

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
863-7288
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The Council meeting of the Borough of Wind Gap on Tuesday, August 21, 2007, 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, Nathan Hinton, Todd Beil, George Hinton, Scott Parsons and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysker and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Julio Santana and Susan Santana asked Council for permission to put a haunted house at the old church on 512. It is a temporary six-week per year affair. They would like to give it a try for one season. The Santanas visited with the local neighbors, explained their plans for the property and had them sign permission slips granting them permission as far as they see for the house. They have a total of sixteen neighbor signatures, but three people did not sign. Mr. Santana explained that there would be no structural or electrical changes inside; it will be done by air pneumatics. The lighting is done by LED lighting (battery). They anticipate being opened from 6:00 p.m. to 10:00 p.m., three nights a week, Friday, Saturday and Sunday. Tony asked how it would be set up internally? Julio stated that there would be a separation partition so there will be no contact with the patrons. There will be an emergency corridor in case immediate access is needed. They will station workers around the property, outside in the parking lot, one in the orchestra area so everything can be monitored. He submitted a copy of the sketch plan for inside the building. He added that the ministry would not be affected at all. They will be donating money from the haunted house to the ministry. Todd asked if they had done this before? Julio replied that they have, but not commercially, but 1,600 sq. ft. in their house. The Mayor asked if the lighting would be a problem for the neighbors? Julio replied that because it is a residential area they would not have anything on the outside of the building except the sign that says "Haunted House". Scott asked where this stands zoning wise?

Ron Karasek stated according to the Borough's Zoning Ordinance Section 408, Temporary Structure or Use, "a temporary permit may be issued by the Zoning Officer for structures or uses necessary during construction or other special circumstances of a nonrecurring nature subject to the following additional provisions:

- A. The life of such permit shall not exceed one (1) year and may be renewed for an aggregate period of not more than two (2) years.
- B. Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough.

Ron recommends that an application for a permit be made for the temporary use.

Todd asked if insurance will be purchased for this event and how much is required? Julio said that they would have liability insurance for the building and injury for one million dollars. They will have fire extinguishers in each area and will provide a phone number to the Fire Chief, Jon Faust. George asked if they foresee a traffic issue on 512? Julio said that the parking lot holds approximately 50 cars, but to go through the house only takes six minutes. Scott asked if the building is structurally sound? Ron DeCesare stated that the building was built in 1924, is old, but sound. Council requested that the office receives a copy of all the letters and the sketch plan. Council will inform the Zoning Officer that they do not have a problem with the haunted house.

2. Troy Leidy asked for an update on the RPM drive issue. George Hinton replied that he spoke to Nolan Perin this morning. George received a message from PennDOT yesterday that they granted his permit for his driveway access, but now he has to meet all their requirements, which include the curb radius, one pole has to be moved and he has to pave at least 100 feet. The past Borough Engineer and the current Engineer both contacted PennDOT, but the permit has already been issued. George will set up a meeting with the Borough committee (George, Nathan, Tony), the Borough Engineer, Brian Pysher, and Nolan Perin. Troy contacted PPL regarding the tower being removed and cleaning up the property and filed a complaint form with DEP. Brian Pysher reported that he did contact DEP and was informed that as far as the air quality issue goes, it is a local government issue not a DEP issue. The Mayor will address the weed issue under the Borough ordinance. Kerry asked Ron Karasek about the dust under the Borough's nuisance ordinance? Ron replied that the Borough Engineer should confirm the amount of dust, including photographs and/or videos on more than one occasion, possibly over a 5, 6 or 10 day period. If in fact Borough Council believes that this is a public nuisance and not merely a private matter between landowners, then enforcement of the ordinance should move forward. The Zoning Officer and the Borough Engineer should check this location and also the dust near the MSG property because complaints have been received from property owners on Center Street. George informed Troy that the committee would meet with Nolan Perin to discuss these issues and get his improvements in writing. Troy expressed his concern with the possible hazardous materials that are being sent into the air from the traffic. George stated that hopefully by the next meeting he would have a report.

3. Ralph Kahn, East Center Street, Wind Gap. Ralph explained that the dust is coming from West Street because of the large trucks passing through on the unimproved road. He stated that it creates a health hazard for the residents. They have problems with motorists speeding down that road, creating more dust. The speeding occurs mostly during the weekends. He suggested banning all commercial vehicles on East West Street, paving the road or installing speed bumps to control the traffic and speed. George stated that he spoke to the Police Chief and was informed that the Mushlitz trucks need access to their property to mine the slate, but that portion is paved. It was suggested that the installation of a sign "No Truck Thru Traffic" might be a solution. On the other end of West Street the same sign would be posted. Brian Pysher stated that in the opinion of Engineer Robert Collura a traffic study would need to be completed to prove why Council installed the sign. George said the road might need to be closed. Kerry stated that the Borough did close that portion of the road in the past. Ron Karasek asked if there were any legal issues that had to be addressed? If the engineer does an inspection and determines that the road needs to be closed from an engineering standpoint then it can be done. If it does get challenged in court, the Borough has good engineering reasons for their actions and can have the engineer testify in court. The Borough Engineer, Brian Pysher, will inspect the road. Mike Goffredo informed Scott that he is in discussions with Techo Bloc because they have gotten bigger than intended so he is looking to rent to them and have them do some improvements. Ron Karasek stated that in order to vacate a street it must be done by special procedure ordinance so it might be smarter to have it posted for weight restrictions. The motor vehicle code must be reviewed. Kerry suggested looking into a cost estimate to pave from Longcore to Lehigh and for the time posting the road with a 25 m.p.h. speed limit signs. George suggested that the Borough approach Techo Bloc once the study is done for the paving.

4. Robert Matlock asked Council about West Street being an unimproved street, hasn't it been surveyed several times and nothing every done to it? He believes that the tractor-trailers are the cause of the problem. Kerry replied that the Borough did pay to have the monuments installed on West Street. Bob stated that he is concerned about Alpha Road because of the noise created by the trucks. This noise starts at 2:00 – 2:30 a.m. and continues throughout the day. Bob suggested that Council consider a time or weight restriction on Alpha Road. Kerry asked Mr. Karasek to check into this possibility. George stated that a weight restriction might hinder the Lessig business. A

suggestion for the time restriction would be 10:00 p.m. to 6:00 a.m. Bob stated that he believes that passing on the right at the traffic light intersection is illegal and should stop. Kerry replied that this is a police enforcement issue and Borough Council cannot tell them how to do their job.

APPROVAL OF EXPENSES

On motion by Jon Faust to approve the expenses for the month July in the amount of \$12,345.84 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

APPROVAL OF MINUTES

On motion by George Hinton to approve the meeting minutes of July 19, 2007 and seconded by Todd Beil. Roll call vote taken. In favor: J. Faust, K. Gassler, G. Hinton, N. Hinton, S. Parsons. Abstained: T. Curcio, T. Beil. Motion carried with a vote of 5-0-2.

SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of July are outlined in a report. The report includes the meeting attended as Borough Solicitor.

Subdivision Matters: Preparation of SALDO Waiver Request form (reconsideration of SALDO Section 506.F.14) re: Wind Gap Development, LLC – Emerald Forest Major Subdivision

Land Development Matters: Preparation of comprehensive Recommendation for SALDO Waiver Request form (4 waivers) re: Brymac, Inc. – 951 Broadway Car Wash – L.D. Plan. Preparation of comprehensive Official Action Correspondence on SALDO waivers and Official Action Correspondence on the conditional preliminary/final plan approval re: Brymac, Inc. – 951 Broadway Car Wash – L.D. Plan.

Zoning and Other Land Use Matters: Review of Weeast condemnation proceedings and decision by Board of Viewers.

Developments on Outstanding Litigation: Second Settlement Conference with Judge re: Weeast judgment for interest, Preparation of releases and correspondence in settlement of Weeast vs. Wind Gap (claim for interest) and Wind Gap vs. Weeast (eminent domain proceedings), Prepare Memorandum of Law on damages re: Roberti condemnation case, Receipt, review and administration of Preliminary Objections in B. Buskirk fatal claim lawsuit.

Court Decisions on Borough Cases: N/A

Miscellaneous: Prepare Solicitor's Report – July 2007, Review various correspondence, subdivision and land development review letters, prepare correspondence, prepare extension agreements and approval forms for subdivision and land development matters, and make and receive telephone calls.

Outstanding Items: West Seventh Street: received metes and bounds description from Borough Engineer. Now need to obtain research and obtain related Stormwater easements from adjoining property owners. East West Street condemnation (Grand Central property) – revised map received. Awaiting Applicant's approval before Planning Commission and Council can act on SALDO Waiver, RPM Recycling License Agreement and related Met Ed Agreements, Keenhold Condemnation – PPL Cell Tower matter – delay in enforcement notice and related proceedings, Dentith Stormwater counterclaim (filed in response to Borough's injunction lawsuit and request for Borough's expenses) – no action taken and remains pending, Ordinance for loitering, begging and panhandling – pending, Ordinance for Office Staff pension – pending meeting with Principal's Representatives, Ordinance and Agreement to adopt Intermunicipal Comprehensive Plan.

Ron attended a meeting with George Hinton and Brian Pysher regarding West Seventh Street and the Perin issue and some other matters that are still pending. He has not received any decision regarding the Robert condemnation matter. Ron said that he had forwarded a copy of the

Improvements Agreement for Manor Haven and that needs to be discussed and signed. Kerry asked if the cost estimate needs to be attached. Ron replied that the numbers are there but they are dated November 2006. Hanover is still handling this issue and should provide the Borough with up-to-date numbers. Those numbers have to be approved by Manor Haven. Manor Haven needs to issue a bond or post security by them before the Borough issues them a \$100,000 check for the Stormwater. It could be signed on the condition that it does not get released until the numbers get updated and the bond is posted. Ron Karasek to contact Hanover Engineering with this topic to be on the agenda for discussion at the September 4, 2007 Council meeting. The Borough needs to obtain easements for West Seventh Street. Todd asked about the recreation fees and if the Master Plan is up-to-date? Kerry stated that he spoke to Louise earlier today about the Master Plan. Borough Council paid for the Master Plan, but Borough Council never saw the plan. At this point, Borough Council doesn't even know if it is finished. Rettew Engineering did the plan for the Park Board, but it was never reviewed or approved for enactment by Council. Todd said Council should review the recreation fee because surrounding municipalities charge \$1,200 to \$1,500 and the Borough is only charging \$250. George will contact Rettew tomorrow to request a copy of the Master Plan for Council to review.

On motion by George Hinton to get metes and bounds for easement related to West Seventh Street and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Jon Faust asked Ron if he had reviewed an ordinance that allows the Fire Company to bill for a car accident or house fire. Ron will review and give his opinion of this ordinance.

ENGINEER'S REPORT

Brian Pysher reported that the Seventh/Diamond Street has been reviewed. He could provide a description of street location. Kerry said that it should be ordained and clean that up.

On motion by Scott Parsons to appoint Collura Engineering (Bob Collura and Brian Pysher) to the Manor Haven Corporation project and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

Brian reported that he received all the information from Hanover Engineering regarding the Roberti property. Council reviewed maps provided by Hanover Engineering regarding the cell tower property. Ron already spoke with Mr. Turtzo and because this is a commercial property a commercial appraiser do the work. If the Borough would be taking all of frontage it would make the lot land locked. George replied that during discussions with Hanover the front area would be only be needed as an easement to go and do curb work or sidewalk. Ron stated that if that were the need, the Borough would not need the entire lot. Ron explained that there is some question about a lot indicated on the map

On motion by Tony Curcio to allow Brian Pysher to figure the metes and bounds for the by-pass condemnation property and seconded by Todd Beil. Roll call vote taken. Motion carried unanimously.

NEW BUSINESS

1. 318 South Broadway – School Real Estate Tax. **On motion** by Todd Beil to pay back real estate taxes in the amount of \$1,206.91 plus interest and penalty and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

2. Accept Rebeca Shoemaker's Resignation from Planning Commission. **On motion** by Tony Curcio to accept Rebeca Shoemaker's resignation and seconded by Todd Beil. Roll call vote taken. Motion carried unanimously.

3. Appointment of Planning Commission Member. **On motion** by Todd Beil to appoint William Wallen to the unexpired term of Rebeca Shoemaker on the Planning Commission and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

OLD BUSINESS

1. George Hinton explained that the Borough street workers continue to weed wack grass on resident properties who do not cut it themselves. Legally, can the Borough go after the owners who do not pay? Ron Karasek replied that the Borough could file a complaint, pay the filing fees, pay the service costs and add that to the amount that the Borough is suing for, it is only as good as the person the Borough would be suing. If the property owner does not have a lot of assets, etc., then it might not be cost effective. The lien procedure can only be for tax type items. Louise reported that the Police have issued citations to property owners who do not cut their grass. Ron stated that depending on the how the ordinance is worded; the cost of restitution could be added to the citation. The Borough could continue doing the work, but Louise will contact One Stop Rental to get a cost for rental of the same equipment used by the street workers.

2. Scott Parsons asked about the status of the Borough's website and the newsletter. Louise replied that she has had ongoing discussion with John Trail, but she has been unable to access the new website. Kerry to follow up with John. The newsletter did not get published last month due to the unexpected death of the Zoning Officer's mother.

3. Jon Faust asked about the status of the laptops? Kerry stated that Fire Company President Jeff Yob was looking into new software to be installed. Council suggested that Mr. Yob attend a meeting to explain the type of software he is reviewing.

4. Mayor Mogilski stated that Council did discuss installing no parking signs on the north side of Wood Street. George stated that it was mentioned to John. Kerry informed that they are installed, but they were put on the alley not on Wood Street. George to follow-up with John to place the signs on the north side of the street.

COMMITTEE REPORTS

1. EMS – Nathan Hinton had nothing to report. Kerry reported that Nick and another member of the Ambulance Corps applied for and received a grant in the amount of \$42,000 from FEMA to pay for their new ambulance and a \$26,000 grant for new radios and pagers. The new ambulance will be paid off with these grant funds.

2. Police – George Hinton already reported that he spoke to the Chief regarding East West Street.

3. Streets – George Hinton reported that he contacted Giroux and they would be coming out to remove the footers on the Roberti property and haul the debris back to their business. The owner of the house next to the Roberti property addressed and signed a letter to the Borough stating that he will have siding and landscaping done by the end of September.

4. Zoning – Tony Curcio had nothing to report.

5. Planning – Todd Beil reported an extension for Emerald.

6. Parks and Recreation – Nathan Hinton reported that the Park Board did not have a meeting due to a lack of a quorum.
7. Fire Company – Jon Faust reported that the Fire Company responded to 11 calls in July for a total of 90 this year.
8. Sewer Authority – Scott Parsons reported that they are working on an intermunicipal agreement with Bushkill Township because of all the planning within Bushkill.
9. 911 – Tony Curcio had nothing to report.

Mayor's Report

Fees collected in July, \$75.00 for contractor's license, zero for transient sales license, zero for amusement license for a total of \$2,100. Police have responded to 1,014 calls this year. Next COG meeting is scheduled for September 26, 2007 at 7:00 p.m. at the old Washington Township municipal building. He will report when and where a recreation meeting will be set up. He expressed his appreciation for the work done by the street workers cleaning up the weeds. He asked if everyone received a letter regarding the 2% of the gaming funds and asked for ideas to submit for a portion of this funding. Scott clarified by saying that there will be 2% of the gaming revenues set aside for municipalities, it will be a share of the 2%.

EXECUTIVE SESSION

Council adjourned to Executive Session at 9:26 p.m. to discuss to the Chief's contract. Council reconvened at 9:29 p.m. There was no action taken at this time.

Scott Parsons asked about Zoning / Planning issues, is there a time limit? If a plan gets approved, is there a time limit, the plan itself? Ron stated that Council could impose a time limit to complete the plan. If it is a preliminary plan, according to the ordinance it is three years, the developer has to file a final plan. Once a final plan is approved, it is approved forever. Scott asked if there is a time limit for a zoning variance? Ron stated that if the Zoning Hearing Board does not set that as a condition, the time limit is forever.

On motion by Tony Curcio to adjourn the meeting of August 21, 2007 and seconded by Todd Beil. The meeting of August 21, 2007 adjourned at 9:34 p.m.

Louise Firestone, Borough Administrator