

Meeting Minutes
State College Borough Council
Work Session
April 9, 2012
6:30 p.m.

The State College Borough Council met in a work session on April 9, 2012, in the State College Municipal Building, 243 South Allen Street, State College, PA. The meeting was called to order at 6:30 p.m.

Present: Donald Hahn, Council President
Catherine G. Dauler
Thomas E. Daubert
Ronald L. Filippelli
Sarah Klinetob
Peter Morris
James L. Rosenberger

Also present: Elizabeth Goreham, Mayor; Terry Williams, Solicitor; Thomas J. Fountaine, II, Borough Manager; Roger A. Dunlap, Assistant Borough Manager; Carl R. Hess, Planning Director; Thomas R. King, Chief of Police; Katherine Doe, Neighborhood Services Coordinator; Brendan McNally, UPUA Student Representative; Kevin Kassab, Supervisor of Inspections; Anne Messner, Planner/Acting Zoning Officer; Mark A. Whitfield, Public Works Director; Courtney Hayden, Grants & Communication Coordinator; Meagan Tuttle, Planning Intern; Sheila Carl, Recording Secretary; and several interested residents and members of the media.

Public Hour – No one spoke during the public hour.

State College Land Area Plan/Future Land Use Map. James May, COG Planning Director, attended the meeting and reviewed with Council the changes that have been made to the Future Land Use Map. Council was asked to provide additional input regarding residential density in the Pugh Street corridor between Fairmount Avenue and Easterly Parkway and to provide guidance on the designation of College Heights School as “Mixed Use-Neighborhood” and lots fronting on Atherton Street north of Hillcrest Avenue as “Multi-Family Residential”. Council was provided with a copy of the College Heights Neighborhood Association comments on the land use plan.

Mr. May highlighted the areas where changes were made to the multi-family residential land use designations and single or two family dwellings in the College Heights neighborhood, the Highlands neighborhood, along Easterly Parkway, Tusseyview, and the Orchard Park neighborhood. Mr. May stated they were not able to make all the requested changes back to one and two family residential units on the west and east sides of Atherton Street in College Heights and would like some feedback on this area. Mr. May also requested some feedback on Pugh Street from Fairmount Avenue to Easterly Parkway in regards to the range of possible densities. Mr. May clarified that this land use map does not change the underlining zoning.

Mr. Daubert requested a copy of the map which was received in 2010 showing the entire Borough.

Peg Hambrick, 305 East Hamilton Avenue, reminded Council that the State College Land Trust owns a property on Atherton Street and thinks the family likes the single family homes next to them.

Donna Queeney, 520 Ridge Avenue, questioned why is it necessary to have multi-family homes on the edge of College Heights. She added there does not appear to be a buffer zone and is concerned about the traffic resulting from multi-family home. Ms. Queeney also stated College

Heights does not like the idea of having commercial zoning and requested Council's consideration on these two issues.

Mr. Filippelli questioned if the entire plan needed to be approved as is or if a small number of changes could be made. Mr. May explained the entire plan does not have to be rejected and they can address the areas that still have issues.

Mr. Daubert stated the only report that he has seen was dated in 2008 and questioned if anything had been rewritten since then. Mr. May stated there has not been any additional policy documents since the agreement between the Borough, Ferguson and College Townships.

Ms. Dauler felt Council could move forward with the assurance there could be further discussions on the areas that are still problematic for neighborhoods.

Mr. Hahn stated Council was comfortable moving forward with the exception of holding these two problematic areas for future revision.

Mr. Morris questioned if Council should discuss the policy manual before deciding on the map. Mr. May stated it is his understanding that the Borough, College and Ferguson Townships held a joint meeting in 2008, accepted the policy document and agreed to move forward with preparing a Future Land Use Map. To date College and Ferguson Townships have approved their parts of the map and the policy document.

Mr. May explained this map is intended to provide each municipality with a guide for future development but the implementation and regulations will be done by each individual municipality. The areas in question by Council will need to be addressed during the comprehensive plan.

Mr. Fontaine concluded that Council will be provided with a revised map and will verify what formal action was or was not taken in 2008 in regards to the policy document. This will be included on a May agenda.

