

**BOROUGH OF WIND GAP  
545 East West Street  
WIND GAP, PA 18091  
610-863-7288  
FAX 610-863-1011**

The Council meeting of the Borough of Wind Gap on Tuesday September 6, 2016 was called to order at 7:00 p.m. by Council President, Dave Hess, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Alex Cortezzo III, Tony Curcio, and Jeff Yob. Also in attendance were Mayor James Shoemaker, Borough Solicitor Ronold Karasek, and Borough Administrator Louise Firestone. Absent was Councilmen Jon Faust, Dave Valley, Kerry Gassler, and Borough Engineer Brian Pysher.

**PUBLIC COMMENT**

1. Mr. Robert Teel of Teels Auction came before Council to discuss auctioning 29 Mechanic Street. He said he inspected the property and is concerned about the tower. Mr. Teel said the tower seems to be some type of risk, not only to a potential buyer but also to the Borough itself. He suggested the Borough look into removing the tower to prevent any type of liability prior to the sale. Mr. Teel said that when they sell a property in Pennsylvania they sell the property "As Is". He said they also ask for the Seller's Property Disclosure. Mr. Teel said he must be truthful and forthright to people and if he knows of hazardous waste or anything detrimental to a sale, he must disclose that during the sale. He anticipates a maximum budget of \$1,000 for advertising the property, which includes an ad in the Express-Times, and inclusion on their own website announcing the property sale. Jeff Yob asked how soon the Borough could get this property listed. Attorney Karasek said we should get the contract signed and the disclosure completed to get the process moving.

**On motion** by Jeff Yob to have Attorney Karasek review the Teel contract, get approval from Council, and prepare the Seller's Disclosure and seconded by Alex Cortezzo. Roll call taken. Council agreed unanimously.

2. Maryann Getz from Fairview Avenue came before Council to bring to their attention the disrepair of Dr. Segatti's vacant house. Maryann said the shrubs and bushes are overrun, cats are lying in the windows, and the door frame is falling off the house. She said his daughter is mowing the lawn, but is not maintaining the rest of the property. Maryann also complained that the residents need more protection on Fairview Avenue. She said after midnight it sounds like some neighbors are drag racing. Dave Hess said he will pass this along to the Slate Belt Police Department.

3. Kimberly Guerin came before Council to discuss her problem with her neighbors Mr. and Mrs. Rogers at 339 N. Broadway. She said they are trespassing on her property. She said in order to have a dispute, both property owners must have a survey done and those two surveys must be different. She said if there were different surveys done, that were not identical, she would be at Northampton County Courthouse where the Judge would require a third party to survey or make a decision as to what survey was accurate. Kim said she had a survey done on her property in 2002 by Hanover Engineering and in 2006 the Borough had a survey done so they could access her property for a stormwater project. Kim said it is up to Council or Zoning to contact the Slate Belt Police Department so the vehicles could be moved off of her property. She is suing the Rogers for the damage they have done to her property. She is also working with DEP regarding the tractor trailer spill and the vehicle that is rotting away and sinking into the ground. Kim spoke with Dean Fisher of DEP, he spoke with Zoning and was informed that there is a property line dispute and therefore the owner of the property is responsible for the cleanup. She said it goes back to her because she owns

the property and it is not in dispute, the Rogers should be responsible for cleanup. Kim stated that the Borough told the Rogers to clean up the spill in May 2015, yet nothing has been done. She wants the Rogers moved off of her property. Attorney Karasek said he looked over the documentation from Kim along with the Right-to-Know records regarding the Roger's permit request for a parking turn around on what they claims to be their property. He said it is documented that the Zoning Officer could not issue a permit until the Rogers had a survey completed. Lt. Zabriskie stated that even if Zoning Officer Pysher comes back and says there is no survey and this is Kim's property, this is still a civil issue, the vehicles are not abandoned on public property, but abandoned on private property. He said he is not telling Kim not to move the vehicles but she must be sure that is her property. He said it is not something for him to determine and give her permission to do. She said she wrote letters to the Rogers telling them that they were trespassing and showed them where the property line is in between the two houses. Kim said the Rogers told her they needed a driveway and they were putting one in regardless of who owns the property. She called tow companies to have the vehicles removed, but the former Wind Gap Police told them not to tow the vehicles so they will not tow the vehicles unless the police tell them that it is okay to move them. Jeff Yob asked Kim if there were permanent concrete markers in the ground. Kim said the concrete monuments are in the ground. Lt. Zabriskie stated once again this is a civil issue, not criminal. Kim said she wants to know why Council is not enforcing anything. Attorney Karasek said Zoning Officer Pysher has to tell us what his position is on this, he is hearing that there is no action that he can take because the dispute is the property line. Dave Hess said that after the meeting he will sit with Attorney Karasek to find out what he needs to ask Brian.

