

**BOROUGH OF WIND GAP
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The Council meeting of the Borough of Wind Gap on Monday, November 2, 2015, 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, David Valley, Tony Curcio, Joe Weaver, Dave Hess, and Alexander Cortezzo III. Also in attendance were Mayor James Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysker and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Todd Oessenick addressed Council regarding his property of 205 N. Broadway, just below the American Legion, where his business RPD Solutions is located. Prior to owner ship, the land was rented by a used car dealer. Todd stated that he wants to put additional stone in the back, which already had crushed stone there before. Todd said that this would add an additional parking facility for any seminars that he would have for RPD and for the American Legion should they need for weekend parking. Todd is asking Council members to grant him a waiver from the planning process to allow this to be his parking area. Todd attached a picture that he downloaded from Penn State's web site from 2007 which shows the property how it was in the past. Todd said he is not looking at this as a requirement so he is attempting to see if it could be waived by Council. George Hinton questions the use of the property to verify that is strictly parking for RPD Solutions and or the American Legion. Todd stated that his use would be Monday through Friday from 9:00 am to 5:00 pm, if and when needed. The Legion would only utilize the parking area during the weekends. Brian Pysker stated that Todd contacted him and they discussed the project. Brian informed Todd that he should submit plan development based on the definitions in the ordinances. Brian said that they have been through this in the past, where waivers were granted. Brian believes that there are requirements that have to be met. Brian said he has concerns with storm water, there are pictures that show the parking lot with gravel but it hasn't been utilized in that fashion in a while but it can be worked out. Brian said that in his opinion storm water has to be addressed at a minimum to show that it will not adversely affect the adjoining property. The ordinance has specific requirement for parking facilities. Brian stated that his recommendation is not to waive it at this time. Brian said that there has to be at least a sight plan and some kind of storm water analysis. Jon Faust asked Brian what his thoughts are on stipulations as far as conditions. Brian stated that Todd's engineer would have to analyze it and demonstrate that, based on what is being proposed, it would not adversely affect the adjoining properties. Brian stated that the photo submitted by Todd definitely shows a gravel lot but the photo from 2015 shows it green so once vegetation comes in and establishes itself again it loosens up the soil and it has different infiltration properties. His major concern is in regarding the storm water and the neighboring properties. Todd said that there were always stone there that was either rolled and settled over the years and maybe the 2015 picture is showing green because of the weeds that are growing there. Todd said that it has an extremely hard surface. Brian stated that if that is the case Todd should still be able to demonstrate that. Joe Weaver questioned the storm water study. Brian said that an analysis should be done based on the conditions along with a comparative pre to post development analysis to say how much run off there is now and into what point of concentration. Brian said that what they need to demonstrate is that there isn't any more run off than what is

there now. Joe said that typically for land development an engineer would provide that study and asked Brian if it is expensive. Brian said it is part of the development and it is not a big property or a large area to analyze. Todd asked Brian if he saw a possibility of a waiver with an exception with something like that. Brian said that it is the decision of Council. Brian said that his biggest area of concern is the storm water because that is where the Borough could get into issues with adjoining properties. Brian said that if they allow this and if there is any storm water runoff problems Council would be pulled back into this because they approved it. If the Council wants to waive it they must determine what conditions, accessibility, lighting, and storm water to make sure the parking facility is safe and accessible all of which are required by ordinances.

The American Legion stated that they are at the meeting to answer any question regarding the usage from their side. The American Legion stated that they would use the parking on weekend for their over flow of cars from large events that they might have. They said that their parking lot is over 20 years old and the parking is tight due to larger vehicles. Jon Faust stated that he knows that the parking is tight and the alley way gets congested. The American Legion said the initial thought was to clean it up so they would not have anyone parking in the road. Brian stated storm water studies, lighting, accessibility, these provisions are there to protect the public. George stated that from the American Legion it is the ramp going down with no lighting. The American Legion stated that they do have a light but it is located on the top of the building. Todd stated that he also has light on the side of his building that would project back to that direction. Dave Valley asked Brian if L & I would have to get involved. Brian said that he doesn't think L & I would be involved but he would check into it. Brian said that there are federal requirement that they would have to follow. Jon asked if they would put in handicapped parking or if the handicapped parking already at the Legion would be sufficient. Todd said that he has a handicap spot on his property. Brian said that as long as they can show handicapped parking it should satisfy the federal requirements. Brian said that when you put everything on paper you can see what is needed and what has to be changed. Brian asked if the parking lot was the entire length of the property and Todd confirmed that it was pretty close. Brian said if they can demonstrate the case and if Council wants to sign off on it that that is all Todd needs. Todd asked if this required the full SALDO process. Brian said that it was up to Council unless they want to waive it. Joe said that this is the first time he has heard of this and in order for him to vote on the waiver he would have to look at the property. Joe said that he would motion to table this because of that and also because Mr. Karasek, the Borough Solicitor is not here. George agreed to table until the next workshop meeting for November 17th.

