

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
610-863-7288**

The Council meeting of the Borough of Wind Gap on Tuesday, April 15, 2003 was called to order at 7:00 p.m. by Council President Winton Male, Jr., at which time he reminded those present that the meeting was being recorded. In attendance were Council members: Lewis Paulhamus, Sandra Lockard, Mitchell D. Mogilski, Sr., William Pysher, Peter Stinson and Kerry Gassler. Also in attendance were Mayor Kenneth George, Borough Solicitor, Len Zito, and Secretary/Treasurer Louise Firestone.

Approval of Minutes -

On motion by Mitchell D. Mogilski, Sr. to approve the minutes of the March 18, 2003 meeting and seconded by Kerry Gassler. Lewis stated that the cost of the port-a-johns should be taken out of the cost of the bathroom budget. It was explained that the minutes were being approved as an accurate representation of what actually took place at the meeting, the rental and cost could be discussed later. Roll call vote taken. In favor: K. Gassler, S. Lockard, W. Male, M. Mogilski, L. Paulhamus, B. Pysher. Abstained: P. Stinson. Motion carried with a vote of 6-0-1.

Approval of Expenditures -

On motion by Bill Pysher to approve the expenses in the amount of \$13,549.01 and seconded by Sandra Lockard. Roll call vote taken. In favor: K. Gassler, S. Lockard, W. Male, L. Paulhamus, B. Pysher, P. Stinson. Opposed: M. Mogilski. Motion carried with a vote of 6-1.

Public Comment

1. Patricia Sutter. Patricia stated that she wanted to inform Council that some work is not being done in the office. In 1992 Council stating that all landlords must report their tenants every year passed an ordinance. She said that she has not received any reports from the Borough since July 20, 2001. She checked her mailbox today and the only information she received was a list of properties in town that are landlords, but it does not tell who lives there or who moves out. Pat explained that this information is important because she provides the school tax assessor with the names and the assessor puts them on the tax rolls. Winton stated that Pat has been told that the sheets received by the Borough are available to her. Pat replied that it is not her job. She asked that when the forms are received a copy be put in her mailbox. Winton went on to explain that the information is being gathered, but the information received is not always accurate with the information that the county has in their database. The names are not always the same from year to year and the correct information must be researched. It is a time consuming process to accurately match up the properties and the owners.

2. Kay Stampone. Kay asked what the completion date is for the park restroom? Winton answered that the original date was scheduled for May. Lewis stated that date is May 20th. Kay stated that there is concern with the condition of the children's play area. Winton replied that the project has been delayed because of the weather and because of drawings not being approved. He added that the borough engineer has been in constant contact with the contractor.

Solicitor's Report

1. Len Zito stated that he has had a couple of items that he reported to Council through correspondence. The other items are for this evening's Executive Session. Giroux Land, Inc. and Borough of Wind Gap

Agreement is before Council for discussion and/or approval. Mr. Zito explained that the Giroux family has been a client of his firm for years and if Council requires review of the agreement, another solicitor will have to be appointed.

If Council wishes to move forward with the zoning ordinance and comprehensive plan advertisement, Council already has the opinions of the solicitors. A resolution is required authorizing the process to begin to change the zoning ordinance. The first step would be to advertise that Council intends to change the ordinance. The Planning Commission would meet and conduct a public hearing on the comprehensive plan. The changes would be sent to the Joint Lehigh Valley Planning Commission with the entire process taking a minimum of 45 days. After that, Council would be required to hold an additional public hearing to provide opportunity for further comments from the public before proceeding. Bill asked if the public hearing would have to be after that 45 days? Mr. Zito replied that the Planning Commission would hold an interim public hearing on the comprehensive plan. There would be a separate hearing that they are required to hold and they would have to send out the notice within seven days from when they receive notice that the Borough has asked them to review the comprehensive plan.

On motion by Bill Pysher to proceed with the zoning ordinance and comprehensive plan process. Winton explained that Tom Palmer was making some changes and Council has not received those changes. Kerry stated that Council has not had the opportunity to discuss the changes. Motion died for lack of second. Winton suggested making the motion at the public meeting on April 24 at the firehouse.

Executive Session. Council adjourned to Executive Session at 7:20 p.m. Paul Levits questioned what the Executive Session was for specifically. Winton replied the items listed on the agenda, Wind Gap Municipal Authority litigation, Curative Amendment Application of Manor Haven Corporation and Wind Gap Police Contract. Paul asked for a specific docket number for the Wind Gap Municipal Authority. Mr. Zito stated that the docket number has not changed. It has to do with the seven thousand dollar issue, the only litigation, which is pending.

Borough Engineer, Ronald Madison arrived at 7:25 p.m.

Council reconvened from Executive Session at 7:45 p.m.

On motion by Bill Pysher that in light that the Wind Gap Municipal Authority has not complied with the court order and given the information requested, the Wind Gap Municipal Authority be dissolved and seconded by Mitchell D. Mogilski, Sr. Kerry stated that Council was discussing the litigation. Mr. Zito stated that part of the discussions pertaining to the litigation involved the options of the Borough with respect to the Municipal Authority. One of the options in litigation, which was discussed in the Executive Session as well as the Executive Session with special counsel, was the option of moving to dissolve the Municipal Authority.

Rick Keenhold asked Peter Stinson how much this would cost the taxpayers. Peter replied that estimate at this time is a potential of \$20,000 to \$30,000. Rick asked who gave this estimate? Peter answered the special counsel gave this figure during the Executive Session. Rick stated that the Municipal Authority sent through paperwork outlining what has to be done to take over the authority. Peter asked if there was a particular reason he is focusing on him? Rick replied that Peter is the new guy here and he is making a decision that affects Rick's life and he wants to make sure Peter knows what is going on. Peter replied that he does know what is going on. Peter stated that it is not relevant how long he has lived here, but for the record he has lived here for seven years and in the Slate Belt for nine years. Rick proceeds with asking Mitch why he thinks the Borough should take over the Municipal Authority. Mitch replied that by taking over the authority the Borough could save a lot of tax money because every time they are called out everyone is getting paid the meeting rate. Rick replied that no one gets paid except when there was an oil spill in 1994 or 1995. Rick stated that discussion has occurred to put this by-pass road in and everyone knows that Grand Central is behind it. He said the landfill is not going to close down and why would they spend millions of dollars putting in a road. That means the landfill will be expanding. Pen Argyl can't take the landfill stuff. Guess who will be taking it? The guy sitting along side you wants to make the deal and that is why he wants the sewer plant. Winton told Rick that he

is out of order and if he has a comment to make about this issue, but don't get personal. Rick stated that he just wants everyone to understand before they make a vote. The Sewer Authority has not raised rates in the last eight, nine years. Council is just looking at spending more money and Council has already spent \$20,000 or \$30,000 in litigation and can expect to pay \$70,000 to \$80,000. Rick stated that the Municipal Authority has spent less because they usually do the work themselves.

Roll call vote taken. In favor: S. Lockard, W. Male, M. Mogilski, B. Pysher, P. Stinson. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 5-2.

On motion by Bill Pysher to employ Karl Kline to handle the litigation to dissolve the Municipal Authority and seconded by Peter Stinson. Kerry asked what line item this will come out of this year. Mitch suggested spending some of the Waste Management money. Winton replied that it would not all come out of this year's budget, but there is more than enough to pay for this litigation.

Roll call vote taken. In favor: S. Lockard, W. Male, M. Mogilski, B. Pysher, P. Stinson. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 5-2.

Borough Solicitor, Len Zito, took his leave from the meeting at 7:55 p.m.

On motion by Bill Pysher to ratify the arbitration award by the Police Association and the Borough of Wind Gap by the neutral arbitrator and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Bill stated that since Council has taken action to ratify the police contract he would like to make it known to the public. The contract is effective January 1, 2002 and the officers will be receiving backpay. Council has set money aside for this in the budget. The sergeant and patrolmen will receive 4% increases for 2002, 2003, 2004 and 2005. This is not all that they wanted, but this was a good compromise. The officers will be receiving one additional personal day per year. The officers will be receiving an increase in their life insurance from \$35,000 to \$50,000. (Secretary's note: life insurance was \$30,000 not \$35,000). Bill explained that some differences arose during discussions regarding medical benefit upon retirement. It was decided that a police officer who retires, and qualifies for the police pension, should be permitted to maintain health insurance coverage as a member of the Borough's medical plan. The officer shall pay all premiums for coverage for themselves and any eligible dependants for a period of thirty-six (36) months with the Borough contributing up to and including \$200.00 per month toward the monthly premium. Compensatory time was awarded, where they can earn up to 32 hours per year at one and a half time and may accumulate up to 32 hours to be carried over to next year. The Mayor and the Chief will monitor these hours so coverage can be maintained. The other issue that was not part of the contract, but part of the old contract was that the Borough was to provide Blue Cross and Blue Shield or equivalent coverage.

On motion by Bill Pysher that the medical coverage be changed to Blue Shield and that the co-pay be increased from \$10.00 to \$15.00 and seconded by Peter Stinson. Roll call vote taken. Motion carried unanimously. The State Chamber of Commerce program offers the medical coverage through Blue Shield. One of the advantages is the Borough can satisfy the additional life insurance requirement with guaranteed issue. It would not be possible to go out in the market place and increase their coverage because of health issues. It automatically comes with a \$15.00 co-pay and that is the only meaningful change in the whole program.

Linda Perin asked if the contract allows for future additional police being hired? Bill responded that hiring additional officers would not be part of the contract, but part of the budget. Linda asked if he foresees that? Bill stated maybe part-timers. Linda said that she called Wind Gap Police and they stated that they are too busy to check what she believes to be a stolen car on one of her properties.

Bill mentioned that this process took over sixteen months to conclude.

Engineer's Report

Ron Madison reported that he sent correspondence dated April 2 making recommendation for payment on the current restroom project. Pay request #1 includes 80% sanitary sewer installation work and 15%

mobilization in the amount \$20,265.60 less 10% retainage or \$18,239.04. The project itself is on schedule with the exception of the park restroom.

On motion by Mitchell D. Mogilski, Sr. to make pay \$18,239.04 for work completed and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Ron stated that there has been a problem with the pre-cast park restroom building itself. The contractor and buyer have yet to submit shop drawings. Ron received an initial phone call asking two questions regarding the shop drawings. Ron has continually reminded that contractor and his supplier that the contract period ends May 20 and that liquidated damages would be enforced. The supplier would have been the supplier for all three of the low bids. The supplier is based in Florida and but is not keeping his contractual obligation. Shipping time from Florida would be four to six weeks and at this point it does not appear that this will be completed May 20. The restoration crew will be out tomorrow to reseed the ballfield in anticipation of the forecasted rain. Ron has been keeping in touch with Tony Borger regarding the restoration time schedule. Lewis asked if the hole in the play area would be repaired. Ron stated that all restoration is to be completed. The water line could be hooked up by the end of the week, but everything needs to be tested prior to service being restored. Ron reported that a lot of electrical lines were unmarked and subsequently damaged that will need to be spliced. The contractor can be held responsible for doing repairs on lines that were marked, but not ones that were not marked. Lamppost lines and the signal wire to the scoreboard were not marked and the Borough will need to have an electrician do the necessary repairs.

Old Business

1. Street Resurfacing Bid Award. **On motion** by Mitchell D. Mogilski, Sr. to award the street resurfacing to Eastern Industries with the lowest bid of \$61,808.60 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

2. Street Micro-resurfacing Bid Award. **On motion** by Mitchell D. Mogilski, Sr. to award the micro-surfacing to Shore Slurry Incorporated with the lowest bid of \$32,089.22 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

New Business

1. Giroux Land, Inc. & Borough of Wind Gap Agreement. Ron stated that Hanover reviewed the agreement and it does address all the engineering comments.

On motion by Kerry Gassler to accept the agreement and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

2. Police \$1,000,000 Excess Insurance Policy. Winton explained that the reinsurance market place has gone all out of proportion. The Borough had purchased a million dollar excess policy over the police professional because it was so inexpensive. Last year the premium was \$521 for a million dollars extra coverage. The premium for the same coverage this year went up to \$2,940. Winton explained that there now exists terrorism coverage, but also the foreign money has dried up for the reinsurance market. It is typically composed of great deal out of the country money because everyone is afraid. Winton stated that he does not believe the Borough can afford the additional coverage. The Borough currently has \$1,000,000 coverage with \$3,000,000 aggregate.

On motion by Kerry Gassler that the Borough not renew the excess \$1,000,000 policy and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Borough Engineer, Ronald Madison, took his leave from the meeting at 8:15 p.m.

3. Mitch asked Chief Armitage to check out the intersection of Center and Fairview because Council received a petition from Mike Detzi to install a stop sign. There is a concern regarding the speed of traffic on

Center. Kerry also stated that a stop sign should be investigated on Alpha Road because traffic speeds down that road. Bob Matlock added that he had submitted a detailed map of Alpha Road and Alpha Avenue and again suggested a three-way stop be installed. The Chief will look at both areas.

4. Wind Gap Fire Truck Budget Commitment. **On motion** by Lewis Paulhamus to grant the \$15,000 that the Fire Company was looking for to put toward their truck for ten years and seconded by Mitchell D. Mogilski, Sr. Mitch added that Council usually gives the money after June. Winton's question is if Council could commit \$15,000 to the Fire Company into the future. Kerry stated that he does not believe future Council would object to it. Kerry stated that he believes it is for banking purposes to secure the loan. George Hinton added that the Fire Company is asking for the commitment. Mitch stated that he believes that this is a reasonable thing to act on now and future Councils would have to remedy it. Roll call vote taken. Motion carried unanimously.

