

**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 October 3, 2016 was called to order at 7:00 p.m. by Council Vice President, Alex Cortezzo III, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Tony Curcio, Kerry Gassler and Dave Valley. Also in attendance were Mayor James Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher, and Borough Administrator Louise Firestone. Absent were Councilmen Jon Faust, Dave Hess, and Jeff Yob.

PUBLIC COMMENT

No Public Comments were heard.

APPROVAL OF EXPENSES

On motion by Dave Valley to approve the expenses of \$157,397.64 and seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

SOLICITOR'S REPORT

MEETINGS ATTENDED:

September 1, 2016 – attendance at regular monthly meeting of Borough Planning Commission.

September 6, 2016 – attendance at regular monthly meeting of Borough Council.

September 20, 2016 – attendance at regular workshop meeting.

SUBDIVISION MATTERS:

Preparation of Extension of Time form re Green Knights Industrial Park II – Major Subdivision.

Receipt, review and Administration of Alternate Borough Engineer review correspondence (Third Review) dated September 27, 2016 re Albanese & Grimes Properties, LLC Major Subdivision.

LAND DEVELOPMENT MATTERS:

Receipt, review and administration of Stormwater Easement Agreement, Deeds, Improvements Agreement (and related documents) re Auto Zone L. D. Plan.

Preparation of first and second draft of Improvements Agreement re Water's Edge at Wind Gap L. D. Plan.

Preparation of SALDO Waiver of Land Development re Albanese & Grimes Properties, LLC L. D. Plan.

Receipt, Review and Administration of Alternate Borough Engineer Review Correspondence (Second Review) dated September 27, 2016 re Site, Grading, Sedimentation and Erosion Control Plan re Albanese & Grimes Properties, LLC L. D. Plan.

ZONING AND OTHER LAND USE MATTERS:

Receipt, Review and Administration of Teel Auctions Agreement with Suggested Revision re 29 Mechanic Street.

Preparation of Gift Agreement from Borough to Fire Company re 111 North Broadway.

Forwarding to Borough copy of Controlling Lease Agreement between Borough and Fire Company re 111 North Broadway.

Receipt, Review and Administration of revisions from Property Owner's Attorney with Suggested Revisions to Real Estate Gift Agreement re North Lehigh Avenue.

Receipt, Review and Administration of Completed Seller's Real Estate Disclosure Statement re 29 Mechanic Street.

DEVELOPMENTS ON OUTSTANDING LITIGATION:

Receipt, Review and Administration of comprehensive correspondence from Buyer's Attorney (Confirming Borough Easement Access) and Praecipe for Discontinuance filed in the Borough of Wind Gap vs. Dentith Lawsuit.

COURT DECISIONS ON BOROUGH CASES: N/A

MISCELLANEOUS:

Preparation of Borough Planning Commission Meeting Minutes of September 1, 2016.

Receipt, Review and Administration of several Right-to-Know Requests (Borough Insurance Policy, Curb Cut/HOPS, Borough President Conversation with Borough Zoning Officer so forth) by K. Guerin and Preparation of Harassment Correspondence.

Receipt, Review and Administration of e-mail and Legal Research re Borough to Require Survey at time of Sale of Borough Property.

Preparation of Monthly Solicitor's Report.

OUTSTANDING ITEMS:

Home Occupation, Clear Site Triangle, Fences (and related) Zoning Ordinance Amendments.

Stop Signs Ordinance

Dog Park Ordinance

Fire Company Ordinance

Ordinance for reimbursement of equipment, materials and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?)

Attorney Karasek said there was significant work done within the past month with respect to the plans, including Auto Zone and several Open Records Requests that were made along with other agreements.

Attorney Karasek said Auto Zone is at the meeting to review documents that were prepared and signed so they can get their project finalized.

ENGINEER'S REPORT

Brian Pysher reported that he has been working with Muschlitz trying to resolve their issues with the Sewer Authority. He said the Sewer Authority was requesting that Muschlitz pay all of his tapping fees up front, which is a significant amount of money. Brian said they discussed doing a phasing since he is not building all units at one time. He said an agreement has been worked out and it does not affect the way the plan is approved. Brian said that Attorney Karasek has been working with the Attorney for Water's Edge to get all the executed documents in place. He said he recommended that they provide the documents for the temporary grading easements for today. Brian said they previously submitted template

documents for Attorney Karasek to review but they never executed them. Brian said he asked Mr. Muschlitz to execute the agreements and provide them to the Borough so they could take action. Attorney Karasek added that Mr. Muschlitz came to a meeting in May asking Council to allow him to begin to do the stormwater improvements only because it would be costly to post security for the infrastructure improvements. At that time, Council agreed that Mr. Muschlitz could do stormwater improvements provided a temporary stormwater easement agreement with the Borough was executed. Attorney Karasek said he reported to Council at the last meeting that it was not done, he has not received the stormwater easements agreements, protective covenant agreements, agreement with respect to the Sewer Authority and or Water Company. He said he could wait on those but he needs the Temporary Construction Easement Agreements in place for if something goes wrong. Attorney Karasek said he prepared a second draft for the Improvements Agreement but he did not hear anything from Mr. Muschlitz or his lawyer. Alex Cortezzo questioned the work that Muschlitz is doing on West Street. Brian said he moved ahead with putting stormwater improvements on West Street and along Longcore Road. Attorney Karasek said he is concerned with the work that he is doing in the Borough right-of-way, where he is installing the stormwater improvements. Brian said he will contact Mr. Muschlitz regarding executing the Agreements. Attorney Karasek said he needs to know about the Performance Security, are they posting it or not. Brian said if Council wants to put a time frame regarding the Agreements, he will inform Mr. Muschlitz.

On motion by Kerry Gassler for Mr. Muschlitz to comply by October 18, 2016 and seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

Brian said he sat down with Rich to go over street projects for this coming spring. He said Rich wants to reconstruct Center Street from Broadway to Park. Brian said at a minimum, the Borough might have to put an inlet box or two on Center Street from School Alley. He said Rich wants to get Council's permission to authorize Collura Engineering to do the design and bid specifications for the spring. Brian said a PA One Call will be done for this project.

On motion by Kerry Gassler to approve a reconstruction project on Center Street from Broadway to Park and authorize Collura Engineering to begin the necessary design work and seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

Brian reported that the Street Department will be installing the Christmas lights this year and he will make sure they are up, safe, and adequate. He said that part of the Park Master Plan will be the upgrading of the electrical in the park. Brian said it would be more economical to put the whole project together and submit as one project.

Brian said he spoke with Sam Marranca, Labor & Industry UCC Building Inspector, regarding the Park cameras. Mr. Marranca authorized the installation of the cameras where the park already has the circuits. Brian said he will contact an electrician to run the conduit up the poles to where the cameras are to be located.

NEW BUSINESS

1. Webpage Update Proposal

Louise Firestone reported that we asked John Trail, Trail Associates, who has done our website for years, to give us a proposal to update our webpage. Included in the updated would be the ability to do a Borough Wide E-mail to get information out to anyone who signs up for updates.

On motion by Kerry Gassler to approve Trail Associates to update the Borough Website at the cost of \$6000.00 and seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

2. Resolution 2016-08

Louise Firestone that Council is in receipt of a copy of the Resolution 2016-08. The Resolution is necessary to be included in a Grant application to the Monroe County Gaming Grant for a generator for this building along with exterior windows and façade for the amount of \$160,000.00. The resolution authorizes her to sign that application on behalf of the Borough.

On motion by Kerry Gassler to sign Resolution 2016-08 and seconded by Dave Valley. Roll call taken. Council agreed unanimously.

OLD BUSINESS

1. Auto Zone

Attorney Karasek said there are documents that are being submitted on behalf of Auto Zone for signature from the Borough. Fintan McHugh, Council for Auto Zone, came before Council with a check list from May 2, 2016 preliminary approval.

*Sewage Exemption approved by the Borough – DEP Letter of approval received August 9th.

*Northampton County Conservation District Approval – Letter of approval received July 19th

*Penn Dot Highway Occupancy Permit and Borough Driveway Permit – Two permits obtained on August 16th

*Compliance with Conditions set forth in the Borough's Engineer letter of May 2nd 2016. There are items that need to be discussed.

*Conditional Approval, Unification of Merger Deed – Consolidated lot for Auto Zone and Barto has been executed.

*Improvements Agreement – Not currently signed but approved by Auto Zone, last minute revisions will be sent by Fed X to Attorney Karasek.

*Park Recreation Open Space Fee - \$1250.00 for one lot, Auto Zone indicated they will pay it. Finton said he will confirm with them.

*Monuments, Pins and Markers to be set and certified in writing – Has been accomplished.

*SALDO Waivers – Were added to the plan.

*Stormwater Maintenance Agreement – To be approved by Solicitor, last minute revisions will be sent by Fed X to Attorney Karasek.

* Subdivision of the former McIntyre property to be included in Land Development – Is reflected on the plan.

Signatures and Notarizations – Are on the plan.

Attorney Karasek said with the Improvements Agreement there needs to be Performance Security that needs to be posted. Fintan said it will be a bond. He said he has a copy of their Bond Requisition Form and he will verify that the Bonding Company meets all the requirements.

Attorney Karasek said he has reviewed all the agreements and he has the original Deeds, Stormwater Facility Access Agreement, Easement with the Water Company, and the Improvements Agreement. He said the Borough would have to sign the Improvements Agreements, Stormwater Maintenance Agreement, and the Plan. Attorney Karasek said everything appears to be in order with this project. He asked Council if they could make a Motion to approve the final documents so as they come in they can be signed and taken care of without having to come back to Borough Council for each document as needed.

On motion by Tony Curcio to approve the final documents for Auto Zone seconded by Dave Valley. Roll call taken. Council agreed unanimously.

2. Proposal to remove radio tower @ 29 Mechanic Street.

On motion by Kerry Gassler to hire David E. Hohenshilt, Inc. to take down the tower at the cost of \$1886.00 and seconded by Dave Valley. Roll call taken. In favor: Kerry Gassler, Dave Valley, Tony Curcio. Opposed: Alex Cortezzo. 3 – 0 – 1.

3. Teel Auctions

Attorney Karasek said at the last meeting Mr. Teel presented, an agreement for the auction that he is going to conduct for the property at 29 Mechanic Street, Wind Gap (old Borough Municipal Building/Police Station). Council had previously discussed the contract for the auction between Mr. Teel and the Borough that includes the amount of money he is going to receive and the cost, etc. Attorney Karasek said one of the provisions that Council reviewed was to accept personnel checks which Council said they are not going to allow, Mr. Teel removed this from the agreement. Attorney Karasek said the other item was for the Borough to indemnify Teel's workers in case they get hurt during the auction, Council did not agree, Mr. Teel removed that from the agreement. He said the final item was to increase the down money from \$10,000 to \$15,000, this change was made. Attorney Karasek said all changes requested were made. He said if there are no other questions he would ask Council for a motion to approve and sign the agreement. Attorney Karasek said the sale is set for November 5, 2016 with an open house prior to sale date.

On motion by Tony Curcio to sign the Auction Agreement for Teel Auctions for 29 Mechanic Street and seconded by Kerry Gassler. Roll call taken. Council agreed unanimously.

Attorney Karasek said Mr. Teel would get 4% of the sale price along with \$1,000.00 advance for advertising costs. He said the reserve is \$100,000.00.

On motion by Tony Curcio to change the reserve, for 29 Mechanic Street, to \$102,000.00 and seconded by Dave Valley. Roll call taken. Council agreed unanimously.

Brian said that regarding 29 Mechanic Street, it would be beneficial for him to write up a zoning summary. He said there will be questions and an information sheet would answer those. Brian said it would be better coming from the Zoning Offer than a realtor/auctioneer.

4. 403 North Lehigh Avenue, to accept a Gift of this Property

Attorney Karasek said he prepared an agreement to be signed by Buck Run Holding LLC., current owners of the property. He said the agreement is a Gift Agreement, as is. He said Buck Run wants "with all faults" added to the agreement. Attorney Karasek said they want it made clear that they have no knowledge about any environmental hazard etc. and if the Borough wants to do an environmental study, they can. He said if the Borough is dissatisfied with the property they can walk away. Attorney Karasek said that added to the agreement is that the seller would pay for a survey if needed to give good title and if needed the Borough

would have to get three different surveying companies to give quotes and to go with the least expensive.

On motion by Kerry Gassler for Attorney Karasek to make the changes to the provisions and then to present to Council for signature and seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

Attorney Karasek said at the last meeting Borough Council asked him to look into a lease agreement between the Borough and the Fire Company. He said there is lease agreement which he sent to the Borough and there is also the proposed gift agreement between the Borough and the Fire Company.

PUBLIC QUESTIONS AND ANSWERS

No public question and answers were heard.

ADJOURNMENT

On motion by Tony Curcio to adjourn the meeting of October 3, 2016. Council agreed unanimously.

The meeting of October 3, 2016 adjourned at 7:48 p.m.

Louise Firestone – Borough Administrator