

**BOROUGH OF WIND GAP
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Executive Session

The Council met from 6:45 p.m. to 7:25 p.m. for Executive Session at Wind Gap Borough Hall.

The Council meeting of the Borough of Wind Gap on Monday, February 2, 2009, 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 Councilmen: Jon Faust, Kerry Gassler, Dave Hess, 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.

Scott Parsons informed those present that Council met in Executive Session to discuss personnel issues and litigation and at this time would take no official action.

PUBLIC COMMENT

1. Attorney Pete Layman was in attendance representing his client, Gibraltar Development. Mr. Layman informed Council that his client is currently in negotiations to purchase the property on East First Street, also known as the Posh Subdivision which was approved by the Borough in 2007. He assured Council that the conditions of the plan would be met, but a dry closing would have to occur. The plan mylars would be pre-signed by the Borough because the plan has to be recorded for the transaction of the property. The Borough would not release the plans until the Letter of Credit is supplied to the Borough. Ron Karasek does not see a problem with doing this, but a new cost estimate must be completed. The Borough has not yet secured a signed construction agreement with Mr. Karner, which includes guarantees that the Borough/developer would repair or provide depressed curbing and any damage to his shed should any be incurred. George Hinton asked if they intended on doing the project during this construction season. Mr. Layman replied that it is the intent of Gibraltar to begin this year. Mr. Karasek will provide a copy of the construction agreement and Brian Pysker will provide a revised quantity cost estimate to Mr. Layman.

2. Patricia Sutter, Wind Gap Borough Tax Collector. Pat explained the per capita tax bills that were not generated because of the exoneration by the school district. She asked Council for guidance regarding answering specific questions received by her office.

On motion by Joe Weaver to exonerate any resident who is 65 or older by February 1, 2009 from paying the per capita tax for 2009 with proof of a valid driver's license or other form of identification and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

Scott stated that it is possible that each County in Pennsylvania would have to designate an Earned Income Tax Collector. The State is still discussing this issue because there are many pros and cons to collecting taxes this way. Ron Karasek informed Council that if they chose to increase the earned income amount to be collected by the Borough there would be significant advertising requirements and it should be decided in the fall.

At early Council meetings, Council had been approached about considering changing the real estate tax bills in the Borough to include installment payment options. Pat stated that it would not be a problem collecting in this manner. Scott added that there may be an additional cost for the tax bills.

Ron Karasek stated that the law says that the amount of compensation for a single installment is the same as collecting the tax in installments. If Council decides to change the compensation rate it must be done prior to February 15, 2009 because this is an election year for the tax collector, but if the change is just for making installments this would be administrative and would not have to be changed prior to February 15.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the January expenses in the amount of \$20,621.85 and seconded by Jon Faust. 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 January are outlined in a report. The report includes the meetings attended in January 2009.

Subdivision Matters: Prepare additional copy of Easement Agreement for Right-of-Way along Alpha Road re: Albanese Minor Subdivision.

Legal Research re: Improvement of Poplar Street in Emerald Forest Major Subdivision – Preliminary Plan.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Re-check parcel real estate taxing status re: Roberti condemnation.

Developments on Outstanding Litigation: Meet with Northampton County Real Estate Tax Assessment Office re: Keenhold deed.

Court Decisions on Borough Cases: N/A.

Miscellaneous: Prepare Meeting Agenda re: Borough Planning Commission meeting of January 2009. Preparation of Resolution No. 2009-01 re: Implementation of the Right-to-Know and Open Records Request. 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: 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 stated that he faxed over Resolution 2009-01 regarding Implementation of New Open Records Act – Right to Know Law, Act 3 of 2008. Council asked that this topic be on the February 17, 2009 agenda for discussion. He stated that the COG amendment is still in limbo.

ENGINEER'S REPORT

Brian Pysher reported that he is working on the West Street culvert preparing the specs which should be ready for the spring. The other culvert project has to be submitted to the DEP because it requires DEP permits. He is still working on the Lehigh Street storm water project. George asked how the North Broadway easement agreement is going. Ron Karasek replied that he had contact with Attorney Ceraul regarding language changes in the agreement. He will follow up so the project can proceed this year. Scott asked Brian if he met with Darlene Plank-Turlington to discuss the zoning amendment. Brian met with Darlene to discuss the requirements for the proposed I-ME Zoning District buffer yards.

OLD BUSINESS

1. Zoning Ordinance Amendment – I-ME Zoning District. Brian Pyscher suggested adding wording to the current ordinance to include buffer yards. As the ordinance is currently written, a buffer yard would not be required in the event that a non-residential use and a residential use adjoin each other within the I-ME district. Ron Karasek stated that this would be a significant enough change to warrant another public hearing on this topic, but Council would be able to vote that night.

Mayor Mitchell D. Mogilski, Sr. arrived at this time – 8:16 p.m.

Attorney Benner, representing Jack Muschlitz, addressed Council. He stated that the proposed quarry property would not need any buffer yard as it currently stands. Brian replied that the I-ME District allows for industrial uses and if the ordinance were to allow residential buildings the possibility exists that noise could be a problem. Attorney Benner believes that this property is already buffered because of the location, the road and the wetlands. Brian expressed his concern that the other property in the I-ME could be subdivided and allow industrial and residential uses. Joe Weaver added that if the Borough is going through the effort to make this change it should be done correctly because the Borough will have to live with the decision long after this Council is gone. George asked Attorney Benner if the developer plans on building this year, to which Attorney Benner replied not this year, but they would like to get moving with the planning process since that will take a long time. Ron Karasek stated that if Council is concerned about the cost of another hearing, Council could advertise the public hearing for 7:00 p.m. and vote at the Council meeting immediately following the hearing. Scott asked Brian to meet with Darlene and provide Council with a letter outlining their suggested wording to be including in the ordinance. Council decided that they will review the amendment at their workshop meeting scheduled for February 17, 2009, advertise for the public hearing and public meeting March 17, 2009.

On motion by Tony Curcio to adjourn the meeting of February 2, 2009. Council agreed unanimously. The meeting of February 2, 2009 adjourned at 8:36 p.m.

Louise Firestone, Borough Administrator