Rezoning Request for 254 East Beaver Avenue. Council conducted a public hearing on this request at the April 2, 2012 meeting. In addition to the report provided to Council comparing the existing zoning and the proposed zoning; Mr. Hess reported on the concerns raised during the hearing and they include the following:

<u>Issue</u>	<u>Result</u>
Scale of Development	Staff did not feel the scale was out of place for this area of town.
Number of Students	Occupancy would be determined by the Code Administration but the proposal would allow for 96 students to live on the site.
Incentive for two additional floors of student rentals	Incentive would allow for a five story building with four floors of residential housing and would add more non-residential to the site.
Neighborhood Sustainability	This project does not enhance sustainability.
Number of Owner Occupied homes in the Highlands	Based on census data there are 51 fewer owner occupied dwelling.
Financial Forecast	Flat real estate tax base, lack of land for redevelopment, tax exempt properties.

Mr. Filippelli questioned why students need to live in the Borough. New developments are being built outside the Borough and the Borough already bears a great burden related to student housing and is doing "their share". Mr. Hess stated there is a question about what is the Borough's fair share but the courts normally look at the anticipated growth and not the past history to determine the fair share.

Mr. Rosenberger stated students have made it clear they want to live close to campus and will pay premium price to do so. It is his view that it would be better for the Borough neighborhoods to find appropriate housing for students closer to campus. He questioned if it would be beneficial to look at the code of conduct that students sign to help address misconduct.

Ms. Dauler stated this building would not be appropriate in this area for the scale of the street.

Overall, Council did not agree with the proposed design on this project and the rezoning request.

Mr. Hahn questioned Council if there were specific changes that could be made that would make this request and design acceptable.

Ms. Klinetob stated that all students would want to live downtown if buildings were built to suit their needs but questioned if additional student housing would grow the Borough tax base and create a more diversified population.

Ms. Dauler stated the building has a nice appearance and the idea of office space would be a nice addition but the design is too large.

Mr. Daubert does not dislike the building and would vote for it if it were being located across the street but does think the building is too large for this area.

Mr. Morris commented the scale is fine, likes the offices and complimented the architect on the design of the building but would like to see it be a mixed population building that included inclusionary and workforce housing.

Mr. Filippelli stated he does not have issues with the height or scale of the building and is not anti-student but is not convinced this would be in the best interest of the Borough and advised looking at the long term effects on the Borough. Parents are buying houses for their children to live in because it is cheaper than renting downtown not because they cannot find student housing.

Rob Ponders, Architect for HFL, used a computer program to provide Council with a view of what the building would look like in the space and from the street view. He explained it would be a shorter building than many of the buildings surrounding it. Having students reside in this area makes it difficult to have work force housing in the middle of other student housing buildings.

Pat Vernon, College Township, stated something is going to be built in this site someday and this proposal is a nice building which may need some alterations but adding more housing in the downtown area may lower the cost of living downtown and take some of the pressure off the surrounding areas. Mr. Vernon stated the bigger problem is The Retreat and is an example of poor land use and this is where the work force housing should be. This proposal is not a bad option but Mr. Vernon questioned if there are better options out there and he did not think there are.

Peg Hambrick, 305 East Hamilton Avenue, stated she wanted to see and hear the hard facts of what this project will bring to the Borough and what other rental buildings bring to the Borough. As a tax payer she wants to see the projections of continuing to lose people who live in the Borough.

Council requested this be included on the next agenda for a vote.

Proposed Rezoning of 323 West Fairmount Avenue. Staff summarized the public hearing conducted on April 2, 2012 regarding this rezoning request. Council was provided with a report comparing the existing zoning and the proposed zoning as well as a report on the testimony received at the hearing.

Mr. Morris stated his main objection to this request is the minimum distance between student homes would disappear in this area. He would propose the zoning be changed to RO with an overlay that would insure enforcement of a minimum distance between student homes.

Mr. Daubert commented that he does not have a problem with this request but warned this could be a slippery slope in relation to nearby properties.

Ms. Dauler is concerned about the student designation and how it would be affected by this change but does not have an issue with this rezoning request. However, she does think that Mr. Morris's proposal would warrant some discussion.

Mr. Hahn requested staff to include this item on the next agenda and it would seem that Council will be proposing some changes.

Susan Venegoni-Lestz, owner of 323 West Fairmount Avenue, advised that she has shared her request with all of her neighbors and has only received one objection from an individual who appears to be trying to preserve their options. Ms. Venegoni-Lestz pointed out this change would allow for many uses not just student homes as demonstrated in the proposal made to Council. She acknowledged that some time, at some point, other rezoning requests will be made but she urged Council to remember they have followed the protocol required for a rezoning request and asked that Council address this single request. She advised that this request was prompted by what she believes to be the mismanagement of housing permits and student home designations.

Dan Lestz, owner of 323 West Fairmount Avenue, spoke about the disconnect that has happen with this area over the past 40 years and their house was skipped over when other properties were rezoned in the 1970s. Another disconnect in the neighborhood is that students are being managed by absence landlords and homes are designated as student homes but there is no interest in using these homes as student homes. Mr. Lestz stated they have no desire to use their home as a student home but want to preserve the future use options for this property.

Renaming of Fraser Plaza.

Mr. Morris reiterated his support for renaming Fraser Plaza to Martin Luther King, Jr. Plaza.

Ms. Dauler added that the plaza renaming should recognize more than just one individual. She named numerous women who were born prior to Dr. King and also had an influence prior to Dr. King beginning his civil rights movement. Ms. Dauler suggested renaming the plaza Freedom Plaza.

Mr. Daubert expressed concern with setting a new precedent by naming something after an individual who had no affiliation with State College or Penn State University.

Mr. Filippelli stated renaming the plaza after Dr. King could be a welcoming sign to minority students and community members.

Ron Madrid, 701 West Beaver Avenue, expressed his admiration for Dr. King but felt recognition should be kept to local people and suggested renaming the plaza using a generic name. Mr. Madrid questioned why Council did not consider a name recognizing veterans.

Anita Genger, 400 South Gill Street, appreciated the suggestion of Freedom Plaza and felt this area could be used as a platform for free speech and spontaneous speaking.

Council requested this item be included on Council's next agenda.

Noise Control Ordinance Amendments. Council originally received draft copies of the Noise Control and Noise Abatement Ordinances at their September 21, 2011 meeting. A revised draft of the ordinances were provided to Council at their February 6, 2012 meeting and also received public comments at a public hearing held April 2, 2012. Council was provided with a summary of the testimony given at the hearing.

Staff advised Council to not include the guidelines in the ordinance. Including the guidelines could result in the need to revise the ordinance based on court's decisions.

Mr. Daubert expressed concern that a first time offender of a minor offense could be faced with a \$500 fine.

Mr. Morris agreed the fines are a little too high but suggested the officers and the magistrate would be able to work out a reasonable resolution.

Mr. Fontaine stated the level of the fines is recommended based on benchmarking data gathered from other communities. He added the guidelines and standards are identical to guidelines used for many years but there have been difficulties defending this in court and is the reason for the requested change.

Mr. McNally added that he has not heard concerns from students about officers being unreasonable. The fines are obviously higher but recognized this is the purpose for the change. He did suggest maybe the first offense be set at a lesser amount but the others offenses were okay.

Ron Deck, 400 East Hamilton Avenue, questioned who determines who gets the fine at a residence which is rented by multi-people and/or owned by another party. Mr. Fontaine stated the tenants or the party host is responsible.

Theresa Lafer, 356 East Foster Avenue, commented on a visitor who wanted to call the police at 1 in the afternoon because of loud music. She stated common sense will need to be used to recognize if a citation should not be given when playing a radio five feet off the sidewalk. She did add finding a responsible person at a party can be a challenge but felt this was an excellent ordinance.

Ron Madrid, Holmes Foster neighborhood, expressed support for this ordinance and added common sense should be used when enforcing the ordinance.

Deborah Meszaros, 528 Ridge Avenue, lived next to someone who was very noisy all the time. The neighbor would play loud music at 1 in the afternoon and resulted in her family no longer being able to eat outside. The neighbor was cited but the fines were not a deterrent and they simply paid the fines. The offense does not have to be a loud party but any loud noise that is constant and continuous.

Mr. Fontaine reminded Council that increasing fines is one objective that Council had asked staff to work on.

Chief King stated the preamble would include language about the complaint being citizen or police initiated but aside from this change, the ordinances would be presented for a vote as is.

Mr. Williams stated an officer would have a better case if they can state the complaint was initiated by a citizen.

State College Coalition of Neighborhood Associations Letter. The State College Coalition of Neighborhood Associations issued a letter dated March 9, 2012 raising concerns in respect to the quality of life within the Borough. Council was provided with a copy of the letter.

Mr. Fontaine stated several documents were provided to Council including the F8 report which addresses non-zoning offenses in the three edge neighborhoods and the Sustainability Report which is a broad report addressing all neighborhoods in the Borough and does report on zoning violations.

Mr. Fontaine confirmed that there has been clear breakdowns in communications and have been working to address these situations. Some temporary systems have been put in place to help deal with communication issues. It is not the policy of the Borough to not enforce ordinance violations or to fail in reporting the results to the complainant. He advised the current Borough website is difficult to use in obtaining information but stated a complaint form has been available on-line and neighborhood associations have been provided with a link to this form. Staff is working to develop a new webpage which should be easier for citizens to navigate through. In addition to updating the webpage, Staff is also working to implement a new software package which will allow for better communication with citizens but this system will not be in place until 2013. In the meantime the system in place is set-up with benchmarks for responding to complaints and following up on the complaints and provided feedback to the complainant. Part of the issue with poor communication is related to zoning violations governed by state law. Unfortunately some processes established by these state laws cannot be shortened and can take several months to a better part of a year. Mr. Fontaine stated the Borough will continue to work on better communication and welcomes the dialogue with citizens and the neighborhood associations and suggested a joint meeting with Council and the neighborhood representatives.

Mr. Daubert questioned who Mr. Fontaine was referring to when he mentioned having a dialogue. Mr. Fontaine stated the Borough would be represented by both members of the staff and Council.

Mr. Hess reviewed the first quarter report provided to Council on all the activity for the Department of Health and Ordinance Enforcement. Including snow removal, graffiti, removal of recycling containers from the curb, food establishment inspections, and other health related inspections including tattoo places and school kitchens.

Mr. Filippelli questioned the reporting of only three properties for over occupancy and felt this is a larger problem than what is reflected in this report and maybe this confirms some of the citizens' frustrations. Mr. Hess stated this report is only for the first quarter and the largest number of these complaints are usually received in the third quarter and only 10 to 12 complaints are received each year.

Mr. Fontaine added that over occupancy is difficult to detect. This cannot be determined just by driving passed a property. The change in the regulations resulting in a permit suspension if two complaints are received in a specific period of time has helped to lessen over occupancy occurrences.

Ms. Dauler questioned if the complainant's name is kept in confidence. Mr. Fontaine stated a complaint can be made anonymously but if necessary, the complainant could be asked to testify in court. The Borough recently changed the policy of when a complaint's name is listed on a report after this information was accidentally viewed by a property owner during an investigation. Mr. Williams added recent case law now allows for a municipality to redact the complainant's name but if the complainant is not willing to testify in court, the merits of the case can be jeopardized.

Donna Queeney, 520 Ridge Avenue, one of the problems is communication. General communication with the neighborhoods from administration has been excellent however communication about ordinance enforcement has been lousy. It is good that steps have been taken to improve communication but as recent as last week it has not been fixed. In relation to ordinance enforcement, residents understand and know it is difficult but staff should not be responding to a complaint by stating enforcement is hard. Ms. Queeney stated she thinks the process related to zoning enforcement has been lengthened. It is frustrating when people complain and they say they complained but are told there is no record of a complaint. The form on the website will help to provide documentation of complaints.

Susan Venegoni-Lestz, 323 West Fairmount Avenue, has been pleased with her interaction with Borough staff during the process of her rezoning request. However she is displeased with the amount of properties with dormant uses (student home designations) and rental permits that are continually renewed. Ms. Venegoni-Lestz spent two years gathering the information she previously presented to Council. It is difficult to make a complaint if it is unknown that those dormant uses exist. Ms. Venegoni-Lestz suggested the Borough take a step back and review the process before even getting to the complaint process. She stated issuance of rental housing permits and their continual renewal need to be addressed. Under occupancy can be just as problematic as over occupancy. She also suggested setting a timeline for property owners to use the property permits adequately or lose the permit or designation.

Ron Madrid, 701 West Beaver Avenue, spoke on behalf of the coalition and complimented the good work of Borough staff but stated it is unsatisfactory to continue to change the timeline of when information and reports are going to be available. Mr. Madrid stated the letter sent to the Borough provided a recommendation to provide a monthly report at regularly scheduled meeting so this information would be part of the public record and citizens would be able to easily access these reports. The coalition is not looking to point fingers but looking to solve problems.

Eric Boeldt, 400 South Gill Street, requested a copy of the letter from the coalition being addressed under this agenda item. Mr. Fountaine stated the letter was included with the agenda and the staff memo would also be made available on the Borough website. Mr. Boeldt stated he thought if you failed to rent to students for a period of time, you lost that right. Mr. Fountaine stated if you have a student home designation it will continue until the property owner consciously gives it up. A change can be made to the ordinance requiring property owners to use the properties as designated or abandon the use but the current ordinance, as written, does not abandon student homes. Mr. Williams added that non-use is not abandonment by case law and would continue to have the right as long as the permitting process is continued.

Anita Genger, 400 South Gill Street, helped with having the student home designation ordinance passed and it appears by the reaction of some Council members that they are also surprised that this is how the ordinance reads. Ms. Genger remembers being told by staff that student rentals needed to be registered with the Borough. If a student rental was rented to someone other than students or the property was not occupied, the student rental designation would be lost. Ms. Genger suggested this issue be resolved.

Mr. Fountaine requested clarification from Council if the quarterly report would be sufficient.

Mr. Rosenberger stated quarterly reports made available on the Borough webpage seems reasonable.

Mr. Filippelli requested a work session meeting to discuss the recommendations made the coalition to determine if the requests are feasible.

Mr. Hahn suggested that he respond to both the noise and enforcement letter since they were both addressed to him.

Mr. Fountaine stated he did not think there was a resolution to the letter raising concerns about quality of life but that information could be provided to Mr. Hahn to respond to the letter regarding the noise ordinance.

Donna Queeney stated the Coalition would like to sit down and talk with Borough Council and Borough staff about these concerns. The Borough can determine the semantics of the meeting but thinks it would be useful to sit down and have a discussion.

Nancy Anderson, 426 Ridge Avenue, spoke about her concerns regarding student housing. There are five young people living in a house near her home and has made a complaint to the Borough regarding this issue. Mr. Fountaine responded that the notice of violation has been issued and it is now before the Zoning Hearing Board. Ms. Anderson also questioned if the Borough zoning regulations for student housing are different than the state regulations. Mr. Williams stated there are no state regulations on student housing. When Mr. Williams spoke earlier he spoke about how the courts have interpreted the issue of abandonment. Borough regulations have to comply with what the courts have ruled.

Mr. Fountaine added that when he speaks about state and local, the state zoning codes govern how local zoning ordinances can be enforced. The procedures are civil procedures and violations have to be processed this manner and not as criminal violations. The Borough has had good success in enforcing the student home provisions of the zoning ordinance. Given the level of factual information that must be obtained to be successful in court, the process does take some time.

Dan Lestz, 323 West Fairmount Avenue, explained he worked in city government in Florida and dealt with a similar situation. Mr. Lestz recommended the Borough hold workshops allowing for discussions on these issues.

Mr. Rosenberger suggested having a work session with a different room set-up and maybe a single topic.

Mr. Fountaine stated staff would schedule a public meeting of Borough Council and invite representatives from the coalition to attend and sit with Council at the table.

There being no further business, Council adjourned to an executive session to discuss legal matters at 9:39 p.m.

Respectfully submitted,

Sharon K. Ergler, Assistant Borough Secretary

Prepared by Sheila Carl