

Meeting Minutes
State College Borough Council
Work Session/Regular Meeting
February 13, 2012

The State College Borough Council met in a work session/regular meeting on Monday, February 13, 2012, in the State College Municipal Building, 243 South Allen Street, State College, PA. Council President Hahn called the work session to order at 7:30 p.m.

Council: Elizabeth A. Goreham, Mayor
Donald M. Hahn, President of Council
Thomas E. Daubert
Catherine G. Dauler
Ronald L. Filippelli
Sarah Klinetob
Peter Morris
James Rosenberger

Also present: Terry J. Williams, Borough Solicitor; Thomas J. Fountaine, Borough Manager; Roger A. Dunlap, Assistant Manager; Sharon K. Ergler, Assistant Borough Secretary; Carl R. Hess, Planning Director; Mark A. Whitfield, Public Works Director; Thomas R. King, Chief of Police; Amy Story, Borough Engineer; Charles DeBow, Parking Manager; Meagan Tuttle, Planning Intern; Anne Messner; Acting Zoning Officer;

Mr. Hahn reminded Council that they can review and discuss each agenda item without voting because no formal action can be taken at a work session.

Planning and Zoning

Rezoning Request for 254 East Beaver Avenue – Mr. Hess explained that staff needs direction from Council on four points related to the rezoning request for 243 East Beaver Avenue. He said the overlay will provide additional opportunities as the Manager outlined but other issues to consider are the Beaver Avenue setbacks, green building standards, building height and the required parking. The Planning Commission recommended a 20' setback and to not cantilever the upper floors. The current building is three stories and the proposal is to make the new building 45'. Staff is proposing an alternative, which is to allow a two-story bonus if the developer is willing to incorporate three or more incentives into the building. Some of those incentives include building a green building, a maximum floor area ratio of 1.5 or on-site underground parking.

Mr. Hess said staff is also recommending green building certification with a minimum LEED silver standard and require the developer to post a performance bond. LEED certification is determined once a building is built and evaluated. It is unlikely that a developer would be required to tear down a building; however, it is difficult to retrofit a building with LEED standards. He noted there are a couple of other states that require developers to post a performance bond. If the building is evaluated after construction and it complies with the LEED standards, the Borough would simply return the bond with any interest that has accrued. If the building falls below the LEED silver standard, the performance bond would be retained by the municipality and used for other efficiency improvements or create energy savings and/or greenhouse gas reduction projects.

Mr. Fountaine said there are representatives from HFL in the audience if Council has any questions of the developer or his architect.

Mr. Filippelli asked what is the difference in the required parking with the current zoning and the alternate being proposed. Would it reduce the required on-site parking? Mr. Hess said there would be a 22 space reduction under this new proposal.

Mr. Rosenberger said if there are four building design incentives and if this developer is willing to incorporate at least three of them into the design of this building, the developer would receive a bonus of two additional floors. Is there a double bonus if the developer incorporates underground parking? Mr. Hess said there is an added expense to the developer for the excavation and for eliminating the visual of an on-site parking lot. Mr. Rosenberger asked if 50 parking spaces required.

Mr. Daubert said a developer could say they are constructing a green building, which is a really cheap way to get an extra floor and then not get the LEED certification and then it is too late. Mr. Hess said the building would have to meet the LEED requirements. If the developer is required to pay a performance bond and the building does not comply, the community would still get some of the benefits.

Mr. Hess said staff disagrees with the Planning Commission's recommendation on setbacks. A developer should receive additional incentives for creating non-residential uses downtown.

Ms. Dauler asked the difference between a cantilever and an arcade. The drawings provided in the agenda packet depict an arcade. Mr. Hess said they are virtually the same thing. A business would be located on the first floor with offices or residential on the floors above.

Ms. Klinetob said in looking at the green building incentives, she would suggest raising the minimum for the performance bond. She said she believes there are a number of things that could be missed in building construction that warrant a higher performance bond. In terms of the rezoning, she said it appears Council wants something different than student housing in this corridor. She asked what was the history that brought us to this point.

