

**Meeting Minutes
State College Borough Council
Regular Meeting
July 16, 2012**

The State College Borough Council met in a regular meeting on Monday, July 16, 2012, in the State College Municipal Building, 243 South Allen Street, State College, PA. Mayor Goreham called the meeting to order at 7:30 p.m.

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

Also present: Terry J. Williams, Borough Solicitor; Thomas J. Fountaine, II, Borough Manager; Carl R. Hess, Planning Director; Thomas R. King, Chief of Police; Mark A. Whitfield, Public Works Director; Beth Johnston, Human Resources Director; Roger A. Dunlap, Assistant Manager; Sharon K. Ergler, Assistant Borough Secretary; Laurel Petrulionis, UPUA Student Representative, Charles DeBow, Parking Manager; Kate Doe, Neighborhood Services Coordinator; Amy Kerner, Borough Engineer; and interested citizens and members of the media.

Public Hour – Hearing of Citizens

Mr. James Meashey, 300 South Corl Street, said he supports a pedestrian mall in the 100 block of South Allen Street during the summer of 2013. He encouraged Council to take action soon so road closures and events could be planned. The pedestrian mall cannot thrive or fail based on access alone. He said the FreezeThaw Cycle shop has expanded and thrived on South Allen Street. Hotel State College opened a tap room on Allen Street and a business of this type was unthinkable 20-30 years ago. Mr. Meashey said he has visited the San Antonio River Walk and Times Square in New York City. People are flocking to open air pedestrian places. He encouraged DSCID Executive Director George Arnold to contact his counterpart in San Antonio and ask him/her what makes the river walk so successful.

Mr. Johan Zwart, 420 South Burrowes Street, raised a couple of questions about the rental property at 303 West Fairmount Avenue. He said the Zoning Hearing Board overturned a decision of the Zoning Officer to allow this property as a rental. Mr. Zwart said he appealed this decision to the Centre County Court of Common Pleas and spent over \$5,000 to stop this rental. He said there are big differences on how this property is viewed by both the Centre Region Code Office and the Zoning Office. Code Inspectors view this structure as a duplex and the Zoning Officer determined this property to be a multi-family structure with three units. Mr. Zwart asked Council why the Borough did not appeal the Zoning Hearing Board's decision.

Mr. Zwart said two weeks ago, a fire wall and a staircase were torn out of this same property. He said he immediately called the Centre Region Code Office about it and they were aware of it; however, Mr. Zwart questioned why there was not a building permit posted on the outside of the property as required by Codes. He said he called a week ago and, to date, there is still no building permit on the structure. He said this property is clearly occupied by students because they are in town for the Arts Festival.

Ms. Goreham thanked Mr. Zwart for speaking and noted he raised both excellent and very complex questions.

Mr. Fountaine said he would be happy to sit down with Mr. Zwart to try to answer these questions. He said he personally has no knowledge of code building permits for this property but these permits would be the subject of the Centre Region Code office. He said he would check with the Code Office to find out what permits have been issued and why it is not displayed. Mr. Fountaine said he would also inquire as to whether or not the property could legally occupy with the staircase removed.

Mr. Fountaine said the Borough did review the ZHB's determination for the case and, based on the merits of the case, the Borough chose to not appeal their decision. The Borough would have needed to prove the ZHB eroded in its decision and the Borough did not feel there was a real basis for doing that.

Consent Item – Mr. Hahn made a motion to approve the following consent item. Mr. Rosenberger seconded the motion.

- Award the base bid and Alternate 1 for Project #2-2012 (Street & Alley Resurfacing) to Glenn O. Hawbaker, Inc., the low bidder, for a total amount of \$329,634.50.

The motion passed unanimously.

General Policy and Administration

Collective Bargaining Agreement between the Borough of State College and the Police Union

Mr. Filippelli made a motion to approve the Collective Bargaining Agreement between the Borough of State College and the Police Union. Mr. Hahn seconded the motion, which passed unanimously.

Report on Mayoral Veto of Ordinance #1993 (Amendment to the State College Zoning Map by rezoning 323 West Fairmount Avenue from R-2 to R-0A)

Mr. Fountaine reported that Mayor Goreham vetoed Ordinance 1993, which was to amend the State College Zoning map by rezoning 323 West Fairmount Avenue from R2 to R0-A.

Ms. Dauler made a motion to override the veto and Mr. Filippelli seconded her motion.

Ms. Dauler noted that there were only six members of Council present this evening. Council voted 4-3 in favor of the rezoning. She said it is important for Council, in a situation like this, to have a vote. She noted that in the past, Mayor Welch had vetoed an ordinance and Council had a subsequent vote because this is part of the process that is available to Council.

Ms. Dauler asked if the property owners would have an opportunity to speak at this meeting.

Ms. Goreham said the property owners could speak, if they had new information.

Mr. Williams said, as a matter of procedure, the Chair is obligated to take issue on the veto.

Susan Venegoni-Lestz, 323 West Fairmount Avenue, said she was a little upset that she just found out this morning that Mayor Goreham vetoed her rezoning request. She said she has had little time to prepare for tonight's meeting. Ms. Venegoni-Lestz said she had attended a lot of Council meetings where her request has been discussed and she felt Council was comfortable with her request. She said chances are slim this evening for an override because Mr. Daubert is not present and he voted previously in favor of her request.

Ms. Venegoni-Lestz said Jack Matson, the Mayor's husband, is the only person who submitted the only substantial objection to the request. She said she thought Mayor Goreham should have recused herself from the process. She noted that the public trust is kept by elected officials and she said that Mayor Goreham had a conflict of interest in this case, according to the information she has read from the PA Ethics Act.

Ms. Venegoni-Lestz said the Planning Commission is the place to speak about zoning. The PC received and reviewed her request twice and did not make a decision either time. She said she reviewed the Borough's Home Rule Charter and Section 503, Part 4 states that any Council member shall abstain from voting on a matter where there is a conflict of interest. In addition, she has reviewed the PA Legislator's Desk Book and the PA Borough Mayor's Manual, and when there is the appearance of the conflict of interest, a Mayor should refrain and should not exercise her rights to either approve or veto a matter. Ms. Venegoni-Lestz said the PA Courts have upheld the ruling that a government body member who has a direct personal interest to

a matter should recued themselves and, in this case, the Mayor and her husband own the property directly across the street from her property.

Ms. Venegoni-Lestz said she went to the Recorder of Deeds office in Bellefonte this morning to confirm that Mayor Goreham and her husband are still the owners of the property at 332 West Fairmount Avenue. At Council's June 11, 2012 meeting, Mayor Goreham said she would be happy to renounce her property as a student home. As of 12:09 p.m. this afternoon, Mayor Goreham's property is still a student home.

Ms. Venegoni-Lestz said she plans to file an ethics complaint with the PA State Ethics Commission because Mayor Goreham has failed to file at least one Financial Interest Statement since she has either been on Council or as the Mayor. She said Mayor Goreham should have read the Mayor's Manual and she should have never vetoed the ordinance.

Mayor Goreham asked Mr. Williams if she has overstepped the line. She asked if she filed the missing financial interest statement would that satisfy Ms. Venegoni-Lestz.

Ms. Venegoni-Lestz said this has nothing to do with the veto. By voting to veto the request to rezone my property, you have a direct financial interest because you claim it will have an impact on your property.

As it stands, Borough Council approved my rezoning request and the community-minded thing to do is for you to withdraw your veto. My request had been submitted eight months ago, been reviewed by the Planning Commission at least twice and I thought my request was approved until I received a phone call this morning.

Samuel Lestz, 322 West Fairmount Avenue, said he just became aware of the veto on the ordinance earlier today. He said he has been a resident of the Borough for 60 years and although he spends part of the year in the south, he still considers himself a resident of State College. He said he also considers all of his neighbors citizens of State College. From every neighbor that occupies a property, there was not one who was against my son and daughter-in-law's rezoning request. He said other citizens were in favor. Mr. Lestz said, as a practicing engineer, he does not understand one reason Mayor Goreham gave for vetoing the ordinance, which had to do with the fraying of a zoning boundary. He said by cutting out one property out of a rectangular zoning area, that is what frays the boundary. He said when you are proposing something that would straighten up the boundary; I do not understand how that could be considered fraying. Mr. Lestz said since none of the citizens in the 300 block of West Fairmount Avenue opposes the rezoning, he would hope that Mayor Goreham would consider rescinding her veto.

Council voted and the motion failed 3-3 with Ms. Dauler, Mr. Filippelli and Mr. Morris voting in favor of the override.

Proposed 2013 Budget Calendar – Mr. Hahn made a motion to approve the revised 2013 Budget review calendar. Mr. Morris seconded the motion to which there was no discussion. Council voted unanimously in favor of the motion.

Planning and Community Development

Rezoning Request for 254 East Nittany Avenue and 410 Locust Lane

Mr. Fountaine explained that the Borough had received a written request from Architect Albert Drobka to postpone any decision on the request to rezone 254 East Nittany Avenue and 410 Locust Lane until a later date. Staff is recommending Council receive the Planning Commission's report on the rezoning and table the request until we hear back from Mr. Drobka.

Ms. Dauler made a motion to receive the Planning Commission's report and to remove this item from the table for further consideration until Council hears back from Mr. Drobka. Mr. Hahn seconded the motion.

Mr. Filippelli asked if there was an indication of what the plans are for these properties.

Mr. Hess said no plans were submitted. Mr. Toney, the property owner, said his idea was to raze the structures and put up rooming houses for up to 5 occupants.

Mr. Rosenberger asked Mr. Hess if he had any idea when this request may come back to Council.

The motion passed unanimously.

Public Works

Consider a Request for Waiver of the Noise Ordinance for Night Work on South Atherton

Mr. Rosenberger made a motion to approve the request for a waiver of the noise ordinance for night work on South Atherton Street. Mr. Hahn seconded the motion.

Mr. Morris said he found it laudable that the contractor has spoken with Foxdale and adjacent motels about their request. He asked if the contractor had spoken with residents who live in the immediate neighborhood, such as Bradley Avenue and other surrounding streets. If yes, what sort of responses did they receive.

Mr. Fountaine said as far as staff knows, the contractor only consulted with Foxdale and the adjacent motels since they are immediately impacted by the construction.

Mr. Hahn said he did have some concerns because during the daytime, the noise cannot be heard because there is more ambient noise. He noted that this request was advertised as an agenda item at an upcoming meeting and that apparently no one seems to be coming up to oppose it.

Mr. Whitfield said in speaking with a PennDOT District 2-0 representative, these two dates were chosen because this is the slowest time of the week for them (Sunday and Monday). The main reason for their request was to avoid traffic delays to motorists. Traffic counts indicate there are 26,000 vehicles per day at that intersection and that number drops significantly after 7 p.m. He added that the original scope of work for that project did not include paving the intersection; however, PennDOT did not want to leave that intersection piece mealed.

Ms. Dauler asked if the weather affects whether this project can be completed in the proposed timeline. Mr. Whitfield said milling can be done in all types of weather; however, PennDOT cannot pave in the rain and there is approximately 400' of paving to be done.

Council voted unanimously in favor of granting the noise waiver for night work on South Atherton Street.

Calder Way Parking Changes

Mr. DeBow explained that he is requesting changes to the parking along Calder Way. There was a request several years ago to permit parking for people pulling onto East Calder Way to drop off movies, etc.; however, that business is no longer there and there is a need to change the parking restrictions.

Mr. Filippelli made a motion to approve the changes. Ms. Dauler seconded the motion.

Mr. Filippelli said he is confused by this request because the agenda narrative addresses it slightly different from the material in the agenda packet.

Mr. DeBow said he recommends that switching of five minute parking from the north to the south side. Parking on the south side would be prohibited. He said he believes the confusion is between McAllister Alley and McAllister Street. On the north side of East Calder is private parking. On the next half block, there is five-minute parking from 5 p.m. to midnight for the post office and Mike's Video with No Parking on the south side.

Ms. Klinetob said by shifting cars, would there still be enough room for emergency vehicles. Mr. DeBow answered yes.

The motion passed unanimously.

Items of Information

Mayor's Report - Mayor Goreham reported that the Central PA Festival of the Arts was held recently and Children's Day was a bigger success than usual. The entire Arts Festival was very well attended and the entertainment was fabulous.

President's Report – Mr. Hahn reported there will not be an Executive Session as previously indicated.

Regional Liaison Reports

Executive Committee – Mr. Morris reported that the Executive Committee meets tomorrow. Some of the agenda items include the DRI request for Harvest Fields, the 2013 COG Program Plan, COG's Disciplinary and Appeal Policy, Setting the date for Trick-or-Treat night, and Schlow Centre Region Library's Parking Plan.

Finance Committee – Mr. Rosenberger reported that the Finance Committee met last week and they will also be meeting tomorrow to discuss the financing of the pool loans. This item will be referred to the municipalities for comment. Another topic of discussion, is Schlow Centre Region Library's budget. There will also be some discussion of the Code Office's request for a new staff member on the new construction side.

Human Resources – Mr. Filippelli said the Human Resources Commission recently approved the addition of a position to the Alpha Fire Company. They also adopted a new Disciplinary Policy, which will come before the General Forum shortly. He added that the CRCOG agency directors have agreed to no merit increase this year for the COG agency directors and for COG in general.

Public Safety – Mr. Hahn reported that the Public Safety Committee met to discuss Worker's Compensation Agreements and whose policy would pay if Alpha personnel were injured.

Public Services/Environmental – Ms. Klinetob reported that the Public Services and Environmental Committee met and discussed the Harvest Field DRI. They looked at some concerns, as well as commitment on the part of the developer. She added that the solicitor will need to review a land swap or confirmation of what the developer's plan had said. Ms. Klinetob said she expects the Harvest Field DRI to be brought up at the August General Forum meeting.

Staff Reports – Chief King provided a brief report about some of the inquiries he has received about the amount of staff time spent for two substantial trials during the month of June. Police staff logged 153 hours of overtime to support the Sandusky trial. This amount has been submitted to Bellefonte Borough and they are submitting the total amount to the Commonwealth for reimbursement.

The second case was for the Russian trial. During this trial, the Police Department logged approximately the same number of hours. This included the four Borough Police Detectives who were the arresting officers.

UPUA Student Report – Ms. Petrulionis said shortly after the Freed Report was released, Penn State Student Leaders also released a report to the entire student body as a whole.

There being no additional business, the meeting adjourned at 8:37 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary