

**State College Borough Council
Work Session
Friday, October 29, 2004**

The State College Borough Council met in a work session on Friday, October 29, 2004, in the State College Municipal Building's Council Chambers, 243 South Allen Street, State College, PA. Mr. Daubert called the meeting to order at 12:08 p.m.

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

Also present: Thomas J. Fountaine, II, Borough Manager; Ronald A. Davis, Assistant Borough Manager; Michele Nicolas, Director of Human Resources; Thomas R. King, Chief of Police; Mark Whitfield, Public Works Director; Amy Story, Borough Engineer; Mike Groff, Finance Director; Mark Henry, Health Officer; Carl R. Hess, Director of Planning/Community Development; Timothy Grattan, Director of Information Systems; Herman L. Slaybaugh, Zoning Officer/Planner; Cynthia S. Hanscom and Amy R. Miller, Recording Secretaries; members of the media; and other interested observers.

Public Hour: There were no comments made by the public.

Arts Festival

Rick Bryant, Director of Visual Arts with the Central Pennsylvania Festival of the Arts, made a presentation on his visit to the Ann Arbor festival held in July. He said that Phil Walz, Catherine Dauler and he went to Ann Arbor because of the reputation that arts festival has of being everything State College's festival is not. The enabling action by Council prohibits some of the negative things that occur in Ann Arbor. Mr. Bryant showed slides of the four official art shows and numerous unofficial shows. The four official shows, spread throughout the business district, included the Ann Arbor Street Fair, the State Street Area Art Fair, Ann Arbor Summer Art Fair, and the South University Art Fair. Mr. Bryant explained there were many things in Ann Arbor that are specifically prohibited in State College. There are secondary shows set up anywhere there is space, such as a parking lot. The art shown in the secondary shows is not the quality of that in the regulated show, and vendors have no relationship with officials. Many booths are tight against secondary shows. Another problem that occurs is the on-street clearance sales. Commercial store fronts are rented to any vendor. Mr. Bryant showed a slide on an Ecuadorian band playing on one street corner with another playing on the opposite corner, both blasting music to drown out the other. In addition to unauthorized street performers, there were problems with leafleting, and non-profit booths soliciting donations.

Mr. Bryant indicated the trip to Ann Arbor stressed the importance of local controls. Ninety percent of those attending State College's festival return. He added that the enforcement conducted during the festival is just as important as the ordinance. Mr. Kern asked how many attendees return from year to year to the Ann Arbor festivals. Mr. Bryan replied that there was no centralized organization to coordinate that kind of information.

Mr. Bryant said he looked forward to working with Council in the future and hoped the mutual goal of creating professional festivals would continue.

Mr. Daubert asked Mr. Bryant about the perception that local artists were being left out. Mr. Bryant explained that local artists actually have two chances to be chosen whereas outside artists do not. He added that very few local artists apply. Many artists have been participating in and prefer to be included in the People's Choice Festival in Boalsburg.

Mr. Daubert heard the concern from performing artists that visual arts are taking over the Festival. Unfortunately, Mr. Bryant said performing arts cost more. The visual arts seem to get more sponsorship. This means there has to be cuts in the number of groups performing.

Ms. Goreham said she understood the need for controls but she's heard comments about the expense of items for sale. Mr. Bryant said that vendors are always concerned that people cannot afford their wares; it is their goal to bring in art that will sell.

Mr. Daubert noted that, in the past, a stage at Nittany Avenue was where local groups performed. This seemed to work well and wondered why it was discontinued. Mr. Bryant did not know but said many decisions come back to the issue of money.

Ms. Dauler distributed a magazine article that judged and ranked festivals throughout the country. State College was ranked 7th. The article was written by an artist critiquing festivals. She found it remarkable that State College does so well when competing with large festivals that pull in people from large populations. She talked with artists in Ann Arbor to see how they felt about State College's festival and found they believe it is high quality with a good reputation.

Paving of Park Avenue, West of North Atherton Street.

Mr. Fountaine said the 2005-2009 Capital Improvement Plan includes a project to improve West Park Avenue from Atherton Street to its dead end beyond Franklin Street. Staff included a history of the street showing when the subdivision was laid out as well as actions taken through the years for parking and maintenance. There is no evidence that the street was ever ordained. The Planning Commission reviewed the project and made the following nine suggestions:

1. Officially ordain the street as a non-standard Borough right-of-way, including the cul-de-sac at the west end of the roadway.
2. Inform the University of the plans and invite them to comment and participate in the development of this roadway.
3. Prohibit through traffic beyond the end of the existing roadway (this is in response to a rumor that there has been consideration of an extension into Teaberry Ridge).
4. Pave the roadway to minimum Borough standards to achieve a low-maintenance road with all-season surface.
5. Preserve all existing trees on both sides of the existing roadway. (Since there have been some recent removals of diseased trees along this street, it would be appropriate for the Borough Arborist to review the remaining existing trees to establish the state of their long-term health and stability).
6. Maintain the present character of the roadway flow (basically a country lane).
7. Avoid undercutting tree root systems.
8. Provide storm water drainage without damaging the existing trees by considering drainage of road low spots to storm drains installed in the adjoining streets (Sunset Road, Fairway Road, and Franklin Street) or onto open land to the South and West (with the agreement of Penn State). If curbing is needed for storm water management, use the minimum amount necessary. It is further acknowledged that existing water and gas lines as well as sanitary sewers must be addressed in the design.
9. Maintain the width of existing sidewalks as a part of the project to offer a distinction between the roadway and the pedestrian surface, considering a road width that would accommodate 1-way traffic with provision for 2-way traffic west of the Franklin Street intersection.

