

Meeting Minutes
State College Borough Council
Regular Meeting/Work Session
Monday, July 12, 2010
7:30 p.m.

The State College Borough Council met on Monday, July 12, 2010, in the State College Municipal Building, 243 South Allen Street, State College, PA. Ms. Goreham called the meeting to order at 7:30 p.m.

Present: Elizabeth A. Goreham, Mayor
Ronald Filippelli, President of Council
Thomas E. Daubert
Donald M. Hahn
Theresa D. Lafer
Silvi Lawrence
Peter Morris
James Rosenberger

Also present: Thomas J. Fountaine, Borough Manager; Terry J. Williams, Borough Solicitor; Sharon K. Ergler, Assistant Borough Secretary; Carl R. Hess, Planning Director; Herman Slaybaugh, Zoning Officer; Lu Hoover, Planner; Amy Story, Borough Engineer; Michael S. Groff, Finance Director; Thomas R. King, Chief of Police; Mark A. Whitfield, Director of Public Works; Edward C. Holmes, Facilities Manager; Charles DeBow, Parking Manager; and Roger A. Dunlap, Assistant Manager for Budget and Administration; members of the media and other interested observers.

Ms. Goreham began with a moment of silence and the Pledge of Allegiance.

Public Hour.

Joel Solkoff, 120 East Beaver Ave. Apt. #7, spoke in support of Webster's Bookstore and Café which is due to close at the end of the month. He also asked Council to prepare a resolution declaring Webster's an institution and a cultural asset. He added that loss of this business would severely damage the character of downtown, especially for the elderly and disabled. Mr. Solkoff also asked Council to appoint a delegation of members to meet with Webster's owner, Elaine Meder-Wilgus, and the landlord to attempt mediation of the lease dispute.

Council agreed that the lease dispute would be better handled with the assistance of Jody Alessandrine from the Downtown State College Improvement District (DSCID). Council added that they cannot and should not get in the middle of a legal contract between a property owner and tenant; Council has no legal rights to help business owners find locations downtown or to mediate with landlords.

Christian Ragland, the new University Park Undergraduate Association President, introduced himself. He said he is a true believer in community engagement and is eager to work with Council. He provided Council with his contact information.

Public Hearings

Birch Alley Vacation. Mimi Barash-Coppersmith, 425 Windmere Drive, said she was attending the meeting tonight because Birch Alley abuts the Towers and she presently serves as President of the Towers Condo Association. She asked if a gate could be installed to close off the Towers parking lot to the alley; a gate would cut down on the cut-through traffic in the parking garage.

Solicitor Williams urged Ms. Barash-Coppersmith to consult with her attorney to determine her property rights. Further, he said the action proposed by Council has no impact on her private rights to enclose the parking area, but rather the action Council is considering is to eliminate the Borough's rights in this area.

Ms. Barash-Coppersmith questioned snow removal in the alley. Staff said the Borough would have no interest in Birch Alley for snow removal or the maintenance of the alley.

Mr. Fontaine indicated that he received correspondence from Ms. Helen Haugh, another abutting property owner; Ms. Haugh's letter was distributed to Council and made part of the record.

Ms. Goreham closed the first of two public hearings at 8:00 p.m.

Campus Development Standards – The second public hearing was to receive input from the public on the proposed Campus Development Standards. There was no one in the audience who wished to discuss this item so the public hearing closed at 8:01 p.m.

Mr. Daubert made a motion to have this ordinance published with Council's intent to enact at a future meeting. Ms. Lafer seconded the motion, which passed unanimously.

Consent Items – Mr. Filippelli moved and Mr. Rosenberger seconded the motion to approve the following consent items. The motion passed unanimously.

- Award Project #9-2010 (Calder Way Storm Sewer Rehabilitation) to AbelRecon, LLC, the low bidder, in the amount of \$428,728.00.
- Award Project #2-2010 (Street & Alley Resurfacing) to HRI, Inc., the low bidder, in the amount of \$288,686.00.
- Approve the use of various downtown sidewalks for the YMCA Club's Foot Relay on Saturday, October 2, from 10:30 a.m. to 5:00 p.m.
- Approve the closing of Calder Way, from McAllister Street to Locust Lane, on Sunday, August 29, from 3:00 p.m. to 9:00 p.m. for St. Paul's United Methodist Church's annual picnic and for an outdoor Christian concert.

Administration

Support of the Uniting American Families Act (UAFa). Staff noted that Council Member Morris was asked by the Justice League for Council's consideration in supporting the Uniting American Families Act. Mr. Morris made a motion to approve the resolution supporting this Act. Mr. Hahn seconded the motion.

Mr. Morris said there is an obvious flaw in the immigration law and how it treats bi-national couples in different ways if a couple is of the same sex or an opposite sex couple. The current law is discriminatory.

Some Council members feel that Council should not be making these types of decisions as they are not qualified to do so.

Audrey Smith, 1138 South Garner Street and member of the Justice League, spoke to Council in support of the resolution. She said there is large support for the Act in the House of Representatives, as well as the Senate; specifically Senators Casey, Specter, and Sestak. She added that unfortunately it is up to Congress to decide what permanent partner means. She asks Council to support the resolution; State College would be the 23rd US municipality to pass such a resolution and the first in Pennsylvania.

The majority of Council was supportive of a resolution, simply as a statement of communities in Pennsylvania and the U.S. where equity is not being established regardless of gender. Council agreed there are several states and foreign countries that do recognize registered partnerships and/or same-sex marriages; as a university community, some members of Council felt they should support reduction of barriers.

Mr. Daubert expressed concern for illegal immigrants. He asks that the word 'legal' be added to the resolution. Ms. Lafer responded that the resolution does not support illegal immigration, but rather cultural and ethnic groups.

Council then voted on the original motion, which passed with a 5-2-0 vote, with Council Members Rosenberger and Lawrence opposed.

Planning and Zoning

North Buckhout Street Vacation. Staff briefed Council on the history of North Buckhout Street and why Penn State has petitioned to vacate the street. A public hearing was held on August 17, 2009, where one person spoke against the vacation.

The State College Borough Planning Commission reviewed the vacation petition and recommended that Council not approve the vacation until such time as Penn State's plan for future development and use of the abutting property is known.

Staff explained that without a vacation, the abutting land on each side of the right-of-way cannot be consolidated and redeveloped as a unified parcel. Staff recommends Council enact the ordinance to vacate the portion of Buckhout Street.

Mr. Filippelli made a motion to enact an ordinance to vacate North Buckhout Street; Mr. Hahn seconded the motion. The motion failed with a 5-2-0 vote, with Council Members Morris and Filippelli voting for the vacation.

Birch Alley Vacation. Council received public input on this ordinance during the public hearing held earlier this evening. Staff recommends vacation because there is no municipal interest in the alley.

Mr. Filippelli made a motion to enact an ordinance to vacate Birch Alley; Mr. Hahn seconded the motion.

Council questioned the deterrence of emergency vehicles as a result of the vacation. Staff responded that emergency vehicles would have public ordained access from a public right-of-way without use of the alley.

Solicitor Williams said that only municipal rights to the alley would change with the vacation; the public has a private right to continue use of the alley.

Council questioned the vacation; Staff responded that the alley was never ordained and the Borough has no rights to use the alley. Ms. Barash-Coppersmith stated she had documentation stating the alley was ordained in July 1970. Staff indicated the Borough's records were different and would need to verify records.

After discussions, Ms. Lafer made a motion to table enactment of the ordinance; Mr. Rosenberger seconded the motion. The motion to table enactment was passed with a 7-0-0 vote.

West End Zoning. Staff explained that in December 2009, Council referred the West End Zoning back to the Planning Commission with a number of specific changes to be incorporated into the proposed ordinance. The Planning Commission completed its review and included their recommendations with the agenda.

Staff recommends Council formally receive the Planning Commission's report and schedule a public hearing on September 13 to amend the Zoning Ordinance. Staff then gave a brief overview of Planning Commission's comments.

Mr. Hahn motioned and Mr. Filippelli seconded the motion to accept the zoning ordinance and schedule a public hearing in September.

Mr. Daubert suggested a work session for further discussion. Mr. Filippelli agreed and said although he seconded the motion, perhaps it is too early to set a date for a public hearing. Council also concurred.

Mr. Hahn made a motion to modify the motion accordingly and Mr. Filippelli seconded the motion to continue discussion at a work session and not schedule a public hearing at this time. The motion passed unanimously.

Birch Alley Vacation continuation.

Mr. Rosenberger moved to remove Birch Alley from the table and Ms. Lafer seconded the motion. The motion passed unanimously.

Staff said the section of Birch Alley that was ordained is not the same section requested for vacation.

Council questioned the legal difference between a non-ordained and a vacated alley. Solicitor Williams briefly explained the differences but said the definition is very complicated and suggested another meeting for the full explanation.

Staff stated that after enacting the ordinance, any person adversely affected by the ordinance has the right to petition Council for reconsideration.

After reviewing the ordinance presented by Ms. Barash-Coppersmith, Solicitor Williams explained that it referred to a different location from Birch Alley; it refers to Nittany Avenue between Apple and Berry Alleys.

The original motion to vacate Birch Alley passed unanimously.

Projects Report/Open Agenda

Mr. Daubert questioned the shift of money from the Fairmount Avenue Reconstruction to the Kemmerer Road Project. Staff stated the CDBG budget was amended and, therefore, money was redirected.

Moving on to Open Agenda items, Mr. Hahn requested an update on the Fraser Centre from Susquehanna Real Estate.

Mr. Daubert suggested including more policy matters on the upcoming agendas rather than reports. Staff responded that at this time August and September are full of matters relating to the budget; the Neighborhood Sustainability is an annual report; and there is an upcoming report on pensions which leads-in to budget discussions. Staff added that agenda items oftentimes depend on the ABC actions.

Mr. Filippelli asked about specific issues such as inclusionary housing which should be on an agenda as soon as possible. Staff responded that the West End, the Historic Overlay and Inclusionary Housing are on the upcoming Planning Commission agenda; which means the topics will return to Council's agenda thereafter.

Mr. Daubert added the public has expressed to him that agenda topics are more important than the dates scheduled.

Adjournment

There being no further business, the meeting adjourned to an Executive Session at 9:08 p.m. to discuss personnel matters.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary