

**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, November 18, 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 Pyscher, Peter Stinson and Kerry Gassler. Also in attendance Secretary/Treasurer Louise Firestone.

Mayor Kenneth George arrived at 7:35 p.m.  
Borough Solicitor Len Zito arrived at 7:39 p.m.

### **Public Comment**

1. Council received a letter from Jim Ertle. Winton explained that Council could think about this and address this issue later.
2. Patricia Sutter, Tax Collector. Pat informed Council that the Borough needs to adopt a new ordinance for the Earned Income Tax. The old one is not good anymore because the State passed Act 166. They made everything similar to the State tax so that maybe eventually they would get rid of the local tax and have a State tax. Pat and Rondi Wagner from Plainfield Township drafted an ordinance from the City of Bethlehem with changes specific for the Borough. She gave Council her original copy and a disk to be forwarded to the Borough Solicitor, Len Zito, for review and to form into an ordinance for Wind Gap. The changes would include calling it Earned Income/Compensation not just Earned Income. Pat asked Council to pass this ordinance by the end of the year because final returns form go out in January and this is all based on this ordinance.

*Mayor George arrived at this time.*

3. Roger Bet submitted a copy of a memo from the Park Board to Council requesting information regarding budgeting and the 2003 Park Board budget. The Park Board would still like to have the refrigerator purchased out of this year's budget. Roger stated that he felt that a major problem is when items are purchased and the bill comes in more than expected and is charged to a different line item than expected. Louise to review and provide information to the Park Board.

*Borough Solicitor, Len Zito arrived at this time.*

4. Mike Gassler stated that in 1990 the people of Wind Gap put in a good plan and should be good for the next en years. Council is wasting time and money on a new plan. Forget it, see

what the next Council does. Mike asked if the Borough received the third quarter tipping fee? Louise replied that it was. Mike suggested that this be put in the newsletter every quarter.

## Committee Reports

1. EMS – Kerry Gassler reported that there was no meeting last month because people could not make it. The Ambulance Corps will be holding their Christmas party on December 7, 2003. Peter asked if the EMS is still an open issue regarding the lease? Kerry replied that they have had trouble meeting to discuss this lease.
2. Police – Bill Pysher reported the Chief of Police's contract is still pending for 2004 and beyond. He will bring up his recommendation during the Executive Session and have Council review it before bringing it to vote in December. Council has the statistics from the Police, arrests, etc. The SUV is now in and part of the fleet, and fortunately it was here because the Police had the other two cars were down this weekend. The Chief has asked that Council consider purchasing another new car in 2004 and this will be discussed during the budget process.
3. Streets – Mitch Mogilski reported that he got the measurements from Male Road that was not done and totals 316 square yards or the equivalent of \$508.76. He will talk to John from Slurry Seal to give the Borough credit. Peter asked about the complaints that came from the Town Meeting regarding the roads of Mechanic and Lehigh Avenue? Mitch replied that he will be talking to Bob Boyer from PennDOT to find out if the road is how it is suppose to be after micro-surfacing. Kerry stated that the leaf vacuuming is almost done and John will be taking the box off the truck by Friday. The workers spread topsoil and seeded it and they installed the slide at the Park that has been here for almost a year. Kerry met with Ron Madison and they went over the stormwater project up at the Park and Ron should be starting on the engineering. Lewis added that John has requested that putting trucks at the Oaten Building.
4. Finance and Administration – Winton Male reported that we are very much behind in our work because there is so much to do at the end of the year.
5. Zoning and Planning – Winton Male reported that McFall was approved and the sheets were signed.
6. Parks and Recreation – Lewis Paulhamus had nothing further to report.
7. Fire Company – Mitch Mogilski reported that last night they had their monthly meeting. The picnic next year will be June 24, 25, and 26, 2004. They will be doing a coin toss on Friday, November 28, 2003 from 8:00 a.m. to noon. The Fire Company is still awaiting the \$18,000 from Waste Management and George is looking into that. They had 16 calls in October, 133 year to date. A lot of issues were taken care of in regard to the truck. They expect to take delivery in three weeks. The final figure is approximately \$275,000. Their next meeting is December 15, 2003. Bill asked out of the \$275,000 how much has been raised? Mitch stated that George

would have those figures.

8. Buildings – Mitch Mogilski reported that there has been a mouse problem in the office and in the Police office. Rid-Ex came in and set traps all over downstairs, but they have not addressed upstairs yet because they feel that it is not a problem with just the equipment being there.

9. Insurance – Winton Male reported nothing new with the exception of some of the insurance is coming up in February.

10. Land Use Committee – Winton Male had nothing to report.

11. Sewer Authority – Council has no representative to the Sewer Authority. No one from the Authority had anything to report.

### **Mayor's Report**

Mayor George reported that Contractor's License fees collected for the month of October were \$125 for a grand total for the year is \$2,100, amusement license stayed the same and so did the transient license for a grand total collected of \$2,650. Council received the Police report, they responded to 118 calls, 37 traffic citations and 12 motor vehicle accidents. Tomorrow at 7:30 p.m. at Washington Township will be a meeting for the COG. Winton asked if anyone else joined the COG? The Mayor replied that no one else joined.

### **Public Comment**

1. Patricia Sutter asked if Council knows how much the bathroom cost the taxpayers. Bill asked if she was referring to the infrastructure or the bathroom alone because there is a difference. The infrastructure, the sewer lines, the water lines and all that happened is over \$100,000 alone.

### **New Business**

1. Borough Council Vacancy. Len explained that Council has thirty days under the Borough Code in which to fill this vacancy from the date of resignation of Councilwoman Lockard. Bill asked if Council could appoint a newly elected official without advertising? Len replied that there is no requirement to advertise only a requirement that Borough Council act within thirty days to fill the vacancy. If not filled within thirty days, it would go to the Vacancy Board for an additional fifteen days. Peter suggested that Louise write a note to Karen, Scott and George to make sure that they are aware if they desire to take the seat for the remainder of the year. This item would be on the December 2, 2003 Council meeting.

2. Planning Commission Vacancy. **On motion** by Bill Pysher to advertise for the vacancy

and seconded by Lewis Paulhamus. Peter asked the status of the Planning Board? Winton replied that there was no vacancy prior to Sandra's resignation. Len stated that the Borough is required to maintain a quorum on the Planning Commission. Unlike the Borough Code, there are no specific requirements in the Code or the Municipalities Planning Code to fill the vacancy. Council is not required advertise, but can use any reasonable method to solicit interested citizens who might want to serve on the Planning Commission. Bill suggested placing this in the newsletter or have people from Council talk to people. Kerry suggested posting it on the Borough website. Peter stated that he did not see this as an emergency. In response to this issue, Bill withdrew his motion and Lewis withdrew his second. Mitch stated that Sandra had been corresponded with his son on the website, he would rather not get into that.

3. Traffic Calming Device. Mitch stated that a couple meetings ago, Council discussed traffic calming at some length and eventually Council turned it over to the Road Committee to work on traffic calming. They decided to get two blue barrels, painted them orange, put on Wind Gap Borough Reduced Speed, with a speed limit sign in the barrel, with the intention to fill the barrels with road millings and putting them right inside the curb out of the roadway. Mitch stated that they started placing the barrels, but Craig said it was illegal to put anything in the road. Mitch questioned him about the cement barriers for construction, but Craig stated that it is temporary and serves a purpose. Mitch told him that these barrels would be temporary and will served a purpose too. Craig showed him the crime code book, but Mitch was not happy with the definition, because there is nothing that specifies roadway. He added that if anything on the roadway is illegal, then the sign on North Broadway by the storm drain shouldn't be there. He added that the only thing that he was satisfied with is it takes a motion by Council or a Police Officer to place the sign. **On motion** by Mitchell D. Mogilski, Sr. to post them barrels as temporary traffic calming devices with the speed limit signs right inside. Mitch stated that since Council cannot vote on this, he would like to continue discussing this issue. The calming would be on Center Street and Fairview and Alpha Road around the turn. The Mayor suggested having the Chief attend the next meeting. Mitch stated that he wanted to see it in black and white. Peter said that Council discussed painting line on Center and that Mr. Milot stated that it is a very effective way at a low cost.

4. Wind Gap Fire Company FireHouse Roof. Mitch requested a couple hundred dollars of the tonnage money to finish the roof because there is \$1,800 there and the quote is \$2,400 to get the roof over the kitchen fixed in 2003.

5. Park Board Vacancy. Council received a letter from Janet Mishkin. Bill asked that this item be placed on the December 2, 2003 agenda to appoint her. She seems to be well qualified and the Park Board seems to be in agreement.

6. Kerry asked to talk about this Council stop spending money on the Sewer Authority and the litigation until the end of the year. He stated that in January the new Council could determine if this moves on or stays dormant. Winton suggested discussing this in the Executive Session because it is a legal situation. Bill agreed to a point, but Council has not heard from the Sewer Authority and they have not answered any of the questions from Council, so this is one

sided. Kerry corrected that the Authority has been deposed.

Mitch stated that the depositions are so bad that some sentences are so disformed it is so hard to know what was said. Len advised that there is a procedure. The procedure is to file objections to the transcript or Errata. The quality of the transcript is a function of the quality of the court reporter. It is the responsibility of the person deposed or the attorney, if something is out of text, or sintexted, you need to notify the court reporter. There are stipulations that are generally requested at depositions and they include the waiver of the reading and signing of the deposition, that was not done in the case. The person deposed has the right to read the deposition and to sign the deposition. If read and signed, it would be agreed that it is correct. The lawyers will also read it for the same purpose to determine if the answers are within the context of the question, misspellings, phrases that are not correct and then there is a document prepared called an Errata Sheet (error sheet) sent to the court reporter initially, and sent to the opposing Counsel because they might want to believe that the answers are correct. If there is a dispute it would be corrected by the Court. The procedure in this case, Counsel, Mr. Goudsouzian or Mr. Kline would notify the opponent that the transcripts are not accepted because there are substantial errors in the transcripts. Len to notify Steve Goudsouzian that Council has some objection to the depositions. If there is an agreement that the court reporter is incorrect, they maintain tapes, and sheets, these will be checked. If a Court becomes involved the Court would have independent court reporter would check the paper tapes to the transcripts.

