

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

The Council meeting of the Borough of Wind Gap on Tuesday, March 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, and Joe Weaver. Also in attendance were Mayor Mitchell D. Mogilski, Sr., Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysner and Borough Administrator Louise Firestone. Absent were Councilmen Kerry Gassler, George Hinton and Tony Curcio.

**PUBLIC COMMENT**

1. Bob Caesar, 23 Utica Avenue, Wind Gap. Bob complained about the condition of Utica Avenue and it is basically beyond repair. The storm drain needs to be looked at because the water runs around the drain because the road sunk down over the years. He said that he was told that the street would be resurfaced two years ago. Scott Parsons replied that the street committee meets and gives recommendation to Council regarding what streets need to be resurfaced. Bob asked why Utica Avenue does not continue all the way through. Mayor Mogilski replied that back in 2001, the street committee looked into continuing the street, but it would have to be ordained.

2. Don Kessler, 27 Utica Avenue, Wind Gap. Don added that the lower part of Utica Avenue was blacktopped when Wayne Hawk had his towing and garage business there and he did what he had to do to the road to be in compliance with the Borough ordinance in order to get his variance. He believes that the top and bottom are ordained, but the middle is private property. Scott acknowledged that it is a Borough street and it is the responsibility of the Borough to maintain it. Don asked what the ordinance is in the Borough using a trailer for warehouse? Scott suggested talking to the Borough's Zoning Officer. Louise Firestone added that the Zoning Officer is aware of the situation, was out to the property taking pictures today and is currently looking into the zoning ordinance for clarification of the definition of storage. Scott said he would contact Alan Reto and discuss it with him.

**PUBLIC HEARING ON A PROPOSED AMENDMENT TO BOROUGH ZONING ORDINANCE.**

The hearing began at 7:40 p.m. and concluded at 7:50 p.m.

Scott Parsons explained that the hearing was being held to amend the Borough Zoning Ordinance with Ordinance 469 – An Ordinance of the Borough of Wind Gap, Northampton County, Pennsylvania, amending its existing zoning ordinance to allow R-8 (medium density residential) zoning district uses – and the corresponding lot area, lot width, building coverage, impervious surface coverage and height regulations – in the I-ME (industrial - mineral extraction) zoning district along with requiring buffer yards for mixed residential, industrial or mineral extraction uses.

Attorney Dennis Benner, representing Jack Muschlitz, one of the property owners involved. He stated that they have received a copy of the proposed buffering language and find it acceptable to his client and would encourage the Council to adopt the ordinance as it is presented.

Scott read the section – G. Mixed Uses – If a property owner, developer or applicant proposes a plan that contains both a residential use and an industrial or mineral extraction use... of if the plan will create or cause such mixed uses – whether they be new or existing uses – to abut or adjoin each

other at any common boundary or separation line... then the property owner, developer or applicant, at his/her sole cost and expense, shall construct a buffer yard so that the residential use shall be buffered from the industrial or mineral extraction use and such buffer yard shall be constructed as per Section 404.D (and all subsections thereunder) of this Zoning Ordinance (except that the buffer can consist of either an earthen berm or mixed earthen-trees-plants berm of at least eight (8') feet high). Brian Pysker had no issues with the language proposed by Attorney Karasek. Brian reiterated that any development on these properties would have to go through the planning and the land development process. Joe expressed his concern about the possibility of a residential lot getting sold and the new owner changing the use to industrial which would allow residential to be built next to industrial. Brian explained that they would still have to go through the process and any plans would indicate what buffers would have to be installed should the lot revert back to industrial.

**On motion** by Jon Faust to enact Ordinance 469 and seconded by Dave Hess. Roll call vote taken. In favor: J. Faust, D. Hess, S. Parsons. Opposed: J. Weaver. Motion carried with a vote of 3-1.

## **MAYOR'S REPORT**

Mayor Mogilski reported that the contractor license fees collected for the month of January was \$925 and for the month of February was \$175 for a year-to-date total of \$1,100. There were no fees collected for amusement or transient licenses. Police responded to 143 calls in the month of February for a year-to-date total of 286. The next COG meeting is scheduled for Wednesday, March 25, 2009 at 7:00 p.m. at the Washington Township Elementary School.

## **COMMITTEE APPOINTMENTS**

1. EMS – Kerry Gassler was absent from the meeting. Scott stated that a few years ago Borough Council agreed to allow the Wind Gap Ambulance free rent for a period of two years. He asked Louise to check into the time period and when that rent should resume.
2. Police – George Hinton was absent from the meeting. Scott reported that the police committee is waiting for the union to submit a proposal for the new contract. Mayor Mogilski asked to be notified when the contract meetings are being held. Ron Karasek stated that from the notes of the March 9, 2009 meeting he was to review the police manual for Council and asked for direction. Scott replied that Council is looking for a review of the policies for legality and whether the manual could be adopted or changes would have to be made.
3. Sewer Authority – Dave Hess reported that the meeting was held on February 25, 2009. A notice will be going out to all their customers reminding them to call first before digging. The Sewer Authority has tentatively scheduled an open house on Saturday, April 25, 2009 at 9:00 a.m. and would like to invite the officials.
4. Fire Company – Jon Faust reported that the Fire Company responded to 10 calls in the month of February for a total of 20 year-to-date. They received approval at the meeting to order the Knox boxes. They plan on knocking on business doors to encourage participation. Once the Knox box is installed at Walden III they plan on going into lockdown, because right now they have an open door policy. They are purchasing more air packs. The carnival is scheduled for June 2, 3, 4, 5, 6, 2009. The Fire Company has a new ride vendor this year and he wanted the Fire Company to run the carnival from Tuesday through Saturday. The parade is scheduled for Saturday, June 6, 2009 at 2:00 p.m.

5. Streets – Jon Faust reported that the street workers are patching potholes in the streets. The street committee will be doing another road inspection and specifically looking at Alpha Road and Utica Avenue.
6. Zoning – Tony Curcio was absent from the meeting. Scott Parsons reported that a Zoning Hearing Board meeting is scheduled for Wednesday, April 1, 2009.
7. Planning – Scott Parsons reported that the Planning Commission approved the plan for Augie's Shop, where the Futon Shop is now, to go to Zoning. Brian Pyscher spoke to George Collura regarding Kerry Gassler and partners' plan submission and there are no deed restrictions. Ron Karasek added that he reviewed the Borough's file and all the necessary permits from the original development were in the file. That information was sent to the alternate engineer, Hanover Engineering. Scott asked Ron to send a letter to the applicant.
8. Parks – Joe Weaver reported that the Park Board discussed information on the Slate Belt COG website. The shingles are being torn off one of the dugouts. They are proposing to replace the roof with a tin roof at a cost of \$600. May 29, 2009 the Special Olympics will be at the Park. The Park Board applied for \$5,000 grant from the Green Economic Development Corporation. They are looking at new playground equipment. The Easter Egg Hunt is scheduled for Saturday, April 11, 2009 at 1:00 p.m. They are planning a Volunteer Day to clean up the park and Wind Gap Area Athletic Association Car Show is scheduled for May 17, 2009.
9. 911 – Tony Curcio was absent from the meeting .
10. Buildings and Properties – Jon Faust reported that no meeting has been scheduled yet. The consulting firm has to redraft the Letter of Intent.
11. Finance – Louise Firestone reported that she met with George Hinton to comprise the list of project in order of priority and the letter to Representative Dally has been drafted. Brian Pyscher provided current estimated values of the storm water projects in the Hanover Engineering Stormwater Plan. She reported that the current balance in the Borough's Liquid Fuels account is \$185,805.79 with an additional anticipated amount for this year to be \$56,000 to \$58,000. Jon Faust questioned doing total reclamation/reconstruction of Alpha Road because it is heavily used and developing major potholes. Mayor Mogilski added that he sent an e-mail regarding a COPS grant opportunity to hire a full-time police officers which includes 100% of salary and benefits for a three year period. He is asking for Council's approval for Louise to look into this opportunity. Louise added that the Borough had previously participated in COPS grants, but after September 11, 2001 the funds previously used for police officers was used for Homeland Security.  
**On motion** by Jon Faust to look into the COPS Grant and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

