State College Borough Council
Work Session
November 8, 2004

The State College Borough Council met in a work session on Monday, November 8, 2004, in the State College Municipal Building Council Chambers, 243 South Allen Street, State College, PA 16801. Mr. Daubert called the meeting to order at 7:30 p.m.

Present: Bill Welch, Mayor
Thomas E. Daubert, Council President
Janet K. Knauer
Catherine G. Dauler
James H. Meyer
Craig H. Humphrey
Jeffrey R. Kern

Absent: Elizabeth A. Goreham

Also present: Thomas J. Fountaine, Borough Manager; Ronald A. Davis, Assistant Borough Manager; Thomas R. King, Chief of Police; Michael S. Groff, Finance Director; Mark A. Whitfield, Director of Public Works; Amy J. Story, Borough Engineer; Mark S. Henry, Health Officer, Joanne Lopinsky, Assistant Zoning Officer; Cynthia S. Hanscom, Recording Secretary; members of the media; and other interested observers.

Public Hour: There were no comments from the public.

Supplemental to the Aquatics Feasibility Study and Concepts Plans

Mr. Fountaine reminded Council that this study was reviewed by the Centre Region Council of Governments (COG) General Forum on September 7. Council's comments on the study need to be returned by November 16.

Mr. Kern questioned whether consideration had been given to repairing the existing pool; it would be more expensive to build a new pool. Second, Mr. Kern did not believe the pool should be moved; if the pool needed to be rebuilt, it should be done in the same location. Concern had been expressed about the parking, but he believed there were many options for parking in the existing area. In addition, he said, building another parking lot would compound storm water management problems. Moving the pool to the rear of Westerly Parkway shopping center on Waupelani Drive would take taxable land out of the Borough and create a loss of tax revenue.

Ms. Knauer agreed with most of Mr. Kern's comments. She understood the condition of the existing pool is quite awful. She assumed the pool needs to be rebuilt but would not want to see a water park. Ms. Knauer also preferred to see a community pool built in the existing location but had no objection to constructing a pool to the rear of Westerly Parkway shopping center.

Mr. Humphrey felt the least acceptable solution would be to patch the existing pool. The population in the region has increased and the size of the pool should also increase. Of the two options (to build a pool at the present location or on Waupelani Drive), Mr. Humphrey preferred moving the pool to Waupelani Drive. Although Mr. Kern made several good points about paving over the land, he noted that 80 percent of the land would be green space. The land is now undeveloped and could contain a much larger facility.

Ms. Dauler preferred the pool remain at its present location and was reluctant to have the pool moved to Waupelani Drive. The cost of the land as well as the pool is a factor. The Science Park pool has the same land acreage as the Welch Pool but they have not used all of the surrounding land to refurbish or reconstruct a larger pool. The argument that there is not enough room at the present site does not mean Council needs to move it. Another pool could be built in that same spot. She added that she thought the company that

actually does the work should not have any connection to the consultant that presents the plans.

Mr. Meyer noted that the cost of building a new pool would be $1 million. He would like to know the cost to have the pool brought up to a condition that would keep it open for the next 10 years. If that is not possible, he would agree with rebuilding the pool at its present location.

Mr. Welch noted that he attended a COG-sponsored tour of the Welch Pool and felt it is comparable to the old municipal building; the cost to maintain the structure is excessive. There are some fundamental structural problems, such as leaks, that cannot be fixed readily. The key issue is parking, particularly since the school district has expanded. It seemed to make sense to research how the parking can be reconfigured. If the site is relocated to Waupelani Drive, there would be a relatively small portion of the land located in the Borough; the major loss in tax revenue would be to College Township. Lastly, he noted the pool was named after his father who led the effort to build the pool in the 1950s; however, his family had no strong feelings about it continuing to be called the Welch Pool.

Mr. Daubert agreed the existing pool is deteriorating and is too costly to continue repairing it; however, it could be rebuilt at its present location. If that is not possible, then he would agree to the Waupelani Drive site.

