

**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 Monday, June 4, 2007, was called to order at 7:37 p.m. by Council President Kerry Gassler at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Jon Faust, Nathan Hinton, Todd Beil, George Hinton, Scott Parsons and Tony Curcio. Also in attendance were Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher, Mayor Mitchell D. Mogilski, Sr. and Borough Administrator Louise Firestone.

Kerry informed those present that Council had met for an Executive Session to discuss the Weeast lawsuit, Roberti lawsuit and the RPM Recycling facility; no motions were made at this time.

PUBLIC COMMENT

1. Greg Cook – Community Map. Greg showed Council two products that they provide to municipalities. They do informational guide (street map) and it is funded through advertising. They do a newsletter as often as Council would deem it necessary to inform the residents and it would also be funded through advertising. Greg has done place mates for Detzi's Tavern for the past ten years. It normally takes two weeks to get the advertising together and then approximately six weeks to go to press. Kerry stated that January would probably be the target date for getting the map out to the residents. They will provide the Borough with the product, but it is up to the Borough to get them mailed.

On motion by Scott Parsons to approve a semi-annual newsletter and a map and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

2. Troy Leidy asked Council for an update on the Borough's website and the status of Perin's road? Louise spoke to the web designer today and will be forwarding a proof to be reviewed prior to the website going live. Kerry stated that it was discussed during Executive Session, but no action would be taken this evening. The lawyer and engineer will gather more information and report back to Council.

3. Roger Bet, Summer Sounds Concert Series. Roger explained that during a meeting at the Park, Roger asked John Zucal to put up the lettering for the Summer Sounds Concert Series. John stated that he is not supposed to do the lettering. Roger is asking Council who needs to do this? Roger asked If anything else comes up regarding work that needs to be done for the Concert Series will he receive co-operation or not, clean the chairs, etc.? Kerry stated that he does not see a problem with John doing the lettering as he has done in the past. He asked if something changed? George stated that he thought once Council decided to compensate Roger for his position regarding responsibilities associated with the concerts, the Borough workers no longer doing the sign. Scott volunteered to put the letters on the sign. Scott asked that a message be put in the newsletter to inform people to contact Scott if they want to put a message on the signboard.

4. Ken George. Ken stated that he read an article in the Express Times concerning Council considering enacting an ordinance allowing alcohol consumption in the Park to help out the Fire Company. He agrees with helping the Fire Company, but not in that way. Kerry explained that the Fire Company President asked Council for their blessing and he was directed to the Park Board for their input. The Park Board recommended approval to Council allowing alcohol and clams in the Park during the Firemen's Picnic. The Liquor Control Board will issue a permit to serve alcohol in an open field; it must be in a controlled environment (fenced off). Ken asked how this would be enforced? Kerry replied that other carnivals sell clams and beer and the majority of people do not do heavy drinking, they have a couple beers with a couple dozen clams. George stated the Police will be at the Park, there will be an outside security firm hired specifically to patrol the beer and clam tent, which will be fenced in under the large pavilion. The Park ordinance will be modified for special events at the Park, not for alcohol to be consumed in the Park at anytime. It is for special events, by approval of Borough Council on an individual event basis. Ken stated that he is still not in favor of this idea. Scott added that the firemen feel that it will be a profitable event and he will ask after the picnic, how much more they make because of the beer and clam tent. The proposed ordinance states that the fire company or any organization will have to appear before Council to ask permission to serve alcohol. Mayor Mogilski stated that he has not received a copy of the proposed Ordinance 458.

APPROVAL OF EXPENSES

On motion by Tony Curcio to approve the expenses for the month of May in the amount of \$23,549.94 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 May are outlined in a report. The report includes the meeting attended as Borough Solicitor.

Subdivision Matters: Preparation of denial letter re: Emerald Forest Major Subdivision – Preliminary Plan.

Land Development Matters: Prepare Stormwater Drainage Covenant and send to Applicant's Attorney re: Brymac, Inc. Car Wash L.D. Plan.

Zoning and Other Land Use Matters: N/A.

Developments on Outstanding Litigation: Pre-hearing conference with experts – Borough Engineer and Real Estate Appraiser re: Roberti condemnation.

Court Decisions on Borough Cases: By Order of Northampton County Court dated May 17, 2007, declaratory judgment was entered in favor of M/M Herbert and Marlene Weeast and against the Borough on the Weeast's claim for interest. The case has now been directed to Court-ordered mediation in an attempt to settle and/or resolve same.

Miscellaneous Matters: Preparation of monthly Solicitor's Report – April 2007.

Receipt, review and revisions to Borough Planning Commission meeting agenda for May 3, 2007.

Preparation of ordinance and advertising for proposed Borough Ordinance No. 458 – Alcohol at Borough Park and Curfew for Borough Park.

Correspondence to Lafayette-Ambassador Bank re: Fire Company Loan

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, 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 MetEd Agreement, 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 for adopt Intermunicipal Comprehensive Plan.

ENGINEER’S REPORT

Brian Pysher reported that he met last week with representatives of the DEP and the Army Corps of Engineers regarding the Roberti property. He stated that he is trying to move forward with a reclamation waiver permits, but he needs some more information from Hanover Engineering to fill out the applications. The representatives do not see an issue with the project. The reclamation waiver would allow the Borough to avoid doing all the general permits (stream enclosures, etc.). Todd Beil asked about the Eighth Street runoff? Brian replied that he was there today, but he would like to meet with Todd on sight next Monday.

NEW BUSINESS

1. Enactment Ordinance #458 – Park (Amend Ordinance #410 – alcohol consumption) and establishment of Park Curfew. Ron Karasek stated that a letter dated May 21, 2007 was sent to the Borough and the Mayor with the original ordinance along with the copy of the advertisement sent to the newspaper. Louise distributed a copy of the ordinance to Council and the Mayor. Ron asked Council to turn to page 3, “The sale, use and consumption of alcoholic beverages are not permitted in, at or on the Park premises except at special events. These special events shall be determined and approved by Borough Council; and, Borough Council shall also have the authority to establish any rules or regulations for the sale, use and/or consumption of alcoholic beverages in, at or on the Park premises including among other things requiring that any organization must secure any and all necessary permits for the sale, use and consumption of alcohol.” The ordinance will add a curfew since one does not exist right now. “A curfew shall be established. The Park shall be closed from 10:00 p.m. to 6:00 a.m. on a daily basis except for the tennis and the basketball courts, which can be utilized (weather permitting) inasmuch as those facilities have atnight lighting available. Further, the times of this curfew may be amended in the future by resolution (as opposed to ordinance) since any change in the curfew hours is merely administrative (and not legislative) in nature.” Those are the two amendments to the current park ordinance. The Mayor asked if this would be attached to the current ordinance? Ron replied that ordinance 458 and ordinance 410 should be attached together. Borough Council approved advertising this ordinance for enactment at the previous meeting. It has been duly advertised because a copy of the ordinance has been sent to the Express Times, a copy sent to the Borough for anyone to review and a copy to Northampton County Law Library. Kerry asked for any public comment at this time with regard to this ordinance.

A resident stated that alcohol should not be allowed in the Park at all.

Ralph Stampone asked about the lights on the basketball court, is the timer set still for 11:00 p.m.? Kerry asked that John Zucal be asked about the timer.

Mayor Mogilski stated that he feels that Council should support the volunteer organizations, but that there is a limit. He asked if anyone remembers the net profits from last year’s picnic? George replied last year was approximately \$9,000. Their goal this year is to profit \$15,000 to \$20,000. The Mayor stated that having beer there would draw an entirely different crowd, because they are throwing family values out the window. George stated that after the last meeting the Mayor came up to him and stated that you have to try different things. He is only a representative of the Fire Company and the growth and demands of their service comes at a cost. The Fire Company recently spent \$160,000 to provide more services and they came up with this idea as a fundraiser. The Mayor asked how the Borough stands on the liability? Jon replied that the Fire Company has taken out a

special rider liability insurance. He added that his concern is keeping the Wind Gap Fire Company in the Borough and if this fundraiser is successful they will do it again next year, if it is not they will not ask Council for permission to sell beer and clams next year. Todd asked the Mayor if the article in the paper stating that the police disfavor the idea is accurate? The Mayor replied that he did speak with the police and they do disfavor the beer at the Park and at this point, only one officer has volunteered to work the picnic. He will have one officer Wednesday, Thursday, Friday and two on Saturday no exceptions. The Borough will have police coverage throughout the Borough, but only Officer Pepe has volunteered to work in the Park for the picnic. The Mayor stated that no other officer has volunteered so no other officer's overtime is approved. Chief Armitage asked if the Mayor is disapproving overtime? The Mayor stated he wants to know who is interested and not just all five officers show up, he wants to know ahead of time. Kerry stated that this could be discussed at a later time.

On motion by Tony Curcio to adopt Ordinance 458 and seconded by Todd Beil. Roll call vote taken. In favor: K. Gassler, G. Hinton, N. Hinton, S. Parsons, T. Beil, T. Curcio. Abstained: J. Faust. Motion carried with a vote of 6-0-1. Kerry called Jon's abstention. Jon stated that it was previously that on Wind Gap Fire Company issues he should abstain from voting. Ron Karasek confirmed that he had told Mr. Faust that it would make sense to abstain from Fire Company matters. Ron did not see a conflict through his research, but advised so to completely avoid any issue of impropriety. Scott asked if other members of the Fire Company should abstain on this issue? Jon stated it was specifically about the Fire Chief and if he could hold office and vote on Fire Company issues.

Ron Karasek advised Council that the Mayor has the ability to veto this ordinance and this would adjust the timeframe. The Mayor stated that according to the Borough Code, the Mayor can spend up to \$2,500 for private legal counsel and the Borough would be responsible for those bills and ask if Mr. Karasek would confirm that amount.

NEW BUSINESS

1. Wind Gap Senior Apartments. Kerry reported that the Borough Engineer did a site visit regarding the parking issue. At the time of development, the developer complied with the required parking spaces years ago. Brian Pysher stated that the parking requirement at the time of development was six (6) parking spots and there are thirteen. The original requirement was a minimum amount of handicap spots and there is no maximum. The Borough owns the parking lot behind the liquor store, but the residents would have to walk across the street. The property owner (Valley Housing) would have to initiate any change. Council directed Brian Pysher to review the property to determine if any more parking spots could be utilized on the north side. As a courtesy to the residents at the apartments, the Borough will send a letter to the property owner asking for a meeting to discuss the parking concerns. If the owner is not willing to meet, there is not much the Borough could do unless it is in violation of a Borough ordinance.

OLD BUSINESS

No Old Business was before Council.

On motion by Tony Curcio to adjourn the meeting of June 4, 2007 and seconded by Todd Beil. Council agreed unanimously. The meeting of June 4, 2007 adjourned at 8:49 p.m.

Louise Firestone, Borough Administrator