

**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, December 5, 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: Jon Faust, David Valley, Alex Cortezzo III, Tony Curcio, Kerry Gassler, and Jeff Yob. Also in attendance were Mayor Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysker and Borough Administrator Louise Firestone.

PUBLIC COMMENT

1. Joe DePue, property at 31 West Street, Wind Gap. Mr. DePue came before Council to ask them to waive Land Development for an addition he is proposing for the District Magistrate Court on his property at 31 West Street. He is proposing to add an addition of 10 feet by 60 feet, 600 square feet, across the north side of the building for storage. Joe said there will not be any bathrooms or parking, but the addition is specifically to be used for storage. He believes that keeping the District Court in Wind Gap is a big asset to the Borough. Brian Pysker said that as the Zoning Officer & Borough Engineer, Collura Engineering prepared the site plan and he would prefer to recuse himself from discussions regarding this property. The only comment he would like to make from a zoning standpoint is if a waiver is granted, it has to be conditioned upon approval of a variance because what is being proposed does need a variance. Attorney Karasek stated that under the Planning code any SALDO waiver has to be in writing so he requested that Mr. DePue submit Appendix 11, Waiver Request of SALDO, with a map attached to the request, then Council can determine whether to act upon the request. Once the completed waiver request is submitted, it can be distributed, review by Council and discussed at the next workshop meeting on December 20, 2016.

APPROVAL OF MINUTES

On motion by Tony Curcio approve the minutes of November 22, 2016 and seconded by Dave Valley. Roll call vote taken. In favor – A Cortezzo, T. Curcio, D. Hess, D. Valley, J. Yob. Abstained – J. Faust, K. Gassler. Motion carried 5 – 0 – 2.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses of \$41,019.863 for the month of November and seconded by Tony Curcio. Roll call vote taken. Council agreed unanimously.

SOLICITOR'S REPORT

MEETINGS ATTENDED:

November 3, 2016 – attendance at regular monthly meeting of Borough Planning Commission.
November 7, 2016 – attendance at regular monthly meeting of Borough Council.

SUBDIVISION MATTERS:

Brief Legal Research on Ability of Borough to Require Off-Site Improvements re: Green Knights Industrial Park II Major Subdivision Plan (Preliminary)

Receipt, Review and Administration of Comprehensive Borough Engineer Review Letter (9 pages with 61 comments) re: Green Knights Industrial Park II Major Subdivision (Preliminary).

LAND DEVELOPMENT MATTERS:

Receipt, Review and Administration of e-mail transmission confirming original Bond and Status of Signed Documents re: Auto Zone L.D. Plan.

Brief Review of Declaration of Covenants and Restrictions, Public Offering Statement and ByLaws of Water's Edge L.D. Plan.

ZONING AND OTHER LAND USE MATTERS:

Preparation of Final Draft of Newspaper Advertising Notice with e-mail transmission to Newspaper; e-mail transmission to Borough Secretary attaching fully executed Auctioneer's Agreement; Preparation of Proposed Agreement of Sale; Final Review of Terms and Conditions of Public Auction and Attendance at Auction of 29 Mechanic Street.

Receipt, Review and Administration of Correspondence from Applicant's Attorney and Computer Search for Tax and Property Documents re: Cassidy Lot Consolidation Request – 52 Roosevelt Street.

Receipt, Review and Administration of Title Report re: 403 North Lehigh Avenue.

Receipt, Review and Administration of File and Computer Check of Northampton County Tax Parcel Website and Preparation of Comprehensive Status Memorandum to Borough re: Status of Adjoining Garage on 29 Mechanic Street Property.

Receipt, Review and Administration from Borough Administration of Survey of 29 Mechanic Street.

Receipt, Review and Administration of Fully Executed Agreement to Gift Real Estate, copy of Proposed Deed with Corrections Suggested by Borough Solicitor re: Gift of 403 North Lehigh Avenue.

DEVELOPMENTS ON OUTSTANDING LITIGATION: N/A

COURT DECISIONS ON BOROUGH CASES: N/A

MISCELLANEOUS:

Telephone Conference with K. Guerin re: Purported Rogers' Survey and Right-to-Know Request to Borough for Copy of that Survey.

Preparation of Advertising Notice, e-mails to Newspaper and Borough and Correspondence to Law Library and related items re: Proposed Borough Ordinance No. 491 – 2017 Real Estate Tax Millage.

Preparation of Borough Planning Commission Meeting Minutes for 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 reviewed the by-laws for Mr. Muschlitz's development, Water's Edge, and he does not see anything in writing confirming that this will be a 55 and older community. Attorney Karasek is requesting a meeting with all interested parties: the developer, his attorney, the Wind Gap Sewer Authority, the Borough Engineer, to discuss the Authority requirements for this development. He mentioned the age requirement of 55 and older and Mr. Muschlitz's lawyer did not comment. Brian Pysher added that during the Zoning Hearing Board meeting when the developer requested multiple variances, the age restriction may have been discussed. Brian will review the Zoning Hearing Board discussion which may include Mr. Muschlitz testifying to that fact at meeting. He said that Mr.

Muschlitz wanted him to review the plans and give the go ahead to continue with the project. Brian agrees that a meeting should be held to have any and all questions answered.

Attorney Karasek said he should be receiving a deed from the donor's attorney for 403 North Lehigh Avenue. When he receives the deed he will complete a quick settlement sheet to see if the Borough owes the donor any money.

Dave Hess said everyone should be aware of the situation of Kim Guerin and her requests which are continuing. Attorney Karasek said he returns her calls and he assists the Borough with recent requests, as received.

Attorney Karasek said the Ordinance for the new tax rate will be ready to adopt at the December 20th meeting and will be advertised tomorrow.

ENGINEER'S REPORT

Brian Pysher said there has been progress on the ARLE Grant. PennDOT sent us electronic copies along with the signal specifications for our records. He said in the expenses, submitted to Council, there are bills for the ARLE Grant. Brian said we contracted, through Robert Collura Engineering, with Traffic Planning and Design to prepare documents for the Borough. The bill includes some of Brian Pysher's time for the correspondence along with an invoice for construction and specifications. We did receive a one year extension due to the issues coordinating with the Route 33 PennDOT project that delayed it. Hopefully we will be out to bid for the traffic light portion of the project in the next few months with construction starting in the spring.

Brian said the other bill finalized all of our reviews for Auto Zone and there was a bill for Green Knights Industrial Park.

NEW BUSINESS

1. PA American Water Planning Waiver & Non Building Declaration – Brian Pysher said they are consolidating or sub-dividing their lots up on the mountain. The area of land in Wind Gap Borough remains the same as it was in pre and post subdivision. PennDOT required a form which is a Non-Building Declaration which states there is no development proposed and therefore there is no testing being done in the future, if development is proposed in the future than testing has to be done. They want the Borough to sign off and keep it in our records. It requires the Planning Commission to sign off on it but Brian explained that Planning did not make a recommendation on it. He said he was informed to write that in and we can have Louise sign and keep in file.

On motion by Kerry Gassler to authorize Louise Firestone to sign the document seconded by Tony Curcio. Roll call vote taken. Council agreed unanimously.

2. Subdivision at 29 Mechanic Street & Borough Garage Appraisal – Brian said that a survey was completed last Friday with additional field work completed for the southern lots. He said they established where the property lines are and the amount of impervious cover to determine if a subdivision is done on the property can it be kept as an existing non-conformity lot. If we want to move ahead with the subdivision, from a Zoning standpoint, everything is okay. He said Council can put together a subdivision plan that does not need any zoning relief. The plan must go through the procedure of submitting to the Planning Commission and ultimately to Council for approval, if that is how Council decides that is how they want to proceed. Brian said the potential buyers expressed interest in purchasing the Borough garage also.

Dave Hess said he would like to start a plan B in case the subdivision does not get passed by Council, he would like to have an appraisal done on the Borough Garage. He said he didn't think we could sell it to one person and asked Attorney Karasek if we would have to advertise. Attorney Karasek said the Borough would have to advertise the property for sale or go through the public auction process.

Brian said regarding a new garage, we would do something similar to the salt shed, which went up in three weeks, but this will require water, heat, and electric. He said we would need the current Borough Garage until we had a place to move everything.

On motion by Jeff Yob to reject the bid and re-advertise with a two car garage with a minimum bid of \$110,000 and seconded by Kerry Gassler. Roll call taken. In favor – K. Gassler, J. Yob, T. Curcio. Opposed – D. Hess, D. Valley, A. Cortezzo, J. Faust. Motion did not pass 3 – 4.

On motion by Dave Valley to proceed with the subdivision and accept the bid of \$104,000 plus auctioneer fees and seconded by Tony Curcio. Roll call taken. In favor – D. Hess, D. Valley, A. Cortezzo, T. Curcio, J. Faust. Opposed – J. Yob, K. Gassler. Motion carried 5 – 0 – 2.

On motion by Jon Faust to get the Borough garage at 125 Water Street appraised and seconded by Alex Cortezzo.

Amended motion by Jon Faust to include getting three quotes from appraisers for the Borough garage at 125 Water Street and seconded by Alex Cortezzo. Roll call vote taken. Council agreed unanimously.

Kerry believes there is an agreement that one parking spot has to be maintained at 29 Mechanic Street for the New You Beauty Salon on Broadway. He said it was a Zoning Condition that was granted by the Borough. Brian said his letter to the prospective buyer stated that the parking lot located on the east side of the parking lot must make at least two parking spaces available, at all times, for the businesses along Broadway. This was agreed to by the Borough and shall remain as a covenant encumbering the property. Brian said he wrote this to clarify the question regarding the property. Kerry stated that this condition would have to be in the agreement of sale. Attorney Karasek said he would like to see the documentation for this condition. Brian said he will research the files and forward the documentation to Attorney Karasek.

OLD BUSINESS

1. Zoning Ordinances - Attorney Karasek said he is working on the changes to the Zoning Ordinance.

2. Park master Plan – Louise said the consultant was under the impression that they did not have to submit to US Wildlife or DCNR a PNDI report because there is nothing constructed in the wetlands. The response from DCNR is yes they do have to submit even though it is a non-issue. DCNR required that the Borough request a letter from US Wildlife stating that they are okay with the Plan since there is no disturbance to the wetlands. The Borough had to request an extension because the grant for the Master Plan expires December 31, 2016. The extension request went out today. Louise said this will not change anything, the Master Plan is complete.

QUESTIONS & COMMENTS

There were no questions at this time.

On motion by Tony Curcio to adjourn the meeting of December 5, 2016. Council agreed unanimously.

The meeting of December 5, 2016 adjourned at 8:00 p.m.

Louise Firestone, Borough Administrator