

**BOROUGH OF WIND GAP
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The Council meeting of the Borough of Wind Gap on Monday July, 12, 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 and video taped. In attendance were Council persons: Dave Hess, Kerry Gassler, Joe Weaver, and John Maher. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor, Ronold Karasek, Borough Engineer, Brian Pysker and Borough Administrator Louise Firestone. Absent were Councilmen Tony Curcio and George Hinton.

PUBLIC COMMENT

1. Lorraine Ruscher, Wind Gap Beautification Committee. Lorraine introduced the Beautification Committee Secretary, Janice Caesar. Lorraine presented Council with information regarding the installation of two bus shelters within the Borough. She stated that on September 16, 2007, Council had previously approved these two shelters. At that time, Lamar Advertising were to provide the shelters free of charge and as no source of revenue for the Borough, but unfortunately the free shelters are no longer available. The Beautification Committee is proposing that Borough Council purchase two shelters and use the advertising space as revenue. The estimated project cost, shelters \$4,750 times 2 = \$9,500 (10% discount and free shipping if ordered by August 1, 2010), concrete pads \$300 times 2 = \$600, total cost \$10,100. Estimated advertising revenue, 4 advertising spaces (2 sides per shelter) at \$150 per space per month \$600 times 12 = \$7,200 per year. Potential shelter locations, old Roberti property park and Beer Stein property within the close proximity to the senior housing. Based upon the estimated annual revenue of \$7,200 it will take approximately 17 months to completely pay off the initial investment. The Beautification is willing to supply \$3,000 towards this project for a 30% of the future share of revenue which would leave the remaining balance of \$7,100 to be funded by Borough. Lorraine researched and is recommending the shelter built by Handi-hut Industry seems to offering the best price. Her contact is Vice President, John Cosa. The Beautification Committee is committed to helping the community in any way possible. The shelters will provide temporary cover while waiting for the bus, but also will provide a steady source of revenue that could be used for a variety of projects in the future. She did not price electricity to the shelter for lighting. Council discussed the options regarding the shelters. Brian expressed concern regarding the liability of the shelters and the fact that they would have to be back off the sidewalk which would put the shelters on Kerry's property at the BeerStein. Ron stated that Kerry could give the Borough an easement, and then agree to hold the Borough harmless if there is any injury or accident there if he would be willing to do that or not. Kerry stated that the no easement is needed because technically on the 1910 plan that is an alley. John added that the shelters will have to be added to the insurance policy in case of damage or injury. Lorraine asked Mr. Karasek if it would be necessary to have a contract with the companies who plan on advertising on the shelters. Mr. Karasek replied that it would make sense to enter into a written agreement even if it is a simply one page contract. Joe Weaver suggested that Council purchase one unit to see how the advertising works and if money is generated to offset the expense of the shelter.

On motion by Kerry Gassler to purchase two bus shelters and donating them to the committee and seconded by John Maher. Roll call vote taken. In favor: K. Gassler, D. Hess, J. Maher, S. Parsons. Opposed: J. Weaver. Motion carried with a vote of 4-1.

Lorraine will verify the cost of electricity through the top and bottom of shelter and the cost of solar versus electric wiring to the shelter. She will pass the information along to John Maher to relay back to Council.

On motion by John Maher to light the bus shelters with solar if possible. After further discussion, John withdrew his motion.

2. Lori Predmore and Erika Faust asked Council for an explanation regarding the lapse in the police force and the fact that there has been a lot of theft and vandalism in the Borough. Scott replied that the Borough has two police officers out on disability and one officer who retired on disability. The Borough currently has two part-time officers with another one start work shortly. The state police have been covering the Borough when there is no local police on duty. There is a specific house in the Borough where problems occur because they know when the Borough does not have coverage. There is a concern about the truck traffic on Alpha Road and the vehicles going through the light at the PetroMart. Lori offered to allow the Borough police to sit in her driveway to monitor traffic on Alpha Road. They are concerned that there is not enough police coverage. Mayor Shoemaker explained that there has been a shortage, but he hopes to have 24 hour 7 day a week coverage as soon as possible.

Dave Hess asked if the Borough has advertised for a full-time police officer yet. Louise replied that the Civil Service Commission has to be seated so they can establish test dates and the hiring schedule.

OLD BUSINESS

1. Attorney Kevin Santos, representing Nelson Tittle, 133 Lincoln Street, Wind Gap. Mr. Santos informed Council that as this past Saturday, the property was sold to Mr. and Mrs. Wayne Geary and the sale was subject to the demolition order of Judge Beltrami. He reported that as of today, one-third of the building has been knocked down, which includes the first two floors cleaned of debris and a 30 yard dumpster has been filled. He thanked the community for their patience and guidance of Council over the last two years in regard to this particular matter. Ron Karasek asked whether Borough Council wants to set any time limit in respect to getting this job done because the order stated that Mr. Tittle had until July 9, 2010 and then at that point if it was not done, the Borough could go in to get it done. It is up to Council whether they want to put a time limit on the buyer. The buyers, Wayne and Marie Geary, were present to answer questions from Council. Scott thanked the Gearys for the efforts in cleaning up this property. Wayne is a contractor who plans to demolish the building by himself and hopes to complete the job in a timely manner. He has cleared the yard to get another dumpster delivered on Wednesday of this week. He hopes to have the entire first floor structure off by the end of this week. Wayne asked for a time frame set by Council to get the work done on the property. He plans on putting a modular home on the property for his son and daughter-in-law and hope to have them in by Christmas. He asked Council for a 45 day extension for the deadline.

On motion by John Maher to extend the deadline for the demolition of the property at 133 Lincoln Street, Wind Gap to September 7, 2010 at 5:00 p.m. and follow-up with an agreement in writing signed by the Borough and Wayne and Marie Geary and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

2. Dave Hess stated that Jeff Yob, Wind Gap Borough Emergency Management Coordinator, contacted Dave to ask the status of the generator for the Firehouse. Louise to follow-up with Wind Gap Electric regarding the status of that generator.

3. Rick Keenhold, North Broadway Condemnation, Reimbursement of Real Estate Taxes (portion only). Scott stated that Council received a letter from Mr. Keenhold requesting \$500 for real estate taxes relating to the portion of his property that was condemned. Mr. Karasek stated that Council can take the position of not responding to his request since Mr. Keenhold was paid \$15,000 for the property. He advised that Council should be conscious that it would be taxpayers' money used to reimburse Mr. Keenhold's request for payment. He did not lose possession of the property when it was condemned. Council's previous offer was \$300 so it would end up being a dispute for a difference of \$200.

On motion by Kerry Gassler to pay Rick Keenhold \$500 as long as he signs a release and does not come back and seconded by Dave Hess. Roll call vote taken. In favor: J. Maher, K. Gassler, D. Hess. Opposed: S. Parsons, J. Weaver. Motion carried with a vote of 3-2.

APPROVAL OF MINUTES

On motion by Kerry Gassler to approve the minutes of April 5, 2010 and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

On motion by John Maher to approve the minutes of April 20, 2010 and seconded by Dave Hess. Roll call vote taken. In favor: J. Weaver, D. Hess, J. Maher, S. Parsons. Abstained: K. Gassler. Motion carried with a vote of 4-0-1.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses for the month of June in the amount of \$20,355.89 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 June are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Legal Research and Preparation of Comprehensive Letter memorandum re: Dispute of A. Cortezzo's Parking of Vehicle and Gap View Estates f/k/a/ Posh Major Subdivision – Phase 1. Review and Revise Sidewalk Waiver Agreement re: Gap View Estates f/k/a/ Posh Major Subdivision – Phase 1.

Land Development Matters: Comprehensive SALDO Waiver form on Water's Edge at Wind Gap, LLC.

Zoning and Other Land Use Matters: Legal Research and Telephone Conference re: Lease and PA DCED borrowing requirements. Counter Offer Correspondence to R, Keenhold et al re: Real Estate Tax Reimbursement in Keenhold Condemnation. Legal Research and Preparation of Memorandum and Comprehensive Correspondence re: Bidding Issue on Lehigh Street Storm Sewer Project.

Developments on Outstanding Litigation: Attend Hearing, Negotiate Settlement and Enter into Stipulation of Counsel and Order of Court to Raze/Demolish Building at 133 Lincoln Street – Tittle Property. Prepare Affidavit of Counsel to Confirm Court Order – Tittle Property.

Court Decisions on Borough Cases: N/A.

Miscellaneous:

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 the early part of the month was spent on dealing with the Tittle matter, going to court and received the stipulation to raze/demolition the building as was discussed early this evening. He spent a considerable amount of time researching legal issue with respect Cortez vehicle parked on First Street and what authority and power the Borough would have to remove if in fact it was needed. He checked the file regarding the Broadway Car Wash and release of security. He attended the Borough Planning Commission meeting. He prepared a document to be signed by Mr. Muschlitz regarding the SALDO waivers for his development.

Scott Parsons reported that he spoke to Councilman Tony Curcio and he is home and doing fine. Tony hopes to return to Council next month. Scott will sit with him tomorrow night to get him caught up on the issues that have been before Council during his absence.

ENGINEER'S REPORT

Brian Pysher reported that the Borough received correspondence from PennDOT regarding reducing the speed limit from 35 m.p.h. to 30 m.p.h. on state roads 1007, 1023, 1026 which is North Broadway, East Third Street and West Center Street. PennDOT approved Center Street and Third Street, but did not approve the reduction on North Broadway and will keep the limit at 35 m.p.h. They provided a map with the location of the speed limit signs to be posted. He will meet with the street workers to install the signs. More signs will need to be ordered to be in compliance with the state's requirements.

Brian apologized for not having a chance to review all the plans for the car wash. They are required to provide an "As Built" plan. The storm sewer is in the State Road, but PennDOT has made it clear that the State is only responsible for the surface of the road and the municipality is responsible for anything under ground. He wants to review the plan to determine how much of that is in the Borough right-of-way so that amount can be held in an 18 month maintenance period. He will have that information for the August Council meeting. Ron asked if there were any time issues with regard to the release of security. According to the Borough SALDO (601J), Council has 45 days from the date of the request. If they are all private improvements and nothing is going to be dedicated to the public, then the Borough would not be required to hold any money, but if the Borough is going to accept any improvements then the Borough would require money be held in escrow.

Brian reported that the Lehigh Avenue storm water project was awarded to Muschlitz. Muschlitz has bonds in place and a Notice to Proceed was sent to the contractor. Muschlitz will provide the Borough with a schedule when they receive the structures which should be within two weeks. Brian will schedule a pre-construction meeting when the start date gets closer. He intends to go door to door to inform all the neighbors. Scott asked that the school district be notified so they are aware that the street will be closed in case the project goes past the date of anticipated completion.

Brian informed Council that the First Street project being done by Gibraltar Development was scheduled for curbing last week, but they got delayed and is supposed to be this week Thursday or Friday. There was an issue with a truck that was parked in the way. The Borough road crew put up temporary no parking signs and then the truck got moved. Ray Cortez had an issue with the revised curbing and wanted it moved another two feet. General consensus was to leave the curb as originally proposed and agreed upon. Another neighbor, Mr. Snyder, claims ownership of Jerry Lane, but during Brian's research of ordinances, Jerry Lane is an ordained alley because there is sanitary sewer

through it. Mr. Snyder wants to put curbing straight across the opening to the alley, but Brian prefers that there is a depression. Mr. Snyder offered to pay for the curbing so there is no potential to use the alley. Kerry suggested that the curb depression be put in because the Borough has rights to get in the alley if necessary.

