

**BOROUGH OF WIND GAP  
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The Council meeting of the Borough of Wind Gap on Monday, November 2, 2020 was called to order at 7:00 p.m. by Council President Dave Hess, through Zoom Video Conferencing. Louise Firestone informed everyone that the meeting was being recorded.

A verbal roll call was taken by Borough Manager Louise Firestone – participating via Zoom computer link or Zoom phone link were Council members: Steve Bender, George Hinton, Dave Manzo, Joyce McGarry, Mike McNamara, and Jeff Yob. Also participating were Mayor Mitchell D. Mogilski Sr., Borough Solicitor Ronald Karasek, Borough Engineer Brian Pysker, and Borough Manager Louise Firestone.

**PUBLIC COMMENT**

1. Matt Silvius, 24 South Lehigh Avenue asked Council for a status report of a new or updated ordinance regarding noise and vibration control. Dave Hess said there is nothing to report at this time, the committee is looking into the Property Maintenance and other ordinances.

2. Joe Correia with J. G. Petrucci Company, came before Council regarding their Male Road application under JERC Partners. At the previous Wind Gap Municipal Authority (WGMA) meeting, JERC submitted a part two sewer amendment application, but it was not approved and signed by the WGMA because Council representatives expressed concern for the project, specifically related to the emergency access easement. Mr. Correia did speak with Councilman Hinton last week and informed him that the developer is re-engaging the 512 access. The professionals from JERC Partners heard loud and clear that emergency access off of Route 512 is the preferred method by Borough officials. The reason that the Borough has not heard from the developer for the past few months is because they have been continuing to work on the access easement with the property owner and have submitted an application to PennDOT and are currently working through that process. George Hinton asked Mr. Correia if Green Knight Economic has the pumping station constructed and when is it supposed to be done and in place. Joe Correia said that it is his understanding that the pumping station has all been completed. They received the sewer permit from DEP and since their flow will go into that pumping station, they have to amend the existing approval. This is why they are going through this second round of process application now. His understanding is that all the infrastructure improvements, gas line, water line, sewer and pumping station, have all been installed on the Green Knight Property. George asked Brian Pysker if the pumping station is completed. Brian Pysker said to his knowledge they installed all of their gravity lines to that pumping station, installed the force main out to Giant Plaza and the last portion that they did was the boring under the bridge to the manhole. Dave Manzo said the Sewer Authority was going to sign off on something and his response was that they could not sign off on it because JERC had not made another presentation in front the Planning Commission. George asked Joe what approval they were requesting. Joe said this permit with DEP is the last piece of the sewer approval that they need which could be a 90 to 100-day process to obtain that approval. Attorney Karasek said that if the developer is asking for the Borough to allow the application to be submitted then Council should consider this part of the condition in respect to the permit so they can get

started. Mr. Correia stated that developer's sole focus is to bring this project to fruition and they have zero intent of coming back to the Planning Commission or the Borough to ask for alternate access. Mr. Correia respectfully requested that Borough Council take action and communicate to the WGMA because they will not proceed without approval from Borough Council.

**On motion** by George Hinton to approve and authorize the Wind Gap Municipal Authority to sign off on Part II of the application to DEP on the condition that all the work is done on Green Knight Economic Development's property, which includes the pumping station and all the associated issues with that pumping station as far as who owns it and who is going to maintain it and seconded by Dave Manzo. Roll call vote taken. Council agreed unanimously.

## **APPROVAL OF MINUTES**

**On motion** by Mike McNamara to approve the October 20, 2020 minutes and seconded by Dave Manzo. Roll call vote taken. Council agreed unanimously.

## **APPROVAL OF EXPENSES**

**On motion** by George Hinton to approve the expenses for October 2020 in the amount of \$25,424.50 and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

**On motion** by Jeff Yob to approve Nu Cor Management pay request 19300.8 for the Maintenance Garage in the amount of \$42,300.00 and seconded by D Manzo. Roll call vote taken. Council agreed unanimously.

**On motion** by Jeff Yob to approve NuCor Management – Application No. 19300.9 for the Maintenance Garage in the amount of \$85,500.00 and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

**On motion** by Mike McNamara to approve K. C. Mechanical – Application No. 4 for the Maintenance Garage in the amount of \$69,772.50 and seconded by Dave Manzo. Roll call vote taken. In favor: M. McNamara, J. Yob, S. Bender, D. Hess, D. Manzo. Opposed: G. Hinton, J. McGarry. Motion carried 5-2.

**On motion** by Jeff Yob to approve Wind Gap Electric – Application No. 4 for the Maintenance Garage in the amount of \$28,260.00 and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

**On motion** by Jeff Yob to approve The Warko Group – Application No. 2 for the Maintenance Garage in the amount of \$50,882.40 and seconded by Mike McNamara. Roll call vote taken. Council agreed unanimously.

**On motion** by Jeff Yob to approve The Warko Group – Application No. 3 for the Maintenance Garage in the amount of \$4,783.27 and seconded by Mike McNamara. Roll call vote taken. In favor: D. Hess, D. Manzo, J. McGarry, M. McNamara, J. Yob, S. Bender. Opposed: G. Hinton. Motion carried: 6-1.

**SOLICITOR'S REPORT**

**MEETINGS ATTENDED:**

October 5, 2020 – Attendance at regular monthly meeting of Borough Council via ZOOM.

October 20, 2020 - Attendance at special mid-month meeting of Borough Council via ZOOM.

**SUBDIVISION MATTERS:**

Receipt, Review and Administration of File, Signed Conditional Preliminary/Final Plan Approval Form, and Preparation of Official Action Correspondence Approving Plan re Detzi Preliminary/Final Minor Subdivision .

**LAND DEVELOPMENT MATTERS:**

Receipt, Review and Administration of File and Zoning Officer's Review Correspondence and pending SALDO Waiver Request re ScoreCard Bar and Grill - Patio-Deck.

Receipt, Review and Administration of File and Preparation of Official Action Correspondence Denying Plan re Bio\Spectra/RX Holdings L.D. Plan.

Receipt, Review and Administration of signed Easement Agreement and Correspondence to Applicant's Attorney enclosing Easement Agreement re Dream Lehigh Valley, LLC,

Receipt, Review and Administration of e-mail requesting Tabling at Planning Commission Meeting re JERC LD Plan.

**ZONING AND OTHER LAND USE MATTERS:**

Receipt, Review and Administration of Comprehensive e-mail from School District Solicitor, Applicant's Attorney re Keenhold Real Estate Tax Assessment Issues.

Legal Research under Borough Zoning Ordinance and Zoning Law re Silvius Noise and Vibrations.

**DEVELOPMENTS ON OUTSTANDING LITIGATION:** None

**COURT DECISIONS ON BOROUGH CASES:** None

**MISCELLANEOUS:**

Computer Search for Corporation and IRS Code Section 501(c)(3).

Telephone Conference with Borough Manager and Receipt, Review and Administration of Packet re Troy Dailey Pension Request.

Preparation of Monthly Solicitor's Report.

**OUTSTANDING ITEMS:**

Stop Sign Ordinance

Dog Park Ordinance

Attorney Karasek reported that he did follow up with respect to the Wind Gap Area Athletic Association and confirmed that they are a corporation, non-profit, non-stock corporation that was created on December 2, 1998. The address for the corporation is 1017 Mountain Avenue, Pen Argyl. He has sent for documentation with respect to the Articles of Incorporation and any other related documents. With respect to the 501C3 status, that status was revoked as of May 15, 2016. He believes this information is accurate. We do have an EIN number which references P.O. Box 49, Wind Gap, PA.

Attorney Karasek reported that last week we also received a packet of information with respect to former police officer, Mr. Dailey. The requested information included confirmation the police pension benefits had the option of a participant receiving a lump sum pension payout early, and if there is a survivor benefit that could go to his daughter, not a surviving spouse. Typically, this information would go through the Pension Administration. Attorney Karasek has not yet responded because he does not have enough information about all the police pension

benefits such as if he is entitled to an early benefit. According to the information the Borough has, Mr. Dailey is not entitled to a benefit until 2023. There is no survivor benefit for a daughter.

Attorney Karasek reported that he did follow-up with Mr. & Mrs. Silvius' comments to double check the noise control and vibration control ordinance.

## **ENGINEER'S REPORT**

Brian Pysker reported that a meeting was held this morning on site in the maintenance garage, to go over the issues with the mechanical room. Basically, the mechanical room was designed too small, so the discussion was the most practical and economical way to fix this situation which is to sacrifice the file room in order to relocate the expansion tank and compressor. Even with eliminating the expansion tank and the compressor from the mechanical room there still is not enough room without the hot water heater and piping being moved. There will be a change order coming from the Warko Group relating to relocating the hot water heater and possibly include the re-routing of the compressor. We have a solution and will get the change orders from the plumber.

Regarding the electric service for the building, we were scheduled to have Met Ed come out this afternoon to make our service live. Wind Gap Electric pulled the wires out to the pole on Friday in preparation for the hook-up. Met Ed gave notice that they would not be there because the high winds caused extensive power outages that they have to fix. Met-Ed hopes to re-schedule for the end of the week

The doors are on the Maintenance Garage and the building is now closed up. As soon as we get power, we can start getting some lights on. All of our mechanical equipment is there so once the mechanical room issues are resolved, the equipment can get installed and we can get heat into the building and get our finished materials completed. The goal is to get the building complete prior to the new year.

The Municipal Building Concrete Aprons project has started, we have all of our paper work in order from MSG Associates. They started over the weekend on the west side of the building. Last Monday, Brian, MSG Associates, and George Hinton got together to discuss the logistics of how the fire and ambulance would get in and out of the garage. They also coordinated with Nu Cor Management because they will be constructing the apron for the maintenance garage this week or next week. Once they get the apron constructed on the west side, they will back fill and wait seven days for the concrete to cure then they will go the east side to begin the apron and emergency services will flop their vehicles around and come out of the west side of the building while they construct the east side.

Last year, Nolan Perin and representatives from Jaindl and Nolan Perin requested a meeting with representatives from the Borough regarding potential development at Nolan's property, formally known as Industrial Drive, which originates at the Waste Management entrance on 512 and terminates on North Broadway where the RPM driveway is located. Now Bohler Engineering on behalf of another company involved now, CRG Acquisitions, prepared and submitted a sketch plan to Plainfield Township for review by their Planning Commission. They reached out to Wind Gap Borough to sit down and discuss this proposed development informally. The project involves three lots, 2 warehouses (one over 300,000 square feet and the other is over 700,000 square feet). The only development in Wind Gap is a few thousand feet of road.

Jeff Yob wanted to know if anyone took responsibility for the way the rooms in the Municipal Garage were designed. He thinks W2A should be paying the bill for any changes. Brian said that when he spoke to architect, they indicated that the process is to put out the plans to all the contractors for comment and no one commented. He does not know if there is anything that requires the contractors to bring it to their attention. He cannot speak for KC Mechanical as to why they did not bring this up earlier. Brian does not know why the

mechanical engineers that designed that room did not see this to begin with since they knew the size of the equipment that they were specifying in the bidding process and how much space would be required. Jeff stated that we need to stay close to this, he does not know what the contract calls for and do we want the Solicitor to review this or not. We need to know what our moves are, what we can do, and how much indemnification has been given for the design portion of the project with the mechanical engineering firm. We have not paid them directly, everything goes through W2A. Brian said they were listed as sub-contractors to W2A. Brian suggested that perhaps for the mid-month meeting we ask W2A to attend. They would be the ones to speak to as to how this all happened and they can explain it themselves.

## **NEW BUSINESS**

1. Louise Firestone reported that the leaf vac is having mechanical issues. Rich is in the process of tearing the motor apart and did find burnt valves and a bad piston. A replacement motor would be approximately \$2,500.00. We did contact Slate Belt COG, they have two leaf vacs that they rent out for \$75.00 a day. We are renting one for this Friday and for next Monday. Council discuss if the leaf vac should be sent out for repairs, rent the leaf vac to get us through the fall and attempt to work on this equipment this winter or look to replace the unit. The Borough purchased the leaf vac in 2006 brand new for \$13,775.00, but it is a small unit. Steve Bender said that if we were to rent one, it would be higher than what the COG is asking. Jeff will speak with Rich tomorrow and give Louise an update that she can disperse to everybody. Steve Bender will ask Pen Argyl if we can borrow their leaf vac if necessary.

## **OLD BUSINESS**

1. Park Athletic Association - Louise Firestone reported that we have not confirmed that the electrical service has been disconnected. Met-Ed has a ticket requested from the WGAAA to disconnect the fieldhouse, but Rich is concerned that the power was not totally disconnected. There is a box out in center field that controls the fieldhouse and the lights. Brian Pysner put in a call to Jeff Sanders, hopefully he will get back to him tomorrow. It looks like the main panel is out in center field. Jeff stated that he believes the electric comes from the panel box in the tennis courts. Once we have this confirmed with Met Ed, we will be able to move ahead with the demolition of the building.

2. Bucket Truck. Louise Firestone reported that there was a minor repair for the bucket truck that they did in house. There was a switch in the bucket that was stuck and that has been repaired. The question is whether the bucket truck should go in for diagnostic next Monday. Dave Hess said that if Rich feels it should be checked, yes and Council agreed.

3. 2021 Budget - Louise Firestone reported that she will have more information at the mid-month meeting. The question is whether Council is comfortable raising taxes in a year where there has been so much uncertainty and financial hardship. She will have more information by mid-month.

## **ADJOURNMENT**

**On motion** by Jeff Yob to adjourn the meeting of November 2, 2020. Council agreed unanimously. The meeting of November 2, 2020 adjourned at 8:26 p.m.

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Louise Firestone, Borough Manager