Mr. Daubert concluded that the majority of Council members would like to see the pool remain in the present location. All members agreed it needed extensive reconstruction and, any parking issues should be coordinated with the School District.

University Area Joint Authority

Mary Barnes and Robert Schmalz, Council's representatives on the UAJA, provided an update on the UAJA. Mr. Schmalz, Vice Chair, provided Council with a summary report on the principal activities of the UAJA and proposals for the future. He noted that the UAJA was completing construction of the Spring Creek pollution control facility which would increase capacity from 6 to 9 million gallons per day. In addition, construction has begun on the beneficial reuse system and the meter on East College Avenue , which would mean discharge from the Borough would be charged more appropriately. Mr. Schmalz said the final report had been completed on recovering thermal energy at businesses and industries in the Nittany Mall area (water that arrives at the UAJA plant is 10 to 15 degrees above ground water which may be used as marketable heat). The UAJA is currently reviewing the tapping fees to ensure compliance with Act 157; upon completion, it is hoped to conduct a comprehensive review of billing practices to consider a form of volume-based billing. Currently, the system is billed on a flat equivalent dwelling unit (edu) fee.

Mr. Schmalz explained there is great potential for the water treatment program. Water that has been treated through filtration or osmosis and is virus-free can be reused. Currently, UAJA is negotiating with the College Garden Nursery and Centre Hills Country Club. Use of this water is critical to the future of UAJA .

Mr. Daubert asked if fees were going up for treatment at UAJA. Mr. Schmalz hoped to have the next year's figures soon; last year the state withdrew funds and the Authority was not aware of the shortfall until late in the year.

Ms. Barnes distributed a short comment on the "recipe for potential disaster." She noted that the wrong combination of circumstances could occur that can create major problems for the region. Zoning changes have been permitted in the Centre Region that were not within the growth boundary. UAJA's point of view is that there is only so much capacity. By expanding growth beyond the growth boundary, developers within the growth boundary are limited. UAJA needs to be able to dispose of sewage within the State College area. The current level of capacity is close enough that some lots in State College could find that there is no more capacity available. She urged Council, as a governmental body, to see to it that changes in zoning do not occur until there is capacity

in the infrastructure. Mr. Fountaine noted that this Council opposed the rezonings outside the growth boundary.

Ms. Story noted that last year there was an increase in the edu fee from $772 to $2075. Act 203 is requiring municipalities to look at something different for non-residential uses. In October, she met with Cory Miller and Max Gill and other entities that collect tapping fees to consider appropriate fees for commercial and industrial uses. There is a proposal to base fees on meter sizes. For instance, a typical single-family house would still be billed as a single dwelling unit (one edu), which typically has 5/8-inch meter; a 100-seat restaurant could have a 3-inch meter. Basing the fee on the size of the meter may make it feasible to charge businesses according to projected usage. Ms. Knauer asked how many edus would be charged for a rooming house or apartment house. Ms. Story explained it would be one edu per individual living unit. Some apartment units, however, do not have the same usage as others (for example, a washer/dryer connection significantly increases the amount of water used).

Property Maintenance/Fire Code

Mr. Fountaine reminded Council that Borough staff and COG Code Administration staff have been working on amendments to the property maintenance code and local amendments to the fire code. Local amendments include changes to the existing permit suspension process. A public hearing was held in mid-October and again on November 1. Council is here to discuss those comments.

Mr. Fountaine noted he received requests from Jeff Hathaway and Mick Trombley asking for a delay of enactment to give them time to review the proposed ordinance. He reminded Council that the current ordinance has been in place since 1996 with a provision for permit suspension. The proposal before Council would amend, but not substantially change, the types of offensives listed in the current ordinance.

Council discussed the requirement for screens in rental units. Tim Knisely, Code Inspector for the COG Code Administration, indicated Inspectors will inspect for screens only during an annual inspection or on a follow-up complaint. Only nine complaints have been received in nine years. Property maintenance requires a 5-square-foot opening for ventilation; if there is a window, a screen is required. Ms. Knauer believed that screens should be required if the tenant wants them; if not, a violation should not be issued.

Mr. Daubert raised the issue of holding a property owner responsible for actions by a neighboring property. Mr. Fountaine noted the change to this section only changed the wording to say “contiguous.”

Mr. Meyer was also concerned for property owners being responsible for tenant actions, especially with regard to such crimes as simple assault, aggravated assault, etc. He believed property owners should be held responsible only for the physical characteristics of the property. Mr. Fountaine noted that, if the property owner was attempting to correct the situation by evicting or not renewing a lease with a problem tenant, that would be taken into consideration. Mr. Daubert asked how a landlord could prevent tenants from committing crimes. Mr. Fountaine said leases could include a clause revoking the lease if criminal actions are brought against the tenant. Mr. Kern agreed with Mr. Meyer, noting it is difficult to evict a tenant in the middle of a lease. Mr. Kern asked if a formalized system of leniency had been established. Mr. Fountaine said each case would be considered on its own merit. Mr. Meyer noted the fraternities are particularly affected by this proposal because they have many tenants with only one permit. Apartment building owners would be less affected because only the permit for one unit would be considered for suspension. Mr. Fountaine said the fraternities need to have a “person-in-charge” so the Borough has a contact person to work with early on in the process. Mr. Meyer thought fraternities need to be handled in some separate fashion.

Mr. Welch said that, of the current 19 problem properties, 15 were fraternities; it would be unlikely that the 15 fraternities would have their occupancy permits revoked. Boarding up those fraternities would rival the problems the Borough currently has with

loud parties. He noted there was an effort in the works with the Greek system and Penn State's Office of Student Affairs to see if the fraternities can be saved. University officials know that things are out of control and they are trying to "reconnect the umbilical cord."

Ms. Dauler explained that this ordinance has been supported by Council in the past and refined over the last six months. There are 19 problem properties that are making life difficult for other residents of our neighborhoods. Properties are not being maintained and there is no sense of accountability. The system established through the property maintenance code endeavors to address the issues.

Kristen Kofmehl, Off-Campus Student Union President residing at 210 West College Avenue, agreed that landlords should be more responsible for the tenants they are choosing and students create problems. There needs to be checks and balances so the landlord can pass on the responsibility to the tenant. She believed the ordinance would establish a high sense of responsibility to encourage more appropriate behavior.

Ms. Dauler asked if the Solicitor had reviewed the ordinance. Mr. Fountaine replied it had been reviewed by the Solicitor, and he indicated that, once a permit is suspended, he believed the suspension would be appealed in court. Mr. Meyer asked the Solicitor to provide comments on the ability to hold a property owner responsible for the actions of his/her tenants.

David Lopinsky, 408 East Fairmount Avenue, expressed his approval of the ordinance. In particular, he was in favor of the person-in-charge with the requirements for 25 years of age and living within a 25-mile radius. He believed the person-in-charge could be instituted immediately for the fraternities.

Phillip Wagner, 409 East Fairmount Avenue, member of Phi Kappa Phi, noted the Off Campus Student Union needs help to get the Greek life system back on track. The on-going problems with the fraternities and laundry list of violations could be lessened by enacting this ordinance.

Mick Trombley, Keystone Real Estate Group and member of Heritage One, said that he was asked to comment on this ordinance a few months ago, particularly about carbon monoxide detectors. Although it was several months in review, he asked for the opportunity to review the ordinance in more detail.

Mr. Welch asked if there was any reason why a lease could not contain a clause that would terminate for a guilty conviction. Mr. Trombley noted there were leases that incorporated "bad conduct." Mr. Welch noted this would provide a progression of accountability.

Robert Kameen, 254 East Foster Avenue, member of the Interfraternity Council, said it is important for all the parties affected to review the ordinance in detail. He requested a delay for a decision on the ordinance.

Steven Ferrara, Alpha Gamma Rho, said the biggest uncertainty is how points will be evaluated. There is a real possibility that 10 points will be accumulated with no serious violations. He believed the way to solve the problems is with fines. Mr. Kern noted that this system is no different than violations received through speeding tickets. Violators receive fines and points assessed against their license; after a certain number of points are accrued, the driver's license is revoked. The only difference is the proposed ordinance establishes a notification process. Mr. Ferrara believed it was an arbitrary point system where a variety of relatively small occurrences could negatively impact the rental permit. Mr. Kern noted that Penn State relinquished control over the fraternities; problems are out of control. A pattern of behavior has been established and the fraternities need to accept responsibility for their actions. Mr. Ferrara said there is too much power to revoke an occupancy permit for things that happen in the normal course of a year. Trash located around a fraternity would affect the occupancy permit while the trash around an apartment building would not affect the property owner in the same way. Mr. Fountaine noted that was a valid point but the proposed ordinance does not change what exists. The

current ordinance has revocation at 9 violations and the proposed ordinance would change that to 10; therefore there is some relaxation of the current ordinance. Mr. Welch added that the permit may be suspended. The goal of the ordinance is to resolve the problems.

Ms. Knauer said she did not see any reason to delay the vote on this ordinance. People have had ample time to review and comment. Mr. Humphrey and Mr. Kern agreed. Mr. Meyer disagreed based on the fact that several groups have asked for more time.

Mr. Daubert said that Council could vote on the ordinance on December 6 with an effective date of January 1. The person-in-charge would be required by March 1. Mr. Fountaine added that enforcement should not take place until after the person-in-charge is in place; therefore enforcement would begin March 1.

Centre Region Council of Governments 2005 Budget

Council received a report from staff on the 2005 COG budget with suggestions for expenditures that could be reduced. James Steff, Executive Director of Centre Region COG, was present to answer questions.

Ms. Knauer asked if the $122,000 proposed to update the Act 537 Sewage Facilities Plan should be paid by the UAJA. Mr. Steff noted that it is the municipalities' responsibility. He believed there was a legal mandate to update the plan in 2005.

Council discussed the $28,000 proposed to equip two more intersections with traffic signal pre-emptive devices. Ms. Knauer believed this expense was important to provide better emergency service to the community.

Next, Council reviewed the change from 6 percent to 5 percent of gross payroll proposed for pension costs. Mr. Davis believed the 5 percent would be enough to cover the expense. Mr. Steff noted the 6 percent used in previous years was a cautious measure.

Mr. Steff noted municipal contributions were going up because fund balances had gone down. Ms. Knauer asked if costs could be offset by user fees. Mr. Steff said it would not be possible in some cases.

Mr. Meyer noted most municipalities had no comments on the proposed budget.

Salary for Future Mayor

Mr. Fountaine said that candidates for the office of Mayor should understand what salary they will receive should they be elected to office. The primary election will occur in the spring of 2005. In accordance with Section 1024 of the Borough Code, the Mayor's salary is fixed by ordinance and may not be changed during a mayoral term. The Mayor's salary of $8,000 was established in 1989. If changed, the new amount will remain in effect until at least December 31, 2008. Mr. Fountaine noted, if the Mayor's salary had kept pace with inflation, it would be about $12,000.

Mr. Kern agreed the salary should be increased to $12,000. Mr. Humphrey agreed.

Ms. Dauler and Mr. Daubert indicated they would consider a reasonable increase to $10,000. Mr. Daubert said a 15 percent raise seemed excessive. Mr. Fountaine suggested Council discuss this among themselves and return with their consensus at a future meeting.

There being no further business, the meeting adjourned at 10:25 p.m.

Respectfully submitted,

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Barbara J. Natalie
Assistant Borough Secretary