

**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 21, 2004, was called to order at 7:35 p.m. by Council President Kerry Gassler, at which time he reminded those present that the meeting was being recorded. In attendance were Council members: Karen Skorochood, Mitchell D. Mogilski, Sr., George Hinton, and Scott Parsons. Also in attendance Mayor Kenneth George, Borough Solicitor, Ronold Karasek, Borough Engineer, Ronald Madison and Secretary/Treasurer Louise Firestone. Absent were Councilmen Winton Male, Jr. and Tony Curcio.

COMMITTEE REPORTS.

1. EMS – Karen Skorochood reported that a meeting would be held on Wednesday, January 5, 2005 at 1:30 p.m. regarding the EMS coordination during the construction phase at the lower end of Broadway. Karen asked that George, Chief Armitage, fire personnel and ambulance personnel attend this meeting. She asked that they RSVP to her.
2. Police – George Hinton reported that a police meeting was held to discuss the year in review. He reported that the 1999 Crown Victoria is not on the road because it needs a new motor. He asked Council to consider the options of making repairs or purchasing a new car. The Borough has already spent \$10,000 since 2002 in making repairs to this car. George asked Karen the status of the police test scores. Karen replied that the scores were received last week, but Mrs. Yob is out of town. The oral interviews will be conducted for those scoring in the top half of the group.
3. Streets – George Hinton reported that contractor has been moving ahead with the traffic light at South Broadway and Third Street. They were slowed a little by the weather, but should continue to be on schedule. The Third Street Stormwater project and the Woodward and Lehigh project will be put out to bid. He asked anyone with concerns about potholes to contact him.
4. Finance – Mitchell D. Mogilski, Sr. reported that he has met with Diane Elliott, but nothing was submitted for a grant application this year. Working toward submitting an application next year. Mitch reviewed with Council a list of 21 streets for possible micro sealing or super paving next year. He pointed out the difference in cost between the micro-sealing and super pave price. He asked Council to review for further discussion in the new year.
5. Administration – Winton Male absent. Nothing to report.
6. Zoning – Tony Curcio absent. Nothing to report.

7. Planning – Scott Parsons reported that there was no meeting in December. The Planning Commission will review three plans at their January meeting, a preliminary plan for Lessig, a sketch plan for a property on Alpha and a site plan for the First Street strip mall.
8. Parks – Karen Skorochood reported that the Park Board gave their final numbers to Louise. They are asking for funds to be transferred from their 2004 budget tipping fees to Capital Reserve for paving the lower parking lot at the Park.
Karen stated that Rettew is present tonight to review their progress on the Park Master Plan. Tony Ganguzza.
Rettew Engineering, Tony Ganguzza, addressed Council and gave a brief overview on the status of their work on the Park Master Plan. Tony had sent Council a letter dated December 15, 2004 and he reviewed that letter. A committee from Rettew met with the Park Board in October to walk the Park and discuss preliminary objectives of the Park Board. The committee from Rettew consists of Tony Ganguzza, P.E., Paul Pendzick, P.E., RLA and Jamie Collins, RLA. They met again in November to discuss the rough sketch plans. Additional parking, lighting and beautification plan for the Park. They were asked to contact Tony Borger from the Wind Gap Athletic Association to get some input from the WGAAA regarding the numbers and ages of the youth served by the AA, the trends in athletic participation and primary field needs and all the correspondence was sent to Cathie Yob and Karen. Ron Madison provided maps reflecting a portion of the wetlands, but they were not all inclusive. Rettew has provided Council with a proposal to complete a wetlands study of the entire property. Rettew suggested that the project be submitted, as a grant application to the DCNR because it has many key components that DCNR is looking for, cooperation among municipalities, AA, school district and private business. The Park Board anticipates that tipping fees could be the primary source of funding. Millie to check to see if there is a survey map for the Park to be forwarded to Rettew. Rettew will be meeting with the Park Board on February 8, 2005 at 7:30 p.m.
9. Fire Company – No one attended the Fire Company meeting. Nothing to report.
10. Sewer Authority – Paul Levits presented the Wind Gap Municipal Authority monthly report to Council. Council may be required to sign off on form SAS-99 as a result of the fallout from Enron and to verify that the Borough is doing the right thing. The Authority had to replace/upgrade an obsolete panel, which is the brain for the plant. Paul stated that it is a large amount of money, but it was necessary to be replaced. Ron asked if the Authority had any project plans for 2005? Paul replied that they have tried to deal with some of the ongoing projects and finalize them. George asked how the talks with Posh are going in regarding to the CVS project? Paul replied that there was a meeting subsequent to the original meeting, but he heard that the meeting went well.
11. Insurance – Winton Male absent. Nothing to report.
12. Land Use Committee – nothing to report.

13. 911 – Kerry reported that a letter was received from the 911 center. They are asking for any recommendations from the Police, Fire or Ambulance Corps. Karen stated that she is drafting her own letter or recommendations and asked that any comments or input be forwarded to her.

Mayor's Report

The Mayor reported that the Contractor's license collected in November was \$50 for a total of \$2,275 for the year and a total of \$2,550 collected year-to-date. The police report includes 139 calls in the month of November, 8 motor vehicle accidents, and 24 citations written. The Mayor reported that East Bangor, Plainfield Township and Pen Argyl have all joined the COG. Since Pen Argyl and Plainfield have now joined, it will make the regional police study more helpful for Wind Gap. George asked about health coverage? The Mayor replied that it is being looked into. George stated that if the municipalities are together the more numbers might get better premiums. During the police meeting today, Chief Armitage and Officer Redmond stated that during their training seminar they were informed that the police computer couldn't be tied in with the Borough office. They would have more access to information if they had a direct computer line. George will get information regarding implementing a new system in the Police Department and get back to Council.

APPROVAL OF MINUTES

On motion by Karen Skorochood to approve the minutes of December 6, 2004 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

APPROVAL OF EXPENSES

On motion by George Hinton to approve the transfer of \$3,118.50 from the Capital Reserve to pay for the invoices related to the park master plan and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

On motion by Mitchell D. Mogilski, Sr. to approve the year end expenses of \$27,781.95 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

PUBLIC COMMENT

1. Paul Levits asked if the new tax ordinance had been advertised? It has been. He asked how the calculation of collection will be handled and how the employers will receive information regarding the new tax? Ron Karasek explained that he has drafted the ordinance and the \$52 will be collected in the first quarter, which ends March 31, 2005. Council has the option to set an exemption limit up to \$12,000, but this must be done by resolution. Pat Sutter suggested that this be done as soon as possible. Pat explained that when the OPT was \$10, employees could show proof that they paid the \$10 in another municipality if they changed jobs during the year. How will the \$52 tax be collected? Ron replied that the intent is not to collect more than \$52 in a year. If someone works in Plainfield Township and then gets a job in Wind Gap, Wind Gap

could only collect the \$42 difference. There was discussion about taking the entire \$52 tax out of one check. Ron informed that he contacted the State Association of Boroughs and they informed that the amount has to come out at once. Kerry clarified by saying that it is the responsibility of the employer to have the full amount paid by the end of the first quarter. Paul concluded by stating that he did not feel that it is a fair tax and the collection rate may not be that high. Scott added that the idea of the \$52 tax was a way to reduce the millage increase by one mill from the homeowner bearing the entire increase. It is a work in progress and some adjustments will be necessary

2. Pat Sutter asked if the tax applies to self-employed people? Ron Karasek replied that it does apply to self-employed people. The tax collector can request information to verify their income. This new ordinance parallels the old tax ordinance, but includes updates. Pat stated that very few people request a refund for not earning the minimum amount of \$1,000 according to the old ordinance. Council will discuss and then set a minimum earning amount. Kerry further explained that it is up to the employer to withhold the \$52, not matter what the minimum is set at and the responsibility of the employee to request a refund should their income level fall below that set amount. Kerry asked Council to think about the amount they want to set for minimum earnings to collect the new tax.

NEW BUSINESS

1. Approval County Bond Issue Invoices. This topic tabled until January 3, 2005.

OLD BUSINESS

1. Delaware and Genoga. George explained that a resident is interested in subdividing a piece of property up there. George and Ron met to discuss this issue today. Ron Madison informed Council that the Vito development was done in two phases, 1986 and 1991. Mr. Vito was able to create his lots in a way that the portion between Delaware and Genoga, the houses had frontage on Center Street so he did not need to develop that portion of Delaware Avenue. In 1993, there was a proposed subdivision by Mr. Taviani, which is the same lot which is being proposed to be subdivided again, it went through the full process in planning, but the applicant withdrew, the plan was never recorded and the improvements agreement was never executed. Planning's recommendation for the subdivision was to develop half of Delaware Avenue, pave half the street and leave the other half gravel, to serve only two lots. It wasn't clear through Ron's research if the entire road was to be ordained. The plan at that time did not address any Stormwater problems that exist. There was a Baker subdivision plan that occurred in 1997, the plan did not affect this land, but the plan picked up the stormwater and the headwall on Delaware and Center Street. Ron's recommendation is to have a full land development process with a full width development of Delaware as a thru street. The road should be constructed to Borough's standards. The property owner would bear the cost of those improvements unless there were other properties that had frontage, they could be assessed for a portion of the improvements. Every house with a principal use has to be built has to have frontage on a road

built to Borough standards. A house was constructed with the driveway on the paper street without improving Delaware Avenue. It would have to be decided if the house that has already been developed could be assessed for the development of the street or if the last man in has to bear the full cost of street development. The applicant will have the opportunity to request that waivers be granted, but that would be Council's decision whether to grant them or not. George asked for Zoning Officer, John Blick, to reflect on the permitting for the house that was constructed. John stated that subdividing land existing lot is permitted on an existing lot because it is not a subdivision. He reminded Council that subdividing land triggers the full land development as opposed to an existing lot. An existing non-conforming lot with the setbacks being met entitles the property owner to permits. Ron Karasek researched this issue and spoke to Judge Zito regarding a letter sent in 2003. According to Ordinance 402A – Street Frontage Required – Every principal building shall be built upon a lot with frontage upon a public or private street improved to meet Borough standards or for which such improvements have been insured by the posting of a performance guarantee pursuant to the Subdivision and Land Development Ordinance. The issue in 2003 was in regard to a lot prior to the zoning ordinance. Residential non-conforming lots – a building may be constructed and expanded on a nonconforming, residential lot provided the minimum yard and maximum lot coverage requirements. Discussion about the street frontage for non-conforming lots. John suggested that Council do conditional use non-conforming lots with design criteria, Stormwater plan, and conditional use would require public hearing for development of a non-conforming lot. As the Zoning Officer, he cannot attach conditions to a permit. Ron Madison stated he questions Judge Zito's interpretation because almost all lots in the Borough of Wind Gap can be traced back to Dr. Keller's 1910 Parkside Subdivision, which laid out two-thirds of the Borough as it exists now. These two lots are parkside lots (very small) and at that time there were no zoning or subdivision ordinances. Ron Karasek explained that Judge Zito looked at this as very fact specific and every case has to be looked at on its own specific situation to see if it would apply. The letter was specific to Keenhold Associates development. It has to be decided whether it is non-conforming because of the frontage on a Borough street or because of the dimensions of the lot. The applicant has the right to file a variance and the Borough has the right to appeal any permit issued by the Zoning Officer if they believe a permit has been issued in error within thirty days. (possibly 15 days). John Blick reiterated that the governing body or the Zoning Hearing Board can attach conditions, but the Zoning Officer cannot attach conditions.

George stated that the gentleman who purchased the property wants to build on the lot so this will not go away; a decision has to be made. There are two buildable lots back there and a decision has to be made. Ron Karasek asked if the Borough has a plot and grading ordinance before anyone builds? Ron Madison replied that the Borough does not. Discussion about the Zoning Ordinance being specific in regard to section 402A and 407.

All property owners who front the paper street have rights to it. Ron suggested Council receive a written monthly report listing the permits issued and any zoning actions, or variances, and a listing of applications before the Zoning Hearing Board so Council can be aware what is happening in the Borough.

On motion by George Hinton to have the Borough Solicitor and Borough Engineer to work out a solution and make suggestions to Council and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

Ron Madison informed Council that they have the right to improve the road and then give assessments to the property owners, but there may be legal hurdles involved in collecting the assessment. Council may not have any recourse to revoke his building permit since he has occupied the house for six months. Council agreed that they do not want to punish the homeowner, but the concern is for the other property owner. John Blick is aware that there is a red flag and if he wants to build on the single lot it needs to be clarified. If the property owner wants to subdivide, it has to go through the land development process.

2. Pear and Alpha Avenue. George Hinton stated that the same thing has played out on the property on Pear and Alpha. Mr. Albanese wanted to build a house on Pear, but he would have had to make improvements to the street. Now the property is for sale, there is an alley that has access, but what will face what street? At this point, what can Council do? Ron Madison replied that if there is not frontage on Alpha Road there only street frontage is the paper street Pear. In this case, Pear Street is ordained, but not improved, putting it in limbo. The majority of the issues is can emergency vehicles get to this homes to service them in an emergency? Ron suggested that knowing that the lots are for sale, if there is any doubt in issuing a permit, it should be denied. If the applicant feels that it is ambiguous enough they have the right to go to the Zoning Hearing Board for clarification. It is up to the Zoning Officer to determine if the property is not subdivided, does it met conditions of a non-conforming lot if Borough Council does not take a position or amend the ordinance.

3. Transfer monies to Capital Reserve. **On motion** by George Hinton to transfer all monies not used from the tipping fees be used for the Third Street and Woodward projects and seconded by Mitchell D. Mogilski, Sr. to Capital Reserve. Discussion regarding the initial concept of the tipping fees not being used by year end and going into the general fund.

George amended his motion to read, all tipping fee monies not used to be moved to the Capital Reserve for next year to be used for wish list items and seconded by Mitch. Roll call vote taken. Motion carried unanimously.

4. George Hinton stated that CVS has paid their outstanding bill and gave money for an escrow account. George said that since Hanover Engineering has done work for Posh he would like to have an objective review of the plans. Ron stated that Hanover has done work for Posh, but he has never worked for Posh as a private client. George said that he would feel more comfortable if the alternate engineer would handle the CVS plans. The improvements agreement is already done, the estimate is already done, CVS just needs to complete a few items with outside agencies and then the plan can be recorded and the improvements can be started. Ron Karasek reported that he sent out the improvements agreement and their Counsel is in the process of reviewing the document. Ron reiterated that he has not personally worked for Posh, but Hanover in their Lehigh Office has worked for Posh. Mitch said that he understands the viewpoint, but would it be fair to have the developer pay for two engineers to bring them up to speed at this point. Scott asked if Mr. Posh has the right to question why this was done? He has the right to question, but he is obligated to pay the engineer fees. Borough Council has become aware of a potential problem, then they can address it at that time.

On motion by George Hinton to have the alternate engineer take over the CVS plan and

seconded by Karen Skorochood. Roll call vote taken. In favor: K. Gassler, G. Hinton, M. Mogilski, K. Skorochood. Opposed: S. Parsons. Motion carried with a vote of 4-1.

5. Street Worker. Street Committee to meet to discuss the applications received for the Street Worker.

On motion by Scott Parsons to adjourn the meeting of December 21, 2004 and seconded by Karen Skorochood.

The meeting of December 21, 2004 adjourned at 9:05 p.m.

Louise Firestone, Secretary / Treasurer