5. Ordinance and Articles of Agreement to form Slate Belt COG. The Mayor explained that Council originally budgeted \$2,000 for inclusion in the COG, but the Slate Belt Municipalities Association is looking into basing membership on the individual municipalities. Council is in favor of having a COG, but would like more information regarding the membership fee for inclusion based on population. Everyone has to be involved in the fair share of the basic expenses. Not all municipalities will be involved in all issues, but they will support others in the COG. Winton asked if they are anticipating a full-time person to handle administrative duties? The Mayor replied that this might take two or three months to get everything together. The by-laws were prepared by Gary Asteak and the cost will be taken out of this year's budget. The COG gives the participating municipalities more clout and more authority as a group as opposed to individual municipalities.

Pat Sutter asked if Wind Gap joins the COG, could we support Pen Argyl in opposing the landfill? The Mayor replied that if Pen Argyl asks for support from the COG, Wind Gap would have the ability to voice their support. Peter asked why Plainfield is opting out of the COG? No one is quite sure why they do not want to be involved.

On motion by Lewis Paulhamus to agree to the Articles of Agreement for the Slate Belt Municipalities Association and seconded by Bill Pysker. Roll call vote taken. Motion carried unanimously.

Winton stated that Mr. Zito had reviewed the agreement and only questioned the financing. Mayor George said there is a meeting tomorrow night and will forward any correspondence to Council. The State will only recognize the COG with the proper paperwork being completed.

On motion by Mitchell D. Mogilski, Sr. to approve to advertise the ordinance and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Winton asked Council if they have any ideas how to better allocate the expenses get in touch with the Mayor or attend the Slate Belt Municipalities meeting tomorrow at Washington Township.

6. Street Sweeping. Kerry reported that Forks Township submitted the lowest price of \$60.00 per hour, the other prices were \$90.00 per hour including the operator. The street sweeping is tentatively scheduled for the second week of May.

7. Public Meeting Mailing. Winton reported to Council that government entities are not considered non-profit. Winton had hoped to mail information to all the residents informing them of the town meeting on Thursday, April 24. The application and the permit would cost \$700.00 the first year. The permit would have to be renewed each year. The postage rate would be .268 per piece of mail. Discussion regarding using postcards to announce the meeting.

On motion by Mitchell D. Mogilski, Sr. to send out postcards to everyone in Wind Gap informing them of the meeting April 24 at 7:00 p.m. and seconded by Bill Pysker. Roll call vote taken. Motion carried unanimously.

8. Request for handicap parking 218 South Broadway – Ordinance 401. Mr. Brewen has submitted all the necessary documentation to the Borough office. **On motion** by Kerry Gassler to install "No Parking" sign for 218 South Broadway and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

9. Park sinks. Kerry reported that he go sink prices for the park kitchen. He received a price from A1 Restaurant for a three bowl sink, 22 in, 10 ft long for \$1,100. plus two faucets at \$102 apiece. Same sink from the Restaurant Store is \$1,859.70. A hand sink from A1 Restaurant is \$139.00. The Restaurant Store is \$149.00. Kerry attended an auction yesterday and he purchased a three bowl from a Ponderosa for \$600.00 with a sprayer and faucet. Kerry purchased the sink at the auction under Jaid Kerdzaliev's name.

On motion by Lewis Paulhamus to purchase the sink from Jaid Kerdzaliev for \$600.00 and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

On motion by Mitchell D. Mogilski, Sr. to purchase the hand sink for \$139.00 from A1 Restaurant and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

10. Mitch asked why when a voice vote is taken, why the order of voting cannot be changed? When this issue was previously discussed, Mr. Zito suggested that Council choose an order of voting and consistently call roll in the same order. *(Secretary's note: Council use to call for a vote around the Council table and it was discussed that this was not a fair practice and alternating ends of the table would be better. Attached is a copy of a "Guide to Borough Council Meetings", page 18 which suggested roll calling be predetermined, usually alphabetically).*

11. Lewis asked if security for the Borough office has been further investigated? Winton replied that it was put on the back burner because of the cost at the time. Mitch suggested that Lewis spend some time and look into getting more quotes.

12. Part-time grass cutting worker. Winton appointed Kerry and Mitch to review application and interview candidates. Kerry asked the Mayor if the part-time police officers have started working. The Mayor explained that the State has increased the amount of paperwork being submitted.

On motion by Peter Stinson to adjourn the meeting of April 15, 2003 and seconded by Mitchell D. Mogilski, Sr. Meeting adjourned at 8:59 p.m.

Louise Firestone
Borough Secretary