#### **APPROVAL OF MINUTES**

**On motion** by Tony Curcio to approve the minutes of the August 23, 2016 Council meeting and seconded by Alex Cortezzo. Roll call taken. Council agreed unanimously.

#### **APPROVAL OF EXPENSES**

**On motion** by Tony Curcio to approve the expenses of \$67,050.87 and seconded by Jeff Yob. Roll call taken. Council agreed unanimously.

#### **SOLICITOR'S REPORT**

##### **MEETINGS ATTENDED:**

August 1, 2016 – attendance at regular monthly meeting of Borough Council.

##### **SUBDIVISION MATTERS:**

Receipt, Review and Administration of Major Subdivision Plan (Preliminary only) of Green Knights Economic Development Corp.

Receipt, review and Administration of Minor Subdivision (Preliminary and Final) of PA American Water Company.

##### **LAND DEVELOPMENT MATTERS:**

Preparation of Stormwater Facility and Access Easement Agreement re Auto Zone L.D. Plan.

Receipt, Review and Administration of Application for Modification/Waiver of Land Development re Albanese & Grimes Properties, LLC.

##### **ZONING AND OTHER LAND USE MATTERS:**

Preparation of Settlement and closing Documents and Attendance at Real Estate Settlement re Borough of Wind Gap to Albanese & Grimes Properties, LLC (Vacant Lot – Lehigh Avenue).

Preparation of Agreement to Gift Real Estate to Borough (as Donee) with Buck Run Holdings, LLC (as Donor) re 403 Lehigh Avenue.

Review of the prior e-mails and Review of 6 Easement Agreements (2 Temporary Construction Easements, 3 Utility Easements and 1 Land Preservation easement) re Water's Edge at Wind Gap (Muschlitz) L.D. Plan.

#### **DEVELOPMENTS ON OUTSTANDING LITIGATION:**

Receipt, Review and Administration of Praecepte for Discontinuance of Counterclaim re Dentith Lawsuit.

Comprehensive Status e-mail to Buyers' Attorney requesting Clarification of Easement and Borough's Right to Enter re Dentith Lawsuit.

**COURT DECISIONS ON BOROUGH CASES:** N/A

#### **MISCELLANEOUS:**

Comprehensive Enclosure Correspondence to Chief Mettin and Responsive Review Correspondence re Proposed Loitering and Panhandling Ordinance.

Several Telephone Conversations with K. Guerin with Written Memorandum to File re Boundary Dispute with Neighbor, Fuel Oil Spill, Open Records request and Related Items.

Receipt, Review and Administration of Borough's Responsive File to K. Guerin's Request for Public Records.

Telephone Conversation with Applicant's Planning Professional re DeHaven Zoning Appeal.

Attorney Karasek said that at the last meeting he indicated that he would confirm with the Attorney for the buyers of the Dentith property, that the buyers acknowledges there is an easement for the Borough to go on the property to clear or clean the easement before he discontinues the lawsuit. He said he received that confirmation on September 1, 2016, therefore he will file the paper work to discontinue the lawsuit.

Attorney Karasek said he has prepared the agreement to gift real estate between Buck Run LLC and the Borough for the lot at 403 Lehigh Avenue. He said he sent the agreement to Kevin McClure on August 30, 2016 and he is waiting to hear back regarding any changes.

Attorney Karasek said he has prepared an agreement to gift real estate from Borough to the Wind Gap Fire Company. He asked if Council wanted a copy of the draft prior to sending to the Fire Company. Attorney Karasek said the Fire Company should consider doing a title search on the property to make sure the property is free and clear, and to contact the Municipal Authority regarding any sewer issues. Attorney Karasek said he will send the agreement to Louise for distribution.

