

**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, March 9, 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., Representing Zito, Martino and Karasek, Matthew Goodrich, Borough Engineer Brian Pysner and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Jim Seitz and Jim Santo for Wind Gap Development. Jim Seitz stated that the last time he attended a meeting there was discussion regarding Wind Gap Development being required or not being required to build Poplar Street to move their project forward. At that point in time, Borough Council stated that they wanted Poplar Street built. Jim Seitz's Attorney Al Pierce sent a letter to Ron Karasek stating that the developers do not believe that they are obligated to build the road. Mr. Karasek responded with a letter indicating that he believed the developer had to build it. Another letter was sent by Attorney Pierce referencing Municipal Planning Code language and U.S. Supreme Court case law of why he did not believe that the developer would be imposed to build that road. He asked Council if it is still their desire to require that the road be built. Scott Parsons replied that during a previous meeting Executive Session, it was discussed. The Council's recommendation is that you build Poplar Street in front of your development and the Borough will finish the remaining portion of Poplar Street. Jim replied that he believes that the law states that the street only has to be built from the property line to the centerline of the street that they are responsible for completing, but not the other half of the road. Matt Goodrich stated that private rights of individuals generally with properties abutting the street have obligations to the middle of the cart path on the roadways. That determination usually comes when municipalities try to close streets or try to determine rights along a paper street or alley. That might be different than what is being discussed here, but he would speak to Ron Karasek for his interpretation. He added that it was his understanding from Mr. Karasek, that as part of a development plan, the Borough would be able to require the road construction. Mr. Pierce and Mr. Karasek will further discuss this issue. Scott stated that the concern is water related to this project.

2. Kerry Gassler vacated his seat on Council at 7:37 p.m. to address Council as a resident of the Borough. Kerry provided a copy of a letter from Hanover Engineering related to a plan submitted by his partners on property that he owns downtown on Washington Street that is before the Borough's Planning Commission. He recalls that he did a subdivision off of eight acres of land owned by Chuck Albert of which he purchased four acres back in 1989. At that time, he received a building permit from the Borough's Zoning Officer, Stan Lysek to build a house. The project sat for a while because of wetland issues. He went into partnership with Buddy Hontz and Dave Wilson and they built four apartments on the property. In December 1998 he received a building permit from the Borough's Zoning Officer Steve Savercool and in July 1998 a certificate of occupancy was issued from Ron Madison, Hanover Engineering. Kerry has the cancelled checks for building permits and from the municipal authority for EDU's. They are looking to make another minor subdivision of that property and knock off a building lot that would be in the cul-de-sac. Scott spoke on behalf of the Planning

Commission stating that the concern from the commission was that from the original deed nothing is restricting subdividing off another lot. Brian Pyscher was to check with George Collura to verify that no restrictions apply. Kerry is asking that the Council waive the land development process. Scott said it would move forward once review of the deed has been completed.

Kerry Gassler returned to seat on Council at 7:42 p.m.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the February expenses in the amount of \$20,658.16 and seconded by Tony Curio. Roll call vote taken. Motion carried unanimously.

SOLICITOR'S REPORT

Ron Karasek provided a copy of all the matters being handled by his law office for the Borough during the month of February are outlined in his monthly report. The report includes the meetings attended in February 2009.

Subdivision Matters: Legal research for construction of off-site improvements i.e. specifically Poplar Street in Emerald Forest Major Subdivision – Preliminary Plan. Preparation of revisions to Subdivision Improvements Agreement re: Posh Properties Major Subdivision – Final Plan/Phase I. Revisions to Karner Temporary Construction and Grading Easement Agreement re: Posh Properties Major Subdivision – Final Plan/Phase I.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Prepare Ordinance No. 469, advertising notices (2) and e-mail and mail to all required entities re: zoning amendment to I-ME Zoning Ordinance (Muschlitz). Review of file and preparation of memorandum to file re: protocol of planning procedures in change of use at 508 North Lehigh Avenue. Telephone conference with Borough Zoning Officer re: storage pod outside sewing shop. Telephone conversation with attorney and prepare revisions to Bettini Stormwater and Drainage Easement Agreement.

Developments on Outstanding Litigation: N/A.

Court Decisions on Borough Cases: N/A.

Miscellaneous: Legal research re: tax collection compensation for collection of real estate taxes on installment basis. Prepare Borough Resolution No. 2009-01; Open Records Policy. 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: Writ of Summons filed against PP & L and Sprint re: cell tower location. 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.

ENGINEER'S REPORT

Brian Pyscher provided Council with a preliminary design of the storm water project along Lehigh Street and specifically of the intersection of Center Street and Lehigh Street. This intersection is the most problematic of the entire project. He feels that this design would be the least expensive because of the sanitary sewer which is running east to west on Center Street and then runs down the sidewalk along Lehigh. There are two water mains, one running along Center and one along Lehigh and a telephone pole on the northwest corner of the intersection right in the sidewalk. The design

would include spacing the inlets no less than 400 feet apart. Council discussed tying the residents' sump pump discharge directly into the system, but on Lehigh it would have to tie in behind the curb/sidewalk. The street committee will meet to review this project and discuss the possibility of milling and overlaying the street once the water project is completed. Brian spoke with Terry Miklas from the Municipal Authority regarding all the storm water projects and Terry indicated that they want to be part of the process in case any sanitary drains need replaced.

Brian reported that the Karner agreement for the corner of West First Street related to the Posh project is completed and he dropped the paperwork off with Kerry to delivery to Mr. Karner.

Brian reported that the Bettini agreement for North Broadway is still with her attorney.

George reported that he spoke to Brian about the Roberti project and the target date is the first week of April pending the weather. Brian spoke with Kleppinger last week, they were awarded the bid to construct the walls on the property, and they are willing to hold the price from last October and they are ready to proceed when the Borough is ready.

Brian reported that he met with Terry Miklas, Wind Gap Municipal Authority, to discuss the private pump stations in the Borough. Terry was under the impression that people with private pump stations were required to have a license to operate so Brian checked with Department of Environmental Protection (DEP) and they informed him that a license is not required. He spoke to the manager at Colonial Springs requesting a sign be erected that has a 24 hour number in case of emergency. He will also advise her that they should enter into some type of agreement with AllState for periodic maintenance. He will contact a representative for the Giant Plaza.

OLD BUSINESS

1. Slate Belt Council of Government Ordinance. Scott Parsons spoke to Victor Rodite about the concerns expressed by Borough Council and the benefits of Wind Gap continuing as part of the COG.

On motion by Scott Parsons to maintain membership in the Slate Belt COG and direct the Borough Solicitor to draft an ordinance and seconded by Kerry Gassler. Roll call vote taken. In favor: J. Faust, K. Gassler, D. Hess, S. Parsons, J. Weaver, T. Curcio. Opposed: G. Hinton. Motion carried with a vote of 6-1.

2. Zoning Ordinance Amendment. Scott Parsons asked if Council had any further concerns related to the amendment and the buffer language to be incorporated into the ordinance. Brian Pysher advised that he spoke to Ron Karasek and he has revised and reworded Brian's memo to include comments from the previous meeting's discussion. Joe Weaver expressed his concerned about how this is worded that two separate property owners can end up being next to each other with different uses which was the whole point of adding the buffer language. Brian replied that any development on those properties would be subject to the Subdivision and Land Development Ordinance. As far as existing uses go, that scenario does not exist because of how the language is currently.

3. Scott Parsons stated that the Borough received correspondence from Representative Craig Dally asking for road and bridge projects in order of priority forwarded to him by March 18, 2009. Scott suggested improvements to the intersections and Kerry suggested using the list that was compiled years ago by Hanover Engineering for all the storm water projects that still need to be completed in the Borough. Scott asked George and Louise to work on the list keeping in mind the deadline.

4. George Hinton reported that he has received an additional quote for a total of two for the Borough building generator. He hopes to have another quote by the mid-month workshop meeting.

NEW BUSINESS

1. Park Board Appointment. Borough Council received a letter of interest from Gina McNamara to become a member of the Park Board. Joe reported that Gina sat in on the last Park Board meeting.

On motion by Joe Weaver to appoint Gina McNamara to the Wind Gap Park Board with her term expiring December 12, 2012 and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

2. George Hinton stated that the Police Manual has never formally been adopted by Borough Council. The Wind Gap Police Association was asked to review the manual and make any changes necessary. That has been approximately six months and they have indicated that everything is fine the way is currently is written. Council asked Matt to discuss this with Ron Karasek and ask him to outline how Council should proceed.

On motion by Tony Curcio to adjourn the meeting of March 9, 2009. Council agreed unanimously. The meeting of March 9, 2009 adjourned at 8:18 p.m.

Louise Firestone, Borough Administrator