

**Meeting Minutes**  
**State College Borough Council**  
**October 5, 2009**

The State College Borough Council met on Monday, October 5, 2009, in the State College Municipal Building, 243 South Allen Street, Room 304, State College, PA. President Goreham called the meeting to order at 6:32 p.m.

Present: 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, Borough Solicitor; Thomas J. Fountaine, II, Borough Manager; Michael S. Groff, Finance Director; Norma J. Crater, Accounting Supervisor; Roger A. Dunlap, Assistant Borough Manager of Budget and Administration; Thomas S. Kurtz, Assistant Borough Manager for Community Services; Sharon K. Ergler, Assistant Borough Secretary; Thomas King, Chief of Police; Carl Hess, Planning Director; Herman Slaybaugh, Zoning Officer/Planner; Anne Messner, Planner; and Lu Hoover, Senior Planner.

**Public Hour.** No citizens were present to speak about items not on the agenda.

**Take Action to Approve the Refinancing of the 2002, 2003, 2004 and 2005 General Obligation Bond Issues.** Bond Counsel Jens H. Damgaard, Rhoads & Sinon LLP, summarized the ordinance to authorize the refinancing of the 2002, 2003, 2004 and 2005 General Obligation Bond Issues. He also reported on the internet auction of the bonds, earlier in the day.

Financial Advisor Chris Gibbons, Concord Public Finance, reported the winning bidder was the Bank of New York Mellon with a rate of 3.23%.

Ms. Lafer made a motion to adopt the ordinance to approve the refinancing. Mr. Rosenberger seconded the motion and Council voted unanimously to approve it.

**Council Selection of an Interim Mayor.** Ms. Goreham said the candidates mentioned to date to serve as interim Mayor until December 31, 2009, include Catherine Dauler, Steve Herb, Jeff Kern, and Felicia Lewis.

Mr. Morris nominated Felicia Lewis as the Borough's Interim Mayor.

Ms. Lafer seconded the motion, which passed unanimously.

**Consent Items.** Mr. Rosenberger made a motion to approve the following consent items:

- Award Alternate A bid for Project #9-2009 Compost Waterline to Ameron Construction Company, Inc., the low bidder, for a total of \$35,860.00.
- Approve the use of sidewalks in close proximity to Our Lady of Victory Catholic School at 800 Westerly Parkway for their annual walkathon on Wednesday, October 7, 2009 from 10 a.m. to 4 p.m.

Ms. Lafer seconded the motion, which passed unanimously.

**D & E Communications Franchise Transfer Request.** Mr. Hahn made a motion that council approve the resolution approving the transfer and assignment of the D & E Communications Cable Television Franchise to D & E Systems, Inc. Mr. Rosenberger seconded the motion, which passed unanimously 7-0-0.

At 7:14 p.m. Council recessed the meeting.

Ms. Goreham reconvened the meeting at 7:31 p.m.

### **West End Zoning District and Design Guidelines Public Hearing**

Staff provided a brief overview of the proposed West End Zoning District and Design Guidelines.

Mr. Brett Fisher of 463 East Beaver Avenue said he was in favor of the proposed West End zoning to increase the tax base and address the need for inclusionary housing.

Mr. Eric Boeldt of 400 South Gill Street said unless you preserve what is already in the West End, there is no hope within the next 200 years for smaller greener things. He said multi-story buildings are not the way to do it.

Mr. Dan Rowland of 230 South Gill Street said Council does not seem committed to a vision for this area. The current and the proposed zoning regulations do not match the residents' vision.

Mr. Nicholas Kello of 914 Robin Road said his main concern is how the total population from West College to West Campus would change.

Ms. Janet Lyon of 813 West Foster Avenue said doesn't see anything that would prevent developers from buying up lots and putting up more student housing.

Mrs. Gloria Leous of 425 West Fairmount Avenue said the West End zoning changes will only bring us a Beaver Canyon West.

Ms. Pernille Boving of 930 Robin Road said she would like to see a park, fountains, etc. in the West End.

John, a resident of 833 West College Avenue (Central PA's Community Housing Co-op), said he would like to see both socially and environmentally responsible housing. He added that if there are any residents who want to sell their West End homes, he would love to buy their properties.

Ms. Julie Haggerty, also of 833 West College Avenue, said if the goal is three stories then permit only 3 stories; if a range of 3 to 5 is permitted then developers will build 5 stories.

Ms. Maren Larson of 228 South Patterson Street said she doesn't like it that the new proposed West End zoning does not address historic preservation.

Mr. William Burgos of 410 South Gill Street said there are not enough incentives for developers to build lower density housing.

Mr. Paul Barsom of 417 West Nittany Avenue asked if the Borough is considering that there will be side effects of the West End proposal, such as traffic (diverters) thru the middle of the Holmes-Foster neighborhood.

Mr. Richard Kalin of 905 Robin Road said his personal preference is for the Borough to do nothing to change the West End zoning. He suggested Borough Council should try other ideas first such as streetlights and creating paths to the West Campus.

Mr. Michael Berube of 813 West Foster Avenue said the Borough should not let revitalization in this area die.

Mr. John Simbeck, owner of 601 West College Avenue, said the Borough has done a dismal job of promoting businesses in this neighborhood. He encouraged Council to take small steps and to add lighting, garbage cans, etc. to a good neighborhood.

Mr. Robert Minard of 717 West Foster Avenue suggested Council work with Penn State officials to accommodate the needs for student housing.

Ms. Christine O'Reilly of 823 West Beaver Avenue said take small baby steps; if we do this wrong, the neighborhood is doomed.

Mr. Chris Reed of 251 South Osmond Street said the preservation ordinance should come first in order to protect what is here. If preservation ordinances are coming and developers know it, they will preemptively start knocking down buildings before preservation ordinances are passed.

Mr. Wilson Hutton of 435 West Nittany Avenue said both preservation and businesses are important as are the character of the streets and the proportion of retail and business spaces. He said he would encourage Council not to make big changes we can't reverse.

Ms. Karen Burgos of 410 South Gill Street said what bothers her is that we changed the course of action. She asked Council if they have gone back to look at the market study.

Mrs. Rosalie Bloom-Brooks of 812 West Beaver Avenue said the plan had a lot of positives, which creates a golden opportunity for the neighborhood but she has a lot of concerns about the density, scope, scale, and type of neighborhood that results.

Ms. Zoe' Boniface of 404 South Patterson Street said there is a cost to doing nothing: more dilapidated structures in the neighborhood. Presently the only market that continues to work downtown is student housing and unless we try to change the market, that is what we will continue to see.

Mrs. Joyce Porter of 299 Osmond Street said she doesn't want to see high rise apartment buildings.

### **Allen/Waupelani Bike Route Public Hearing**

Staff presented a brief summary of the proposal, as well as a map.

Mr. Neil Hemmerstein of 315 South Allen Street said the removal of on-street parking would interfere with his clients being able to get into his office in the Allenway Building.

Mr. Daniel Rowland of 230 South Gill Street said he was in favor of this type of transportation use and the possible means to encourage this type of lifestyle.

Mr. David Barber of 1122 South Allen Street said he objects to removing parking in front of residential properties, especially from the Parkway to Atherton Street, and asked Council to reconsider the proposal.

Mr. Lee Gruver of 1109 South Allen Street said he is not in favor of cars parked along Allen Street all of the time.

Mr. Paul Rito of 233 Bradley Avenue said he was very much in favor of the bike lane. He added that a bike lane down hills is not needed.

Cynthia Carpenter of 312 Ridge Avenue said she was a bicyclist with a child's cart behind her bike. She said this can be dangerous if the street is very narrow or if someone is getting in and/or out of a vehicle.

Mr. Jordan Drayton of 1020 South Atherton said he is a member of the Transportation Commission and he said he did not give this proposal his blessing because he did not feel parking should be relocated back onto Foster Avenue.

Andrew, a resident of 811 North Allen Street and a PSU student, said State College seems to have the beginnings of a bicycle network and this is a wonderful proposal.

Mr. Rick Hirsch of 819 Bayberry Drive, and Chairman of the Transportation Commission, said all feedback regarding the proposed bike way is appreciated, especially along the 1100 block of South Allen Street. If the proposal doesn't work, the Borough can merely take down the signs down and remove the paint markings on the streets.

Council members noted that they have received emails and letters from businesses owners in the Allenway Building who are opposed to making these changes.

Ms. Linda Bullard of 135 East Nittany Avenue and a member of the Transportation Commission said she supported the Allen/Waupelani bike path and any other bike paths we can make in order to make State College an alternative transportation friendly environment.

### **Inter-Municipal Transfer of a Liquor License Public Hearing.**

Staff explained that Council had received an application for a liquor license transfer from ARC Restaurants, LLC t/a Pizza Hut in College Township into the Borough at their existing establishment at 760 South Atherton Street.

Solicitor Williams said he would serve as the Hearing Officer and explained the hearing process, including the requirement, unlike the preceding hearings, that the testimony is sworn. Mr. Williams said Council's choices following the hearing are the following: approve the request as submitted, approve the request with conditions, disapprove, or table the application and consider at a later time. The decision must be reached, however, within 45 days of closing the record following all testimony.

Mr. Williams said ARC Restaurant's Owner/President Roger Gates is here as is his attorney Mark Flaherty.

Mr. Flaherty explained that his client is proposing to move the liquor license from the recently closed Pizza Hut in College Township to his present location at 760 South Atherton Street.

Mr. Flaherty said customarily Pizza Hut's alcohol sales are a small percentage of their total sales and all employees are RAMP trained and certified.

Mr. Flaherty noted that Mr. Gates history at his other location was very good. He has had no liquor code violations at any of his nine locations. Mr. Flaherty distributed a Pizza Hut menu and handout about their business, which was the Applicant's Exhibit #1.

Mr. Flaherty said while the state statute requires Council render its decision on this request within 45 days, Mr. Flaherty said his client has waived that and he will give Borough Council an additional 60 days to decide.

Next, Staff spoke about the ARC Restaurant's request. The Borough's Exhibit #1 was the review showing that the application was complete and it met all the requirements of the ordinance. Staff provided information on crimes related to establishments which had transferred liquor licenses, such as Rotelli's and Fuji and Jade Garden. Fuji and Jade has had ten police calls, and these calls were for 3<sup>rd</sup> party hosted events. To date there have been no liquor law related calls at Rotelli's. The staff review stated an unconditional approval of the transfer into the Borough would adversely affect the residents; however, a license transferred in with conditions would not affect the residents as much. Therefore, Staff was proposing Council consider placing thirteen conditions on the granting of the request.

Council members asked if the business owner is agreeable to those conditions. Mr. Flaherty said his client is agreeable to meet those conditions as stated.

A Councilmember raised a concern about sales for off-site consumption. Mr. Flaherty said Pizza Hut's average sale of alcohol is approximately 2 percent.

Staff indicated that they have reviewed the issue of off-site consumption, especially with carry out sales close to the High School. Staff did not feel this establishment caused any more of threat than another establishment which is located along Westerly Parkway and therefore was not a basis for rejecting the application.

Mr. Williams said there were no citizens present who wished to provide testimony on this application. Therefore, the testimony portion of this meeting is closed and Council is now permitted to discuss this application in an open session.

Councilman Filippelli spoke at length to explain why he personally would not approve any new liquor licenses coming into State College. He said this is Borough Council's opportunity to make a statement, he concluded.

Council member Hahn spoke in favor of approving the transfer only with conditions. Other Council members agreed because with more and more licenses being transferred into the Borough, the Borough needs restrictions that will work.

Ms. Lafer made a motion to postpone this decision until Council's October 19 meeting. Mr. Rosenberger seconded the motion. The motion passed 6-1-0 with Mr. Morris voting against.

Mr. Williams noted the record had been closed,

### **2010-2014 Consolidated Plan and 2010 Annual Action Plan and 2009 Fair Housing Analysis Update Public Hearing**

There was no one present who wished to speak at the public hearing for the 2009 Fair Housing Analysis Update.

**President's Report** – Ms. Goreham noted that Mayor Welch was memorialized in a Resolution in Chambersburg. The town honored the late Mayor for his service, because of the numerous boards and commissions he served on, as well as Fourth Fest, and the Mount Nittany Conservancy. Further, they expressed their sorrow in his passing and sent their condolences for the community and his wife, Nadine.

Ms. Goreham pointed out that tomorrow night is the League of Women Voters's Candidates Forum for all contested supervisor and mayoral races, as well as the District Attorney's office. The forum begins at 7 p.m.

**Regional Liaison Reports** - None

**Staff/Committee Reports** - None

The meeting adjourned at 10:08 p.m.