

**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 Monday, May 5, 2008, was called to order at 7:30 p.m. by Council President Scott Parson, at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Kerry Gassler, Todd Beil, George Hinton, Joe Weaver and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone. Absent was Councilman Jon Faust.

PUBLIC COMMENT

1. John Dally, Green Knight Economic Development Corporation (GKEDC). The GKEDC awarded \$125,000 this year for the purpose of educational scholarship, educational programs and community support grants.

Slate Belt Chamber of Commerce / Slate Belt Council of Government
Blue Eagle Alumni Drum and Bugle Corporation
Families First
Wind Gap Car Show
Wind Gap Ambulance
Wind Gap Fire Company / Wind Gap Emergency Management
Slate Belt Nazareth Baptist Church
Wind Gap Park / Summer Sounds
Wind Gap Area Athletic Association

The GKEDC will also be distributing funds at the Pen Argyl council meeting on May 6, 2008 and Plainfield Township supervisor meeting on May 14, 2008. They will be announcing the scholarship recipients at Senior Night, June 2, 2008.

2. Mark Stametz stated that he wants to make Council aware that Muschlitz Excavating is mining out of the quarry by the Park. He submitted a petition signed by the neighbors asking for help before someone gets hurt. He stated that there are 100 to 150 trucks per day traveling on West Street or Fairview or by the Park. School will be out soon and the kids will be outside playing which concerns the neighborhood. He reported that the trucks speed through the streets and there is no speed limit signs posted. The trucks go in and out without any cover. He understands that they are within in their rights to do what they are doing, but it is a nuisance and someone will get hurt on that road. A couple weeks ago Muschlitz swept the streets, but did not use water and for ten hours they drove up and down the road just blowing the dust around. Mark called DEP and was told that they are not allowed to do that, but he believes that Muschlitz received a slap on the hand. He reported that he witnessed a piece of slate fall off their truck and smashed his windshield. He called Muschlitz and was told that if it can't be proven there is nothing that will be done. He went to State Representative Dally's office and was informed that this is a Borough issue. Brian Pysher explained that he met with Mr. Stametz about a month ago and informed him that the quarry is in an Industrial District although the properties adjacent to the quarry are in a Residential District. They are permitted to do the work they are currently doing. The Borough cannot restrict commerce as far as restricting the road. As far as speed, that is a police issue. Mark stated that the noise generated by the quarry started with the opening of the gates at 6:00 a.m. and a jackhammer starting at 6:30 a.m. Brian replied that the noise is addressed in the Borough's

Zoning Ordinance and can be measured with a decibel meter. George Hinton asked if they are running a crusher? Mark replied that it runs all the time. George reported that he sat by the Park on May 1, 2008 and followed trucks in and out of the quarry because he was concerned about the speed and the top speed he noted was 20 m.p.h. He said that on that particular day the trucks were not speeding and they were covered. He has discussed setting up the speed device to check the speed. Kerry stated that even if no sign is posted, all streets are 25 m.p.h. Brian said that he contacted the Department of Mining and Muschlitz Excavating has all the necessary permits to mine the property. The noise levels in R-10 District from 7:00 a.m. to 10:00 p.m. is 60 decibels and from 10:00 p.m. to 7:00 a.m. is 50 decibels. The noise levels in the Industrial District are 70 decibels at all times.

On motion by George Hinton to buy a decibel level meter not to exceed \$500 and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

Tina Stametz asked who is in charge of enforcing the trucks being covered by tarps? George replied that it is the duty of the Police. Kerry advised that if there are any issues the call should be made to the 911 Center not directly to the Police because they are in and out of the Police Station, but the control center will make the call directly to the officer on duty and there will a record of the call. The Mayor will provide his number so that he can be contacted directly also.

3. Troy Leidy. Troy asked if there has been any discussion with Mr. Perin? George replied that Mr. Perin has been out of the country for two weeks and then the accident last weekend at the recycling center, he decided to wait to set up a meeting. George promised that a meeting would occur prior to the workshop meeting scheduled for May 20, 2008.

4. Lewis Paulhamus asked Council if they had discussed the request of the Guardian Angels? Scott replied that he spoke to the Police Chief and George about legal issues and it will be discussing in Executive Session so Council is all aware of the issues.

APPROVAL OF MINUTES

On motion by Kerry Gassler to approve the minutes of the meeting of March 18, 2008 and seconded by Tony Curcio. Roll call vote taken. In favor: T. Curcio, K. Gassler, G. Hinton, S. Parsons, J. Weaver. Abstained: T. Beil. Motion carried with a vote of 5-0-1.

On motion by Tony Curcio to approve the minutes of the meeting of April 15, 2008 and seconded by George Hinton. Roll call vote taken. In favor: G. Hinton, S. Parsons, J. Weaver, T. Curcio. Abstained: K. Gassler, T. Beil. Motion carried with a vote of 4-0-2.

APPROVAL OF EXPENSES

On motion by Todd Beil to approve the expenses for the month of April in the amount of \$22,460.74 and seconded by Kerry Gassler. George requested that the bill for Plantique be held temporarily. Plantique delivered the safety mulch to the playground in the park. A surveillance camera cable was pulled down in the park and it could have been caused by the delivery truck. The film has to be reviewed and if they did pull it down, they should be billed the \$400 that it cost to be repaired. George stated that he is not opposed to paying the bill, but would like to have the ability to request reimbursement for the damages.

Amended motion by Todd Beil to approve the expenses in the amount of \$17,910 and seconded by Kerry Gassler. 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 April are outlined in a report. The report includes the meetings attended in April 2008.

