

Meeting Minutes
State College Borough Council
November 19, 2007

The State College Borough Council met in a regular meeting on Monday, November 19, 2007, in the State College Municipal Building Council Chambers, 243 South Allen Street, State College, PA. Mr. Welch called the meeting to order at 7:30 p.m.

Present: Bill Welch, Mayor
Catherine G. Dauler, President of Council
Thomas E. Daubert
Ronald L. Filippelli
Elizabeth A. Goreham
Donald M. Hahn
Craig R. Humphrey
Jeffrey R. Kern

Also present: Thomas J. Fountaine, Borough Manager; Terry J. Williams, Borough Solicitor; Thomas S. Kurtz, Assistant Borough Manager; Roger Dunlap, Assistant Borough Manager; Mark A. Whitfield, Director of Public Works; Amy Story, Borough Engineer; Mark S. Henry, Health Officer; Thomas R. King, Chief of Police; Carl R. Hess, Director of Planning/Community Development; Michael S. Groff, Finance Director; Norma J. Crater, Finance Supervisor; Beth A. Johnson, Director of Human Resources; Cynthia S. Hanscom, Assistant Borough Secretary; members of the media; and other interested observers.

Mr. Welch began with a moment of silence and the Pledge of Allegiance.

Public Hour. Robert Rightmyer, 785 Walnut Spring Lane, asked for justification for the expenditure of \$750,000 to purchase the Verizon building located at 224 South Allen Street. He said this expenditure was not listed as a capital expenditure for 2007 and was not an approved budget item. Mr. Rightmyer stated that Council should provide more justification for a 1.6 mill increase for real estate tax plus an increase in refuse rates. Mr. Welch indicated that Council only recently received the budget, which is prepared by staff and have not had the opportunity discuss it. In relation to the purchase of the Verizon building, Mr. Welch explained that the opportunity to purchase the Verizon building was not known when the 2007 budget was prepared since it did not go on the market until August or September. Mr. Rightmyer questioned the expenditure being made without the public's knowledge. Mr. Welch explained that the sale and purchase of real estate are permissible subjects to be discussed in executive session. Mr. Rightmyer commented that he felt Council was spending money without a budget.

Mr. Rightmyer also commented on the Walnut Springs wetland and the operating procedure. He noted that it has not been working properly. He felt this was something that Council needed to work on as water was flowing downstream rather than into the wetland. Mr. Whitfield commented there was an operation procedure and staff watches

over the wetland. Paperwork is completed and filed on its operation. He said to his knowledge the wetland has been operating correctly.

Consent Items. Mr. Hahn moved and Ms. Dauler seconded a motion to approve the following consent items. The motion passed unanimously.

- Approve Vouchers for the month of October 2007 in the amount of \$2,772,002.99.
- Approve the use of the Municipal Building plaza and lobby by CHABAD of Penn State for the menorah lighting ceremony on Tuesday, December 4, from 5:00 to 8:00 p.m.
- Approve the use of Allen Street (between the library and Foster Avenue), the Allen Street Parking lot, and the Municipal Building Plaza for the Autism Speaks Foundation 5K road race and 3K walk on Saturday, April 12, 2008, from 6:00 a.m. to 4:00 p.m.
- Approve a Resolution for the destruction of specific records in the Police Department.
- Award a bid for one (1) 2007 model compost turner be awarded to Frontier Industrial Corporation, the low bidder meeting specifications, in the net amount of \$349,950.00.
- Approve the 2008 Work Programs for the Design Review Board, Transportation Commission, and Tree Commission.

Ms. Goreham asked if the compost turner was included in the Capital Improvement Program. Mr. Whitfield replied that it was listed under refuse and recycling; 90 percent of the funding comes from a Pennsylvania Department of Environmental Protection 902 grant.

ABC REPORTS

Planning Commission. Mr. Fountaine noted that a representative from the Planning Commission could not be present at this meeting. Council members agreed to postpone the Planning Commission report until the meeting of December 3.

State College Borough Water Authority. Max Gill, Executive Director of the SCBWA, introduced Emory Ensore, chair of the SCBWA Board and explained that both would be speaking on the activities of the Water Authority and the plans for the future. Mr. Ensore reported on a projected 4.1% increase in 2008, which would cost the average customer \$11. Mr. Ensore also reported on the well levels and rainfall, which is at a deficit of 6 inches for 2007. A report was made on the Musser Gap land and the purchase by the Clearwater Conservancy to protect the land. Groundwater recharge from the Musser Gap land was tested; it was anticipated that it would take six months to

a year to reach the Authority's wells but the results showed that water from Musser Gap reached the wells in five days. This proved that Musser Gap plays a large role in water recharge for the area and protection of the land is really needed, he concluded.

Mr. Gill explained that there was a major change in the last year in the way that the Water Authority has addressed water lines that are used for sprinkler systems. Normally, two lines are required – one for domestic use and another for the sprinkler system. This requirement was established so that if the water service was turned off the sprinkler system could still be enabled. However, from reviewing the records, it was determined that the accounts for those with sprinkler fire protection were not a problem. Therefore, the new authority policy allows sprinkler systems to be hooked into the same water line as the domestic water service.

Mr. Gill also discussed the Beaver Avenue water line replacement and the improvements to the riparian buffer at Harding Farm. Projects for 2008 include the expansion of the Authority offices and distribution garage as well as a radio read system that will allow meters to read from the road. In 2008, there would over a million dollars budgeted for water line replacements, which is necessary to keep the entire system working in good order.

Mr. Humphrey asked the amount of funding from the Water Authority used to purchase Musser Gap. Mr. Gill replied \$550,000 was given from the Water Authority to purchase the land.

Ms. Goreham asked if there were other areas where recharge was equally important. Mr. Gill noted that many of the mountain gap areas were equally important, such as the Pine Grove gap, Shingleton gap and the Rothrock State Forest.

GENERAL POLICY AND ADMINISTRATION

Local Services Tax (LST) Ordinance. Mr. Fontaine said that in June 2007 a bill was signed into law that changed the name of the Emergency Municipal Service Tax (EMST) to Local Services Tax (LST). The bill did not change the amount of tax permitted to be levied but did change the collection procedures. The change does not change the amount of \$52 but does limit the collection of the tax to people earning more than \$12,000 a year. Public notification of the ordinance was advertised in the Centre Daily Times in accordance with Local Tax Enabling Act, Act 511 of 1965, as amended.

Ms. Dauler moved to approve Ordinance 1883 to repeal the EMST and enact the Local Services Tax. Mr. Hahn seconded the motion. The motion passed with a 7-0-0 vote.

Anti-Discrimination in Employment Ordinance. Mr. Fontaine reminded Council that at their April 20 work session, Council received a presentation from Dr. W. Terrell Jones, Chair, Centre County Advisory Council to the Pennsylvania Human Relations Commission, asking Council to consider an ordinance to include sexual orientation and gender status to the anti-discrimination rules as they apply to employment practices. Council discussed the ordinance at a work session where members of the public

provided input. Following discussion, Council directed staff to draft an ordinance for this purpose. Council is asked to receive the draft ordinance and schedule a public hearing for December 3.

Mr. Kern moved to receive the ordinance and schedule a public hearing for December 3 with enactment at a future meeting. Mr. Humphrey seconded the motion. The motion passed with a 7-0-0 vote.

Mr. Daubert noted that there would need to be some exceptions such as an attendant in a men's room. Mr. Fontaine noted that exception would be covered in the Pennsylvania Human Relations Act. Mr. Daubert asked that he receive a copy of that act.

License Agreement with Verizon. Mr. Welch noted that, in order to create a handicapped entrance, Verizon has asked the Borough for access to their building located at 248 South Allen Street from the north side of the building at the sidewalk adjacent to the parking lot that connects Allen Street with "D" alley to the rear.

Mr. Humphrey moved to approve the agreement and authorize the President of Council to sign the license agreement on behalf of the Borough. Mr. Kern seconded the motion, which passed unanimously.

PUBLIC WORKS

Speed Reduction on South Atherton Street. Mr. Fontaine said that in September, the Transportation Commission recommended PennDOT be asked to reduce the speed limit on South Atherton Street between West Beaver Avenue and West Foster Avenue. The reasons cited for the request include:

- Recent accidents.
- The volume of traffic as well as volume of pedestrians in this area.
- The taper of two lanes to one lane is a function of the speed limit and lowering the speed limit allows a better fit of the proposed design at Atherton/Foster.

Mr. Fontaine explained, although staff agrees with this recommendation, staff recommended that consideration be given to extending the limits of the request. Atherton Street is a state-numbered route and the current speed limit is 35 mph. Because most of the length of Atherton can be considered urbanized, PENNDOT should be requested to consider a speed limit of 25 mph for the entire length located within the Borough boundaries, he advised.

Mr. Daubert questioned the reduction in actual speeds of vehicles on the street. Because Atherton Street has so many hills, it would be difficult to keep a vehicle's speed at 25 mph on the downhill, he argued. Mr. Kern said he disagreed and believed that a reduced speed limit would force vehicles to slow down. Down slopes are not a reason to go fast. This is an urbanized area with many pedestrians, he concluded.

Mr. Hahn moved to request PennDOT study the reduction of speed for the entire length of Atherton Street within the Borough boundaries. Mr. Kern seconded the motion. The motion passed with a 7-0-0 vote.

PLANNING, ZONING AND COMMUNITY DEVELOPMENT

2007 Consolidated Plan Amendment. Mr. Fontaine noted that the Community Help Centre, one of the agencies that received 2007 CDBG public services funding, notified the Borough it will not be expending its 2007 grant which totaled \$4,476. The CDBG Citizen's Advisory Committee (CAC) unanimously approved an amendment at its October 8, 2007 meeting to reallocate the funds evenly among the remaining seven programs that received grants in 2007. Council held a public hearing on November 5; no one spoke to the issue.

Mr. Humphrey moved and Ms. Dauler seconded a motion to approve the Consolidated Plan Amendment as recommended by the CDBG CAC. The motion passed unanimously.

REGIONAL ISSUES

Property Maintenance Code Amendments. Mr. Fontaine said the Centre Region Council of Governments General Forum referred a model ordinance for adoption of the 2006 International Property Maintenance Code (IPMC) to the participating municipalities. Municipal action was recommended by COG with an effective date of January 1, 2008 so that all municipalities participating in the Centre Region Code Administration program have the same code in force. This code will update and replace the 2003 IPMC adopted by Council in November 2004. Borough staff identified additional suggested changes to the 2006 Property Maintenance Code that were shared with the COG ad hoc Code Adoption Committee and the COG General Forum but were not incorporated in the model ordinance referred for municipal consideration. Staff has prepared a proposed ordinance for Council that incorporates both the model ordinance referred by COG and the additional changes proposed by Borough staff. Copies of the proposed ordinances were provided to Council members with the agenda to the meeting.

Mr. Daubert noted an objection made by the Borough at the Code Committee review on the proposal to allow a ladder as an egress from the second floor. He stated that ladders are not easy to use and anybody with a physical problem would find it very difficult. Therefore, he recommended that this not be permitted as a second means of egress.

Mr. Daubert also noted that Section 1000.3 allows the code official to suspend a license on behalf of the Borough. He believed this constituted a loss of control and the Borough should not hand over that control. Mr. Fontaine explained the code official was given that authority because the Borough Manager was the person who reviewed an appeal. He said he did not think it was appropriate for the same individual to suspend the rental

license and hear the appeal. Mr. Daubert said he was still concerned because the Borough has no control over the code officials.

