

Meeting Minutes
State College Borough Council
May 19, 2008

The State College Borough Council met on Monday, May 19, 2008, in the State College Municipal Building, 243 South Allen Street, Room 304, State College, PA. Mayor Welch called the meeting to order at 7:30 pm.

Present: Bill Welch, Mayor
Elizabeth A. Goreham, President of Council
Ronald L. Filippelli
Donald M. Hahn
Silvi Lawrence
Peter Morris
James L. Rosenberger
Absent: Theresa D. Lafer

Also present: Terry J. Williams, Solicitor; Thomas J. Fountaine, II, Borough Manager; Thomas S. Kurtz, Assistant Borough Manager for Community Services; Carl R. Hess, Planning Director; Roger Dunlap, Assistant Borough Manager for Budget and Administration; Mark Whitfield, Public Works Director; Michael Groff, Finance Director; Thomas R. King, Chief of Police; Amy J. Story, Borough Engineer; Herman L. Slaybaugh, Zoning Officer/ Planner; 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. There were no comments received from the public.

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

- Approve vouchers for the month of April 2008 for the Borough of State College in the amount of \$2,136,255.28.
- Award a bid for the Project 1-2008 Sidewalk Replacement to the low bidder, BCS Construction, Inc., for the total amount of \$ 153,750.00.
- Award a bid for Project 13-2008 Elevator Cylinder Replacement to the low responsible bidder, Otis Elevator of Altoona, PA,, for the total amount of \$74,900.00.
- Award a bid for a 2008 Model Single Screw Vertical Mixer for Composting Operation to the low bidder, Valley Ag & Turf of Centre Hall, PA, for the total amount of \$ 39,118.71.
- Approve the use of College Avenue for the 2008 Penn State Homecoming Parade on Friday, October 17, 2008, from 5:30 to 8:30 p.m.
- Approve the use of various sidewalks in College Heights for a 5K Race for United Cerebral Palsy on Sunday, September 14, 2008, from 8:00 a.m. to 1:00 p.m., conditioned on the applicant obtaining a CRPR Large Group Event permit for use of Sunset Park.
- Approve the use of the Municipal Plaza on June 20 and 21, 2008, from 2:00 p.m. on Friday to 2:00 p.m. on Saturday for a Torture Awareness Vigil.

- Accept a resignation, with regret, from Craig Humphrey on the State College Community Land Trust, effective June 1, 2008.
- Appoint Theresa Lafer to the State College Community Land Trust to fill an unexpired term ending on December 31, 2010.
- Appoint Patrick Gordon as an alternate on the Rental Housing Revocation Appeals Board to fill an unexpired term ending on December 31, 2008.

Mr. Rosenberger moved to approve minutes for April 7, April 18, and April 21, as written, and change the April 14 minutes, Book 35, Page 407, under Items of Information, to read that "The School Board agreed to write a letter to support the release of funds for the Millbrook Marsh Fund and to prepare a letter of support for the Welch Pool grant." Mr. Hahn seconded the motion, which passed unanimously.

GENERAL POLICY AND ADMINISTRATION

Land Clearing and Excavation Recycling Center Agreement. Council considered authorizing the Council President to execute a license agreement between the Borough and Glenn O. Hawbaker, Inc., for a Land Clearing and Excavation Recycling Center within the former Borough landfill. Council had discussed the agreement at the meeting on April 21 and delayed action to consult with Patton Township to ensure that the agreement addressed concerns that the Township may have on this matter. The Township Manager provided written confirmation that the proposed agreement is consistent with the Township's expectations for the recycling operation. Council discussed the agreement at the May 5 meeting and asked for a financial analysis. This information was provided to Council at the May 16 work session.

Mr. Hahn moved to approve the license agreement and authorize the President of Council to sign on behalf of the Borough. Mr. Morris seconded the motion. The motion passed with a 6-0-0 vote.

Property Acquisition for Allen/Atherton Intersection Improvements. Council considered a resolution authorizing and directing the Solicitor to prepare and file a Declaration of Taking for approximately 3,000 square feet of land at 1300 South Allen Street for the purpose of realigning South Allen Street as part of the Allen/Atherton intersection improvements. Staff noted this action is necessary prior to letting the intersection project for bids.

Mr. Filippelli moved to approve the resolution. Mr. Hahn seconded the motion.

Council members commented that this is a hostile action connotated by the words "eminent domain" and "taking."

Council asked if a cost for the land had been negotiated. Mr. Williams explained the standard procedure is to approve the resolution for the declaration of taking and then negotiate with the property owner. If a compromise cannot be reached, the decision would go to a Board of View appointed by the Centre County Court.

Council members commented that the data showed the number of accidents for the Atherton/Allen intersection were in the normal realm with no loss of life and this was not the appropriate location to spend \$500,000.

It was reiterated by staff that professional engineers designed the project and that the accident data revealed a safety problem. There were two potential solutions, one on each side of the intersection, with no cost advantage of one versus the other. The recommendation by the professional engineers was to realign the intersection as proposed.

Staff noted that the issue before Council tonight is the declaration of taking. However, the project itself appeared to be the primary issue. Therefore, the effect on the vote for the resolution would be a vote on the entire project. If denied, staff would need to redesign the intersection improvements.

Mr. Hahn moved to table the resolution until the meeting of June 2. Mr. Rosenberger seconded the motion. The vote was 2-4-0, with Mr. Filippelli, Ms. Goreham, Ms. Lawrence, and Mr. Morris opposed. The motion failed.

Council then voted on the main motion to approve the resolution. The vote was 1-5-0, with Mr. Rosenberger, Ms. Goreham, Mr. Hahn, Ms. Lawrence, and Mr. Morris opposed. The motion failed.

Noise Waiver Request. Staff reported that the State College Borough Water Authority requested that the Borough waive the provisions of the noise ordinance so that night work can be conducted on the water line replacement project scheduled for this summer on Beaver Avenue between Atherton Street and High Street. The request will allow for work to be completed between 6:00 p.m. and 4:30 a.m. from June 15 to September 15, 2008. Because construction noise is restricted by ordinance between the hours of 7:00 p.m. to 7:00 a.m., the waiver is only needed for the hours between 7:00 p.m. and 4:30 a.m.

Staff recommended that Council grant the Authority's request for a waiver of the noise ordinance from June 15 to September 15, 2008 from 7:00 pm – 4:30 am each night, with the following restrictions:

- No jack hammer/rock breaking work may be completed after 10 pm.
- The contractor shall, to the greatest extent possible, limit disruptive noise after 10 pm (ex. repeating back-up alarms, yelling, horns, etc)
- In certain residential areas, the hours of night work may be limited to 2:30 pm – 12 midnight by the Borough Manager.
- No night or day work shall be completed from July 9 – 13 (Arts Festival) and August 21 – 24 (Student Move-in)
- No night work is permitted between the hours of 6:00 pm Friday to 9 am Sunday.
- No work shall be conducted at any time from August 29-31 and September 5-7 (home football weekends).

John Harris, 120 East Beaver Avenue (Addison Court), said there were many older residents in this facility, many of whom find sleep precarious and the night work would disturb the residents. He agreed that there were viable reasons to do the work at night but urged Council to consider the residents of Addison Court.

Council questioned whether or not the night work would shorten the length of the project and how the limitation by the Borough Manager would be triggered. Mr. Fontaine explained it would be based on complaints from residents within a one block area of Beaver Avenue.

Max Gill, Manager of the State College Borough Water Authority, noted that the night work had been suggested by the downtown business owners to ease the disruptions during the day. He said that if staff gets complaints, they would try to accommodate. He suggested that the work on Beaver Avenue from Atherton to Pugh Streets is predominantly bordered by business and most of the work could be done at night. He added there would be some flexibility in conducting the work at night or day. He said the work would be disruptive and there would be complaints regardless of the time of day. He added that the water lines in Beaver Avenue were built in 1920 and were too small. The work needed to be done this year since PennDOT would be resurfacing Beaver Avenue in 2009.

Mr. Hahn moved to amend the third bulleted item to indicate that Borough Manager could waive the Noise Ordinance to allow work to be conducted from 8:00 a.m. to 8:00 p.m. in residential areas. Mr. Morris seconded the amendment. The vote was 6-0-0 in favor of the motion.

Mr. Rosenberger moved to approve the request for a waiver of the noise ordinance, with the conditions as amended above. Mr. Hahn seconded the motion. The vote on the motion was 4-2-0, with Mr. Filippelli and Ms. Goreham opposed. The motion passed.

PLANNING AND ZONING

Replot of 250 West Hamilton Avenue. Council considered a request from University Park Plaza Corporation and Roy & Angela Walk, who own adjacent parcels, to approve a plan to re-plots their lots for the purpose of a land swap. The plan, which constitutes a minor subdivision of land in the CP2 zoning district, complies with all applicable subdivision and zoning regulations.

Mr. Hahn moved to approve the plan as it. Ms. Goreham seconded the motion, which passed unanimously.

West End Zoning. Over the past several months Council has reviewed an April 11 revised staff memo outlining 16 discussion points on the West End. Council discussed the memo at the meeting on May 12 and asked that it be forwarded to the Planning Commission. The conveyance of the memo will include a statement indicating that the memo is: (1) not a directive from Council but reflects comments by individual members; (2) provides commentary by the Borough's planning staff; and (3) notes that the comments are not a consensus of Council members and may not reflect the Revitalization Plan.

Mr. Hahn moved to forward the memo to the Planning Commission as noted. Ms. Goreham seconded the motion, which passed unanimously.

REGIONAL ISSUES

Property Maintenance and Existing Structures Program. Council reviewed the report titled "CRCA Withdrawal: A Framework for Cooperation" at the meeting of May 5. The report addressed issues reviewed by both the Borough staff and the COG staff and recommends that the Borough continue to participate in the Centre Region Existing Structures Program. The Borough's continued participation as a full member of the Centre Region program requires that Council enact an ordinance to repeal Ordinance 1891, previously adopted by Council in 2007. Borough Council discussed the report at its meeting on May 12.

Mr. Rosenberger moved to enact Ordinance 1897 to repeal Ordinance 1891 which notified COG of the Borough's withdrawal from the Centre Region Existing Structures Program. Ms. Goreham seconded the motion. The motion passed with a 6-0-0 vote.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch reported on the Borough/University liaison meeting held in April.

President's Report. Ms. Goreham announced an executive session held on Monday, May 12, to discuss personnel matters, and another on Friday, May 16, to discuss litigation.

Regional Liaison Reports. Mr. Morris reported the COG Public Service Committee discussed the proposed reorganization of the COG Committee structure. The proposal was to split the Public Service committee into a safety committee and an environmental issues committee. The response among the committee members was favorable.

Ms. Lawrence reported the COG Code Committee discussed the Borough entering back into the inspection program and the job description for the code director.

Mr. Hahn reported the COG Finance Committee would be meeting the following day and asked for Council's comments on advertising on the outside of CATA buses as way of generating revenue. Several Council members did not see it as appropriate.

Ms. Goreham reported the COG Executive Committee met and discussed the reorganization of the COG committees, the Emergency Management Coordinator full-time position that would work with the Alpha Fire Administrator, and Ferguson Township's participation in the library.

Staff/Committee Reports. Mr. Fontaine reported the Borough would be filing an application with the Pennsylvania Infrastructure Bank for the Fraser Street realignment to move this forward through the PennDOT process. He noted that the Pennsylvania infrastructure Bank may also be a good source of loans for the West End infrastructure improvements.

There being no further business, the meeting adjourned at 8:40 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary