

**Meeting Minutes**  
**State College Borough Council**  
**July 21, 2008**

The State College Borough Council met on Monday, July 21, 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  
Theresa D. Lafer  
Silvi Lawrence  
Peter Morris  
James L. Rosenberger

Also present: Terry J. Williams, Solicitor; Thomas J. Fountaine, II, Borough Manager; Thomas S. Kurtz, Assistant Manager for Community Services; Carl R. Hess, Planning Director; Thomas R. King, Chief of Police; Herman L. Slaybaugh, Zoning Officer/Planner; Mark Whitfield, Public Works Director; Michael S. Groff, Finance Director; Amy J. Story, Borough Engineer; Beth Johnston, Director of Human Resources; Chelsea Puff, Intern; 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 members of the public wishing to speak.

**Conditional Use for Fraser Centre.** Council held a public hearing on the application for a conditional use for Fraser Centre. Borough Solicitor Terry Williams presided at the hearing. He noted the hearing was a conditional use application from Susquehanna Real Estate filed under the Zoning Ordinance as provided by the Pennsylvania Municipalities Planning Code. He reminded Council that they were obligated to take testimony as to whether or not the conditions are met by applicant and if they are entitled to the conditional use.

Herman Slaybaugh, Zoning Officer, was sworn in to give testimony. He noted that he had received two entry of appearances; one was from the applicant, Susquehanna Real Estate, and the second was from Joshua Guier, a business owner at 109 South Fraser Street. He presented three exhibits. The first was the plans for the project, listed as the Borough's Exhibit 1. Mr. Slaybaugh presented the overview of facts as Exhibit 2 and reviewed the findings. The third exhibit was a summary of the site area requirements as prepared by the architects, Wallace Roberts & Todd. He noted that the applicant was seeking modification to the upper level setbacks for three different locations.

Jack Kay, President of Susquehanna Real Estate, was sworn in to give testimony. He said that he had with him the Susquehanna Real Estate Senior Vice President Tim Fulton and two representatives from the architectural firm of Wallace Roberts & Todd. The project will produce the types of uses that were sought and create exciting uses that generate traffic and activities that bring people together. He said he believed the design had evolved into an exciting architectural element that would be distinctive in the community. The Cineplex portion of the project was a learning experience as they worked with theater developers to create a viable project. The end result was a dynamic active retail space and street life that would attract people to the downtown.

Adam Glaser, lead designer for the project with Wallace Roberts & Todd, was sworn in to testify. Mr. Glaser presented a series of slides showing the site design and presented the issue with the setbacks. He explained the project is a 201,124-square foot mixed-use building. About 45 percent of the building is commercial and 55 percent is residential. The majority of the commercial space is dedicated to a 10-screen Cineplex. The remaining commercial area will be marketed for general commercial and office uses. The residential portion of the building forms a tower that extends the building's height to 11 stories (145 feet to the top of the roof). A total of 49 upscale condominium units are proposed. Also, there is a 2-level internal parking garage containing 114 parking spaces for the residential condominiums.

Mr. Glaser indicated relief to the setbacks was being requested at three locations. First, a diagonal setback is required at the building's southeast corner (corner of Fraser and Beaver) from ground level to a height of 40 feet. The building's corner complies with the diagonal setback at ground level and up to a height of 14 feet. Above 14 feet, the community room, which is an important room serving the cinemas and advocated by the Downtown Improvement District, projects into the setback up to a height of 40 feet. The projection forms a covering over the entrance to the corner retail space and squares off the glass curtain wall. Second, the required front setbacks measured from Beaver Avenue are 15 feet from 0' to 40', 25 feet above 40' to 95', and 30 feet above 95'. The front portion of the residential tower encroaches 5 feet into the required 30-foot setback between 95 feet and the top of the building at 145 feet. The primary reason for the encroachment is related to engineering. Because the cinema function requires open area, there is no practical way to run the support pillars necessitated by an additional 5-foot stepback above without invading the cinema space below. Third, a 74-foot stair tower serving the two parking levels, residential lobby, cinemas, and office level is located at the building's southwest corner. The front of the tower between 40 feet and 74 feet encroaches 10 feet into the required 25-foot front setback. The west side of the tower encroaches 10 feet into the 20-foot side setback required for heights above 65 feet. The tower is needed to meet building code requirements regarding fire and egress and to provide independent entrances to the office and residential areas of the building. This latter point is important to the marketing and function of the building.

Mr. Hahn questioned the need for the community room in relation to revenue. Mr. Glaser indicated the community room was being provided from a civic point a view and was not tied to expected revenue.

Mr. Hahn also asked about the encroachment needed in relation to the cinema function. Mr. Glaser indicated that the columns would invade the cinema space below if provided as required by the setback. Mr. Hahn asked if the success of the cinema would be jeopardized with only nine theaters. Mr. Kay replied that the request for proposal called for a minimum of 10 screens. He added that in working with the cinema operators on the project, having less than 10 screens could work against the project for distribution rights for certain films.

Mr. Rosenberger asked if the exterior walls of the community room would be glass. Mr. Glaser indicated they would be glass and visible from street.

Joshua Guier, owner of the Fraser Street Deli at 109 South Fraser Street, submitted an entry of appearance and was sworn in to give testimony. Mr. Guier stated that the layout of the building would do wonders for the street. However, he questioned the proposed use of the corner of Calder Alley and Fraser Street. He noted that the plans were calling for a café, which would be in direct competition with his establishment. He noted that this Council has the opportunity to make adjustments to the plan and asked that they consider the restaurant use and how it would impact the other businesses on the street.

Christine Guier, co-owner of the Fraser Street Deli, was sworn in to give testimony. She asked that conditions be placed on the proposed restaurant establishment that the food items not be the same as that of their establishment. The Fraser Street Deli has been in town for 35 years and it has always been a small owner-operated establishment. She submitted a copy of their menu which Mr. Williams accepted as Exhibit 1 for the Guier's.

Mr. Kay responded to the testimony clarifying that the commercial space at the corner of Calder Way and Fraser Street was referred to as a café but it was not confirmed that would be the commercial use for that location. He noted that from the level of interest expressed at that location by a number of food operators, it appeared to be an attractive location. He appreciated the concern expressed by the owners of the Fraser Street Deli but said that the additional pedestrian traffic on Fraser Street created by the development would benefit all of the businesses in the vicinity.

Mr. Williams asked for additional testimony from the public. There being none, he recalled Mr. Slaybaugh for closing comments. Mr. Slaybaugh indicated the State College Planning Commission reviewed the application at the July 9, 2008 meeting and unanimously recommended that the conditional use should be approved as presented, which includes the three modifications to the upper story setbacks. He noted that from staff review, the plan complies with the all terms of the Zoning Ordinance except for the modifications in the setbacks.

Mr. Williams closed the public hearing.

Mr. Hahn moved to instruct the solicitor to prepare a decision granting the conditional use with the exception that the setback modification for the community room not be granted. There was no second to the motion; the motion failed.

Mr. Rosenberger moved to direct the solicitor to prepare a decision granting the conditional use as requested. Ms. Lafer seconded the motion. The motion passed with a 6-1-0 vote, with Mr. Hahn opposed.

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

- Vouchers for the Borough of State College for the month of June in the amount of \$2,167,112.33.
- Use of various streets to conduct the State College Area High School Homecoming Parade on Thursday, October 2, 2008, from 5:30 to 9:00 p.m.
- Use of the Orchard Park Bicycle Path for the 5th Annual Centre Region Parks & Recreation Youth Triathlon on Saturday, July 26, 2008, from 8:00 a.m. to 11:00 a.m., with a rain date of Saturday, August 9, 2008

Mr. Hahn moved to table consideration of the loan from the Pennsylvania Department of Transportation Infrastructure Bank for \$1,051,788 for 10 years at 2.5 percent for the realignment of the West Beaver Avenue and South Fraser Street intersection. Mr. Rosenberger seconded the motion, which passed with a 7-0-0 vote.

**Referendum to Repeal Term Limits**. Council considered an ordinance to have a referendum put on the November ballot to modify the Home Rule Charter to repeal term limits for members of Council. The deadline for submitting the ordinance to the County Election Board is August 4, 2008. The ordinance indicates the question should read as follows:

“Shall Section 402 of the State College Borough’s Home Rule Charter be amended to repeal the provisions limiting Councilpersons to serve two consecutive terms?”

Mr. Morris moved to enact Ordinance 1900 to place the referendum on the General Election ballot for November 4, 2008. Mr. Rosenberger seconded the motion.

Mr. Filippelli stated that he agreed with ending term limits but there should be an exemption for the sitting members council. He proposed an amendment to the main motion so that the term limits would still apply to those members currently seated on Council. There was no second to the motion; the motion failed.

Council members commented on the issue of term limits. Council discussed the importance of institutional memory as well as the competitive advantage to serve as

chairs on the COG standing committees. Those opposed indicated that this Council was not bi-partisan and this action would have the appearance of continuing the political advantage of a single party. Also, the sitting Council was elected based on term limits and some members felt that they should be restricted to the existing limits regardless of the outcome on the referendum.

Council discussed the wording of the referendum question and it was explained that the Centre County Board of Elections would have the final say in the wording of the referendum.

The vote on the motion to approve Ordinance 1900 was 5-2-0, with Mr. Filippelli and Mr. Rosenberger opposed; the motion passed.

**Parking Regulations for Nittany Avenue.** Staff reminded Council that a request was received from Mark Tygel, owner of the laundromat at 107 West Nittany Avenue, to provide on-street metered parking on Nittany Avenue near his business. After reviewing potential parking changes for the block, staff recommended removing the Commuter Zone parking and providing long-term and short-term metered parking. Additional commuter parking spaces will also be established in the 400 block of South Pugh Street by the ordinance prepared for Council's consideration.

Ms. Lafer moved and Mr. Rosenberger seconded a motion to approve Ordinance 1901.

Anne Ard, with Centre County Women's Resource Center, 140 West Nittany Avenue, spoke against the proposal to meter the on-street parking. She noted that many of the shelter staff and residents use the commuter passes and need parking that is accessible. The shelter purchases four commuter passes a month. She urged Council to reconsider and find an alternative to address Mr. Tygel's concern.

Council discussed the number of spaces requested by Mr. Tygel. Staff noted that there were four to five spaces requested by the applicant.

Mr. Hahn moved to amend the motion to adopt the ordinance with only four spaces directly across the street from the laundromat to be converted to metered spaces and the remainder of the block to remain as commuter parking. Ms. Lafer seconded the amendment to the motion. The motion passed with a 6-1-0 vote, with Mr. Rosenberger opposed.

Council then discussed whether or not the additional commuter spaces should be included in the 400 block of South Pugh Street. Staff noted that there was an excess supply of commuter parking. There are 183 spaces and 80 permits.

Ms. Lafer moved to amend the original motion to remove the commuter spaces in the 400 block of South Pugh Street from the proposed ordinance. Ms. Goreham seconded the motion. The motion on the amendment passed with a 7-0-0 vote.

Council then voted on the original motion to approve Ordinance 1901 with the two amendments. The motion passed with a 7-0-0 vote.

**Second Means of Egress.** Council considered an ordinance to make two changes to the Property Maintenance Code:

- Repeal the 20 foot rule for 2 story residential properties (sprinkler/second egress requirements would continue to apply to 3 story rentals)
- Revise the definition of habitable space as used in sections 702.5 through 702.5.2 of the Property Maintenance code to exclude kitchens.

Council discussed the issue of removing kitchens from the list of habitable spaces. It was noted that all sleeping rooms would continue to be included in the list of habitable spaces.

Ms. Lawrence moved to approve Ordinance 1902. Mr. Rosenberger seconded the motion. The vote was 5-2-0, with Mr. Hahn and Ms. Goreham opposed. The motion passed.

**Amendment to Administrative Code.** Council considered an amendment to the Administrative Code to ratify modification of rank within the police department. These ranks were changed as part of the Police Department Accreditation to make the State College ranks comparable with other departments. The changes in rank did not result in any changes to the compensation plan of the Borough. This amendment also clarifies Council's authority to establish the authorized number of sworn officers, and provides the Chief of Police with the authority to create specialized assignments within the officer ranks. (e.g. Detectives, School Resource Officer, Community Relations Officer, etc.)

Mr. Hahn moved to approve Ordinance 1903. Ms. Lafer seconded the motion. The motion passed with a 7-0-0 vote.

**Sewer Ordinance Revision.** Council considered a change to the Sewer Ordinance to provide that a fee can be charged for inspection when a lateral is constructed, repaired, or replaced, and a change to require anyone who works on a sanitary sewer within the street right-of-way to post surety and provide proof of insurance. In conjunction with the ordinance Council considered a resolution to establish the permit fee at \$125 and an additional fee of \$50 for additional inspections in excess of the first.

Mr. Hahn moved to enact Ordinance 1904 and approve Resolution 969, as written. Ms. Lawrence seconded the motion, which passed with a 7-0-0 vote.

**Street Renaming Ordinance for 911 Compliance.** Council considered an ordinance to rename certain streets within the Borough in an effort to be consistent with the Centre County Emergency 9-1-1 Office.

Mr. Hahn moved to enact Ordinance 1905 to rename certain streets. Mr. Morris seconded the motion. The vote on the motion was 7-0-0; the motion passed.

**Bicycle Parking Trial.** Council considered a proposal to remove a parking space on 100 South Allen Street on a trial basis and install 2 multi-bike racks that could accommodate up to 16 bikes in the space of a single car-parking space. The season will run from April 1 to November 15. After that time, staff will reevaluate to determine if it is needed.

Council discussed the safety issues with bicycle parking located next to the cartway. Staff noted that there would be some protection from traffic because it would be located within the shadow of the pedestrian node and the bike racks would be perpendicular to the street so that bicyclists would not have to walk out in front of traffic.

Mr. Rosenberger moved to approve the bicycle parking on a trial basis. Mr. Hahn seconded the motion. The motion passed unanimously.

#### OFFICIAL REPORTS AND CORRESPONDENCE

**Mayor's Report.** Mr. Welch noted the passing of John Ditmar, a long-term resident of the Borough who had worked for the State College Area School District and had served as the Park and Recreation Director for many years. He noted Mr. Ditmar was an outstanding public servant and would be missed.

**President's Report.** Ms. Goreham announced an executive session was held following the meeting of Monday, July 14, 2008, to discuss personnel matters and real estate.

She also announced the Borough had received two grants from the Department of Community and Economic Development. The first was for \$5,000 for Orchard Park play equipment and the second was for \$25,000 for the construction of a green roof at the municipal building.

Mr. Goreham also congratulated Catherine Dauler, former Council member, who had completed a series of leadership training during her tenure on Council.

There being no further business, the meeting adjourned at 9:25 p.m.

Respectfully submitted,

---

Cynthia S. Hanscom  
Assistant Borough Secretary