Mr. Kern agreed with Mr. Daubert and suggested that the Borough operate the rental housing inspection program in house. Currently the Borough is buying this service. If the Borough was employing the code officials, there would be more control. Mr. Fountaine said the current arrangement would need to be amended which may require some notice to COG. Mr. Kern asked this be put a future work session for further discussion.

Mr. Kern moved to receive the ordinance and schedule a public hearing for December 3. Ms. Dauler seconded the motion. The motion passed unanimously.

Ferguson Township Official Map. Mr. Fountaine noted that Ferguson Township has proposed an update to their official map originally adopted in 2002. In accordance with the provisions of Article IV, Section 402 of the Municipalities Planning Code, Ferguson Township is seeking input from the Borough as an adjacent municipality.

Council reviewed the following comments made by the Planning staff:

- Westerly Parkway is shown as extending west across Blue Course Drive to a new street that will connect to Bristol Avenue from the north. [There was a connection shown on the 2002 Map but it was off-set to the north.] We should suggest the preparation of a traffic impact study to document the effect the relocation of this connection/extension on traffic volumes on Westerly Parkway, and if adverse impacts are projected request Ferguson Township reconsider this direct extension of Westerly Parkway.
- The proposed Map shows a new road extending from Whitehall at Blue Course Drive south extending only to the future parklands. This is a revision to the 2002 Map which shows this road going all the way to Route 45. Council and others had earlier objected to this proposed connection to Route 45. We should affirmatively note this positive change by the Board of Supervisors.
- A new type of public facility, storm water management area, has been added to the Map. Only one such area, along Blue Course Drive between West College Avenue and Westerly Parkway, has been included on the Map. We should recommend that the Ferguson and Borough engineering staffs work together to suggest locations for additional storm water management areas along or near our common municipal boundary.
- A number of additional bike paths/lanes have been added to the proposed Map. We should support these additions.
- Unlike the previous version of the Map, the regional growth boundary has been designated on the proposed update. This is a positive addition in as much as it re-enforces the comprehensive plan.

Mr. Kern moved to forward the comments to Ferguson Township. Mr. Hahn seconded the motion, which passed unanimously.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch noted that the demolition had begun on the old municipal building located at 118 South Fraser Street.

Mr. Welch also reported on the semi-annual town/gown liaison meeting, which was held on November 6. Council members and Penn State officials meet and discussed Penn State enrollment at University Park, which is targeted for 42,000 for 2008. Council members stressed the importance of recognizing that additional students require additional services, particularly in regards to police services. Also discussed was the status of the bus station located on South Atherton Street, cooperation between Penn State and the Borough on environmental issues, and the status of the "Return to Glory" campaign of the fraternity system. It was agreed by all members present that this community has the best town/gown relations in the country.

President's Report. Ms. Dauler reported that Council had met in an executive session prior to the meeting.

Ms. Dauler also reported on the recent National League of Cities (NLC) conference held in New Orleans. She indicated that she served on a policy and advocacy committee for financial and intergovernmental affairs. This committee makes recommendations that form the resolutions that may become permanent policies of the NLC. She noted that she served on the committee for the past year. Ms. Dauler noted that comments were made from a recent newspaper article questioning her attendance to the conference. She noted that the cost of the conference was budgeted and approved in December of 2006 when a tax increase was not proposed. Aside from advocacy and policy work that is done by the NLC, it is an opportunity to learn and become better local leaders as Council advocates with other members from the country on important issues such as federal policy. She said serving on the committee and attending the annual conference was important work that was valued by other members of Council.

Regional Liaison Reports. Mr. Daubert reported he had attended NLC conference serving on the Information and Technology committee. The committee met and discussed policies and major issues such as cable franchises and ensuring local control. He said he was also a member of the steering committee for University Communities which is a valuable resource on how other communities in the nation are dealing with housing and alcohol use issues.

Staff/Committee Reports. Mr. Fontaine indicated the third quarter report of enforcement activities for the Health Department was attached to the agenda. Mark Henry, Health Officer was present to answer any questions Council may have on the report. Ms. Goreham asked about violations issued for broken or missing sewer caps. Mr. Henry indicated this ordinance has been in place for several years. Sewer lines are located on the property between the curb and the house; the caps cover the vertical pipes in place for clean out.

Ms. Goreham also asked about addressing violations. Mr. Henry said that putting the address on the property is very important for emergency vehicles. He noted that staff would request that a notice be sent to the property owner and if it is not corrected than action would be necessary.

Ms. Goreham asked about the placement of political signs. Mr. Henry said between the curb and the sidewalk is within the public right-of-way and placement of political signs is prohibited. It falls within his department for enforcement; enforcement officers will pull signs located in this area.

Council members also discussed restaurant violations and the number of violations before an eating and drinking license is revoked. Mr. Henry explained that he has needed to close an establishment because of unsanitary conditions but it is only until conditions are brought back into compliance. Some establishments are cited for noncompliance for repeat violations. Mr. Henry said he hoped to put inspections on the web site with an indication on whether or not the establishment is in compliance. He said there is a system in place with the Pennsylvania Department of Agriculture that lists an inventory of restaurants and laptops are taken to the establishment so that a print-out of violations can be issued on site.

ITEMS OF INFORMATION

Mr. Filippelli commented on the recent story in the Centre Daily Times. The story, he said, insinuated that it was inappropriate for Mr. Daubert and Ms. Dauler to attend the National League of Cities conference in the same year that a tax increase was proposed. Mr. Filippelli noted that he had attended the conference. Both Mr. Daubert and Ms. Dauler had served the Borough for 25-30 years at no compensation in the public interest. The fact that the Centre Daily Times would attack them is outrageous. Both of them give an enormous amount of time to State College and are only interested in serving the public. He said there is no self interest involved and he was outraged that two public servants had been painted as people that were out on a junket on the public purse. He noted that the trip included many things including tours of the areas of the city devastated by the hurricane. Emergency preparedness and recovery were important issues discussed. The conference was very worthwhile, he concluded.

Council recessed for a short break and reconvened in a work session at 9:17 p.m.

2008 Operating Budget. Mr. Fontaine reminded Council that they had received the 2008 Operating Budget at the meeting of November 9. He presented an overview of the revenues expected for 2008.

Mr. Fontaine noted the proposed 2008 budget was balanced by incorporating a 1.465 mill in real estate taxes and use of \$571,050 from unreserved fund balances (while maintaining the 12 percent buffer in fund balance set by Council policy). He said the tax increase has three components: (1) A 0.87 mill increase to replace the lost revenue from the Local Services Tax (formerly the Emergency and Municipal Services Tax); (2)

An additional .27 mills needed to fund regional pools and parks; and (3) A .325 mill increase to cover overall operating expenses in the Borough.

Mr. Fontaine outlined an alternate approach to raising the funds needed to balance the budget. This approach included three elements: (1) A 0.1 percent age point increase in earned income tax, raising it to 1.4 percent. This would produce approximately \$165,000; (2) A 0.1 percent age point increase in the Realty Transfer tax, which would produce \$65,000; and (3) Use of an additional \$340,000 from the fund balance. This would reduce the fund balance from 12 percent to 10 percent.

Council discussed different ways to cut the budget rather than increase taxes. One proposal was to cut each department across the board. No all Council members agreed with this proposal commenting that they would rather hear from the department directors on where they believed they could cut within their own budgets. Another Council member believed the budget had already included the necessary cuts made by staff. Mr. Fontaine said that rather than an even percentage cut across the board, he would rather have Council recommend programs or projects that could be delayed or were less important than other programs. Several Council members had concerns about using more of the reserve fund and felt that a more conservative approach was needed.

Council members agreed that they should review the departmental budgets over the next few weeks in work sessions to determine what programs or projects were of greater importance. Ms. Dauler asked Council to direct specific questions to the Borough Manager so that staff could come back to Council with recommendations.

There being no further business, the work session adjourned at 9:52 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary