

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
863-7288
FAX 863-1011**

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 Tuesday, February 17, 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, Dave Hess, George Hinton and Joe Weaver. Also in attendance were Borough Solicitor Ronold Karasek, Borough Engineer, Brian Pysher and Borough Administrator Louise Firestone. Absent were Mayor Mitchell D. Mogilski, Sr., and Councilmen Kerry Gassler and Tony Curcio.

Council President Scott Parsons informed those present that Council met in Executive Session to discuss the Emerald Forest developments and possible litigation regarding the Northampton County Bond Issue. No action will be taken at this time.

PUBLIC COMMENT

1. Lori Predmore stated that she has been trying to get in touch with the Police and specifically, Chief Armitage regarding an incident that happened last August. Scott informed Ms. Predmore that the Chief was on vacation and then was out of the office due to illness. George Hinton informed her that he will meet with the Chief and pass on her contact information.
2. Robert Matlock, 346 Alpha Avenue, Wind Gap. Mr. Matlock stated that he had a couple questions regarding zoning. He spoke to the zoning officer regarding different topics including residents who start a project on their own without obtaining the property zoning paperwork and permits. If a resident starts a project without a permit, they complete the project and if no one complains or the zoning officer has no knowledge of the project, they get away without having to pay the necessary fees associated with the project. The Borough has no provision or punishment for a resident who does not obtain a permit prior to the project, but just requires that they obtain it at any point during the project or even when the project is completed. There is no enforcement or penalty and he asked why there is no enforcement for someone who does whatever they want to do while other residents follow the ordinance and do the right thing. Scott Parsons replied that if a resident is unaware that they are supposed to obtain a permit prior to a project they should not be fined, but be made to do the right thing. George acknowledged that several fees in the Borough are antiquated and need to be reviewed and updated and if warranted, fees should be put in place. Brian Pysher added that there is an enforcement section in the zoning ordinance which states, "Any person, partnership or corporation who violates this Ordinance shall, upon being found liable in a civil enforcement proceeding, pay a fine of not more than five-hundred (\$500.00) dollars plus all court costs and attorney fees incurred by the Borough. He said that it would be hard to enforce for a resident who did not obtain a permit, because they could always plead ignorance, whether they know or don't know. Ron Karasek concurred that it might be difficult to file claim against especially if what the resident has done is a permitted use or is not in conformance of the zoning ordinance.

APPROVAL OF MINUTES

1. **On motion** by Jon Faust to approve the minutes of the meeting of December 16, 2008 and seconded by George Hinton. Roll call vote taken. In favor: J. Faust, G. Hinton, S. Parsons, J. Weaver. Abstained: D. Hess. Motion carried with a vote of 4-0-1.
2. **On motion** by George Hinton to approve the minutes of the meeting of January 5, 2009 and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.
3. **On motion** by George Hinton to approve the minutes of the meeting of January 20, 2009 and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.
4. Minutes of the meeting of February 2, 2009 will be tabled until the next meeting.

MAYOR'S REPORT

Mayor Mogilski was absent. Scott Parsons reported on behalf of the Mayor. Contractor licenses for the month of November 2008 was zero and December was \$25 for a year end total of \$1,850.00. Transient licenses for November and December 2008 was zero for a year end total of \$225.00. Amusement licenses for November and December 2008 was zero for a year end total of \$625.00. Contractor's license for the month of January 2009 was \$925 with nothing collected for transient or amusement licenses. The next COG meeting is scheduled for February 25, 2009 at the Washington Township Elementary School. The police report will be distributed as soon as it becomes available.

COMMITTEE APPOINTMENTS

1. EMS – Kerry Gassler was absent.
2. Police – George Hinton reported that there was a power outage because of the high winds. He has not received an official report from the Police Chief.
3. Fire Company – Jon Faust reported that the Fire Company responded to 10 calls for the month of January.
4. Sewer Authority – Dave Hess reported that the Sewer Authority discussed a concern about the Sandt's Market building and the Tittle property and the sewer line service not being properly capped. They are requesting the Borough's Sewage Enforcement Officer so if there is a problem with a pumping station on the private properties in the Borough the Authority can contact the correct person.
5. Streets – George Hinton reported that he requested that the office start getting bids for street sweeping. The street sweeping did not take place until June last year and it needs to be done sooner this year.
6. Zoning – Tony Curcio was absent. A Zoning Hearing Board meeting is scheduled for April 1, 2009.
7. Planning – Scott Parsons reported that there will be a Planning Commission this month on March 5, 2009. The owners of the Futon Store (the old Kocher's Market) on Lehigh are proposing a change of use in their building.

8. Parks – Joe Weaver reported that Tony Borger attended the Park Board meeting to inform them that the AA will be taking down the fences on the lower field. He asked if the Borough workers could haul it away. George and Jon did not have a problem with this and the old fence will be taken to JFR Salvage. The Wind Gap Athletic Association Car Show will be held on Sunday, May 17, 2009. Someone has been tearing the shingles off the dugouts at the Babe Ruth field and they have asked that the shingles be replaced. John Zucal suggested installing an aluminum roof. The board was discussing having a 50/50 raffle at the Summer Sounds Concerts. They would need to obtain the proper small game of chance permit from the State.
9. 911 – Tony Curcio was absent.
10. Buildings – Jon Faust reported that he is in the process of setting up another meeting with the committee. Jon provided Council with a copy of an agreement with the engineers who are assisting with the new property and building. Up to this point, they have donated their time to come to meetings and gather information.
11. Finance – Louise Firestone reported that the Borough Auditor was in the office doing the 2008 audit. She also reported that the traffic light at Turkey Hill has malfunctioned and the cause is a worn out control board. A quote was received from Traffic and Pump Solutions and was under \$4,000. The temporary board does not have the same timing as was designed for this intersection.

On motion by George Hinton to purchase a new control panel box for the traffic light at the intersection of 512 and Park at a cost of \$3,250 and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

NEW BUSINESS

1. Resolution 2009-01 – New Open Records Act – Right to Know. Ron Karasek explained that this resolution is establishing a policy and a procedure to request and access public records of the Borough pursuant to Act 3 of 2008. In the past the proof of burden used to be on the individual requesting information from the municipality, now the proof of burden is on the municipality for any reason related to not releasing information. There are only a few exceptions allowing municipalities to withhold information and one being any information disclosure that could endanger the safety of someone. The State requires that every township and borough adopt such a resolution. Ron has attached a standard request form that must be submitted and once a form has been submitted the Borough has five days to respond. He advised that an Open Records Officer must be appointed now and he has taken the liberty to identify the Borough Administrator, Louise Firestone and this officer must be designated every two years when Borough Council reorganizes – even number of years. Under the law, the Borough does not have to comply with a verbal request or an anonymous request. Any decision by the Borough can be appeal to the Open Records Office in Harrisburg. Louise reported that the office staff attended a seminar regarding the new Open Records Act.

On motion by Jon Faust to adopt Resolution 2009-01 and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

2. Zoning Ordinance Amendment. Ron Karasek explained that at the previous public hearing relating to the amendment, there was concern regarding adding residential to the I-ME district and the issue of buffering and/or protection. Borough Council has requested that the Borough Zoning Officer and the Borough Engineer draft language to be used regarding the buffering issue. The Borough Engineer, Brian Pysher, provided Borough Council with a written opinion dated February 3, 2009 regarding the suggested language for the amendment to the zoning ordinance. We are

recommending amending the zoning ordinance to include additional requirements for buffer yards in the I-ME zoning district. As the ordinance is currently written, buffer yard would not be required in the event that a non-residential use and a residential use adjoined each other within the I-ME district. We are proposing adding the following sentence to the end of section 404.D of the Zoning Ordinance: "Within the I-ME zoning district, if a residential use is proposed immediately adjacent to a non-residential use, or vice versa, a buffer yard shall be required. The buffer yard shall be provided by the residential property. The location of such buffer yard shall conform to section 404.D.1a or it shall be centered on the property line if both property owners are in agreement." They also recommend additional requirements for the buffer yard for this particular situation. The following statements shall be added to Section 404.D.2 as a new section C" "A buffer yard that is a requirement of a non-residential use adjoining a residential use in the I-ME zoning district shall incorporate an earthen berm no less than eight (8') feet in height. The earthen berm shall be planted with grass and landscaped with trees and shrubs. The plant type shall be approved by the Borough Council. Alternate designs for earthen berm shall be accepted upon approval by both the Borough Engineering and Borough Council."

Attorney Dennis Benner and Engineer Rocco Caraccioli, Pennoni Associates representing Jack Muschlitz, were in attendance. They outlined the property on a plan drawing. Attorney Benner suggested the following language: "if a property owner wishes to have a residential use and a non-residential use on his property, that property owner shall install a buffer between those two uses". After discussion regarding the language in Brian's memo, it was agreed upon that Ron Karasek would revise the language. Ron will advertise the next public hearing and the meeting for the same night and that will be Tuesday, March 17, 2009.

Ron Karasek took his leave from the meeting at 8:40 p.m.

OLD BUSINESS

1. Borough Building Generator. George Hinton reported on the progress of trying to obtain proposals for a new generator. To this point, he has only received one written quote, but has received another verbal quote. The idea was to put the unit next to the Borough Garage, dig a trench to the municipal building, come in through the basement, hook up to the furnace and up to the police station. The third company George contacted did not return his call. Scott Parsons to contact a company tomorrow and he will verify that they can install the unit and also do any necessary maintenance.

2. Scott Parsons reported that he has attended the last two Slate Belt Council of Government meetings and feels that there is useful information that does come out of those meetings. Since he has been on Council not all the important information gets reported back to Borough Council and so they are unaware of the projects and progress that the COG does make and do. Scott asked Council to review their thoughts regarding remaining a part of the Slate Belt COG. This will be discussed during a future meeting.

On motion by Tony Curcio to adjourn the meeting of February 17, 2009. Council agreed unanimously. The meeting of February 17, 2009 adjourned at 8:50 p.m.

Louise Firestone, Borough Administrator