## **Executive Session**

Council adjourned to Executive Session at 8:29 p.m. to discuss regarding personnel and the litigation. Council reconvened at 9:14 p.m. Winton stated that there was nothing to vote on.

## **Old Business**

1. Zoning Ordinance/Comprehensive Plan. Winton read a memo that he wrote regarding Mr. Zito's October 6, 2003 memo on the Comprehensive Plan and Zoning Public Hearing. Should the Commercial/Industrial Zone accompany the proposed by-pass roadway routes? This issue was discussed at previous open Council meetings and the owners desire to not change it to an I/C was also considered. The consensus to not change that property was prior to the printing of the current map on July 14, 2003. Kerry stated that if that is where the proposed by-pass would go, that would be the best spot to put commercial sites.

Jim Ertle arrived. Winton explained that Council received Jim's letter, but Council will have to discuss this again. Council invited Mr. Ertle to attend the December 2, 2003 Council meeting.

Bill stated that Council has condemned the land, but Council may never be able to come up with the money to purchase the land, and this all may become a moot point and the area will be zoned correctly.

"Research Laboratory" has been completed revised by Urban Research.

Should the "Town Center" extend northward along Route 512 (Lehigh Avenue)? The

residents of this R-10 district have been strongly against the change and there is no justification for Council to make the change. Kerry would still like to discuss having the "Town Center" extend north on Broadway above the Legion. This will be addressed when Council gets to Kerry's list.

Should the definition of fences be further refined to include hedges or stone fences and to otherwise encompass fencing variables? The definition of fence on page 208 of our present ordinance includes, living fences, hedges and vegetation. A stone fence be costly and not likely an issue, but a variance could be requested. **On motion** by Kerry Gassler to allow stone fences to be included and seconded by Lewis Paulhamus. Kerry amended his motion to include and/or masonry. Roll call vote taken. In favor: K. Gassler, M. Mogilski, L. Paulhamus. Opposed: W. Male, B. Pysher, P. Stinson. Vote was a tie of 3-3. The Mayor voted no. The motion did not pass with a vote of 3-4.

Should the Forestry provision language be further clarified, particularly with respect to the restoration of non-conforming signs? See definition of Forestry in Article 2, paragraph 7. The definition reads, "the management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development". Kerry stated the under Forestry it reads, "A zoning permit shall be obtained from the Zoning Officer prior to harvesting or otherwise removing 40 or more trees with a trunk diameter of three inches or more at a height of three feet above the average ground level on any tract of land larger than two acres. Prior to the issuance of a Zoning Permit, an Erosion and Sedimentation Control Plan shall be submitted by the Applicant to the County Conservation District for review, recommendation and approval. Kerry stated that forestry does not have to be too restrictive. Winton replied that it is required by law to have forestry included in the ordinance. If cutting trees is for business, then permitting is required, but if trees are cut for firewood on their own property, no permitting is required.

**On motion** by Kerry Gassler to revise that provision of the Zoning Ordinance to allow private people to cut their own trees and do what they want on their own lot. After further discussion, Len suggested the following wording be used, "nothing in this definition shall permit an owner of property or someone who has rights of an owner of property from clearing his property, selling the trees, but who is otherwise is not engaged in Forestry". Kerry amended his motion to including the wording provided by the Borough Solicitor. This motion was seconded by Lewis Paulhamus. Roll call vote taken. Motion carried unanimously.

Should the sign provision language be further clarified, particularly with respect to the restoration of non-conforming signs? See Section 602 B, delete six words of last sentence. Under Articles of Signs, Applicability C. Changes to signs – Any lawfully existing sign (including nonconforming signs) may be painted or repaired or changed in logo or message provided that the changes do not increase the sign area or otherwise result in noncompliance or an increased non-conformity with this Ordinance. Permits are required for all sign changes. Nonconforming Signs - A nonconforming sign may only be replaced with a conforming sign. However, an existing nonconforming sign may be repainted or repaired provided the dimensions of the existing sign do not increase and the wording is not changed. Discussion to make both of these agree.

**On motion** by Peter Stinson to that the last six words be deleted from nonconforming

signs and seconded by Bill Pysher. Roll call vote taken. Motion carried unanimously.

Should the parking of commercial vehicles be restricted in residential zones? Consider increasing the 11,000 gross vehicle weight limit in Article 7-702, H. page 7-5 to 25,000 gross vehicle weight. Council decided not to increase the gross vehicle weight. Peter suggested that the best way to handle this issue is to have a separate ordinance that deals with the specifically.

Should a definition of "adult day care centers" be more definitive? Urban Research recommended proven language. Present "day care center" is specific for children only. Kerry stated that the question on the issue was sixty hours a week and out of the rule of the definition. Bill says this is typical stays.

The meeting of November 18, 2003 adjourned at 10:00 p.m. due to the curfew.

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Louise Firestone, Secretary / Treasurer