

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
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The Council meeting of the Borough of Wind Gap on Monday, July 7, 2008, was called to order at 7:30 p.m. by Council President, Scott Parsons., at which time he reminded those present that the meeting was being recorded. In attendance were Councilpersons: Jon Faust, Kerry Gassler, George Hinton, Joe Weaver and Tony Curcio. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor, Ronold Karasek, Borough Engineer, Brian Pysker, and Borough Administrator Louise Firestone. Absent was Councilman Todd Beil.

George Hinton arrived at 7:40 p.m.

Council President Scott Parsons publicly thanked Representative Craig Dally for providing the Borough with a new American flag and a new Pennsylvania State flag.

PUBLIC COMMENT

No one appeared before Council at this time.

APPROVAL OF MINUTES

On motion by Kerry Gassler to approve the minutes of the meeting of May 20, 2008 and seconded by Jon Faust. Roll call vote taken. In favor: J. Faust, K. Gassler, S. Parsons, J. Weaver. Abstained: T. Curcio. Motion carried with a vote of 4-0-1.

APPROVAL OF EXPENSES

On motion by Tony Curcio to approve the expenses for the month of June in the amount of \$28,103.22 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

George Hinton arrived at this point in the meeting.

SOLICITOR'S REPORT

Ronold 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 meetings attended in June 2008.

Subdivision Matters: Prepare Conditional Final Plan Approval form and enclosure correspondence to Applicant's Engineer re: K. Albanese Minor Subdivision.

Prepare Conditional Final Plan Approval form and enclosure correspondence to Applicant's Engineer re: Jorgensen Minor Subdivision.

Prepare SALDO Waiver form and enclosure correspondence to Applicant's Engineer re: Wind Gap Development Group – Emerald Forest Major Subdivision.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Legal Research on opening of West Seventh Street f/k/a Diamond Avenue.

Developments on Outstanding Litigation: Travel to and from Easton and attendance at Argument Court on Motion in Limine filed in Roberti condemnation case.

Court Decisions on Borough Cases: N/A

Miscellaneous: Preparation of agenda for Planning Commission meeting of June 5, 2008.

Outstanding Items: West Seventh Street: Proceeding with ordinance to open street.

Keenhold Condemnation – in process of securing appraisers 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 Office Staff pension – pending meeting with Principal's Representatives.

Ordinance for loitering, begging and panhandling – pending but inactive.

Ordinance for reimbursement of equipment, materials, and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

Ron re-confirmed that he was directed to take the necessary steps to get West Seventh Street ordained/opened. He has prepared the ordinance to do that, but he asked Council how that street had been used in the past. The Borough has twenty-one (21) years from the time the street is laid out to open or dedicate it (terms - open or dedicate will be used interchangeably). If that is not done in 21 years, then the Borough can only open the street if 51% of the owners of the property that border the street agree and 51% of the property that fronts the street on a per front basis agree to the opening. Although the street was not formally opened or dedicated, the Borough did maintain the street on some occasion and the Borough Police do patrol the road during the course of their duties. Kerry explained that the Borough has maintained by snow plowing, filling potholes from time to time with stone, and the police drive through there to check on Wind Gap Electric, American Candle, a motorcycle repair shop, Summer Winds Pool warehouse and the Wind Gap Flea Market. Ron will prepare as it falls in the twenty-one year period and the ordinance will be advertised for the August meeting. After the vote at the August meeting, the property owners will be given a copy of the ordinance and have thirty (30) days in order to challenge the ordinance, to challenge the ordinance, they would request a hearing on the matter and the hearing would be held before Borough Council and if they are not pleased with the result of the hearing they could appeal to the County Court in Easton. It is being opened or dedicated with the sharp turn in it and then after it is opened, the Borough can go back and enact another ordinance to straighten out that turn. The Borough will need the metes and bounds description of the little triangle/sliver piece.

He has not been successful in finding realtors to give an appraisal on the Keenhold property, but he will continue to work on it. The Borough does not have a metes and bounds description for that small piece of property. Hanover Engineering has the map done, Ron is waiting for a metes and bounds description from them.

ENGINEER'S REPORT

Brian Pysher reported that he submitted a waiver of permit for the Roberti property last week. He will follow up later this week to confirm that it was received and asked if any more information is required. They will begin to design the retaining wall and get that out to bid as soon as they receive permission. He will put together a temporary construction easement and a permanent easement for the neighbors to the north. Brian reported that a PNDI search was done for the West Street culverts and there was a hit on both of them. The paperwork has been done on that project. George asked about the Lehigh Street storm water project. Brian replied that the field work has been completed, but if George wants to meet they could set up a meeting to review the project.

COMMITTEE REPORTS

Scott informed those present that only one meeting is scheduled for July and asked Council if anyone had a report regarding their committee. Nothing at this time.

NEW BUSINESS

1. Kim Albanese Minor Subdivision Plan Conditional Preliminary and Final. Brian Pysher informed Council that at the last Planning Commission meeting, the Commission is recommending a Conditional Preliminary / Final Plan Approval. Brian received a revised plan based on comments from the Planning Commission and Mr. Albanese's Engineer, Richard Rutt, dropped off those plans to Brian.

On motion by Kerry to grant a waiver of SALDO Section 513 A, B, and F: Utility and Stormwater Easements and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

On motion by Kerry Gassler to grant Conditional / Preliminary Final Plan Approval as outlined on the Agreement for Conditional Plan Approval document dated June 5, 2008 and signed by Mr. Albanese and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

2. Jorgenson Minor Subdivision Conditional Preliminary/Final Plan Approval. Ron Karasek explained that an existing lot will be subdivided, with a portion of the lot being located in Plainfield Township. Plainfield Township has to approve the plan or approve a SALDO waiver because the corner that lies in Plainfield Township is not being developed or they would say that a SALDO waiver would not be needed. At the time of the Planning Commission meeting in June, the Plainfield Township Planning Commission had not met or taken action, but a letter dated June 12, 2008 was received stating that "due to the fact that only a very small portion of this subdivision is located in Plainfield Township and the developer's willingness to restrict the 2500 square foot area in Plainfield Township to that no building could extend into or occupy this area, waiver of plan review by the Plainfield Township Planning Commission was granted by the Board of Supervisors". The project location is 177 Roosevelt Street, Wind Gap.

On motion by Kerry Gassler to grant Conditional Preliminary/Final Plan Approval as outlined on the Agreement for Conditional Plan Approval document dated June 5, 2008 and signed by David Corrado and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

The applicant requested that a letter be sent to his mortgage company by the Borough stating the plan zoning is correct, meets the setbacks, etc. Mr. Karasek informed the Zoning Officer, that this plan is not approved until all the conditions have been met and then the plan will be signed and the plan filed at the courthouse.

3. Emerald Forest Major Subdivision – Preliminary Plan SALDO Waivers. The Applicant, Mr. Seitz, appeared prior to the meeting and requested that this item be placed on the agenda for the next meeting because his engineer could not make this meeting.

4. Colonial Springs Reduction in Assessment. Ron Karasek explained that the County will reduce the assessment and expects the municipality and school district to follow suit. The Calantonis filed a petition saying that their assessment was wrong and was disproportionate, too high, etc. The County is trying to decrease the assessment of the property, but increase the value of the property. Typically the assessment is based on 50% of the value of the property. The millage tax is based on the assessment not the value of the property, so the tax on the property will be less.

On motion by George Hinton to make further inquiry as to the basis of this change in assessment and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

5. Park Property. Scott Parsons reported that the Borough fixed a problem at the Park by replacing a ditch between the Park property and Mr. Dentith's property with dirt. The dirt was leveled and is now cut and maintained by the Borough. The Park has an entrance gate and it is kept locked at times and now vehicles have used Mr. Dentith's driveway and cut through the property to get into the Park. Mr. Dentith has insisted that the Borough does something after the carnival people drove on his driveway and through the grass. A split rail fence exists on Third Street and might be on Mr. Dentith's property and there has been discussion of finishing that fence all the way down to the telephone outbuilding. Tony added that the fence should be 6" off of the property line. The funding for this project will come out of the Borough's general fund.

On motion by George Hinton to direct the Borough Engineer review the property and provide specs to insure that the Borough is on Borough property and mark the locations for upright poles to be placed and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

OLD BUSINESS

1. Speed Limit Signs – Route 512. Tony asked the status of the placement of the new speed limit signs on 512? George replied that he would follow up with the signs. The plan right now is for 512 and once that is complete, the Borough would be looking at North Broadway and Center Street.

2. Reconsideration Start Date of Personal Hours. Tony Curcio stated that last meeting he made the motion for the additional five (5) personal days for the office staff with the stipulation that it would start January 1, 2009. It was presented that way because of a concern with the budget for this year. There would be no change in this budget because the salary is already calculated in the budget.

On motion by Tony Curcio to make the additional five (5) personal days for office staff to be effective July 7, 2008 and seconded by Kerry Gassler. Roll call vote taken. In favor: J. Faust, K. Gassler, G. Hinton, J. Weaver, T. Curcio. Opposed: S. Parsons. Motion carried with a vote of 5-1.

3. Tittle Property. Scott Parsons asked for an update regarding the property at 133 Lincoln Street, Wind Gap, damaged by fire. Jon Faust stated that he has called the State Fire Marshal, but he has not received a return phone call about the status of the property. Jon is looking for the final determination of cause for the fire and has left several messages. The Borough cannot do anything with this property until given the clearance to move forward. Scott asked if the Borough has to deal with the mortgage company to clean up the property. Jon replied that he met with the Police Chief and the State Fire Marshal and it was stated that Mr. Tittle's insurance company will not pay anything and if anyone wants to recoup money a lien will have to be placed on the property. The Fire Company spent money to secure the property after the fire so if the Borough cleans up the property the Borough would have to file the lien to the property. Technically the insurance company does not have a claim because the property owner never reported that his house caught fire. Ron Karasek asked if the Borough is going to wait for the State Fire Marshal? Jon replied that he thought the fire marshal has the right to deal the clean up until the determination has been completed. Jon will call Mike Books, State Fire Marshal, tomorrow and Ron will follow up with a call also. Council discussed having the property cleaned up by the Borough street workers or a professional contractor because the foundation may have to remain standing. Ron explained that there is a difference between cleaning up the property and condemning and removing the building. If the Borough wants to remove the building it would require a court order. Council only meets once this month, and if this is resolved before the August Council meeting, Council was in agreement that an outside contractor should come in and clean up the debris in the yard.

4. Jon Faust asked Mayor Mogilski about the opening burning on Third Street. The Mayor reported that he received a call from Mrs. Pysher on Third Street regarding the burning in the open lot. She is concerned about the frequency of burning. The Mayor asked if there is anywhere else in the Borough where the Fire Company could burn and not affect many homeowners. One suggestion was the top of the slate quarry, but it would be difficult to get the fire vehicles up there. The Fire Company does their drills all over the Borough including back Center Street and their own parking lot. Jon stated that fire personnel need to learn how to properly fight fires. The road crew dumps debris in the Third Street lot and it has been burnt approximately four (4) times in the last couple years. Jon agreed to talk to Mrs. Pysher.

EXECUTIVE SESSION

Council adjourned to Executive Session to discuss the Keenhold property condemnation. Council adjourned at 8:36 p.m. They reconvened at 8:46 p.m. Scott stated that no action would be taken at this time.

Scott Parsons reminded those present that the next Council meeting is scheduled for Monday, August 4, 2008.

On motion by Tony Curcio to adjourn the meeting of July 7, 2008. Council agreed unanimously. The meeting of July 7, 2008 adjourned at 8:47 p.m.

Louise Firestone, Borough Administrator