

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
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The Council meeting of the Borough of Wind Gap on Tuesday, August 7, 2012, was called to order at 7:30 p.m. by Council President, George Hinton, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Jon Faust, Joe Maher, Kerry Gassler, Tony Curcio, Joe Weaver and Dave Hess. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysker and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Audrey Pittenger, 148 Water Street, Wind Gap. Audrey stated that along with her husband William, they rent a home owned by Kevin Ward on Water Street. They have contacted Mr. Ward numerous times to complain about mold in the home and when it rains it rains in the bathroom. He does not appear to believe what they are telling him. They feel that this property is a danger, so they are in the process of moving out, but would like to make the next tenant aware of the problem in this house. She feels that Wind Gap should have someone that is responsible to go out and check homes that people are renting to make sure that their health will not be hindered. She has developed a very bad allergy to the mold. The landlord insists that he will not have to do anything. She said that both Bangor and Pen Argyl do this and Wind Gap should consider having the same kind of regulations for the rental properties.

2. Glenn Redshaw. Glenn stated that there was an article in the Easton Express not long after the June Council meeting regarding this Property Maintenance Ordinance that is being considered. In the article it said that potential fines could be in the range of \$300 to \$1,000 and up to ten days in jail could be assessed. Also, concerns were expressed regarding the ramifications of such an ordinance and residents with grudges who could use this as a tool of revenge against another resident. He agrees that every town needs rules and regulations. He hopes that Council will take a look at this in an objective manner and realize that somebody who is spiteful and vindictive could use as a tool of revenge. The friendly atmosphere of Wind Gap could change because of potential neighbor feuds. George responded by informing Mr. Redshaw that the article did not state that Council formed a committee to go through the proposed ordinance and present Council with a more acceptable guideline more specific to Wind Gap. Glenn is concerned about the number of older homes in the Borough and their owners not being able to afford making necessary repairs because it could cause a financial hardship. John Maher stated that if we had that kind of authority then the Borough could go after the landlord to clean up his property, but as it currently is, there is nothing to help her with the situation. All complaints are subject to inspection and if the inspector finds the complaint is unwarranted, and then it will be dismissed. Glenn stated that everyone is aware of how neighbor disputes escalate, become a police issue which is a waste of their time and resources, lawyers get involved and it goes on and on. At the end of the article on Lehigh Valley Live there was a comment area, which included unfavorable comments. He asked that Council look at this in an objective manner. The public notice was made in the newspaper for the ordinance and he suggested that all the residents be made aware of this ordinance.

3. Patricia Sutter, Wind Gap Borough Tax Collector. Pat asked Council if they have made a decision with regard to her request to be compensated hourly for the collection of the earned income tax for calendar year 2011. George stated that it will be covered either under the Solicitor's Report or under New Business.

APPROVAL OF EXPENSE

On motion by Tony Curcio to approve the expenses for July in the amount of \$23,143.53 and seconded by John Maher.

Jon Faust questioned the bill from Alex's Tire with regard to the mount and dismount charge of \$30.00 per tire. He understands that the tires are purchased through the State bid and the Borough saves money there, but he feels that the fee to mount and dismount is excessive. The savings for the State price may be lost due to the high charge of mounting and dismounting the tires. Jon suggested purchasing tires through the State price from Alex's, but going somewhere else to have them mounted on the vehicles. Joe Weaver questioned if we replaced another transmission because he was unaware of any other problem. George apologized that he missed contacting Joe regarding the Police Crown Vic being in for what appeared to be a minor repair, but it turned out that a decision had to be made. The vehicle went to the shop for a new starter when it was found that there were two snapped bolts on the starter which messed up the flywheel. In order to replace the flywheel, the transmission had to be dropped which the police officers have been complaining about. George contacted Council asking for the input regarding replacing the transmission or purchasing a new car and the consensus at that time was to replace the transmission.

Roll call vote taken. Motion carried unanimously.

APPROVAL OF MINUTES

On motion by John Maher to approve the minutes of the July 10, 2012 Council meeting and seconded by Tony Curcio. 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 July are outlined in a report. The report includes the meeting he attended as Borough Solicitor.

Subdivision Matters: Receipt, review and administration of NCCD Erosion Sedimentation Plan and NPDES letter re: Posh Properties Major Subdivision n/k/a Gap View Estates.

Land Development Matters: None.

Zoning and Other Land Use Matters: Finalize Zoning Amendment re: No Impact Home-Based Business, Home Occupation, Clear Sight Triangle and Certificate of Compliance – Proposed Ordinance No. 480. Receipt, review and administration of proposed Stipulation re: DeCesare Real Estate Tax Assessment Appeal.

Developments on Outstanding Litigation: Receipt, review and administration of Personal Injury Claim by B. Richardson for Injury on Park Swings.

Court Decisions on Borough Cases: Receipt, Review and Administration of Decision of Commonwealth Court of PA quashing unemployment compensation appeal.

Miscellaneous: Prepare Comprehensive Correspondence re: Borough Tax Collector's Request for Hourly Rate to Collect Unpaid 2011 EIT. 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: Home Occupation, Clear Site Triangle (and related) Zoning Ordinance Amendments, Stop Sign Ordinance, Dog Park Ordinance, Fire Company Ordinance, 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.

The Zoning Amendment for the No Impact Home Business / Home Occupation, etc. will be going to the Planning Commission at the September meeting. It has already been sent out to the Lehigh Valley Planning Commission for their review. Once those reviews have come back, it will come back to Borough Council to determine if they are ready to act on it for advertisement.

He asked for a short two minute Executive Session regarding a personnel issue at the end of the Council meeting this evening.

In regard to the Tax Collector's request for hourly rate payment in order to close out any remaining delinquent 2011 Earned Income Tax (EIT) taxes or claims he referenced his July 17, 2012 letter. Ron stated that during his research for the answer to this question, he located a memorandum from 2006 dealing with a request for the Tax Collector dealing with collecting real estate tax on an installment basis. At that time, it was his opinion that the Constitution of the Commonwealth of Pennsylvania, Article 3, Section 27 that states "No law shall... increase or diminish [a public officer's] salary emoluments after his [her] election or appointment." Once elected, that salary cannot change until a resolution ordinance is made by February 15th of the year of a municipal election. That is in place so basically people who may run for office are on notice that this is the compensation for this position and it cannot be changed mid-term. Ron did check with Plainfield Township regarding its EIT Tax Collector. Their elected Tax Collector only collects the real estate taxes and per capita taxes. An employee (who is appointed on a yearly basis) is designated to collect the EIT and the Local Services Tax (LST). Therefore, since that person is merely an employee, there is no prohibition in changing that person's pay rate to collect the outstanding 2011 EIT. He said that however good the intentions are; Council cannot pay Ms. Sutter more than what the 2005-03 resolution that set the pay for the EIT.

Patricia Sutter stated that first of all, she understands that she is elected to collect the Real Estate, the Per Capita and the Local Service Sax, but the Earned Income Tax is like an appointed position. In Wind Gap, the Tax Collector always collected all the taxes, but in other municipalities the beginning of every year, the governing body would officially appoint a person to collect EIT. If there is no way to give her a fair hourly wage, then she will just bring up all the papers to the Borough Office for someone else to take care of and quit as of June 30, 2012 as far as Earned Income Tax. She stated that she will not be making much money doing the odds and ends collection for 2011 anyway. Ron followed up stating that the Borough of Wind Gap decided back in 2005 that the Tax Collector for the Borough would collect EMS Tax, Occupational Privilege Tax, would be one half of one percent, commission of the Earned Income Tax would be 2%, so it has already been decided as February 7, 2005. Joe asked if Ms. Sutter could quit her elected position and then the Borough would be left to collect these taxes. Ron replied that the Borough could then hire a collection company or anyone they wanted to collect them. John Maher asked if Pat has the right to refuse to do the job that was ordained by Council. Ron said anyone can resign any position, because she doesn't want to do it anymore and can't force her to do the job. John asked Pat how much money is still left to be collected. Pat stated that the work to be done is not necessarily related to collecting money, but just completing the final paperwork for 2011. Ron suggested that the Pen Argyl Area School District is contacted to clarify how they are handling this same issue.

On motion by Dave Hess to appoint Patricia Sutter to collect Earned Income Tax (EIT) at the current rate of 2% commission and seconded by Joe Weaver. Roll call vote taken. In favor: D. Hess, G. Hinton, J. Maher, J. Weaver, T. Curcio, J. Faust. Opposed: K. Gassler. Motion carried with a vote of 6-1.

Patricia Sutter stated that she will bring all the paperwork to the Borough Office tomorrow.

Appointment of Delinquent Tax Collector. Ron suggested that maybe Council would want to try to get a handle on the amount of money that is being discussed. It is possible that this could be done in-house. This will put on the September 4, 2012 agenda.

ENGINEER'S REPORT

Brian Pysher reported that Palmeri and Sons Inc. completed the work on East First Street which included re-grading the bank, installing the sidewalks on the south side of the street and forming up the stoop for the Karners.

On motion by Kerry Gassler to approve payment to Palmeri and Sons Inc. for the Karner property to re-do the stoop \$400 and work completed to A. Cortezzo's property \$7,278 and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

Brian reported on East First Street that back in June the Northampton County Conservation District make contact with the Borough regarding Gibraltar's NPDES permit. They finally got in contact with Gibraltar and were told that to contact Wind Gap Borough since the Borough called in the bond. Gibraltar is the permit holder so he is still responsible for the erosion and sedimentation control. Brian believes that Mr. Iselo has decided that because of his current financial situation he has decided not to do anything with the permit. The permit runs out on August 8, 2012. At the conclusion of the meeting in June, it was decided that the sediment basin would be converted to a retention basin while stabilizing the one yard. Brian wrote a letter to Mr. Iselo explaining in detail that the Borough did call in the money, but the money for the erosion and sedimentation control was already released back to Gibraltar. The letter requested a response within ten days and was sent certified mail. The letter was returned undeliverable stating that the address was no longer good so Brian re-sent the letter with no response, as well as sending a copy to his attorney. Today, Brian had Palmeri give him a quote to complete the work at a cost of \$2,000 to \$3,000 which needs to be done by tomorrow. After tomorrow, Gibraltar would be responsible for getting a NPDES permit for any house they were to build.

On motion by John Maher to authorize the engineer to hire a contractor to remove the weeds on the East First Street undeveloped lots and any other lots within the Borough and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

East First Street Paving Project. Brian reported that at 1:00 p.m. today the bids were opened for the East First overlay. The Borough received six bids: Hanson Aggregates, Muschlitz Excavating, Bracalente, Livengood, B.F. Brown & Company and Lehigh Valley Site Contractors. Bracalente was the low bidder at \$41,883.40, which as it turns out was \$16.00 lower than Hallett in the first bid.

On motion by Kerry Gassler to award the East First Street overlay project to Bracalente for a cost of \$41,883.40 and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

Brian updated Council on the A Street project. The contract has been signed and the Notice to Proceed has been sent to Muschlitz. He is hoping that they will begin next week and complete the project in a timely fashion because there have been complaints regarding the rough conditions of the street. The Borough received a letter from PennDOT regarding the Route 33 Interchange project. PennDOT plans on upgrading the handicap ramp on south side of A Avenue, but instead of making it cross to the north side of A Avenue they are proposing crossing Route 512 at A Avenue. The Engineering firm for PennDOT, Pickering, Corts and Summerson, sent a letter along with the pedestrian study and recommended to PennDOT that a pedestrian cross walk not put install at this intersection. PennDOT insists that a cross walk be installed over 512 from A Avenue on the east side to the west side of the road. Brian stated that from an engineering standpoint that is not a safe place to allow people to cross the street. Brian suggested that the Borough set up a meeting with PennDOT to express their concerns about safety. George will make contact with State Representative Marcia Hahn tomorrow.

George reported that the Sewer Authority tore up the driveway of the last resident on the right going back A Street, just a shovel width and about five feet deep. The resident called to complain and

asked for someone to look at the way his driveway was left after the work was done. The Authority dug up the driveway to install a trap so that if they had to scope the line it could be determined that the line is good from the curb back. When they went up the road to do the next house, the Authority went to the curb and did not even install a trap. John Maher stated that at the Sewer Authority meeting this was discussed a lot because apparently the guy the Authority contracted is not performing the work to their satisfaction. The contractor just went in there with a backhoe and starting ripping out the sidewalk without marking down the line. He ripped down the phone line and the power line with his equipment. Brian added that the Authority waits 90 days for the dirt to settle before they will repair the driveway.

Brian has the proposals ready for the firehouse floor. The line items in the proposal include: demolition and removal of the existing floor, concrete floor with a vapor barrier, 12 x 12 vinyl tile and two other things required by Labor and Industry – re-wire the existing emergency lighting downstairs and add one additional emergency in the garage. He will be sending the proposal out to multiple contractors. The Borough has all the necessary permits. Jon reminded Brian that the Fire Company will have to be notified so that other arrangements can be made for Bingo.

Brian reported on the vacant parking lot on Lehigh Avenue behind the Orwig Apartment building. Two residential lots can be created at a minimum size requirement of 9,600 sq. ft. based on the acreage along with ten angled parking spaces. There will be a list of variances that will be required including: a non-conforming lot, does not meet the minimum acreage, exceeds the maximum impervious, buffer yards, etc. The intent is to subdivide the lot for sale and development while continuing to provide public parking. He intends to make application to the Zoning Hearing Board and the Planning Commission the following month.