Mr. Hess said the Borough has received two proposals to rezone this property. In neither case the Planning Commission or Council felt the change requested was appropriate for this location and questioned what else could be marketable at this location. It is no surprise that the University is not getting smaller and the need for additional student housing in State College continues; however, it is the desire of Council and the Planning Commission to avoid straight student housing wherever possible, try to get a mixed use building that incorporates student housing with other uses. If you talk to developers in the community, the differential in rental rates is the cash flow they need to put in the non-residential components. We know there is interest to diversify the housing downtown and we should work together to pursue that. An example of that is Fraser Centre.

Mr. Ponder, the architect for HFL Corporation, said originally 72 parking spaces were required; however, with the proposed ordinance, only 50 spaces would be required. Mr. Ponder said the owner does not need 72 spaces to make this building succeed.

Mr. Ponder pointed out that HFL plans to move their corporate headquarters back into the office space in this building right above the retail with four levels of residential apartment above. He said this building incorporates an additional 17,000 square feet of retail space downtown.

Mr. Filippelli said as long as the building includes a 20' setback and not the arcade he is comfortable with the building's design. He wanted to make certain the proposed ordinance reflects that.

Mr. Hess said the proposed ordinance is the original 25' feet setback along Beaver Avenue with permission to reduce it to 15' on the upper floors and 20' from all other street faces.

Proposed Rezoning of 323 West Fairmount Avenue –

The property owners of 323 West Fairmount Avenue, Susan Venegoni-Lestz and Dan H. Lestz, have requested their property be considered for rezoning.

Mr. Rosenberger asked if any of the owners of the owner-occupied homes have come forward and lodged any complaints to the Planning Commission about this request. Mr. Hess said no. Mr. Fountaine said that is the purpose of the public hearing is for residents to come forward and voice their concerns.

Mr. Daubert said he has a slight problem with this request. When a property owner comes forward requesting a rezoning of their property, it starts things happening all over town. He said rezoning requests can multiply. Mr. Daubert said people buy homes in the Borough knowing what zoning district their property is located in.

Ms. Klinetob asked if the property owners trying to sell their property or does someone know what their reasons are for requesting the change. She said she walked by the property earlier today and said the area surrounding this property feels like a neighborhood community. She said the adjacent properties do not look like rental properties. Are the property owners looking for an incentive to use the house for office space?

Mr. & Mrs. Lestz said there is quite a lot of history with that neighborhood. Ms. Lestz said she has lived in this neighborhood for many years and the neighborhood has been in transition for almost 30 years. Years ago there were several single family homes and now there are only a few. She said their motivation is not to sell their home. Mr. Lestz said their home is completely surrounded by properties in the R-OA zoning district.

Ms. Lestz said yes they did know the zoning when they purchased their home. She said there is a property next to theirs where a rental housing permit laid dormant for many years. Then someone new moved in and lived downstairs but rented to one person upstairs. The house has recently sold and now there are six students living in this house. When we inquired, we were told this property was "grandfathered" and we could not do anything about it. There is another student home nearby but it presently is not occupied by students but the owner retains his student permit. Childspace, which is also nearby is located in the R-OA zoning district but some day, this property will not be Childspace. Ms. Lestz said in reading the land use plan, it seems as though their home is located within a transitional area. She said we understand that part of the strategic plan includes safe and stable neighborhoods but only two houses on their street remain single-family. Mr. Lestz said it is a little too late for a safe and stable neighborhood. There are very few single-family houses on their block. Ms. Lestz said we would simply like to preserve our options for the future like so many of our neighbors have already done.

Ms. Klinetob asked specifically what are the owners hoping to accomplish with the rezoning. Ms. Lestz said she is looking for something similar to what is at Childspace right now with a live and work situation. She added we are merely trying to preserve our options for the future and the investment we have put into our home. She said their son starts high school this fall and we have no intentions of going anywhere right now.

Mr. Rosenberger said then your intent is to not convert this property into student housing. Ms. Lestz said no. Next, Mr. Rosenberger asked if converted to student housing, how many students could live at this property.

Ms. Messner said the permitted occupancy would be a maximum of three unrelated students. If the property was rezoned, it would be eligible for student housing status.

Mr. Morris said that is a concern to him because a future owner of your home could convert the house to a student home if this property is rezoned. He said maybe this is Council's fault or maybe Council should consider changing the R-2 zoning regulations.

Ms. Lestz said the sales have tipped and it may already be too late to save their block of East Fairmount Avenue. She said on average there are two owner occupied homes out of nine total properties on the block.

Discussion on the proposed Retreat Land Development Plan in College Township

Mr. Hess oriented everyone with the location of the parcel and which part of the development would be located in College Township and which part is located in the Borough. The real estate registry sheet shows two separate parcels, which would have to be consolidated in order to build this development. Mr. Hess said staff has seen preliminary plans; however, the developers have not submitted the final plan for

approved. Presently, there is no sidewalk in this area and the original connection to the site was Waupelani Drive. The Design Review Board reviewed the preliminary plan in September 2011.

Borough Solicitor Terry Williams briefly reviewed with Council a memorandum he prepared addressing some of the legal concerns for Council. The proposal that staff is reviewing with you this evening is not the final plan submitted to College Township. This plan does not come before Borough Council for review. Under the Zoning Ordinance, the plans are reviewed by the Design Review Board, Planning Commission and staff. In order to disapprove a plan, the plan must not match the requirements of the Borough's ordinances. What has been given to the Borough, from a staff's review, meets the requirements of the State College Borough ordinances.

Mr. Williams said an aggrieved person is one who has a direct financial or direct interest in the property or groups of neighbors have the right to appeal. A municipality does not have the right to appeal a decision from another municipality. Mr. Williams said protestants have to take steps to make sure they have standings to appeal. Residents or groups of neighbors should consult with their legal counsel to make sure their rights have been preserved.

Mr. Williams said in terms of the access drive, because the access is within the Borough and is located on a Borough street, the Borough does have some control over where that access point is made but they have no right to deny access. The likelihood to deny access would result in condemnation.

Mr. Daubert said so we cannot require access to this development be made into College Township. We are required to allow access at Waupelani? Can we require the developer or College Township to pay for any necessary or required changes due to the increased demands on our streets?

Mr. Williams said yes, if a traffic study depicts that the ingress/egress located is unsafe, the Borough can require the developer to change it.

Mr. Michael Shigley, 122 Aikens Place, raised several questions regarding the Retreat. He asked if Borough Council have any recourse to force College Township to adjust their access to and from the site, since on the present plan it is located so close to the Borough line? If the answer is no, does the Borough have any recourse to consider any safety consideration for the ingress/egress? Mr. Shigley said he felt the access road was too close to the existing CATA bus stop.

Mr. Williams said the Borough has no power to force College Township to do anything. The Borough does have the right to insist the relocation of the access and the Borough is already on record objecting to that.

Mr. Jim Miller, 231 East Doris Avenue, said he lives in the neighborhood that will be affected by this development. He said between Doris and Marilyn Avenues, there are 85 houses in a bottle neck. There is one narrow way to get in and out of the neighborhood. Mr. Miller said the Atherton/Waupelani/Allen intersection is deadly. He said he finds it very dangerous. If you dump another 500 vehicles onto Waupelani Drive, that will only make matters worse at that intersection. He said it is already a nuisance to get across that intersection.

James Bowen, 205 Waupelani Drive, said as a child Waupelani Drive was a dead end. Since that time, many more people and vehicles have been thrown into that intersection. He said traffic is a mess at the Atherton/Waupelani/Allen Street intersection. Although the speed limit is 25 mph, cars often travel 35-45 mph. CATA buses also run on these streets several times a day. If 580 students move into the Retreat, CATA will need to add one or two more buses to accommodate their needs. He said Council will want to consider widening the road and putting in a turning lane. He said it would be a major project to control traffic in that area.

Mr. Kenneth Kulp, 125 West Lytle Avenue, said he has lived in State College more than 70 years. He said the Retreat development will be merely a half block from his house. He said he is concerned about him and his wife's quality of life. He said he stands to lose \$25,000 in his property value if the Retreat is built. He said as a business man in town for many years, he has had the opportunity to work with students. He said he loves students. He said if this development goes in, he will expect to see police

cars in the neighborhood three to four times a day. He said the site design called for 8' fence around the perimeter. He said he does not know any college student that cannot scale an 8' fence. He said he has been the owner of two dogs and nothing happens in his neighborhood without his dogs knowing about it. He said whatever the Borough can do to maintain the sanity of the neighborhood; he would humbly ask Council to do it.

Mr. Filippelli said he is personally sympathetic to these resident's concerns. He said it is very frustrating to know there is little we can do; however, anything we can do we should clearly do it. Mr. Morris said he totally agrees with Mr. Filippelli. This development is very frustrating.

Ms. Klinetob asked where the land development plan stands right now. Mr. Williams said College Township approved the preliminary plan on a 3-2 vote. If the developers meet all the conditions set by College Township, the plans will come back to College Township for final plan approval. To date, the Borough's Planning Department has not received an updated application, and if their plan complies with the Borough's regulations, the plan will be approved by the Planning staff.

Ms. Dauler said she too can sympathize with these residents. Several years ago, a property owner developed what is known as the Winston Tract in College Heights, which was not to the magnitude of this development; nonetheless, this area was open space for a very long time. This parcel of land lied partially in the Borough and partially in Ferguson Township. Neighbors were not happy to see this parcel developed. It was difficult to face the harsh realities of what zoning does and does not allow. Many of the residents struggled with it. Staff had to repeat information to residents many times. She said we too heard much of the same from the Borough Solicitor. It is difficult for the elected officials to respond in a way that is entirely satisfactorily.

Mr. Williams said it is professional obligation to make sure the residents know they need to consult an attorney to make certain their legal rights have been preserved.

Distribution of the F8 Report – Mr. Hess distributed the 2011 F8 Report. He said the report will be on Council's February 17 agenda for discussion. He briefly reviewed some of the statistics of the report. He noted that alcohol related violations are down but refuse violations are up.

Council recessed to a regular business meeting at 9:03 p.m.

Moment of Silence and Pledge of Allegiance – Mayor Goreham called the meeting to order at 9:10 p.m. and began with a moment of silence and the pledge of allegiance.

Proclamation – Mayor Goreham presented Kris Hopkins, the Borough's K9 Officer, with a proclamation declaring March 13, 2012 as K9 Veterans Day in the Borough of State College. Officer Hopkins introduced Mr. Myron King, Scott Fry, and Patty Dills, all K9 handlers. Ms. Dills and her dog, Cali, are part of the local search and rescue squad; Mr. Fry and his dog, Diamond, are part of the PA Task Force. Mr. King said they are planning to hold their K9 Veterans Day celebration at the Boalsburg Memorial. He invited the Mayor and Council to attend the event.

Public Hour - There was no one in the audience who wished to speak about items not already on the agenda.

ABC Report

Spring Creek Watershed Commission – Ms. Amy Story, Borough Engineer, briefly reviewed the Watershed Commission's activities. Ms. Story said she is the Borough's appointed representative and Ms. Klinetob is the alternate.

Ms. Goreham said the stormwater runoff ordinances were passed through the Spring Creek Watershed Commission and they are very beneficial.

Consent Items

Mr. Filippelli made a motion to approve the following consent items. Mr. Hahn seconded the motion.

- Approve Council's attendance at the following meetings:

Sarah Klinetob & Peter Morris	National League of Cities Congressional City Conference
Thomas Daubert, Donald Hahn, Peter Morris & James Rosenberger	PA League of Cities & Municipalities Convention
Catherine Dauler & James Rosenberger	National League of Cities Congress of Cities

- Approve minutes for the following meetings held in January:

January 3, 2012	Regular Meeting
January 3, 2012	Reorganizational Meeting
January 9, 2012	Regular Meeting

The motion passed unanimously.

General Policy and Administration

Revision to Council Meeting Schedule – Mr. Hahn moved to recommend approval of staff's recommendations for the revision 2012 Council meeting schedule. The first modification would result in the cancellation of all Friday work sessions beginning in March. In addition, a regular meeting would be scheduled to occur on Tuesday, September 4, the day after Labor Day, and the starting time of all Council work sessions scheduled on the second Monday of each month will begin at 6:30 p.m. Lastly, in order to make up the four budget review sessions eliminated with this change, Council will meet in a single work session on Tuesday, November 4, beginning at 9 a.m. Mr. Rosenberger seconded the motion.

Mr. Hahn said he does not agree with the all-day work session on November 20 but we should preliminarily consent to this new schedule and think about some alternatives.

A few members of Council expressed concern with the November 20 date because of other meeting commitments.

Mr. Daubert said there are times during the year when Council needs these work sessions to discuss items in more detail and was opposed to eliminating the Friday work sessions.

Mr. Fontaine said with the proposed revisions to the meeting calendar, staff has been trying to come up with ways to replace those eight hours of budget review time. Staff understands that Council may need additional time to review items. Staff said we clearly respect Council's need to meet. Council is welcome to schedule special meetings throughout the year, if needed.

Mr. Filippelli said he personally does not object to an all-day work session. He said knowing that the University is not in session this week because of the Thanksgiving holiday, helps. The motion passed 6-1 with Mr. Daubert voting against the motion.

Planning and Zoning

Rezoning Request for 254 East Beaver Avenue - Mr. Filippelli made a motion to recommend staff advertise a public hearing on April 2 for the rezoning of 254 East Beaver Avenue. Mr. Rosenberger seconded the motion. Further, Mr. Filippelli amended the motion to include the Planning Commission's recommendation for a 20' setback with no cantilever. Mr. Hahn seconded the amendment.

Ms. Klinetob asked why the cantilever opposed. Mr. Rosenberger said he liked the idea of a setback and the cantilever created some architectural interest. Mr. Fountaine said there were some concerns raised about safety with the cantilever. Mr. Rosenberger said he is concerned we just do not get a box.

Mr. Hahn said other concern raised was this building's proximity to the various riots that have occurred in the canyon. He said the cantilever would be a great suggestion along Calder Way; however, he cannot support it at this site.

The amendment passed 6-1 with Ms. Klinetob voting against the motion.

Mr. Daubert said all discussions in the past have involved one additional story, not two. Two additional stories will take this building higher than the building behind it. He said he personally is against that.

Mr. Ponder said the number of parking spaces proposed with the zoning amendment works for this development. Some spaces will be reserved for the office space and others will be reserved for the retail businesses on the first floor.

Mr. Hess said staff is terms of required parking staff is recommending to keep the commercial exception and required 1 space for every 800 square feet of building area used for dwelling units.

Mr. Hess said in terms of green building incentive, staff is recommending we require a minimum LEED Silver or successor standard and posting a \$10,000 performance bond.

Mr. Daubert made a motion to increase the bond to a minimum of \$25,000. Mr. Rosenberger seconded the amendment. Ms. Klinetob said she would like to see more studies to determine what should be the correct amount for the performance bond.

Mr. Hess stated that staff can look into the LEED certification process and also look at what criteria other communities set to their fees.

The amendment passed unanimously.

Council voted unanimously to move the rezoning request for 254 East Beaver Avenue with two amendments. The first was to permit the 20' setback with no cantilever and the second was the increase the amount of the performance bond to \$25,000. The motion passed unanimously.

Proposed Rezoning of 323 West Fairmount Avenue – Ms. Dauler made a motion that Council hold a public hearing on April 2 for the proposed rezoning of 323 West Fairmount Avenue. Mr. Rosenberger seconded the motion.

Mr. Rosenberger asked if all properties surrounding this property are R-0A. Ms. Messner said some adjacent properties are in the R-0A district while others are in the R-2 zoning district.

Mr. McNally said he supports Council's desire to hold a public hearing on the request to rezone 323 West Fairmount Avenue.

The motion passed unanimously.

Items of Information

President's Report

Council will adjourn to an Executive Session to discuss personnel matters. Last time he had indicated adjourn to Executive Session without discuss personnel matters as well.

Regional Liaisons

- Executive – Mr. Morris said the Executive Committee will meet on February 21
- Finance - Mr. Rosenberger said the Finance Committee will meet on February 14.
- Human Resources - Mr. Filippelli said the Human Resources Committee met last week and made revisions to COG's grievance procedures.
- Parks Capital - Mr. Daubert said the Parks Capital Committee met in a joint meeting with the Centre Recreation Authority. One item discussed was the Oak Hall Park plans. A lot of good comments were provided to the architect.
- Public Safety – Mr. Hahn said the Public Safety Committee recommended to the Finance Committee that they purchase four Ford Escapes for Code. It was also recommended that one of those be a hybrid.
- Public Services and Environmental – Ms. Klinetob said their next meeting will be held on February 15. They will be receiving an update on the "Recycle at Work Program" and a joint venture with COG.
- Transportation and Land Use – Mr. Daubert said there is nothing to report.

The meeting adjourned at 9:56 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary