

**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, December 2, 2003 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 Council members: Lewis Paulhamus, Mitchell D. Mogilski, Sr., Bill Pysher, Peter Stinson and Kerry Gassler. Also in attendance were Mayor Kenneth George, Borough Solicitor Len Zito, Borough Engineer Ronald Madison, and Secretary/Treasurer Louise Firestone.

### **Approval of Minutes -**

**On motion** by Peter Stinson to approve the minutes of September 30, 2003 and seconded by Bill Pysher. Lewis stated that he could not approve until his name was spelled correctly. Mitch requested the minutes reflect that he departed the meeting at approximately 10:00 p.m. Roll call vote taken. Motion carried unanimously.

**On motion** by Bill Pysher to approve the minutes of October 28, 2003 and seconded by Peter Stinson. Roll call vote taken. In favor: W. Male, M. Mogilski, B. Pysher, P. Stinson, K. Gassler. Opposed: L. Paulhamus. Motion carried with a vote of 5-1.

### **Approval of Expenditures -**

**On motion** by Kerry Gassler to approve the expenses in the amount of \$28,537.36 for the month of November and seconded by Mitchell D. Mogilski, Sr. Mitch questioned if the depositions for Robert Hahn, Rick Keenhold, Tom Knitter, Harry Smith and Russell Dieter were accurate. Mr. Dieter stated that there were a few inadequacies in his deposition. Len stated that only the person being deposed could complain through the legal representative. Peter suggested holding the bill until Council has input from Attorney Goudzousian. Kerry amended the motion to hold the payment for the legal depositions until Counsel concerns and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

**On motion** by Mitchell D. Mogilski, Sr. to approve payment from the Special 911 Account in the amount of \$112.50 and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously.

### **Public Comment**

1. Roger Bet. Roger asked if anyone had gone over the paper he previously passed out to Council regarding the finances of the Park Board budget? Winton replied that the issues have been gone over and will be relayed at a committee meeting. Roger and Cathie Yob will be available to meet with Winton and Louise to discuss the financial issues and to go over the 2004 Park Board budget. Roger asked why the new restroom did not have a pebble stone finish on it? Ron stated that the committee instructed him on what they desired for the restroom and the design of the facade. Roger asked what the total cost of was for the project? Ron replied that the contract price was \$135,940.27 less the \$26,400 that Council chose to enforce for liquidated damages. The Borough is holding a 5% retainage until the punchlist has been completed to the satisfaction of the Borough at which time the retainage in the amount of \$6,797.01 would be released to Grace Industries, Inc. Roger stated that the comment in the Express Times regarding the Park Board having a slush fund should not have been made. Peter publicly apologized, but stated that during budget discussions the Park Board budget contained an amount that was not designated for any specific project and not even a fellow Park Board member knew what it was for in the budget. Roger explained that at the last minute the AA came in about the backstop being too close. Roger concluded by saying that as a taxpayer he does not believe that Council should raise taxes next year when they have spent \$40,000 on the Sewer Authority. The Borough should not try taking over an

organization making money.

2. Russell Dieter distributed a copy of the Sewer Authority's audit report to all Council members.
3. Mike Gassler asked Ordinance 435, what are the benefits? The Mayor replied that the COG holds more clout with the State in applying for grant, seeking areas as a group, medical coverage. Working together on projects will benefit all the municipalities. Mike stated that he does not think that we should participate.
4. Paul Levits stated that he has reviewed Hanover's bills and there are twenty invoices with overtime, who approves this overtime? He suggested the Borough setting projects with not-to-exceed numbers. Paul stated that he would like to know how the Comprehensive Plan would affect him as a potential resident, taxpayer and impact him personally? He has asked this at two prior meetings and never received a response? Winton replied that any variance granted would be grandfathered in prior to any changes in the Zoning Ordinance.
5. Jim Ertle addressed a letter to Council that reads as follows: I would like to thank you for the opportunity to present you with a plan for the future of the twenty-five acre quarry located adjacent to the Wind Gap Borough Park. I would like to propose a rezoning of the quarry from Industrial Zone to R-10 Zone. The rezoning would result in a more environmentally friendly use of the land and would be more compatible with the surrounding residential areas. It is our understanding that Wind Gap would like to enlarge their existing park system. In consideration of the Borough's assistance in the above matter, we would be able to donate a major portion of the property of Wind Gap. We would partition off approximately six acres to be used as single house dwelling and donate the remaining nineteen acres to Wind Gap Borough. We do not feel developing the land for industrial use would be beneficial for the surrounding landowners or the Borough of Wind Gap. However, if we needed to develop the land in accordance with the current zoning criteria the use would probably call for the entire parcel and we would be unable to help Wind Gap establish a larger park system. Thank you for taking time to review our proposal. Len advised that acquisition is a proper subject for Executive Session.
6. Mayor George invited all Council members and their spouses, the Borough Engineer, the Borough Solicitor to his house for a gathering after the December 16 meeting.

### **Solicitor's Report**

Len Zito reported that he has two reminders for Council. The first is in regard to the vacancy and the requirements. Ordinance 435 – COG is ready for signature. Ordinance 245 has four relatively minor revisions and he asked Council to authorize consideration at the workshop meeting. Ordinance 436, Police Pension revisions, has been recommended by Principal Financial and he asked that Council authorize for passage at the December 16, 2003 workshop meeting.

**On motion** by Bill Pysher to resolve to consider and be enacted at the workshop meeting Ordinance 245 and 431-433A and to be able to vote at the workshop meeting and seconded by Peter Stinson. Roll call vote taken. Motion carried unanimously.

**On motion** by Bill Pysher to vote on the Chief's contract at the workshop meeting and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

Mitch asked if he could report on the Traffic Calming Devices that the Street Committee discussed. He asked why they couldn't use the barrels inside the curb because PennDOT uses cement barriers? The Chief asked him what he wanted to do? Mitch replied that they took barrels and painted them orange, inserted speed limit signs and filled them with millings. The Chief stated that the roadway is curb to curb according to the vehicle code. A 55-gallon barrel filled with dirt will be an accident device. Is it lit, does it have sufficient warning? The Chief stated that PennDOT would not approve. He said that the two steps necessary to follow are one, a sign posted must have approval of Council because they must be ordained and two, there are requirements/specifications of PennDOT to be official. Ron added that PennDOT has approved sign and

barriers designed to break away not solid objects. He warned that you couldn't take a barrel and put it in the roadway that would be irresponsible. Ron suggested consulting with PennDOT and their manual for the requirements. Len agreed that not conforming would put the Borough at risk and creates a liability. He also suggested consulting the PennDOT manual.

## Engineer's Report

Ron Madison reported that there is no restroom update. He has encouraged Grace Industries to complete the punchlist at the Park and have the project completed by the end of the year. He reported that the traffic study has been completed and that a traffic light is warranted at the intersection of Third Street and South Broadway. They are waiting for information from Pen Argyl School District and if there are any questions, Council can call Hanover's office. Lewis asked if there would be another walk through with Grace. Ron replied that he would make recommendation and then the eighteen-month maintenance period would begin. Ten percent of the contract amount would be held during the maintenance period and that would be far more than any restoration projects that might need done.

**On motion** by Mitchell D. Mogilski, Sr. to allow Council to vote on the Park restroom at the workshop meeting if appropriate and seconded by Bill Pysher. Roll call vote taken. In favor: W. Male, M. Mogilski, B. Pysher, P. Stinson. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 4-2.

On motion by Mitchell D. Mogilski, Sr. to all Council to vote on the traffic light application to PennDOT at the workshop meeting and seconded by Winton Male. Roll call vote taken. In favor: W. Male, M. Mogilski, L. Paulhamus, B. Pysher. Opposed: P. Stinson, K. Gassler. Motion carried with a vote of 4-2.

Ron informed Council that he met with Kerry and he received a fax copy of authorization from Joe Alfred to do survey work on his property.

## New Business

1. Borough Council Vacancy. **On motion** by Peter Stinson to nominate Karen Skorochood to Borough Council to fill the unexpired term of Sandra Lockard and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

Mayor George swore in Karen Skorochood.

2. Enactment of Ordinance 435 – Participation in the Slate Belt COG. **On motion** by Bill Pysher to support Ordinance 435 to participate in the Slate Belt COG and seconded by Peter Stinson. Roll call vote taken. In favor: M. Mogilski, L. Paulhamus, B. Pysher, K. Skorochood, P. Stinson, W. Male. Opposed: K. Gassler. Motion carried with a vote of 6-1.

3. Park Board Vacancy – Janet Mishkin. **On motion** by Kerry Gassler to approve Janet Mishkin to the Park Board and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

4. Police Pension Plan – EGTRRA Act of 2001. Bill asked for an explanation of the Act. Len explained that the amendment to the Act requires the pension plan administrators act in good faith. Wind Gap agrees to negotiate in good faith. Principal Financial Group will keep on file. **On motion** by Bill Pysher to approve EGTRAA 2001 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

5. Bids on Fuel Oil. Lessig Oil was the only company to submit a bid for the Borough fuel oil. Their bid was .949, but it expired on November 20, 2003. Louise to call to confirm that Lessig will honor their quote. **On motion** by Mitchell D. Mogilski, Sr. to accept Lessig's bid and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously.

6. At the last meeting, Council discussed an increase for Millie during Executive Session. **On motion** by Peter Stinson to approve a \$1.00 per hour increase and seconded by Bill Pysher. Roll call vote taken. In favor:

W. Male, M. Mogilski, B. Pysher, P. Stinson. Opposed: K. Gassler, L. Paulhamus, K. Skorochood. Motion carried with a vote of 4-3.

*Mayor George took his leave from the meeting at 8:55 p.m.*

## Executive Session

Council adjourned to Executive Session at 8:56 p.m. to discuss Wind Gap Municipal Authority Litigation in the Federal Court, personnel matter with the Chief of Police. Council reconvened at 9:24 p.m.

**On motion** by Lewis Paulhamus to allow Council to vote at the workshop on an employee evaluation and seconded by Peter Stinson. Roll call vote taken. In favor: W. Male, L. Paulhamus, B. Pysher, K. Skorochood, P. Stinson, Opposed: M. Mogilski, K. Gassler. Motion carried with a vote of 5-2.

## Old Business

1. 2004 Budget. Winton stated that Council has to approve the 2004 budget no later than Wednesday, December 17, 2003 for advertisement on Thursday, December 18, 2003. If that were done, a special meeting to approve the budget would be on Monday, December 29, 2003. On motion by Lewis Paulhamus to advertise for the 29<sup>th</sup>, but not the 17<sup>th</sup> because it should be enough. Motion died for lack of a second. **On motion** by Kerry Gassler to advertise a budget meeting on Wednesday, December 17 if necessary and a special meeting on Monday, December 29, 2003 and seconded by Peter Stinson. Roll call vote taken. Motion carried unanimously.

2. Zoning Ordinance/Comprehensive Plan Enactment. Council continued with the memo from Winton Male to Council dated October 6, 2003 that was not discussed at the previous meeting. #10 – Are the off street parking provisions adequate to address the places on existing lots where such parking could occur. Yes...702 – F, page 7-6, within 400 feet walking distance, and G. Joint Use provision. Council discussed Kerry's memo to Council with specific questions regarding his suggestions for the Comprehensive Plan and Zoning Ordinance Amendment changes. Council again discussed the definition of forestry. Len had revised the forestry definition not to prevent a non-commercial owner from cutting trees for a non-commercial purposes, someone not engaged in business. Ron added that the term commercial creates loopholes, because anyone can do anything because they are not doing it for profit. He questioned changing the wording that property owners are not regulated by the forestry management if you are not a commercial entity because of the possible loopholes. Ron stated that any earth disturbance requires a soil erosion sedimentation plan and in certain cases you need a permit from the County. The MPC requires forestry in all districts, requires timbering and harvesting practice for woodland preservation. Urban Research used the wording from Williams Township in the proposed ordinance because the forestry has already been challenged and withstood the challenge. Kerry questioned the Borough having too much control and costing the property owner too much money. Peter stated that Council voted for the language contained in Mr. Zito's memo dated November 19, 2003 by a 6-0 vote.

Should Town Center extend from the Legion on North Broadway to Alpha Road? Kerry felt that the purpose already exists under the definition of Town Center. This District is intended to recognize existing mixed uses and to strengthen the Borough's business corridor. It also encourages the reuse of older buildings, as opposed to the conversation of the central area into a faceless commercial strip. This has come up before, and Council has voted on this issue.

#5 – the fences has already been discussed and has been voted on. #6 – the sign provision language has been taken of also.

#7 – R-8 to R-10 and SPC. In the R-12 lot size is 12,000 square feet and includes wetlands as part of the lot to build on. Kerry is questioning making the R-8 the toughest to build on in the Borough and this is way too aggressive. Ron asked if the wetlands have been netted out only in the SPC and is the suggestion to net out wetlands in all districts? Kerry said not to change all the R-8 districts and there is discrimination of the wetlands in one district. He reiterated that there has been a request to invite Tom Palmer to explain clustering at

a meeting.

**On motion** by Peter Stinson to extend adjournment to vote on this issue the zoning ordinance and the comprehensive issue and seconded by Bill Pysher. Roll call vote taken. In favor: B. Pysher, K. Skorochood, P. Stinson, W. Male, M. Mogilski. Opposed: K. Gassler, L. Paulhamus. Motion carried with a vote of 5-2.

Peter stated that this change will benefit the Borough in the long term. Mitch said that the R-8 should stay as R-8 and that the Town Center should go up on the east side the whole way up to Alpha Road and on the left side of 512 up to the railroad tracks. Bill replied that at this time that would be a major change and it would have to be re-advertised. Lewis agreed that the Town Center should be extended. Winton explained that a whole bunch of things have been made better in this ordinance and a decision has to be made for the better of the entire Borough not for individuals. Len advised that Council would have to vote on the language contained Section 602.B signs and the proposed definition of Research Laboratory.

**On motion** by Peter Stinson to accept the modified for Research Laboratories and the additional regulations as proposed by Tom Palmer, URDC and seconded by Bill Pysher. Roll call vote taken. In favor: B. Pysher, P. Stinson, K. Gassler, W. Male, M. Mogilski, L. Paulhamus. Abstained: K. Skorochood. Motion carried with a vote of 6-0-1.

**On motion** by Bill Pysher to enact the Zoning Ordinance and the Comprehensive Plan as it has been amended by Mr. Zito and the November 19 letter and the Urban Research letter of November 3, 2003 and seconded by Winton Male. Roll call vote taken. In favor: P. Stinson, W. Male, B. Pysher. Opposed: K. Skorochood, K. Gassler, M. Mogilski, L. Paulhamus. Motion did not carry with a vote of 3-4.

Council adjourned the meeting of December 2, 2003 at approximately 10:20 p.m.

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Louise Firestone  
Borough Secretary