

**BOROUGH OF WIND GAP  
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The Council meeting of the Borough of Wind Gap on Monday, February 2, 2004, was called to order at 7:30 p.m. by Council President Kerry Gassler, at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Winton Male, Jr., Karen Skorochood, Mitchell D. Mogilski, Sr., George Hinton, Jr., Scott Parsons, and Tony Curcio. Also in attendance were Mayor Kenneth George, Borough Solicitor Leonard Zito, Borough Engineer Ronald Madison and Secretary/Treasurer Louise Firestone.

### **APPROVAL OF MINUTES**

Kerry stated that the approval of minutes would be tabled until the February 17, 2004 Council meeting.

### **APPROVAL OF EXPENDITURES**

**On motion** by Mitchell D. Mogilski, Sr. to approve the expenses in the amount of \$20,972.08 and seconded by Winton Male. Mitch questioned the purchase of an Olympus Digital Camera. Winton replied that it would be used by the Zoning Office and also as needed by the Borough Office. Mitch questioned the purchase of a TV, VCR and DVD player for the Police Department. Louise explained that the Police purchased these items in order to review store surveillance tapes, when in the past the Police Department would have to take tapes home in order to review them. Mitch questioned the expense to Reinhart Ford in regard to the Ford Explorer insurance repair? Louise explained that the Explorer was involved in an accident and was repaired. The Borough received the insurance check less the deductible and must pay Reinhart for the repairs. Roll call vote taken. Motion carried unanimously.

### **Public Comment**

1. Ron Angle, Northampton County Councilman. Ron returned to follow up with the new Council regarding the County Bond Issue. He stated that since Wind Gap is the lead in the project, he is asking if Wind Gap is still in favor of this project? George asked several questions including: who is going to be responsible for the upkeep of the road? How much sewage will be coming to Wind Gap? Has anyone done a traffic impact study? How many fire hydrants will be required and at what cost? George stated that with the Wal-Mart and Lowe's stores coming, what would that do to K-Mart, Wind Gap Hardware and Cramer's that already are established in the Borough? These new businesses will put the small local businesses out of business. He stated that he personally tried to put his business behind GAF and was told that he would have to put a road in there. He added that he did not feel that the people of Northampton County

should have to put a road in for a major shopping center. Winton replied to the question of upkeep of the road. The goal would be to build the road to PennDOT specifications so that eventually the road could be turned over to PennDOT. Regarding the sewage, since the plans have not been submitted it is difficult to anticipate at this point. Winton added that from the Lehigh Valley Planning estimates, the Wind Gap Plant would not reach capacity for twenty years with normal use. Russell Dieter, Wind Gap Municipal Authority, stated that the plant exceeded capacity for a ten to twelve day period because of the storms. Kerry commented that with more users, more money would be coming in for the repairs to the plant. Ron Angle stated that to this point he is not aware of any traffic studies being done for this project. Ron Madison replied that traffic studies are to be submitted with the land development plan, which to date has not been submitted. Winton stated that he was under the impression that the developer had made some type of preliminary plan submission to Plainfield Township. Discussion regarding the truck traffic being routed on the new road and off of Rt. 512. Winton stated that Waste Management has stated that 40% - 50% of their trucks come from the north and Mitch clarified that by adding that 56% come from the south. The Wal-Mart is going in and there is nothing that Wind Gap can do at this point and the road is absolutely necessary before the Borough is inundated with traffic. Ron Angle suggested moving the money from this project to the other side of the road (west of North Broadway). Kerry replied that the Bond Issue is in place right now and the project is the road to the east of North Broadway. If this road does not go in, then Lehigh Avenue will have to handle all of the traffic. Ron Angle asked Council if they are willing to accept development that will create minimum paying jobs and more traffic for the Borough? Winton answered that Borough Council sent Nolan Perin a letter asking him to seize operations until County Council made a decision. Negotiations occurred and Nolan has committed to making the property in Wind Gap Industrial. Nolan's engineer is currently working on this and if Borough Council stops this project now, it will be tied up in court for a long time. County Council will not have any faith in this area if this project does not go through. George added that this problem has to be addressed by Plainfield Township not Wind Gap. Winton explained that the Bond is for the access road, the site preparation, stormwater and sewer and the road will be across from the entrance to Waste Management. Kerry said that the motion by Council was to allow the commercial development and ask County Council to put stipulations on the other 80 acres of property. Scott read the following from the Bond Issue Application submitted by Wind Gap, Pen Argyl and Plainfield Township: "The project for funding being requested involves providing access and preparing approximately 120 acres of land for planned industrial development. Site improvements include; clearing and grubbing, grading, storm water improvements, landscaping, and improvements to individual industrial lots. It is estimated that approximately 1,200 new jobs will be created and the project will help retain over 400 existing jobs". Scott stated that the Wal-Mart and Lowe's would go in regardless of what Council says. What he is concerned about is why hasn't this project been started? The Mayor added that he feels that the Bond Issue should never existed in the first place, but when it did Wind Gap applied for some of the money. He asked, at this point, would the County wait around until the three municipalities came up with another plan for the bond money. He suggested letting the developer put in the road on the east side of Broadway and the municipalities could use the bond money to put a road on the west side of Broadway and make the by-pass. The Borough has received a commitment letter from Nolan Perin regarding the property in Wind Gap. Suggestion to have this letter recorded at the

Courthouse. Kerry asked what Council's wishes are at this time?

**On motion** by Scott Parsons to invite the developer to a meeting before making any judgment and seconded by George Hinton. Scott amended his motion to include the meeting to be the Council meeting of February 17, 2004. Roll call vote taken. Motion carried unanimously.

Further discussion on the handling of the invoices from the developer for reimbursement by the bond money. The County's Economic Development Department figured the ground rules to be followed. Ron Madison stated that typically the developer fronts all the costs until the project is approved, but in this case the costs are being reimbursed by the bond money. He added that Hanover does not wish to review the developer's engineering bills at this point. Winton added that one bill was flagged and another questioned because it was the understanding that any preparation of plan submission was to be borne by the developer.

**On motion** by Karen Skorochood to invite National Realty Development Corp to attend the February 17, 2004 meeting and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously. Winton to provide name of individual from National Realty.

2. Lewis Paulhamus asked what is going with Grace Industries in the Park? Kerry replied that there is pending litigation with regard to Grace Industries.

3. Pat Sutter asked that she receive a copy of a zoning list of all new businesses. Winton replied that he would make sure that she receives copies of all permits. Pat asked if anything has happened with the moving permits and the Chief picking them up from Colonial Springs? Kerry replied that he would look into this issue. Len Zito stated that there are legal mechanisms for having the landlords report the tenants comings and goings. Winton replied that the Borough already has an ordinance and it should be look into.

### **Solicitor's Report**

Len Zito reported that his topics are held for Executive Session, specifically the Authority litigation related to the Federal Litigation case.

### **Engineer's Report**

Ron Madison reported that he has provided Council with a 2003 year-end report. In the report, Ron states that Merchant's Bank has satisfied all their punchlist items and recommends that the Borough release monies held in escrow. Blockbuster Video has some remaining items on their punchlist, no health or safety issues, and with the difficulty in contacting the developer/owner; the Borough may wish to return the escrow money. Mr. Miga has \$1,200 being held in escrow, and Ron suggests that in the spring, some of the landscaping needs to be replanted prior to release the money.

**On motion** by Mitchell D. Mogilski, Sr. to release the escrow money to Merchant's Bank in the amount of \$3,026.14 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

**On motion** by Tony Curcio to release the escrow money to Blockbuster Video in the amount of \$4,620 and seconded by Karen Skorochood. Because the developer did not fulfill his obligation and it is minor restoration work, can the Borough still get the work done before releasing the escrow? Ron stated that the Borough would have to give notice to the developer, hire a contractor and have the work done. Tony rescinded his motion. On behalf of Council, Kerry directed Ron to pursue completion of the work.

Ron reported that the DEP regulations for the removal of the underground storage tanks have been forwarded to the Borough. He offered to help develop requests for proposal to get good quotes.

He reported that PennDOT has not finished their review of the traffic light. The water problem at the Park and the Dentith property is being worked on. Ron will provide the Borough with an estimate for the Borough's SALDO update.

