase the car, but does remember Council putting money aside to purchase a new car. Kerry asked that this be discussed at the workshop meeting.

Roll call vote taken. In favor: K. Gassler, R. Getz, J. Hannon, W. Male, L. Paulhamus. Abstained: B. Pysher (not in attendance for June 18, 2002 meeting). Motion carried with vote of 5-0-1.

### **Approval of Expenditures -**

**On motion** by Bill Pysher to approve the expenses for the month of June in the amount of \$30,826.91 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously. Kerry asked that the budget include a separate line item for the East West Street Stormwater project engineering.

### **Public Comment -**

1. Nicole Weber, representative from Wind Gap Park Board. Nicole announced that the Park Board meeting for Tuesday, July 9 has been cancelled. She asked Council to set a date for the park committee and Council committee to meet to discuss the new Park restroom facility.
2. Tom Knitter, 34 South Lehigh Avenue, Wind Gap. Tom asked if Council could check on reducing the number of siren tones used in the Borough to signal a fire from the Firehouse. He explained that the volunteer firemen all carry pagers or radios and the siren tones ring unnecessarily 12 or 14 times. He suggested reducing the number to 4 or 5.
3. Leroy Albanese. Leroy asked Council if they had made a decision on his request in May to merge two properties on West Seventh Street? Winton replied that it is Council's intend to discuss this topic with the attorney tonight. Winton asked why this is being done now and not prior to the construction of the garage?

Leroy explained that the original request came from the County because it would be easier to list as one lot. The County suggested that as a courtesy, Leroy contact the Borough. He first contacted the Zoning Officer who did not seem to have a problem with this request. Leroy stated that the property is deeded together, but is taxed separately. John Blick added that it is common for the County to reduce two tax ID parcels down to one whenever possible. Ms. Lopiano-Reilly stated that it is the same taxable property. She suggested that Council could send a letter and indicate that Council is taking no position on this issue. Leroy suggested calling the tax assessor's office and speaking to Pauline Taylor.

Leroy stated that last month Council had choices regarding ordaining or deeding West Seventh Street. Attorney Zito informed Council that they could accept it as it is ordained or ask the property owners to send Council a letter requesting it again. Winton replied that a decision has not been made and at this point there does not appear to be any interest on the Council as a whole to do it. Kerry stated that if Council is looking for economic development, behind the Candle Factory would be a good location because it is I-C commercial and he is in favor of deeding West Seventh. Leroy stated that he is not asking for Council to build the road, but Council is holding up anything from happening on West Seventh Street by not deeding the road. Winton stated that the sewer line is a private line and the Municipal Authority will not accept it. Ron Madison stated that generally the roads are constructed and developed by private property owners for their own benefit. Ron said that he did not know what benefit it is to the Borough to ordain the street. The Borough may be taking on some sort of liability by owning a street that isn't built to Borough standards. Council may wish to see a right-of-way straightened or see a plan with a cost estimate on how to build it to Borough standards. Ron stated that he would expect the developer to build the street. The old paper street known as Diamond Avenue according to how the ordinance described it had two 90 degree bends in it. Leroy stated that he offered ten feet to straighten out one of the bends. Discussion regarding if the street was properly ordained and recorded. Kerry stated that the opinion was given verbally by John Molnar at a planning meeting. Ron suggested asking John Molnar to either attend a meeting of Council or outline in a letter what he found during his research on this street.

4. Abby Stampone, 47 West Third Street, Wind Gap. Abby explained to Council that she has a project to complete this summer for college that concerns children's literature. She checked at all the libraries in the area and stated that she cannot be a member of any of them because she does not live in their community. She said that the Blue Mountain Library does not have a big enough selection. If they were to receive state funding, books could be transferred to Blue Mountain Library. She stated that the Blue Mountain Library serves Wind Gap, Pen Argyl, and Plainfield and they do not pay anyone. She asked if Council could put a \$100 or \$200 in a line item to donate to the library so that they could get some state grant to get more books. She explained that Plainfield, Pen Argyl and Wind Gap must support the library before state grant money would be available. Winton stated that the Borough already donates \$1,500 a year to the library. Mayor George answered that a line item in the budget already exists. John suggested sending a copy of the budget to the library as proof that a donation is made. Kay Stampone asked if this is done every year and not just this year? Council replied that it is every year. She stated that if it a line item then they must not know it is a line item in the Borough's budget. Bill suggested following up with Representative Dally's office to find out what is required to get state funding for the libraries. Secretary to contact the library.

5. Todd Beil, 402 North Broadway, Wind Gap. Todd asked Council if they were aware that Waste Management was holding their last meeting for expansion over the holiday weekend. He was corrected by someone that the meeting is actually scheduled for Monday, July 8, 2002. Todd stated that while on Council he was the only one to speak out against the expansion and wanted Council to express their support or opposition. Winton answered that this is not a polling place. Mayor George stated that Council sent a letter to DEP in support of Plainfield and Pen Argyl for the health study to be completed in the area of the landfill. It

was sent out under the Mayor's name, but was done at the direction of Council.

Todd made an issue of Council not being able to make motions at the workshop meetings. If an emergency arises they can have a special meeting with 24 hour notice to get done what they want. Winton explained that it is rare that Council has special meetings and if one is necessary, they are usually announced at a public meeting.

6. Paul Levits, 125 West Street, Wind Gap. Paul stated that he finds it with a fair amount of disrespect on Mr. Male's part to put the burden of West Seventh Street on the Municipal Authority. It is two different issues and it would be a plan submitted by the developer. The Authority has a standard operating procedure and Council cannot speak for the Authority.

Paul said that as a taxpayer he asked if the meeting is not the forum for polling Council, what is? He has tried to respect the privacy of Councilmen, but how does the public get in contact with them? Councilmen replied that they can be contacted at home. Paul suggested that maybe Council should consider publishing their numbers in the newsletter.

Paul brought up the town wide yard sale scheduled for Labor Day weekend. He stated that this topic should be back in Old Business and it is not on tonight's agenda. He told Council to let the people know what the terms and conditions are to be for this sale soon.

7. John Snuggs. John stated that as a resident he was proud to be at the carnival and see the town come together. He added that the police coverage was great. He asked about the agenda item of a refund because of no electricity and asked what pavilion this is concerning? Winton said that both small pavilions had been rented on the same day and because of the amount of appliances plugged into the outlets they blew the breaker.

John added to the Waste Management discussion by saying that he had already brought it to Council's attention that a letter exists from 1998 directing the garbage trucks to use Route 191 and not go through Wind Gap.

### **Solicitor's Report**

Alyssa stated that all legal matters have been the subject of Len's correspondence to Council and the Mayor.

### **Engineer's Report**

1. Bog Turtle Study update. Ron gave the final Bog Turtle Study to the Borough Secretary which includes color photos for the Borough file. He sent the final report to the Wilkes-Barre DEP, Pennsylvania Fish and Boat Commission, and Pennsylvania Fish and Wildlife Commission. He has a meeting scheduled for Tuesday, July 9 at 10:00 a.m. in Wilkes-Barre and invited any interested Councilmen to attend. Ron received a telephone confirmation from Pennsylvania American Water Company that they would be sending the signed easement agreement to the Borough office. He asked that a copy be sent to Len and to himself before Council endorses it so any changes PA Water may have made can be reviewed.

2. Mechanic and Water Street. Council has two options on spending the remaining \$22,582.38 for stormwater projects from the Community Development Block Grants. This money needs to be spent by April 2003. Ron again explained that the money can only be spent in the blocks where the income levels qualified for these grants. He asked Council to make a decision soon. The project for the intersection of Mechanic and Water would include three (3) new inlets. This project would not require any easements from private property owners and appears to fit within the remaining balance of the grant. The estimated construction cost would be

\$20,300. Kerry asked where the money for the engineering costs of approximately \$5,000 would be taken from since it is not budgeted? Ron replied that this money cannot come out of the CDBG, but could come out of the Landfill Fund if this is approved by Michele Sparich, the Northampton County Grants Administrator. Michele would have to approve a new scope of work for this project. Winton to contact Michele.

**On motion** by Bill Pysher to move forward with the stormwater project at Mechanic and Water Streets to eliminate runoff and seconded by Richard Getz. Roll call vote taken. Motion carried unanimously. Ron to provide Council with a draft schedule by next month.

## **New Business**

1. Park Refund. The Bettini family did not feel they should have to pay the rental fee because their reunion was spoiled due to the breaker that blew. Winton stated he feels it would be appropriate to refund the \$25.00 fee to the family.

**On motion** by Kerry Gassler to refund the money and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

John Hannon asked Roger Bet, Wind Gap Park Board, if he had any objections to refunding the money to the family. Roger replied that if they couldn't use the pavilion, why pay? Roger informed Council that the outlets in the large pavilion had been a problem, but have been corrected.

2. Gassler Land Development plan. Councilman Kerry Gassler submitted a plan to the Planning Commission for review. Kerry is asking Council to allow the alternate Borough engineer to review this plan. John Hannon asked if he would be allowed to take a recess because when Mr. Gassler comes before the Planning Commission John wants to act with a clear mind. Bob Hahn asked John if he feels there is a conflict with him serving on the Planning Commission? John stated that he feels that any discussion that may take place would prejudice him when making a decision on the plan. Winton stated that it is permissible to serve both on Council and the Planning Commission. Alyssa informed that if Mr. Hannon feels uncomfortable sitting at the table and listening to the issues of the Planning Commission that is his choice, but as far as a legal ethical conflict of interest there is none. Winton wanted to clarify that this has nothing to do with personalities, but any conflicts that may have occurred was a conflict of an opinion.

*At approximately 8:30 p.m. John Hannon excused himself from the table.*

Winton asked the Borough Engineer if he could handle this without prejudice? Ron replied that as the engineer it is his job to review the plans in accordance with the Borough's ordinance, write an objective letter to the Planning Commission and attend the meeting. Hanover does not do other engineering work within a Borough they represent. Winton asked Kerry to explain his side. Kerry replied that two days after the election in 1999, a meeting took place on his property with the DEP. Winton made the comment to the DEP that if Kerry was in violation he should be fined the maximum. Kerry added that a conflict has remained for over two years and things have been denied. He had a mound of dirt between the Beauty Salon in the back, the house and the tavern, he asked Hanover if he could remove it and Ron, acting as Borough Zoning Officer, wrote a letter that yes he could move the dirt. He said that the Borough wrongly charged him the \$189 that Hanover billed the Borough for Ron's work as Zoning Officer. He said that even before Hanover becoming Borough Engineer he was working on a project and had approval from DEP and Army Corp approval, but did not have local permits from the Borough.

Winton stated that from experience, our engineer is professional and there appears to be no justification to change engineers. Kerry accused Winton of leading the engineer around town and telling him to look into things the first two years Winton was on Council. He added that Winton had Ron shut down his ex-wife's business in front of the general public because he was on a mission. He went next door and shut him down.

Winton stated that because he was the new guy on Council he was given the job of straightening out planning and zoning. Kerry replied that the Borough has not had a plan for almost two years and business people in Wind Gap say it is difficult to get anything done in this Borough because land development plans are not getting approved. Ron explained that in the case of Dunkin Donuts, they had bad title work and they did not have enough property being sold to them and they never got to Planning to present a plan. Kerry stated that because this is a whole new plan, he has a new attorney and engineer, he is asking that the alternate engineer for the Borough be involved and then he would feel that he is getting a fair review because everyone would be neutral.

**On motion** by Bill Pysher to use alternate engineer Schoor DePalma and seconded by Lewis Paulhamus. Roll call vote taken. In favor: L. Paulhamus, B. Pysher. Opposed: R. Getz, W. Male. Abstained: K. Gassler. Vote 2-2-1. Mayor George voted yes to break the tie. Motion carried with a vote of 3-2-1.

*Councilman John Hannon returned to the table at 8:45 p.m.*

3. Center Street property. Winton explained that there is a property on West Center Street that the Borough could purchase from the County for the cost of the paperwork, possibly \$300 or less. He said that a lot of people walk Center Street and in the future the Borough could install park benches on this property. Bill asked if any legal costs would be associated with purchasing this property? Kerry stated that right now it would just be another property that the Borough would have to maintain. He believes the Borough should just utilize the property already owned. This item to be addressed at the workshop meeting.

4. Council of Governments (COG). Mayor George explained that the Slate Belt Municipal Association (SBMA) would become a COG and they are asking all members to indicate their intention either to participate in the COG or not to participate. One benefit of the COG would be in applying for grant money from the state and county to help the participants. Winton added that the SBMA would be donating their funds to the COG as start up money.

**On motion** by Bill Pysher to become part of the COG and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

## OLD BUSINESS

1. Zoning Fee Schedule - Ordinance 427. Winton asked Council to move on this ordinance that was drafted in December 2001. Lewis asked for more time to review the fees. Richard stated that he would recommend the fees because the Borough is seeing a shortfall. Charging people by the square foot and not an estimated cost of construction is a more realistic way of doing the fee schedule. Kerry said that instead of increasing fees for the smaller projects, increase the fees for zoning hearing and the land development plans. He does not see how the Borough could have a shortfall because we received fine money from Miga and Giant. Winton informed Council that these fees have remained the same for 13 years.

**On motion** by Richard Getz to advertise Ordinance 427 as proposed for adoption and seconded by Bill Pysher. Roll call vote taken. In favor: R. Getz, J. Hannon, W. Male, B. Pysher. Opposed: K. Gassler, L. Paulhamus. Motion carried 4-2.

2. Office Furniture. The state has a contract for purchase of furniture. The suggested pieces would total

\$2,027.90 in the same matching color. Winton stated that the money will come out of the Giant fine money.

**On motion** by Kerry Gassler to purchase the furniture with the funds coming out of Capital Reserve and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously.

3. Park Restroom. Winton contacted Williams Township regarding the cost of having an architect design the facility. He was informed that generally the cost if anywhere from 5 - 10% of total. Council may want to consider pre-cast pre-fabricated buildings. Richard looked at pre-fab on the internet. The pre-fab building would require no architect because they use their own and they are in compliance with rules and regulations of Labor and Industry and ADA. Winton appointed Richard, Jack and himself to a committee to meet with a committee comprised of two Park Board members to review plans and ideas. One suggestion is to have a unisex design. This design would include individual restrooms which could be locked from the outside. During high volume activities in the Park all restrooms would be unlocked, but during normal daily operation maybe only one or two would be available. Kerry and Roger Bet asked how soon a meeting would take place with the committees? Winton replied as soon as possible.

4. Chestnut Street Alley. Discussion regarding giving the property owners abutting the alley way off of Chestnut Street ownership of the alley. Discussion as to the majority being 51% of the property owners or 51% of the lots. Alyssa would like the opportunity to do research and present Council with their options in writing. If this is not an ordained alley and the Borough does not have any responsibility to maintain it to begin with, just because it shows on the Northampton County tax map, Borough Council has no responsibility to take action on a petition. This may just be a private action between the landowners and they can bring a civil action through their own attorneys to have that alley divided and have the deeds descriptions changed. Out of four property owners, two have petitioned in writing their desire to take control of the alley. Bill asked if this is done, who would pay the legal fees? Alyssa stated that Council would have to make that decision. Richard stated that he understands that this is a private matter and Council should not spend taxpayer money. Ron stated that it does not appear on the sanitary sewer map.

**On motion** by Richard Getz that Council does not take issue with this alley and Council inform the people who have submitted letters that it is a private issue that they can address in Northampton County Court and it would be their obligation to determine legal action and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously.

5. Salt Shed Update. Kerry informed Council that the salt shed is dug out and the footer was poured. Northampton Form is coming either tomorrow or the next day to form the walls and then they will be poured. Kerry asked if Council would consider paying L.A. Construction a percentage of the total job cost. Winton informed Kerry that they must submit an invoice.

**On motion** by Kerry Gassler to pay L.A. Construction one-third of the total job cost and seconded by Bill Pysher. Roll call vote taken. In favor: K. Gassler, J. Hannon, W. Male, L. Paulhamus, B. Pysher. Abstained: R. Getz. Motion carried with a vote of 5-0-1.

6. Dump Truck. Kerry would like to purchase the Upper Mount Bethel dump truck for \$8,000. Road work will begin in the next two weeks and the street department could use the truck for transporting the millings. Breneman is going to help mill up part of East West Street just to remove some dirt and then put down some millings, but the Borough has to supply the trucks. Bill asked if a commercial license is needed to drive? Kerry stated that he has a CDL and will run it during the road work. It was purchased brand new by Upper Mt. Bethel and they still maintain all the maintenance records. It has an eleven foot snow plow, power angle, it has wheels instead of skids, re-built transmission was installed last year, and a tailgate spreader on the

back. Probably could haul 8 or 9 ton on the bed compared to the 4.5 or 5 tons with the Borough's International truck. They painted the dump part of truck, the spreader, and the plow. The street department budget has \$10,000 for a truck.

**On motion** by Lewis Paulhamus to purchase the truck for \$8,000 and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, R. Getz, J. Hannon, L. Paulhamus. Opposed: W. Male. Abstained: B. Pysher. Motion carried with vote of 4-1-1.

**Executive Session.** Council adjourned to Executive Session to discuss personnel issues.

Council unanimously voted to increase the part-time street worker's rate \$1.00 an hour.

Meeting adjourned at approximately 10:00 p.m.

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Louise Firestone  
Borough Secretary