

**BOROUGH OF WIND GAP  
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The Council meeting of the Borough of Wind Gap on Monday, November 3, 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: Jon Faust, Kerry Gassler, George Hinton, and Joe Weaver. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor, Ronold Karasek, and Borough Administrator Louise Firestone. Absent were Councilmen Todd Beil and Tony Curcio.

**PUBLIC COMMENT**

No one appeared before Council at this time.

*Mayor Mitchell D. Mogilski, Sr. arrived at 7:35 p.m.*

**APPROVAL OF EXPENSES**

**On motion** by Kerry Gassler to approve the expenses for the month of October 2008 in the amount of \$27,879.20 and seconded by George Hinton. Joe Weaver stated that it is almost \$500 for an alternator replacement on a 2003 Crown Victoria police cruiser. Jon Faust added he believes that this is the same vehicle that an alternator has been replaced before. A letter was received that several bills were submitted that go back several months. Jon asked that these bills be checked to make sure none of the bills have already been paid. He asked if this is a good practice since one of the Borough's police officers is involved in the business of Bob's Towing and the Borough is taking the police cars there to get serviced. Ron Karasek stated that there does not appear to be any direct conflict with that regard. If Council wants to avoid any appearance of a conflict, he would have to think it through more thoroughly because it might be unfair to the proprietor. The police cars are the only vehicles going there. The police have been previously directed to contact George Hinton prior to any vehicle requiring repairs. The problem Jon has and he has proven it several times, is the Borough is paying more than they should for repairs. Ron stated that he would not want to make it more difficult for the Borough to operate, but he might suggest that if the Borough is going to continue using this shop that a second opinion is obtained.

**Amended motion** by Kerry Gassler to pay the expenses less the \$487.52 bill to Bob's Towing and seconded by George Hinton. Roll call vote taken. In favor: K. Gassler, G. Hinton, S. Parsons, J. Weaver. Opposed: J. Faust. Motion carried with a vote of 4-1.

Scott asked if Council wishes to have a repair committee. Jon stated that it should already be in place with George approving repairs to police vehicles. There is a concern with the communications with the police department and Council. George suggested that a letter be written to the various local garages informing them that if they are doing any work on Borough vehicles, Council needs to be notified prior to the work being completed.

**On motion** by Jon Faust to send letters to Gardner's, Alex's Tire Center, Leroy Amy, MSG, PVT, Reagle, Ford dealer in Nazareth (not regular maintenance, but repairs – i.e. tires, brakes, alternators) and seconded by Joe Weaver. Roll call vote taken. In favor: J. Faust, G. Hinton, S. Parsons, J. Weaver. Abstained: K. Gassler. Motion carried with a vote of 3-0-1.

## 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 in October 2008.

**Subdivision Matters:** Prepare Agreement and Official Action Correspondence for Conditional Preliminary/Final Plan Approval re: Male Road Subdivision.

**Land Development Matters:** File Improvements Agreement re: Brymac, Inc. – 951 Broadway Carwash.

**Zoning and Other Land Use Matters:** Meeting with Applicant's Attorney to discuss zoning issues regarding the Muschlitz quarry property.

Meeting with Borough Engineer and preparation of Opinion Letter re: S. Hendershot f/k/a Sullivan stormwater drainage issue with neighbor.

Prepare Amendment to Zoning District I-ME (Industrial-Mineral Extraction) Zoning District.

**Developments on Outstanding Litigation:** Receipt, review and administration of metes and bounds description and enclosure correspondence to Applicant's Attorney re: Keenhold condemnation.

**Court Decisions on Borough Cases:** N/A.

**Miscellaneous:** 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:** 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 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 reported that he was given a letter by Tony Curcio regarding FCC renewal license that will expire December 20, 2008. He contacted Tu-Way Communications in Bethlehem and he is waiting for an answer. Jon asked if this is in regard to the frequencies that Council was not sure about. Ron stated that he contacted the FCC and they informed him that the license it is for a point to point microwave license in the public safety pool that expires on December 20, 2008.

Ron will send out tomorrow to the Lehigh Valley Planning Commission the proposed zoning changes dealing with the IME zone. Council will have to wait thirty days until a hearing could be scheduled. After the hearing, Council will have to have a meeting. Scott stated that this matter could wait until January 2009. Council would have to provide Ron with the date so that he can advertise the meeting. Both the hearing and the meeting can occur on the same night with the hearing scheduled thirty minutes prior to meeting.

Ron is continuing to work on the police policies.

Jon Faust stated that he saw a "For Sale" sign on the North Broadway, Keenhold property and asked what is going on with this property. Ron replied that this property is burdened by the condemnation so Ron doubts he would get any buyers as it stands. He might by doing it to get an idea what he could possibly get for the property. There will be an issue as to whether the Borough would be paying money at a residential lot only or a multiple residential lot or a commercial lot. Ron is still working on having an appraiser give the Borough a number on this property.

