

State College Borough Council
November 1, 2004

The State College Borough Council met on November 1, 2004, in the Council Chambers of the State College Municipal Building, 243 South Allen Street. Mayor Welch called the meeting to order at 7:30 p.m.

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

Also present were: Thomas J. Fountaine, II, Borough Manager; Terry J. Williams, Solicitor; Ronald A. Davis, Assistant Manager; Barbara J. Natalie, Assistant Secretary; Thomas R. King, Chief of Police; Mark A. Whitfield, Director of Public Works; Mark S. Henry, Health Officer; Carl R. Hess, Planning Director; Tim Grattan, Information Systems Director; Herman L. Slaybaugh, Zoning Officer; Lucy B. Hoover, CDBG Planner; Michele Nicolas, Director of Human Resources; Corporal Mark Argiro, State College Police Department; members of the media; and other interested observers.

The Pledge of Allegiance followed a moment of silence.

PUBLIC HOUR.

Lou Ann Evans, CARE Partnership's Co-Chair, briefly described the Centre Region Communities that CARE Partnership, its programs and goals, and thanked Council for its support. She noted that CARE is a collaborative initiative that engages over 100 community members in programs and activities addressing youth issues. The CARE model is a proactive method for communities to systematically work toward common goals. Through data collection and collaboration, the Partnership has identified specific risk and protective factors impacting our community. Ms. Evans concluded by presenting Council with a plaque and speaking to request that others in the community join their organization to volunteer their funds, time, and/or talents to support CARE's cause.

PUBLIC HEARINGS

International Property Maintenance & Fire Codes/2003. The first item was to hear input on a proposal to adopt the International Property Maintenance and Fire Codes, 2003 edition.

Mr. Fountaine distributed an amended International Property Maintenance Code. He explained how the Code prescribes minimum effective standards and minimum maintenance requirements for all existing premises and structures, both residential and non-residential. The Code is not mandated by the Commonwealth; therefore, it is amendable, he said. The Fire Code is more complex. It contains sections that relate to existing structures (that are discretionary) and other sections that relate to new construction (which are mandatory). Both the mandatory and discretionary sections of the Fire Code are being adopted in the Property Maintenance Code.

Mr. Fountaine informed Council that discussions to initiate a rental housing permit revocation process started in the early 1990s. Council adopted a suspension ordinance in 1996, and staff began tracking properties for violations. The purpose of the program was to identify and resolve neighborhood problems in residential districts that arise because of life-style conflicts and/or because of repeated violations of laws/ordinances regulating conduct, health, safety, occupancy and/or property maintenance. An inter-departmental approach was adopted so that information and ideas could be shared, evaluated, and coordinated. The departments involved were Administration, Police, Code Administration, Planning, Zoning, and Health. The current program monitors violations that occur, and those properties with three or more violations are reviewed by staff. Properties selected as a result of this review

are sent letters notifying the owners that their property is causing a nuisance in the neighborhood. The letter(s) further states that, if the violations continue, their rental housing permit may be revoked. Presently, at least nine violations along with three notices (the third notifying the owner that the permit is revoked), are required. To date, no permits have been revoked; however, the list of problem properties over the past several years has dwindled primarily due to property owner cooperation after notification. A list of problem properties, dated February 1996, contained 79 properties; the current problem property list, dated February 19, 2004 contains 19 properties of which 15 are fraternities. Recently, Council directed staff to complete a comprehensive review of the entire permit revocation process and prepare recommendations for consideration. Concurrent with this review was a request to adopt the 2003 International Property Maintenance Code. Since permit revocation is part of the same ordinance, the two processes were combined in order to prepare one ordinance for consideration. Mr. Fountaine reviewed the proposed ordinance, saying it contains a number of major changes:

- ✓ a point system along with weighted violations will be used to determine when a property becomes a “nuisance property”
- ✓ changed the term “revocation” to “suspend” since the Borough is only suspending the rental housing permit
- ✓ the first suspension is for 6 months and will commence on the first day following expiration of the lease(s) provided such lease(s) are not for more than 1 year; if there is no lease or the lease(s) are for more than 1 year, the suspension shall commence on the first day following the annual permit renewal date
- ✓ subsequent suspensions within a 5-year period will be for 12 months
- ✓ during the permit suspension period, any further accumulation of points at a property may result in the suspension being extended up to an additional 12 months
- ✓ violations will range from 1 to 3 points with ordinance violations at 1 point, zoning, disorderly and fire violations at 2 points and police violations at 3 points
- ✓ points for ordinance and code violations will accumulate against a property at the point of issuing a fine
- ✓ points for zoning ordinance violations will accumulate against a property at the time the Zoning Officer issues a notice of violation or, if appealed, at the time of a finding in favor of the Borough by the Zoning Hearing Board.
- ✓ for police violations, points will accumulate against a property at the time of adjudication unless the defendant is acquitted, found not guilty, or the case is withdrawn; the points will also accumulate against a property if after being charged, the defendant ignores the citation or arrest and a warrant is issued for the defendant.
- ✓ added ‘student housing’ violations (under zoning) and several criminal acts such as sexual assault, harassment, and open lewdness to the list of violations that can accumulate against a property
- ✓ the maximum number of points that can accumulate against a property in a 24-hour period is 3
- ✓ a “notice of violation” will be sent to the property owner after a property accumulates 5 points
- ✓ property owners will be directed to submit a “correction plan” and failure to do so will be considered in the decision to suspend the permit should it become necessary
- ✓ property owners may request a meeting to discuss the “notice of violation” should they desire one
- ✓ a “notice of proceeding to suspend” will be sent to the property owner after a property accumulates 10 points; this notice will be sent only after a “notice of violation” has been sent
- ✓ property violations will be tracked for 12 months
- ✓ tenants will be provided a municipal contact to call if there is a problem
- ✓ makes the “person-in-charge” more restrictive by requiring any person in charge (other than the property owner) to be 25 years of age or older
- ✓ upon recommendation of the Code Official or Health Officer, the Borough Manager is empowered to suspend the rental housing permit
- ✓ appeals from the Manager’s decision to suspend the rental housing permit are made to the State College Rental Housing Revocation Appeals Board
- ✓ adds a section whereby, in cases of imminent danger to health, safety, or welfare, the Centre Region Building & Housing Code Board of Appeals or Health Officer can order a structure vacated within 10 days and schedule a hearing within the 10-day period
- ✓ adds a requirement for carbon monoxide detectors
- ✓ adds fire safety requirements, and
- ✓ alters the definition of residential rental property by including fraternities, which will require fraternities to have a “person in charge”

He recommended that Council hear input on the proposed International Property Maintenance Code/2003 and take action on it on November 15.

Mr. Kern moved to take action on this ordinance on November 15. Ms. Goreham seconded his motion.

Mayor Welch called for audience input.

Andy Hackett, Interfraternity Council President representing Sigma Nu, and a resident of 340 North Burrowes Street, questioned the rate increase proposed for fraternities. Mr. Fountaine replied that the increase is necessary to cover the increased number of inspections. Mr. Hackett had little concern with the proposed ordinance but suggested that Penn State's Office of Student Affairs and/or Office of Fraternity & Sorority Life be added to the list of those notified under Section 1001.

David Lapinski, Secretary/Treasurer of the Omicron Association, Incorporated, an alumni group holding the Phi Kappa Tau fraternity at 408 East Fairmount and 517 South Garner Street, agreed with the ordinance but asked that Council review the requirement for screens in Section 304.14 of the proposed ordinance. Phi Kappa Tau has windows that open out; if they cannot afford to retrofit screens (\$20,000.00 - \$30,000.00), they could be charged with 40 violations of the ordinance in a single visit (the number of windows in the fraternity). Tim Knisely, Code Inspector explained that only those windows that are required for ventilation would need to have screens. Mr. Lapinski also recommended that some degree of latitude be given concerning "the actions of guests" and "trash accumulated along the property lines," neither of which the fraternity can control in the short-term. He did not want to accumulate points because an adjoining fraternity caused the problems. Mr. Lapinski thought "taking action" should be explained in the ordinance. And, he requested a municipal phone number be included so he could determine how many points his fraternity had accumulated at any given time.

Steve Ferraro, representing Alpha Gamma Rho at 322 Fraternity Row, feared the ordinance contains an arbitrary point system. He was also of the opinion that, if only fraternities are listed as "nuisance properties" on the existing list, then there is a problem with enforcement.

Patrick Vernon, a resident of Walnut Spring Lane in College Township, suggested that, before this legislation is enacted, Council form a group composed of property owners to help police these problems (e.g. members of the Centre Region Owners Association) before the Borough becomes involved. He also suggested positive reinforcement points be included for owners who take corrective actions. Mr. Vernon also asked Council to consider the negative impacts this ordinance would have should a property be left vacant or boarded up. To assist property owners, Mr. Vernon suggested the Noise Ordinance be enforced regularly. He noted that he has no control over a tenant who decides to turn up his/her stereo. Finally, Mr. Vernon said he cannot regulate the lives of his tenants like a parent and felt it is unfair to hold owners responsible for tenant actions.

Jay Sletson, a resident of Gregg Township associated with the Fraternity Purchasing Association at 226 East Nittany Avenue, thought that Council is attempting to apply remedy at the wrong point. Despite huge allocations of money, time, and manpower to bring about improvement in student behavior, additional rules on owners will not resolve the issue. Rather, he suggested the Pennsylvania State University inject student suspensions and/or expulsions. Students convicted of two offenses should result in an immediate suspension from school. They and their parents ought to understand this policy and be required to read and sign it prior to enrollment. A third offense should result in immediate expulsion, regardless of whose child they are. Punishing owners does not deliver the message to the offenders—that actions have consequences and that personal responsibility is the most valuable component of an orderly and civic society.

Paul Lyons, representing the Triangle Fraternity at 226 East Beaver Avenue, agreed with updating the ordinances for the safety of tenants; however, he did not agree that there was a need to change the enforcement mechanism included in the ordinance. The report read by the Manager indicates that the existing system has been successful and he believed it should be continued.

Jason Graci, a resident of Allenway and alumni of Tau Epsilon Phi at 328 East Foster Avenue, said they were concerned about the enforcement of laws being put in the hands of property owners because it would be impossible for them to enforce these laws and to punish the offenders fairly. Mr. Graci believed the ordinance was extreme and treated fraternities unfairly.

Theresa Lafer, 356 East Foster Avenue, a single-family homeowner who rents, was of the opinion that the point system takes too much time for municipal officials to track and enforce and is onerous to small homeowners. If the existing system is working, she suggested it be continued.

Samuel E. Toney, a resident of Spruce Creek having rental properties on Waring, East Foster, and East Fairmount Avenues, said one of his properties is 56 years old. The ordinance requires interconnected carbon monoxide detectors, which he cannot accommodate in a structure that has different power sources. Mr. Toney also wondered what would happen if a property owner tried to sell a “nuisance property” following revocation of its rental permit. Mr. Fountaine said each case is considered on its own merits, but the owner always has the right to sell his/her property.

Ed Sidwell, a resident of Buffalo Run Road in Bellefonte, speaking on behalf of Sigma Nu, 340 North Burrowes Street, said there are three factors currently taking place that may resolve many of the problems Council is attempting to correct. The first is that Penn State has taken a renewed interest in the fraternity system and is working to improve it; the second is the Easy Care Program, which is helping fraternities avoid code violations and make their residences safer; and the third is the Alumnae Greek Council, formed to address issues that protect these structures from damage. Mr. Sidwell also asked Council to review Section 104.3 wherein it allows a Code Official to enter at any reasonable time if a safety issue exists. Mr. Sidwell pointed out that the Official would not know if a safety issue existed unless s/he enters the building.

Brad Palmer, President of the Alumni House Corporation of Beta Theta Pi fraternity, located at 220 North Burrowes Road, submitted a letter requesting Council provide time for owners to identify and educate “persons in charge;” consider training programs for “persons in charge;” phase in the point scoring system (two years initially, then to one year); and reconfigure the point system to separate infractions such as rape from furnishing alcohol to minors, which he considered asymmetrical in the list of behavioral problems.

A letter from E. Jefferies Hathaway, Secretary to the Penn State Greek Alumni Council and to the Pi Kappa Phi Alumni Corporation, was submitted wherein he suggested the proposed ordinance be tabled because he considered the holding of property owners liable for the actions of their tenants to be oppressive, at best, and unconstitutional in the least. He suggested that Council penalize the miscreants who violate laws, not the landlords, through police agencies.

Sign Ordinance: Amendment to Define and Regulate Off-Premise Directional Signs.

The only other subject set aside for public input was an amendment to the Sign Ordinance to define and modify rules governing off-premise directional signs.

Mr. Fountaine described a proposal to create a definition for and modify rules governing off-premise directional signs. He reported that the Planning Commission reviewed the amendment and recommended Council approve it. The Commission’s approval was not unanimous, however. One Commissioner voted against the amendment because it did not allow shopping centers to list individual businesses in the center on a directional sign when other types of buildings with multiple tenants were permitted to list each tenant on an off-premise directional sign. Council agreed with the dissenting Commissioner and amended the proposal to give shopping centers the same privilege of listing tenants as is afforded other types of buildings. Mr. Fountaine recommended that Council take testimony on this ordinance and authorize publication of its intent to act on it.

Mayor Welch called for audience participation. There being none, he returned the subject to Council.

Upon motion of Mr. Kern, second by Ms. Dauler, members voted unanimously to authorize publication of Council's intent to enact this ordinance on November 15.

CONSENT ITEMS

RER: A Replot of Lots to Add Land to Lederer Park. The only item of Consent was to re-approve a lot addition for Lederer Park.

Mr. Fountaine noted that the Smith Partnership owns two contiguous building lots (Nos. 6 and 7) along Walnut Spring Lane. The rear portion of each of these lots was given to the Borough for the purpose of adding another access to Lederer Park. On April 5, 2004, Council approved the replot of these lots to evidence the dedication and add the land to the Park. Since that time, he said, there were delays in preparing the necessary documents and obtaining signatures to transfer the land. Because of these delays, the replot was not recorded within the mandatory 90 days of approval. There is no change to the plan but, to comply with the recordation deadline, Council is being asked to re-approve the plan.

Mr. Kern moved to re-approve the replot plan, as described. Ms. Goreham seconded his motion, and it was endorsed by a vote of 6-0-0. [Ms. Knauer stepped out of the room during the discussion of this subject.]

ABC RECOMMENDATIONS

Camera System Report (Public Surveillance). The only item referred to Council by an advisory group was a report on the first year's experience with the Beaver Avenue public camera system.

Mr. Fountaine informed Council that the Closed Circuit Television (CCTV) Advisory Committee met during the past year to oversee the implementation of the public camera project, to monitor compliance with the Use of Public Camera Policy and Procedures, and to prepare a report to Council on the first year's experience with the camera project. In preparing the report, staff and the Committee conducted an analysis of crime reports and administered a survey to citizens in the downtown and to several Penn State classes. Chief King and the Committee are in attendance, he said, to provide their report.

Chief King introduced the Committee members and said the cameras were purchased in 1993 for \$21,951.00, of which Penn State contributed \$10,000.00. In approving the cameras, Council created a Committee to oversee their use. The Committee created goals for the cameras' use. They were to enhance public safety, prevent and deter crime and public disorder, reduce the fear of crime, identify criminal activity and suspects, identify and gather evidence, document police actions to safeguard citizens and officer rights, reduce the cost and impact of crime to the community, and improve the allocation and deployment of law enforcement assets. Mr. King reviewed statistics on assaults, disorders, vandalism, thefts, fighting, and harassment, comparing the numbers with cameras with those before cameras. Although the number of crimes declined, Council felt the numbers were insignificant. However, the report did demonstrate on which days and at what hours crime was most prevalent. Of particular interest was the public's support for having the cameras in place. The report ended with the Committee's recommendations to:

1. retain the camera system;
2. refrain from adding cameras at this point;
3. move one camera to the intersection of Calder and McAllister;
4. increase public awareness of the cameras;
5. develop and implement a camera monitoring plan for 2005;
6. continue the CCTV Committee throughout 2005;
7. purchase an annual maintenance agreement for the cameras;
8. consider purchasing additional hard drive storage after the monitoring plan is developed; and
9. review and revise, if needed, the policy and procedures for these cameras following Council's approval of these recommendations.

Mr. Kern asked if the cameras had any effect on prosecution. Chief King said camera data was used in two cases but only to back up witness testimony.

Kristen Kofmehl, a Penn State student living at 210 West College Avenue #4 and member of the Off-Campus Student Union, felt the cameras were a deterrent to crime and a good enforcement tool. Ms. Goreham thought that, unless the cameras are monitored, it gives a false sense of security. Philip Wagner another member of the Off-Campus Student Union, residing at 409 East Fairmount Avenue, agreed with Ms. Kofmehl, that the cameras were effective in preventing crime. Lukas Adams, 127 McElwain Hall, not only felt the cameras were a deterrent to crime but suggested that, to be used efficiently, they should be monitored so the police could use the information.

Mr. Daubert recalled that Council agreed the cameras should not be monitored. Ms. Knauer said that was true; however, the Committee believes the cameras are not being used to their fullest potential. She said the data in the report just given is not conclusive but may be if they could be monitored during high-crime periods. Ms. Knauer also mentioned that the Committee feels that, because of the problems occurring in the area of McAllister and Calder, one of the cameras should be positioned to keep an eye on that area.

Mr. Kern moved to receive the report and postpone consideration of the Committee's nine recommendations pending further discussion at Council's work session on November 19. Mr. Humphrey seconded the motion and it was approved by a vote of 4-3-0. Because Ms. Knauer, Mr. Daubert, and Ms. Dauler wanted to conduct a public hearing prior to discussing the Committee's suggestions, they voted against Mr. Kern's motion.

OLD BUSINESS ITEMS

CDBG/HOME Consolidated & Action Plans. The first item of Old Business was to approve the 2005-2009 Community Development Block Grant (CDBG) and Home Investments Partnership Program's (HOME) Consolidated and Action Plans.

Mr. Fountaine advised that the 2005-2009 CDBG/HOME Consolidated Plan provides information on projects to be funded with federal grant money in the coming five years, and the 2005 Action Plan outlines how those federal dollars will be spent in fiscal year 2005. The CDBG Citizens' Advisory Committee reviewed both plans at its meeting held September 13 and recommended they be approved. A public hearing was held on October 4, and action on the plans was postponed to this meeting to permit a public review. During the review period, one response was received, from the Centre County Planning Office, acknowledging that the plan is consistent with the County's Comprehensive Plan and concurring with the proposal for project-based vouchers for rental rehab projects and/or mixed income rental projects. The plans, he added, must be submitted to HUD by November 15.

Ms. Goreham moved to approve the plans for submission to HUD. Ms. Knauer seconded her motion, and it carried by a vote of 7-0-0.

Zoning Ordinance: Amendment to Revise Setbacks and Extend the Use of and Increase the Amount of Fees for the In-Lieu-of-Parking Option. The next item was to take action to authorize publication of Council's intent to enact an amendment to the zoning ordinance to (1) revise setbacks in a portion of the commercial district, (2) increase the per-space amount for the fee-in-lieu-of-parking option, and (3) extend the in-lieu option to include residential uses.

Mr. Fountaine noted that Council received this amendment and held a public hearing on October 22. At the hearing, one person spoke to the amendment; the question related to the amount proposed to be established for the in-lieu-of-parking fee.

The fee, Mr. Fountaine said, was proposed to be set at \$25,000.00 per space, up from its current \$10,000.00 per space, and would apply throughout the commercial district. He explained that the amendment includes 15-foot setbacks for non-residential uses and 25-foot setbacks for residential uses and parking (a reduction from the current 30-foot setback). This portion of the amendment would apply only to those lots lying on the south side of West Beaver Avenue from the southwest corner of the intersection of West Beaver and South Fraser to the southwest corner of the intersection of West Beaver and H Alley. Also incorporated in the amendment is a proposal to reverse a prohibition in the in-lieu-of-parking

option and allow it to apply to residential uses in the commercial district, as long as 90 percent of the required parking is located on site.

As a result of Council's discussion on October 29, Mr. Fontaine said staff prepared a revised amendment for consideration. The revision adds activities that will reduce traffic congestion and parking demand to the list of permitted uses for funds generated through in-lieu. Staff believes it is essential to provide for as many uses as possible for in-lieu funds to expand and maintain parking facilities that support downtown development. Staff also recommends revising the per-space fee to participate in the in-lieu option. When the Borough originally created the in-lieu program, he noted, staff met with private developers and determined that a private developer could build a parking space as part of a development project for approximately 50 percent of what it would cost for the Borough to build a space in a parking garage, and the fee was set accordingly at \$3,300.00 per space. Over the years, as the fee was adjusted for inflation. The Borough increased that percentage to help offset costs in building parking while at the same time trying to keep the fee reasonable enough to attract participation. Enticing developers to provide parking through public garages met two goals: it reduced the Borough's out-of-pocket costs for building new parking facilities and furthered its goal of consolidating parking in centralized parking facilities. This latter goal helped reduce the number of curb cuts on downtown streets and allowed more productive uses of valuable downtown commercial real estate. For these reasons, Mr. Fontaine said, staff recommends setting the in-lieu fee at 60 percent of the cost of building a parking space in a municipal parking garage. Based on recent experience with the Beaver parking garage, this equates to \$15,000.00 per space.

Mr. Fontaine recommended that Council authorize publication of its intent to enact this ordinance on November 15 with the following modifications: (1) revise the front yard setback change to require 15 feet for commercial uses and 25 feet for all other uses as recommended by the Planning Commission, (2) increase the eligible uses for revenues generated through the fee in-lieu option to include parking facility renovations that result in a net gain of parking spaces, satellite parking facilities, transit subsidies, and pedestrian improvements related to parking facilities, as suggested by the Planning and Transportation Commissions; (3) increase the per-space fee for the fee-in-lieu option to 70 percent of the full cost of a parking space in a public parking garage based on the Borough's most recent experience or, if five or more years have elapsed since the most recent garage construction project, other generally accepted standards on inflation in the construction industry; (4) revise the ordinance to permit Council to change the fee by resolution; and (5) apply the in-lieu option to residential uses.

Ms. Knauer moved to consider each of the recommendations separately. Her motion was seconded by Ms. Goreham and carried unanimously.

(1) Mr. Daubert moved to revise the front yard setback to require 15 feet for commercial uses and 25 feet for all other uses, as recommended by the Planning Commission. Mr. Kern seconded his motion and it was approved by a vote of 7-0-0.

(2) Mr. Kern moved to expand the list of eligible uses for revenues generated through the fee-in-lieu option to include parking facility renovations that result in a net gain of parking spaces, satellite parking facilities, transit subsidies, and pedestrian improvements related to parking facilities, as suggested by the Planning and Transportation Commissions. Ms. Dauler seconded his motion.

Ms. Knauer asked if, rather than closing garages for renovations, fees could be used for the maintenance of garages. Mr. Fontaine said they could not because *maintenance* did not result in a net gain in parking nor did it reduce congestion related to the amount of parking provided. Mr. Kern asked if in-lieu fees could be used to do non-routine capital improvements, expansion, or maintenance. Mr. Fontaine felt it could be used for those purposes, so Mr. Kern amended his own motion to include those uses. Ms. Dauler agreed to the amendment, and Council voted unanimously to approve the motion, as amended.

(3) Mr. Kern moved to increase the per-space fee for the fee-in-lieu option to 60 percent of the full cost of a parking space in a public parking garage based on the Borough's most recent experience or, if five or more years have elapsed since the most recent garage

construction project, other generally accepted standards on inflation in the construction industry. In this instance, the fee would be fixed at \$15,000.00 per space. Mr. Meyer seconded his motion.

Ms. Goreham believed that Council wanted more commercial and retail development; this fee, she thought, would deter such growth. Personally, she wanted to see all parking requirements waived for commercial and retail buildings. It seemed to her that, applying the in-lieu incentive to residential structures encouraged high-rise building in the downtown. With regard to Ms. Goreham's suggestion that all parking requirements be waived for commercial and retail buildings, Mr. Daubert asked what would happen when the building was converted to a residential use. Mr. Fountaine pointed out that Ms. Goreham's suggestion is not germane to the motion because it would require a separate ordinance, review by the planning agencies, and the conduct of another public hearing. He suggested that Council proceed with the motion on the table and forward Ms. Goreham's suggestion to the Planning Commission, if a majority agrees.

Ms. Knauer was of the opinion that the in-lieu fee being proposed is too low, did not cover the costs incurred by the taxpayers, and represents a tremendous subsidy to the private sector. Mr. Humphrey agreed. Mr. Fountaine felt a high per-space fee would have a chilling effect on commercial development. Mr. Meyer pointed out that the estimate of \$25,000.00 per space derived from costs associated with the construction of the Beaver Avenue garage was inflated because the Borough pays prevailing wage rates, relocated utility lines, constructed a vault in the alley, etc., costs that would not have to be borne by private developers. Private developers, he said, could construct a parking space at a much lower cost. Ms. Knauer countered that, if they can provide parking at a much lower cost, let them; if that's what it costs the Borough to build a parking space, then the private sector should pay whatever it costs. Responding to Mr. Fountaine's comment about the fee's effect on commercial development, Ms. Knauer thought development could be encouraged in other ways. Mr. Meyer made it clear that the parking system is not subsidized by taxpayer dollars; in fact, he said, parking revenue offsets some staff time required to manage the system. He noted that it now takes approximately \$19,000.00 to construct one surface parking space. That is about what it would cost a private developer to provide a parking space; their only additional cost would be maintenance.

Summarizing the debate, Mr. Daubert said Council is discussing only the first 10,000 square feet of commercial development, currently waived under the existing ordinance, and what it should cost. If a developer could afford to put 100 percent of the parking on site, s/he would because it is cheaper than paying the in-lieu fee. The only way the developer would opt to pay the in-lieu fee is if it was cheaper than providing parking; therefore, he felt a more equitable number would be closer to 80 percent of the full cost of a parking space.

Ms. Goreham moved to amend the motion to increase the fee to 75 percent of the full cost of a parking space in a public garage or, in this case, \$18,750.00. Ms. Knauer seconded the amendment and it was approved by a vote of 4-3-0. Mr. Kern, Mr. Meyer, and Ms. Dauler voted in opposition to the motion.

Voting on Mr. Kern's motion, as amended, Council voted unanimously to approve it.

(4) Ms. Knauer moved to include a provision that the in-lieu-of-parking fee may be revised by resolution. Mr. Humphrey seconded her motion, and it carried by a vote of 7-0-0.

(5) Mr. Kern moved to allow the in-lieu option to be used for up to 10 percent of the parking for residential uses, as long as 90 percent of the required parking is provided on site. Mr. Humphrey seconded the motion.

Ms. Knauer spoke against the motion. She felt the original decision to deny use of the in-lieu option for residential development was a correct one. She mentioned that the elimination of the 10 percent in-lieu option for residential uses was suggested by both the Transportation and Planning Commissions. Insufficient parking for tenants, she said, presents peripheral problems; developers who overcharge tenants for on-site parking present peripheral problems. She believed there is a parking shortage, and those who believe that living downtown means you won't have a car are being short-sighted. Developers should take care

of their customers, and that, she felt, meant providing enough on-site parking for all their tenants. If in-lieu for commercial/retail is too high, Mr. Meyer said, and in-lieu for residential is eliminated, there will be no in-lieu option. He pointed out that a recent study showed that less than 90 percent of downtown apartment complex parking spaces are rented to tenants. The price doesn't matter, he added; the fact is a need for parking by tenants at any particular downtown building does not exist.

Philip Wagner, 409 East Fairmount Avenue, read from a survey in the January 2003 *Penn State Pulse*, showing half of the students having cars pay an extra \$65.90 for parking; an additional \$33.57 is paid out in parking fines each month by 20 percent of those students having cars.

When the question was called, Council voted 4-3-0 for Mr. Kern's motion. Ms. Goreham, Ms. Knauer, and Mr. Humphrey voted against the motion.

(6) Ms. Goreham moved to request the Planning Commission review the possibility of waiving all parking requirements for commercial and retail buildings. Mr. Humphrey seconded her motion. Mr. Kern restated the motion to request that, after November 15, the Commission look at the possibility of expanding the 10,000 square feet waived for parking at commercial and retail structures in the downtown, up to and including all parking required for these uses. Mr. Meyer seconded his suggestion. Ms. Goreham agreed to incorporate his suggestion into her motion; Mr. Humphrey concurred, and Council voted unanimously to approve the motion, as restated.

To clarify, Mr. Fontaine said that the five motions approved by Council will be returned for action in the form of a revised ordinance on November 15.

2005-2009 Capital Improvements Program. The next item was to approve the 2005-2009 Capital Improvements Program (CIP).

Mr. Fontaine recalled that the Capital Improvements Program was received by Council members in September and, since then, discussed at several work sessions. In 2005, capital expenditures will total approximately \$4.1 million:

Streets	\$1,316,500.
Storm Water	362,000.
Parks	188,000.
Other Projects	785,993.
Sanitary Sewers	334,000.
Parking Projects.....	1,119,250.

Enterprise funds, community development block grant money, grants, and other miscellaneous sources will pay for all, except \$1,207,500, of these costs, he said. The balance will be covered by the Penn State in-lieu payment, interest, a new debt payment, and a transfer from the general fund. The sanitary sewer and parking projects are self-funded.

Mr. Fontaine reviewed suggested changes to the Plan, which results in a net savings of \$400.00:

- Street Reconstruction. defer Easterly Parkway reconstruction [savings in 2005, \$95,000.00];
- Residential Street Lighting. complete analysis of taking over the residential system in 2006;
- Bicycle Facility Improvements. delete Item 8, the College Avenue bike path;
- Downtown Street Light Extension. explore phasing this project in over two years by pledging future CDBG funds;
- Pedestrian Countdown Signals. all intersections eliminated except one pilot project [savings in 2005, \$22,400.00];
- Diverter Improvements. delete the project;
- Beaver/Fraser Intersection Realignment. include estimated annual debt payment in general fund;
- Beaver/Locust Improvements. delete the project;
- Construct Park Avenue west of Atherton Street. this project is pending resolution of legal issues by the parties involved; funding to be included in 2005 [addition of \$117,000.00]; and

- Zoning Ordinance. Rewrite the narrative to clarify that it is a comprehensive rewrite of the Borough's land use plan.

Ms. Knauer moved to also remove the entire list of central business district improvements in ST922 and move the \$10,000.00 earmarked in prior authority funds for that item to ST961, neighborhood traffic mitigation. Ms. Goreham seconded her motion.

Ms. Knauer explained her motion by saying the Borough has devoted a great deal of money to the downtown (e.g. State Theater, Schlow Library project, parking concessions, contributions to the Improvement District, to name a few) and thought it was time to show the neighborhoods that Council supports them. Because there was no plan for use of these funds in the neighborhoods, Mr. Meyer suggested they be left in ST922 and moved if and when they can be used elsewhere. Ms. Knauer didn't dispute his logic but wanted to move the money as a gesture to the residents.

The question was called and the motion failed by a vote of 3-4-0. Ms. Goreham, Ms. Knauer and Mr. Humphrey voted for the motion.

Mr. Meyer moved to eliminate ST052, the reconstruction of Park Avenue west of Atherton Street, from the CIP. Mr. Kern seconded the motion.

Mr. Daubert expressed a willingness to pay one-third of the cost of this reconstruction project so the debate over whether it is a private or public street is resolved. Mr. Kern wanted a firm number before he earmarked funds to complete the construction. Mr. Fountaine pointed out that, if either the residents or Penn State fails to participate, the reconstruction will not go forward.

James M. (Mac) Rayback, attorney representing a number of the residents abutting Park Avenue, said there is no consensus among the residents on this reconstruction; they have yet to meet and discuss the subject with him. Mr. Fountaine assured Mr. Rayback that the discussion is only a part of the budget process and is not intended to commit to the project or proceed with it at this time.

Mr. Kern remained unconvinced that it is the Borough's responsibility to undertake this project, even at one-third of the cost.

Ms. Dauler supported the project, noting that the resurfacing will mean less damage to municipal vehicles that use the road. She realized there was a lot of ambiguity related to this project but was willing to allocate one-third of the cost for the improvement.

Ms. Knauer supported the project but was hesitant to tie up funds until a firm commitment by Penn State and the residents was known.

When the question was called on Mr. Meyer's motion, it failed by a vote of 2-5-0. Mr. Meyer and Mr. Kern voted for it.

Mr. Kern moved to eliminate the pilot project of installing a countdown traffic signal (at a cost of \$5,600.00), described under ST022. Mr. Meyer seconded the motion but it failed by a vote of 3-4-0. Ms. Goreham, Mr. Daubert, Ms. Dauler, and Mr. Humphrey voted against the motion.

Mr. Daubert moved to approve the Capital Improvements Program, as submitted. Ms. Dauler seconded the motion and it carried unanimously.

Parking: Courtesy Parking Program. The next item was to take action on a request to implement the 2004 holiday shopping season's Courtesy Parking Program.

Mr. Fountaine reminded Council that, on October 18, the Courtesy Parking Program portion of the Downtown Improvement District's request for holiday season parking concessions was postponed awaiting additional information. The Program allows parking enforcement officers to give motorists an extra 20 minutes of parking by placing a coin in the meter and a *courtesy card* on the windshield of the vehicle when the

corresponding meter has expired. Meter money for the Program is supplied by the Downtown Improvement District.

Ms. Dauler moved to approve the Program for the 2004 holiday shopping season. Mr. Humphrey seconded the motion and it was approved by a 6-1-0 vote. Ms. Knauer voted against it.

Mr. Kern wanted assurance that surface-parking meters as well as garage usage would be monitored during this program. He also wanted to make sure that the Downtown Improvement District will be collecting information on sales during this period. What he did not want was to be told next year that the information could not be collected. Mr. Fountaine said the information Council wanted could and would be exacted.

Supplemental to the Aquatics Feasibility Study and Concept Plans (August 2004).

The last item was to review and prepare comments on the *Supplemental to the Aquatics Feasibility Study and Concept Plans*.

Because of the hour, Council agreed to postpone this review until November 8.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mayor Welch congratulated Thomas J. Fountaine, II on his 1-year anniversary as Manager for the Borough of State College.

President's Report. President Daubert announced an *executive session* held by Council on October 29 to discuss a matter of potential litigation.

Liaison Reports. Mr. Humphrey reported that the Centre Area Transportation Authority was most appreciative of Council's appointment of Kathryn Bittner to membership on their Board.

Staff/Committee Reports. Mr. Fountaine informed Council that the façade materials being used on the Beaver Avenue garage are available for review following this meeting.

ITEMS OF INFORMATION. Mr. Daubert announced that Council is currently seeking candidates to fill positions on its advisory authorities, boards, commissions, and committees and encouraged residents to apply.

There being no other business before Council, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Barbara J. Natalie
Assistant Borough Secretary