

Meeting Minutes
State College Borough Council
Regular Meeting
Monday, June 6, 2011

The State College Borough Council met on Monday, June 6, 2011, in the State College Municipal Building, 243 South Allen Street, Room 304, State College, PA. Mayor Goreham called the meeting to order at 7:31 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; Anne Messner; Acting Zoning Officer; Mark A. Whitfield, Director of Public Works; Brendan McNally, UPUA Student Representative; Michael S. Groff, Finance Director; and interested members of the media and concerned residents.

Public Hour - Hearing of Citizens

Jerry Wettstone, 512 Ridge Avenue, spoke on behalf of the Centre County Association of Realtors and the Builders Association about legislation being proposed by Dr. Walter Schneider of the Centre Region Code Office to require all new single-family homes being built to install sprinklers to protect fire fighters. Mr. Wettstone said this increases the cost of new home construction by \$8,000 to \$10,000, which would compound someone's ability to construct an affordable home. He said Governor Corbett signed House Bill 377 into law, which repealed a mandate that was put into place through the 2009 International Residential Code. Lastly, he said there are a few remaining buildable lots in the Borough and urged Council not to enact an ordinance to change the existing law.

Council members raised several questions relating to obtaining realistic estimates of the costs to install a sprinkler system in a new home as well as an estimate on how many lives would be saved in the Centre Region, County, and State over a year or a decade if sprinklers had been installed. Council members also asked when this issue would be on their agenda.

Staff said the Public Safety Committee of the Centre Region Council of Governments (COG) voted to pursue enforcement of sprinklers in our area and forwarded the request to each of the municipalities for their consideration.

Ms. Lawrence said COG's Public Safety Committee discussed this and the firemen are in favor of this amendment. She said the Public Safety Commission recommended the

individual municipalities discuss this and send their opinions back to the Executive Director of COG.

Mr. Ken Sagen, owner of Energy Solutions of Central PA, said he is a Code Consultant and has attended all Code hearings since 2007. He said there are a lot of mistruths circulating in this County about this amendment. Mr. Sagen mentioned a long list of credentials, which made him knowledgeable on the subject. He said there is not enough evidence which says installing these sprinklers will save more lives. In fact, 42 of the best Code Officials in the country met and decided there is not enough evidence that warrants this restriction be put in the Building Code.

Mr. Dylan Wadlington, President of the Builders Association of Central PA, said he is available as a resource to answer Council's questions on this subject.

Mr. Derek Canova, 709 Edgewood Circle and a Realtor in State College, said this amendment was voted down in 49 states because it does not do an effective job. He added that leaving the Building Code as is allows homeowners the option to do so. Mr. Canova said the choice should be left to consumers, not Code Officials.

Public Hearings

Consolidated Plan Amendment: The public hearing began at 7:50 p.m. to receive input on the proposed Consolidated Plan Amendment, which was required to reprogram funds for the ADA improvements at the intersections of Allen Street/Nittany Avenue and Allen Street/Foster Avenue Projects. No one wished to provide input; the hearing closed at 7:52 p.m.

Hear Input on a Request for a Conditional Motor-Vehicle Oriented Business Use at 1630 South Atherton Street: The next public hearing was opened by the Borough Solicitor at 7:53 p.m. Ms. Anne Messner, the Acting Zoning Officer testified first and entered the facts of the case into the public record. The applicant, CVS Pharmacy, was represented by Attorney Joseph Green.

A Council member asked where the main entrance to the drive-up window is located in terms of vehicular circulation, which Ms. Messner explained.

Next, Matthew Allen, a Civil Engineer with Bohler Engineering Group, explained site layout, in terms of the drive thru and bypass lane, the parking lot layout, on-site circulation, entry and exits from the site, and the proximity of the riparian buffer nearby.

Mr. Green asked Mr. Allen if CVS's plan complies with all requirements of a motor-vehicle oriented business; Mr. Allen answered yes.

Mr. Allen explained that this site is a nonconforming use. He said CVS requested a riparian buffer variance, which included new encroachment, but was denied by the Zoning Hearing Board. As a result, they have rotated the building on the site and found a way to meet the requirements and be able to better comply with the riparian buffer. The parking lot extends 15' to 20' closer than shown on the map. Mr. Allen said presently there is no curb along the parking lot and all storm water is running through the trash and the undesired pollutants run

down into the stream. The proposed plan includes curbing the entire parking lot. He said they also plan to install a bio-retention facility preventing discharge into the stream. Mr. Allen said he met on site with Borough Arborist Alan Sam and gave Mr. Sam free rein on anything the Borough requires along the stream. Mr. Sam selected five trees that should remain; all other existing plant material will be removed and the buffer will be replanted along with a one-year maintenance agreement for invasive plant removal.

Mr. Allen said the Design Review Board reviewed the conditional use request and made four recommendations: (1) extend the rain garden; (2) provide less lawn and more plantings and mulch in the steep slope area adjacent to the driveway connecting to the University Drive Extension; (3) a one-year maintenance plan for invasive plant removal; and (4) correct the planting list from one silver maple tree to a sugar maple. He said the bio-retention facility is the same as a rain garden, they are proposing additional plantings along the bank and less lawn at the University Drive Extension and the existing hedgerow is being eliminated; a one-year maintenance agreement for invasive plants is included; and silver maples have been changed to sugar maples.

Mr. Green asked if the exterior lighting will conform to the lighting requirement. Mr. Allen answered yes.

A Council member asked Mr. Allen to compare the proposed entrances onto the site to what they are now. Mr. Allen said Atherton Street is unchanged as it is. The only change to the University Drive entrance is it will become a straight motion onto Marylyn Avenue with access oriented towards CVS. Presently there is a shared entrance with the residence. As proposed, the entrance into CVS becomes primary and there is a "t" off of the entrance into the residence.

Council members asked questions about the rain garden and if there are any issues with flooding that would encroach into the parking lot. Mr. Allen said the plan does not hit the flood plain line so there should be no issues with flooding.

Mr. Hahn said the closest MVOB is Ruby Tuesday's, since KFC is no longer operating. Ms. Messner said both properties are located outside the 150' radius.

Next, Mr. Green called his next witness, Michael Mudry, Project Manager for Traffic Planning and Design, 425 Sixth Avenue, Pittsburgh PA. Mr. Mudry said a traffic impact assessment was completed in April 2011. PennDOT had a few minor comments, which included the proposed site warranting a center turning lane into the site, which Mr. Mudry said will be built but existing access will remain the same. He said they will be doing other upgrades to provide compliance with current PennDOT requirements.

A Council member questioned how a left turning lane could be added right across from Marylyn Avenue and the entrance to Foxdale. Mr. Mudry said the turning lane will be located adjacent to the traffic signal. The volume of traffic on University Drive is not high enough to warrant a signal.

Mr. Williams asked if there was anyone in the audience who wished to testify and hearing none, closed the hearing at 8:33 p.m.

A Council member thanked the applicants for their testimony but noted he was concerned about the traffic on University Drive, especially because of Foxdale's recent expansion.

Mr. Daubert moved to have the Borough Solicitor prepare a written decision for Council to vote on at their June 20 meeting. Mr. Filippelli seconded the motion. The motion passed unanimously.

Consent Items. Mr. Hahn made a motion to recommend Council approve the consent items listed below. Mr. Rosenberger seconded the motion.

- Approve vouchers for the month of May in the amount of \$3,074,138.08.
- Accept the resignation of Anna Childe, with regret, from the Design Review Board, effective June 30, 2011.

The motion passed unanimously.

General Policy and Administration

2012-2016 Capital Improvement Plan. Mr. Filippelli made a motion to approve the 2012-2016 Capital Improvement Plan (CIP). Mr. Morris seconded the motion.

Mr. Daubert made a motion that the \$25,000 contribution for Discovery Space be listed for 2012 only, rather than a \$50,000 contribution for three years. Ms. Lawrence seconded that motion.

Mr. Art Heim, Discovery Space Executive Director, said he appreciates Council's willingness to support the project. He said opening is scheduled for mid July. Discovery Space will focus on natural and cultural assets. He said they are seeking many sources of funding and the Borough is one of those. Mr. Heim said their goal is to continue to seek private donations and hopefully those will increase over time. He said they recently received \$25,000 from Centre County Visitor's Bureau but they have an outstanding balance of \$180,000. Mr. Heim said he will be going before the COG General Forum for a \$60,000 contribution divided over a three-year commitment.

Council members asked Mr. Heim how much money they have raised so far and whether they are close to their fundraising goal. Mr. Heim said they have received \$300,000 in private donations and the total amount raised thus far is \$559,000. He said they are within \$30,000 to \$40,000 of reaching their start-up goal. Mr. Heim said they are in the process of developing an endowment. He noted they have yet to capitalize on corporate donations. Mr. Heim said they are hopeful Discovery Space will outgrow their existing space in a number of years, based on market studies.

A few Council members felt Council should commit to the original request over the next 2-3 years because it is a great educational tool and an asset to the Borough. Discovery Space will bring people downtown.

Other Council members said they did not feel comfortable making public contributions with taxpayer's money. A personal contribution from each Council member would be different. Council encouraged Mr. Heim to seek funding beyond COG, perhaps even Bellefonte or other local communities.

The motion failed 5-2 with Mr. Daubert and Ms. Lawrence voting in favor of the motion.

Mr. Rosenberger made a motion to provide one year of support in the amount of \$50,000 and leave the second year as an alternative and challenge other members of COG to do the same. Mr. Filippelli seconded the motion.

Mr. Daubert said if the second year was not included in the CIP he would be in favor of it.

Ms. Lafer made a motion to amend Mr. Rosenberger's motion but remove the second year commitment from the CIP and to discuss it next year. Mr. Hahn seconded the amendment.

Council voted 5-2 in favor of the motion. Mr. Morris and Ms. Lawrence voted against the motion.

Mr. Daubert made a motion to remove the \$2,000,000 in the CIP for the Johnson Controls energy project and to not put it back in until a firm proposal has been secured. He said the project is too vague and he would not be in favor of it until the Public Works Department comes up with a viable project. Mr. Rosenberger seconded the motion.

Staff recommended Council leave it in the CIP while staff has time to further develop the project. The contract would result in guaranteed energy savings to provide debt service payments. As staff noted, a preliminary assessment has been done; however, staff has not yet had the opportunity to do their due diligence. Without Council's authorization in the CIP staff is reluctant to proceed if Council does not support it. Staff would like to have the opportunity to get the project to a point where Council is comfortable with it and the final appropriation has to be approved by Council.

Mr. Rosenberger asked if the Borough's annual energy cost might offset as a result of this project. He said State College is full of people who know a lot about energy and asked who measures the savings and how accurate are those measurements.

Staff said the savings amount is sufficient for an annual debt service payment. Staff has not proceeded to develop this project but it would come at a later point. There would be several different vendors involved, not just one large company. The consultant is with a national company that has a good reputation and a level of confidence.

Mr. Whitfield said this would be a turnkey project. The Borough would hire one company who would manage multiple facets, such as HVAC and parking meters. They would do all of the leg work involved.

Ms. Lawrence said Penn State University did their solar energy projects by piecemeal. They looked at the area with the largest payback first and then addressed that area. She encouraged staff to downsize the concept and pick one area to start with and hire a local

expert to give their take on it; local experts should know what is in the area without doing an out-of-state study.

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

Mr. Daubert raised a question about the Atherton Street Fencing Project. He asked why staff would delay the fencing project to 2013 when the remainder of the Atherton Street project has little to do with the fence.

Staff said the consensus was to complete the work in 2013 as one project, which is reflected in the notes provided to Council for this meeting. The PennDOT right-of-way project is unlikely to occur in 2012. Staff is opposed to disrupting traffic and businesses along this area for two different construction seasons.

Other Council members felt this project and timeline should stand as it is because it would be the intelligent way to proceed.

Council voted unanimously to approve the 2012-2016 CIP as amended. The motion passed unanimously.

Regional Issues

CATA Budget. Ms. Lafer made a motion to enact Resolution # 1051 approving the 2011-2012 CATA Budget and the Borough's local share of \$81,454. Mr. Hahn seconded the motion, which passed unanimously without any discussion.

Official Reports and Correspondence

Mayor's Report. Ms. Goreham said she had the good fortune to go to the Trash to Treasures large garage sale benefiting the United Way. She mentioned seeing Borough employees Kevin Kassab and Beth Johnston volunteering for such a good cause. She said she purchased a piano, which she would like to see in and around town for people to sit down and play. She said she will be working with artists to have the piano painted and then placing it somewhere like Sidney Friedman Park for people to play.

Staff noted the stage at Sidney Friedman Park is used for other purposes and said another location may be more suitable.

Ms. Lafer said there was an old piano in a Baskin Robbins store on East College Avenue 15 years ago and if it worked there it could work now.

Mr. Morris said he thought it was a great idea. He said this would be the appropriate time to recommend a carousel (merry-go-round) in the Borough.

Student Representative Report. Mr. McNally briefly discussed Senate Bill #448, which is the alcohol amnesty bill that would provide immunity from prosecution for underage consumption to any minor who would call the police to report a serious illness from an alcohol overdose. He said the UPUA supports the bill. He said this House Bill would go a

long way to avoiding some of the tragic incidents on College campuses and asked if Council would be interested in issuing a resolution in support of it.

Mr. Filippelli said this was discussed last year and Council did not approve it.

Chief King said if Council supports this it would be good to talk about the pros and cons on all sides of the House Bill. He said he believes the House Bill falls short of the issue. The intent of the bill might be good; however, it would be done to make it a better bill of value.

Regional Committee. Ms. Lafer reported that the Transportation and Land Use Committee met with Centre Region Planning Association and discussed the upcoming community survey, similar to the one done in State College. She said there has not been a Transportation study done in the Centre Region for the last 20 years.

Parks Capital Committee. Mr. Rosenberger said Welch Pool is open. He said this Thursday the Parks Capital Committee will meet to discuss fundraising options to raise additional funds for development of the parks.

There being no additional business, the meeting adjourned at 9:28 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary