

**BOROUGH OF WIND GAP
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WIND GAP, PA 18091
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The Council meeting of the Borough of Wind Gap on Monday, November 1, 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, Ronold Karasek, Borough Engineer, Ronald Madison and Secretary/Treasurer Louise Firestone.

APPROVAL OF MINUTES

On motion by Tony Curcio to approve the minutes of October 19, 2004 and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. Motion carried unanimously.

APPROVAL OF EXPENDITURES

On motion by Mitchell D. Mogilski, Sr. to approve the expenses for the month of October in the amount of \$36,934.89 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

Public Comment

1. Victor Rodite, Director of the Slate Belt Council of Governments. Victor introduced himself to Borough Council. On October 1, 2004, Victor began his service to the Slate Belt Council of Governments (SB-COG) as the part time Executive Director. The SB-COG requested that he provide an average of ten hours of service each week including time at meetings. He shares office space with the Slate Belt Chamber of Commerce located on Pennsylvania Avenue (State Route 512) at the western end of Pen Argyl. The regular mailing address is Slate Belt Council of Governments, P.O. Box 856 W. Pennsylvania Avenue, Pen Argyl, PA 18072. The e-mail is slatebeltcog@entermail.net. Victor provided Council with copies of the SB-COG newsletters. He invited Council's comments and suggestions for COG activities that could help Wind Gap to provide service to the residents, businesses and non-profit institutions. During the next two months the SB-Cog will be preparing short-term and long-term objectives for the COG. He asked for the Borough's continued membership and involvement in the council of governments.

Solicitor's Report

Ronold Karasek reported that he sent Ms. Schinstine a letter of resolution for the condemnation instructing her to sign, have notarized and return to him for release of the condemnation check prepared by the Borough. To date, it has not been returned to his office.

He was asked some time ago to research tax abatement for volunteer firemen. He has not found any information and asked Mitch to provide him with any information that might assist him in locating information. Ron did state that the Borough might be able to relieve the per capita tax for volunteers, but they would have to reside in Wind Gap because Borough Council does not have the power to affect the tax base of other communities. He will continue his research on this topic.

Regarding the yard sale issue. The ordinance states that the yard sale is residential purpose for household items and not commercial purposes. It would necessary to make application for a transient retail business license or an enforcement issue would occur. The Mayor stated that he would enforce the ordinance. Ron replied that some concern was expressed regarding whether the land is leased or rented, but even if no rent is being paid, the business still exists.

Ron prepared a response to the legal matter concerning the Dentith property. In another legal matter, the court date for the Keenhold matter may be postponed. He will keep Council informed.

Ron reported on the Roberti Condemnation matter. As he was directed, he reviewed the file and stated that a letter from then Borough Solicitor, Len Zito, sent to Counsel for Mr. Roberti informed him that the Borough would take the property on March 1, 2005. To date, no response has been received from Mr. DeEsch, Counsel for Roberti, but the Borough does technically own the property. Council may have to make a decision on this property by January 1, 2005.

Engineer's Report

Ron Madison reported that he sent correspondence regarding his comments to the proposed SALDO review fees and would answer any questions of Council. There were none at this time.

Ron and George met with Bernie Corbett, PennDOT, regarding the Third Street project and the intersection of Woodward and Lehigh Avenue. He explained that the storm drainage issue on Lehigh Avenue would have to be rethought. He asked Council for direction as soon as possible so that the project can go out to bid in January. George added that the 12" pipe that goes across Rte 512 would have to be increased to 15" and the catch basins would have to go across to Alpha. Kerry suggested that the Street Committee met to talk about the options and report back to Council.

NEW BUSINESS

1. Rezoning Petition – Ertle and Papillion. Attorney Marc Wolfe representing Mr. Ertle and Mr. Papillion are requesting that Council, at their discretion, rezone the 23-acre parcel on East West Street and Longcore Road. He suggested extend the R-12 district from the south or extend the R-10 from the north. They are asking Council to consider this request prior to the formality of going through the Borough Planning Commission, Lehigh Valley Planning

Commission and ultimately a public hearing which requires input from both the planning and Borough professionals. Scott and George both expressed concern regarding the quarry in the middle of a residential district. Mr. Wolfe replied that there are safeguards that can be used in regard to the quarry. The Mayor asked about the wetlands in that area? Mr. Wolfe stated that studies would have to be conducted, but none of these studies have been done pending Council's decision whether to entertain the issue of rezoning. Jim Ertle stated that there is a minimal amount of land to develop and they would be willing to get with the Borough regarding the possible expansion of the Park and the quarry. Ron Karasek explained that Council would not be dealing with a curative amendment, but rather this would be a discretionary act. Council can choose to act on this issue or not act on it. Mr. Wolfe added that they are only asking that Council only agree to start the process. Mitch asked if there would be any legal complications? Ron replied that none would exist. Winton suggested tabling the issue until the next meeting. There was concern that the Borough would incur cost associated with this process. The developer has already paid the \$300 fee.

On motion by Scott Parsons to refer this matter to the Wind Gap Planning Commission to start the process of reviewing the discretionary zoning change with a \$2,000 amount to be placed in an escrow account to be replenished as needed and seconded by Tony Curcio. Roll call vote taken. In favor: K. Skorochood, T. Curcio, K. Gassler. Opposed: G. Hinton, W. Male, M. Mogilski, S. Parsons. Motion defeated with a motion of 3-4.

2. Giant Food Expansion. Doug Gossick representing J. M. Brill, Charlie Courtney and Bill Shrader from Giant Food Stores were in attendance. They showed Council their plan of expanding the current Giant Food Store into the adjacent pet store space. Council reviewed the plans before them and also the Planning Commission's recommendation letter dated October 21, 2004. There was discussion regarding the ability of trucks to navigate around the back corner of the building. Mr. Gossick explained that this was also a concern of the Planning Commission so that building was redesigned to accommodate the trucks. George expressed concern regarding the back of the store and the need to have 14' back there so that the area is not too narrow.

The Wind Gap Planning Commission recommended conditional approval, with the following conditions:

- Sidewalks be constructed and that Borough Council enforce the sidewalk ordinance on other properties in this area.
- Recommend waiver requested as listed in Borough Engineer's review letter paragraphs C.1, C.2 and C.5.
- Satisfying all outstanding issues of the Borough Engineer's review letter of September 29, 2004, paragraph D.11, 12 and 13. Developer incorporated truck-turning exhibit on final plan.
- Payment of all review fees and costs.
- Execution of developer's agreement with posting of security prepared by Borough Solicitor and approved by Borough Engineer.
- Developer to install a visibility bubble mirror on south side of Male Road to the satisfaction of Borough Engineer provided township permits the erection of the mirror.

The Wind Gap Planning Commission recommended three waivers:

- Section 3-1 under section 2-1-1.1 a sketch plan shall be submitted for all land developments for consumer use.
- Section 4-1 preliminary plan submissions.
- Section 4-3-4.7 all existing man-made features within 400 feet and all easements and right-of-ways within 200 feet of the property should be shown.

On motion by Scott Parsons to accept and grant the recommended conditions and waivers

received from the Planning Commission for the Giant Food Store Expansion and seconded by Tony Curcio. Roll call vote taken. In favor: W. Male, M. Mogilski, S. Parsons, K. Skorochood, T. Curcio, K. Gassler. Opposed: G. Hinton. Motion carried with a vote of 6-1.

3. Posh Properties. Jim Preston, representing Posh properties, introduced himself. Mr. Preston stated that Council granted conditional approval to the CVS Land Development Plan on January 20, 2004. Council granted SALDO waivers and a conditional preliminary final plan approval with nine conditions. Because of a disagreement about ownership of one of the subject properties, Mr. Posh was unable to finalize the conditions of approval. The ownership issues regarding this project have been resolved, and Mr. Posh is now able to finalize the plan approval. Mr. Preston requested that Borough reinstated its conditional approval by extending the approval deadline an additional six months.

Winton stated that Council should not give any consideration to a request until all monies owed to the Borough are paid and an escrow account is established. Ron Madison added that the Borough could include this as part of the condition to reinstate approval. Ron Karasek commented that Council has the ability to re-instate, but the applicant is entitled to agree to accept the conditions imposed by Borough Council. Scott asked where Posh Properties was in regard to the plan. Joe Posh stated that they are working on some of the conditions. They have had discussions with the Sewer Authority regarding the relocation of a pipe. Scott asked about the one-way exit onto Broadway. Joe replied that PennDOT approved the Highway Occupancy Permit.

On motion by Mitchell D. Mogilski, Sr. to reinstate its earlier conditional preliminary/final plan approval, that an additional \$5,000 be posted and held in escrow for additional fees and costs that may be incurred by the Borough and payment of all engineering and legal fees already owed to the Borough be paid immediately, that all the conditions must be met within six months of this meeting and the plan recorded and seconded by Karen Skorochood. Mr. Preston agreed to all conditions imposed by Borough Council. Roll call vote taken. In favor: M. Mogilski, S. Parsons, K. Skorochood, T. Curcio, K. Gassler, W. Male. Opposed: G. Hinton. Motion carried with a vote of 6-1.

George asked that for the record that he has no problem with the plan. He does not agree with the traffic plans in regard to the exit heading north on Broadway even if PennDOT approved the plan.

4. Additional Street Lighting. Mitch asked Officer Dailey to list any dark spots he found while patrolling at night in the Borough. Mitch compiled the following list:

- a. West Lincoln – Met Ed does not own these utilities because they are located underground
- b. West Taft – Met Ed does not own these utilities because they are located underground
- c. Taft and Sixth – Met Ed does not own these utilities because they are located underground.
- d. Delaware Avenue – a pole needs to be installed for a light. It would require 100 W sodium vapor at a cost of \$18.75 per month or \$225 per year.
- e. East First Street one block from 512. It would require a double white 150 W sodium vapor light at a cost of \$19.61 per month or \$235.32 per year.
- f. Delaware and Burdette a new pole would be required at the southwest corner of the intersection. It would require a 100W W sodium vapor at a cost of \$18.75 per month or \$225 per year.
- g. Male Road past the overpass 100' back before Beers property. This would require 150 W sodium vapor at a cost of \$19.61 per month or \$235.32 per year.
- h. The trailer park has only two lights. This is private property and the Borough should not be paying for this?

The additional cost of these four locations would be \$920.64 per year. Mitch asked all members

of Council to look at these areas and this topic will be discussed at the workshop meeting on the 16th.

OLD BUSINESS

1. Third Street Traffic Light Contract Award. Ron stated that on October 27, 2004, bids were publicly opened for the traffic light installation. The apparent low bidder is Lenni Electrical Corporation of West Chester, Pennsylvania with a bid of \$71,492. Hanover has reviewed the documents and have found them to be satisfactory. On October 12, 2004 Hanover resubmitted the final mylars to PennDOT for their signature, but to date the final plans have not been received back from PennDOT.

On motion by George Hinton to award the low bid contractor, Lenni Electrical Corporation, the contract contingent upon receipt of the PennDOT endorsed Signalization Permanent Plans and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

2. Waste Tire Removal Contract Award. The Borough received four bids for removal of the Waste Tire Pile. The bids were as follows: Magnum Corporation with a bid of \$105 per ton, Seneca Meadows with a bid of \$115 per ton, Carbon Services Corporation with a bid of \$116.50 per ton and Waste Management with a bid of \$125 per ton. Borough Council received a letter from Wallace Putkowski of Carbon Services pointing out that Magnum Corporation submitted a Letter of Credit which does not meet the bid specifications and Seneca Meadows indicated that all the tires would go to their property and not have 300,000 tires go to the Tarrtown project as indicated in the bid specifications. Ron Karasek that in response to this letter, Carbon Services

Corporation meet all the bid requirements and appears to be the lowest responsible bidder. Winton stated that the DEP stated that all three contractors are responsible. Mike Berzonsky, Magnum Corporation, stated that it is cheaper to put up his own \$50 to secure a Letter of Credit. The Borough could go to the bank for the \$120,000 just like a bid bond. He stated that Carbon Services has done this in the past and the governing body has waived the bid bond requirement. He stated that overall, Magnum Corporation will remove 1,200 more tires than Carbon Service bid.

On motion by Mitchell D. Mogilski, Sr. to award Carbon Services Corporation the contract and seconded by Karen Skorochood. Roll call vote taken. In favor: K. Skorochood, T. Curcio, M. Mogilski. Opposed: K. Gassler, G. Hinton, W. Male, S. Parsons. Motion defeated with a vote of 3-4.

Ron Karasek questioned number 14 in the bid specifications related to only requesting 10% for the Performance Bond. Louise responded by saying that she had contacted the DEP and the 10% is the typical amount in these contracts. She explained that the Borough is using any of their own funds for this project, but just acting as an administrator for the project. Pay requests are submitted to the Borough which are forwarded to DEP for reimbursement. Should the contractor default during the term of the contract, the Borough nor the DEP is out any money. The remainder of the contract could be awarded to another contractor without loss of funding.

On motion by George Hinton to award the tire contract to the low bidder Magnum Corporation at a cost of \$105 per ton and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously. Winton to contact Waste Management regarding a previous commitment by them to remove the shredded tires on the property.

3. Building Maintenance Code. Winton stated that this topic would be a subject for a workshop meeting. He suggested Council refrain from tearing the code apart.

4. Copy Bids for SALDO, Regional Comprehensive Plan and Zoning Ordinance. Council received two bids. The bid from Rocket Printing for all three documents, bound with comb binding would total \$818.80. The bid from Digi-Card for all three documents copied on three hole punch paper, collated, boxed and ready to bind totals \$714.30. The three hole punched paper would make it easier to replace page(s) should any updates occur in any of the three documents.

On motion by Scott Parsons to award the copy contract to the low bidder Digi-Card at a cost of \$714.30 and seconded by Tony Curcio. Roll call vote taken. In favor: K. Gassler, G. Hinton, M. Mogilski, S. Parsons, K. Skorochood, T. Curcio. Abstained: W. Male. Motion carried with a vote of 6-0-1.

5. Karen Skorochood reported that the Park Board has determined that the John Deere Tractor needs replaced. The Park Board is requesting that a new tractor be purchased using the tipping fees allocated to the Park Board.

On motion by Karen Skorochood to use 2004 tipping fees to purchase a tractor following

proper bid guidelines and after Council approval and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously. John Zucal is in charge of the factfinding regarding the tractor. Any advertising that is necessary will be done out of the Borough office.

Mayor Kenneth George took his leave from the meeting at 8:50 p.m.

6. Scott Parsons inquired as to a legal determination regarding holding Executive Sessions. Under Section 707 a "Conference" is an agency is authorized to participate in a conference, which need not be open to the public. Deliberation of agency business may not occur at a conference. Ron Karasek explained that if the session is for the exchange of information it is okay as long as that is as far as it goes. There is the issue of the right to know regarding public money. Scott explained that he wants to update Council on the negotiations with Waste Management and it is not public money.

EXECUTIVE SESSION

Council adjourned to Executive Session at 9:15 p.m. with the intention of holding a conference regarding the Waste Management Agreement. Council reconvened at 9:21 p.m. Kerry announced that the Police Disciplinary Policy was also discussed during the conference.

7. Mitch Mogilski asked what is happening with Paul Quear's property? Kerry stated that Council had agreed to send John Blick to investigate the property and that had been done. Mitch stated that the yard is still a mess and something needs to be done. George added that at a previous meeting Paul indicated that the property is up for sale. Tony stated that Council did not impose any time constraints at that time for Mr. Quear to do anything. George suggested that Council send a letter asking him for an update of the condition of the property and if there is a sale date.

8. Karen Skorochoch reported that she attended a meeting hosted by Representative Craig Dally regarding the intersection and bridge replacement at the lower end of town. The replacement includes pre-cast box culverts within the next six months (May or June 2005). Phase 2 will not commence until 2007 for the traffic signal installation because discussion is still ongoing regarding handling the traffic during the construction period.

On motion by Tony Curcio to adjourn the meeting of November 1, 2004 and seconded by Scott Parsons. The meeting of adjourned at 9:26 p.m.

Louise Firestone, Secretary / Treasurer

