

**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 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, Sandra Lockard, Mitchell D. Mogilski, Sr., William Pysher, Peter Stinson and Kerry Gassler. Also in attendance were Borough Solicitor Len Zito, Borough Engineer, Ron Madison, and Secretary/Treasurer Louise Firestone. Absent Mayor Kenneth George.

Approval of Minutes -

On motion by Bill Pysher to approve the minutes of the May 20, 2003 meeting and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

Approval of Expenditures -

On motion by Mitchell D. Mogilski, Sr. to approve the expenses in the amount of \$31,134.45 and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Winton stated that Len Zito and Ron Madison have approved the release of the funds back to Walden III.

On motion by Kerry Gassler to release funds held in escrow in the amount of \$17,584.38 to Walden III and seconded by Lewis Paulhamus. Roll call vote taken. In favor: W. Male, L. Paulhamus, B. Pysher, P. Stinson, K. Gassler, S. Lockard. Opposed: M. Mogilski. Motion carried with a vote of 6-1.

Public Comment

1. Sandra Gaspar representing Families First asked to be on tonight's agenda. Sandra announced that Families First would be celebrating their first birthday this Friday. They are located in the Wind Gap Middle School and service those families in the Pen Argyl School District. She stated that statistics show that 25% of people over 25 years old do not have a high school education in the Slate Belt Area. They have worked with parents and encouraged them to get their GED. Families First offers babysitting and transportation so these parents can continue their education.

Mayor Kenneth George arrived at 7:36 p.m.

Families First has helped over 65 families. They have been awarded three grants during their first year in operation. The first was from the Pennsylvania Children's Trust Fund which helped Families First offer parenting classes to develop relationships among the family members. One class was held this past year and they again offering the class in the fall and for the next three years. A VNA nurse is assigned to an expectant mother to inform her of the nutrients, vitamins and education needed during her pregnancy. Any parent with a child from the age of 0 to 3 is eligible to have a parent advocate to come to their home once a week to teach them skills. Verizon offered a grant of \$5,000 for computer classes to three groups, parents, people who need to enhance their job skills and for seniors over 55. They will be trying to obtain the grant again. Sandra feels that Families First is really making a difference in the Pen Argyl School District community. They are involved in a mentoring program matching residents over 55 to fifth and sixth

graders. She asked for people to consider becoming mentors especially men and they are even willing to lower the 55 age requirement to attract more men to become involved in this program.

The other program is funded by CTC, funded through the Pennsylvania Crime Commission targeting at preventing Drug and Alcohol Abuse. Children in the fifth and sixth grade are at the age when they decide which path to choose, education or drug and alcohol. They are matched up with people over 55. The children are referred through the school guidance counselor or their parents. They are in need of male mentors, even those under 55, because a lot of boys are in need of male role models. The children are in a classroom once a week learning life skills and how to make good decisions. The alternating week they do community services. They go to visit Chandler Estates and hope to continue this program next fall.

They schedule a family activity once a month. She provided brochures to be displayed at the Borough Office for anyone interested in learning more about their programs. She suggested partnering with the Borough in attempting to acquire grant money. The program has received donations in kind and monetary from over 70 businesses. They have brought in over \$84,000 in cash for these services.

Mitch explained that he became aware of Families First when Sandra called to inquire what needed to be done to secure a green and white sign posted on the pole at the intersection of Third Street and Broadway.

On motion by Mitchell D. Mogilski, Sr. to donate \$500.00 to Families First for the work they are doing within the Pen Argyl School District and seconded by Bill Pysher. Winton asked Mr. Zito for legal advice about making a donation of this type with taxpayer's funds. Mr. Zito replied that as a 501C3 organization it is permissible to support a charitable organization which services families within the Wind Gap community. Sandra explained that she has made application for 501C3 status, but to date has not received certification. She expects this to occur within the next thirty days. Mitch amended his motion to make the gift effective upon receipt of the certification. Roll call vote taken. Motion carried unanimously.

2. Roger Bet asked for an update of the restroom delivery date. Ron Madison stated that June 19, 2003 is the expected on site delivery date. The old restrooms are hooked up to the sewer system and are operational. Roger reported that the Summer Sounds Concerts would begin on June 22, 2003. The music committee will run the refreshment stand this summer and the proceeds would benefit the concert series program for next year. Roger has commitments from the Women's Club in Pen Argyl, Wind Gap Park Board, the music committee, the Ladies Auxiliary, the Lions Club of Plainfield Township to work in the stand. State Representative Craig Dally will be working in the concession stand at the June 22, concert. Merchant's Bank of Bangor donated \$200 toward the posters and the concert series. Roger brought the large posters of the concerts and the programs if any businesses or individuals would like to take some. The program ad has run in the Express Times, Us and the Press in Bangor.

3. Richard Dentith. Richard expressed his dissatisfaction with John Blick, the Zoning Officer, in the manner that he has handled John Nichols at 357 North Broadway and his situation with his driveway. Richard explained that the Zoning Officer gave permission for the neighbor to install wood timbers, which cannot be removed. He stated that Council sent him to the Zoning Hearing Board after he complained at the last meeting. He said that it cost \$300.00 to appear before the ZHB along with an attorney. Winton stated that he is aware that Mr. Nichols had his land surveyed. He did not give him permission, but he could not force him to move the timbers because he didn't know where the property line was. If the timbers are on the line, then there is a property line dispute and that is a civil matter. Mitch asked if someone can put curbing on all four sides of their property. Len explained that the Zoning Officer can only enforce the Zoning Ordinance. The curb could be considered a structure as defined in the Zoning Ordinance. The Zoning Officer would have to make a determination whether the curbing is a structure or would constitute some kind of fence. He could permit, not permit or issue an enforcement notice. Winton

stated that John Blick would look at this issue again.

4. Bob Matlock suggested that the zoning ordinance should include a survey being a requirement prior to a permit being issued. He said that civil matters are being created by the Borough. He has had a similar experience with his neighbor and something has to be done by the Borough. Bob stated that his neighbor brings his tractor of a tractor trailer home, but one street down no trucks are allowed. The Borough is not consistent with their ordinances. He asked that a committee be appointed to review this issue. Bill suggested that this is a well taken point, and maybe it should be looked at during the zoning ordinance changes.

5. Vickie Allen stated that she was here on Saturday asking permission on behalf of her employer, GAF to erect a sign of Broadway and Alpha. Mayor George stated that in the past, there have been requests and permission granted. The color has to be consistent with the other signs in the Borough. They have to be on a separate pole from the actual street signs.

On motion by Lewis Paulhamus to allow GAF to install a sign, but first calling a street committee member, Kerry or Mitch and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

6. Patricia Sutter presented a copy of a letter on Waste Management letterhead stating that instructs the trucks to get off at 191 and take 191 to the landfill and not travel through Wind Gap. She spoke to Craig Dally and she sent him a copy of this letter dated October 1998. In turn, Mr. Dally will contact Harry Smith at Waste Management. Pat stated that Council should keep after Waste Management to get the trucks out of the Borough.

7. Ron DeCesare stated that he owns the property on Third and Broadway and would like the signs removed from his property. He asked Mr. Zito if it is legal to put business signs on someone else's property? Winton stated that they are in the right-of-way. Ron stated that no one asked his permission to install these signs. Winton said the Solicitor will look into this issue.

8. Rick Keenhold stated that he has comments. Winton stated that an Executive Session would occur at 9:00 p.m. Len said that Council has to provide every citizen an opportunity to be heard. There is nothing wrong with deferring the public comment portion to conduct regular business. Winton stated that Council would go beyond 10:00 p.m. if need be.

Solicitor's Report

Len Zito stated that the Borough's police pension administrator, Principal Financial Group, has notified the Borough Solicitor that the Attorney General has issued an opinion on Act 30 which requires some language amendments to the Borough Ordinance 432.

On motion by Bill Pysher to advertise Ordinance 432 for enactment and seconded by Mitchell D. Mogilski. Roll call vote taken. Motion carried unanimously. Len explained that there is no urgency, it is an administrative issue that needs to get done.

Engineer's Report

Ron Madison submitted pay request #3. The work completed to date includes: installation of restroom foundation, base course paving of Lehigh Avenue, partial paving restoration of walkways, restoration of disturbed areas prior to car show, and completion of Change order #1 #1, 3/4" drain-style shutoff valves. Pay request #3 as submitted and is for work completed to date for a total of \$61,847.02 (or 45%) of the contract revised amount of \$135,865.27. Hanover recommends payment of this work, less

ten percent (10%) retainage and less previous payments in the amount of \$24,241.88.

On motion by Peter Stinson to make pay request #3 in the amount of \$24,241.88 and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Grace Industries requests a time extension up to June 30, 2003. They asked based on three reasons: A-Z Precast was an approved Builder of the precast restroom per the bid specifications, the price submitted by A-Z Precast was approximately \$21,000 lower than the other two quotes and this savings was passed on to the Borough, the stainless steel fixtures for the restroom have a lead time of approximately 10 – 12 weeks per A-Z Precast. The Borough does not have a contractual agreement with the supplier, but with Grace Industries. Hanover does not believe that any time extension should be granted to Grace Industries. Based upon a June 30, 2003 completion date, the Liquidated Damages, if assessed, is estimated as: forty-one (41) days at two hundred dollars (\$200) per day, would equal eight thousand two hundred dollars (\$8,200).

On motion by Bill Pysher to not grant a time extension to Grace Industries and seconded by Peter Stinson. Roll call vote taken. Motion carried unanimously.

Ron met with Bernie Corbett from PennDOT to discuss the inlet at Center and Roosevelt. Since the Borough entered an agreement with PennDOT in the Agility Program, the Borough will purchase the inlet grate and PennDOT will do the installation. Bernie would like to schedule a meeting with the Street Committee to discuss in kind services such as the meeting room. Ron had Monarch PreCast draw a sketch. He received three quotes, Monarch Precast Concrete Corporation is \$669.00, Modern Concrete, Inc. is \$459.61 and Rahns Construction Materials is \$355.00 (this price does not include delivery).

On motion by Kerry Gassler to purchase the replacement inlet top and grate from Modern Concrete for \$459.61 and seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

Concern about the exposed area until the repairs are completed. Cones have been positioned in the area and will be monitored.

Ron stated that right now the delivery date is June 19, 2003 and has not been revised at this point. It will take approximately one week after delivery to hook up. Ron suggested ordering the portable potties as usually ordered by the Fire Company. Bill asked if the Borough could charge back the expense of renting the port-a-potties for the Fire Company because they did not fulfill their contract. Ron replied that the liquidated damages would effectively cover any costs incurred by the project not be completed as per the contract.

New Business

1. Center Street Block Party. Mitch explained that John drops the barricades off on Friday, they get set up on Saturday, removed after the party and John retrieves them on Monday. There has never been an issue with the police related to this party.

On motion by Mitchell D. Mogilski, Sr. to approve the block party barricades for Center Street and seconded by Kerry Gassler. Roll call vote taken. In favor: S. Lockard, W. Male, M. Mogilski, L. Paulhamus, B. Pysher, K. Gassler. Abstained: P. Stinson. Motion carried with a vote of 6-0-1.

2. Posh Property/CVS. Len Zito reported that Mr. Preston, representing Mr. Posh, requesting under the Borough Code for Council to convene hearings as it did previously with Mr. Gassler's property which would accommodate his client's development. Mr. Preston asked Council to consider their rezoning separate of the zoning ordinance changes currently being discussed by Council.

On motion by Kerry Gassler to engage in the zoning change procedure and conduct a hearing and seconded by Sandra Lockard. Roll call vote taken. Motion carried unanimously.

Len asked Jim Preston to write up the papers to be distributed to Council.

3. Special Meeting for Zoning Ordinance and Comprehensive Plan changes. Council agreed to meet on Thursday, June 12, 2003 at 7:30 p.m. Tom Palmer will be in attendance. Len and Ron to attend meeting.

4. Alpha Road property. Discussion regarding the condition of the vacant property on Alpha Road. This property is owned by Papillion and informed Council that he has a client that he will be building on this lot. Kerry reported that the street workers cut the grass. Winton to call Mr. Papillion this week. The Mayor asked Len if the Borough has to send letters to constant offenders. Len replied that the Borough can send a letter and then can institute an enforcement procedure before the Magistrate.

5. Hummer Property, Utica Avenue. Len reported that the property at 145 Utica Avenue. Andrew Hummer record title owner of the property is deceased. No estate has been raised in Northampton County for him. If the Borough is going to improve this property at its expense there would a proceeding against the property itself which the Borough would be entitled to a municipal lien. Council may have to ultimately may have to execute on the property to recover expenses. Bill asked if municipal liens already exist on this property? Len had not been asked to research if liens exist. The tenants at the property indicated that there is litigation against title to this property. Len said none was found. Mitch stated that the tenants have been paying the tax bills and suggested that they may pay a bill related to the property.

On motion by Kerry Gassler to proceed and curb this property and seconded by Mitchell D. Mogilski, Sr. Mitch to speak to the tenants tomorrow. Len to research the liens filed on the property at 157 Utica Avenue and report to Council.

6. Kerry reported that there is no stop sign at the intersection of Seventh and Utica Avenue behind the American Legion. Mitch stated that the resident asked to install the stop sign on the south side coming up Utica. Kerry also reported that the residents requested more police presence in that area.

7. Ordinance 214 – Curbing. Mitch reported that he has been reviewing the curbing ordinances to make sure the Borough can recoup the cost of any installation. Len stated that the four ordinances relating to sidewalks and curbs should be combined and be strictly construed. Kerry stated that two years ago Richard Getz and Kerry drafted an ordinance and then the project got dropped. Ron cautioned that Council has to decide and be consistent with the sidewalks and curbs. Ron does not recommend being monolithic sidewalks. Kerry to provide a copy of the draft ordinance.

Old Business

1. Town Wide Yard Sale. **On motion** by Mitchell D. Mogilski, Sr. to have the town wide yard sale on August 1, 2, and 3, 2003 at their homes without acquiring a permit and seconded by Peter Stinson. Roll call vote taken. Motion carried unanimously.

Ron Madison took his leave at 9:02 p.m.

Executive Session. Council adjourned to Executive Session at 9:02 p.m. with Karl Kline and Len Zito to report to Council on the litigation between Council and the Municipal Authority. Council reconvened at 9:41 p.m.

On motion by Peter Stinson to make a resolution to authorize Karl Kline, PC and his office to enter its appearance in the United States District Court litigation by the Wind Gap Municipal Authority et al and

W. Male et al, #03-20 and seconded by Bill Pysher. Roll call vote taken. In favor: B. Pysher, P. Stinson, S. Lockard, W. Male, M. Mogilski. Opposed: L. Paulhamus, K. Gassler. Motion carried with a vote of 5-2.

On motion by Mitchell D. Mogilski, Sr. to address this resolution, to review it and vote on it at the workshop meeting on June 17, 2003. Roll call vote taken. In favor: B. Pysher, P. Stinson, S. Lockard, W. Male, M. Mogilski. Opposed: K. Gassler, L. Paulhamus.

Public Comment

1. Rick Keenhold asked that Council be consistent with the sidewalks. New developments got away with not installing sidewalks, people have removed sidewalks so they don't have to shovel them. He said that everyone should be forced to do it.

He asked where the money was coming from to purchase the property condemned for the by-pass road. Winton replied that he has not heard anything. Peter added that the Borough would be stuck with the bill should money not become available.

Rick asked the Mayor to have the weeds cut on the Eighth Street. The Mayor asked for the address. Rick said the property is actually on Broadway.

Rick asked for an insurance binder on the property that has been condemned? Winton replied that a specific binder will not be issued because the Borough has blanket coverage. Rick stated that the property is now in the Borough's hands so John will have to cut the weeds.

Rick asked Winton why he attended a meeting objecting to a single family dwelling in the Borough. Winton replied that he objects to squeezing a house on a undersized lot, he was concerned with getting emergency vehicles there and someone will request a road be put in and he stated these reasons at the public meeting.

2. Paul Levits asked that at a previous public meeting Winton stated that the Borough had the money. Winton replied that he believed he said that the money could be acquired. Paul said that Winton has fabricated and deceived the residents.

Paul said that when he put in the green sign, he gave money to the Borough and it was installed. He wonders why now there is a great deal of bureaucracy and has become a long drawn out process.

Paul stated that he was disappointed that Families First could come here and speak for 15 minutes and the taxpayers in the Borough had to wait their time to speak. The first responsibility is to the taxpayers.

Paul said that the first payment from Waste Management was around April 1, 2003. Why are they paying three or four weeks late. The agreement did not have a negotiated late payment so Waste Management does not have an obligation to make timely payments. The Letter of Intent according to the main body of the agreement is part of the agreement referenced twice. Paul questioned why the Letter of Intent specifically states, "Urban Research and Development, a professional planning consultant, is making a number of recommendations for Wind Gap, which, after they are accomplished, will cultivate a business district." He asked why Waste Management wants a business district and why is this being forced through this agreement. He asked why? Winton replied that this agreement and Letter is referencing the road from Broadway to Rt 512 that a grant was already received from the County. The 33 by-pass was not an issue at that time. Paul says this spells out something totally different. He stated that Council approved a very dangerous agreement, that will ultimately hurt the taxpayers and a grave long-term mistake has been made.

3. **On motion** by Lewis Paulhamus to make Waste Management make their trucks go down this way. Motion died for lack of a second. Pat Sutter added that Pen Argyl weighed the trucks and got them

out of their Borough. Mitch stated that State roads are for free commerce.

4. Kerry brought up installing stop signs on Alpha Road and Alpha Avenue. He suggested putting up the stop signs with a sign stating stop sign ahead. He has received complaints on Constitution and Broadway when school lets out. When the police are there it helps slow down the traffic.

On motion by Kerry Gassler to engage an engineering study to change the intersections at Utica and Seventh, Alpha Road and Alpha Avenue and Center and Fairview and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

5. Mayor George reported that the Articles of Agreement for the Slate Belt Municipalities Association has some minor word changes. The Mayor asked Len if the ordinance can be advertised jointly? Len stated that it could be.

6. Bob Hahn, Sycamore Drive. He stated that his neighbors across the street have a Sycamore Court sign and he is requesting a street sign be posted for Sycamore Drive. Sycamore Court is the street in Plainfield Township, but Sycamore Drive is in Wind Gap. Kerry and Mitch to look into the sign.

On motion by Peter Stinson to adjourn the meeting of June 2, 2003 and seconded by Bill Pysher. Meeting adjourned at 10:13 p.m.

Louise Firestone
Borough Secretary