

**BOROUGH OF WIND GAP
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WIND GAP, PA 18091
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The Council meeting of the Borough of Wind Gap on Monday, May 4, 2015, was called to order at 7:30 p.m. by Council President George Hinton. In attendance were Councilmen: David Valley, Kerry Gassler, 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 Joh Faust.

PUBLIC COMMENT

1. Donald Bortz questioned the time frame for planting trees on First Street. Brian Pysher spoke with the developer about the landscaping last fall and they said to wait until the first frost. Brian said the Borough will get an estimate on the cost of the trees. He also stated that street trees normally go up after the property development has been completed. A list of trees permitted by the ordinance was given to Mr. Bortz.

APPROVAL OF MINUTES

On motion by Kerry Gassler to approve the minutes of the April 21, 2015 Council meeting and seconded by David Valley. Roll call vote taken. In favor: K. Gassler, D. Hess, D. Valley, J. Weaver. Abstained: T. Curcio and G. Hinton. Motion carried with a vote of 4 - 0 - 2.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses for the month of April in the amount of \$16,907.49 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 April are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: N/A.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Receipt, Review and Administration of Preliminary Correspondence and Subsequent Comprehensive Correspondence from PA DEP in Response to Borough's Open Records Request re: 435 North Broadway (Ambulance Building formerly Oaten's Garage). Receipt, Review and Administration of Comprehensive e-mails from Applicant's Planning Professional and Borough EIT B. Pysher re: Auto Zone Variance Request and Off Street Parking. Receipt, Review and Administration of e-mail transmission from S. Davis re: Recognition of Borough as Appalachian Trail Community.

Developments on Outstanding Litigation: Legal Research, Preparation and Filing of Brief in Support of Preliminary Objections re: Dalmatian Fire Equipment, Inc. Brief Appearance at Office of district Judge Barner re: Guerin vs. Rogers Case and the subpoenas issued by her to R. Collura and B. Pysher, Borough Engineer and EIT.

Court Decisions on Borough Cases: N/A.

Slate Belt Regional Police Force (SBRPF): Receipt, Review and Administration of Comprehensive Correspondence from SBRPF Solicitor attaching Equipment and Property List (including radios, guns, vehicles, furniture so forth) transferred from the three municipalities from SBRPF.

Miscellaneous:

Finalization of Resolution to Appoint Code Official under Borough Nuisance Ordinance.
Comprehensive Telephone Conversations with K. Guerin and Written Memorandum to File re: Zoning and HOP Matters regarding Neighbor – Rogers.
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.

Ron Karasek reported that he has been receiving call from Kimberly Guerin and he is reluctant to bill the Borough for these calls. He would like to know how Council would like him to handle these this situation. He suggested a brief Executive Session be held at the end of this meeting.

George Hinton reported that there is still panhandling in the Giant parking lot. Ron Karasek reported that he has a draft of an ordinance completed, but it was set aside with other pressing issues. He will redirect his efforts back to finalizing that ordinance for Council to review.

ENGINEER’S REPORT

Brian Pysher reported that he has been in contact with B & B Pole Buildings because they had submitted shop drawings to Brian for the proposed salt shed. Brian approved the drawings and they will forward the drawings to Pennsylvania Department of Labor and Industry for approval. He will follow-up with them this week to get a time table. Brian will put the four corners in this week and shoot the elevations so the street department can prepare the area by removing some of the vegetation.

Brian Pysher and Robert Collura were subpoenaed as factual witnesses to testify on behalf of Ms. Kimberly Guerin with the magistrate in Bethlehem. The case is against Mr. Rogers for damages incurred to her property for 12,000.00 over a dispute as to where the alley is and where the property lines are between the neighbors. Mr. John Molnar, representing Mr. and Mrs. Rogers (the neighbors), objected on the basis that District Magistrate does not have jurisdiction over property line matters. The Judge informed Ms. Guerin of his powers and if he did make a decision in this matter, the decision would be appealed. She needs to file papers in the Court of Common Pleas in Northampton County. The Judge dismissed the case without prejudice. Brian believes that his firm will be receiving papers to appear at another hearing in Northampton Court on this same issue. DEP received a complaint from Ms. Kimberly Guerin regarding a diesel fuel spill in the alley that she believes is her property. DEP sent a letter the Borough of Wind Gap to have them investigate and

handle the situation at the municipal level. Brian said that there is a discrepancy between the two surveys done, one by Ms. Guerin and one by Mr. and Mrs. Rogers. George Hinton went to the site and contacted Mr. Rogers requesting that he shovel up the stones where the fluids leaked. Mr. Rogers does not drive a truck for that company and that specific truck is no longer parked on the premise. Ms. Guerin also filed a written complaint regarding an unregistered vehicle parked at Mr. Rogers. Brian responded, in writing, that the current nuisance ordinance permits the property owner one unlicensed/unregistered car on the property.

Zoning meeting - April 28, 2015 two Cases were heard - Easton Hospital and Auto Zone.

Easton Hospital applied to increase the size of the free standing sign on Male Road (former Blockbuster building).

Variance was granted for the increase size of the sign.

Auto Zone would like to build on the corner lot (South Broadway and Male Road) owned by John Barto and in front of the Burger King. The property is adjoined by property owned by the McIntyre family on the south and an alley on the west with the Burger King on the other side of that alley. The proposed Auto Zone building requires multiple variances.

One variance had to do with the amount of parking. The original plans for the Burger King required a specific amount of parking spots, but the proposed building would eliminate parking for Burger King.

Variance was granted for a reduction in the amount of parking for Burger King.

Variance was not granted for the required twenty-five feet setback from McIntyre property line.
(The proposed setback would have only been five feet).

They cannot proceed with the project as it is currently designed, so the plan will have to be completely reconfigured for the plan to be in compliance with the Borough's Zoning Ordinance.

George Hinton said that at a previous meeting with Penn Dot, they suggested that there be only be one (1) entrance because the other exit would be covered due to the location of the building. Traffic will come off 512 into the Auto Zone parking lot to back through the parking lot into the existing Burger King, which will cause traffic issues.

Ron Karasek explained that the Borough has the right to appeal the Zoning Hearing Board decision with respect to off-street parking and any other variances thirty (30) days after the Zoning Hearing Board decision comes out. The decision has to come out 45 days after the hearing.

Brian Pysker has been in touch with several engineers and has sent e-mails to Penn Dot regarding the ARLE Grant. During the initial discussions regarding the location of a computer workstation with software on it, it was determined that the computer would be housed in the police station. Now that the Slate Belt Regional Police Department has been established and is up and running, Borough Council needs to determine how to handle the location. The software will allow the Police to change the cycle timing of the traffic lights through Wind Gap in order to keep traffic flowing when an event occurs on Route 33. Dave Hess has informed Chief Mettin that this grant exists in conjunction with the Route 33 Interchange project and the Chief has included the workstation in his budget.

Oaten Garage

MEA is preparing a scope of work for the Oaten Garage that needs to be submitted to DEP. DEP will inform MEA how many wells will need to be dug. MEA anticipates starting this week. Brian and MEA have determined that one round of testing should be done and as long as the tests come back clean that should be sufficient to satisfy DEP and then the Borough can receive the closure report.

Ron Karasek reported that the Right-to-Know form was received by DEP and after DEP did research they have a document that is 675 pages. The price for a complete set of documentation would be \$177.76 for copy costs. We would have to let him know by May 18, 2015.

On motion by Joe Weaver to approve the cost of copies of 675 pages in the amount of \$177.76 to Pennsylvania Department of Environmental Protection for the Right-to-Know information for the property at 435 North Broadway, Wind Gap and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

NEW BUSINESS

1. Resolution to Appoint Code Official under Borough Nuisance Ordinance 2015-01.

On motion by Dave Hess to adopt Resolution 2015-01 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

2. Park Board Vacancy

On motion by David Valley to appoint Samantha Ondilla as a member of the Park Board and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

Samantha will be fulfilling Robert Holland's term. A letter will be sent to Samantha informing her of dates, times and location of the board's meeting.

3. Kerry Gassler - Land Development – Appendix 11

Kerry Gassler excused himself from his seat on Borough Council to represent himself as a property owner. Kerry petitioned Council to waive land development for a 4000 storage building on north side of his property behind NuCor Construction. It is a separate lot from Kerry's residential property. NuCor will lease the building and use it for storage. Kerry will go through Zoning with Brian and L& I for permitting.

On motion by Dave Hess to waive the land development for Kerry Gassler and seconded by Dave Valley.

Amended motion by Dave Hess to grant the request of waiver of land development for Kerry Gassler, conditioned upon a Site Plan filed, Mitigation of any Stormwater Run-off, Zoning Approval and Labor and Industry Approval and seconded by David Valley.

Roll call taken. In favor J. Weaver, T. Curcio, D. Hess, G. Hinton, and D. Valley. Abstained: K. Gassler. Motion carried with a vote of 5-0-1.

OLD BUSINESS

1. Park Master Plan

Joe Weaver reported that he contacted the references for the firm that the committee is recommending to Council. The references checked out. The committee is making recommendation to Borough Council after completing interviews with three engineering firms who submitted proposals for the Wind Gap Borough Park Master Plan.

On motion by Kerry Gassler to award Stromberg/Garrigan & Associates the contract for the Park Master Plan in the amount of \$48,000 (\$24,000 from DCNR grant funding) and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

2. Borough Buildings

Kerry Gassler asked if Council will be putting "For Sale" signs on the Borough properties since Council has fulfilled the obligation of putting the properties out for bid. Council agreed to update the signs to include for sale with the Borough office phone number.

Discussion regarding the cost of taking down the firehouse and selling the property without the building. They discussed looking at combining the properties and eliminating the alley on the property.

EXECUTIVE SESSION

Council adjourned to Executive Session at 8:40 p.m. to discuss litigation on identifiable complaints that can be filed.

Council reconvened at 9:05 p.m.

On motion by Kerry Gassler to authorize Attorney Ron Karasek to send a letter to Kimberly Guerin regarding that this is a private matter and the Borough will not be getting involved and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to adjourn the meeting of May 4, 2015. Council agreed unanimously. The meeting of May 4, 2015 adjourned at 9:06 p.m.

Louise Firestone, Borough Administrator