Staff is recommending the following be considered by council:

1. Reconstruction costs should be shared by abutting residents (1/3), Penn State University (1/3), and Borough (1/3). This follows the policy adopted by Council in the 1960s for the construction of alleys.

2. Due to the limited width of the right-of-way, staff recommends the street be reconstructed to alley standards (with no curbing) at a width of 12 feet between Atherton and Franklin (where traffic is limited to 1-way westbound) and 16 feet between Franklin and the dead-end (where there is 2-way traffic).
3. A petition by a majority of abutting property owners should be presented to Council requesting the street be improved. The petition should state that the property owners agree to pay the 1/3 assessment and to rededicate the right-of-way.
4. Storm water improvements will be completed as part of the improvements and the outlet structure shall conform to Penn State requirements.

Mr. Humphrey felt something needed to be done soon because the snow plows cannot plow the street because of the condition of the road. Mr. Kern noted that there were other streets in the Borough which are privately owned and maintained. With budgetary concerns in the forefront, Council should consider letting the property owners take care of the road improvements. Ms. Knauer indicated that staff was unable to find records showing that the street was ordained. She asked what the Borough is obligated to do. Mr. Williams explained that, if the street was ordained, the Borough would be responsible for maintenance and improvements. The question is whether or not the Borough ever accepted full responsibility for the street. Ordination is required for the Borough to take ownership of the street. Ms. Knauer asked what would happen if the residents are not willing to dedicate the right-of-way. Mr. Williams said that additional funds may be required to condemn the land. Ms. Knauer asked about the policy adopted in the 1960s for construction of alleys and why it was applied here. Mr. Fountaine explained Council adopted a policy to pave alleys and establish a cost sharing mechanism of 1/3 payment. Staff applied that policy to this case because the construction standards would be similar to alleys. Mr. Meyer said that policy was for the construction of alleys, and west Park Avenue is not an alley. What was done in 1960s for alleys has no bearing on this particular issue in coming up with a formula. Throughout the town, developers have built roads and assessed property owners. He felt it could be done in this case.

Dr. Robert Weaver, 601 west Park Avenue, said his parents built his house in 1932. His parents paid the Borough \$75 to pave Park Avenue. Since that time the Borough has maintained the street; because of number of years, he believed it has become the Borough's responsibility to pay for street improvements.

Carolyn Kunz, 332 Arbor Way, asked if the Borough approached Penn State about sharing the cost of repaving. Mr. Fountaine said Penn State officials have been approached and, based on resolving storm water imperfections, they have agreed to share in the cost of improving the street. Ms. Kunz asked how property owners would be assessed. Mr. Williams explained it would be based on how the property owner is affected.

Suzanne Cheeseborough, 511 Fairway Road, said the tax maps show the property line ending at the inside of the sidewalk. She questioned whether property owners would own part of the road. She noted that property owners were not notified that they owned the land. Mr. Williams explained the tax maps are not a prima facie of ownership; they are only informative. Ms. Cheeseborough asked that Council consider a letter submitted by Attorney Mac Rayback, whose services were obtained by the abutting property owners, to determine if they were liable for reconstruction of the road. Mr. Rayback's letter states that, because the road has been in existence for over 100 years, it would fall to the Borough to maintain even though it was never officially ordained. She noted that Council should be looking out for property owners and some consideration should be given to the residents so that an agreement can be reached that proves the Borough owns the road. Then, the property owners would be willing to reach some compromise. Mr. Fountaine noted the Borough does not agree with the determination that the Borough has all the responsibility and has, therefore, proceeded to come up with this compromise.

Mr. Humphrey asked if the west Park Avenue property owner had discussed the 1/3 share arrangement to cover the cost of reconstruction. Ms. Cheeseborough said it had been discussed. She said that, if they can truly not find any record as to whether the Borough is liable, then the 1/3 share is a reasonable compromise. However, the legal opinion determines that the Borough does have liability. Mr. Williams said that streets and right-

of-ways are private, public, or municipal. West Park Avenue should be considered public. The question to be answered is whether or not it has become a municipal street.

Mr. Welch noted that there was a large pothole in the first block of west Park Avenue and asked who would be liable if an accident occurred. Mr. Williams indicated that is a question that would end up in court; the Borough's insurance company would maintain that is not a Borough street.