Brian reported that he had a meeting with Northampton County Conservation and the Army Corp of Engineers, Municipal Authority representatives, Terry Miklas and Jon Faust, representatives from Ciccone because apparently someone called to notify Northampton County Conservation about dumping in the wetlands. The material from the sewer authority project was being dumped by their contractor, Ciccone. The group walked the property to determine where material was being dumped. Rettew had done a delineated wetlands plan in 2005 marking the boundaries of the wetlands. It appears that they stayed within in the limits of the property. Now that the Northampton County Conservation District is involved they will require an Erosion/Sedimentation plan and require a 400' to 500' silt fence will have to be installed. Brian emphasized that the work will have to be done, but the Municipal Authority does not feel that they should be responsible for any of the repairs. The Army Corps made it perfectly clear during the meeting that the property owner, the contractor and the people putting the work out to bid are responsible. Council agreed that permission was given to the Authority to sit the pipe there for the sewer project, but not to backfill. Brian explained that the work necessary to rectify the situation would be to tie into the existing monumentation done by Rettew, stake out their line which would be two or three days in the field, plus the Erosion/Sedimentation Plan. Once the E and S plan is in place, the Borough can dump there as long as the silt fence is installed.

On motion by Joe Weaver to do the work necessary on Third Street which includes installing a silt fence and have Brian Pysher solicit three quotes from contractors and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

NEW BUSINESS

1. Zoning Amendment. Ron Karasek stated that Councilman Gassler had suggested that some zoning changes be made to top part of North Broadway. He stated that the Planning Commission met before this Council meeting to discuss the possible change in zoning. Mr. Gassler's suggestion was make the R-8 (Medium Density Residential) to either Commercial or Industrial Commercial. The Planning Commission recommendation was to just make the change for the area of Oaten and Ambulance building and to include the American Legion building. Ron explained that the matter is up for discussion by Council, there has to be a public hearing and the Lehigh Valley Planning Commission (LVPC) has to review this matter. An appropriate map has to be made for the public hearing and for submission to LVPC. The public has to have the opportunity to review the proposed zoning map change prior to the hearing. The Slate Belt Council of Governments did the zoning map for the Borough and hopefully the map can be made in draft form from their file.

On motion by John Maher to extend Community Commercial up North Broadway extending up along Utica Avenue, with those fronting Broadway being commercial and seconded by Kerry Gassler. Roll call vote taken. In favor: D. Hess, J. Maher, J. Weaver, K. Gassler. Opposed: S. Parsons. Motion carried with a vote of 4-1.

Brian to contact the Slate Belt COG regarding the maps.

2. Financial Advisor/Planner Real Estate. John Maher reported that the Borough needs to proceed with getting professional advice to plan for the potential sale of Borough properties.

3. Route 33 Traffic Issues. Dave Hess stated that when Route 33 is closed due to construction. The Fire Company has to direct traffic when 33 is closed, but maybe a meeting with Police, State Police, PennDOT and the Fire Company to discuss other options might need to be done. It is difficult to have the volunteer fire police man the traffic lights for four or five hours. The Fire Company does not have any direction regarding their responsibility in these types of situations. Dave suggested

having Traffic Solutions add another timer to extend the lights on Broadway when there is the heavy traffic due to construction. Council decided that a meeting with PennDOT to discuss possible options with regard to the traffic issues in Wind Gap.

4. Mayor Shoemaker explained that he was approached by the owner of the Nascar Store to receive approval regarding putting up signs on Second Street. Louise explained that historically a business approaches the Borough for permission to have a sign, John orders the sign, and then the Borough bills the business for reimbursement. The issue has become that some businesses are requesting more than one of these green and white signs. There complaint has been that there are a few businesses in the Borough that have more than one sign. Louise stated that once the precedent has been set to have more than one sign more businesses will request additional signs. She suggested that each business only have one sign.

On motion by Kerry Gassler to allow one green and white directional sign per business as a courtesy for the business and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

5. Dave Hess asked if the traffic light at Turkey Hill will be upgraded to LED? Kerry asked if the emitters are in working order? Louise to follow up with the light and the emitters for Turkey Hill, Center Street and PetroMart.

6. Ron Karasek reported that last month that there is an issue with free standing signs at the PetroMart and the Zoning Officer has cited them for violation of the sign ordinance. The owners have filed an appeal before the Zoning Hearing Board and that hearing is scheduled for August 3, 2010. The Zoning Officer inquired as to whether Mr. Karasek can attend the hearing on behalf of the Borough because the owners of the PetroMart have retained counsel to argue their case. She feels she might be at a disadvantage if she has to present her case without support from an attorney. Kerry stated that the Borough should back up the Zoning Officer.

On motion by John Maher to attend the Zoning Hearing Board on behalf of the Borough and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

COMMITTEE REPORTS

1. EMS – Kerry Gassler the ambulance responded to 63 calls in May for a year to date total of 265.

2. Fire Company – Dave Hess reported that Fire Company meets later this month. The Fire Department spent a lot of manhours helping Bushkill Township with the tree farm fire.

3. Zoning – Tony Curcio was absent. Scott reported that there was no Zoning Hearing Board meeting last month.

4. Planning – Scott Parsons reported that the Planning Commission met earlier this evening to discuss the proposed Zoning Ordinance change.

5. Municipal Authority – John Maher reported that at the last meeting the Authority opened bids for their project on Lehigh to replace pipe. The backfill requirements are in their bid specifications.

6. Streets – George Hinton was absent. Dave Hess and John Maher had nothing further to report.

7. Police – Mayor Shoemaker reported that the Police responded to 155 calls in June. They investigated five motor vehicle accidents and nine traffic citations were issued during the month. Kerry asked how soon they expect to have the third part-time officer. The Mayor replied that he has the paperwork done, but needs certification from the State and that should happen shortly.

8. Park – Joe Weaver reported that the Park Board met in June. They discussed trees that were removed in the Park and they wanted Council to be aware that they did not vote on having those trees removed. They asked if the \$500 cost was coming out of their budget. Louise replied that the trees were in the Park and so the cost would come out of their budget. It was decided that the dead trees were a safety issue and needed to come down. The Park Board had other trees they wanted removed and had hoped to get competitive bids. Scott asked if the No Pet signs had been posted. The Mayor stated that they had been ordered. Joe stated that a motion passed unanimously to paint the sign on Lehigh Avenue by the parking lot and that has already been done. A motion unanimously passed to purchase infant/toddler swings at a cost of approximately \$800.

9. 911 – Tony Curcio was absent.

10. Building Finance Committee – Scott Parsons had nothing to report.

11. Tipping Fees – Tony Curcio was absent.

12. Property Maintenance Code – Scott Parsons had nothing to report.

MAYOR'S REPORT

Mayor Shoemaker reported that the “No Truck Allowed Except For Local Deliveries” for sign on Constitution Avenue is missing. Another sign will be ordered to replace the missing sign.

EXECUTIVE SESSION

Council adjourned to Executive Session at 9:50 p.m. to discuss PPL litigation and personnel issues. Council reconvened at 10:10 p.m.

On motion by John Maher to deny the Heart and Lung claim submitted by Officer Troy Dailey until the necessary information is provided and seconded by Joe Weaver. Roll call vote taken. In favor: J. Weaver, D. Hess, J. Maher, S. Parsons. Abstained: K. Gassler. Motion carried with a vote of 4-0-1.

A letter will be sent from Mr. Karasek outlining the information necessary for Council to further act on this request.

On motion by Kerry Gassler to keep the cell tower at the existing height and not increased and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

Joe suggested that Council have the new fall zone identified.

On motion by John Maher to adjourn the meeting of July 12, 2010. Council agreed unanimously.

The meeting of July 12, 2010 adjourned at 10:14 p.m.

Louise Firestone, Borough Administrator