

**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, June 3, 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, Mitchell D. Mogilski, William Pysher, Richard Getz and Kerry Gassler. Also in attendance were Borough Engineer Ronald Madison and Borough Secretary Louise Firestone. Mayor Kenneth George was absent.

Approval of Minutes -

On motion by Jack Hannon to approve the minutes of May 21, 2002 and seconded by William Pysher. Typo to be corrected on page 4. Roll call vote taken. Motion carried unanimously.

Approval of Expenditures -

On motion by Kerry Gassler to approve the expenses for the month of May in the amount of \$16,700.64 and seconded by William Pysher. Mitch questioned why two loads of topsoil for \$250.00 were purchased from Gap View Storage Company for the Park when the Borough has over 100 tons of topsoil stored at MSG. John Zucal informed Council that it was just fill grade from Wood Street and it was used behind the Ambulance Building. It was not topsoil. Roger Bet confirmed that the Park Board asked John to check and he reported back that it was fill that he already had used. Mitch would like to find out why the topsoil is not at MSG. Mitch asked that the motion be changed to exclude the payment to Gap View Storage and Miracle Recreation Equipment Company. Motion stood as made.

Kerry alerted Council that the Public Works budget is \$3,000 over on engineering. He asked if the stormwater projects were coming out of the Landfill Postclosure Fund? They have not been submitted for reimbursement to date. Ron Madison explained that engineering fees can be submitted because these fees qualify for reimbursement.

Roll call vote taken. In favor: K. Gassler, R. Getz, J. Hannon, L. Paulhamus, B. Pysher. Opposed: M. Mogilski. Motion carried with a vote of 5-1.

Public Comment -

1. John Snuggs asked if the Police were involved in an accident because he saw the police

cruiser at Ken's Auto Body. Winton stated that it was having a transmission problem and was an expensive repair. John asked why the car was not sent to a transmission shop in the Borough or a Ford shop? Winton answered that the Mayor obtained quotes and Ken's was the lowest. John asked if the New You Hairsalon has their off-street parking in the municipal lot? Kerry replied that they can use the municipal lot if their business is within 400 feet.

2. Gayle Steinmetz, 68 Wood Street, Wind Gap. She asked the Borough to consider placing "No Parking" signs on the north side of Wood Street. Residents are concerned about fire engines and ambulances getting to the properties. Gayle stated that during the winter cars could possibly slide into the parked cars along the street. Chief Armitage to check.

3. Roger Bet. Roger asked if any word was received regarding the park grant. Winton replied that the Governor should make announcements before the end of the month. He added that the Borough received an extension for the \$15,000 grant for one year. Roger distributed a copy of the Summer Sounds Concert Series flyer to each Councilman. This year Roger sold more advertising space and included an insert to the flyer which generated almost \$500. A music committee has been formed to better the concert series. Roger suggested having a concert at the Middle School with an outside musical group such as The Temptations to raise money for the concert series. Roger thanked all the sponsors for their support. He thanked the committee members, Mr. and Mrs. Stampone, Laura Goss, Russ Roper, Lewis Paulhamus, Randy Shoemaker, Mary Dietrich for their time. Bill Pyscher asked if Pen Argyl is participating as much? Roger replied they have not been represented at all the committee meetings and that any money generated from a special concert would go to Wind Gap. Roger spoke to Pen Argyl's Borough Manager Jaymes and Jaymes indicated that he would talk to Steve Bender about being involved.

4. John Snuggs asked why a resident would receive a parking ticket at the Borough Park if their car is parked overnight? Chief Armitage stated that he did not recall anyone getting a parking ticket at the Park, but the Park does close at dark. John asked about two vehicles sitting in the municipal parking lot that includes a red Beretta and a white Volkswagen and one has an expired inspection sticker. Chief replied that it belongs to a resident across the street.

5. Mike Gassler, 220 Constitution Avenue, Wind Gap. Mike asked why the Borough has a slush fund that is unallocated, but yet Council imposed a 21% tax increase on the residents, why? Winton reiterated that the status of the money has already been discussed. That money is needed to run the Borough the first three months of the year until the tax money is collected at the end of March. Years ago the Borough would have to take out a loan until the tax money was collected and pay interest on the borrowed funds. Mike suggested again including how much money is

taken in and what the expenditures are every month in the newsletter so that the taxpayers know. He stated that he is strictly against these tax hikes.

He said that the tax base in Wind Gap is too low to fund a Borough Manager. We do not need one at a cost of \$50,000 plus benefits.

Mike asked if Seventh Street is ordained or not? Why have you been telling us there's legal problems there when there are not legal problems?

Len Zito arrived at 7:55 p.m.

Mr. Zito explained his information is that the ordination of Seventh Street was never correctly done. He received that information from Attorney John Molnar, who researched that topic. The issue was whether or not the property owners abutting Seventh Street had given their permission to the Borough to ordain it. The statute requires that if the street is not opened for a period of 21 years that the abutting property owners have a right to not have that street opened and have a right to be heard. Mr. Molnar informed Mr. Zito that the ordination occurred without the property owners, at the time, having a hearing or the opportunity to be heard. The question was whether or not the ordinance met the requirements of the Borough Code and Mr. Molnar found that it did not. Lewis asked if part of Seventh Street was ordained? Mr. Zito replied that he was not sure what the answer to that would be. Kerry stated that the Borough receives liquid fuels to half of the street. Mr. Zito replied that it is not unusual for Boroughs to receive liquid fuel monies on streets or roadways that have not been correctly or properly ordained. Kerry asked how the Borough could ordain 19 streets last year without notifying anybody. Mr. Zito replied that the streets ordained were pursuant to an ordinance and the property owners had received notice of the intent of the Borough to ordain those streets. Those ordinances were properly advertised, and the property owners had a right to appear before Council. Kerry asked if this was done in 1982? Mr. Zito replied that the work that the Borough required him to do in the past four or five years to ordain complied with the Borough Code, but he cannot say prior to that time. Leroy Albanese stated that the property owners involved including himself, Bessie Morris being another (Leroy now owns her property) was probably not notified and the other being Valerie Fashions (no longer there) owned by American Candle. Kerry asked what it would take to ordain properly now? Mr. Zito answered that if Wind Gap wants to revisit this issue and ordain Seventh Street, then they would have to comply with the current Borough Code. Leroy stated that he knows that in 1982 or 1983 the ordination was recorded at the courthouse. Mr. Zito explained that the procedure for citizens who abut an unopened alley or street to either ask for it to be opened and ordained or to object to a municipality who wishes to open street that has been unopened. Kerry told Leroy that if Leroy and American Candle petition the Borough to have it ordained then the Council would have a chance to look at having Seventh Street ordained. Mr. Zito stated that there was some talk about deeding portions of that in connection with Mrs. Perin's development. Procedures to open Seventh Street it must be done by petition, Borough's initiative recognizing that citizens who have rights can object or can support an application one way or the

other and ultimately the Borough always has the power to condemn property for public use. Leroy asked how Council feels about Seventh Street? Winton stated that it can be put on the workshop meeting agenda.

On motion by Lewis Paulhamus that anybody who wants Seventh Street, put it in some type of writing, Council will definitely bring it up at the July meeting. Motion died for lack of a second.

On motion by Lewis Paulhamus that Council discuss Seventh Street tonight to be ordained. Motion died for lack of a second.

Kerry mentioned that there are other streets that are not ordained in the Borough and another list may have to be done.

Mike Gassler asked if the Borough is going to have another legal battle like Weeast that resulted in a \$50,000 fine. He stated that in the early spring, Mr. Paulhamus made a motion to accept a low bidder on the roof on Harry Oaten's garage. Council refused to take the low bid, so Council took the one in the middle resulting in a \$4,000 lawsuit. If they win the lawsuit, he thinks all the "yes guys" should chip in and pay that \$4,000 and not put it on the taxpayers.

Jack Hannon stated that a couple years ago when he was first on Council, Mike gave him the same criticism about if you don't want to do the work, don't join the Council. He asked Mike why he never ran for Council? Mike replied that he doesn't want the job. Jack stated that since Mike is concerned about taxpayer's money, who owns the sewer plant? Answer was the people own the plant. Jack asked him where he was when members of the present Sewer Authority were receiving \$50 a month for their services and they made everybody an officer and increased it to \$100 a month, did he object then? Mike said that the "yes men" on the authority pushed that through.

Leroy questioned whether last month Council was asked to find out the cost for the difference between what North American Equity is doing versus what is left out to Broadway? Winton replied that he did not recall Council offering to do any cost analysis.

