

**BOROUGH OF WIND GAP  
29 MECHANIC STREET  
WIND GAP, PA 18091  
863-7288  
FAX 863-1011**

## **EXECUTIVE SESSION**

Council convened prior to the meeting for an Executive Session at 7:00 p.m.

The Council meeting of the Borough of Wind Gap on Monday, October 4, 2004, was called to order at 7:41 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.

Kerry reported that Council was in Executive Session regarding the Quarry property and Roberti Condemnation. At this time, there is no further action to be taken.

## **APPROVAL OF MINUTES**

**On motion** by George Hinton to approve the minutes of September 21, 2004 and seconded by Tony Curcio. 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 September in the amount of \$25,767.19 and seconded by Scott Parsons. Kerry questioned the invoice from Hanover Engineering related to the expenses for the Park restroom. He was under the impression that no more taxpayer money would be spent on this restroom. Ron explained that as part of the lawsuit, the Borough did not relief the contractor for installing the wrong fixtures with regard to the liquidated damages. Hanover sent the engineering bill to the Borough for all the charges related to the restroom that will be submitted to the bonding company as part of the claim against Grace Industries. The bonding company has been notified and should reimburse the Borough for the costs associated with repairs to correct the restroom according to the specifications. George stated that he made a point of explaining that Hanover signed off on the restroom; the Borough should not spend any more money period. He does not want to pay anyone and then go after the bonding company to reclaim the money. Ron replied that Council has the prerogative to hold the invoice if they wish. Hanover's bill and any bills incurred by the Borough related to the restroom not being completed on time will be sent to the bonding company as part of the claim. The Borough has not paid Metcraft for the fixtures because that is the responsibility of Grace Industries. After the bonding claim, Hanover will make good with the

Borough. The contractor is responsible for not installing the correct fixtures. It is clear in the contract that any inspection does not absolve the contractor Grace Industries for submitting shop drawings for one fixture and then installing other fixtures. Hanover will be trying to get all the costs against the performance bond, because the contractor failed to perform. Once the contractual agreement has been exhausted, Hanover will work with the Borough to absolve those bills, because Hanover does not want to incur costs from Hanover that the Borough does not feel necessary. Hanover has every right to recoup their costs from the bonding company as well as the Borough has a right to recoup their costs.

**Amended motion** by Mitchell D. Mogilski, Sr. to withhold Hanover Engineering invoice in the amount of \$2,249.20 and approve expenses in the amount of \$23,517.99 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

## **Public Comment**

1. Glen Stauffer asked if the contractor had to put up money for the bond? Ron replied that the contractor is not off the hook and the Bonding Company has been notified that there will be a claim.

## **Solicitor's Report**

Ronold Karasek reported that he received a copy of their hourly rate in the form of a resolution, but he is not sure if BASE intended the resolution to be part of the service agreement or if the resolution just shows their rates. He phoned Tim Edinger from BASE but has not heard back from him as of yet.

Regarding the renewal of the radio frequency, Ron has been in contact with the FCC and Tu-Way because there was a problem with the password.

Ron reported that the lawsuit filed by Richard Keenhold would be the first week of November dealing with the roof bids. It will be necessary to meet with one or two of the Councilmen involved with the roof bids and are familiar with the matter. Kerry, Winton and Mitch were all on Council at that time.

Ron needs to meet with either Kerry regarding the Perin property and possibly Ron Madison regarding East West Street condemnation in regard to the railroad easement.

He reported that Karen contacted him regarding a Park issue and he forwarded a brief memo on that subject.

He has the originals for the SALDO ordinance and resolution. The resolution is necessary to be filed in the ordinance book.

Ron will need to get some information regarding the Dentith lawsuit at some point with regard to the Stormwater issue.

## **Engineer's Report**

Ron Madison reported that last Monday he attended Lehigh Valley Planning Commission hearing with Winton to explain the safe routes to school application submitted by the Borough. He contacted the Middle School and was informed that the school does not have sidewalks and

have no plans to install any. He told Council not to expect any funds from this grant.

Hanover has received final comments from PennDOT on the Third Street traffic light plans. He has the mylars to be signed tonight by Kerry. Once these are submitted, the permit can be issued. He suggested that Council give approval to have this project be put out to bid as soon as possible.

**On motion** by George Hinton to put this project out to bid and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

The scheduled bid opening will be Thursday, October 28, 2004 so there is sufficient time to review and record the bids for the November 1, 2004 Council meeting. This bid would be for the light only.

Hanover received a full submission for Towns at the Gap and they have completed their review and submitted that to the Borough. They have several outstanding issues with outside agencies. They have addressed the concerns regarding the neighbor access easement issue, but it must be made clear on the plan. They encouraged the developer to do some landscape buffers as well. A Three Party Agreement with Sprint, PPL and Wind Gap Borough regarding the cell tower must all be completed prior to recording of the plan.

## NEW BUSINESS

### 1. County Bond – Approval of Invoices.

**On motion** by Tony Curcio to approve Invoice #69954 dated September 20, 2004 for period July 31 to September 3, 2004 from Hanover Engineering in the amount of \$1,833.25 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

2. Zoning and Planning. Winton reported that a memo was distributed to Council to show the cost of reproducing the SALDO, Zoning Ordinance and the Regional Comprehensive Plan done in the Borough Office. The SALDO has 168 pages and would equate to a fee of \$42.25, Winton suggested selling at \$45. The Zoning Ordinance has 151 pages and would equate to a fee of \$38., Winton suggested selling at \$40. The regional comprehensive plan has 183 pages and would equate to a fee of \$46., Winton suggested \$50. It was suggested that outside vendors be contacted to find out what the cost would be to have the books professional reproduced. Anyone doing a plan must purchase the new SALDO once adopted. Hanover will provide a disc for that ordinance.

Winton stated that at a past Council meeting, Council agreed to allow a property that is making a 50% building addition not be required to go to Planning and in his opinion that should not have happened. It was stated that there were three applications at that time, when there was only one and that applicant was Paul Levits. Winton contacted the Planning Solicitor who stated that it has been routine for the application to go before planning and if they want to pass it on to Zoning, then it is then passed along. Residential applications for additions do not currently go before planning. Kerry explained that when he spoke to John Blick, he felt that on certain issues he should be able to issue a zoning permit. John was only asking Council for clarification

for issuing a zoning permit. Ron added that the question is when the plan goes from addition to land development. When it is commercial, there becomes the issue of additional parking, Stormwater and not necessarily a percentage of the overall site. Scott stated that it was his understanding that once the SALDO was adopted, this would not be an issue any longer. Kerry stated that at the time of the motion, it was his understanding that there were three applications pending that needed clarification.

3. The Mayor asked Council about the property at 740 North Broadway, Wind Gap is selling motor vehicles and just recently there was two motorcycles, a mini-bike, four-wheeler and a pick-up truck. Three or four of the vehicles were actually chained to the Borough's street signs. The Borough ordinance allows for two-yard sales per calendar year and after that they are required to obtain a transient license. The resident was sent a letter by the Zoning Officer dated October 2, 2004. Council may be required to review the ordinance and make a determination. The Mayor is concerned about the safety factor on the street at that intersection. Kerry stated that if he is parking items on the Borough easement, then the Police could ticket. Ron Karasek stated that if the Borough Code permits the Borough to prevent or remediate the nuisance then the Borough could choose to do so. He suggested that the letter might be the only course of action needed by the Borough. He would like to review the yard sale ordinance. Consensus was that the Commonwealth of Pennsylvania only allows the sale of five vehicles per year titled in one person's name. Definition of motorized vehicle was uncertain. Mitch said that he believes that an ordinance exists if the vehicles are unlicensed and that would fall under the junkyard ordinance and the Borough could take action. The Mayor explained that he is not trying to control the selling of personal vehicles; he is just concerned that a business is being run at that location and if necessary they should have the proper business license. If it is a business, it must be proven and then if it is not allowed in that district, the Zoning Officer will need to send an enforcement notice.

Ralph Stampone stated that it is a State Police issue, if a vehicle is not in your name, you cannot sell it without a salesmen's license. There is a \$10,000 fine for both the seller and the property owner. Kerry stated that the Borough must investigate this law. Ralph added that the Easton police were in pulling titles. The Mayor will ask the Chief to find out about the State law.

4. George Hinton on behalf of the Fire Company thanked Mayor George for his third quarter compensation donation of \$500.

## **OLD BUSINESS**

1. Roberti Condemnation. George asked where Council is with the monetary numbers and taking possession of the property? Ron Karasek to get that file and make a status report.

2. George Hinton asked about the Posh property on Male Road, is Dunkin Donuts or CVS going in there? Ron Madison replied the last he heard there was a lawsuit between Posh and Cortazzo and that is why they were not able to follow through on recording the plan. He is not sure if once the lawsuits are settled, if they will come back to Borough. Generally there is a six-

month deadline once you have received final conditional approval, which means they have six months to satisfy the conditions and record the plan. They may have to reappear before Council to ask for an extension of that approval. George stated that if they come back before Council, he has several questions that need addressed. He said that the property looks horrendous, the grass in the back is three feet high, the fence is falling over, and the shrubbery is overgrown.

**On motion** by George Hinton to send the Zoning Officer, John Blick, to the Posh property to review the property and seconded by Mitchell D. Mogilski, Sr. The Mayor added that they have been cited already. George replied that nothing has been done on the property. Roll call vote taken. Motion carried unanimously.

3. George Hinton asked Ron if Giant Foods will be back to Planning regarding their expansion plan. Ron replied that they are on Thursday night's agenda. George said that the Fire Company had drill night at the Wind Gap Plaza and from a fire company standpoint, they went through where all the valves are and the sprinkler systems are located. George expressed concern that where the expansion is intended to go, there is no way emergency vehicles can get to the fire hydrants on the corner and work on a fire. Ron suggested that George review the revised plans because they have been dramatically changed since their original submission. The Planning Commission was concerned about tractor-trailer movements in the rear of the building, so the concerns may have already been changed.

4. George asked when the Tree Lighting Ceremony is scheduled? The ceremony is scheduled for Sunday, November 28, 2004.

5. Winton Male asked Council permission to send a nasty letter to Posh regarding the amount of money owed by the developer. Ron stated that he would have a hard time recording the plan. This will come up after the new SALDO is adopted. Ron suggested that Council adopt a new fee escrow schedule to have all the money posted up front.

6. Insurance Inspection. Winton reported that he asked John Zucal to take care of some of the items that came up during the walk through inspection. If anything requires the expenditure of funds, Winton will report back to Council. He asked George if he checked out the items associated with the Fire Company. George did state that he had to look into the hood and wet system. He will do so and report back to Council. There was some discussion regarding the electrical wiring at the Oaten Building. The breakers in the building are not longer available.

7. Mitchell D. Mogilski, Sr. reported that he received quotes for a tractor snow blower attachment. The quote for the attachment is \$1,202.04 including wheel weights and chains. George stated that if the attachment were purchased the tractor being used would be the Park tractor, which may need replaced shortly. He spoke to the street workers regarding their preference and they would choose to have a 36" walk behind snow blower.

**On motion** by George Hinton to purchase the 36" walk behind snow blower at a cost of approximately \$2,400 and seconded by Karen Skorochood. 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.

8. Scott Parsons reported on the Schinstine property. He asked if Council knew that two different lots existed at the time of the condemnation? Ron replied that yes they were aware of two properties, but it was Council's prerogative. Scott stated that he was under the impression that it was all one lot, but the second lot is actually a buildable lot, but you can't get to it. Ron explained that if it is necessary to condemn property, it would be the responsibility of the property owner to gain access to that property if that is what is decided by Council. Ron stated that he raised that question during the condemnation process and at that time she never raised a question. Scott asked why the Borough put in the swale in the first place? Ron replied that Mr. Vito never put in any downstream improvements and the goal of the project was to get the water under the road and the design was the best to deal with the topography of the area. He added that the contractor submitted a sketch and sent a memo to Council regarding the estimate and the sketch. Scott suggested bridging that area. Ron replied that they could as long as it has the same hydraulic capacity to allow the flow of water. Council could have chosen to allow access, but decided not to allow access. Scott will speak to Mrs. Schinstine again tomorrow.

## **SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (SALDO) – PUBLIC HEARING**

Ron Madison explained that Hanover Engineering received comments from the public meeting on August 19, 2004 and incorporated those changes. It was approved by the Wind Gap Planning Commission with recommendations and outlined in Planning Commission Solicitor Peter Layman's letter dated September 10, 2004. It was submitted to Lehigh Valley Planning Commission and their suggestions were incorporated into the document on Friday.

*Mayor George took his leave from the meeting at 8:55 p.m.*

The October 1, 2004 letter from LVPC was reviewed. (Letter Attached as part of the minutes)

**On motion** by Tony Curcio to approve the Subdivision and Land Development Ordinance (Ordinance 441) as recommended by the Borough Engineer and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

**On motion** by Mitchell D. Mogilski, Sr. to approve Resolution 2004-09 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

Ron recommends that Council follow up the newly adopted SALDO with fee schedules and review recreation ordinances.

**On motion** by Scott Parsons to adjourn the meeting of October 4, 2004 and seconded by Tony Curcio. The meeting of October 4, 2004 adjourned at 9:05 p.m.

---

Louise Firestone, Secretary / Treasurer