

**BOROUGH OF WIND GAP
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The Council meeting of the Borough of Wind Gap on Monday, February 2, 2015, was called to order at 7:30 p.m. by Council President George Hinton. In attendance were Councilmen: Jon Faust, David Valley, Tony Curcio, Joe Weaver and Dave Hess. Also in attendance were Mayor James Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone. Absent was Councilman Kerry Gassler.

PUBLIC COMMENT

1. Wind Gap Fire Department. Joe DePue and Tom Wills were in attendance representing the Wind Gap Fire Department asking that Council appoint a committee in order to begin discussions regarding building a new Social Hall. Joe suggested that the east side of the municipal complex property be considered as a possible location. George asked for any volunteers to sit on the committee and Jon Faust and Mayor Shoemaker responded to the request. Joe suggested that the Borough Engineer, Brian Pysher, be in attendance at the committee meetings. The committee will meet as soon as possible.
2. Glenn Redshaw, 29 East Fifth Street, Wind Gap. Glenn asked if the Borough lost the interested buyer for the ambulance building. George replied that a "Sale Pending" sign should have been placed on the sign located at the building. It will be corrected.
3. Denise Fox, Fox Property Services, LLC. Ms. Fox asked for an update with regard to all the paperwork that needs to be completed by them and the Borough for the sale of the property. George replied that the sale of this real estate will be discussed in Executive Session.

APPROVAL OF MINUTES

On motion by David Valley to approve the minutes of the January 20, 2015 Council meeting and seconded by Tony Curcio. Roll call vote taken. In favor: T. Curcio, J. Faust, D. Hess, G. Hinton, D. Valley. Abstained: J. Weaver. Motion carried with a vote of 5-0-1.

APPROVAL OF EXPENSES

On motion by Jon Faust to approve the expenses for the month of January in the amount of \$15,615.33 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 January are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Preparation of SALDO Recommendation/Waiver form and Agreement for Conditional Approval form re: R. Cortez Preliminary/Final Major Subdivision.

Preparation of Official Action Correspondence (denying plan) and preparation of Extension of Time form re: R. Cortez Preliminary/Final Major Subdivision.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Receipt, Review and Administration of Buyer's Request for revised page to Agreement for Sale, suggested revisions to the Agreement of Sale supplied by the Buyer's attorney, a Telephone conference with Buyer's Attorney and office conference with Council President Hinton re: sale between Borough as Seller and Fox Property Services, LLC as Buyer for 435 North Broadway and e-mail to Buyer for review, approval and signature.

Developments on Outstanding Litigation: Telephone Conference with Asst. County Solicitor Backenstoe with protocol to move forward with a resolution of the Borough's Real Estate Tax Assessment Appeal Petition i.e. appeal of decision of the Northampton County Revenue Appeals Board (3 tracts of land owned by the Borough).

Court Decisions on Borough Cases: N/A.

Miscellaneous:

Telephone conference with Attorney P. Layman re: Proposed changes to the Operating Formula for the Slate Belt Regional Police Department.

Preparation of the Planning Commission Meeting Notes of January 8, 2015 meeting.

Renewed Legal Research on Panhandling and Loitering Ordinance.

Preparation of Monthly Preparation of Monthly Solicitor's Report.

Review various correspondence, e-mails, prepare letters 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.

Attorney Karasek reported that he spent most of the month on the Cortez Preliminary/Final Major Subdivision paperwork, the Agreement of Sale with Fox Property Services, LLC, the Northampton County Assessment Appeals Board and the planning commission minutes.

ENGINEER'S REPORT

Brian Pysker reported on the bus shelters that Council discussed at their January 20, 2015 Council meeting. He reviewed the file and believes that a bus shelter can still be placed at the former Roberti property. Previously, LANTA, sent a representative to the Borough to approve the placement of the shelters so if Council would like to explore the possibility of placing one at the corner of Route 512 and Alpha Road, LANTA would have to give their approval. A 4'X6' concrete pad will need to be poured and Met-Ed will need to be contacted in order to get a work order started.