Scott Parsons asked what it takes for the Borough to condemn a piece of property. Ron replied that the Borough must make a motion and then a written resolution must be signed. Once that is done, the lawyer prepares the paperwork and does the Declaration of Taking, which is basically a lawsuit, and then the landowner has a right to object to the taking for whatever reason or the landowner says the Borough can take the land, but you must pay fair value based on an appraisal. It does not require a great amount of legal paperwork initially, but if it becomes a battle it could get costly. Scott stated that

he does not want to take the property; he wants to condemn it without taking it because it is not fit to live in. Ron said that would be a zoning issue, not a condemnation issue because the Borough does not have a property maintenance code. The Zoning Officer would have to condemn under the Zoning Ordinance because it fails to meet the various requirements. Scott stated that he was approached about having the building fixed, but it would just be best to have it knocked down. The Borough's Zoning Officer's interpretation of the ordinance is that if the building is condemned, the owner can rebuild on the foundation. Ron stated that there are two ways to condemn, unsafe for living, or the taking of the property. George added that when the fire company went up to pump the water from the basement, the Fire Chief at that time, deemed it unsafe. There was water in the basement and live wires in the basement. Jon believes that there is a letter sent to the property owner, stating the condition of the building and the fire chief's determination. Ron added that the zoning officer can issue an enforcement notice outlining the violations of the ordinance. The Borough does not condemn an unsafe building, a Codes Enforcement Officer or a Zoning Officer.

## **NEW BUSINESS**

1. COG – Articles of Agreement. Mayor Mogilski explained that the only changes are the Council of Government is a non-profit organization and there are three different types of membership, when there used to be two types of membership. George added that at the last COG meeting, they asked all the Boroughs to have their solicitors read over the agreement to make sure it is boiler plate enough to fly and then make a recommendation to the Borough so the Borough can then accept it during a COG meeting. The COG had discussions regarding the different levels of membership and how many should there be, one, two or three. Ron Karasek has reviewed the agreement and the changes are more policy calls than legal calls. These changes are being proposed so it would make applying for grants easier. The COG would better be able to partner with other organizations to get more funding, better services, etc. The additional objective includes trying to qualify as a 501.C.3 organization. Council discussed the amount of membership fee that it would cost the Borough and if they agree with two or three tier fees. Scott stated that the proposed fees are as follows: Large municipalities - \$1,400 and small municipalities - \$700. Council asked the Mayor to go back to the COG and express the Borough's suggestion of membership being \$1,000 across the board for all participating municipalities.

George expressed his concern regarding the effort from the COG. He attended the last COG meeting to discuss combining efforts for joint purchasing. George informed Council that he intends to call around and get pricing for infield mix or topsoil for a bulk purchase for the members of the COG. He hopes to show the members what a savings could be realized for each municipality if they are not making all their purchases individually. He would like to have items placed on the COG website and have interested municipalities reply on the site by a certain date and then go out to bid with only one person making the three necessary phone calls so all the municipalities are not duplicating efforts. He asked for Council's support and they agreed.

2. Scott Parsons reported that he spoke to the Zoning Officer to look into the cost of becoming a notary. She found information regarding the application and supplies and the cost would be approximately \$300. Scott will look into it further and report back to Council.

## **OLD BUSINESS**

1. George Hinton gave an update report on the old Roberti property. The Borough is still waiting to receive the non-permit from the DEP to do the work on the stream bank. The Borough received three bids for the concrete retaining wall work. The bids were: Kleppinger - \$6,850, Pinto - \$8,617 and Alfero - \$9,866. The Borough Solicitor has completed the working construction easement and that has been signed by the neighboring property owner. Giroux is going to do the excavating and take out the culvert for \$8,000. After removal, Giroux will dispose of the old concrete.

2. George Hinton reported that the street committee will be sitting down with the teamsters regarding their contract on Monday, November 10, 2008 at 6:00 p.m. Kerry stated that he would be out of town during that entire week.

3. George Hinton reported that he received a phone call regarding the RPM Center. He was informed that within the month they should have the renovations done - the curb, sidewalk, and apron should be asphalted.

4. 2009 Budget. Scott asked Council to review the budget. A table was provided to Council with the Borough's assessed value and what millage rates would generate how much revenue for the Borough. Louise reported that the Borough has not received the assessed value for the Borough for 2009 budget. Currently the draft budget would require a one mill increase. The 2009 budget will be tabled until the next meeting.

### **EXECUTIVE SESSION**

Council adjourned to Executive Session at 8:38 p.m. to discuss teamster contract negotiations. Council reconvened at 8:54 p.m. Council took no action at this time.

**On motion** by Joe Weaver to adjourn the meeting of November 3, 2008. Council agreed unanimously. The meeting of November 3, 2008 adjourned at 8:54 p.m.

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Louise Firestone, Borough Administrator