

**BOROUGH OF WIND GAP
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EXECUTIVE SESSION

The Council met from 6:30 p.m. to 7:35 p.m. for Executive Session at Wind Gap Borough Hall.

The Council meeting of the Borough of Wind Gap on Tuesday, July 19, 2007, was called to order at 7:35 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, George Hinton, and Scott Parsons. Also in attendance were Mayor Mitchell D. Mogilski, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone. Absent were Councilmen Todd Beil and Tony Curcio.

Kerry informed the public that Council was in Executive Session to discuss the Weeast case for interest and the eminent domain issues.

On motion by Nathan Hinton to approve payment to the Weeasts in the amount of \$17,500 for interest and seconded by Scott Parsons. Scott Parsons informed the public that this settlement is related to a 1987 case filed by the Weeasts against the Borough. Mr. Weeast was awarded \$52,000 in the case and at that time the court ordered the Borough to pay Mr. Weeast \$5,000 a year for nine years and the difference in the tenth year. Mr. Weeast then filed a petition for interest and was awarded the negotiated amount of \$17,500. Roll call vote taken. Motion carried unanimously.

On motion by Jon Faust to approve payment to the Weeasts in the amount of \$500 for eminent domain and seconded by Scott Parsons. Scott Parsons informed the public that the Borough had to move the storm sewer around the back of his garage and he again filed a claim against the Borough. The claim was denied, but the \$500 was negotiated to settle the court costs and the appraisal and engineering. Roll call vote taken. Motion carried unanimously.

PUBLIC COMMENT

1. Evanne Maher asked why the minutes are not on the Borough's website? Kerry replied that he will contact John Trail to get an update on the Borough website.

2. Troy Leidy complained that nothing has improved regarding the access back to the RPM Recycling Plant. He informed Council that on the EPA's clean-up website he found a plan that was submitted by N.A.P.E.R. Development regarding this site. There was a plan to remediate the property. He is really concerned because he does not know what the black dust created by the trucks really is or if it is hazardous. Scott stated that there has been communication with Nolan Perin, but he is not making it easy. In August of 2005, The Morning Call published the remediation plan, but Troy has not been able to locate the plan on their website. He has called the DEP, but was informed that the call had to come from either the Borough or a developer. Ron Karasek explained that if the Borough had more than one individual complaining it might constitute a public nuisance. Brian Pysher added that he could check to verify that if a remediation plan was filed that it is being followed.

On motion by Scott Parsons to allow the Borough Engineer, Brian Pysker, to do the necessary research and notify the DEP if the plan is not being adhered to and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

APPROVAL OF EXPENSES

On motion by Jon Faust to approve the expenses for the month June in the amount of \$26,651.67 and seconded by Nathan Hinton. Roll call vote taken. Motion carried unanimously.

SOLICITOR'S REPORT

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

Subdivision Matters: Research for owner and tax parcel identifier information for properties along North Broadway and/or Diamond Avenue a/k/a West Seventh Street for Stormwater easements on Manor Haven Corporation – Town at the Gaps Major Subdivision. Revise Subdivision Improvements Agreement re: Towns at the Gaps Major Subdivision.

Land Development Matters: Comprehensive correspondence to Keenhold's attorney re: Keenhold Condemnation. Comprehensive correspondence to Applicant re: RPM Recycling, Inc. L. D. Plan re: access off Broadway and review of existing map to Slate Belt Industrial Drive and a prior 1975 subdivision.

Zoning and Other Land Use Matters: N/A

Developments on Outstanding Litigation: Finalize Motion to Vacate Order without Prejudice re: Weeast lawsuit for interest and present to Judge for approval. Attend Mediation/Settlement Conference with Sr. J. Garb re: Weeast lawsuit for interest. Attend and conduct hearing before Board of Viewers re: Roberti Condemnation.

Court Decisions on Borough Cases: N/A

Miscellaneous: Prepare Solicitor's Report – June 2007, Prepare comprehensive correspondence re: Ordinance 458 – alcohol and curfew at Borough Park and Mayor's veto, 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: awaiting metes and bounds description from Borough Engineer (and 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 Agreements to adopt Intermunicipal Comprehensive Plan.

Ron reported that he would be sending the Subdivision Improvements Agreement to the Borough for countersignature. He stated that Hanover Engineering would need to provide feedback on this project regarding the Stormwater. Kerry stated that the easements for Leroy Albanese and the Candle Factory would need to be in place.

Ron reported that he attended the Roberti Board of Viewers hearing with George Hinton, former Borough Engineer, Ron Madison and the Borough's appraiser, Mr. Moore. Briefs have been filed in this case and he is awaiting the Board of Viewers decision.

ENGINEER'S REPORT

Brian Pysker reported that he is awaiting information from Hanover Engineering regarding the Roberti property. George stated that he spoke to Hanover on Monday and was informed that the information will be forwarded to Brian this Thursday. Kerry suggested that if the information is not received Brian should proceed with his own work.

He informed Council that the property at Lehigh and West Street contains wetlands along the edge. He contacted Paul Druella (DEP permitting) asking him about isolation from the wetlands in a high quality watershed and responded that in the 100' isolation there is no disturbance, no exceptions, and no waivers. The other option is to prove there is no degradation of wetlands, but no one has tried that option in any design that he has seen. The only other options is to keep the disturbance under one acre that would not require a permit from DEP.

NEW BUSINESS

1. Brymac, Inc. – Land Development Plan – Preliminary/Final Plan. Ron Karasek informed Council that this is before them for SALDO waivers and assuming the SALDO waivers approved then Council can act on preliminary/final approval. Bryce Good, Benchmark Civil Engineering, representing Brymac, Inc. presented the plan to Council. The plan is for a carwash on South Broadway at the existing miniature golf course site, which is approximately $\frac{3}{4}$ of an acre. The proposed carwash would consist of four (4) self-serve bays and two (2) automatic bays. Vacuum bays will also be installed along the front of the property. They have applied to PennDOT for a driveway permit and have already received comments from PennDOT. They are in the process of making changes to the plans to reflect those comments. PennDOT's main comment was that the curbing and sidewalk along the front of the property be replaced according to their regulations. They have applied to the Lehigh Valley Planning Commission Land Development section and received their approval. The project is less than an acre so they are not under the jurisdiction of Stormwater regulations of the Lehigh Valley Planning Commission, but a submission has been sent to them. The developer has made submission to the Wind Gap Municipal Authority for a new sewer hook up and they have received a letter of serviceability for the property. The developer has been made to the Pennsylvania American Water Company and they have received a letter of serviceability for the property.

SALDO Section 510.A.2 – The Borough's Planning Commission recommends the waiver since property abuts commercial property on both sides and rear property is already buffered by trees, shrubs and plantings. **On motion** by George Hinton to waive SALDO Section 510.A.2 – buffer planting required and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

SALDO Section 506.F.1 – The Borough's Planning Commission recommends the waiver since any emergency spillage would run into the adjacent stream. **On motion** by Scott Parsons to waive SALDO Section 506.F.1 – emergency spillway requires one (1") foot of freeboard and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

SALDO Section 506.F.4.i – The Borough's Planning Commission recommends the waiver on condition that the ratio is 3:1. **On motion** by Nathan Hinton to waive SALDO Section 506.F.4.i – access ramp can be no steeper 10:1 and at least 10' wide and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

SALDO Section 403.D.21 – The Borough's Planning Commission recommends the waiver since a landscaping plan has already been prepared by Benchmark (Plan Sheet 7 of 15) and such sheet contains all necessary and appropriate information. The Applicant requests that their present engineering firm, Benchmark Civil Engineering Services, Inc. to design this plan. **On motion** by George Hinton to waive SALDO Section 403.D.21 – landscaping to be prepared by a landscape architect and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

Ron Karasek informed Council that the next step would be conditional plan approval. The applicant has already signed an Agreement for Conditional Plan Approval and the Borough's Planning Commission has recommended plan approval with the following conditions:

- Certification from Pennsylvania American Water Company re: ability to hook-up and available capacity.
- Lehigh Valley Planning Commission Review and/or Approval for Stormwater Plan
- PennDOT Highway Permit
- Improvements Agreement with security acceptable to Borough Engineer & Borough Solicitor
- Maintenance Agreement with security acceptable to Borough Engineer & Borough Solicitor
- Park, Recreation and Open Space – to be determined by Borough Council per existing ordinance – (\$250 – per lot, one lot is being developed)
- Monuments, pins and/or markers to be set in the field and certified, in writing, by Applicant's Engineer
- SALDO Waivers (if any) to be noted on the plan
- Other Conditions: Applicant's engineer to prepare a quantity and cost estimate for the Borough Engineer to review prior to preparation of the Improvements Agreement
- Signature of Plan
- Notarization of Plan

Jon asked if the exiting traffic would be turning left or right onto Broadway? Mr. Good stated that it would be used as previously used, turns left and right. They received no comment from PennDOT regarding that issue. The comments included three regarding sidewalk and curb, one pertained to a detailed illustration of the storm sewer pipe in the roadway, and the submission form must be part of the submission package. George stated that the Borough has experienced numerous accidents with cars exiting businesses on South Broadway because they are waved on by motorists stopped at the traffic light only to be involved in an accident with a car moving into the turning lane heading north on Broadway making a left onto Male Road. George asked that concerns regarding left turns be noted in the minutes

On motion by Jon Faust to grant conditional/final plan approval to Brymac, Inc. and seconded by Nathan Hinton. Roll call vote taken. Motion carried unanimously.

2. Emerald Forest Major Subdivision – Preliminary Plan. Ron Karasek explained that this topic is on for a SALDO waiver request only. The applicant came before Council asking for a waiver of SALDO Section 506.G.14 and this was sent back to the Planning Commission. Section 506.G.14 requires Stormwater discharge to extend from the street right-of-way a minimum distance of 2/3 the length of the longest adjacent lot dimension. This would translate into a 100' length (2/3 of 150' lot line). The Applicant wants to reduce the length (by 90') to 10'. The Borough Planning Commission recommends waiver on condition that the reduction is to 25' only (vote 3-0).

On motion by Nathan Hinton to accept the Planning Commission's recommendation on SALDO Section 506.G.14 of a waiver to the reduction of 25' only and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

NEW BUSINESS

No New Business was before Council.

OLD BUSINESS

1. Roberti Property. George Hinton reported that he has contacted Scotty Enterprises regarding the footers at the property. He spoke to Hanover Engineering regarding getting information from them regarding the work that had been done on the Roberti property. Hanover will be providing a map from the survey around the celltower. George asked that Council review the outstanding professional fees related to the County Bond Issue. The numbers will be provided for the next Council meeting.

COMMITTEE REPORTS

1. EMS – Nathan Hinton had nothing to report.

2. Police – George Hinton had nothing to report.

3. Streets – George Hinton reported that the street workers are cleaning the gutter lines and removing weeds. They will be putting sealing the road surface where there are cracks. They will be painting curbs and arrows on the streets.

4. Zoning – Tony Curcio was not present.

5. Planning – Todd Beil was not present.

6. Parks and Recreation – Nathan Hinton had nothing to report.

7. Fire Company – Jon Faust reported that the Fire Company responded to 16 calls in June for a total of 79 this year. Fire Company wants to thank everyone who helped out with the picnic. Scott asked if there were any incidents at the picnic related to the clam and beer tent? Jon replied that there were no incidents, but they do not have all the financial numbers from the picnic yet.

8. Sewer Authority – Scott Parsons reported that all is good.

9. 911 – Tony Curcio was not present.

10. Treasurer Report – Louise Firestone reported that she met with the Borough Auditor and has distributed the Financial Statement for 2006. Selective Insurance did a Worker's compensation audit for the period June 1, 2006 to June 1, 2007. She met with representatives from Lafayette Ambassador Bank regarding the employee direct deposit. There will be a \$35 fee per month and a minimal fee per transaction. Louise and Darlene met with representatives from Hometown Press and decided that the map of the Borough can wait until the beginning of 2008 (after the election) and Greg suggested mailing out the newsletter after the map is complete. Darlene will be comparing the prices of bulk mailing since the Borough will be mailing out these materials.

Mayor's Report

Contractor's license for the month of June was \$100 for a total in 2007 of \$1,200, transient sales license \$125 for a total in 2007 of \$375, amusement licenses of zero for a total of \$475 for a grand total collected of \$2,050. Police have responded to 869 calls this year. Next COG meeting is scheduled for September 26, 2007 at 7:00 p.m. at the old Washington Township municipal building. There was a recreation meeting, but no one was there to record it. Bangor/COG received a grant for 2 leaf vacuums. The COG is looking at having three containers set up around the Slate Belt for yard waste drop off centers. They are looking for an equipment inventory of all municipalities for the 2007 Emergency Plan. The Mayor reported that he submitted the grant recycling form for 2006. Congressman Charles Dent will be at the Borough Office on July 20, 2007 at 11:00 a.m. Louise added that the Congressman would be presenting a check to Representative Craig Dally for funding of the Route 33/South Broadway project that has been ongoing. The funding was allocated several years ago, but they are having the presentation in the Slate Belt for two projects on July 20.

On motion by Nathan Hinton to adjourn the meeting of July 17, 2007. Council agreed unanimously. The meeting of July 17, 2007 adjourned at 8:38 p.m.

Louise Firestone, Borough Administrator