On motion by Tony Curcio to illuminate the bus shelters with a not-to-exceed cost of \$4,000 for lighting in both shelters and seconded by David Valley. Roll call vote taken. Motion carried unanimously.

Brian has been working on the ARLE Grant (Automated Red Light Enforcement) and will be contacting the engineering firm that was contracted by PennDOT for the interchange project since they have completed engineering for all the traffic lights.

Jon Faust suggested installing emitters on the lights at Route 512 and Alpha Road. Brian will check the light since it is not part of the ARLE Grant funding.

Brian reported that the surveillance camera company will be back to the new building to install the software on the Fire Company and Ambulance Corps computers for camera viewing. They will also be installing an additional camera on the exterior of the building at the northeast corner and switching three (3) upstairs cameras that were day/nite cameras to infrared cameras.

George reported that the garage door timers were never set up so the door contractor will be coming out tomorrow. Door #4 is not working properly so that will be checked out also.

NEW BUSINESS

There was no New Business to be discussed by Council at this time.

OLD BUSINESS

1. R. Cortez Preliminary/Final Major Subdivision. Attorney Karasek reviewed the current status of the plan to Council. He referenced his January 22, 2015 letter to Mr. Cortez. The Wind Gap Planning Commission discussed and recommended SALDO waiver requests (some waivers with conditions) to Borough Council. Council was to take official action on the overall plan at their January 20, 2015 meeting, but since no one on Mr. Cortez's behalf was in attendance, Council denied the plan based on the outstanding items listed in Alternate Borough Engineer, Michael C. Waldron, P.E. review letter dated January 8, 2015. Borough Council is willing to reconsider its denial provided that Mr. Cortez provides the Borough additional time to consider the plan. Attorney Karasek did not have a copy of the Extension of Time form, but the Borough office did receive one and Council was in receipt of that form.

On motion by Joe Weaver to rescind denial of Raymond Cortez Preliminary/Final Major Subdivision Plan and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

Council had questions regarding the requested SALDO waiver requests. Attorney Karasek stated that this plan was reviewed by the Borough's Alternate Engineer, Ott Consulting, Mr. Michael Waldron, and at the Planning Commission Meeting he did not appear to have any problems with the requested waiver requests. Since Mr. Cortez has extended Council additional time to consider this plan, until February 27, 2015, Council may consider inviting Mr. Waldron to the next Council meeting in order to answer any specific questions/concerns they may have regarding the plan.

On motion by Tony Curcio to table the Raymond Cortez Preliminary/Final Major Subdivision Plan until the Council meeting on Tuesday, February 17, 2015 and request the presence of Alternate Borough Engineer, Michael Waldron and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

2. Loitering Ordinance. Attorney Karasek reported that he has spent time researching a loitering ordinance. He asked Council to consider what direction they would like for him regarding the ordinance. Unfortunately, the law is not clear when it defines loitering. There are differences in the definition of begging, vagrancy, criminal loitering – dealing with drugs. He wanted Council to think about this topic and it can be further discussed at the workshop meeting.

EXECUTIVE SESSION

Council adjourned to Executive Session to discuss pending real estate issues at 8:09 p.m.

Council reconvened at 9:00 p.m. Council President George Hinton informed those present that Council discussed both real estate issues and the lease agreement for the Slate Belt Regional Police Department with Plainfield Township.

Attorney Karasek stated that Council received a Sales Agreement from the Attorney for Mr. and Mrs. Fox and it is quite different from the original agreement and the bid was not compliant with the bid specification and the Borough Code. The payment of the full purchase price was to be made within sixty (60) days of the acceptance of the bid would be no later than Saturday, February 14, 2015. Attorney Karasek outlined the new proposed agreement as discussed by Council:

- Page 1, No. 1 – An insertion is needed in line 9 – the benefit of the land and (b) all right, title and interest of Seller (if any) in and to any land lying in the bed of
- The second paragraph of this number referencing consent needs to recognize that the Borough can take action only through approval by Borough Council and not the independent of the Mayor, a Borough Council member, so forth
- Page 2, No. 3 – The revised settlement date of April 30, 2015 is acceptable to the Borough.
- Page 2-3, No. 4 – The addition to No. 4 regarding readings and payments of the electric, gas and other utilities is acceptable to the Borough.
- Page 3, No. 5 – The lease, license etc. revision is acceptable to the Borough.
- Page 3, No. 7 – the I-C (Industrial and Heavy Commercial) Zoning District revision is acceptable to the Borough.
- Page 4, No. 10 – The Borough is not willing to agree to this environmental or hazardous substances paragraph in its entirety. The Borough wants paragraph 10 to be deleted completely.
- Paragraph 11(a) on pages 5 and 6 – The Borough has no objection to a due diligence period, but agrees only for – structural systems, mechanical systems, electrical systems, roof, plumbing, heating and cooling and electrical fixtures, termite or other wood destroying insects. The Borough will not agree to any due diligence or inspections for environmental studies or the like.
- Page 6, No. 11(b) – The Borough will not agree to this environmental conditions subsection, and the Borough wants this deleted completely.
- Page 6, No. 11(d) – The phrase where the property is “unsatisfactory or will be unsuitable for the Buyer” is to be deleted and the following language is to be substituted in its place “that the property is structurally dangerous or unsafe for human habitation or the utility systems are not in working order”.
- Page 7 and 8, No. 11(e) and (f) – The right of entry and extension of the due diligence period is acceptable to the Borough.
- Page 7, No. 12 – While the Borough is in agreement with the boundary language addition, a caveat should be inserted into the phrase “to the best of the Borough’s knowledge”.
- Page 7, No. 13 – The financing contingency is acceptable to the Borough.
- Page 8, No. 14 – The material percentage reduction is acceptable to the Borough.
- Page 8, No. 15 – The condemnation provision is acceptable to the Borough.

On motion by Joe Weaver to authorize Attorney Karasek to respond to the attorney for Mr. and Mrs. Fox to make the agreed upon changes and give a responsible time frame for them to respond (Monday, February 16, 2015) and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

PUBLIC COMMENT

1. Rino Scotto, Mammina LLC. Mr. Scotto stated that he recently purchased 1 North Broadway (Wells Fargo bank building) and 15 North Broadway (former Liquor Store). The town fire siren is on the roof the bank building and there was nothing in the paperwork that the town owns or services the siren. He asked Council to consider having an agreement drafted and signed that would indemnify him from any liability related to the fire siren or the maintenance of the siren. There was discussion regarding an easement for the access to the basement where the electrical panel is located. George stated that in the past, if the Fire Company needed access, they would contact the bank and would be escorted to the basement. Attorney Karasek took Mr. Scotto's contact information and stated that he would be in touch with him.

2. Denise Fox, Fox Property Services, LLC. Ms. Fox stated that they are viable and responsible buyers, but they are trying to take all necessary steps in good faith in order to purchase this property. The environmental issue was raised on the day that the bid was awarded. Attorney Karasek confirmed that Council decided that the Borough would not be responsible for any environmental inspections or studies. They are concerned that there might be possible contamination on the property. George stated that the Borough produced, with the help of the Ambulance Corps, the paperwork of the environmental study done when the building was original built. PA Labor and Industry would not have allowed the building to be built if all the studies had not been completed to their satisfaction. Ms. Fox stated that a closure report is included in the paperwork, but there is no signed closure letter in the study. Attorney Karasek reiterated that he considers this a negotiation because the bid specs have not been met so that either party could walk away at this point because it is not closing by February 14, 2015 and there were no contingencies in the bid spec that said that the Borough had to permit inspections, etc. Brian to contact MEA to get more explanation on the reports. Borough Council will continue to move this sale forward and assist with gathering any information related to the environmental study, but they do not want the environmental verbage in the sales agreement obligating the Borough to any more environmental studies.

On motion by Tony Curcio to adjourn the meeting of February 2, 2015. Council agreed unanimously.

The meeting of February 2, 2015 adjourned at 9:23 p.m.

Louise Firestone, Borough Administrator