

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
863-7288
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EXECUTIVE SESSION

The Council met from 7:00 p.m. to 7:30 p.m. for Executive Session at Wind Gap Borough Hall.

The Council meeting of the Borough of Wind Gap on Tuesday, April 18, 2006, was called to order at 7:30 p.m. by Kerry Gassler at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Jon Faust, Karen Skorochood, Todd, Beil, George Hinton, Scott Parsons, and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor Ronold Karasek, Alternate Borough Engineer, Mike Minervini, and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Attorney Jim Preston and Jeff Ott, Ott Engineering, representing Posh Properties. Jeff stated that during a previous presentation before Council, Posh Properties asked Council for direction regarding East First connecting to South Broadway or being designed as a street with a cul-de-sac. At that time it was Councils wish that the street be improved to South Broadway and not contain a cul-de-sac. Jeff informed Council that at the Borough's Planning Commission meeting, the Borough Engineer stated that they would be encroaching into the right-of-way for Route 512 (South Broadway). That means the developer would have to go to PennDOT for a highway occupancy permit (HOP) and that was something that they did not anticipate. The applicant is offering to escrow monies for the improvements of First Street (from his property out to 512). The issue is a matter of timing with the HOP from PennDOT. The time could be at least three months or up to six months to get the permit. The corner property owned by Jeff and Deborah Karner and the plans indicate a grading easement would be required to allow the construction of First Street because of the grade issues and the roadway. If the bank has to be cut down, then the shed will have to be moved. He stated that there are two potential delays on this project, the HOP application process and the easement/condemnation of the Karner's property. Mr. Posh would establish an escrow fund would be set aside and when the proper permits and secured then the Borough can continue with the completion of the street. Jeff stated that the developer would be before the Zoning Hearing Board and the Planning Commission next month. Kerry stated that he spoke to Mr. Karner and his concern is about the water backing up and going into his house. Jeff stated that they couldn't create a situation where the house is flooded out. Ron suggested that in the interest of cost, the Borough might approach the property home with the idea of moving the shed for them. Kerry asked if the Borough needs any land from him for the road? Jeff replied that the Borough only needs a temporary grading easement to allow the Borough to enter his property to do the grading that is associated with the road, seed, mulch, establish lawn there and maybe mow it two times to

restore the yard and then the easement would be extinguished. It is only a temporary easement and after it is extinguished the Borough has no right to go on his property. Survey work will need to be done. Jeff offered that there is enough engineering background done on this project that Ott Engineering will do the work, submit it to the Borough Engineer and then submit it to PennDOT on behalf of the Borough. The engineering fees would be approximately \$5,000 to \$7,000 so if the Borough is willing to co-operate then the fee might be split in half as long as Mr. Posh is agreeable.

On motion by George Hinton to treat the Posh Properties project as Phase I, the housing portion, Phase II, from 512 to the alley, which would be First Street, approximately 200' from the centerline of Route 512 and Ott Consulting will acquire the permits, the Borough will sign the application pay the fee and the applicant will escrow the money for construction and do the construction and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Todd asked Jeff to explain to Council why one side of the street has sidewalks and lighting and the other side does not. Jeff stated that there was some discussion at an informal Planning meeting in March about the sidewalks. Todd stated that it the topic of sidewalks comes up at Planning meetings and there is a question where the idea came from for not having sidewalks on both side. Jeff stated that they are asking for a waiver for having sidewalks on both sides, probably putting sidewalks on the south side of the street. It will be discussed at the next Planning meeting scheduled for May. Ron Karasek will make sure that the Planning Commission has the understanding of Council's direction as voted on tonight.