6. Rick Keenhold addressed Jack regarding if there has been an increase in the last eight years. Rick answered, no there has been a decrease in the rate every year for the last eight years. Rick explained that on the bill there is an EDU charge and there is a water consumption per 1,000 gallons. Also, the \$100 is no longer in place because they use to have two meetings a month, but now they only have one meeting. Jack passed out a copy of the June 1, 1998 minutes. He referenced a question that he asked of the Authority as a Councilman about the year 1996 audit. He asked why the Authority's records as of the end of 1996 were \$345,348 less than the audit. Mr. DeCesare, Authority Treasurer at the time, did not know, but would have an answer for the variance in a day or two. Jack still does not have an answer. Jack spoke to Mr. Hahn a year ago and asked him about the \$300,000, but he did not have any idea what Jack was talking about. Jack stated that he assumed in the minds of the present Sewer Authority, the Borough is still the

owner of the sewer plant, was he correct? Paul Levits replied that documentation specifies that the Wind Gap Municipal Authority is the owner of the sewer plant. He said it does not reference the Borough, we have an ordinance. Jack asked Mr. Zito. Mr. Zito replied that Jack is asking him a question that he can't answer, because he does not know who has the deed to the property or who has the ownership of the apparatus. Jack asked again if there is an explanation for the difference. Rick answered that he believes Jack met with Mr. Hahn and Mr. Hahn explained it to him. Jack countered by saying that Mr. Hahn never explained anything to him. Rick said he will bring Mr. Hahn to the next meeting so that it can be explained in public. Jack read audit of Wind Gap Municipal Authority, year ending December 31, 2000 - retained earnings \$2,308,366. Jack asked if the Authority is aware that there is that much money on the books. Paul stated that retained earnings is nothing more than an accounting term. Jack replied that retained earnings is a statement to the public and the taxpayers that you have \$2,308,366. Paul stated that it is actually capital reserve money and if all the engineer's documentation was reviewed prior to the year 2000 it would show that the authority's condition, they should have had about \$1.6M for the plant alone. Paul feels that the plant has only a relatively short life left before major rebuilding must take place.

7. Kay Stampone, West Third Street. Kay asked what is happening with the stop light? She asked when the count is going to be done? Her husband added that if it is done now, the Borough should just forget it because school is out for the summer. Ron Madison stated that Hanover Engineering was asked to provide an existing features map to be included with the resolution, application to be sent to PennDOT. He suggested that the Borough request in their letter to have the study done in the fall when school is in session.

8. Chris Bruch is here on behalf of Tracy Achenbach, 965 Chestnut Street, Wind Gap. Chris submitted a petition from Tracy for ownership of the alley. Tracy owns over 50% of the property and has been maintaining it. Council to review and place item on workshop agenda.

9. Jeff Yob. Jeff expressed his concern with having the monthly committee reports done at the workshop meeting causing an elongated process in getting anything accomplished. Winton explained that in the past it was taking even longer to get things done and a lot of errors were being made because Council did not have the proper information to evaluate the decisions they were making. Council will identify topics to be discussed at the workshop meeting and then these items will be addressed at the next business meeting. Jeff objected to having public comment at the beginning of the meeting and not having an opportunity to speak again at the meeting. He made his comments on the agenda items for discussion tonight. On the Awarding of street paving project - comment, award soon, Salt Shed Expansion - comment, one time event because of over-ordering don't spend the money, Park Restroom Feasibility Study - comment, public restroom where it is, Incomplete Curb Repairs - comment, done, great job, Walden III time extension - comment, never give him another one, BOG Turtle Study - comment, he put two in

the park, CDBG fund balance - comment, spend it, Wind Gap Townhomes - comment, will be approved at next meeting, Committee Spending Limits - comment, spend it if it is in the budget, Park Grass Cutting - comment, keep cutting.

New Business

A. Wind Gap Municipal Authority Feasibility Study. Winton stated that this topic had been discussed at the workshop meeting. A feasibility study will be done to determine if having a Borough Manager managing both the Borough and the Authority with the Borough assuming responsibility for the operating part of the Authority to find out if any money could be gleaned by that combination that would help pay for the manager. He stated that it works in Pen Argyl and other places and feels that it is something that the Borough needs to look into. The cost of a Borough Manager would be at least \$50,000 plus benefits. The Borough Auditor quoted a price not-to-exceed \$1,850. The audit will be paid for out of the Giant penalty money. Kerry questioned why the letter from the auditor was dated February 16, 2002 and Council just received it prior to the last meeting? Winton acknowledged that it was late being distributed, but he was in need of more information.

On motion by Lewis Paulhamus not to proceed with the study and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, L. Paulhamus. Opposed: R. Getz, J. Hannon, M. Mogilski, B. Pysher. Motion defeated with a vote of 2-4.

On motion by Jack Hannon to proceed with the feasibility study and seconded by Bill Pysher. Roll call vote taken. In favor: R. Getz, J. Hannon, M. Mogilski, B. Pysher. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 4-2.

2. CMC Communications, Inc. Community Map. Winton explained that CMC will prepare the community map at no cost to the Borough. Council will have to determine the text to be included.

On motion by Lewis Paulhamus to proceed with the map and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously.

3. Borough Wide Yard Sale. Secretary sent out e-mails requesting suggestions for dates of the yard sale. Replies ranged from in coinciding with the Firemen's Picnic, sometime in August or Labor Day weekend again. Winton asked Jeff Yob if he had any feeling about having the Borough wide yard sale during the picnic. Jeff replied that it would not be fair to the workers at the picnic because they would not be able to participate in the sale.

On motion by Richard Getz to hold the Borough Wide Yard Sale Labor Day weekend and seconded by Bill Pysher. Roll call vote taken. In favor: K. Gassler, R. Getz, M. Mogilski, L. Paulhamus, W. Pysher. Opposed: J. Hannon. Motion carried with vote of 5-1.

Winton suggested being specific about the sale being intended only for residents to sell their wares and not commercial wares. Specifics to be discussed later.

4. **GIS Grant.** Richard explained that the Geographic Information Systems would greatly assist the Borough in locating and identifying properties. The GIS program shows aerial views of all properties and once this is done, overlays can be used over the properties such as the zoning districts, locations of sewer lines, locations of fire hydrants. This information could be downloaded to other computers to assist them. The Borough would start with a basic system and then build on it. One of the best sources to start with is the County because they have the best maps and it would not cost the Borough any money. The ACT Software the Borough already has is a database that can be dumped right into the program. Winton added that the cost has come down substantially and at least one grant exists for the purchase of the software. The grant is for free software, but is contingent upon the recipient sending a representative to State College to attend a seminar to learn how to run the program. He said that the State has four grant cycles in a year, but he reiterated that they feel strongly about the education of the software. The expense for travel and overnight stay in State College would be close to \$400. June 30 is the end of the application period. Winton stated that when this is expanded, it is quite possible the computer may require more memory in order to do it faster. Mike Gassler asked if the Borough is infringing on the resident's privacy. Richard replied that the system is not meant to be opened to the public. The State says the Borough must have an ordinance before the system is put in place.

On motion by Richard Getz to apply for the grant and commit to send someone to State College for a two day seminar and seconded by Bill Pysher. Roll call vote taken. In favor: K. Gassler, R. Getz, J. Hannon, B. Pysher. Opposed: M. Mogilski, L. Paulhamus. Motion carried with vote of 4-2.

Solicitor's Report

Len Zito stated that all the matters he has for Council have been the subject of his correspondence to Council and the Mayor.

5. **Needs Assessment Questionnaire.** Winton asked Council to complete the questionnaire from the County and return to the office tomorrow.

6. **Tax Collector's Bond.** Winton explained that the Tax Collector's Bond is only \$5,000 and that is grossly inadequate. The premium is high relative to the low amount of the bond at \$248.85 annually. The school district bond has the same type of bond for the tax collector in the amount of \$224,000 with an annual premium of \$722.00. Winton stated that he cannot justify renewing this bond and would like permission from the Council to re-market. Jack asked when coverage expires? Winton replied that the current bond has lapsed unless the premium is paid. The only statutory requirement is a bond for earned income tax, but the tax collector has a bond to cover earned income tax. Winton stated that it should not take long to get another bond. He explained that if someone who is bonded and confiscates funds, the bonding company reimburses the municipality and then they would go after the tax collector. Discussion about renewing

current bond, having two bonds in place at the same time, self-bonding for the \$5,000

On motion by Lewis Paulhamus to renew this one. Lewis withdrew his motion.

Winton stated that the Tax Collector has expressed a desire to have her books audited because it has not been done in quite some time. Possibility that the books would have to be audited prior to another company issuing a bond. Decision to let it go and shop the market.

Old Business

1. Awarding of Street Paving Projects. Kerry announced that the paving was based on 19,809 square Superpave, 564 tons Superpave scratch course and 3,403 square yards milling along curb lines. Bracalente was low bid with a bid of \$108,081. Pan Companies, Lehigh Valley Site Contractors, and Hanson all bid on the paving project.

Reconstruction or Reclamation. E. J. Breneman bid \$87,456.19 for reclamation of the street. Hanson bid \$95,843.23 for reconstruction. Council has to decide whether to have the reclamation done or the reconstruction. Ron explained the reconstruction versus the reclamation and it is the Borough's prerogative to choose the lower process of either type. Reconstruction is removing all current roadway pavement, disposing it and then rebuild up the road base, reconstructing from the bottom up. Reclamation is a milling process of grinding up the asphalt materials that is there and adds an emulsion additive and relays it down as the stone base. The longevity of the roads would be equal with either process.

On motion by Kerry Gassler to award street paving to Bracalente Construction for \$108,081.00 and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

On motion by Mitchell D. Mogilski, Sr. to award E.J. Breneman for \$87,456.19 to reclamation of the advertised roads and seconded by Richard Getz. Roll call vote taken. Motion carried unanimously.

Ron advised to send a letter of a Notice to Award and for them to get their information to the Borough as far as the bonding and then issue a notice to proceed.

2. Salt Shed Expansion. Kerry reported that the Borough has to take in another 115 tons of salt. Council received a quote from LA Construction in the amount of \$5,920.00. Borough has to accept the salt by the end of July.

On motion by Lewis Paulhamus to accept the bid of \$5,920.00 and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, J. Hannon, M. Mogilski, L. Paulhamus, B. Pysher. Abstained: R. Getz. Richard explained that he has family ties to the contractor. Motion carried 5-0-1.

3. Park Restroom Feasibility Study. Hanover Engineering Associates quoted a price of not-to-exceed \$800.00. Richard stated that we need to check out the feasibility of using either of two manholes. Lewis asked where the \$800 would come out of in the budget? Winton replied that it will be taken out of the Park budget.

On motion by Bill Pysher to proceed with the Park Restroom Feasibility Study not-to-exceed \$800.00 and seconded by Richard Getz. Roll call vote taken. In favor: R. Getz, J. Hannon, M. Mogilski, B. Pysher. Opposed: K. Gassler, L. Paulhamus. Motion carried with vote 4-2.

4. Incomplete Curb Repair. Kerry reported that quite a few replacements are in process. Only three residents they haven't heard from at this point. Kerry learned that Ms. Parsons on Liberty Street can't afford the bid she received from Schmauder so Council will have to make a decision. Schmauder has to meet with the resident at 503 Alpha. The resident at 424 Washington Street has not been done. Discussion about having the street workers doing the replacement and then sending them the bill. Ms. Parsons needs the entire front curbing and possibly her sidewalk replaced. The cost would be approximately \$3,000-\$4,000. She has medical issues and costs to deal with, but her curb does need replaced. Council discussed replacing the necessary curbing with the Borough paying because of the hardship and putting a lien on her property.

On motion by Mitchell D. Mogilski, Sr. to hire Eugene Schmauder to do that property and the Borough will pay him and will go about collections. Motion died for lack of second. Mr. Zito advised that ownership of the property needs to be verified and he suggested the Mr. Schmauder provide an estimate to do the work prior to proceeding with a lien.

On motion by Bill Pysher to table this issue tonight. Motion died for lack of second.

Discussion to hold special meeting to discuss this issue and other items on the agenda not completed.

Mr. Zito advised that the Borough cannot avoid the \$4,000 municipal bidding requirement.

On motion by Bill Pysher to have contractor do the work if Mr. Zito's information is favorable and the bid is under \$4,000 and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, R. Getz, M. Mogilski, B. Pysher. Motion carried 4-0. Jack Hannon was not present for the vote. Lewis Paulhamus left the meeting at 10:00 p.m. Lewis stated that the vote just taken was against the Sunshine Law because it is past 10:00 p.m.

Executive Session was not necessary.

Meeting adjourned due to the 10:00 p.m. curfew.

Louise Firestone
Borough Secretary

