

Meeting Minutes
State College Borough Council
December 3, 2007

The State College Borough Council met in a regular meeting on Monday, December 3, 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
Absent Jeffrey R. Kern

Also present: Terry J. Williams, Borough Solicitor; Thomas S. Kurtz, Assistant Borough Manager; Roger A. Dunlap, Assistant Borough Manager; Mark S. Henry, Health Officer; Carl R. Hess, Planning Director; Mark Whitfield, Public Works Director; Amy J. Story, Borough Engineer; Thomas R. King, Chief of Police; Beth A. Johnston, Human Resources Director; Michael Groff, Finance Director; Norma J. Crater, Finance Supervisor; 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. Eric Topp, 605 West Foster Avenue, encouraged Council to develop a policy that written reports are required for trips. He said he did not have a problem with Council's attendance at a recently held conference in New Orleans, LA; he said he was pleased to see that an employee had attended. He noted trip reports are required in the military on the cost of the conference and any follow up action that can be done from the conference material. He encouraged Council members to share information from the conferences with other communities in the region.

Ron Madrid, 701 West Beaver Avenue, spoke about the applications for citizens to serve on Authorities, Boards and Commissions (ABCs). He noted he had been asked to solicit citizens to serve but the process of downloading the application from the website was inconvenient. He asked that there be a form on the web site with dropdown lists that can be completed and submitted electronically to the Borough Manager. He also noted that there is no information on the Borough's website on the qualifications or the mechanism to get selected to an ABC. He suggested that some kind of response be sent to those applying that explained the process and how long the application would be kept on file.

PUBLIC HEARINGS

2008 Operating Budget. Mr. Kurtz said the 2008 budget was distributed to Council and made available for public inspection on November 9, 2007. Council initiated review of the proposed budget at the November 19 and 28, 2007, meetings. As presented, the budget total of \$30,208,373.00 is broken down into the following amounts:

General Fund	\$ 16,999,155.00
Capital Project Fund	1,683,663.00
Refuse Fund	2,977,969.00
Compost Operations	897,650.00
Sanitary Sewer Fund	4,842,476.00
Parking Fund	2,866,110.00
Highway Aid Fund	870,940.00
Bellaire Court Fund	83,470.00
Bus Terminal Fund	34,715.00
Adjustment for Inter-Fund Transfers	(1,047,775.00)

Mr. Kurtz announced that a summary of the budget proposal has been posted on the Borough's web page and the full document has been available for public inspection in the Borough Secretary's office.

Mr. Welch asked for comments from the public on the 2008 budget.

Robert Rightmyer, Walnut Spring Lane, commented on the budget and felt that Council could get close to a zero base budget. He suggested Council do more cutting to bring it in line.

There being no other comments, Mr. Welch closed the public hearing.

Anti-Discrimination Ordinance. Mr. Kurtz reminded Council that at the 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 prohibit discrimination based on sexual orientation and gender identity 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 received the ordinance on November 19, scheduled a public hearing for December 3, and held a brief initial discussion at the work session on November 28.

Mr. Kurtz also read the following list of correspondence that had been received and copies provided to Council:

- November 27 e-mail from Joanne Tosti-Vasey, President, Pennsylvania NOW with an attached letter dated November 28.
- November 27 e-mail from Thomas Fontaine, Borough Manager, to Ms. Tosti-Vasey thanking her for her e-mail.
- November 30 e-mail from Ms. Tosti-Vasey summarizing the anti-discrimination ordinances in four Pennsylvania towns (Lansdowne, Swarthmore, New Hope and West Chester) with the following attachments:
 - November 30 memo summarizing contacts with the towns
 - Lansdowne anti-discrimination ordinance
 - New Hope anti-discrimination ordinance
 - West Chester anti-discrimination ordinance
 - Swarthmore anti-discrimination ordinance
- November 30 e-mail from Stephen Glassman to Ms. Tosti-Vasey offering a contact for Lansdowne.
- December 1 e-mail from Ms. Tosti-Vasey providing an update on the Lansdowne ordinance and enclosing the following attachments:
 - December 1 e-mail from Joan Reivich, chair of the Lansdown Human Relations Commission
 - December 1 revision of November 30 memo.

Mr. Welch asked if there members of the public wishing to speak.

Joanne Tosti-Vasey, President of Pennsylvania Now, applauded the work of Council on the anti-discrimination ordinance. She noted that there are concerns that she had addressed in her letter of November 28. She noted that of particular concern was the narrowing of the ordinance to cover only employment. Although the Borough has a fair housing ordinance, it did not cover public accommodations. She said she provided four anti-discrimination ordinances for towns of similar size in Pennsylvania, all four of which had one uniform ordinance that covered housing, public accommodations and employment. Ms. Tosti-Vaey also spoke on the voluntary mediation process, which was being done in West Chester. She noted that the costs had been minimal with the only substantial cost related to publication of brochures. Because of the low cost for enforcement, there was no line item budgeted in the West Chester budget, she concluded.

Dick Gold, 134 E. Doris Avenue, said he supported the ordinance. He commented on the minimal threshold for applicability of the ordinance to employers with 20 or more employees and did not see why an employer of less than 20 employees should be bound by different rules. He also disagreed with the exception for sectarian and religious organizations. He said that all people should receive the same protections and did not see why any employers in the Borough should be excluded.

Robert Passow, 310 South Allen Street, Suite 704, said he was a member of the St. Andrews Episcopal Church Committee for Personal Justice. In 2000, the church adopted a welcome statement for all persons regardless of race, ethnic background, sexual orientation, physical capabilities or circumstances of living. All residents should have access to restaurants, public services, and other things so that there is equal treatment for everybody. He said that this committee strongly endorses the passage of the anti-discrimination ordinance as it a matter of social justice.

Tony D'Augelli, 403 South Allen Street, said that he was a licensed clinical psychologist and Associate Dean in the College of Health and Human Development. He spent most of his career studying victims of violence, specifically for gay and lesbian victims. This is a project he has worked on since the 1980s. He noted the impact on victimization of gay youth and rural gay men and the link to clinical psychiatric disorders. Racial attacks do make a difference. Of populations that are young (15-22), 70-80 percent report some verbal abuse, with 15-20 percent reporting some kind of physical violence. For older adults, he reported that 20 percent spent their lives hiding their sexual orientation. Most are fearful of harassment and have seen patterns of physical or verbal abuse. Victimization is pervasive and the rights of these individuals need to be protected. Research shows that there is a public health consequence if the public does not protect these individuals, he concluded.

Connie Matthews, 1612 Elizabeth Road, said she was formerly employed in the Borough and was currently litigating on the grounds of discrimination based on sexual orientation. She spoke on a personal level that discrimination at the work place was very personal and difficult. The result of discrimination takes a personal toll in that it is painful and hurtful. She spoke in support of the ordinance. She agreed with Mr. Gold that there should not be exceptions for smaller organizations or sectarian or religious organizations. This ordinance would provide a proactive element that says this community will not accept discrimination and would not ask people to hide parts of themselves for fear of discrimination, she concluded.

Carol Gold, 134 East Doris Avenue, said she was happy to be a part of this community and was glad to see Council's consideration of this ordinance. She questioned the length of time the procedures took. She felt it was much too long and it would take months and months before being able to reach a conclusion.

Thomas Shakley, 711 East Beaver Avenue, said he was a Penn State undergraduate student and was with Safeguard Old State, which was a student alumni advocacy organization. He noted that Safeguard supports the ordinance but noted with a concern that there should be an inclusion in the ordinance to protect against discrimination on the basis of being a student. He believed that there could be language included that would afford protection in regards to housing for students.

Steve Glassman, Chair of the Pennsylvania Human Relations Commission (PHRC), said that he had assisted other municipalities in writing ordinances for anti-discrimination laws. In all jurisdictions there is one ordinance that covers both employment and housing. He said he believed there could be serious legal challenges because of the inconsistencies between the proposed employment ordinance and the existing State College Fair Housing Ordinance. He recommended there be a comprehensive ordinance that covered employment, housing and public accommodations. He said that the goal of the PHRC is to protect as many people as possible. Since the state law covers employers with four or more employees, he said he believed the Borough ordinance should be the same.

Ms. Goreham noted that two of the municipalities that had recently passed anti-discrimination ordinance had no complaints filed. She asked if the ordinance itself raised awareness in the community and supported anti-discrimination efforts. Mr. Glassman replied that the ordinance raises the bar of respect and lets people know that tolerance is not enough; all people should be acknowledged and respected. Anti-discrimination ordinances are designed to protect and having the ordinance in place does send a signal to the community that discrimination will not be allowed.

Mr. Filippelli noted that 14 communities have passed similar ordinances. He asked if there was a set minimum number of employees to meet the definition of employer. Mr. Glassman said that it was typically four employees because that is the minimum number according to the Pennsylvania law. He noted that making the minimum 20 employees would be cutting out a majority of the employers. Mr. Filippelli asked the rationale for a minimum number of employees. Mr. Glassman replied that four employees or fewer was typical of a family business. He added that the ordinance can protect the rights of people but cannot stop people from thinking what they believe. This country has free speech and first amendment rights. Very small family business should be able to hire people that they feel most comfortable working closely side-by-side with. He said there is not complete consistency from state to state but the number four is widely used.

Mr. Hahn asked what kind of legal problems could occur with two separate ordinances. Mr. Glassman indicated that the fact that the fair housing ordinance does not include gender identity is a glaring inconsistency and it will be difficult to insure that gender identity cases can be pursued. He also noted that different language for housing and employment could jeopardize the issue of discrimination in public accommodations, which includes public transportation.

Mr. Daubert noted that the Fair Housing ordinance was passed in 1992 and that Council felt that it was something that would work. Council worked very hard and listened to hundreds of people. In the 15 years that it has been on the books they had not had one official hearing. Mr. Glassman stated that he believed the ordinance would not need to be removed but should be amended to add gender identity and expression.

Justine Andrenessi, Co-President of Nittany Now, and a resident at 194 Pole Cat Road in Colyer, stated that she was an employment attorney. She said she believed that a comprehensive ordinance covering employment, housing and public accommodations would be better. Her concern was that public accommodations was not included in the fair housing ordinance. She believed it would be a missed opportunity to raise the standards of the inclusiveness of the community if it were not included. Also, adding the classifications for gender identify and expression is groundbreaking and would say something to people in the community.

Andrew Sicree, 671 Boalsburg Road, commented that he was a Christian and a Catholic and expressed his concern with the ordinance because it would legislate a way of thinking that discriminates against Christians. He noted that sexual orientation is not a sin, but homosexual behavior is a sin. Therefore, it would be within a Catholic's belief that they should not hire because of sexual orientation. This ordinance would discriminate against Christians that want to live within their religion. Mr. Filippelli said that there is a private realm and a public realm. Commerce is conducted within the public realm. Mr. Sicree said that, as a Catholic Christian, everything he does involves his faith.

David Brown, Hillcrest Avenue, said he was a clinical psychologist and not a month goes by without a client suffering because of harassment. Many others keep their sexual orientation hidden. He encouraged Council to pass this ordinance. He said that he too was a Catholic but would not want the Christian religious to be characterized as a way of marginalizing or dehumanizing human beings.

There being no further comments on the proposed ordinance. Mr. Welch closed the public hearing.

2006 International Property Maintenance Code and Amendments. Mr. Kurtz indicated the Centre Region Council of Governments General Forum referred the model ordinance for adoption of the 2006 International Property Maintenance Code (IPMC) to the participating municipalities. This code will update and replace the 2003 IPMC adopted by Council in November 2004. Staff prepared an ordinance for Council consideration that incorporates both the model ordinance referred by COG and the additional changes proposed by Borough staff. The key changes being made to the 2006 IPMC include the following recommended by COG:

- Being on a roof or fire escape is prohibited (except in emergencies).
- Overcrowding (a gathering of more than 50 people) in a dwelling unit with one exit is prohibited.
- Self closing doors are required to inhibit the spread of fire.
- Permanent, fixed exterior ladders are permitted for second floor emergency egress.

The key additional changes recommended by Borough staff include:

- Health Officer/Code Official rather than the Manager is empowered to suspend rental permits because appeals go to the Manager.
- Fines issued in the field for violations of other ordinances enforced by Borough ordinance officers increased from \$35 to \$50.
- Minimum fines for summary citations under these ordinances made a uniform \$100.

Mr. Kurtz said that, following the public hearing, the ordinance is scheduled for discussion at the work session on December 10 where Council should identify any suggested changes based on public comment at the hearing.

Mr. Welch asked for public comments. There being none, Mr. Welch closed the public hearing.

CONSENT ITEMS

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

- Council's meeting schedule for 2008.
- Delta Sigma 5K Race/Walk to benefit the Centre County Chapter of the American Red Cross on Sunday, December 8, 2007, from 12 to 2:30 pm.
- Bike Ride for College of Education on Sunday, April 27, 2008, from 10:00 am to 12:00 pm.
- Resignation of Jon Eich with regret from the Transportation Commission because of his election to the Centre County Commissioners.

GENERAL POLICY AND ADMINISTRATION

Extension of Economic Development Agreement, Right of Entry Agreement, and TIF Agreement with DSCID. Mr. Kurtz noted that Council is asked to extend the Economic Development Agreement with the Downtown State College Improvement District (DSCID) for the Fraser Centre Project. The current Economic Development agreement expires on March 1, 2008. The Economic Development Agreement sets forth the understanding between the Borough and Downtown State College for the Fraser Centre Project and designates Downtown State College to act as the Development Agency for this project. The Right of Entry agreement allowing access to the site is linked to the Economic Development Agreement and, by reference, has the same expiration date. The Economic Development Agreement must be extended for the Access Agreement to remain active.

Mr. Kurtz added that the Tax Increment Financing (TIF) plan approved by Council, the School Board and the County Commissioners anticipated a component of participation from the DSCID. This component provides the difference between the Borough's nominal share of 87% of the increment and the actual 55% share of the TIF increment approved by the three taxing bodies (Borough, School and County).

Mr. Hahn indicated the economic agreement was extended to June 2007 and then extended to March 2008. He asked why it was being extended now. Mr. Kurtz indicated that it was recommended that Council do this now with the other documents.

Mr. Humphrey moved to approve the addendum to the Economic Development Agreement and the TIF agreement with the DSCID and authorize the President of Council to sign the addendum and agreement. Mr. Kern seconded the motion. The motion passed with a 6-1-0 vote; Mr. Hahn opposed the motion.

PLANNING, ZONING AND COMMUNITY DEVELOPMENT

Planning Commission 2008 Work Program. Ron Madrid, Chair of the Planning Commission, presented Council with the proposed Planning Commission work program for 2008. Mr. Madrid included an explanation on why the Commission felt the work program should include an update on the Downtown Vision and Strategic Plan and a study of Calder Way. He said the Commission members felt they had been taking a “bandaid” approach in solving problems in the downtown and needed to take a more comprehensive view.

Ms. Goreham said she felt the work plan was ambitious. She noted that if the Commission was trying to develop metrics for what they wanted to see in the future and link that with planning activities, it was difficult to accomplish. Mr. Madrid said that were seeking improvements in development in some areas while maintaining levels of current development in other areas. He noted this was a long process and very challenging. Ms. Goreham asked about the tax impact. She said that some zoning changes may have a negative impact on the taxes for the property owner while providing a positive impact for the Borough. Mr. Madrid indicated Borough staff was asked to provide the tax implications when considering changes.

Mr. Filippelli said the current 10-year plan for the downtown covered a great deal of time and agreed that it would be acceptable for the Commission to take another look mid-way through the plan to determine if things had changed. He asked if the Commission would be working with the Downtown State College Improvement District. Mr. Madrid noted that this was the beginning of the process and the Commission was asking for permission to open up a discussion with the Downtown organization.

Mr. Kern said the downtown plan was completed with testimony from hundreds of business owners. He said he feared that the Commission members would alter or disregard that important input. He said he would not support the Commission updating the downtown plan unless it was willing to engage the stakeholders, which include Penn State University and the downtown business owners. Mr. Madrid said the Commission would not be working on the update in isolation. He said he believed the downtown plan needed to be reviewed periodically. Mr. Filippelli agreed that any review of the plan should include the original participants.

Mr. Kern also said Calder Way has been studied numerous times. The cartway includes a large pipeline for sanitary sewer to accommodate the downtown business and apartments. There were also many water mains. The power for buildings and the downtown run on poles above ground because there is no room underground. When the concept was discussed several years ago, it was estimated moving the power lines underground would cost \$800,000 for half of block. It would be closer to \$2,000,000 today to rearrange the infrastructure. The Borough has worked diligently to get the delivery vehicles off of College Avenue to the alleyway to keep the street open. He said this was not something they should be working on now when there were vacant store fronts and aging structures.

Mr. Daubert noted that the Planning Commission has been working several years on other projects that he believed were more important to complete. The Commission was to be working a proposal for areas 5 and 9 of the original downtown plan. Until the Commission has completed this work, he felt it would be premature to talk about a new plan.

Mr. Hahn said that the downtown plan is not a closed matter and is subject to analysis. The subdivisions of the plan were never intended to be zoning districts. Although the downtown plan is entitled to some weight because a great deal of work went into completing the plan, he would not want to limit the Planning Commission’s ability to analyze the areas.

Ms. Dauler agreed that there were many things on the Commission’s plate that needed to be completed before relooking at the downtown plan.

Ms. Goreham asked this be placed on a future work session agenda prior to approval on December 17.

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

Receive a Presentation on the New Zoning and Land Development Regulations for the West End. Mr. Kurtz said that the consulting team of Delta Development/EDSA prepared an initial draft of new zoning regulations and development standards for the West End, which is based on the findings and recommendations of the West End Revitalization Master Plan. The package is intended to implement Challenge 13 of the West End Master Plan as adopted by Council. After the new regulations are adopted, they will replace the existing urban village zoning regulations.

Mr. Kurtz explained that the proposed regulations are a departure from our current approach to zoning which is based on the traditional Euclidian approach to zoning. The proposed regulations use a form based approach to zoning in which building form and design are given equal or greater importance to the more traditional components and standards that are at the heart of Euclidian zoning ordinances. In order to utilize this approach to zoning, the amendment is based on Article VII-A, Traditional Neighborhood Development (TND), of the PA Municipalities Planning Code (MPC). Mr. Kurtz added that planning staff is working closely with the consulting team on revising the draft to make it as user friendly as possible. Revisions include:

- reorganization to improve the flow of the amendment;

- clarification of terms and definitions used in the document;
- editorial changes and elimination of redundancies to tighten language and shorten the length of the amendment;
- testing usability of the proposed amendment through a series of “what if” scenarios (i.e., working through the processes in the amendment for a range of project types); and
- revisions to the inclusionary housing provisions to ensure compatibility with other inclusionary housing initiatives in the Centre Region;

Mr. Kurtz said the draft amendment is not ready for distribution but anticipated it would be ready within a week and would be distributed to Council and the Planning Commission. The new regulations represent a dramatic change in our approach to land use regulation and it will take some time to work through them, he concluded.

Mr. Truax presented information on the west end TND zoning amendment and design guidelines. Mr. Truax highlighted portions of the zoning which would extend opportunities for housing, minimize traffic congestion, and provide opportunities for historic preservation. The zoning amendment would be consistent with the goals set by the urban village zoning. He noted the design guidelines would also need to be adopted and would become a part of the subdivision and land development regulations.

Mr. Truax noted that he would be presenting the draft TND zoning and design guidelines to Planning Commission on December 12 but noted that more time would allow the document to be reviewed by Borough staff. Mr. Hess added that he would like to have the additional staff time to review the ordinance line by line. He believed this would delay the submission of the ordinance by two weeks.

Mr. Hahn noted that the additional time was a reasonable request but mentioned that some members of Council would not be here next year. Mr. Kern agreed that he would like the opportunity to look at the specifics of the ordinance. Mr. Daubert agreed that he would like the opportunity to comment on the plan. Council members agreed that the ordinance and guidelines would be provided to Council in two weeks.

Approve a Revised Resolution for the West End Revitalization Plan Land Use Planning and Technical Assistance Program (LUPTAP) Grant Application. Mr. Kurtz reminded Council that on August 13, 2007, Council approved Resolution 942 committing the Borough to allocate \$121,513.00 as the local share of the costs for the West End Revitalization Plan Implementation contract. This amount was based on a LUPTAP grant application in the amount of \$75,320.00 that the Borough submitted to the PA Department of Community and Economic Development to assist in the costs of contract.

He informed Council that on November 26, 2007, staff received correspondence from DCED Secretary Dennis Yabolonsky that DCED approved a grant for this project in the amount of \$67,820.00. Since the approved amount differs from the amount applied for in the LUPTAP grant application, it is necessary to adopt a revised Resolution committing the Borough to allocate an additional \$7,500.00 as local match for this project. The final amount needed as local share for this project is \$129,013.00.

Mr. Daubert moved to approve Resolution 950 for the revised amount for the LUPTAP grant. Mr. Hahn seconded the motion. The motion passed with a 6-1-0 vote, with Mr. Kern opposed.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch saluted firefighters for quelling the fire that broke out at 136 East College Avenue (Old Main Frame Shop) and thanked those Council members that have urged for the installation of sprinkler systems, both of which saved this building.

ITEMS OF INFORMATION

Mr. Daubert reported he had attended the Pennsylvania League of Cities and Municipalities Board of Directors meeting in Harrisburg and that Elizabeth Goreham had been selected to replace him on the Board. He said he would prepare a report on the meeting for Council and that the trip was made at no cost to the Borough.

There being no further items of business, the meeting adjourned at 10:10 p.m.

Sincerely,

Cynthia S. Hanscom
Assistant Borough Secretary