

**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 Monday, May 3, 2010, 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: Tony Curcio, Dave Hess, Kerry Gassler, George Hinton, and John Maher. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer, Brian Pysner and Borough Administrator Louise Firestone. Absent was Councilman Joe Weaver.

PUBLIC COMMENT

1. Donald Kessler, 27 Utica Avenue, Wind Gap. Donald informed Council that Utica Avenue is in bad shape especially where you pull off Route 512 onto Utica. Years ago when Wayne Hawk asked for a variance to put his business on Utica, Don did not oppose it because he understood it to include Mr. Hawk constructing the street, and the Borough maintaining the street, but the street is in total disrepair. George replied that this year the Borough plans to rebuild Lehigh Avenue. While the Borough is doing Lehigh, they will take a look at Utica Avenue. Don stated that please at least patch the potholes.

NEW BUSINESS

1. Gibraltar Development. Pete Layman representing Gibraltar Development. Pete referenced his letter April 29, 2010. He asked on behalf of his client, Gibraltar Development, for a modification from the Wind Gap Subdivision and Land Development ordinance and from certain conditions of the Posh Properties Wind Gap Subdivision previously approved by Borough Council. The modification request is submitted pursuant to Section 512.1 of the Municipalities Planning Code, 53 P.S. Sec. 10512.1, which permits a governing body of a municipality to grant a modification to the requirements of the subdivision and land development ordinance if "literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question provided that such modification will not be contrary to the public interest and the purpose of the intent as the Ordinance is observed." The request is also made pursuant to Section 308 of the Wind Gap Subdivision and Land Subdivision Development Ordinance which contains a virtually identical provision. The modification requested is very minor one. As Council knows, sidewalks were originally required, as shown on the approved plan, on the entire Southern length of First Street within the development under Section 510.B of the Ordinance. This includes the land now owned by Gibraltar Development but also includes Lot 12 of the Posh Subdivision (Northampton County Tax parcel F8NW1D-15-1) which is owned by the Cortez's. This is the land retained by the Cortez's when they contracted to sell the property to Posh who in turn conveyed it to my client. The only building located on Lot 12 is the Cortez's pre-existing house. The purpose of the waiver is to delete the requirement that a sidewalk be constructed along the frontage of Lot 12 in front of the Cortez's house. Gibraltar Development understands that if Council acts favorable on this request, the developer's approval will be contingent upon the developer and the Cortez's executing a written waiver for recording at the Courthouse agreeing and

consenting to this minor alteration in the recorded plan so that it will be clear in the record no sidewalks are required on Lot 12.

Mr. Layman stated that it is his understanding that Mr. Cortez may be seeking more relief from Council relating to the curbing, but he will allow that issue to be separate.

Kerry Gassler arrived at this time - 7:40 p.m.

Borough Engineer, Brian Pysher, explained that when the sidewalk was recommended with George Collura, Gibraltar's stake out surveyor. When George was out looking at the stake out, they starting looking at the grades and realized that the property across the street was too high in elevation and Cortez's property was too low. George had to re-work the grades and split the difference because if it was kept too low the neighbors' driveway would be too steep and make it non-conforming. If it was kept too high it then Mr. Cortez would have a 12" curb sticking out of his yard. After speaking with George Collura it was decided that from an engineering standpoint for drainage purposes it would be wise to seek relief from the sidewalk requirement.

Scott asked if this waiver can be granted by Council. Ron Karasek stated that Council can do what they want within legal parameters. He advised Council though that this is an approved plan that has been filed and cautioned that if Council changes approved plan that have been filed they will be setting a precedent. This plan was filed by Mr. Cortez who sold it to Posh who sold it to Gibraltar. If Council wishes to do this, they must establish some unique special circumstance that enables changes to be made to an approved plan filed at the courthouse. If Council decides to grant the waiver, they would be by-passing the SALDO requirement that the Planning Commission act on waivers first. Ron believes that an addendum to the Improvements Agreement would be sufficient to cover these issues and signed by all interested parties. Ron asked that Pete Laymen do the addendum since he is more familiar with the specific issues at hand and then Ron will review the addendum and provide Council with direction.

Brian stated that the other issue is the curve in the road as originally designed on the plan. Pete added that he has already paid for engineering costs related to changes in the design of the plan. Brian said that he is informing Council the cost on what is would be to do the redesign of the road.

George asked Pete Iselo what the estimated time is for installing the curbing. Pete replied that they hope to have curb installed by the end of this month and the road by the end of June. George asked if Council could have until the workshop to give all of Council a chance to get down and look at the issues including the possible modifications that need to be done. This will be discussed at the May 18, 2010 workshop meeting.

Ron asked the status of the engineering inspection invoices and not being paid by Gibraltar? Brian Pysher replied that the invoices will be paid by May 14, 2010.

2. Resolution 2010-01. Resolution authorizing the purchase and the use of credit cards to purchase gasoline for use by Borough vehicles. Fleet card service is specific to gasoline purchases and needs to be further researched for use by all Borough vehicles. This topic will be discussed at a future meeting.

EXECUTIVE SESSION

Council adjourned to Executive Session to discuss personnel issues at 8:10 p.m. Council reconvened at 8:32 p.m. Scott Parsons informed those present that Council received a letter from Sgt. Pepe's doctor and this topic will be discussed at the workshop meeting.

APPROVAL OF EXPENSES

On motion by Tony Curcio to approve the expenses for the month of April in the amount of \$37,114.92 and seconded by John Maher. 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 April are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Review Invoices and Prepare Demand Letter to Gap View Estates f/k/a/ Posh Properties Major Subdivision re: outstanding engineering inspection fees.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: N/A.

Developments on Outstanding Litigation: Review Photos and Conference with Borough Engineer re: Tittle Property. Prepare Petition and Rule to Demolish/Raze Property re: Tittle property and presentation to Motions Court in Northampton County.

Court Decisions on Borough Cases: N/A.

Miscellaneous:

Legal Research and Preparation of memorandum re Membership on Civil Service Commission and Incompatible Office. Legal Research and Preparation of Comprehensive Correspondence re: Dailey claim. Prepare Affidavit re: Text Messages on Borough-issued cell phone. Prepare Resolution re: Use of Credit Cards for Gasoline Purchases. Preparation of Monthly Solicitor's Report. 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 reported that he is slowly resolving the matter between the Borough and PPL/Sprint regarding the cell tower. He contacted both lawyers and PPL is on board with the proposed settlement, that the tower can stay where it is, but if it ever has to be moved it would be at no cost to the Borough. Sprint wants to have their engineers check it out before they agree to the settlement.

Ron reported that last week he filed a petition for an additional hearing on the Tittle property on the request to raze and/or demolish the property. A Judge signed that petition and an additional hearing will be held on June 4, 2010 at 9:00 a.m. He explained that those hearings are intended to 15 or 20 minute hearings and not intended to have multiple witness or documents. He expects that it would be a short hearing and requests that George Hinton and Brian Pysher be available for that hearing.

Ron asked if the plan for the extension of East West actually filed at the courthouse that was done by Hanover Engineering Associates, Inc. Louise replied that all the plans have been filed.

Ron asked what direction was provided by Borough Council regarding the back real estate taxes on the Keenhold property that was condemned.

On motion by George Hinton to pay the percentage of the real estate taxes based on Attorney Karasek's percentage calculate per his last report for taxes going back to date of condemnation in 2003 and seconded by Tony Curcio. Roll call vote taken. In favor: D. Hess, G. Hinton, J. Maher, S. Parsons, T. Curcio. Opposed: K. Gassler. Motion carried with a vote of 5-0-1.

ENGINEER'S REPORT

Brian Pysker reported that the deadline for bid submission May 18, 2010 for the Lehigh Avenue storm water project. The bids will be opened at 1:00 p.m., reviewed and tabulated on a spreadsheet to be presented to Council at the workshop meeting that night.

The Municipal Authority started a project in the alley and First Street there appears to be a conflict with the water line. Originally they planned to install the water line in first, but they found out that the sewer line was only 18" away. The water line replacement will start at the other end of the alley in order to give the Sewer Authority time to move their line over 3'. When they put the bid out originally, Brian went to Keystone Engineering (Municipal Authority's Engineer) and got a copy of the bid specification to make sure that the backfill material met with Borough ordinance requirements. The specifications were the same as the Borough's, that any gravel alley or roadway is to be backfilled completely with modified stone. When Brian did a site visit the contractor informed him that they were told to use the existing material they were digging out to backfill. He spoke to Terry Miklas and he indicated that Council had let them do that in the past. Brian asked Terry to contact George that day to get direction. Brian asked Council for opinion because his opinion is that it be done based upon the Borough ordinance. It is a Borough road and if it is not properly built it will not hold up. George added that when the Sewer Authority puts a project out to bid they provide all the supplies. Council agreed that the Sewer Authority adhere to their bid specifications, which includes the proper materials to be used according to the ordinance. Brian suggested that the Sewer Authority inspector enforces the bid specs in order to ensure that the project is completed properly it would make more sense then having Brian do an additional inspection. Council agreed.

Brian reported that he reviewed a sketch drawing of plans to put a section of bleachers at the park by the lower base field. In order to do that they would have to push the road over to the wooded area which is identified wetlands. Brian stated that the project not be done because if DEP comes out there, it would have to be removed and a fine could be levied against the Borough since the Borough is aware that the wetlands exist. They also solicited bids to mow the wetlands on the corner of West Street and Lehigh Avenue, which are the same wetlands. The paint marks are on the trees to move the driveway over to make more room for parking and the bleachers.

John Maher stated that the Sewer Authority went out to bid on their portion of the sewer lines that is up on Lehigh Avenue. Brian asked if they are aware of the timeline for their project in order to coordinate their project with the Borough project. John replied that they are aware of the timeline and try to move their project along as quickly as possible. Brian asked that a copy of the bid specifications be forwarded to him.

OLD BUSINESS

1. Dave Hess reported that the grass at the house on Fairview and Burdette is high again. Last year the Borough contacted the realtor, but the realty sign is gone. Typically the Borough sends notice to the property owner to mow their property, but in this case the sign is gone so who does the notice go to and how. Ron Karasek added that the Borough does have a weed ordinance, but it needs to be reviewed for the specific guidelines for handling this situation.
2. Dave Hess asked if the Chief is up for evaluation. The Mayor will do this for the next meeting.
3. Scott Parsons asked if everyone on Council received information regarding the bridge on Male Road. Brian reported that he spent a day searching for all the forms and publications that PennDOT requires on their website. The letter was dated April 1, 2010 and the Borough did not receive it until April 22, 2010 with a deadline of having a plan of action in place by April 30, 2010. He contacted a Municipal engineer representative from PennDOT and he basically said that this letter was sent out prematurely and another letter would be sent out that already has

the Plan of Action determined for the Borough and it will need to be signed and returned once it is received by the Borough.

4. MS-4 Reports. Brian Pysher reported that MS-4 Reports for 2008-2009 and 2009-2010 need to be signed and notarized and mailed to DEP.
5. Tony Curcio asked if there has been any response to the Borough's request to reduce the speed limit on the state roads in the Borough (Third Street, Center Street, and North Broadway) from 35 m.p.h. to 30 m.p.h. Louise to follow up with PennDOT.

On motion by Tony Curcio to adjourn the meeting of May 3, 2010. Council agreed unanimously.

The meeting of May 3, 2010 adjourned at 9:00 p.m.

Louise Firestone, Borough Administrator