He reported that in accordance with the MPDES Permit for MS4, the Borough would be required to develop a municipal ordinance. He suggested that the Borough staff handle the majority of the public information portion of the requirement because it would be cheaper. He asked Council to set aside time at their March 1, 2004 Council meeting to fulfill the public education portion of the requirement. Hanover will do the mapping using maps from the 1998 Stormwater Study. The first year permit period ends on March 9, 2004 with the annual report due on June 9, 2004. Scott suggested that the Council meeting on March 1, 2004 be held at the Firehouse beginning at 7:00 a.m. Council was in agreement with this suggestion.

## NEW BUSINESS

1. Ordinance 439 – 2004 Tax Rate. **On motion** by Tony Curcio to enact Ordinance 439 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

## OLD BUSINESS

1. West Street. Mitch requested that this topic be put on the agenda because he has been asked why this project was not being done this year. During the budget process it was cut out of the budget, but it has been put on the wish list at a cost of \$26,000.

2. Waste Management Committee. The Committee met to discuss how the tipping fees received from Waste Management would be distributed. They provided Council with a handout showing the breakdown by departments. The estimated amount for 2004 is \$168,000. They proposed to have the money allocated as follows:

|                       |     |
|-----------------------|-----|
| General Fund          | 10% |
| Streets               | 50% |
| Park/AA               | 20% |
| Buildings and Grounds | 10% |
| Public Safety         | 10% |

(Police, Fire, Ambulance each to receive 3.33%)

Kerry thanked the committee for their work and stated that this was a start. He suggested getting input from Council. The Planning Commission has requested that the SALDO

be updated and some of this money could be used for that purpose. Ron to provide Council and the Planning Commission with a quote. Tony explained that the items cut out of the budget for 2004 were used to determine where the money was to be allocated. When this money is received the departments would then use their funds for items on their list. Scott added that this breakdown would be for this year only and next year it would have to be revisited. The office needs to submit a list of items it wishes to have considered for this year. The Committee will meet again and review it further.

3. Nazareth EMS. Kerry reported that the Wind Gap Ambulance Board discussed the letter received from the Nazareth EMS regarding them moving their squad out of the Wind Gap building in three months. Nazareth will not stop responding, they will just not have a rig stationed in Wind Gap. Mitch questioned whether residents who have paid their subscription to Nazareth would be covered. Karen explained that Nazareth's service has been fine and that they have not had any significant delays, but they are limited by staffing constraints. If Medic 9 or West End responds to a resident who has a subscription to Nazareth it will be covered and any billing issues will be resolved between the corps. Karen promised to bring any problems to Council's attention should they occur.

## EXECUTIVE SESSION

Council adjourned to Executive Session at 9:16 p.m. to discuss litigation between the Borough and the Municipal Authority, litigation between the Borough and Manor Haven, Richard Keenhold, Jr., Richard Keenhold, Sr., and Danny Keenhold and Grace Industries (Park restroom). Council reconvened at 9:47 p.m.

**On motion** by George Hinton to pay Debra Johnson in the amount of \$849.12 without prejudice; and, under protest as to entitlement to the charges; the reasonableness of the charges; and, the quality of work product and seconded by Scott Parsons. Roll call vote taken. In favor: S. Parsons, K. Skorochood, T. Curcio, K. Gassler, G. Hinton, W. Male. Opposed: M. Mogilski. Motion carried with a vote of 6-1.

**On motion** by Mitchell D. Mogilski, Sr. to authorize Hanover Engineering to meet with Pidcock and Cowan Associates to develop options for a by-pass roadway West of Broadway and seconded by Karen Skorochood. Scott asked if Hanover could provide a not-to-exceed amount for the Borough. Ron gave an estimate of not-to-exceed \$5,000. Roll call vote taken. Motion carried unanimously.

**On motion** by George Hinton on Len Zito's recommendation to continue with the liquidated damages in accordance with the contract with Grace Industries and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

**On motion** by Scott Parsons to adjourn the meeting of February 2, 2004 and seconded by George Hinton. Council agreed unanimously.

The meeting of February 2, 2004 adjourned at 9:52 p.m.

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Louise Firestone, Secretary / Treasurer