2. Ron Karasek called for a motion with respect to Manor Haven Corporation and would like to note for the record his agreement with whatever motion since he is here at this time. Ron reported that Borough Council was in Executive Session to deal with the Manor Haven litigation that was initially resolved in July 2004 and some additional issues arose in which that settlement was on the verge of being back to square one. He recommended that the following motion be made:

On motion by George Hinton to the Stipulation of Settlement and Order of Court that was entered in the Manor Haven and Borough of Wind Gap litigation filed in Northampton County Docket No. 2003-CV-001309 be amended with the following conditions:

1. The development plan filed by Manor Haven for the Towns at the Gap project as noted in the Stipulation and Order be amended to include the Stormwater redesign project as noted on plan prepared by Cowan Associates, Inc. initially dated September 10, 2004 and last revised to show the Stormwater redesign down Broadway, dated April 12, 2006.
2. The Borough will pay to Manor Haven the amount of \$100,000 within five (5) calendar days of the signature by all of the parties to the Subdivision Improvement Agreement that would be sufficient to guarantee the completion of the Stormwater Redesign Project and facilities.
3. Any easement or right-of-way upon private property might be required in order to install the Stormwater facilities would be the responsibility of the Borough to obtain and

pay for saying if necessary.

and seconded by Scott Parsons. Attorney, Jim Preston, on behalf of Manor Haven Corporation was asked by Attorney Karasek if he heard the revised or amended settlement and if Attorney Preston would agree to that and if Attorney has the authority to agree to it on behalf of Manor Haven and if he has any changes, revisions or modifications need to be made? Attorney Preston, state that he has heard everything said, and he does represent Manor Haven Corporation, as evidenced by the entry of appearance in the docket, and on behalf of Manor Haven Corporation they would agree to terms as stated. Council President Kerry Gassler asked for a voice vote. Roll call vote taken. Motion carried unanimously.

3. Paul Levits. Paul stated that he attended the Plainfield Township Supervisors meeting last week and they discussed the potential of asking National Realty Development Corporation for additional funds for different uses basically in perpetuity not to get their plans approved. National Realty seemed somewhat receptive to that idea. He stated that he was disappointed that Borough Council was not represented at the meeting and they should be asking now going forward. He stated that being on Planning down that, he had a discussion with at least one Councilperson that Council is opposed to the commercial development as a body, is that true, is that an official position? Kerry stated that it is an individual position; Council never had an official position. Paul suggested that if Council wants to make that an official position they should submit a letter to the Plainfield Township Planning Commission and the Plainfield Township Board of Supervisors.

3. Annette Snyder reported that the Eagle Scouts received approval from their leaders to build the "Welcome to Wind Gap" signs. The committee decided on four locations for the signs. One will be at the BeerStein, one at the CVS, one at the 33 North end by the trailer park, one at Detzi's Tavern. George suggested that Brown Daub be approached as a location for the south entrance because that is actually the entrance into the Borough. Annette will approach Brown Daub about placing the sign on their property. Annette asked about a letter for the property owners to sign allowing the Borough to place the sign on their property. She has already received verbal permission from the property owners. Ron Karasek suggested that the property owner, not the Borough, generate the letter stating that they permit the sign to be own their property rather than the Borough ask them for permission. Annette offered to write the letter for the owners and have them sign it.

COMMITTEE REPORTS

1. EMS – Karen Skorochood reported that there was no meeting this month.
2. Police – George Hinton reported that he received a bid on the old Police cruiser from Bobby Gardner. Jon received a bid also. That bid was received from Ken Fairchild for \$425.00. George stated that the bid from Bobby was lower.

On motion by George Hinton to sell the 1999 Crown Vic Police cruiser to Ken Fairchild for \$425.00 and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

George reported that two officers attended schooling three weeks ago, the Chief

attended last week and the remaining two officers are attending class this week. They will have to go to the shooting range and be re-certified.

3. Streets – George Hinton reported that the leaf vacuum continues to be an issue. George intends to investigate if the old leaf vac would have any trade-in value and to see what the lead-time would be to purchase a unit. He looked into a grant, but the funds may not be available until next year and typically the equipment cannot be purchased prior to receiving the grant funds. The estimated cost would be \$15,000 for an enclosed leaf vacuum unit. Kerry asked if a leaf vac could be rented? The Mayor added that he has spoken to Stacy Schlaner of the County and Representative Dally and he will continue to work on it. George stated that he would check into that possibility also and report back to Council next month.

George reported that at the request of Council, the committee got bids to take down the pine trees on the Borough's property at North Broadway. There are approximately 13 trees that range in heights of 60' to 70'. They will be cut down at a cost of \$2,600. They will cut them to six foot length and the Borough workers will take care of the rest.

George received quotes for the street sweeping.

East Penn Sweeping	\$85/hr
Hanson	\$145/hr
Forks Township	\$80/hr

He stated that unfortunately Forks Township submitted a bid, but they are unable to schedule Wind Gap for this year.

On motion by George Hinton to accept East Penn Power Sweeping at a cost of \$85 per hour to do street sweeping and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

He is still working on the removal of the contents in the Roberti garage. The street workers will get rid of the sheet rock and they will strip out the metal and take it for salvage.

George received a copy of the Male Road Bridge file. He is reviewing the agreements and learning the history of the bond money that was suppose to be put aside for the bridge. He will update Council when he has more information.

4. Zoning – Tony Curcio reported that the Zoning Hearing Board met on April 3, 2006 to hear Case 3-2006, Bruce Samson. The Zoning Hearing Board granted the variance for lot width and lot area. Tony stated that two cases are before the Zoning Hearing Board scheduled for May 3, 2006. Case 4-2006, Joseph Posh, Posh Properties, variance from Section 305.F.1, minimum yard requirement in an R-12 district and Case 5-2006, James McIntyre for Brymac, Inc., variance from Section 311.F, minimum yard requirements in ISC district, car wash at 951 South Broadway.

5. Planning – Todd Beil reported that the Planning Commission tabled the Posh Properties plan until the Zoning Hearing Board hears their request for a variance. James Santo's subdivision is later on the agenda under New Business.

6. Parks – George Hinton reported that the water lines were installed to the two small pavilions. The garbage cans are all out, the toys have been fixed in the play area, the parking

lot has been striped and the car stops have been installed. The Borough Engineer was out to the Park to determine the bid specs for the lower parking lot and overlaying of macadam around the upper end of the Park. Signs were made for the pavilions to notify people that the pavilions must be rented through the Borough office. The Park Board discussed increasing the rental fees for the pavilions. They suggested increasing the large pavilion rental be increased from \$50 to \$80, the smalls from \$25 to \$45, the kitchen remain at \$50 and charge a rental for the tent of \$50. Discussion regarding changing the rental fees now or waiting until next year and charging a different fee for residents and non-residents.

On motion by George Hinton to change the fees effective next year based on the fees being adopted and approved and seconded by Jon Faust. Roll call vote taken. In favor: G. Hinton, K. Skorochood, T. Beil, T. Curcio, J. Faust, K. Gassler. Opposed: S. Parsons. Motion carried with a vote of 6-1.

The Park Board had the street workers spread mulch around the trees by the Third Street entrance into the Park. Now that the Stormwater project has been completed the flooding problem should no longer be an issue. George informed the Board that it was the street committee's intent to have shot rock, fill and spread seed in that area to dress up the entrance to the Park. The workers will be scooping up the mulch and replacing it with dirt.

7. Fire Company – Jon Faust reported that the Fire Company held their elections. Elected officers: Jeff Yob, President, Jon Faust, Vice President, Brian Bernard, Treasurer. Fire Chief, Jeff Thomas, First Assistant, Jon Faust, Second Assistant, Sean Shoemaker. The Fire Company responded to 10 calls in March, total of 49 for the year. The Auxiliary is holding a Chinese Auction on Sunday, April 30. The doors open at 11:00 a.m. and the auction begins at 1:00 p.m. The Fire Company discussed renting out their parking lot and they decided not to pursue the idea so that the lot can remain open for the medical evacuation helicopter to land.

8. Sewer Authority – Paul Levits reported that Terry Miklas and the plant employees received an award for Outstanding Performance. George asked if the new development on Roosevelt Street was coming into the Wind Gap Plant? Paul replied that it is in the franchise area and it was designed and approved. Scott stated that the Authority is planning to put out three alleys for work this year. Paul reported that he understands that PennDOT will re-bid the bridge project only on South Broadway. Kerry added that Congressman Dent has earmarked \$2,000,000 for that project from Federal funds and that money will be presented at the Borough Office in May.

9. 911 – Tony Curcio had nothing to report.

10. Finance – Louise Firestone reported that the first quarter financials have been distributed, Budget vs. Actual. The Liquid Fuels funds came in on April 1, 2006 in the amount of \$52,550 and turnback money was \$1,050. The advertising for the Park parking lot was already done, but the advertising and the specifications for the walking area was received today. There is not enough time to advertise to have the bid openings on Monday, May 1, 2006. This will

have to be advertised for bid opening at the May workshop meeting. Louise stated that the first quarter tipping fees from Waste Management was lower than anticipated. The budget from tipping fees for the year was set at \$293,000 and only \$98,000 has been received with only two more quarters to be received this year. Louise asked where Council planned to fund the financial commitment made for the Manor Haven Stormwater project approved for \$100,000? Council agreed that the funds would come out of the tipping fees. Scott asked about the Morgan Stanley investments and if it is doing better than the PLGIT? Louise replied that the current investments are paying between 5.25% and 6.5%.

11. Emergency Management – Winton Male stated that the Borough must establish a structure to the Emergency Management program. He previously distributed a list of positions and their responsibilities and feels that people need to be assigned. He has been working on the ACT database, but the Borough requires the purchase of an additional license for the third computer. He stated that Jim Lockard needs access to the roof of the Wachovia Bank building to create the necessary hot spot. Jon informed him that the Bank Branch Manager will allow access if you contact him to set up an appointment. Winton suggested that a meeting be scheduled to include the Wind Gap Ambulance, the Wind Gap Fire Company, and members of Council as soon as possible. Kerry appointed the Mayor, Scott and Jon to meet with Winton before the next Council meeting. The Mayor stated that the Slate Belt COG is interested in getting the COG Emergency Coordinators together for a meeting. Karen explained the her husband, Anthony, Wind Gap's Emergency Coordinator is not available in the evenings because of his work schedule, but encouraged Council to appoint an alternate as long as they are actively involved in emergency services. Karen added that Jeff Yob had previously expressed an interest in being involved. Scott to contact Jeff Yob before the next meeting.

Mayor's Report

Mayor Mogilski reported that Contractor license fees for March were \$125, amusement is zero, and transient license is zero for a total of \$1,125 for the year. He distributed a copy of the Police Report for March. The next COG meeting is scheduled for April 26, 2006, 7:30 p.m. at the Washington Township Municipal building.

He received a letter from a resident regarding correspondence they received requesting money for the Chief's Association for disabled or paralyzed officers. The Borough is not involved with any fundraisers related to this issue.

He attended a ceremony for two Eagle Scouts, Tim Biggs and Greg Freeman on April 2, 2006. The Mayor presented each with a plaque and congratulated them on behalf of the Borough.

The Police Department received 524 calls in the first quarter of 2006. The Chief has attended every Council meeting so far in 2006 and off the clock.

The Mayor stated that he received a copy of the Coaldale Police Ordinance the sets fees to be paid by persons who repeatedly call the police. He would like Council to consider an ordinance similar to Coaldale's ordinance for the future.

He asked Council to discuss the Property Maintenance Code again.

He asked if the unanswered calls to the Police Station could be forwarded to the 911

Control Center. Jon asked if the Chief stated that he would want to do this and the Mayor responded that he would want to do this, but the Chief stated he didn't think our phone system could do it. Louise to contact the Telephone Company.

The Mayor stated that the Borough ordinances will be put on CD, but unfortunately the quality of the old ordinance cannot be scanned. He has tried to find volunteers to retype the ordinances, but has not had any luck. He asked Council if they approve of him typing the ordinances? Council was in agreement.

Met Ed agreed to upgrade lighting in the Borough. Originally they scheduled March through August 2005 as the timeframe for the work to be done. They changed it to October 2005, then March 2006, and now they have promised to double up on crews and have the work started by May 15, 2006.

At a meeting with Borough officials, Ron Karasek had requested information from the Borough Police. The Police Chief requested that any information to be provided by the Police be made in the form of a motion. Ron stated he could understand the reason for concern with the potential conflict and/or the personal vendetta to turning over records. If the motion is to turn over records, which are generally either public or part of normal police investigation of matters, he does not see that as a big problem to have Council make that in a formal motion. George suggested that the Police Chief contact the Borough Solicitor directly to explain his concerns. Council was in agreement.

The Mayor stated that he was reviewing the weed ordinance and asked if the street workers would be cutting the grass again this year or should the Borough advertise for a contractor? Council expressed concern that a contractor hired by the Borough would not have the authority to go on the property and cut the grass. Scott suggested that the Borough workers continue to cut the grass and make sure that the owners are charged the full amount according to the ordinance. Council is in agreement.

APPROVAL OF MINUTES

On motion by Karen Skorochood to approve the minutes of the March 6, 2006 meeting and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to approve the minutes of the March 21, 2006 meeting and seconded by Scott Parsons. Correction to be made under Mayor's Report. Roll call vote taken. In favor: K. Skorochood, T. Curcio, J. Faust, K. Gassler, G. Hinton, S. Parsons. Abstained: T. Beil. Motion carried with a vote of 6-0-1.

On motion by Todd Beil to approve the minutes of the April 3, 2006 meeting and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

NEW BUSINESS

1. Brymac Zoning Appeal Discussion. Ronold Karasek explained to Council that Brymac is appealing the Zoning Hearing Board decision regarding the denial of variance for 951 South Broadway. The Borough can intervene and become part of the appeal if there are interested

that may not be protected by the Zoning Hearing Board of the appeal process itself. John Molnar, Zoning Hearing Board Solicitor, informed Ron that Attorney DeEsch on behalf of Shop Quik, Inc. and Lessig has filed a petition to intervene in that legal appeal. Mr. Zulick, the Attorney for the applicant, Brymac, indicated that his client would probably file a new application for a “scaled down version” of the car wash facility.

On motion by Scott Parsons to not intervene in the Appeal process and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

2. James Santo Subdivision Waiver Requests and Final/Conditional Approval.

Jim distributed correspondence from his engineer to the Borough Engineer. Ron Karasek stated that there were several waiver requests made. The Borough’s Planning Commission made some recommendations. Jim stated that the plans would be notarized upon approval. The DEP exception is being processed through the Wind Gap Municipal Authority. He spoke to Bob Hahn today and was informed that the letter from the Municipal Authority stating that there is capacity would act as what is required for DEP from the Borough. Paul added that application was made to the Authority and paperwork had to be completed and as far as the Authority is concerned the plan is going in the right direction. Terry Miklas, Plant Supervisor, expressed concern about old stub lines that might need to be changed and brought up-to-date. Addresses must be assigned to the houses, 37 and 41 Fairview. The Stormwater infiltration device is shown on the plan. The unification deed will be done. According to the Major Subdivision definition, a corner marker must be placed on every corner of the property as marked on the plan. There is a waiver asking that this plan be considered a minor subdivision as opposed to a major subdivision.

SALDO Waiver requests:

1. SALDO Section 202 – Specific Terms and Section 307B. As per the definition of a minor subdivision – a division of a single lot, tract or parcel of land into two (2) lots, the instant plan would be a major subdivision as it involves three lots i.e. a small piece to be added to an existing separate lot and the two new proposed lots. Recommendation: The Commission (vote 3-2) recommended to grant the waiver since the Commission is of the belief that this is essentially a two-lot subdivision (exclusive of the remaining lot/land) and should be considered a minor subdivision; and, as a minor, the plan should be considered a preliminary-final plan.

On motion by Scott Parsons to approve the recommendation of the Planning Commission and seconded by Karen Skorochoch. Roll call vote taken. In favor: J. Faust, K. Gassler, G. Hinton, S. Parsons, K. Skorochoch, T. Curcio. Opposed: T. Beil. Motion carried with a vote of 6-1.

2. SALDO Section 509.I.1 requires that a driveway be a minimum of 5’ from a property lines. While the new driveways on the proposed lots will meet this requirement, the driveway to the existing house will only be 2-1/2” from the property line of one of the adjoining new lots. Recommendation: the Commission (vote of 3-1) recommended granting the waiver since it

deals with the existing driveway leading to the existing home and not the new lots.

On motion by Scott Parsons to approve the recommendation of the Planning Commission and seconded by George Hinton. Roll call vote taken. In favor: K. Gassler, G. Hinton, S. Parsons, K. Skorochood, J. Faust. Opposed: T. Beil, T. Curcio. Motion carried with a vote of 5-2.

3. SALDO Section 510.B requires the installation of sidewalks.

Recommendation: The Commission (vote 3-1) recommended granting the waiver since there are no sidewalks in this area.

On motion by Scott Parsons to agree with the recommendation of the Planning Commission and seconded by Jon Faust. In favor: S. Parsons, J. Faust, K. Gassler. Opposed: G. Hinton, K. Skorochood, T. Beil, T. Curcio. Motion did not carry with a vote of 3-4.

4. SALDO Section 511.A requires that permanent concrete monuments be placed around the outbound property of the entire tract. This would require at least six monuments for this subdivision. Recommendation: The Commission (vote of 4-0) recommended to grant the waiver on the condition that three monuments are placed on the outbound property corners to which condition the Applicant has agreed.

On motion by Todd Beil to approve the waiver as recommended by the Planning Commission and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

5. SALDO Section 514.I requires street trees to be planted along street frontage. The Applicant intends to leave some trees on the property but those trees may not necessarily be in the location or be the type required by the ordinance. Recommendation: The Commission (vote 4-1) recommended to grant the waiver on the condition that the Applicant keeps a minimum of one tree in the front yard of the lots to which condition the Applicant has agreed.

On motion by Tony Curcio to approve the waiver as recommended by the Planning Commission and seconded by Todd Beil. Roll call vote taken. Motion carried unanimously.

6. SALDO Section 506,G,13 the discharge of Stormwater from roof and drain pipes shall discharge into a Stormwater runoff and infiltration device and not directly into storm sewers or street gutters: This waiver request was withdrawn by Applicant.

7. SALDO Section 509,L Street lights are required not more than 250 feet apart. This waiver request was not acted upon since it was not noted in the Borough Engineer Review Letter of April 5, 2006, but it was requested by the Applicant on his SALDO Waiver Application. Accordingly, Borough Council needs to act on this request either without a Planning Commission recommendation or send the plan back to the Planning Commission for consideration of this waiver. (If the matter goes back to the Commission, Borough Council must still act on the plan by May 31, 2006, unless Mr. Santo grants the Borough an extension of time.)

On motion by Scott Parsons to approve the waiver and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

On motion by Karen Skorochood to the Agreement for Conditional Plan Approval as per the form with the deviation being the sidewalks on the SALDO waiver and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

3. Community Wide Yard Sale Dates. **On motion** by Tony Curcio to set the Community Yard Sale as July 8, 9 and 10, 2006 and seconded by Todd Beil. Roll call vote taken. Motion

carried unanimously.

4. Approval County Bond Issue Invoices. Tony reported the outstanding invoices that have not been forwarded to the County for reimbursement.

On motion by Tony Curcio to approve for payment Hanover Engineering Invoice 78299, \$660.45, Hanover Invoice 78705, \$395.61, Hanover Invoice 79048, \$157.60, Hanover Invoice 80156, \$441.84 and Zito, Martino and Karasek Invoice 1869659834, \$18.75 for a total of \$1,674.25 and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

5. George reported that John, Randy and George attended a seminar on Superpave at the Upper Mount Bethel municipal building.

OLD BUSINESS

1. SPCA Agreement. George asked that this topic be tabled. Council agreed to discuss this issue at a future meeting.

2. RCN Franchise Fee Renewal. **On motion** by George Hinton to have Louise look into the renewal process and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to adjourn the meeting of April 18, 2006 and seconded by Todd Beil. Council agreed unanimously.

The meeting of April 18, 2006 adjourned at 9:31 p.m.

Louise Firestone, Secretary / Treasurer