

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
863-7288
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EXECUTIVE SESSION

Council was in Executive Session from 7:00 p.m. to discuss land acquisition.

The Council meeting of the Borough of Wind Gap on Monday, December 5, 2011, was called to order at 7:30 p.m. by Councilman Scott Parsons, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: John Maher, Dave Hess, Kerry Gassler, George Hinton, Joe Weaver and Tony Curcio. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor, Ronold Karasek, Borough Engineer, Brian Pysner and Borough Administrator Louise Firestone.

Council President Scott informed those present that Council met in Executive Session from 7:00 p.m. until 7:30 p.m. and that no action would be taken at this time regarding a land deal issue.

PUBLIC COMMENT

1. Donna Schrader, owner A Cut Above, Broadway, Wind Gap. Donna informed Council that a new business is going in next to her property and they seem to be parking their big box truck almost blocking her entrance. She has had some complaints from her customers because they cannot swing around the truck to get into her parking lot off of Broadway. She is hoping that Council can direct the neighbors to abide by a setback and have them park their trucks down further from her lot. She is concerned about the safety of the intersection because it is so close to the Broadway and Center traffic light. Scott asked Chief Armitage for his input. The Chief stated that the entrance is considered a driveway and as long as the vehicle is not blocking the driveway they are legal. Donna stated that PennDOT put a "No Parking from Here to Corner" on Broadway to restrict parking close to the intersection, but the sign has caused confusion for her customers who then in turn block her driveway entrance because they are not aware the entrance is there for them to utilize. John Maher asked if once the construction is completed with the new business then is it possible that the truck will not park there and cause an issue. Donna replied that it is a construction truck, but they also own a big four wheel truck that is also parked on Broadway. She stated that she has approached the neighbors, but feels that they are not going to co-operate with her and respect her property. She indicated that she will post additional signs. She is not willing to lease any of her parking to them. Brian Pysner confirmed that the "Sliders Grill" business did provide Labor and Industry with drawings for their permits, but that the property does not have an alleyway between the two properties. It was decided that Chief Armitage would stop tomorrow to talk to the owners of the "Sliders Grill" business. Also, Borough Engineer, Brian Pysner, will stop to look at the property as soon as possible.

2. Alex Cortezzo asked Borough Council for an update regarding the development on East First Street and his property on the corner of South Broadway and First Street. Borough Solicitor, Ron Karasek, informed Council that he has prepared the "Call-in of Letter of Credit" to request the money that the bank has on the Letter of Credit in the amount of \$98,002.36. Assuming Council approves this action, Scott as Council President and the Borough Engineer would be required to sign the letter to be delivered to the bank. Ron has not heard anything in response to the request to correct the problems that exist. He has spoken to Attorney Layman, who was the last known attorney for

Gibraltar, and was informed that Gibraltar has not contacted Mr. Layman so he was not in a position to state what needed to be done. Brian Pysher reported that he contacted three contractors, Muschlitz, Palmeri and Schmauder to request quotes for improvements at 809 South Broadway including: removal of an existing concrete driveway to be disposed of at the Borough's approved dump site along Third Street, the existing area where the driveway exists needs to be re-graded to make a straight slope from the garage to the existing curb along East First Street. These areas need to be graded with approximately 4" of 2A modified to provide a stable driving surface. The only proposal received was from Schmauder Excavating, Inc. at a cost of \$2,430.

On motion by George Hinton to authorize Schmauder Excavating, Inc. to complete the work at 809 South Broadway at a cost of \$2,430 at their earliest convenience and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

3. Mrs. Pacovich informed Council that there is an issue with dogs in the park. She spoke to the Mayor about one specific gentleman who walks his dog daily and has for about three years. She said that there is a posted law, but no one enforces this law. Scott suggested that if the Mayor is aware of who the people are, then they should be verbally told and what the consequences would be if they are seen in the park with their animals.

APPROVAL OF EXPENSES

On motion by John Maher to approve the expenses for the month of November in the amount of \$36,770.32 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

APPROVAL OF MINUTES

On motion by Tony Curcio to approve the meeting minutes of November 15, 2011 and seconded by Kerry Gassler. 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 November are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Preparation of Comprehensive Correspondence re: Call-In of Letter of Credit in Gap View Estates n/k/a Posh Properties Major Subdivision, Inc.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Finalizing Proposed Zoning Ordinance Amendment re: CC, Home Occupation and Clear Sight Triangle with Comprehensive Enclosure Correspondence to Borough Planning Commission and Lehigh Valley Planning Commission.

Developments on Outstanding Litigation: N/A.

Court Decisions on Borough Cases: N/A.

Miscellaneous: Receipt, Review and Administration of proposed Amendment to Civil Service Commission Rules re: Veteran's Points. Prepare Ordinance, Advertising Notice and Correspondence re: Ordinance No. 477 (Real Estate Tax Millage). Prepare Ordinance, Advertising Notice and Correspondence re: Ordinance No. 476 (Earned Income Tax). Prepare Ordinance, Advertising Notice and Correspondence re: Ordinance No. 478 (Police Pension Contribution). 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: Gassler Easement Agreement re: bus stop. 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 Karasek reported that Council should include on their December 20, 2011 agenda, the Real Estate Tax Millage Ordinance, the County EIT (Earned Income Tax Ordinance) which states that the Council will now be the collector of the earned income tax. He received a copy of the by-laws from the Fire Company President with changes so Ron can complete repealing the old ordinance. Ron needs language and map/diagram for the clear site triangle to complete the zoning amendment. Ron asked Brian for a description and map to complete the easement agreement for the Mr. Gassler in regard to the bus shelter. Ron sent Council a draft of the International Property Maintenance Code back in October and should be discussed at some point, probably at a workshop meeting since that topic might have lengthy discussion. Today, he received notification that there was an appeal of unemployment compensation decision by Officer Dailey. There will be a hearing scheduled for that, which would require testimony from the Chief and the Mayor. He was not notified of a hearing date.

ENGINEER'S REPORT

Brian Pysker reported that he is working on the firehouse bid documents and should have that by the beginning of the year. He reviewed the street opening permit application and fee schedule. Brian will provide his comments to John Maher to incorporate into the application. Council must pass a resolution establishing the fee schedule. John will copy Council with the final copy of the application possibly by the next meeting. Scott asked if the street committee has decided what streets are being planned for next year. George replied that the committee already discussed A Street and Utica Avenue, but they were put on hold this year pending State construction and the handicap access permitting process. The committee will get together to finalize plans for next year.

NEW BUSINESS

1. Proposed Police Pension Contribution Ordinance 478 – 5%. Ron Karasek reported that he drafted Ordinance 478 which would require the Police Officers to contribute 5% of the pay into their pension plan. The last time that the Borough actively did anything was back in 2007 when they instituted the 5% contribution. In 2008, the Borough deleted the 5% contribution. Council should complete a yearly resolution on whether to continue a contribution or eliminate it. If it is Council's wishes to require a contribution, Ron recommends that Council not wait another year until the expiration of the current police contract, to adopt an ordinance. The Police Pension Ordinance states that the employer can determine whether the 5% is going to be part of that. The police contract does not specifically states if it can or cannot be enacted, but states reference Act 600. Act 600 does permit a 5% deduction and up to 8%.

On motion by George Hinton to move to advertise and adopt Ordinance 478 at the December 20, 2011 Council meeting based on the fact that the Borough has paid over \$50,000 for the last four years into the police pension plan and seconded by Tony Curcio. Roll call vote taken. In favor: G. Hinton, J. Maher, S. Parsons, J. Weaver, T. Curcio, D. Hess. Abstained: K. Gassler. Motion carried with a vote of 6-0-1.

2. Street Workers' Contract – Teamsters Local Union No. 773. George explained that the committee discussed the contract with the street workers and their representative and it was agreed upon that there would be a one year contract for 2012.

On motion by George Hinton to approve a one year contract freezing pay and benefits for 2012 and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

3. Scott Parsons stated that he provided Council with written notice of his intent to resign his Council seat effective December 31, 2011 to take his seat as a County Councilman. The vacancy was already advertised in the December Borough newsletter. Scott asked Ron Karasek if Council could vote at the January meeting to fill the vacancy. Ron confirmed that Council could appoint a new member to Council at their reorganizational meeting in January 2012. Scott added that he resigned from the Wind Gap Planning Commission because they meet the same night as Northampton County Council.

OLD BUSINESS

1. Gibraltar Development Corporation. Ron Karasek has prepared the Call-In of Letter of Credit which needs to be signed and hand delivered to the bank. Scott Parsons will have to sign, witnessed by Louise and Robert Collura needs to sign as the Borough Engineer. He advised that a signed receipt be obtained from Lafayette Ambassador. The original Letter of Credit and amendment must be in hand to deliver to the bank. Scott asked if the Borough must include any further information in this discussion explaining the decision to move forward with this action. Ron replied that the past Council meeting minutes would reflect all the time spent on trying to resolve this situation. The Borough Engineer's office, Brian Pysher, made several attempts to try to resolve, there were meetings on site to try to resolve, letters were sent by Ron Karasek to their counsel requesting that the matter be resolved, with the most recent letter dated November 22, 2011 being sent from Mr. Karasek asking for additional security or the Borough will call-in the letter and he has not heard from them either way. In Mr. Karasek's opinion, the Borough has done more than enough to try and get this done. The Borough has given the developer a chance to correct it, but they did not finish the job. Brian Pysher stated that he made multiple phone calls and left messages but he received no response.

On motion by John Maher to sign the Call-In of Letter of Credit from Gibraltar Development Corp, Inc. and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

2. Dave Hess stated that the Christmas Decorations Committee collected more than enough money to cover the cost of the lights.

On motion by Dave Hess to place any additional funding for the lights, plus the money received from the disposal of the old lights be placed in a separate line item for the purchase of bulbs and eventual replacement of these lights and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

3. Joe Weaver reported that the Park Board had the Borough Engineer do a preliminary plan for a walking trail to be built in the spring so that it is ready for next summer. George asked the approximate cost of this trail. Joe replied that it would be between \$20,000 - \$25,000. Scott added that the park still needs to complete a master plan and a possible source of money could come from casino funding.

On motion by Joe Weaver to put bid specifications together for a walking trail in the Park and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to adjourn the meeting of December 5, 2011 and seconded by John Maher. Council agreed unanimously.

The meeting of December 5, 2011 adjourned at 8:23 p.m.

Louise Firestone, Borough Administrator