## **NEW BUSINESS**

1. Religious Sign. Louise Firestone reported that the office has been informed that a religious sign has been erected on the property owned by the Borough Tax Collector. She added that Borough does carry liability insurance on the property of the tax collector because she does work out of her house in her capacity as the tax collector and she is defined as a statutory employee of the Borough. The Tax Collector was permitted to have a home occupation, but she did not apply for a permit for the sign. The Zoning Officer will take the necessary steps to make the sign legal, but the question has arisen regarding the legality of a religious sign and religious articles being sold at the same location where taxes are collected on behalf of a government municipality. Scott asked Ron Karasek for his legal opinion. His legal opinion is if a resident enters the house and the religious articles are being commingled in the same room or they have to go through the room to pay taxes, this cannot occur. He referenced a Supreme Court case where the separation of Church and State must be kept separate and apart, the State must maintain a status of impartiality and neutrality for all religions and beliefs. Anything that would bring government and religious institutions in close association... is prohibited. If there are two separate rooms and the taxpayer does not have to be exposed to the religious items, he does not have a problem with that arrangement. There is the issue of the Borough paying insurance on the property that also includes religious items being sold. He advised Louise to contact the Borough's insurance carrier for their opinion. Scott offered to speak to Mrs. Sutter to inform her because she may not be aware of the conflict between her religious items and her position as tax collector.

## **OLD BUSINESS**

1. Jon Faust questioned the reason that a Great American Real Estate sign is still on the property that the Borough purchased that was formerly owned by Mr. Keenhold. Ron Karasek suggested that the property be surveyed by Brian Pysher to specifically indicate where the Borough's property ends and Mr. Keenhold's property starts. Scott offered to contact Ron DeCesare if necessary to get the sign moved.

2. Scott Parsons asked Ron Karasek if he was informed that the Borough would like an ordinance to remain a member of the Slate Belt Council of Governments. Ron has completed the ordinance, he will do the necessary advertisement and it will be ready for possible enactment at the Council's April 6, 2009 meeting.

3. Ron Karasek reported that the easement agreement with Mrs. Bettini has been signed and the Borough should receive it shortly.

4. Roberti Property. Jon Faust reported that the street department will tentatively begin work at the Roberti property on April 4, 2009. He advised Council that around that date the equipment will be moved to that property and work will begin. Brian added that he did speak with Kleppingers regarding this project and they are ready to proceed whenever the Borough is ready. Jon stated that there was discussion regarding the Borough workers doing as much as they could on this project, but he is concerned because of their unfamiliarity of this type of work and the uncertainty of the project because it involves major amounts of water. This project must be done correctly. Because of the unfamiliarity of the Borough workers it could take longer and they could get into a situation that needs to be fixed by someone else which would end up costing the Borough more money in the long run. Jon asked Brian to be honest when he makes his recommendation as to how this project should proceed.

5. Borough Building Generator - The Borough received three quotes for the generator.  
Wind Gap Electric - \$9,427.00 – 12.5 KW Kohler  
Dave Albanese - \$3,785.00 – 7KW  
Maximus Electric - \$3,900.00 – 7KW

Council discussed the fact that there are different types and sizes of generators. According to the Borough Code, because this item does not exceed the \$4,000 dollar bid amount, Council is not obligated to obtain quotes and thus they decided not to accept the bids at this time. Each of the bidders will be contacted to offer the ability to re-quote with the same size generator and identify the brand being quoted.

**On motion** by Dave Hess to adjourn the meeting of March 17, 2009. Council agreed unanimously. The meeting of March 17, 2009 adjourned at 8:36 p.m.

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Louise Firestone, Borough Administrator