

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

The Council met from 6:30 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, November 5, 2007, was called to order at 7:30 p.m. by George Hinton at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Nathan Hinton, Scott Parsons and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysner and Borough Administrator Louise Firestone. Absent from the meeting were Councilmen Todd Beil, Jon Faust, and Kerry Gassler.

PUBLIC COMMENT

1. George Kressler. George suggested that Borough Council consider reducing the speed limit on Broadway to 30 m.p.h. He believes that reducing the speed limit would have a positive effect on traffic and increase the level of safety. Tony Curcio stated that a letter has to be sent to PennDOT from the Mayor and the Police Chief asking them to consider lowering the speed limit.
2. Betty Lou Brown, Wind Gap. Betty stated that she does not understand why the Borough does not have an agreement with the SPCA. She asked who should a resident contact about a stray dog or cat? George Hinton replied that Council has discussed this issue in the past, but the problem has always been who would transport the animals and what liabilities would exist if a Borough worker got a disease or rabies. The Borough has a dog pen to hold animals until the owner is located. Betty asked if Council would consider including money in the budget for next year. Betty asked if the Police could enforce the speed limit on East West Street?

APPROVAL OF EXPENSES

On motion by Tony Curcio to approve the expenses for the month of October in the amount of \$ 25,731.33, driveway paving for in front of the Borough garage in the amount of \$5,450 and outstanding Hanover Engineering bills related to the National Realty submission in the amount of \$6,206.07 from 2005 and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

Scott asked if the Grand Central Holland Subdivision is finished? Ron replied that he is just waiting for the paperwork (Subdivision Plan) to be signed by Grand Central Investment Company, Ltd. Once the plan is filed with the Borough, Ron Karasek will make application to the Borough by the Borough to waive subdivision fees and recording fees, etc. so that the plan can be approved. The engineering work appears to be concluded.

SOLICITOR'S REPORT

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

Subdivision Matters: October 19, 2007 – meeting with Applicant's Representatives (Engineer and Attorney) and Borough's representatives (President Gassler, V.P. Hinton, Borough Engineer) re: Manor Haven Corporation Major Subdivision – Towns at the Gap. Preparation of Extension Agreement in Albanese Minor Subdivision. Awaiting signature to Plans to Minor Subdivision of Grand Central Investment Co. re: East West Street Condemnation. Finalize deed of dedication for Lot No. 52 – Manor Haven Corporation Major Subdivision – Towns at the Gap and hand deliver to Applicant's attorney.

Land Development Matters: N/A

Zoning and Other Land Use Matters: N/A

Developments on Outstanding Litigation: Appeal filed by Roberti to Award of Board of Viewers – Roberti Condemnation.

Court Decisions on Borough Cases: Receipt, review and administration of status correspondence from Borough defense attorney re: B. Buskirk fatal claim.

Miscellaneous: Preparation of ordinance and advertising notice for Borough Ordinance No. 459 – Local Services Tax (LST). Preparation of ordinance and advertising notice i.e. Borough Ordinance No. 460 – Real Estate Transfer Tax. Review and prepare various correspondence, memoranda and make and receive telephone calls.

Outstanding Items: West Seventh Street: received metes and bounds description from Borough Engineer. Now need to obtain research street ordination and obtain related Stormwater easements from adjoining property owners, RPM Recycling License Agreement and related Met Ed Agreements. Keenhold Condemnation – PPL Cell Tower matter – only partial condemnation needed. 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 asked to have time allotted under Old Business to discuss the fire company emergency response or hazardous material ordinance that he has worked on over the past month.

ENGINEER'S REPORT

Brian Pysher reported that Nolan Perin received his HOP for the RPM facility. He is waiting for a pole to be moved in order to make the rest of the improvements. George spoke to Nolan regarding the timeframe to have the pole moved. Brian will call Met-Ed this week to follow up.

He received the survey maps from Hanover Engineering regarding the cell tower property and the condemnation on North Broadway. He can provide the descriptions for that property. He is not sure if Hanover included the entire property strip. The metes and bounds only show the minimum requirement of the right-of-way for the by-pass road.

Brian reported that he has the quantity cost estimate for Twins at the Gap that Hanover Engineering had previously reviewed. He found a portion of storm sewer extension along Broadway was not included in the quantity cost estimate. He received a copy of the revised plans from Cowan Associates and the rough numbers are well higher than initially anticipated. The pipe running across the candle factory is a 48" by 76" elliptical concrete pipe and it is 24" and 30" concrete pipe 1300 feet all the way down Broadway. A meeting was held with Attorney Jim Preston, Cowan Associates Engineer, Scott McMackin, Ron Karasek, Kerry Gassler, George Hinton, Bob Collura and Brian Pysher to discuss who is going to pay for the rest of the storm sewer and where would it be constructed. Brian asked Scott McMackin to provide him with a copy of the original plans with the

original storm sewer design and then Brian will do a quantity cost estimate of the original run and the estimate for the new run. The difference in cost will have to be decided. The original plans only showed a 42" pipe across the parking lot, but this elliptical pipe is more expensive and the end wall must be cast in place. There are design issues including, the sanitary sewer running down the sidewalk that will have to be lowered, and a telephone pole might have to be moved.

Brian reported that he is waiting on DCNR regarding the Roberti property. Once he receives the paperwork from DCNR he will submit the application to the DEP for the permits. Louise is trying to schedule a meeting with the design consultant and Brian to discuss the project.

Scott asked if Brian had done anything on lower Alpha Road regarding the condition because of the increase of truck traffic? Brian stated that he has not done anything with that road. Scott suggested inviting Mr. Goffredo and Techo Bloc to the meeting so all parties are involved.

NEW BUSINESS

1. Enactment Ordinance No. 459 – Local Services Tax (LST). Ron Karasek explained that this is an ordinance that re-enacts the emergency municipal services tax that was originally enacted in 2004 effective in 2005. There was an Act passed earlier this year, any municipality wanting to continue with this tax has to re-enact the tax renaming it Local Services Tax (LST) and have in the tax the provisions of the new Act 7 of 2007. It contains new provisions including the 25% of the new tax must be used for emergency services. There was an exemption level of \$6,500 before, now the exemption is \$12,000. The tax must be collected in the same manner in which the employee is paid such as paid weekly, or twice a month. The tax is effectively the same tax that is already on the books. It has been duly advertised three times and is ready for official action.

Patricia Sutter started that she heard there are forms on line that need to be signed requesting and exemption or can she continue using her forms? Ron Karasek said that the Act does not address specific forms to be used. There does have to be some type of form. An exemption certificate should be on file, but the form can be constructed by the tax collector or use the form as set by the State.

On motion by Nathan Hinton to enact Ordinance 459 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

2. Enactment Ordinance No. 460 – Real Estate Transfer Tax. Ron Karasek explained that the Borough had passed this exact ordinance in October of 2006. It maintained the transfer tax at 1%, which has existed since 1972 and is the same as virtually every other municipality. In order for an easier collection of late tax payments or delinquencies, the State wanted to be the collector of those items. The Recorder of Deeds still gets the 1%, but if there is any delinquency, penalty or interest, rather than the Borough chase and collect that amount, the Department of Revenue will now do that for the Borough and charge interest as permitted by the State. This ordinance was enacted last year, but it was only advertised only once. At that time, Ron felt that since it was not changing the rate of the tax, a one-time advertisement was sufficient. Over the last year, Ron has read some additional cases; he is not comfortable with keeping the ordinance on the books with one advertisement. It is an ordinance under the Local Tax Enabling Act, which requires advertising three times plus the one ordinary advertisement. He did not charge the Borough for any work related to this ordinance. The Borough will receive the bill from the newspaper for the advertisements.

On motion by Nathan Hinton to enact Ordinance 460 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

3. New Police Car. George Hinton reported that the Police Chief contacted Warnock Fleet for a replacement police car for next year. George suggested ordering the vehicle now so that it would be available as soon as possible. It would not be a Ford vehicle, but a Chrysler. The light bar and other equipment from the current vehicle cannot be transferred. The cost for the entire package to be installed by Warnock would be approximately \$31,000. Scott asked if there are sufficient funds

available in the budget to purchase a new car? Louise replied that there is \$12,085 in Capital Reserve, \$1,410 from 2005 tipping fees, \$10,000 from 2007 budgeted capital expenditures, and \$10,000 from 2008 budgeted capital expenditures for a total of \$33,500.

On motion by Scott Parsons to order a 2008 police car and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Patricia Sutter asked if the Borough has 24-hour coverage? George replied that currently the Borough does not have 24-hour coverage. There are a few shifts not covered because of vacation, personal time, comp time, etc. Pat asked if there are two officers on during the day? George stated yes, there are times when there are two officers on during the day, because paperwork does need to get done when two officers are on duty. Pat asked about having police information reported to the newspaper so that residents are aware of what is happening in the Borough? George replied that information has been provided to the newspaper, but the newspaper decides what makes the paper and what does not. Chief Armitage does report information to the paper, but he also respects the wishes of the individuals regarding putting names in the paper.

4. The Mayor reported that the old police car could be repaired for less than \$1,000. George confirmed that the rear of the 2003 Ford Crown Victoria is being repaired.

OLD BUSINESS

1. Borough website – www.windgap-pa.gov George informed Council and the public that the new Borough website is up and running. The minutes have been loaded along with the current agenda has been posted on the new website.

2. Fire Company Emergency Hazardous Ordinance. Ron Karasek reported that he was asked to research passing an ordinance allowing the Borough to recover funds expended by the police used because of response to frivolous or improper calls. The fire department inquired about the legality of passing an ordinance allowing them to be reimbursed for their cost associated with responding to hazardous incidents. The Fire Company is a separate entity from the Borough and may not need an ordinance from the Borough to collect fees. George explained that the intent was for the Fire Company to submit a bill to the insurance company for their time spent at an accident within the Borough boundaries, did there have to be an ordinance have to be in effect to do so. Ron replied that because it is not a Borough agent and the Fire Company passes that as their policy, approved by their members at a meeting, an ordinance might not be necessary. Jeff Yob stated that because the Borough appoints the Wind Gap Fire Company as agency to protect the residents of the Borough, it was thought that the Borough would have to enact some type of legislation for the collection of fees. Jeff will confer with the Fire Company's billing agent and get back to Ron some time this week. Ron suggests that it might be as simple as passing a resolution.

On motion by Tony Curcio to adjourn the meeting of November 5, 2007. The meeting of November 5, 2007 adjourned at 8:23 p.m.

Louise Firestone, Borough Administrator