

**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, October 4, 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: Joe Weaver, Dave Hess, Kerry Gassler, George Hinton, John Maher, and Tony Curcio. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, and Borough Administrator Louise Firestone.

NEW BUSINESS

1. Civil Service Commission Resignation – Karen Skorochood. Scott Parsons stated that Karen has resigned from the Commission effective immediately.

On motion by Kerry Gassler to accept the resignation of Karen Skorochood from the Civil Service Commission and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

2. Scott Parsons informed Council that Mitchell D. Mogilski, Sr. has expressed interest in serving on the Civil Service Commission.

On motion by George Hinton to appoint Mitchell D. Mogilski, Sr. to the Civil Service Commission and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

Mayor James Shoemaker administered the Oath of Office to Mitchell D. Mogilski, Sr.

PUBLIC COMMENT

1. Alex Cortezzo, Wind Gap. Alex asked for an update on the development project by Gibraltar Development on First Street. He asked if they have a two year completion date. Ron Karasek stated that he does not recall if it is two years. Alex stated that Council does not have to live with the conditions on First Street, but his tenants do. Ron added that irrespective of the time frame for the developer to complete his project, if Council wishes to take action because they deem it a nuisance they certainly have that option. Alex expressed his concern that work is done on the weekend when there is no engineer to check on them. George stated that during a meeting with a Municipal Authority representative, Paul Levits, and the Borough Engineer, Brian Pysner, the paving of First Street was discussed. Gibraltar had indicated that they would be paving down to the alley. Brian explained to them that the Borough would not issue a certificate of occupancy and neither would the sewer authority unless the street was paved to 512. The handicap ramps have to be installed prior to the road being installed and those ramps have not been installed to date. Alex is concerned that as the cold weather approaches they may not be able to finish the road prior to winter. Scott stated that he spoke to Pete Iselo, Gibraltar Development, and he informed Scott that two weeks ago, he planned on installing the road in two weeks, but now those two weeks are over. Last week was a washout due to the rain conditions. Scott stated that he will set up a meeting with the developer and inform Alex when that meeting is scheduled to take place.

On motion by John Maher to instruct the Borough Solicitor to send the developer's attorney whether the condition of First Street is a nuisance and seconded by Tony Curcio. Roll call vote taken.

2. Officer Arron Flad, Wind Gap Borough Police Department, stated that he was before Council representing himself, Officer Happel, Officer Redmond and Officer Redmond to state that they do not have any problems with the current schedule as long as it stays the same or gets better. He has not had a chance to talk to Troy. They are all for the ten hour shifts as long as they get three consecutive days off and they are not working every single shift in those four days. Scott stated that it is between the officers and the Mayor, but he is glad that Council is hearing something positive and negative, as long as that can get squared away with the Chief.

APPROVAL OF EXPENSES

On motion by Tony Curcio to approve the expenses for the month of September in the amount of \$81,681.31 and seconded by Kerry Gassler. Scott stated that the majority of the bill was the engineer's bill for all the projects that have been going on in the Borough. Kerry asked what the Police 3G connection card. Louise replied that it is the air card for the police laptops. 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 September are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Receipt, review and administration of fully executed Sidewalk Waiver Agreement re: Gap View Estates f/k/a Posh Major Subdivision – Phase One.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: September 3, 2010 – Review of Borough Permit and Zoning Files for 406 and 416 Lehigh Avenue re: RTKL Request by Reimer's Attorney. Receipt, review and administration of ZHB's Opinion, Findings of Facts, Conclusions of Law and order in Appeal no. 02-2010: Reimer Signage Enforcement Notice.

Developments on Outstanding Litigation: Receipt of General Release in Keenhold Condemnation case. Receipt, Review and Administration of Correspondence and Photo re: PPL Cell Tower Lawsuit. September 29, 2010 – Status Conference with County Judge re: PPL Cell Tower Lawsuit.

Court Decisions on Borough Cases: N/A.

Miscellaneous:

Comprehensive Correspondence re: T. Dailey H&L Claim. 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: RE-zoning for Upper North Broadway. 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 on items from last month. He received the release from Rick Keenhold regarding the property on upper North Broadway and once the check is issued that matter will be closed. Lorraine Ruscher had forwarded information regarding the advertising for the Handi-hut bus shelter. Unfortunately, Lorraine read it in reverse of what it means. The case was in regard to Philadelphia SEPTA (buses, trains, etc.) it was a Christian group that wanted an abortion message put on one of their stations, buses, trolleys, trains and initially, SEPTA said okay, but then SEPTA decided it was not proper. The appeals court made it clear that SEPTA had created that public forum by advertising, wanting advertising and that message had to stay.

ENGINEER'S REPORT

Borough Engineer, Brian Pysker was not in attendance. Scott Parsons reported that the Borough received a bill from Muschlitz regarding the Lehigh Avenue project, but Brian was still reviewing the itemized bill for correct quantities from the extras added on to the project.

Scott stated that work on lower West Street is supposed to start Monday, October 19, 2010. The contractor has ordered the inlet boxes and they anticipate delivery for Monday. Scott will ask Brian to the next meeting.

George reported that the car wash project "As Built" drawings do not show where the storm water goes. Brian stated that the funds not be released until the drawings are correct.

George reported that they will be paving Lehigh Avenue from the monument down to Mechanic Street. There are three soft spots from Mechanic Street down to West Street which requires that the road be sawcut, dug out because there is clay underneath and repaired prior to the top coat of paving being done. Dave Hess asked if Lehigh Avenue is opened or closed. Some of the barrels have been moved or are missing. George stated that he is concerned with the boxes and water mains being elevated an inch or an inch and a half and a car running over them. Scott said that the Borough is doing Muschlitz a favor because they want to pave both Lehigh Avenue and the West Street project at the same time, but they are actually two separate projects. Council agreed to keep Lehigh Avenue closed until the street is completely paved.

NEW BUSINESS

1. Resolution 2010-02. Louise explained that the Open Space Initiative funding, of which the Borough of Wind Gap, was to receive \$73,269, requires the Borough to submit a grant application for this funding with the deadline being September 30, 2010. The County originally set aside \$37,000,000 for Open Space project, but because of budget concerns at the County level, County Council is looking for ways to find additional revenue to avoid a large tax increase and one of the ways would be to take some of the funding earmarked for Open Space. The project had to be a shovel ready project because the funding has to be spent in 2011. The original plan was to use this money to do a trails project around the Park connecting the Muschlitz proposed development, to the MSG property and connect to the Wind Gap Middle School. This concept was discussed with the County Program Coordinator, but because the project could not be completed next fiscal year, it was deemed shovel ready. The project is to overlay the basketball courts, upgrade the court poles, the backboards and nets, make the courts ADA accessible, and to overlay and upgrade the tennis courts. The Borough has to match 25% of the funding or \$29,206 would be the Borough's contribution if the entire grant amount would be awarded to the Borough. The Wind Gap Area Athletic Association had expressed interest in upgrading the courts after a successful summer basketball program. Once the County Program Coordinator receives all the applications, reviews them, she has to present them to the County Open Space Advisory Committee, the Committee will review and take their recommendation to County Council. The County will decide how much of the Open Space Initiative funding will stay in the budget for 2011. Scott read the Resolution for those in attendance.

On motion by John Maher to adopt Resolution 2010-02 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

OLD BUSINESS

1. Waste Management Neighboring Municipality Agreement. Scott asked Ron Karasek if this would be a topic for an Executive Session. Ron stated that if Council believes it has an identifiable complaint which will become litigation it can be discussed in Executive Session. Scott stated that he met with Adrienne from Waste Management two weeks ago and she informed him that Scott Perin was on vacation. Scott explained to Adrienne that Council reads the Agreement differently from how

Waste Management reads it. She stated that she would discuss the Borough's concerns when he returned. She called Scott Parsons and informed him that Scott Perin had forwarded the Agreement to Waste Management's legal department. Kerry added that if the Borough was not notified in writing then Waste Management die not abide by the contract which specifically states that they are to notify the Borough in writing by certified mail. Council decided that this topic should be discussed in Executive Session based on a breach of contract.

2. Park Master Plan. Scott stated that Louise did more investigation regarding the Park Master Plan and one does not exist in the Borough office. It was started because a Wetlands Delineation Report does exist and the invoices do indicate that this was done. Any grant application that is submitted, a question on the application asks if the Borough has a master plan. Council discussed putting the work out to bid to complete the master plan. The cost will be over \$10,000. Ron Karasek stated that because it is a professional service, it does not necessarily need to go out to bid.

On motion by George Hinton to put the Park Master Plan out bid to be finished and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Kerry added that the wetlands delineation may not be valid after a five year period.

3. Animal Control Officer. On motion by Tony Curcio to hire Phil Bell to be the Borough's Animal Control Officer and seconded by John Maher. Chief Armitage stated that an ACO would be an asset and recommends that Council hire him. Prior to the roll call vote being taken a question arose regarding how the ACO handles feral cats. It was decided that Mr. Bell should attend the next Council meeting to answer this question and any others that may arise. Tony Curcio withdrew his original motion.

On motion by Tony Curcio have Phil Bell, Animal Control Officer, attend the next meeting and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

4. Kerry Gassler asked Mayor Shoemaker if he had completed the Chief's evaluation. Mayor Shoemaker stated that it is done and could be discussed in Executive Session.

EXECUTIVE SESSION

Council adjourned to Executive Session at 8:15 p.m. to discuss personnel matters, real estate issues and litigation. Council reconvened at 8:50 p.m.

Scott informed those present that Council would take no action on the personnel issue and they would take no action on the real estate issue.

On motion by Joe Weaver to send a letter to PPL requesting the coverage area as it exists for the cell tower at its present location, the proposed coverage area for the cell tower at the new location at a height of 100' and the proposed 150' and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to appeal the Zoning Hearing Board decision and file Land Use Appeal stipulation remand the matter back to the Zoning Hearing Board and seconded by John Maher. Roll call vote taken. In favor: G. Hinton, J. Maher, S. Parsons, J. Weaver, T. Curcio. Opposed: D. Hess, K. Gassler. Motion carried with a vote of 5-2.

On motion by Tony Curcio to adjourn the meeting of October 4, 2010. Council agreed unanimously. The meeting of October 4, 2010 adjourned at 8:57 p.m.

Louise Firestone, Borough Administrator