#### **NEW BUSINESS**

1. Albanese & Grimes Properties LLC – Recommendation for Grant of SALDO Waiver Requests  
Attorney Karasek said the developer, Albanese & Grimes Properties LLC, are asking if they need to submit for land development. He said Albanese & Grimes said they will do whatever land development requires, stormwater, soil erosion, grading etc. Attorney Karasek said the Planning Commission recommends a waiver of the submittal process, but not the requirements. He said Albanese & Grimes have already signed the SALDO Waiver form acknowledging that condition prior to this meeting.

**On motion** by Jeff Yob to waive the Land Development Submittal Process for the Albanese and Grimes Properties LLC project, but not the Land Development Requirements and seconded by Alex Cortezzo. Roll call taken. Council agreed unanimously.

2. Bob Cat Skid Loader Attachments – Purchase Approval
  - 84” Sweeper – \$3,834.00
  - 30C Auger Drive Unit, Bumper Kit, Mounting Frame - \$4,225.92

**On motion** by Tony Curcio to purchase the 84” Sweeper, 30C Auger Drive Unit, Bumper Kit, and Mounting Frame for the amount of \$8,059.92 and seconded by Jeff Yob. Roll call taken. Council agreed unanimously.

3. Jeff Yob said there is a meeting for the Lehigh Water Shed which is being directed by FEMA and DCED to redo the 100 year Flood Plain Delineations. Jeff suggested that the Borough have a representative in attendance at the meeting in order to gather information. Louise said will discuss with Brian Pysher because ultimately the Borough Engineer will need to provide any information to FEMA. He said there is an informational session scheduled for September 27, 2016.

**On motion** by Jeff Yob to empower Borough Engineer Brian Pysher to complete the data as required by FEMA in regards to letter dated August 29, 2016 and seconded by Alex Cortezzo. Roll call taken. Council agreed unanimously.

## **OLD BUSINESS**

1. Proposed Loitering and Panhandling Ordinance – Attorney Karasek said he was directed to draft a Loitering and Panhandling Ordinance to address the issues that are occurring in the vicinity of the K-Mart parking area. He said he sent a copy to Chief Mettin who responded that he believes the police would be able to enforce this Ordinance if all locations where this ordinance pertains to be properly and conspicuously posted. Attorney Karasek said all Ordinances are subjective, so the Borough cannot prevent someone to just gather, hang around. Attorney Karasek said if they are disturbing the peace or disturbing the public that would enable the police to come in and enforce. He said the Chief said we have to be careful about the definition of what is disturbance of the peace. Jeff Yob asked, from an operational standpoint, would it be best to have an Ordinance that would be universal through the three boundaries, the jurisdiction of the Slate Belt Police Department. Attorney Karasek said it would simplify this if Pen Argyl or Plainfield have a place where this is an issue. He said he will contact the Solicitors for Pen Argyl and Plainfield to see if they have a Panhandling and Nuisance Ordinance, and if so could we have a copy. He said if they have one we would move to the next step to see if we could do something universal.

2. Mayor Shoemaker asked all those in attendance to stand for a moment of silence in remembrance of former Mayor Tom Bavaria and former Borough worker John Case who both recently passed away.

3. Ordinances - Alex Cortezzo asked if we should direct Attorney Karasek to draft the Ordinance changes that were distributed to Council. Attorney Karasek said the Ordinances for home occupation and clear site triangle are important along with the fencing. He said he will get a copy of the draft out to Council.

4. Wind Gap Fire Department – Alex Cortezzo said he would like to have a full audit done on the Fire Company prior to gifting 111 North Broadway. He would like to make sure they are in line with everything. Alex said we are paying \$400 a month for the utilities for the Fire Department and they will increase during winter time and he would like for the Fire Company to take over bills for their building. Jeff Yob asked if the Borough has a formal lease agreement with the Fire Company because if an agreement exists, then the Borough may not be able to arbitrarily change the lease without notifying the Fire Company prior to the change. Attorney Karasek said he thinks a lease

agreement does exist, he said he remembers looking at this some time ago related to a parking lot issue. He did not put anything in this agreement that if they cannot handle this property, then the property comes back to the Borough. Jeff said that if the Fire Company should have to dissolve or re-gift the property back to the Borough for the good use of the citizens rather than selling on the open market place.

### **Public Questions and Answers**

No Public Questions were heard.

**On motion** by Tony Curcio to adjourn the meeting of September 6, 2016. Council agreed unanimously.

The meeting of September 6, 2016 adjourned at 8:13 p.m.

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Louise Firestone – Borough Administrator