

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
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The Council meeting of the Borough of Wind Gap on Tuesday, January 20, 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., Mitchell D. Mogilski, Sr., George Hinton, Scott Parsons, and Anthony Curcio. Also in attendance were Mayor Kenneth George, Borough Engineer, Ronald Madison and Secretary/Treasurer Louise Firestone. Absent was Councilwoman Karen Skorochood.

APPROVAL OF MINUTES

On motion by Mitchell D. Mogilski, Sr. to approve the minutes of January 5, 2004 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

PUBLIC COMMENT

1. JoAnn Curcio, 136 Lehigh Avenue, Wind Gap. She is here to present to Council concerns of residents of Lehigh Avenue. She submitted a petition to the Borough Secretary and asked that it be included in the minutes. The petition is stating: In an ongoing effort to protect the R-10 status of Lehigh Avenue on Route 512 from Park Avenue north to the Borough line, we the undersigned residents petition the Wind Gap Borough Council, the Wind Gap Planning Board, and the Wind Gap Zoning Hearing Board, to preserve and protect the R-10 medium density single family residential zone status of the above mentioned section of Lehigh Avenue from any changes now and in the future. (Petition is attached to the minutes in their entirety). Kerry stated that Council would address these concerns.

2. Patricia Sutter. Pat asked the Mayor if the moving permit process has been changed at all? Back in Colonial Springs, Josie would fill out the moving permits when people were moving in and moving out. Craig was supposed to pick them up and bring them to the Borough hall and that has stopped. The Mayor replied that Josie did not have to do that and now she is directing them to the Borough office to fill out the forms. Pat asked Josie if Borough Council asked her to do it again would she and she stated that she would. The Mayor stated that he would talk to Josie. Pat asked Council to reconsider and allow Josie to continue collecting the moving permits. The Mayor explained that the Police have the ability to issue the moving permits, but they do not have to pick them up. Kerry suggested asking the Chief to do it as a courtesy.

3. Roger Bet reported that The Vogues Concert at the Wind Gap Middle School is moving along. It is scheduled for the first Saturday in April – April 3, 2004. The sign will be put back up

on Third Street so people are aware where they can buy their tickets. Roger stated that they would like to make more money than last year. The more monies that can be brought in will go back in to funding covering the seating area at the Park.

4. Ron Angle, Northampton County Councilman. Ron wanted to touch base with the new Council regarding the Industrial project between Wind Gap and Pen Argyl. 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? He believed that Wind Gap got involved from the beginning because the project was to be Industrial and now it is not. Kerry stated that he would like to discuss this topic with the new Council members, because it has not been discussed as of yet. It will be discussed at a public meeting. Kerry invited Ron to return to the February 2, 2004 Council meeting. Scott asked Ron where does it stand, where are they? Ron replied that little money has been disbursed (\$70,000 or \$80,000 invoices paid) and maybe they are not sure what their project is yet. He said that this is truly Wind Gap's project. Wind Gap should have a handle on what the project is and Plainfield and Pen Argyl are along for the ride. Winton explained that all the property of the project in Wind Gap will be Industrial; Council has that commitment in writing. The current status is that the developer's engineers are putting the proposal together for Wind Gap and Plainfield and those things that have to do with Pen Argyl will also be done. They have to make a formal presentation to the three entities just like any other developer. It is at the point that the developer has to pay for what is transpiring at that moment because the County money does not cover these expenses. Winton stated that a meeting did take place with representatives from Pen Argyl and they are in favor of the road, but did not agree with the shopping center. Wind Gap has nothing to say in regard to the retail development because that will happen with or without the road. Ron believes that Wind Gap is the key to this project because they are the host municipality. Ron suggested Wind Gap taking their money and building something else that benefits your people, not Wal-Mart or Lowe's. The Mayor stated that Wind Gap should take the money and continue the roadway down that way. Kerry clarified by saying that the bond money is for the one section. Borough Engineer, Ron Madison, stated that he attended a meeting at County Council last August or September which included all the municipalities involved, the two municipal authorities involved, their engineers and the County Economic Development, Mr. Perin and his engineer. The project is being designed by Pitcock Engineering for the developer and it has to go through all the planning processes through all the municipalities for approval and then it will go out for public bid. The money is for the access road, public sewer and stormwater. The issue of Wal-Mart came up at that meeting because it has just hit the papers a few days prior to the meeting. Plainfield Township was disappointed after reviewing what they had to put the Wal-Mart in requires no zoning change. The current zoning in Plainfield Township is zoned suitable for industrial, light, heavy and commercial. The issue became did the municipalities want to support the project because the money went for an access road for the rest of the project. If the bond money were to be pulled, then the road would not be built and the rest of the industrial tracts would not be developable, but the Wal-Mart could still go on. All three municipalities recognized that they really don't want a Wal-Mart, but they realized that still getting the County money for the roadway to serve the rest of the industrial tracts was better than nothing at all. Ron Angle stated that if you finish that road tomorrow, there is nothing in the documents that it will not be 100% commercial. Winton replied that Wind Gap has a letter guarantee that 40 acres

will be industrial. Ron Angle told Council to take a leadership role in insuring that you get what you originally bought into because Ron does not want to pull the plug on it.

Committee Reports

1. EMS – Kerry Gassler had nothing to report. The committee that was discussing the ambulance lease included Mr. Paulhamus. Kerry asked Scott to sit on the committee with Mitch and Winton. Mitch stated that Council received a letter from Nazareth Corps asking to move out of the ambulance building. Kerry replied that the Ambulance Board is meeting tomorrow and that topic will be discussed. The Nazareth Corps continues to serve the Borough by responding to calls.

2. Police – nothing to report.

3. Streets – Mitch reported that this past summer, the Street Committee tried to put out barrels on Alpha Road and Alpha Avenue and Lehigh and Center that it could not be done because if someone hit those barrels the Borough would be sued. There is an orange barrel on North Broadway right beside the horse and last week the orange barrel is back in the woods. Kerry replied that PennDOT requested that a barrel be placed on North Broadway. Mitch asked Ron Madison if the Borough could use barrels? Ron replied that anywhere within public streets and particularly PennDOT streets you could use PennDOT approved construction and traffic signs and barriers. Mitch questioned local streets? Ron advised not to do anything, but follow PennDOT standards even local streets. They are designed to be hit and fly away so that they do not cause harm to the driver.

Mitch reported on a seminar attended by Mitch and John Zucal. The seminar was presented by LTAP, Alan Guessbert, and an LTAP Engineer. He talked about pre-wetting the streets with magnesium chloride. The initial cost for the container is \$15,000, but in long run the Borough would be saving approximately \$6,300-\$7,000 per thousand tons used. They discussed spring maintenance programs, flags for the hydrants in the winter, the Fire Company hosing off the bridges to extend the life of the bridge and odd/even parking. Part of the savings is due to the salt sticking to the road when it is spread and not bounce off the drier road.

Kerry reported that the Borough has three icing problems in the Borough and last month letters were sent to the homeowners who are pumping water out on the street and creating an icing problem. Mitch to look at the intersection of Fourth Street and South Broadway.

Kerry reported that Council was audited last year and paid monies owed for the pension. Kerry and Louise sat down with a Union Representative. If an employee works part-time for the Borough 90 days or more they are considered a Borough employee who might be eligible for the contract benefits. The Union offered the Borough the ability to have two part-time employees this year because a full-time employee was not budgeted for with benefits, but Council must budget for a full-time employee next year. The Union would make up a letter of intent for that to happen. If Council does not agree to this offer, then the Borough would not be able to hire any part-time employees this year and all that work would have to be sub-contracted out. Also, a part-timer who works more than 40 hours a month, they are entitled to health and welfare under the union contract. Kerry stated that Council has a few months before a decision must be made

because the part-timers are typically called back to work in April. Winton suggested that projects be itemized and a cost be determined and then compared to the cost of another full-time employee.

4. Finance and Administration – Winton had nothing to report.
5. Zoning – nothing to report. Planning – Posh plans and Kerry Gassler plans.
6. Parks and Recreation – nothing to report.
7. Fire Company – Mitch reported that the new truck is in. The Fire Company responded to 163 calls in 2003.
8. Sewer Authority – nothing to report.
9. Buildings and Grounds – nothing to report.
10. Insurance – Winton stated that he is concerned about the Public Officials because the insurance carrier is asking more questions and that is typically a bad sign.
11. Land Use Committee – nothing to report

Mayor's Report

Contractor's Licenses collected for 2003 was \$2,200, Amusement Licenses were \$450 and Transient License was \$100 for a total collected in 2003 of \$2,750. The Police responded to 134 calls in December, 7 motor vehicle accidents and 41 traffic citations. Kerry appointed Council members to committees for this coming year.

Karen Skorochood will be Ambulance, Park and Recreation, and the AA.

George Hinton will be Police and Streets

Winton Male will be Administration, Insurance, Regional Comprehensive and Zoning Plan

Tony Curcio will be Zoning, Regional Comprehensive and Zoning Plan

Scott Parsons will be Sewer Authority and Planning

Mitch Mogilski will be Streets, Fire Company

Kerry Gassler will be Streets, Finance

Buildings and Maintenance will be the Park Board for the Park and the rest will go under Streets.

New Business

1. CVS Pharmacy/Posh Properties. Mr. Posh and Mr. Preston were not in attendance at the meeting. Council decided to have Ron Madison explained the plan as presented to the Wind Gap Planning Commission. Ron stated that the property is under an agreement of sale to

purchase the large house opposite Male Road and the automobile dealer, and a portion of property owned by Raymond Cortazzo. Borough Council had previously granted a zoning change to allow the use on the property, they needed several variances and appeared before the Zoning Hearing Board and received those variances. They are proposing a CVS Drugstore and a Dunkin Donuts Store. They have the permits from PennDOT to change the three-way traffic light at Male Road and Broadway to make it a four-way traffic light. They have underground stormwater detention. They will have public water and sewer standard to a drive-thru CVS. The Dunkin Donuts will be the smallest that Dunkin Donuts allows, also with a drive-thru. They have obtained other approvals from Lehigh Valley Planning Commission, the Northampton County Conservation District and PennDOT. They have agreed to all the conditions with the exception of a retaining wall on the north side of the property. The Planning Commission recommended that a four-foot stockade fence be erected along the retaining wall on the north side of the developer's property wherever the height of the wall exceeded two feet – approximately 120' long. Council must make a motion on granting the waivers, make a motion on granting conditional approval or wait for another meeting. George questioned the second exit out of the parking lot. Ron explained that it would be a right turn only lane. George stated that people do not comply with the hash markings on the road now and this lane would only cause more problems. Ron stated that they are in compliance with the Borough's zoning ordinance. He added that the time period expires on February 6, 2004. This would still allow Council to take action on February 2, 2004 meeting. The overall ordinance that governs land use for Subdivision and Land Development is the Municipal Planning Code. Any plan submitted must be approved or denied within 90 days of submission unless the developer grants an extension. If Council fails to take any action, then the plan is deemed approved. Council now has the option to make a motion to table and pick up the issue on February 2, Council could deny the plan and not grant the waivers or to make a motion to grant the waivers and then make a second motion to grant conditional approvals as recommended by the Planning Commission or a variation of those conditions by taking away some conditions or adding some conditions.

On motion by Winton Male to pass the waivers 1 through 8 as recommended by the Planning Commission and seconded by Scott Parsons. Roll call vote taken. In favor: K. Gassler, G. Hinton, W. Male, S. Parsons, T. Curcio. Opposed: M. Mogilski. Motion carried with a vote of 5-1.

On motion by Scott Parsons to pass the conditions 1 through 9 and seconded by Tony Curcio. George questioned if Dunkin Donuts were to leave what is the agreement go to be? Ron replied that Attorney Layman requested that the language include the Dunkin Donuts Building no matter what the use goes in so that it would be subject to that variance. The Zoning Officer would be required to enforce that variance. Roll call vote taken. In favor: W. Male, M. Mogilski, S. Parsons, T. Curcio, K. Gassler. Opposed: G. Hinton. Motion carried with a vote of 5-1. George stated that he is not opposed to the project, but has some concerns about the project. He is really concerned with the exit because it will be abused by the motorists.

Ron explained that the developer has final conditional approval and then they would have to satisfy the conditions that can be satisfied, then the plans can be endorsed by the Borough Engineer, the Planning Commission, Borough Council it can be recorded at the Courthouse.

John Hannon stated that if PennDOT has approved the traffic requirements for this

intersection, but PennDOT is dragging their feet for the traffic light at the intersection of South Broadway and Third Street. Ron explained that all the paperwork has been submitted to PennDOT last week. Ron hopes to have information from PennDOT at the next meeting.

2. **Underground Storage Tank Removal.** The tank behind the Borough Garage needs to come out of the ground. The Borough Solicitor sent correspondence to the Borough regarding the liability of the tank remaining in the ground. Hanover Engineering sent correspondence related to a storage tank in excessive of 110 gallons. According to Department of Environmental Protection the tank must be properly closed. Hanover recommends that the Borough solicits bids from qualified contractors who have their underground storage certification for removal. Ideally, the tank will be pumped out, they will clean the tank, they will remove the tank and the line, they will do soil testing underneath the tank. They will excavate, backfill and compact the ground and issue a permit for the tank and a tank closure permit. This will satisfy the DEP regulations and the Borough will have completed the closure in good faith. In a worse case situation, this may have been a problem for several years and the soil underneath the tank and possible ground water may need far more remediation. This will not be known until the ground is tested. Kerry stated that the Street Committee will address this problem when they meet. Ron offered to prepare any requests for proposal to meet the public bidding laws and that the Borough receives good proposals from qualified contractors.

3. **Wind Gap Ambulance Building Mortgage Refinance.** This topic will be tabled as more information will be forthcoming.

4. **Zoning Hearing Board Vacancy.**

On motion by Mitchell D. Mogilski, Sr. to accept the resignation of Tony Curcio. Mayor George and President Gassler thanked Tony for the time he served on the Board. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to appoint Sam Nittle to the Zoning Hearing Board and seconded by Winton Male. Roll call vote taken. Motion carried unanimously.

5. **Police Station Door.** Kerry stated that this is an in-house issue that will be taken care of this repair.

6. **Waste Management Partnership Agreement.** Mitch stated that he would like to see Council turn back the money offered by Waste Management to the Borough because that can be interpreted by the Courts as a price that the Borough will agree with and that is not the situation.

On motion by Mitchell D. Mogilski, Sr. to re-negotiate with Waste Management as to the terms and the wording. Motion died for a lack of a second.

On motion by Mitchell D. Mogilski, Sr. to send a letter to Waste Management opposing the landfill expansion. Motion died for lack of a second. Mitch asked if this Council is in favor of the expansion. Wind Gap Borough Council has already taken a stand on the expansion and sent a letter in opposition of the expansion and this Council feels that it is not necessary to send another letter.

Kerry formed a committee of Tony Curcio, Chair, Scott Parsons and Karen Skorochood to

meet and decide how the money from Waste Management will be disbursed to the departments. This will include the "wish list" items that were removed from the 2004 budget. Kerry is recommending not spending the entire amount.

7. Winton reported that he spoke to Randy George if he would be interested in serving on the Emergency Management Committee. Randy indicated that he would. Winton feels that the Chief of Police would also be an important person to have on the committee, but he would have to be compensated for his time if he is not on duty. Kerry suggested speaking with Tony Skorochood, Emergency Management Coordinator for the Borough, and getting his input. Mitch reiterated what the Chief has stated at previous meetings regarding the Fire Chief and the Police Chief serving because of their commitment to their departments. The Mayor stated that he feels it is important to have other people involved and will ask the Chief if he would serve and if he has to be paid.

8. George stated that due to an accident on Route 33, traffic became a problem in Wind Gap. If inclement weather becomes a factor, what is the protocol to get the hill cindered? PennDOT does not always responded quickly and the Borough responds. The Agility Agreement should be looked at in regard to the time spent by the Borough on the hill.

9. Kerry suggested that Attorney Ashcraft be an alternate Solicitor, at \$80 an hour, should it become necessary for Len Zito to recuse himself from an issue. This topic to be tabled.

Old Business

1. Borough Engineer Appointment. **On motion** by Winton Male to retain Hanover Engineering Associates as the Borough Engineer and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. In favor: S. Parsons, T. Curcio, G. Hinton, W. Male, M. Mogilski. Opposed: K. Gassler. Motion carried with a vote of 5-1.

Kerry suggested pooling two firms and have them do a presentation. Winton stated that the cost of some Borough projects were related to problems with the contractor. Kerry presented Council with a spreadsheet of Hanover's cost from January 1, 2003 through December 31, 2003. He stated that some jobs became expensive. Scott asked if Council has the right to stop some jobs if they become too expensive or when the jobs are started can Council get an idea how much they will cost? Ron replied that Hanover would work at the will of Council. George questioned the \$5,871.48 balance of engineering expenses related to the CVS project? Louise replied that it has not been paid to date. Ron replied that it has been the practice that one of the conditions of final approval is that all engineering review fees be paid prior to recording of the plan. They cannot do the project until all the fees that are due. Ron has made recommendations in the past, that the Borough establish an escrow policy for land use. An application fee would be collected and an escrow account set up that must be replenished when the Borough would draw down on it so that the Borough is not fronting the project. If a developer pulls out, the Borough could be left paying the bills. The Planning Commission has made recommendation to that and also revamping the whole SALDO as it exists since it was revised in 1978. An ordinance must be passed setting the amount of the escrow. Ron stated

that Council could do a standalone ordinance to set the fees. Planning Commission to contact Ron to get a figure for a new SALDO.

On motion by Mitchell D. Mogilski, Sr. to appoint Rettew of Bethlehem as Alternate Engineer and seconded by Tony Curcio. Schoor DePalma is working on the Gassler project and will follow that project through to completion. Roll call vote taken. Motion carried unanimously.

2. Wind Gap Municipal Authority Appointments. Kerry stated that Paul Levits and Ron DeCesare have submitted letters along with a couple other letters received today.

On motion by Winton Male to hold all appointments are tabled until the Borough resolves all issues with the Authority and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Pat Sutter asked on behalf of John Hannon is all the Sewer Authority members signed off that they are not going to sue the Council members? Kerry replied that the Attorneys are working out the agreement for review by the committees of Council and the Sewer Authority.

3. Department Representative Meeting Attendance Cost. Council requested a breakdown of costs for meeting attendance by Chief of Police, Craig Armitage, Street Leader, John Zucal and the Zoning Officer, John Blick. A two-hour meeting attendance would be \$155.76, two and a half would be \$194.71 and one hour would be \$103.99. Scott suggested having these representatives be done first so that it would cost only one hour. These expenses were not included in the budget for this year. Scott asked if any of them would donate their time? Kerry replied that John would come and take comp time, the Chief would come, but be paid for his time. You cannot tell him that he has to take comp time. Ron explained that when a Zoning Officer issues a permit, there is a thirty-day appeal. The Borough as a body can appeal anything that the Zoning Officer does. If something is done in the Borough and it goes unnoticed for months, the time to appeal has already passed. Winton stated that correspondence goes out to the residents denying the permit, a letter goes out stating that it can be appealed. Ron replied that Council should be aware of permits issued. Winton said that there is the ability to provide Council with a list of permits. Discussion to have public committee first and then move to the committee reports so that the representatives are not required to sit through the entire meeting.

Pat Sutter asked for a copy of the zoning permits granted so that she is aware of any new businesses in town and also any past permits granted for businesses.

George suggested using some money from Waste Management to cover the expense of meeting attendance. This will be suggested to the committee.

On motion by Scott Parsons to invite all three of them to the workshop meeting every month and if we have to compensate them we will and seconded by Winton Male. Roll call vote taken. In favor: G. Hinton, W. Male, S. Parsons, T. Curcio, K. Gassler. Opposed: M. Mogilski. Motion carried with a vote of 5-1.

Scott offered to talk to all of three of them regarding donating, or working time off. They will be paid until they are dismissed by Council President and compensated for their time at hour

intervals.

On motion by Winton Male to adjourn the meeting of January 20, 2004 and seconded by Scott Parsons. Motion carried unanimously. Meeting of January 20, 2004 adjourned at 9:45 p.m.

Louise Firestone, Secretary / Treasurer