

Meeting Minutes
State College Borough Council
Regular Meeting
Monday, May 2, 2011
7:30 p.m.

The State College Borough Council met on Monday, May 2, 2011, in the State College Municipal Building, 243 South Allen Street, Room 304, State College, PA. Mayor Goreham called the meeting to order at 7:30 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; Terry J. Williams, Borough Solicitor; Carl Hess, Planning Director; Sharon K. Ergler, Assistant Borough Secretary; Roger A. Dunlap, Assistant Borough Manager; Mark A. Whitfield, Director of Public Works; Alan Sam, Borough Arborist/Environmentalist; Amy Story, Borough Engineer; Brendan McNally, UPUA Student Representative; Edward Holmes, Facilities Manager; Beth Johnston, Human Relations Director; and interested members of the media and concerned residents.

Public Hour - Hearing of Citizens

Motorcycle Safety Awareness Month. Mayor Goreham presented the Alliance of Bikers Representative Hal Hallock with a proclamation declaring May as Motorcycle Safety Awareness month.

National Association of Letter Carriers Food Drive Day. Mayor Goreham presented a proclamation to three State College postal workers declaring Saturday, May 14, as Letter Carrier's Food Drive Day.

Public Service Recognition Week. Mayor Goreham read a proclamation declaring May 1 through May 7 as Public Service Recognition Week for all federal, state, county and municipal level employees.

Reports

InnoBlue. David Adewumi and Jon Tornetta briefly reviewed the status of InnoBlue's Garage, the facility they are planning to open sometime this fall. Mr. Adewumi said their

Board of Directors has been working closely with the Borough and he has recently signed a Memo of Understanding and is actively working towards a lease.

Public Hearing

2012-2016 Capital Improvements Plan (CIP). Mayor Goreham opened the public hearing on the 2012-2016 CIP at 7:40 p.m.

Mr. Brendan McNally, the new UPUA Student Representative, said several students were not available to attend tonight's meeting and but wanted to offer input on the 2012-2016 CIP. Mr. McNally mentioned a project Penn State students Kathleen Quinn and Katia Esarey have recommended to him about the lack of street lights on East Fairmount Avenue and Fraternity Row. Mr. McNally said the UPUA is asking Council to consider installing additional street lighting on both streets. He added that this proposal has broad support from Penn State students.

The public hearing closed at 7:46 p.m.

Consent Items - Mr. Filippelli made a motion to recommend Council approve the consent items listed below. Ms. Lawrence seconded the motion.

- Approve the closing of the bike path, from Welch Pool to Blue Course Drive, on Saturday, July 23, from 8 a.m. to 11 a.m. for a Youth Triathlon sponsored by Centre Region Parks & Recreation.
- Authorize the Council President to sign a resolution authorizing a new traffic signal at the intersection of Whitehall Road and Blue Course Drive. Although the signal will be installed as part of this project, it is necessary for the municipality to submit an application to PENNDOT for its installation and be responsible for maintenance upkeep after installation.
- Council is being asked to approve a contract with Link Computer Corporation for on-site IT professional technical support services. The Borough had a contract with Link for this service, but this contract expired on March 31, 2011. The contract is needed because of the departure of two IT staff members and the need for assistance to meet the demanding work load faced by the IT staff until the vacancies are filled.
- Award the Base Bid and Alternate #1 for the Foster Avenue Sewer and Water Line Replacement Project to Maxwell Trucking & Excavating, Inc., the low bidder, for a total amount of \$628,059 and to invoice the State College Borough Water Authority the amount due for the water line portion of the project.
- Award a professional services contract for the inspections of the Beaver Avenue/Fraser Street Realignment Project to Gwin, Dobson and Foreman,

Inc. of Altoona, PA in an amount not-to-exceed \$57,419, pending PENNDOT approval.

- Appoint Don Hahn as the Borough's voting delegate for the PA League of Cities and Municipalities 112th Annual Convention being held in June, and appoint Ron Filippelli as the alternate voting delegate.
- Appoint the following individuals to various Authorities, Boards and Commissions:

| Appointment | Person's Name | Name of ABC | Date of Expiration |
|-------------|-------------------|-------------------------------|--------------------|
| Appointment | Robert Malcolm | Authorities Board | December 31, 2015 |
| Appointment | Christopher Jones | Historic Resources Commission | December 31, 2012 |

Council members questioned items on the consent agenda. First, is it advantageous to fill the vacancy in the IT Department or is it better to continue with a contract with an outside vendor. Also, what work is being performed on Whitehall Road to warrant a new traffic signal?

Staff said they are in the process of filing the IT position. The project on Whitehall Road is a street widening project by PennDOT and the traffic signal is part of the project.

The motion to approve the consent items passed unanimously.

General Policy and Administration

Anti-Discrimination Ordinance. Mr. Filippelli made a motion to remove the ordinance from the table. Mr. Hahn seconded the motion. The motion passed 6-1 with Mr. Rosenberger voting against the motion.

Next, Mr. Filippelli made a motion to adopt the proposed ordinance as presented. Mr. Hahn seconded the motion.

Staff said Joanne Tosti-Vasey distributed information to the Borough staff earlier today and copies were distributed to Council prior to the meeting.

Mr. Morris offered an amendment related to mediation based on Ms. Tosti-Vasey's recommendations. He recommended replacing the second paragraph of Section 907.c. to read as follows "If the parties elect mediation, the Commission shall select a mediator, a volunteer from the community, or a contracted mediation service. The Commission shall use cost-free volunteer mediators only, unless funds are approved for contracted mediation services by the Borough Council, or are obtained from an outside funding source." Mr. Rosenberger seconded the amendment. The amendment passed unanimously.

Ms. Joanne Tosti-Vasey, President of PA NOW, thanked Mr. Morris for his amendment. She urged Council to expand the Human Relations Commission's enforcement powers. Ms. Tosti-Vasey said she spoke with a representative of the Pennsylvania Human Relations Commission (PHRC) regarding mediation and a complainant would lose their right to file a claim with the PHRC if the Borough doesn't notify the HRC.

Staff commented on the complicated nature of the ordinance. When the Anti-Discrimination Ordinance was adopted in 2007, membership was restricted on the HRC to residents of the Borough only, which was expanded to include residents of the Centre Region. The Borough does not feel any need to expand that restriction because the ordinance is not regulating employees but employers. If the HRC's procedures are expanded, there are budgetary and staff implications.

Council members commented the Anti-Discrimination Ordinance refers to Municipality of State College instead of the Borough of State College or State College Borough.

Staff said the Home Rule Charter refers to the Municipality of State College. Staff is trying to put together a policy for consistency, particularly since the Borough is in the process of redoing the Codification of Ordinances.

Mr. Daubert made a motion to amend this ordinance to change the word "municipality" to "Borough" anywhere it is mentioned in this ordinance. Mr. Morris seconded the motion, which passed unanimously.

The motion to adopt the Anti-Discrimination Ordinance with the amendments passed unanimously.

Planning and Zoning

RO-O Zoning Ordinance Amendment. Mr. Filippelli made a motion to postpone any further consideration on this amendment until Council has received and scheduled a public hearing on the Inclusionary Housing Ordinance. Ms. Lafer seconded the motion. Mr. Filippelli said the Inclusionary Housing Ordinance is on a parallel tract and Council should delay rezoning until Council makes a decision on the Inclusionary Housing Ordinance because it would affect this property.

Staff said if the property was rezoned and a development plan was submitted in the appropriate form, it would be permitted under the most recent regulations. If the plan for some reason was rejected or withdrawn, any new plan would be subject to the subsequent ordinance.

Staff said the RDA's report was presented to Council at their May 9 meeting and the Planning Commission's comments on the Inclusionary Housing Ordinance will be included on one of Council's June meeting agendas.

The motion to postpone passed 5-2 with Mr. Rosenberger and Mr. Daubert voting against the motion.

Proposed Revisions to Student Home Zoning Regulations. Staff explained that in the fall of 2010 a student home violation was processed at a rental property located at 1024 Metz Avenue.

Mr. Rosenberger made a motion to refer the student's request to the Planning Commission for consideration as part of their discussions of potential revisions to the Student Home Ordinance. Ms. Lafer seconded the motion.

Mr. Filippelli said this ordinance stabilizes existing neighborhoods and controls the erosion of homeowners living in those neighborhoods. He said it is important to control the number of rental properties in the neighborhoods and the existing ordinance has been successful. Mr. Filippelli said a person employed full time and taking classes should be permitted to rent a home and not be considered a student. He said if Council creates a breach in the Student Home Ordinance it would be damaging to the neighborhoods.

Council members said Mr. Filippelli's point was important; however, they wanted to hear what the Planning Commission has to say. One Council member pointed out there was a lot of discussion on this very distinction and no one wants to jeopardize the validity of the ordinance. Other Council felt there would be rationale for the distinction because graduate students and undergraduates are very different kinds of tenants. He added that generally graduate housing units are better maintained.

Many Council members agreed graduate students should not have been penalized by the ordinance.

Ms. Chelsea Zacherl, 140 East Cherry Lane, said she and her roommates were all working and paying taxes to the Borough before they were forced to vacate the house they rented. She said this is a college town and the University simply does not provide enough housing on campus. Ms. Zacherl added that she and her roommates were unfortunately stuck in the middle because her landlord did nothing to assist them once they received the notice from the Borough's Zoning Officer. Ms. Zacherl said she felt like she was being discriminated against for being a student.

Dr. Michael Hargather, 243 South Osmond Street, urged Council to carefully consider definition of students and to exempt graduate students from this definition. Most graduate students are half time staff/half time students. Graduate students doing research are considered faculty and not considered students by Penn State standards. Dr. Hargather said the Borough is here because of the University and it is the town's responsibility to take care of the students who are here. There are graduate students in their twenties, thirties, and forties, both with and without families living in State College. All new housing construction is being built outside Borough lines and the movement continues. The Borough needs to look at ways to protect their tax base problem by

finding ways to tax rental properties. Dr. Hargather said his experiences as an undergraduate made him want to stay in State College and become a part of the community. He said he was proud to have these women as his neighbors.

Mr. McNally said graduate students are not like undergrads. Graduate students have jobs to do, such as research, having office hours, teaching and should be considered young professionals. On the issue of eroding tax base, if the Code is about keeping behavior out of the neighborhoods it is unfair to penalize people like this. They work hard and their income is not enough to let them stay in their residence because of the ordinance.

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

Official Reports and Correspondence

Mayor's Report. Mayor Goreham reported she recently attended the Interfaith Initiatives event and she also attended the Holocaust Remembrance Day.

President's Report. Mr. Filippelli said Council will be adjourning to an Executive Session to discuss real estate.

Regional Liaison Reports. Ms. Lafer reported the Transportation and Land Use Committee met earlier today and discussed questions of economic development and how it is tied into the Centre Region.

Mr. Rosenberger said COG recently approved the funding for Regional Parks. Fulton Bank provided the loan, which was unanimously approved.

Staff Reports. Staff asked Council if they felt Hugh Mose, CATA's Manager, needed to return to discuss CATA's 2011-2012 Budget. A few Council members raised concerns and felt it would be appropriate for Mr. Mose to return.

Items of Information

Mr. Timothy Havener, President of the Central Chapter of Firearms Owners Against Crime, asked if he could address Council now since the Mayor did not call on anyone to speak on matters not on the agenda at the beginning of the meeting. Mr. Havener said Borough Council had changed its ordinance prohibiting firearms in parks. He reminded Council members they were in direct violation of state law and were committing a crime by not repealing the ordinance. He then requested again that the ordinance be changed.

Mr. Filippelli said Council acted on this several meetings ago and voted not to remove the restriction but asked the PA League of Cities and Municipalities to support legislation prohibiting firearms in municipal parks and buildings.

Mr. Robert Sealy, who only identified himself as a Resident of Spring Township, said he obtained a concealed firearm permit several years ago. He said he was opposed to having any local Council delve into a state mandated law. He said he would not want to come in any of the Borough's buildings and or parks and not know there was such a restriction and subject to a criminal complaint. Mr. Sealy said he carries a firearm for his personal protection.

A Council member asked the speakers if they were armed; he said he did not appreciate someone coming to a Council meeting and making threats while they are armed.

Mayor Goreham abruptly adjourned the meeting at 9:22 p.m.

Filippelli called the work session to order at 9:44 p.m.

General Policy and Administration

2012-2016 Capital Improvements Plan (CIP). Council discussed the Buildings and Parks sections of the CIP.

There being no additional items to discuss, the meeting adjourned at 10:01 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary