

**+BOROUGH OF WIND GAP
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The Council meeting of the Borough of Wind Gap on Tuesday, September 7, 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.

Winton Male arrived at 7:32 p.m.

GUEST

John Dally, Green Knight Economic Development Corporation presented community support checks, which the GKEDC does annually. Recipients in Wind Gap were: Boy Scout Troop #48, Wind Gap Athletic Association, Families First, Wind Gap Ambulance Corps, Wind Gap Fire Company and the Wind Gap Park. The checks total approximately \$35,000 in grant money.

APPROVAL OF MINUTES

On motion by Scott Parsons to approve the minutes of August 17, 2004 and seconded by Karen Skorochood. Tony pointed out a typo that needed correction on page 2. Roll call vote taken. In favor: T. Curcio, K. Gassler, G. Hinton, W. Male, S. Parsons, K. Skorochood. Abstained: M. Mogilski. Motion carried with a vote of 6-0-1.

On motion by Tony Curcio to approve the minutes of the Regional Comprehensive Plan meeting of August 12, 2004 and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. In favor: K. Gassler, G. Hinton, M. Mogilski, T. Curcio. Abstained: W. Male, S. Parsons, K. Skorochood. Motion carried with a vote of 4-0-3.

APPROVAL OF EXPENDITURES

On motion by Scott Parsons to approve the expenses for the month of August in the amount of \$21,036.12 and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

Public Comment

1. Renee Schinstine. Renee provided Council with copies of an estimate she received from a contractor. Kerry asked Renee if she would take the settlement for the condemnation? Renee replied that she would take settlement. Ronold clarified that there are two separate issues regarding this property and Council has made no commitment with respects to the bridge. Kerry asked Ron Madison to prepare a review and write a memo for the workshop meeting. Renee asked Council for a timeline for this project? Kerry replied that she would be contacted with the outcome as soon as possible.

Solicitor's Report

Ronold Karasek reported that he received the correspondence regarding the Nextel swap of the 800 mhz frequencies and spoke to Tony Curcio regarding the issue. The immediate concern is for Council to make a decision regarding renewing the license because it is due to expire on October 4, 2004. Ronold contacted Bill Landis from Tu-Way Communications. Mr. Landis has worked with the Borough before and he has some history with Blue Mountain Control Center and he is familiar with what is going on. Bill can do the renewal for \$230, which includes a \$75 filing fee to the FCC. Ronold stated that he has not checked with other services to compare prices, but Bill is familiar with these frequencies and the renewal process. Bill would also assist with the swap and if necessary attend a Council meeting to speak to the board. Bill does not believe that there might not be much bargaining power by the Borough because those frequencies are not being used. He understands that since the frequencies are not being used, there is not much to swap. If the frequencies were being used, then Nextel would have to give the Borough some other frequencies to use. Ronold informed Council that if there is something that the Borough could broadcast then they could begin using the frequencies. Last renewal was for five years, but under the new regulations, this renewal will be for a period of ten years.

On motion by Winton Male to authorize Bill Landis of Tu-Way Communications to renew the license and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Ronold reported that he has the revised third party inspection agreement from BASE Engineering and BASE would only include that they would respond within 48 hours without being more specific. They made the change regarding specifying residential. They are not issuing any permits, but that the Borough Code Enforcement Officer will continue to have the authority to issue the permits. BASE asked that the review period be 15 days for residential and 30 days for commercial. The document is in legal order. The fee schedule currently states that BASE will be paid the approved hourly rate for services at a rate not-to-exceed the hourly rate for performing the inspections in the Borough at the time that the dispute arose. BASE contends that historically they have kept fee schedules out of the agreement especially multi-year agreements. Each year the fee schedule is adopted by resolution. Ronold expressed that he is still not happy with the current language, but it is Council's decision. Winton stated that once a fee schedule is passed, BASE should honor it. Kerry questioned #8, in the event of litigation where the Borough requires that the inspection agency participate, are they on the Borough side or the other side? Ronold replied that BASE would appear as a witness should a property fail inspection based upon what BASE tells the Borough. It does not state what the fees would be

for inspection, the fee schedule is referenced and attached as an exhibit. Consensus of Council is Ronold should contact BASE Engineering and have more language in the agreement regarding the fee schedule.

Ronold reported that he has reviewed the Tire Grant Specifications and would suggest that the language for the Performance Bond should cover the whole 100%.

Ronold reported that Mr. Dentith's attorney has filed a counterclaim with respect to this claim that the Borough filed in August 2003. The lawsuit was filed for injunction with respect to that area to the pipe in the Park. Council received the injunction against Dentith and then also made another claim for about \$800 for what the street crew spent and a little over \$1,000 for what Hanover Engineering spent. Ronold had requested that the matter go to arbitration and now the request back is an injunction against the Borough for not following the Stormwater plans. Unless told differently, Ronold will file a counterclaim and it can be discussed at a later date in Executive Session.

Ronold stated that he is also prepared to discuss any other matters on the agenda. Winton would like to discuss the Phoenix Quarry in Executive Session.

Engineer's Report

Ron Madison reported that he contacted PennDOT and they informed him that they would be reviewing the traffic light permit application in the next two weeks. He will forward any other correspondence from PennDOT related to the traffic light.

At the planning meeting, the Planning Commission endorsed the approval of the new draft SALDO. He heard from the Lehigh Valley Planning Commission and they will have a couple comments.

Kerry asked Ron is Hanover Engineering does private work for Posh and if so why did he not disclose that information when reviewing Posh's plan in Wind Gap? Ron replied that he did at the Planning Commission meeting the very first time that it came up. Kerry stated that Council should know about that and he asked Ronold for his input. Ronold replied that if Mr. Madison did advise the Planning Commission then it would make sense that someone should advise the Borough so that the Borough can make a decision. Borough Council should make a decision whether an alternate engineer should review these plans. Kerry insisted that if a conflict exists Council should be made aware of it. Ronold asked Ron what the Planning Commission's response was to that information, if any? Ron replied that he recalled that the Planning Commission has seen Hanover's review letters and that Hanover is very impartial and he did not feel that Mr. Posh felt the he was given a pass on anything. He stated that he never personally worked for Mr. Posh, but the Hanover Engineering Lehigh Office has done some work. Ron suggested that when any plans come in to their office for review, he would contact the other project managers to make sure that they have not worked with the developer.

On motion by George Hinton to have the Borough Engineer disclose in writing any conflict of interest through other work with private clients and have the alternate engineer look at the plan and seconded by Karen Skorochood. Discussion to have this as a motion or as a resolution. Roll call vote taken. Motion carried unanimously. The Planning Commission will be notified and it will be included in the procedures manual.

NEW BUSINESS

1. Street lighting. Mitchell D. Mogilski, Sr. reported that he contacted Angela Stackhouse, Met-Ed, regarding installation of an additional streetlight on Eighth Street. The installation will not cost the Borough anything. Angela explained to Mitch that the Borough might want to switch out old lights and replace them with new lights. Because the contract with the Borough is over ten years old there would be no cost to the Borough. The contract has to be maintained for ten years, it will save the Borough over \$5,000 during the ten years. There are three resolutions necessary to change the three lights on Eighth Street to sodium vapor, put a sodium vapor light on the second pole in from North Broadway and converting 146 lights from mercury vapor to sodium vapor. Winton asked about the lights in the Park? Mitch stated that the Borough owns the poles in the Park, but he will discuss this with Angela at a later date. Met-Ed is asking that three separate resolutions be adopted and when this is complete, the work will be done between March and August.

On motion by Mitchell D. Mogilski, Sr. to accept the resolutions for new street lights and upgrades and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

2. Release of Steven Miga Escrow monies. **On motion** by Mitchell D. Mogilski, Sr. to release Steven Miga's escrow monies after outstanding invoices have been paid and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

3. County Bond – Approval of Invoices. Tony explained that Council is in receipt of two invoices from Pidcock Engineering.

On motion by Scott Parsons to approve the invoice in the amount of \$38,050.50 to Pidcock Engineering for meetings to discuss sidewalks, curbing, storm drainage and the Cramer property and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to approve the invoice in the amount of \$1,742.64 for reimbursable expenses and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

4. Slate Belt Industrial Park N.A.P.E.R. Development Corporation Conditional Approval. Dennis Harmon from Pidcock Engineering was in attendance to answer any questions. He explained that the project is intended to create a mile and a quarter of new road to relieve Routes 512 and 115 from the Waste Management entrance to an area between Constitution and Alpha Road. The purpose is to divert truck traffic generally from the landfill. There will be ten additional lots on approximately 125 acres of property. The Planning Commission recommended approval of the waiver request to not require the 200' of topographic information. The developer is waiting on outside authorities for approval, water service, DEP, Pen Argyl, and Wind Gap Municipal Authority. The sanitary sewer for Lot 3 will go to Pen Argyl since it is 98% in Plainfield Township. The plan has been modified to include the sidewalks, curbs and buffer as previously discussed and agreed upon by Borough Council. The plan does not include traffic counts for Lot 4 and Lot 4A. Ron explained the issue with Stormwater around Cramer's. The Borough may be in a position to use condemnation powers. Council received a letter from the Planning Solicitor, Peter Layman, dated September 3, 2004, outlining the eleven conditions and

one request for a waiver. Ron Madison explained that an existing storm drainage pipe goes under Cramer's building. Pidcock has designed a pipe to go around Cramer's onto GAF's property to discharge on the south side of Alpha Avenue into the existing stream. If the developer is unable to obtain the drainage easements from the two adjacent property owners, the Borough may be required to use their condemnation powers to obtain the easements.

On motion by Scott Parsons to accept the recommendations of the Planning Commission referenced in the September 3, 2004 letter and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

5. Counter Terrorism Task Force Symposium. Council received a letter informing that an Emergency Terror Symposium is planned for September 21, 2004. Kerry asked Council if anyone is interested in attending. The Mayor recommended that the emergency personnel of the Borough attend. Karen replied that her husband, Anthony, is attending as the Emergency Management Coordinator for the Borough. Kerry and George plan to attend and Winton will consider it. Louise to place the reservations.

6. Paul Quear Property. Neighboring residents of the Quear property on South Broadway asked the Council take action on this property as it has deteriorated every year. George explained that if the Borough maintains the weeds it would bill the property owner a fee plus 20%. He suggested that the property owner be cited. Winton stated that the Borough is in desperate need of a Building Maintenance Code and then properties such as this would not exist because the Borough would have the ability to take action. Ronold informed Council that under the Borough Code an ordinance is in place, but may be so old it does not apply. Unfortunately the Municipal Planning Code (MPC) does not give that much power. The property has not been occupied for 22 years according to the neighbors. Kerry suggested sending the Borough's Zoning Officer. Ronold suggested that the property owner be notified that the Borough would like to view the property and document the property with pictures. The Borough has the power to go in and do whatever needs to be done if this property is determined to be dangerous or a nuisance. The Borough can charge a penalty of the cost plus ten percent. The Borough would have to collect the costs it incurred or place a lien on the property and then in the event it is sold the Borough would recoup the cost. The property owner should be notified and given a sufficient amount of time to clean up the property. Winton stated that he already spoke to John Blick regarding enforcing a Maintenance Code and John said that he could handle it if he only responds to complaints.

On motion by Winton Male to start the process of a Building Maintenance Code and seconded by George Hinton. Roll call vote taken. In favor: W. Male, M. Mogilski, S. Parsons, K. Skorochood, T. Curcio, G. Hinton. Opposed: K. Gassler. Motion carried with a vote of 6-1.

A copy of a Building Maintenance Code will be provided to Council.

On motion by Scott Parsons to notify Mr. Quear that an inspection of his property will occur on Saturday, September 11, 2004 and send Mr. Blick to look at the building and make a recommendation to Council and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Council to wait for John Blick's report and discuss this at the workshop meeting.

7. **Police Chief's Goals.** Mitch stated that during the Chief's contract discussions last year a goal was set to have a policy for defense if any grievances are filed by September. The Mayor replied that a performance evaluation is in place and agreed upon by both sides. An evaluation of the officers will be done by the Sergeant every six months. The Chief is not satisfied with how the evaluations have been done and it will be reviewed. Mitch requested a copy of the performance evaluation. George to provide Mitch with a copy.

8. **Investments.** Mitch reported that he checked with Wachovia Bank and Merchant's Bank and feels that Morgan Stanley best deal to offer the Borough regarding investments. The investment would include setting up a money market account and then investing monies from the account into a CD with the interest rolling back into the money market. George suggested checking with another investment firm before a decision is made.

On motion by Mitchell D. Mogilski, Sr. to invest \$100,000 with Morgan Stanley in a money market and CDs and seconded by Scott Parsons. Roll call vote taken. In favor: S. Parsons, K. Skorochood, T. Curcio, K. Gassler, M. Mogilski. Opposed: G. Hinton, W. Male. Motion carried with a vote of 5-2.

9. **2005 Budget.** Kerry explained that the budget worksheets have been prepared using actual numbers from September 1, 2003 through August 31, 2004. He asked that Council begin work on their committee budgets. Council is looking to hire another street worker and another police officer. The Borough has to determine how to get more money, either by using landfill tipping money or raising taxes. Kerry stated that there is no fat in this year's budget and some fixed costs will be increasing. (salaries, insurance, utilities, etc.).

OLD BUSINESS

1. **Approval Regional Comprehensive Plan – Resolution 2004-05.** Discussion regarding the changes agreed upon by Council earlier this year.

On motion by Tony Curcio to approve the Regional Comprehensive Plan and seconded by Mitchell D. Mogilski, Sr. Roll call vote taken. In favor: K. Skorochood, T. Curcio, K. Gassler, G. Hinton, M. Mogilski, S. Parsons. Abstained: W. Male. Kerry asked Winton to cast a vote of either yea or nay. Winton voted nay. Motion carried with a vote of 6-1.

Tom Palmer, Urban Research and Development Corporation, thanked Winton and Tony for all their involvement during the process of completing the regional comprehensive plan.

On motion by Tony Curcio to adjourn the meeting of September 7, 2004 and seconded by Karen Skorochood. The meeting of September 7, 2004 adjourned at 9:15 p.m.

Louise Firestone, Secretary / Treasurer