

**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, February 6, 2017, 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: David Valley, Alex Cortezzo III, Tony Curcio, and Kerry Gassler. Also in attendance were Mayor Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysner and Borough Administrator Louise Firestone. Absent was Councilmen Jon Faust and Jeff Yob.

PUBLIC COMMENT

1. John Donofrio, Mass Mutual – John Donofrio, is a Financial Advisor with Mass Mutual that handles all investment and financial services for Merchants Bank. Mr. Donofrio provided Council with a handout showing a portfolio snapshot of what the Borough currently has in Merchants Bank. He is proposing ways to generate more yield on the Borough's existing savings. Mass Mutual compiled a portfolio that would allow the Borough to stagger investments in terms of some fixed income type instruments that are all compliant with Act 72. In the portfolio is a proposal of consolidated holdings that could help generate a little bit of extra yield. He said the weighted average yield to maturity on the holdings would be about 2.29 %. Mr. Donofrio explained individual fixed income vehicles that they would be beneficial to the Borough in terms of the rate of return.

2. Blue Mountain Community Library – Judy Piper, Treasurer and Valerie Viglione, President came before Council with a summary of their 2016 report. They feel it is important to come before the Municipalities because the elected officials represent the Borough and the Library serves our residents. They thanked Council for all the support and financial aid that the Borough has provided to them over the past year. Judy said their Board Members, volunteers, and hours of operation remained the same. The Library was open for 493 shifts, closed 15 for holidays and 10 for weather. The collection contains over 20,000 items, 921 new items were added this past year. Membership continues to be free for resident of the Pen Argyl School District. All other membership is \$12.00 per year. They currently have 6,297 members of which 1,167 are from Wind Gap. They have several programs that they run and participate in during the year. Their fundraisers throughout the year brought in \$5,600 and they continue to process Weis Market receipts. Improvements to the building during 2016 consisted of painting the first floor, installing heat tape in the gutters on the walkways, updating lighting fixtures, and some landscaping in the parking lot area.

3. Dave Shields, KeyCodes Inspection Agency – Dave Shields said he was invited to the Council meeting because the Borough is considering opting back into enforcing the Uniform Construction Code (UCC). He said 95 % of their work is in Lehigh and Northampton Counties. They serve Roseto, Plainfield, Forks, Williams Township, and others in Lehigh Township. He encourages Council to check their references. He said Key Codes will provide the Borough with the services including Building Code Official. All they do is code enforcement, they do not do any engineering nor are they a construction company. Residents would drop off applications and plans which would be reviewed, determined to be code compliant, approved and brought

back to the Borough office, including the cost for the permit and Borough fees to be collected. The Borough will not lose any money choosing this service. Key Codes also provided status reports that will keep us informed as to what they are doing in the Borough. If they act as our Building Code Official they have the ability to take care of all the records. Quarterly, they must report to Labor & Industry with all the permits for building and construction that have been issued. If we do opt in they can help us with that process. They have a sample ordinance that has recently been approved by Labor & Industry which we could modify for our needs. Opting in will give us more control over what is going on in the Borough, when you opt out it is the responsibility of the owner to secure the permit for alterations from a third party agency. They can customize their services and can provide backup. They also do fire inspections, complaints regarding property maintenance codes and zoning. He is available for any questions that Council might have.

APPROVAL OF MINUTES

On motion by Alex Cortezzo to approve the minutes of January 17, 2017 and seconded by Dave Valley. Roll call vote taken. Council agreed unanimously.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses of \$26,079.84 for the month of January 2017 and seconded by Tony Curcio. Roll call vote taken. Council agreed unanimously.

SOLICITOR'S REPORT

MEETINGS ATTENDED:

January 3, 2017 – attendance at regular monthly meeting of Borough Council
January 5, 2017 - attendance at regular monthly meeting of Planning Commission
January 17, 2017 - attendance at unscheduled meeting at Wind Gap Municipal Authority
Plant re: Water's Edge (West Street) L.D. Plan
January 17, 2017 - attendance at regular workshop meeting of Borough Council

SUBDIVISION MATTERS:

Receipt, Review and Administration of Minor Subdivision Plan for 29 Mechanic Street and 125 Water Street.

LAND DEVELOPMENT MATTERS:

Review of File, Meeting Minutes, Zoning Hearing Board Transcript of Testimony, Zoning Hearing Board Decisions (2010 and 2014) and Related Documents as to a 55/Older Adult Community re: Water's Edge (West Street) L.D. Plan.

ZONING AND OTHER LAND USE MATTERS:

Preparation of Enclosure to Borough with Settlement Documents re: Gift of Property 403 North Lehigh Avenue.

Preparation of Northampton County Application for Real Estate Tax Exemption and Filing at Courthouse re: 403 North Lehigh Avenue.

Preliminary Review of Real Estate Appraisal for 125 Water Street

Preliminary Review of Intermunicipal Cooperative or Shared Services Agreement for Road Maintenance with Plainfield Township.

Preparation of Comprehensive Status Correspondence to Buyer's Attorney regarding Sewer Lateral, Generator and Related Issues re: Auction of 29 Mechanic Street.

Receipt, Review and Administration of Correspondence from Buyer's Attorney
Withdrawing Offer and Requesting Refund of Down Deposit and Enclosure Correspondence to
Borough re: Auction 29 Mechanic Street

Receipt, Review and Administration of Official Action Correspondence from Borough
Zoning Officer B. Pysher re: Applicability Prior Variances to Water's Edge (West Street) L.D.
Revised Non-55/Older Adult Plan.

Receipt, Review and Administration of Application (including Plan, Tax Map, Zoning
District Requirements and Related Documents) re: Weeast Development Plan - Two Options.

Preparation of Comprehensive Planning Commission Recommendation
Correspondence re: Weeast Option 2 Plan.

DEVELOPMENTS ON OUTSTANDING LITIGATION: N/A

COURT DECISIONS ON BOROUGH CASES: N/A

MISCELLANEOUS:

Review of Past Files, Ordinances and Uniform Construction Code re: Opt-In and Opt-
Out of UCC Administration.

Preparation of Borough Planning Commission Meeting Minutes of January 5, 2017

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

Attorney Karasek said he has prepared two memos, one for the Intermunicipal
Agreement with Plainfield for road service and one for the Use of Occupancy Lease with the
Slate Belt Regional Police Department. He asked Council to look at them so they can discuss
at the workshop meeting.

ENGINEER'S REPORT:

Brian Pysher reported on the Water's Edge/ Muschlitz development on West Street. He
drafted a zoning review letter dated January 23, 2017, stating that it is his opinion as the Wind
Gap Borough Zoning Officer, that the variances granted in 2010 are null and void because the
Home Owners Association and the plans do not clearly state the restrictions regarding an age
restricted community. That letter is based on testimony from the transcripts of the February 3,
2010 Zoning Hearing Board meeting. He feels strongly that the Zoning Hearing Board's
decisions were made based on the fact that this was an age restricted community. He
explained to Council that it basically requires the developer to either revise the plan so it is
specifically restricted to 55 older and incorporated into the home owner's agreement or they will
have to reapply for variances. Mr. Muschlitz's attorney did contact Brian requesting a copy of
the transcripts and which were provided to him. Brian reported that from a Borough Zoning
standpoint, this project is currently not moving forward. Attorney Karasek said the Borough
should be aware that Mr. Muschlitz did file a revised plan without age restriction. Mr. Karasek
explained that the Borough has 90 days to act on that plan by either accepting or rejecting it. If
the plan is not acted upon by April 5, 2017 the plan will have a deemed approval. If the
Borough does not hear anything, if nothing is filed for Planning Commission to address at its
March meeting, then this plan will need to be placed on the Council agenda. Hopefully the
Engineer will have given Council an update letter as to why the plan does not meet the
requirements, so Council can use that letter as the basis for the official action correspondence
to deny the plan.

Brian received a phone call today regarding 157 Utica Avenue and current living conditions of the house. There are issues with people living in squalor specifically reports of animals, animal feces, etc. The Assistant Fire Chief contacted the office regarding condemning the property. Attorney Karasek explained that documentation has to be completed such as taking pictures of the property and writing a report. Brian said the Borough needs to give direction as to how to proceed and what they want to do. Attorney Karasek said that if Council wants to take action they would authorize Brian, the Borough Engineer, to inspect the property, take photographs and/or video records, and do any testing that would be needed, water, etc. Brian would make a report and bring it to Council so they can decide how to proceed. Attorney Karasek said the Nuisance Ordinance enables Council to allow him to go to court and file an injunction to get the property cleaned up or have the residents move out. He added that if the Borough had a property maintenance code then the property could be condemned. Fire Chief Allen Predmore said the resident had to be removed from the house due to a medical condition. Chief Predmore described the condition of the interior of the residence and the condition of the resident. Brian said the Nuisance Ordinance deals with the exterior and maintaining the property. Attorney Karasek suggested looking at the Ordinance to see if there is language in the ordinance that would enable the Borough to do something with respect to the inside. The Borough always has the right, under the Public Nuisance Laws to control or abate a public nuisance. Brian will coordinate with the Fire Department to get in the building and report back to Council.

Brian reported that there have been ongoing discussions with PennDOT regarding paperwork related to the ARLE Grant. Traffic Planning and Design has prepared bid specifications which PennDOT has to review and approve prior to the project being put out to bid. PennDOT has multiple comments on the bid documents. PennDOT Attorneys have issues with their agreement which has to be revised, signed and sent back in order to extend the original grant award for one year. Once the bid specifications are approved the project will be advertised and awarded.

Brian said we are going to start work on Center Street. He said the Borough should consider doing street repairs through the Vito development. Brian asked Rich to contact the utility companies and see if there is anything in Center Street that they may want to replace while construction is occurring.

Brian said he received the proposal from SuperHeat for the garage heater. We have been having problems with the unit and Super Heat fixed the unit several times this year. They spoke about upgrading the existing system, but in the appraisal SuperHeat commented that it is not cost effective to fix the existing unit. The numbers for a new unit are above the threshold set for requiring three telephonic bids so it must follow the required public advertising and award process. Dave added that the system failed several times this winter and one of them is why we ran out of propane.

On motion by Kerry Gassler to put a bid spec together and bids for the heater in the garage and seconded by Tony Curcio. Roll call vote taken. Council agreed unanimously.

Brian suggested that the Borough consider making the installation of the Knox Box system a priority. Discussions should take place with the Fire Chief regarding the institution of Knox Box system so the Fire Company can access the fire alarm system in the Municipal Building in the event of a false alarm they could just reset it.

NEW BUSINESS:

1. Municipal Complex Garage Floor – Dave Hess said the coating of the garage floor is coming up in several places and cracking in others. The company that installed the covering on

the floor is no longer in business. We had another company in to look at it and the reason it is coming up is the appropriate steps to install the floor were not complete. Brian said that according to the contractors there is moisture coming up from the concrete slab. The previous contractor gave the Borough a proposal to put down a water resistant primer coat but apparently they never installed it. The company proposed one way to install the floor, but installed it a different way. Dave said we received a quote of \$80,000 to re-install the garage floor properly. Council agreed that nothing will be done at this time, but we will deal with it when we have to.

2. Community Yard Sale - **On motion** by Kerry Gassler for the Community Yard Sale to be held on July 7th, 8th and 9th, 2017 and seconded by Tony Curcio. Roll call vote taken. Council agreed unanimously.

3. Borough Monthly Newsletter - **On motion** by Dave Valley to end the publication and distribution of our current monthly newsletter and have our newsletter professionally published and distributed to all residents twice a year and seconded by Kerry Gassler. Roll call vote taken. Council agreed unanimously.

OLD BUSINESS:

1. Fire Company Social Hall Project Update – Randy George came before Council with updates regarding the proposed Fire Company social hall. He said the Fire Company Building Committee met with Mr. Pysher, who has been helping them with the placement of the new hall and everything that has to be done. They received estimates for the kitchen and appliances. He said this is something they do not want to rush into, but they want to do it right including the financial portion. He said financially they looked at all kinds of numbers and they feel comfortable that the revenue from the Small Games of Chance can cover the majority of the financial obligation with the remaining coming from revenue for Hall rental. The Fire Company is very lucky that they have a good Auxiliary, they are paying for the whole kitchen. They are currently working with NuCor Management and are hoping to break ground and have the project completed this year. Randy said any input from Borough Council will be greatly appreciated. Kerry asked Attorney Karasek if they have to go out to bid for this project. Attorney Karasek said he will check since the property is still owned by the Borough. Kerry asked that the Fire Company keep Council informed of the progress of the project.

2. Opt In/Opt Out Uniform construction code – Code Official – nothing further was discussed.

3. Borough Property 29 Mechanic / 125 Water Street- Attorney Karasek said he received a letter from the Xiradakis' attorney, they rescinded their offer. They have requested that their down payment be returned. Council can decide how they want to sell 29 Mechanic Street and 125 Water Street, together or separate. Kerry said we should sell both properties together. Dave said we have to get serious and get plans together for a new road garage on our Municipal Complex grounds.

On motion by Alex Cortezzo to refund the Xiradakis their down payment for 29 Mechanic Street and seconded by Dave Valley. Roll call vote taken. Council agreed unanimously.

On motion by Kerry Gassler to direct Brian Pysher, the Borough Engineer to meet with the Rich Fox and the Committee to start drawing up plans for a new Street Garage and seconded by Alex Cortezzo. Roll call vote taken. Council agreed unanimously.

PUBLIC QUESTIONS AND ANSWERS

No public question and answers were heard.

ADJOURNMENT

On motion by Tony Curcio to adjourn the meeting of February 6, 2017. Council agreed unanimously.

The meeting of February 6, 2017 adjourned at 8:20 p.m.

Louise Firestone – Borough Administrator