

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

**PUBLIC COMMENT**

1. Stromberg, Garrigan & Associates came before Council with their draft Park Master Plan Presentation. Sean Garrigan said the Borough received a Grant from DCNR to help prepare the Park Master Plan. Stromberg, Garrigan & Associates worked with committees, held public meetings, and posted a survey on the Borough Webpage. Sean said that a draft plan was distributed in August and was reviewed by the committee. Some revisions were made as a result of that meeting and the draft Plan was submitted to DCNR for their comments. Ann Toole, Toole Recreation Planning, a subcontractor on the project, said visitors to the Borough website are continuing to respond to the survey. According to responses to the survey, the residents want improvements to the playground, pathways for walking, places to walk their dogs, improvements to the restrooms, and fixing the drainage issues in the ball fields. She said the most preferred recreation opportunities are walking, use of the play grounds, socializing, use of the pavilions, and attending concerts and special events. Ann said that special events are key and draw people to Wind Gap Park. One of the best ways to self-patrol the Park, is allowing residents to walk their dogs in the Park because people who walk dogs do so no matter what the weather and they become an extension of the Police department as far as security within the Park. She said the most preferred programs are the special events, residents love the carnival, concerts, but they would also like to have programs for children. Ann said that without a park and recreation department the Borough will potentially have to look at regional partnerships to provide programs for kids. Mr. Garrigan said that as they developed the Master Plan, the key component was doing a physical analysis of what is out there, looking at the condition of the facilities, the layout, and drainage etc. The Borough has many positive aspects in the Park because it is used for a multitude of activities.

2. 145 Utica Avenue – Stefan Madzhirski asked if Council has discussed the condition of Utica Avenue and if they have come up with a solution to the problem. Stefan said the Borough put stone in the road and it creates a lot of dust. The businesses and the traffic have gotten worse. Brian Pyscher responded that as far as fixing the road, Council can continue to fill the holes with gravel or decide to pave the road. He said the only way to eliminate the dust from the gravel is to pave the road. Brian said the Borough cannot restrict traffic, it is an ordained road. Jon Faust said one small section of Utica, behind the Legion is not ordained. Stephan said the parking is still an issue but it has gotten better. Brian asked which business is causing

the parking issues. He said it is difficult to restrict parking without having any studies done. Brian said he is working on this and will revisit permits that were issued.

## **APPROVAL OF MINUTES**

**On motion** by Tony Curcio to approve the minutes of the October 18, 2016 Council meeting and seconded by Dave Valley. Roll call taken. In favor: A. Cortezzo, T. Curcio, D. Hess, D. Valley. Abstained J. Faust, J. Yob. Motion carried 4 – 0 – 2.

## **APPROVAL OF EXPENSES**

**On motion** by Tony Curcio to approve the expenses for October in the amount of \$19,195.14 and seconded by Jeff Yob. Roll call taken. Council agreed unanimously.

## **SOLICITOR'S REPORT**

### **MEETINGS ATTENDED:**

October 3, 2016 – attendance at regular monthly meeting of Borough Council.

October 6, 2016 – attendance at regular monthly meeting of Borough Planning Commission.

October 18, 2016 – attendance at regular workshop meeting.

### **SUBDIVISION MATTERS:**

Receipt, Review and Administration of File, Borough Engineer Review Correspondence and Request for Planning Non-Building Waiver re: PA American Water Company Minor Subdivision (Preliminary and Final).

### **LAND DEVELOPMENT MATTERS:**

Receipt, Review and Administration of Correspondence and Temporary Construction - Grading Easement re: Muschlitz - Water's Edge L.D. Plan.

Receipt, Review and Administration of Signed Documents (including Land Development Improvements Agreement, Stormwater Agreement, Unification and Merger Deeds, Water Company Easement Agreement and Related Documents) re: Auto Zone L.D. Plan.

Receipt, Review and Administration of several e-mails with Revisions to Improvements Bond re: Auto Zone L.D. Plan.

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

Receipt, Review and Administration of Completed Seller's Property Disclosure Statement re: 29 Mechanic Street

Preparation of Revisions to Auction Agreement (with New Auction and Open House Dates) re: Auction of 29 Mechanic Street

Preparation of Newspaper Advertising Notice re: Auction of 29 Mechanic Street

Receipt, Review and Administration of Revised and Signed Agreement of Gift Real Estate to Borough re: 403 North Lehigh Avenue

Receipt, Review and Administration of Cassidy Request for Lot Consolidation - 52 Roosevelt Street

Brief Legal Research re: Off-site Improvement (i.e. Male Road Bridge) re: Green Knights Industrial Park II Major Subdivision.

**DEVELOPMENTS ON OUTSTANDING LITIGATION:** N/A

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

### **MISCELLANEOUS:**

Preparation of Borough Planning Commission Meeting Minutes of October 6, 2016.

Preparation of Borough Planning Commission Agenda for Meeting of November 3, 2016.

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 he submitted his written report and he will be happy to answer any questions that Council might have. He said most of the things in his report are listed under new business and he will address them as we get to those items.

**ENGINEER'S REPORT**

Brian Pysner said he attended a meeting last Thursday with the Sewer Authority in conjunction with Muschlitz development. The Sewer Authority wants Mr. Muschlitz to pay \$540,000 for his tapping fees before the Authority will sign off on the project. Brian stated that if Muschlitz does not record the plan then the Sewer Authority said they will not guarantee the service for the next phases. He said Jack Muschlitz, his Attorney, Engineer and the Board Solicitor were all in attendance at the meeting. Mr. Muschlitz has made some significant changes to his Land Development plan. Brian looked at the changes and advised Mr. Muschlitz to stop the work until more information is provided to the Borough's Planning Commission and Borough Council for approval. He said the plan change includes lowering elevations. Brian said they did not discuss the age restriction. Attorney Karasek said he will check the Homeowner Association because he needs to know what they are doing. Brian said he will get in touch with Muschlitz, his Attorney and Engineer to meet with him and Attorney Karasek to go over where they stand. He said the major change that they made is adding lot lines to the townhouse units so they can sell them separately. Jeff asked if this development was approved with the intent and commitment that this be a restricted community. Brian said that is how it was presented. He said the zoning was amended adding an R – 8 multifamily use because there were only two properties in the Borough that were designated in that classification. Brian said Muschlitz presented an age restricted community so the Borough made accommodations for his project and this has always been presented as such. Attorney Karasek said there is nothing in the plan approval or other documents that say that this is age restricted. Jeff said there was some discussion on the condominium agreement that was laid out in detail as to how this community was going to be operated. He said it would be better to have Attorney Karasek review the agreement in detail now to better understand what the association is going to do for the Borough. Attorney Karasek said he will look at the agreement that was proposed and Brian can check the plans to see if there was anything put on them and they will report back to Council.

Brian said he spoke with Dave Albanese who will meet with him at the park to discuss the electrical work to be done. Dave Valley said the tree lighting ceremony will be held on Sunday, November 27, 2016. He asked Rich Fox if the lights were up at the park. Rich said the lights were put up last month.

Brian said there is questions in respect to the Sewer Authority and a manhole on 7<sup>th</sup> Street. The Sewer Authority maintains that the manholes along Seventh Street are not owned

by the Sewer Authority and questioned if the Borough ever ordained the street. The Borough provided the ordinance ordaining Seventh Street to the Authority. Brian said he believes that when they constructed Wind Gap Electric there was an agreement that the lines and the manholes were to remain private and maintained by the users of that line. The Authority believes that the Borough has ownership of the manhole and we need to fix it. Jeff Yob said there was a private lateral that goes back from North Broadway to Wind Gap Electric. He said there was the opportunity for the Sewer Authority to take this over and the owner never brought the lines up to the specifications of the Sewer Authority. He said he will do what Council wants, but he does not have any documentation or agreement regarding the manhole/sewer line. Attorney Karasek said if there is a private agreement out there. He said if not, we ordained it and maintained it we might have to fix the manhole. Brian said he will go to the old building to see if he can find any documentation. Attorney Karasek said we can ask the Sewer Authority if they have an agreement with the owner. Brian said he will research for an agreement. Jeff asked Rich if he could put blacktop over the manhole cover. Rich said that the cover does flip up so he will repair as best as he can and put a barricade over the cover. Brian said he will check with Pete Albanese to see if he has anything regarding this.

## **NEW BUSINESS**

1. Signature to the Agreement to Gift Real Estate from Buck Run Holdings tract of land at corner of North Lehigh Avenue and Alpha Road

**On motion** by Jon Faust to approve for Dave Hess to sign the agreement, to gift real estate from Buck Run Holding, as Borough Council President and Louise to sign as Borough Administrator seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

2. Request for Consolidation by Mr. & Mrs. David P. Cassidy for 52 Roosevelt – Attorney Karasek said he received a letter from Attorney Sabatine requesting that the lots that are adjacent to one another at 52 Roosevelt Street be combined into one unified parcel. He said on one property there is a single family dwelling and the other is vacant land. Attorney Karasek said the county will not agree to combine two pieces of property together unless there is an agreement and approval to do this. He said he would recommend that if Borough Council is considering this, that there be confirmation that there are no Zoning issues with this consolidation, no sewer issues, that all taxes for the parcels have been paid, and that a unification merger be prepared as part of the transaction. Attorney Karasek said that Council may want to direct him to prepare resolution to that effect and he will prepare the resolution for signature by Council at the next meeting.

**On motion** by Tony Curcio to have Attorney Karasek prepare a resolution for signature by Council and seconded by Dave Valley. Roll call taken. Council agreed unanimously.

3. PA American Water Minor Subdivision – Recommendation Not Required – Attorney Karasek said the PA American Water came in with a plan which involved property in Wind Gap, Pen Argyl and Hamilton Township. The Water Company plans on making an open space area except for the part where they have their business. He said they were looking for subdivision approval. Attorney Karasek said that after review Brian Pysher said they do not need subdivision approval from Wind Gap since the lot in Wind Gap is not being divided it is being added to the other lots. Attorney Karasek said the recommendation that was approved by the Planning Commission is that PA American Water does not need subdivision approval from the Borough of Wind Gap. Brian said the parcel in Wind Gap will not change and all parcels, except for where their reservoir in Pen Argyl, will be dedicated to open space.

**On motion** by Jeff Yob that subdivision is not required for this project in the Borough of Wind Gap and seconded by Alex Cortezzo. Roll call taken. Council agreed unanimously.

4. Property Survey – North Broadway Properties – Dave Hess asked Borough Council if they would like to authorize a survey of the two properties to bring this issue to a conclusion. Attorney Karasek said that even though this is a good idea, legally his recommendation is not to do the surveys. Council agreed that if the neighbors currently do not agree where the property line is, there is no guarantee that they will agree even if another survey is completed. Council agreed that it would be unwise for the Borough to spend money on a survey and draft an agreement for the neighbors to sign stating that this survey would be accepted by both property owners. Council expressed concern that even if the neighbors sign an agreement there is no guarantee that they will abide by the survey. Dave stated that he was suggesting a resolution because this issue continues to be ongoing for everyone involved. Dave asked if anyone wanted to make a motion. No motion was made by Borough Council. Council agreed that this is a private matter between adjoining property owners.

Dave said he would like to see if Wind Gap could come up with something where every property in the Borough be surveyed when it is sold or transfers ownership. He asked if Wind Gap as a Borough could require that. Attorney Karasek said the only way this would work is if everyone would say that we agree that this person is doing the survey and doing it correctly. Jeff said we should look at the Pennsylvania Association of Boroughs to see if any precedence has been set. Attorney Karasek said he will check to see if they have anything showing how Boroughs have acted a survey requirement.

5. Dog/Cat Resolution – 2016-09

**On motion** by Jeff Yob to adopt Resolution 2016-09 and seconded by Tony Curcio. Roll call taken. Council agreed unanimously.

6. SBCOG Animal control Program – 2016-05

**On motion** by Jeff Yob to adopt Resolution 2016-05 and seconded by Dave Valley. Roll call taken. Council agreed unanimously.

7. 29 Mechanic Street Property Offer – Dave Hess said the 29 Mechanic Street is up for auction. He said there was an offer for the property, they are willing to pay all costs to Teel Auction and they offered \$104,000.00. Dave said we did agree to auction it and there was interest at the open houses.

**On motion** by Tony Curcio to not accept the offer and have the scheduled auction and seconded by Jeff Yob. Roll call taken. Council agreed unanimously.

8. Jeff Yob asked Brian how Labor and Industry issues works with the state, does anyone doing something in the Borough have to submit plans to L&I for approval. Brian explained that in the Borough of Wind Gap any residential improvements are handled by certified third party inspector. He said Pennsylvania Department of Labor & Industry maintains a list of certified third party inspectors that a resident can choose from to review plans and issue all the necessary permits from the Uniform Construction Code. He said that even if inspections are completed by a third party inspector, the resident is still required to come to the Borough for a Zoning Permit indicating that the project is approved through the Borough's Zoning Ordinance. Brian said if it is commercial property or apartments of more than a 2 family dwelling it is a Labor & Industry matter. He said the property owner would submit plans and applications for Labor & Industry to review, permit and inspect. Brian said just like residential they still need to come to the Borough for a permit for the project they are proposing. He said the Zoning Ordinance outlines approved improvements to residential property, except for residential sheds

under 1000 square feet. Jeff asked if the property is commercial they must go to L&I. He asked if they have an option or do we choose not to give them the option, is it our choice. Brian replied that it is the Borough's choice by opting out of the uniform construction code and by opting out it gives the Borough the flexibility for residents to choose any third party inspector that they would like. Brian stated that commercial properties must go through Labor & Industry.

## **OLD BUSINESS**

1. 2017 Budget – There were preliminary discussion about the 2017 budget, but the discussions will continue at the November 22<sup>nd</sup> Council meeting.

## **PUBLIC QUESTIONS AND ANSWERS**

No public question and answers were heard.

## **ADJOURNMENT**

**On motion** by Tony Curcio to adjourn the meeting of November 7, 2016. Council agreed unanimously.

The meeting of November 7, 2016 adjourned at 8:51 p.m.

---

Louise Firestone – Borough Administrator