2. Senator Mario Scavello said that he is at the Council meeting to meet with everyone and to introduce himself. He said that he wanted to know if there was anything he could do for us and answer any question we might have. He said that he was here when Council was working on the new Municipal building and he is very impressed on the money that we saved the tax payers by putting this location together and how we did it. Senator Scavello spoke about the budget and the pension system.

APPROVAL OF EXPENSES

On motion by Jon Faust to approve the expenses for the month of October in the amount of \$32,013.34 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously. 7 – 0.

APPROVAL OF MINUTES

On motion by Dave Hess to approve the minutes for October 20th 2015 and seconded by David Valley. Roll call vote taken. Abstained: Alex Cortezzo Motion carried 6 – 0 - 1.

SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of October are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: N/A.

Land Development Matters: Receipt, Review and Administration of Auto Zone L.D. Plan along with related documents and Borough Engineer Review Letter (First Review).

Zoning and Other Land Use Matters: Preparation of Agreement of Sale between Borough and K. Fairchild re: Sale of 435 North Broadway (former Ambulance Building).

Receipt, Review and Administration of e-mail transmission and related documents from Borough EIT – Z.O. (B. Pysher) re: Zoning Ordinance Amendment – Accessory Use on Corner Lot with Duplex.

Receipt, Review and Administration of e-mails transmission and related documents from Borough EIT – Z.O. (B. Pysher) re: R. Bet Zoning and Permit Issue.

Receipt, Review and Administration of Correspondence from Buyers' Counsel, Agreements of Sale for 435 North Broadway and 111 North Broadway and Telephone Conversation with Buyers' Counsel.

Developments on Outstanding Litigation: Receipt, Review and Administration of Lien Search on Estate of Davey Real Estate – 61 North Lehigh Avenue.

Preparation of Proposed Order of Court for Sinkhole Remediation and Debris Removal and Comprehensive Note Correspondence to Estate Heirs and Mortgage Holders to Advise of Court Order Presentation at Motions Court on November 12, 2015.

Receipt, Review and Administration of e-mail and Responsive e-mail to Opposing Counsel re: no settlement offer in Dalmatian Fire Equipment Company vs. Wind Gap Fire Company Lawsuit.

Court Decisions on Borough Cases: N/A.

Miscellaneous:

Preparation of Monthly Solicitor's report.

Legal Research on and Preparation of Borough Resolution to Fill Vacant Elected Office – K. Gassler Resignation on Borough Council.

Review various correspondence, e-mails, prepare letter 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 Ron Karasek informed Council that he will be going to Motions Court on November 12th to submit an order to permit the Borough to clean up 61 North Lehigh Avenue. He said that when they were in Court in September the Judge suggested that the mortgage holder be advised of the fact that the Borough intends to do this job and file a lien for it. If the mortgage holders want to do this instead they are given the opportunity to do so. If no one shows an order will be entered.

Attorney Karasek said he is reviewing the existing Nuisance Ordinance to see if it can be geared into the Property Maintenance Code.

Attorney Karasek stated that he has finalized the agreement of the sale between the Borough and Mr. Fairchild regarding the sale of the Ambulance Building. He will have the documents available to circulate for signature. Attorney Karasek stated that he will have Mr. Fairchild sign the agreement and that the Borough can sign by the next workshop meeting on the 17 of November. Attorney Karasek said that the closing should take place on or before January 18, 2016. He also said that the Borough should have the closure letter DEP for the tank removal that was done.

George Hinton asked Attorney Karasek about the neighbor's house at 59 North Lehigh Avenue. Attorney Karasek said that 59 N. Lehigh has an owner therefore Brian Pysher can send a citation and the Judge would set up a hearing date. Brian stated that there are a number of properties that are on his list of things to do. Brian said he will get together with Attorney Karasek to go through the citation process. Brian stated that the Borough has gone through the enforcement notices with 59 North Lehigh so he will go into the citation process.

ENGINEER REPORT:

Brian Pysher reported that the ARLE Grant, Automated Red Light Enforcement Grant, submitted the plans to PennDot for review. Once approved they will move ahead and put together a bid package. This project should be constructed next spring.

Brian stated that Willow Grove Paving was supposed to begin paving Jefferson Street last week but due to the weather it has been pushed back to Friday, November 6, 2015. Rich Fox will notify all the neighbors and post No Parking signs on the street.

Joe Weaver, liaison for the Sewer Authority, said he is aware of what has been transpiring regarding the Broadway Sewer Project which involves bringing the sewer line down from north end of Broadway to Constitution Avenue. The Sewer Authority contacted Brian regarding a road opening permit. Brian informed them that they did not need the road opening permit, they need a zoning permit due to the fact that they are replacing the sidewalk. Brian stated that there are multiple ordinances that require a permit from the Borough. Brian said he contacted Sewer Authority and sent them the ordinances and he requested a handicapped ramp design that is required for the permit. Brian said they changed their scope of work and would only remove and replace the back three feet of sidewalk. Brian said he was invited to attend a meeting at the Sewer Authority for November 3rd. Brian stated that he has multiple hours into this project for something as simple as them filling out a permit. Joe said the Sewer Authority met last week, they do have a very capable engineer but the Sewer Authority disagree with Brian. Joe said that they believe if it is a ramp being funded with grant money then they must follow the detail specification as stated by Brian but If not funded they feel that it is not necessary. Brian said he has done hundreds of them with and without grand money and common sense will tell you that ADA requirements are federal standards which are required by everyone. Brian said we should be proactive, if the Borough is upgrading or replacing a handicapped ramp in order to limit their liability they should put it in according to the federal standards. This is what should be done to protect the Borough. Joe stated that he spoke with Brian and Board Members on this matter. Joe said they are not being argumentative there is just a difference of opinion and it should be written down somewhere. Brian stated it is a

Federal requirement and he will research for written documentation. Tony Curcio stated that the Federal requirements supersede everything. Joe said we need to demonstrate to them why required and show them something in writing. Dave Hess stated that they have an engineer that they should be in contact with, why are they spending our dollar. Joe said that we are the ones requiring it. George Hinton stated that when they put in the handicapped ramps in Bangor they were told to tear them out because they were not installed correctly. Joe stated that we should be able to show them the requirement. George said the Sewer Authority came to us to support them so they could get the grant money. Jon Faust asked Joe if they would want to assume 100 % responsibility and liability for the job. Joe said that that would be on the Borough. Joe questioned on who checks the ramps. Brian stated that it is our responsibility. Brian said that Penn Dot changed their scope of requirements. Brian said that the ramp isn't crossing a state route only a municipal route and we specified that it has to be constructed to the Federal standards. Brian said that the Sewer Authority needs to draw up a design so the contractor has enough information to accurately build the ramp. Brian stated that this is a liability issue. Brian stated that he serves at the pleasure of the Board. He has multiple hours that the Borough had to incur the costs of for something that should have been done as a matter of procedure. George said that we could simplify this by someone making a motion that we want a full sidewalk and the handicapped ramp put in properly.

On motion by Tony Curcio to have a full sidewalk and handicapped ramp put in properly and seconded by Joe Weaver. Roll call taken. Motion carried unanimously. 7 – 0.

NEW BUSINESS

1. Slate Belt Regional Police Budget – Dave Hess stated that we need to vote on the budget. The Charter required approval on November 1st and we have passed that date. Dave stated that this is a typical budget with salary, pension, and health care which are all contractual. Dave said that Plainfield and Pen Argyl have both passed the budget. Dave said this seems to be working fairly for Wind Gap due to our population. Dave said we have Giant, K-Mart and Turkey Hill where time is spent on nuisance and arguments. He said Plainfield is more rural so they do not have as many calls. George Hinton asked who the committee was that worked on the budget. Dave said that Chief Mettin met with Louise, Robin and Joyce from Plainfield. Later it was presented to Commission who voted to send it out to the Municipalities for approval. George said that one item, health care after retirement, is a concern since it is a large number that will grow and not go away. George said that we budgeted in \$460,000 last year and now we are at \$513,000 which puts us over our budget by \$60,000. George said he spoke with Chief Mettin requesting that he work on the budget and he came back with \$499,000. Dave said that if not approved it could go back to the original agreement and we would be paying more. Dave said that this is a lot of money but this is for the full year of 2016. George stated that we will have to ask our resident to raise taxes and inform them that they are going up due to this proposal. Joe Weaver questioned if Plainfield and Pen Argyl are also seeing an increase. George said that Plainfield's numbers have gone down and Pen Argyl's have increased. Mayor Shoemaker stated that if we had to pay for the State Police we would be paying more.

On motion by Dave Hess to approve the Slate Belt Regional Police Budget and seconded by Joe Weaver. Roll call vote taken. In favor: D. Valley, D. Hess, J. Weaver, A. Cortezzo. Opposed: G. Hinton, T. Curcio, J. Faust. Motion carried 4 – 3.

OLD BUSINESS

1. Wind Gap Budget – George stated that they are looking at ½ mill increase. Joe Weaver said that he does not know how some of the budget number were arrived at. Joe said that looking at the professional services for Engineering, we spent a good amount of money over the last year but we only budgeted in \$20,000 for this coming year. He asked if that was due to the work for the new Borough building, to which Louise stated yes. Alex Cortezzo questioned that amount under Economic Development. Louise stated that it is the tipping fees. Joe questioned Zoning expenses for pension contribution. Louise stated that it was for Debra, after one year of employment she is entitled to pension. Alex asked if 411.36 and 411.361 are for the utilities for the Fire House and Ambulance. Louise said yes, it is projected out for the year so if we sell the fire house and the ambulance that will change. Dave Hess asked if anything was budgeted out to help the Ambulance. Louise said no they are not in the budget. Dave said if we are going to keep funding them than we need add it to the budget. Dave wanted to know what we are doing for the Ambulance and do we need to keep funding them since they are not in the budget? He also asked if we should put money aside for them since they are here again. George asked the Ambulance how much money they currently have. They said \$16,000.00. Nathan Pysher stated that they will have their big end of the year insurance payment. Bryan Cole said that this will only help them for a short time. George said that if we work together and get a new billing company along with a few changes thing will get better. Bryan Cole stated that if the Borough is unable to budget money for Emergency Services than this is not possible, nothing against the Borough. Dave Valley asked Bryan what he advises. Bryan said that if the Borough is able to fund them it is going to cost a lot. If not they should merger with another company. Joe questioned the tax increase of ½ mill.

On motion by Dave Valley to approve the 2016 Wind Gap Budget with a .50 mill rate increase for a millage rate of 12.25, budget \$1,501,390 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously. 7 – 0.

2. Property Maintenance Code – George Hinton received information from Pen Argyll that he will send to Attorney Karasek. George said that this can discussed at the workshop meeting.

3. Bryan Cole requested to read letter that that he wrote regarding finances and company moral. Bryan said that pushing the decision off every two weeks in not good for Wind Gap Ambulance or its employees. Brian stated that he has a letter with a request to merge with Nazareth EMS. Bryan's recommendation to Council is to make a motion and vote on Nazareth to take over the Emergency Contract for Wind Gap effective January 1, 2016. George said that they are not pushing it off every two weeks. Dave Hess asked Bryan if that letter was from him, he stated it is his letter as a member of the Wind Gap Ambulance. George said that things are being looked at. George said that Bryan and Casey Zelena both approached him and asked for help and now they are saying the turn it over to another company. Bryan said it seems like they hit a brick wall. George said that all they have done is to agree to disagree, at the last meeting there was a vote 4 to 3. Nathan stated that they are only in service 65% of the time. George asked if they contacted any other Ambulance Service to cover for them when out of service. Robert Kramer said that they let the county know when out of service.

EXECUTIVE SESSION

Council adjourned to Executive Session at 8:50 p.m. to discuss real estate. Council reconvened at 9:22 p.m. Council President, George Hinton, informed those present that they received an offer on the old Fire House at 111 N. Broadway.

On motion be Joe Weaver that the property at 111 N. Broadway is for sale "As Is" and seconded by Dave Valley. Roll call taken. Motion carried unanimously. 7 – 0.

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

The meeting of November 2, 2015 adjourned at 9:24 p.m.

Louise Firestone, Borough Administrator