Subdivision Matters: Obtain extension of time in Emerald Forest Major Subdivision – Preliminary Plan.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Prepare draft of Addendum to Inter-Governmental Agreement pursuant to Inter-Municipal Comprehensive Plan.

Developments on Outstanding Litigation: Prepare Pre-Trial Memorandum in Roberti condemnation case. Prepare Motion in Limine in Roberti condemnation case. Attend Pre-Trial Conference in Roberti condemnation case.

Court Decisions on Borough Cases: N/A

Miscellaneous: Prepare revised Meeting Minutes of Borough Planning Commission meeting of September 2007 (discussed at Planning Commission meeting of 4/3/08). 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. Does Borough wish to proceed with street ordination and attempt to obtain property from adjoining property owners? Keenhold Condemnation - need to determine value of partial taking. Dentith storm water 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 but inactive. Ordinance for Office Staff pension – pending meeting with Principal's Representatives. Ordinance for reimbursement of equipment, materials, and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

A hearing for the Roberti case will be held next Friday, May 23, 2008 at 9:00 a.m. This meeting will be to discuss the values to be used at the trial, 2005 values, 1999 values, whether or not certain amounts of money can be used for displacement damages because the Eminent Domain Act changed in 2006. It is his position that the 1999 Act applied. The case is scheduled for trial in December. The Borough will receive a notice of a settlement conference which is customary. They have been paid \$56,000 which is the amount that the Borough appraiser stated he would be entitled to as compensation. The additional \$9,000 has been returned to the Borough until the case goes to trial in the event that the decision is reached not to compensate any further funds.

There was a Planning Commission in April, none in May, but a meeting is expected in June. He was informed that Emerald Forest will come in with a revised or updated plan, but whether that happens in time for the June meeting will be seen.

ENGINEER'S REPORT

Brian Pysher reported that he spoke to Don Fredrickson, Emerald Forest Engineer, and Jim Seitz, developer, one of the issues that have been discussed during the planning phase is the ability of detaining water on one of the adjoining properties. The developer has informed Brian that they would be the detention basin would be entirely on their property. Brian told them that the road has to be improved to Route 512 is one of the major issues that has to be addressed and corrected.

Brian has been in contact with Kelly Gutshaw, Landstudies, regarding the Roberti property stream bank restoration. He had sent the plan to Landstudies about six months ago and they are asking for additional inverts on the manholes there and he provided that information. They have a conceptual plan that would be sent to the Bushkill Conservancy and a copy to Brian to be included with the permit application to the DEP. The new adjoining property owner met with representatives from the Borough and stated that he is more than happy to do anything he can to help the Borough restore that

property. A temporary construction easement and a permanent easement where the retaining wall is to be constructed have to be written and signed by both parties.

Brian spoke to Scott McMackin, Towns at the Gap, Manor Haven, the plans have been revised and now he is waiting on Manor Haven to give him the okay to submit them for approval.

Brian is still working on the storm water projects on West West Street.

NEW BUSINESS

1. 1986 GMC Truck Bid Award. The Borough advertised the sale of the 1986 GMC Truck and received only one sealed bid. The bid was submitted by Nolan Kemmerer in the amount of \$200. Council discussed re-advertising the truck, selling it for scrap after contacting the local junkyards.

On motion by Kerry Gassler to sell the 1986 GMC Truck in the amount of \$200 to Nolan Kemmerer and seconded by Scott Parsons. Roll call vote taken. In favor: S. Parsons, T. Curcio, K. Gassler, G. Hinton. Opposed: J. Weaver, T. Beil. Motion carried with a vote of 4-2.

2. The Mayor stated that he received a call from Senator Pat Browne's office regarding a pedestrian who was hit by the Third Street traffic light. Senator Browne's office spoke with PennDOT and suggested putting a delay at that light so people have time to cross and having crosswalks at the north, south, east and west sides. George stated that there are crosswalks at all four corners and there are push buttons so pedestrians could safely walk across. When the traffic light was installed it was to PennDOT's specifications and approved by them. All crosswalks at the major intersections, where a traffic light existed, were painted.

3. Louise Firestone reported that the Zoning Officer was questioned about the Grand Opening of the dollar store serving hot dogs and coke for a dollar for two days. This specific topic is not addressed in the zoning ordinance. Council decided not to make a decision one way or the other.

OLD BUSINESS

Council did not have any old business to act upon at this time.

EXECUTIVE SESSION – Council adjourned to Executive Session at 8:21 p.m. to discuss legal and personnel issues. Council reconvened at 8:33 p.m. Scott asked that a spreadsheet be prepared comparing the benefits of the Police Department, Street Department and the Office prior to the next meeting.

George Hinton asked Mr. Karasek if a Borough employee shows up to work with a brace on their knee, police officer, should he be permitted to do his duties or asked to go home? The concern is his ability to fulfill his duties as a patrol officer. Ron asked if there is any policy or policy manual or past practice? George replied that he does not know of any. Ron asked if the collective bargaining agreement specifically addresses this issue? Scott stated that in their policy manual there is a section regarding physical fitness. Ron stated that the Chief has to determine if his officer is fit to do the job if there is an apparent injury. He added that if using his knee is a part of his duty and he cannot use his knee properly he should not be working. The officer called off Friday, but reported to work on Saturday with it wrapped. It was decided to have a meeting with the Police Association.

On motion by Tony Curcio to adjourn the meeting of May 5, 2008. Council agreed unanimously. The meeting of May 5, 2008 adjourned at 8:45 p.m.

Louise Firestone, Borough Administrator