On motion by John Maher to proceed with the submission of the property on Lehigh Avenue to the Zoning Hearing Board and the Planning Commission and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

COMMITTEE REPORTS

1. EMS – Kerry Gassler reported that the Ambulance Corps had 70 trips in June for a year-to-date total of 412 in 2012. The Corps will be holding a spaghetti dinner at the Blue Valley Farm Show on August 24, 2012. Heather resigned her position as captain because of an injury that prevents her from fulfilling her duties as captain. They will either have a re-vote to replace her or a Lieutenant will become captain. There was a complaint regarding horseplay at the Fire Company carnival regarding a member of the Corps and that person has been suspended and will not be returning to the Corps.
2. Fire Co. – Dave Hess reported that the Fire Company did not meet yet this month so he has nothing to report.
3. Zoning – Tony Curcio reported that there is another week for any applications to be submitted so it has not been determined if the Zoning Hearing Board will meet in September.
4. Planning – George Hinton reported that no plans were submitted so a meeting was not held in August. There will be a meeting on September 6, 2012.
5. Municipal Authority – John Maher reported that the Municipal Authority spent a lot of time on the A Street contractor issues. Their next meeting is scheduled for August 22, 2012 at 7:00 p.m. John will not be available for the meeting so George will attend in his place.
6. Streets – Dave Hess reported that the street workers have been working on grass and weeds throughout the Borough. They have been doing weeds on 512 from Sixth Street to West First Street. They had the tree problem in the Park that pulled down the electrical pole. The truck is at Merkin's for

the hydraulic repair should be back early next week. Joe asked if the remaining wire by the Lehigh Street entrance into the Park has been taken care of or will be taken care of soon. George explained that there are guide wires and RCN cable wires. The electric company should be putting them back up on a guide pole. Kerry asked if the first time the street workers weed wacked along the gutters they were told to spray weed killer on the weeds. Dave stated that they were told to spray, but the weeds grew back. Jon Faust asked when Council is going to act on the fact that they do not do what they are suppose to do. Jon asked if Council wants to discuss the issue that they did not sign out when they left the Borough as they have been instructed to do. Mayor Shoemaker was out to Falcone's to get parts for his lawnmower last Wednesday and the two street workers were headed into the same shop in the Borough truck. In the sign in/out book in Borough Hall it was not documented that they were out of the Borough. George asked Dave to talk to the workers as soon as possible.

7. Police - Mayor Shoemaker reported that the Police Department responded to 141 calls for the month of July, 7 animal complaints, 11 motor vehicle accidents were investigated and they issued 24 traffic citations. The Wind Gap Police Department with the assistance of the Pennsylvania State Police is investigating a burglary at the Radio Shack.

8. Park – Joe Weaver reported that the Park Board has not met since our last meeting. Joe questioned the parking of tree trucks on the old Rubenstein property lot without displaying permits. Joe wanted to make sure that everyone is on the same page regarding all authorized vehicles in the Park displaying the proper permits. George replied that in the past several years the same tree cutting company, which is hired by Met-Ed, since the lot has been cleared, have been parking there as a courtesy. Kerry added that all of Council should be aware of it. Jon asked if the Borough has permission to dump brush on park property and if not, maybe the street workers should not be dumping anything there because of the problem it previously caused. Brian clarified that this is the only permitted site in the Borough to dump. Northampton County Conservation District gave their approval as long as there is no dumping in the wetlands. This area was utilized for materials when the work was being done on Mr. Cortezzo's property on First Street.

9. 911 – Tony Curcio had nothing to report.

10. Tipping Fees - Tony Curcio reported that the Borough received a check from Waste Management in the amount of \$36,004.23. He updated the report as of July 31, 2012 and noted that \$6,772.23 for the playground equipment was transferred from Capital Reserve. The current balance in Capital Reserve from tipping fees is \$242,750.97 and remaining funds available this year is \$88,215.48.

11. Building Finance Committee – George Hinton the property on Lehigh Avenue has already been discussed.

12. GIS Update. John Maher reported that the design of the GIS system has been completed. He is in the process of putting together training material. One of the GIS collectors had to be sent back to the manufacturer for repair. The menus have all been set so once the Trimble comes back from repairs, the data can be collected. John assisted Victor Rodite put in an application to the Gaming Authority asking for \$50,000 for the Slate Belt COG with the Borough receiving almost \$30,000 of the funding for the second year of development for our GIS. John would like to pursue designing the sewer system and other engineering work that has to be done.

13. Zoning Ordinance Changes (Signs) – Kerry Gassler reported that he met with Janice Cesare, Lucy Flinn and Joe DePue to go over the ordinance so they understand what the ordinance is about. He spoke to Darlene today to find out if they all can meet to clarify any questions they might have regarding the ordinance as it exists right now.

14. Banners – Mayor Shoemaker met with John Maher and Jon Faust to discuss the next step in getting the word out to residents about the sale of the banners. They are proposing that the banners be advertised in the Borough newsletter and even in the free newspapers. He hopes to get an order of 30 to 49 banners. The estimated cost would be \$141 for the banner and \$79 for the bracket for a total estimated cost of \$220. The last time the banners were updated was back in 1993.

15. International Property Maintenance Code (IPMC) – John Maher, Joe Weaver, Jon Faust. John Maher stated that he missed the last meeting. Joe reported that they reviewed the IPMC at the meeting. They will be scheduling the next meeting. John stated that Bangor has adopted the IPMC and in their ordinance they revised it to meet their requirements. Jon suggested that Wind Gap should investigate rental properties and whether or not the landlord should be charged for inspection. Ron Karasek stated that there needs to be separate ordinances for an inspection before the sale, inspection before the lease of a property and inspection for Property Maintenance Code. Joe asked if the IPMC is a pre-requisite for rental inspection code. Ron explained that the IPMC requires owners to maintain their own property to a certain level, but does not require any specific inspections to occur. Jon Faust anticipates meeting again before August 21, 2012.

MAYOR'S REPORT

Mayor Shoemaker reported that the Slate Belt COG will resume their meetings on September 26, 2012 at 7:00 p.m. The COG has asked for letters of support for the gaming applications. The COG is looking into a new administrative position in order to reduce Victor's salary. The Chief has sent out letters of violation regarding weeds throughout the Borough. A Street should be opened by August 31, 2012.

NEW BUSINESS

1. DeCesare vs. Revenue Board of Appeals – church property on Lehigh Avenue. Ron Karasek explained that the Borough received a copy of a Stipulation of Counsel that has been forwarded to him for signature on behalf of Wind Gap Borough. The stipulation decreases the fair market value of the property from \$162,200 to \$70,000 and the assessment value of the property decreases from \$81,100 to \$23,500 based on the Common Level Ratio Factor. This stipulation will apply to the 2012 tax year and remain in effect until changed as provided by law.

On motion by Kerry Gassler to authorize Ron Karasek to sign the stipulation on behalf of the Borough and seconded by Dave Hess. Roll call vote taken. In favor: J. Faust, K. Gassler, D. Hess, G. Hinton, J. Maher, J. Weaver. Opposed: T. Curcio. Motion carried with a vote of 6-1.

2. Regional Police Participation. George asked Council if everyone had an opportunity to review the Regional Police Study. Kerry stated that the report was easy reading and makes a lot of sense because it would provide the Borough 24 hour 7 day coverage and is what the area needs. Jon is concerned about the report where it states approximately 5 or 6 uniformed officers. Chief Armitage explained that the way it is set up there would be a squad of five patrolmen with one sergeant which would be six uniformed officers in vehicles on duty at a minimum. If necessary, an auxiliary officer could fill in if necessary. Jon expressed concern about municipalities who require more police coverage. Dave said that the officers would remain in their zones unless there is a specific need. If any municipality were to pull out after three years down the road how would that affect the regional

police department. If any municipality were to pull out they would have to pay penalties to get out the regional department. The Chief stated that the report makes the suggestion for a five year commitment. Jon agreed that the police officers will be afforded the opportunities on a regional police force that they otherwise may not have in a small municipal department. Joe added that study shows that Wind Gap would be saving money and that savings should be set aside for future planning.

On motion by Dave Hess to proceed and commit to join the Regional Police Department if one is formed and seconded by John Maher. Roll call vote taken. In favor: J. Faust, D. Hess, G. Hinton, J. Maher, J. Weaver, T. Curcio. Abstained: K. Gassler. Motion carried with a vote of 6-0-1.

Jon asks what happens if one of the municipalities decides not to move forward with the idea. Dave replied that the study would have to re-do the figures.

OLD BUSINESS

No further Old Business was discussed at this time.

EXECUTIVE SESSION

Council adjourned to Executive Session at 9:26 p.m. to discuss personnel matters. Council reconvened at 9:31 p.m. George informed those present that no action would be taken at this time.

On motion by Tony Curcio to adjourn the meeting of August 7, 2012. Council agreed unanimously. The meeting of August 7, 2012 adjourned at 9:31 p.m.

Louise Firestone, Borough Administrator