

**Meeting Minutes**  
**State College Borough Council**  
**Regular Meeting**  
**Monday, April 18, 2011**  
**12 p.m.**

The State College Borough Council met on Monday, April 18, 2011, in the State College Municipal Building, 243 South Allen Street, Room 304, State College, PA. Mayor Goreham called the meeting to order at 12:01 p.m.

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

Also present: Thomas J. Fountaine, II, Borough Manager; Sharon K. Ergler, Assistant Borough Secretary; Roger A. Dunlap, Assistant Borough Manager; Anne Messner, Planner/Zoning Officer; Beth Johnston, Human Resources Director; Carl R. Hess, Community Development/Planning Director; Lu Hoover, Senior Planner; Thomas R. King, Chief of Police; Edward C. Holmes, Facilities Manager; Ben Pugh, UPUA Student Representative; Charles DeBow, Parking Director; Norma J. Crater, Accounting Supervisor; Lisa Welch, Attorney; interested members of the media and concerned residents.

**Public Hour - Hearing of Citizens**

Mr. Ben Pugh, the UPUA Representative to Council, reflected on his experiences as the first UPUA Representative. He also introduced the UPUA's nomination for the next UPUA Representative, Brendan McNally. Mr. Pugh thanked Council for the opportunity and expressed his gratitude.

Mr. Brendan McNally briefly explained why he would like to be the UPUA's Representative to Council. He said he used to be a reporter for the *Daily Collegian* and would be honored to have the opportunity to serve as the next UPUA Representative.

Proclamation – Mayor Goreham presented Allison Lilly with a proclamation declaring April as Penn State EcoCar Energy Month. Ms. Lilly briefly explained the EcoCar would be on display at the April 25 COG General Forum meeting. The EcoCar is a small hybrid SUV that you can drive 40 miles without ever kicking on the engine.

Mayor Goreham introduced the newly elected UPUA President T.J. Bard and Vice President Courtney Lennartz. Mr. Bard said the UPUA is excited to continue its relationship with the Borough.

**Consent Items**

Mr. Filippelli made a motion to approve the following consent items, which was seconded by Ms. Lawrence.

- Approve the use of the Municipal Building lobby and Mayor Welch Plaza for a Global Connections event to be held on Sunday, May 22, from 1 p.m. to 5 p.m.
- Approve vouchers for the month of March in the amount of \$2,156,175.00.
- Approve the UPUA's nomination by appointing Brendan McNally to serve as the UPUA representative to the State College Borough Council for a one-year period from May 1, 2011, to May 1, 2012.
- Approve a Resolution declaring Saturday, April 23, as ClearWater Conservancy's annual Watershed Clean-Up Day in the Borough.
- Appointments to various Authorities, Boards, and Commissions:

Appointment	Person's Name	Name of ABC	Date of Expiration
Appointment	Michele Hamilton	Human Relations Commission	December 31, 2013
Appointment	Samuel Settle	Human Relations Commission	December 31, 2011
Appointment	Paul Rito	Transportation Commission	December 31, 2013
Appointment	Bruce Rohrbach	Tree Commission	December 31, 2013
Appointment	James Meashey	Citizens' Advisory Committee	December 31, 2012

The motion passed unanimously.

### **General Policy and Administration**

Consider the Local Option for Enforcement of Liquor License Establishment Noise Complaints in the Borough of State College. Mr. Filippelli made a motion to adopt Resolution #1049 and file the application for the amplified music exemption with the Pennsylvania Liquor Control Board, which would allow the Borough to handle noise complaints. Mr. Rosenberger seconded the motion.

Most Council members said they felt more comfortable adopting this resolution, since they have had a positive response from both the Tavern Association and from the PLCB who attended Council's last meeting.

Other Council members felt it was premature in introducing this item again, since the decibel meter readings cannot be used downtown because of too much ambient noise. Staff should rewrite the noise ordinance so the Borough can enforce it.

The motion passed 5-2 with Ms. Lawrence and Mr. Daubert voting against the motion.

Fair Housing/Anti-Discrimination Ordinances. Staff explained there are two separate ordinances for Council's consideration this evening. The first is the Fair Housing Ordinance. Staff has reviewed this ordinance and recommended revisions to update the ordinance, which includes public accommodations and residential real estate related transactions.

Ms. Lafer made a motion to approve the revisions and enact Ordinance #1965. Mr. Filippelli seconded the motion.

Ms. Joanne Tosti-Vasey, President of PA NOW, raised some concerns related to mediation and getting District Justices involved. She said this ordinance has a lack of family responsibility and the Borough could possibly be sued.

Mr. Morris said he strongly agrees with Ms. Tosti-Vasey and therefore proposed an amendment to the Fair Housing Ordinance, which would add family responsibility and he would also ask that family responsibility be defined in the Anti-Discrimination Ordinance. Mr. Morris' motion failed due to the lack of a second.

One Council member inquired about the status of domestic partners and whether they were included in this ordinance. Staff said couples who are single sex partners would be protected by the ordinance. Both ordinances do include sexual orientation and gender identity.

Borough Solicitor Terry Williams said some of Ms. Tosti-Vasey's commentary is not correct based on some of the discussions he has had with staff. Mr. Williams said no one wants to see neither discrimination nor the risk for litigation.

The motion passed unanimously.

Anti-Discrimination Ordinance. Mr. Filippelli made a motion to enact the Anti-Discrimination Ordinance and Ms. Lafer seconded the motion.

One Council member asked why staff has changed the word "Borough" to "Municipality" throughout these ordinances.

Staff said technically we are not a Borough. Under the Home Rule Charter we are a Home Rule Municipality. Our Codification is presently a mix of municipality and borough and we are working to correct the reference to municipality.

Mr. Williams said both terms are correct and we are in no way surrendering the use of the word "Borough." All of the existing agreements and ordinances containing the word Borough; remain in effect, however, staff will be coordinating all future ordinances for uniformity.

Ms. Tosti-Vasey said this ordinance has greatly improved but there are two remaining problems. The first relates to the eligibility of membership on the Human Relations Commission (HRC). She said residency is limited to the Centre Region. Ms. Tosti-Vasey said it should be residents of Centre County, since employees live throughout the County. Her next concern was related to mediation. If the parties jointly select a mediator and the complainant has to pay for the mediation, they are being penalized twice. Once for discrimination and once for the burden placed on them to pay for the mediation. She said the wording needs to be changed to correct this error by eliminating the words "mutually agreeable mediator."

Ms. Tosti-Vasey added that one additional concern relates to the expanded enforcement section. In the current ordinance before revisions, discrimination was covered by the 4<sup>th</sup> Amendment of the Constitution. If Council enacts this revised ordinance, the ordinance will have no teeth as it stands today. If someone refuses mediation, the case is closed. Ms. Tosti-Vasey suggested deleting the clause and changing the expanded enforcement and post mediation procedure.

Staff said the ordinance does create the ability to mediate a dispute. Expanded powers have to be turned on by the (HRC) and approved by the Council. The Borough would be the responsible entity and subject to judicial review. This proposed ordinance gives the complainant an appeal to County Court. Historically, Borough Council has not wished to not include the expanded procedures for budgetary reasons because the cost of doing that exceeded the Borough's ability to fund.

Council members raised several questions about the costs of mediation, and whether or not there are any volunteer mediators or mediators who are funded through grants.

Staff said the benefit of the ordinance expands the protective classes. The cases that would come to the HRC cover only the protective classes and it does give access to court, if needed.

Mr. Morris offered an amendment, which would, as the Manager stated, turns on the switch earlier to the HRC, which expands enforcement to post mediation enforcement procedures. Mr. Rosenberger seconded the amendment but cautioned this is not the correct way to write ordinances.

Staff recommended tabling the ordinance rather than want an amendment in a month or two, allowing the Solicitor time to review the amendments offered by Ms. Tosti-Vasey and Council. Staff said this would save us from enacting two separate ordinances, as well as the cost of publishing the ordinance twice.

The motion to approve the Anti-Discrimination Ordinance failed 5-2 with Mr. Morris and Mr. Filippelli voting in favor of the motion.

Mr. Daubert made a motion to table the Anti-Discrimination Ordinance and to have staff bring it back before Council by the end of May to see how these suggestions made by Ms. Tosti-Vasey should be treated. Mr. Morris seconded the motion, which passed unanimously.

Inclusionary Housing Ordinance. Council members discussed how to proceed on the proposed Inclusionary Housing Ordinance. Some members said they would prefer to not change the in-lieu and leave it as originally written.

Other Council members suggested sending the Inclusionary Housing Ordinance back to the Planning Commission because they had mixed feelings about in lieu and the main concern was to stop the construction of high rises.

One Council member said inclusionary housing is used effectively across the United States and we should encourage more people to live and work in State College.

Another concern raised was the 10% rule of housing units that could be built or designated off-site. Usually the percentage is higher when units are not on-site. It was suggested that we leave the in-lieu rate to 10% if units are onsite and up it to 50% if the units are located off-site.

Many Council members felt the in-lieu option should be sent back to the Planning Commission and the percentage should be raised.

Mr. Daubert made a motion to send the Inclusionary Housing Ordinance back to the Planning Commission with the suggestion that the inclusionary units be required to be at least 10%. Ms. Lafer seconded the motion.

Ms. Mary Markle, 815 West Fairmount Avenue, asked why developers are driving the conversation about inclusionary housing. She said since the economy is not great at present, there are plenty of hungry developers who can give us what we want and still make money. Ms. Markle said inclusionary housing can be done in the Borough. There are “outside the box” ways to make it happen. She suggested just take parking out of the picture entirely.

Mr. Filippelli said that is an excellent idea to remove parking as an incentive for developers and this is something to have the Planning Commission consider.

The amendment passed 6-1 with Mr. Rosenberger voting against the motion.

Mr. Filippelli offered an amendment to remove parking as an incentive as part of the inclusionary housing ordinance. Mr. Hahn seconded the motion.

A few Council members said removing all parking from a 100 unit apartment building is a disaster which would create new parking demand downtown.

Ms. Susannah Barsom, 417 West Nittany Avenue, encouraged Council to forward the suggestion onto the Planning Commission because it is worth discussing. She said she is a member of the Centre Region Bike Coalition’s Executive Committee and Task Force. She said the coalition has a lot of members who do not own cars. She said the coalition would be willing to offer assistance in surveying people and seeing how many would need the parking.

The motion passed 7-0.

Mr. Morris made a motion that the in lieu percentage be raised to 10%. Ms. Lafer seconded the motion. Mr. Daubert offered an amendment that the in lieu rate be raised to at least 10% so they could consider higher numbers. Mr. Morris accepted the amendment. The motion passed 5-2 with Mr. Hahn and Mr. Rosenberger voting against the motion.

## **Planning and Zoning**

West End Zoning. Staff said they are looking for guidance from Council on how they would like to proceed with the West End Zoning; three options are available. The first is to table indefinitely and remove from the table. The second option is to postpone discussion for a specific time period, as long as a year, and bring it back, roll up our sleeves, and continue to work on it. The third option is to move ahead immediately with the goal of a West End zoning amendment.

Mr. Morris made a motion that the West End zoning be tabled indefinitely. Mr. Hahn seconded the motion which passed 6-1 with Mr. Rosenberger voting against.

Next, Mr. Hahn moved that the Planning Commission consider a review of the current Urban Village ordinance to ascertain and identify areas that discourage retail development and other commercial uses in the West End.

Mr. John Simbeck, 601 West College Avenue, said he has been involved in this discussion for six years. He said it is time to start making improvements, which he and others have been asking for the last 10 years. He encouraged Council to make it more attractive so that people what to move into the West End.

The motion passed all in favor.

Council recessed to a work session at 1:58 p.m. to discuss the following:

### **General Policy and Administration**

2012-2016 Capital Improvements Plan (CIP) – Council discussed the Information Technology and the Parking Enforcement sections of the CIP.

There being no additional items to discuss, the meeting adjourned at 2:29 p.m.

Respectfully submitted,

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Sharon K. Ergler  
Assistant Borough Secretary