

**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 Monday, June 5, 2006, 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: Jon Faust, Karen Skorochood, George Hinton, Scott Parsons and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysker and Borough Administrator Louise Firestone. Absent was Councilman Todd Beil.

Kerry informed those present that Council had met for an Executive Session to discuss a grievance filed by the Wind Gap Police Department. No action will be taken at this time.

PUBLIC COMMENT

1. Jim Santo submitted a signed petition that read, "We the undersigned being residents of South Fairview Avenue in the Borough of Wind Gap, intend to inform Borough Council of our opposition for the requirement to install sidewalks on the two lots located on Fairview Avenue. We all take pride in our homes by landscaping and maintaining our properties, thereby creating an attractive neighborhood. By requiring sidewalks on two lots, we believe this is inconsistent with our block and would detract from all of our properties. It provides no benefit to us or anyone in the Borough. As elected officials we would hope that you take our wishes in consideration". 11 of the 12 houses on South Fairview Avenue are represented on the petition. He asked Borough Council to use common sense to make a decision regarding the sidewalks and not go against the request of the residents. He asked if Council would explain how sidewalks would benefit the whole Borough? He is not opposed to installing the sidewalks, but he feels that the neighborhood does not warrant their installation.

Kerry asked Council if they wish to revisit the waiver of the sidewalk installation related to Jim Santo's plan already approved by the Planning Commission and Borough Council. Jon Faust asked if an agreement could be attached to the sale of the houses making them aware that if required, sidewalks would have to be installed at their expense? Ron Karasek replied that according to the Borough Ordinance, Council could require sidewalks to be installed. George added that he spoke to the Wind Gap Postmaster. The Postmaster informed him that the Post Office cannot make the Borough enforce the sidewalk installation, but if a property changes hands the mailbox would need to be installed at the curb. Jim replied that Fairview Avenue is a curb delivery street only and does not require the postman to deliver to front porch mailboxes. Prior to the roll call vote, Ron Karasek, asked Council if they need any engineering issue with

respect to this issue. Brian Pysher stated that it is strictly a Planning or Council decision.

On motion by Jon Faust to waive the sidewalk requirement and not require them to be installed on Fairview Avenue for the property being developed by Jim Santo and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

2. John Maher reported on the progress of the Emergency Management Committee. John informed Council that he had another meeting and only two people were present, himself and Russ Roper. He stated that two people couldn't do all the required work. He presented Council with a Tasks List. There is a new Hazard Mitigation Plan combining Lehigh and Northampton Counties, that Wind Gap is a participant in and this needs to be discussed and adopted by motion by Wind Gap Borough Council in the next 60 to 90 days. This will supercede any other Hazard Mitigation Plan previously discussed. He has been in contact with the planner at the County level. It is John's opinion that a regional plan needs to be developed. He asked for guidance from Council on how to move forward with the committee. John suggested that he would put together a schedule for each agency collect the data and compiles the information.

- A. Establish a working tem
- B. Elect a Chairman of the Committee (Jeff Yob)
- C. Lehigh Valley Hazard Mitigation Plan
 - After 2 month review by all participating municipalities
 - Adopt through resolution (Resolution wording in progress)
- D. NIMS Implementation (Completed by 30 September 2006)
 - Plan, schedule and attend remaining training
 - Schedule
 - Invitees (Police,Rescue,Fire)
 - Written implementation plan (Complete, agree & publish)
- E. Grant utilization/use (Winton's computer equipment grant0
 - Use it or lose it!
- F. Future meetings schedule

Scott suggested that another meeting be set up for Thursday, June 15. Borough Council unanimously agreed to nominate Jeff Yob as the Borough Emergency Management Coordinator. A letter will be sent to Nick Tylanda informing him of the appointment. The County forwards their recommendation to the State for final approval.

3. Bob Matlock, Alpha Avenue. He stated that in recent months there has been in his immediate neighborhood and other areas of the Borough, erections of fences, ornaments, flowerbeds, shrubbery, fences rising higher than 48" in the Borough right-of-way. He asked for guidance because he would like to do the same thing. As ordered by the court, he spent \$5,000 to install a six-foot high white vinyl fence along the side of his property, but was required to drop

down to a four-foot high picket fence for the remaining 20'. He stated that it has enhanced the beauty of his property and the adjacent property. He wanted to go the entire way to the curb, but was told that he could not install the fence to the curb because it would cross the Borough's right-of-way. He stated that he has seen all kinds of construction in that right-of-way. He questioned whether he could put nice vinyl rails from his last post out to the curb, which would cross the immediate Borough right-of-way. Is he right in doing this or would he be wrong? He has three other corners that he proposes to do the same thing. If it is good for others in the Borough and he understands that sixteen people have been mentioned in correspondence, would he be right in doing it on the four corners of his property? Kerry stated that one corner could possibly obstruct the site triangle. Bob replied that it would only be a couple of rails and there would be no obstruction. Bob stated that officials of the Borough have deemed it an ornament and explained that it would consist of one post with 2 pieces going down at right angles. George recommended that he do it where he has the fence, but he would not recommend it on the other corner. Bob replied that people adjoining his property line have one that is 56" high and he was told that standard height is 48". He believes that they are not within the limits. Are there rules and regulations within this Borough that say you shall not be on the right-of-way under any circumstances? Jon expressed his concern that it would interfere with the site triangle and if someone pulls out and has an accident they are likely to sue because a site hazard exists. Brian added that the ordinance states that the clear site triangle it can't be greater than 2'10", but if it would only be a single post he is not sure if that would be a violation or not. Jon added that if it is not allowable on his property, it should not be allowed in the Borough. Bob added that the Borough needs to be consistent in their enforcement. The pieces of these are sold at Home Depot, Lowe's, and Cramer's as split rail fencing. Scott added that about 99% of the things in the right-of-way are of no obstruction, but actually help beautify the property. If a property owner has something in the right-of-way whether it is flowerbeds; sidewalks, grass and it would have to be dug up for some reason by the Borough it would have to be repaired/replaced by the property owner not the Borough. Bob asked if it would be a gamble by the owner if he elects to put something in the right-of-way? Council agreed that this is a difficult topic because so much exists in the right-of-way today how would it be fair to determine what has to be moved. George cautioned that if Council says it is okay to erect something in the right-of-way, they are subjecting the Borough to a potential lawsuit if an accident occurs and an obstruction is present. Brian states that the ordinance defines the site triangle. Bob had a survey completed by George Collura and the Borough right-of-way is clearly on the map and marked as 8'.

On motion by George Hinton to have the Zoning Officer conduct a study of problems within the 8' right-of-way easement, assess Borough properties and make a list of violations and seconded by Jon Faust. Roll call vote taken. In favor: G. Hinton, S. Parsons, K. Skorochood, T. Curcio, J. Faust. Opposed: K. Gassler. Motion carried with a vote of 5-1. Council will act on the Zoning Officer recommendation.

Bob asked if he would be notified? Council stated that it would take some time to complete the list. Bob stated that a quick summation leaving this evening, tomorrow he could order his rails and get them up. Council replied then he would be on the list. George clarified for Bob the decision of Council, to the Zoning Officer go around town and see how many properties are in violation and report back to Council. Council will act on the list at that point in time.

4. Annette Snyder. Annette informed those present the Beautification Committee has planted the flowerpots around town. She added that George Hinton paid for the two flowerpots outside of the Borough Office. She asked if George found out any information regarding the ownership and the monument and who is responsible for cleaning it? George stated that once he receives an answer from the Legion, but he will report back to her.

APPROVAL OF EXPENSES

On motion by Scott Parsons to pay the expenses for the month of May 2006 in the amount of \$23,413.35 and seconded by Karen Skorochood. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to approve payment from the County Bond Issue to Zito, Martino and Karasek in the amount of \$18.75 and payment to Hanover Engineering Associates in the amount of \$786.07 and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

SOLICITOR'S REPORT

Ron Karasek reported that he intended to ask Council how they wanted to proceed with correspondence received regarding the McNamara / Matlock issue, nothing further to report. Attorney Reybitz, PPL's attorney, spoke to Ron regarding the PPL cell tower issue. In previous discussions with PPL representatives and James Milot, Hanover Engineering, it could be that the cell tower pole does not have to be moved for the road to be put in and perhaps only the equipment and related ground equipment might have to be moved. If that is possible, could the committee meet and put this issue to rest. George to contact Jim Milot tomorrow to follow up regarding the cell tower.

Ron reported that an impromptu meeting occurred on the Muschlitz property prompted by a compliant received at last month's meeting. Ron believes that the matter has temporarily been resolved where Mr. Muschlitz is attempting to comply with respect to various DEP requirements and Borough requirements.

At George's request, Ron checked his file on Upper North Broadway storm sewer easements and he did prepare a template agreement, but he is waiting for Hanover to provide meets and bounds descriptions so that the agreements can be prepared.

There was a view on the Schinstine property in May. The viewers came to the property and then left. The next step is a hearing, when the viewers will take testimony some time in July. Ron would like to sit with anyone interesting in testifying prior to the hearing.

RCN sent a letter requesting an update with respect to changes or renewals.

Jon asked where the Weeast matters stands? Ron replied that they had filed a complaint request saying that they are entitled to interest on the judgment and Ron filed preliminary objections in an attempt to initially dismiss the case before it goes any further. Generally, those objections are not granted. At this point, the Court is not dismissing the case. Ron will file a written response and it will be determined if any discovery is required, but he does not think any depositions are necessary because all the facts have already been known. The Judge will have

to determine if interest is owed. There were several times that they requested interest, but those requests were previously denied.

ENGINEER'S REPORT

Brian Pyscher reported that with regards to upstairs, the plans have been done. He needs to take some pictures of the building and he needs to talk to some HVAC contractors to size on the units. Once that is done, everything will go to Harrisburg.

As a follow-up with the Muschlitz issue, Brian spoke to Chris Cooba from the Department of Mining. He reviewed the Good Samaritan Act, which Mr. Muschlitz originally applied for, and after a meeting with Mr. Muschlitz; Chris decided that it was not covered under the Good Samaritan. The Department of Mining considers it a mining operation. Chris set up a meeting with Mr. Muschlitz to go through all the permits and the applications necessary for those permits. Typically, Northampton County does not want to be involved with Mining regarding Erosion and Sedimentation Control Plan so Brian contacted the Department of Mining. If anyone sees activity there, Chris asked to be notified because there are hefty penalties. Chris made an inspection and found the Muschlitz was still hauling out of the site. Muschlitz has been notified that nothing can be hauled until the permits are in place. Scott suggested that the number be delivered to the neighbors. Brian to provide the number to the office.

George asked if Posh had given Brian any information on the development? Brian replied that he has not heard anything. With regards to the easement, he doesn't know if the Borough received anything in writing. Posh hasn't made any kind of submission. They have to prepare a meets and bounds description for that temporary easement and then it will have to be forwarded to Ron. Ron will draw up an agreement. Kerry asked for a map so that he can visit the property owner and explain what will be going on with the easement and the project. Brian has an old copy of a plan. Brian suggested that an agreement be drawn up between the Borough and Jeff Karner because the road going into the development is contingent on the grading easement. If for some reason he decided he didn't want to give access at the time the road is to be constructed there may be nothing the Borough can do except do a condemnation on his property.

George asked if Brian is working on the firehouse issue? Brian replied that he has to set up a meeting to discuss either finishing the upstairs or just putting a roof on the building. Brian explained that there are different levels under the Uniform Construction Code for renovations.

NEW BUSINESS

1. George reported that Hanson Aggregates is here paving Center Street for the State. The Street Committee would like to have them pave Lincoln Street while they have the equipment here. They quoted George a price of \$8,460 to pave Lincoln from Center Street to West Street. George called Mr. Karasek who informed him that the Borough had to obtain two other phone bids because it was under the \$10,000 limit. John Zucal contacted Eastern Industries and Bracalente and neither responded via telephone. According to Mr. Karasek, the names of the

contractors must be included in the minutes and Council can approve the project.

On motion by George Hinton to award the overlay paving of Lincoln Street at a cost of \$8,460 by Hanson Aggregates and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

2. Mayor Mogilski reported that the weed excessive vegetation letters are being sent out. Years back Council asked then Solicitor, Len Zito, if a letter must be mailed every time the same property needs mowed? Mitch recalls that Len stated no the Borough did not have to, but he does not remember the details. Kerry asked Mr. Karasek to look into this issue. George stated that the Street workers informed him that the Mayor had asked them to come out on Saturday to cut grass. George stated that he prefer that the Borough does not do that because their overtime is a budgeted item.

OLD BUSINESS

1. Jon Faust reported that the siren is fixed again. The Civil Defense siren will again sound at 12:00 p.m. every Monday.

2. Scott Parsons reported that there was a meeting with the committee from the Fire Company and the Ambulance about moving the structure or replacing the structure. He suggested that the Fire Company should hold off on designing the repairs at the firehouse. The discussion was for the merger of the property.

On motion by Tony Curcio to adjourn the meeting of June 5, 2006 and seconded by Jon Faust. Council agreed unanimously. The meeting of June 5, 2006 adjourned at 8:30 p.m.

Louise Firestone, Secretary / Treasurer