

**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 Monday, December 3, 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, John 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 Pysher and Borough Administrator Louise Firestone.

PUBLIC COMMENT

No one appeared before Council at this time.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses for the month of November 2012 in the amount of \$12,405.69 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

APPROVAL OF MINUTES

On motion by Tony Curcio to approve the minutes of the November 20, 2012 Council meeting and seconded by John Maher. Roll call vote taken.

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: Correspondence to and from Bank re: possible foreclosure on Gap View Estates (fka Posh Properties Major Subdivision) Development – First Street.

Land Development Matters: Receipt, Review and Administration of Developer's Agreement (and Two Addenda) re: Male Road Bridge.

Zoning and Other Land Use Matters: Receipt, Review and Administration of Borough ZHB Decision re: variance request on Borough's proposed Subdivision on Lehigh Avenue. Receipt, Review and Administration of Revised Agreement of Sale and Escrow Agreement re: Emerald Properties to Wind Gap Borough Agreement of Sale.

Developments on Outstanding Litigation: N/A.

Court Decisions on Borough Cases: N/A.

Miscellaneous: Prepare Ordinance, Advertising Notice, Correspondence and E-mails re: proposed Borough Ordinance No. 479-2013 Real Estate Tax Millage. Receipt, Review and Administration of Three Records Subpoena issued to Fire Company; Receipt, Review, Review of Records; and, Comprehensive Response to Opposing Counsel enclosing records (no charge). 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: Property Maintenance Code – return to Committee for further review, Stop Sign Ordinance – need street designations and traffic/engineering studies, Dog Park Ordinance – need designated area for park, 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.

Ron reported that late Friday afternoon he received the revised agreements on the Emerald Properties matter. He spent the weekend reviewing the revisions in preparation for tonight’s meeting. He received a copy of the proposed Local Services Tax Agreement for review and he has reviewed that for discussion later in the meeting. He has reviewed the Male Road bridge agreement and the two addendums, but he has not had a chance to review the agreement. He has prepared the ordinance for the real estate tax millage rate and it is ready for adoption at the December 18, 2012 Council meeting. George asked if the meeting for the Male Road Bridge and the agreement with the developer could happen soon. The meeting was scheduled for tomorrow Tuesday, December 4, 2012 at 2:00 p.m. at the Borough office.

ENGINEER'S REPORT

Brian Pyscher reported that he did contact one of the engineers recommended by the bridge inspector. He is waiting to hear back from the engineer and hopefully be able to obtain a copy of the specifications used to solicit bids for the Male Road bridge repairs.

Brian asked if the Planning meeting was being held this Thursday. Ron stated that there have been discussions on moving the meeting until January depending upon the time or the extension of time. The plan before the Commission is the submission by the Borough for Lehigh Avenue. Ron and Brian will confirm with Darlene tomorrow regarding the date of the next Planning Commission meeting.

NEW BUSINESS

1. Local Services Tax Collection Agreement. George stated that Council already voted to proceed with Keystone Collections Group collecting the Local Services Tax on behalf of the Borough. Ron stated that the agreement should be voted on by Resolution even though Council voted at their previous meeting. Ron reported that the agreement is for a period of three years and will automatically renew unless 90 days prior to the anniversary date, Borough informs Keystone that they do not want to do this anymore in writing by October 2, 2015. Keystone will be charging 1.75% to collect the tax as noted, plus the postage. They will file a report on a monthly basis to give information that includes: account number, payment due, receipt, tax collected and does refer to Act 192 Resolution adopted by Northampton County Council regarding the County collection unit. They will pay funds monthly less commission and reimbursable costs. There is an indemnification where in case something goes wrong because the Borough fails to give them the proper information or there was improper information from prior tax collection. It will indemnify them and basically states that the Borough will defend any suit that may happen. They will charge, at not cost to the Borough, a \$5.00 fee for delinquent taxes that they collect, a \$3.00 for a partial payment and \$29.00 for a NSF check. He would suggest a provision for providing notification, like all notices should be in writing and should be sent to the following address.

On motion by John Maher to adopt the Local Services Tax Collection Agreement with the addition as suggested by Mr. Karasek regarding notification and seconded by Jon Faust. Roll call vote taken. Motion carried unanimously.

Mr. Karasek stated that at a previous meeting without any advanced notification, the Tax Collector inform Borough Council she did not want to collect the LST and suggested allowing Keystone

to collect it, so he gave his opinion at that time regarding appointing this firm. He said then that there could be the possibility that the Borough would have the ability to surcharge the Tax Collector for failing to collect this tax. He did the research on this topic, but did not bill the Borough, just for his knowledge and he does not believe that the Borough's tax collector is required to collect the local services tax. This is based on the LST ordinance stating the collector can be a public or private agency. Borough Council did not specifically state in the ordinance that this tax would be collected by the elected tax collector. Ron stated that Ms. Sutter should not be surcharged, retracted his opinion and apologized to her.

2. Ron Karasek stated that he contacted the attorney for the bank on the Posh Properties, Gap View Estates matter to say that a meeting should be held. He has not heard back from him to schedule a meeting. He will keep Council informed regarding this matter. John Maher added that he informed the Wind Gap Municipal Authority at their last meeting, about this matter so they are aware of what is happening with this property.

EXECUTIVE SESSION

Council adjourned to Executive Session to discuss personnel contract at 7:46 p.m. Council reconvened at 8:04 p.m. George Hinton stated that Council will take no action at this time.

OLD BUSINESS

1. QuickStitch - Joe DePue Escrow Account. George reported that Joe DePue had money in an escrow account related to his parking lot. Brian stated that he has to paint over the existing lines with black paint not the current grey paint. Joe stated that he will have this done tomorrow.

On motion by Kerry Gassler to release the escrow funds to Joe DePue once the lines are painted over with black paint and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

2. Sales Agreement for MSG Property. George reported that the Sales Agreement is still being worked on and hopes to have it signed soon.

On motion by Tony Curcio to adjourn the meeting of December 3, 2012 and seconded by John Maher. Council agreed unanimously.

The meeting of December 3, 2012 adjourned at 8:06 p.m.

Louise Firestone, Borough Administrator