Mr. Daubert indicated the proposal will move ahead with the adoption of the Capital Improvement Program. Mr. Kern questioned whether money would be available. Mr. Fountaine noted that adjustments would need to be made. Ms. Knauer asked in what year the construction would occur. Mr. Fountaine replied it is proposed for 2005.

Capital Improvements Program.

Council discussed items to be revisited in the Capital Improvements Program.

Council discussed moving \$10,000 in prior authority from Central Business District (CBD) Improvements to Neighborhood Traffic Mitigation. The issue was that moving the money into mitigation for surveys would leave no money for implementation. Ms. Dauler noted that there was \$47,000 in the Neighborhood Traffic Mitigation project. She asked how that money would be spent. Mr. Whitfield explained \$30,000 is proposed for a consultant and \$9-10,000 for re-evaluation. This would leave only \$17,000 for mitigation. Mr. Daubert opposed any change and suggested the money remain in CBD Improvements.

Ms. Dauler noted that a suggestion had been made to remove \$10,000 from the CBD Improvements' prior authority and \$10,000 from Urban Village Improvements both to be put into Neighborhood Traffic Mitigation. She opposed removing \$10,000 for the Urban Village Improvements. The Planning Commission spent a lot of time on the Urban Village and people have written letters saying that nothing has been done. There should be some indication that the Borough is interested in improving the quality of life in the Urban Village. Mr. Fountaine noted the Planning Commission recommended an increase in the amount budgeted for Urban Village improvements. Ms. Knauer noted that she is not interested in maintaining the CBD Improvements program. Mr. Kern agreed; \$75,000 was already budgeted for the Downtown Improvement District as part of the Borough's 2005 contributions.

Council discussed the CBD Street light extension/replacement project. Mr. Fountaine explained the Borough has checked with HUD and determined that it is permissible to pledge future-year funds for up to three years. This would allow the project to be completed in 2005. Mr. Fountaine did not believe the project could be completed in one year regardless of funding and felt that it should be phased in. Mr. Kern asked if there would be a savings to buy all at once. Ms. Story indicated the largest savings would be in maintenance costs. Mr. Daubert suggested the majority be done in 2005 with additional lights placed in 2007 and 2008.

Council discussed traffic signal improvements, which included a pedestrian countdown cycle. Mr. Fountaine indicated one intersection be retrofitted with the countdown signal as a pilot project. Council members discussed the use of audible signals. Ms. Story indicated the cost for audible signals would increase the cost of the project by \$100 per intersection. Ms. Knauer suggested one intersection could be retrofitted with an audible signal as part of the pilot program. Ms. Story indicated that an audible signal would be going in at the Beaver/Allen intersection as part of the intersection improvements covered by the federal transportation grant received by CATA. Mr. Kern believed this project should be deleted. Both Mr. Humphrey and Ms. Dauler suggested that one intersection be done to test the countdown signal. Ms. Knauer agreed with Mr. Kern; she did not believe the countdown signal would improve pedestrian movements. Mr. Fountaine indicated he would ensure performance measures were conducted at the test location.

Council discussed the Diverter Improvements and agreed the project could be deleted.

Council discussed the CBD Signal Retimings. Mr. Fontaine indicated the language was rewritten to emphasize that a more efficient flow of pedestrian and vehicular traffic will result from the implementation. Mr. Daubert said he was opposed to this project. Ms. Knauer agreed. Mr. Fontaine indicated the only change to this project was the re-write of the narrative.

Mr. Fontaine indicated the Zoning Ordinance Rewrite narrative will be revised to make it clear that this project includes a comprehensive rewrite of the land use plan and the zoning code, not merely a recodification of the existing code. Also, the CIP reflects Council's goal to begin this project in 2005 with \$10,000 allocated to define the scope of the project and prepare funding assistance applications. Mr. Fontaine noted the Planning Commission believed that a recodification could be done but felt a comprehensive re-write should be deferred. He noted that staff believes the land use needs to be re-evaluated in order to re-write the code and make it more readable. Ms. Dauler agreed with staff's recommendation. Ms. Knauer asked what the \$10,000 budget would cover. Mr. Fontaine indicated it would pay for additional staff time and public hearings necessary to determine the scope and preparation of grant funding.

Council discussed deferring the reconstruction of Easterly Parkway from University Drive west 250 feet, a savings of \$95,000. Mr. Fontaine indicated, as part of the operating budget, he expected to ask for deferral of this project.

Funding the Centre Area Transportation Authority (CATA).

Council discussed a request from the General Forum that each municipality discuss the option of replacing the CATA formula with the conventional COG formula to determine municipal shares to support the CATA budget. Mr. Meyer noted the largest increase using the COG formula would be for Harris Township (a \$4,189 increase). He noted that Harris Township has accepted this change. There would be an increase of \$2,985 for the Borough but the Borough's share continues to decline using the COG formula and will continue to decline as more development occurs in the townships.

Council discussed the vote on using the COG formula versus the CATA formula and whether or not it would need to be a unanimous vote by the General Forum. Mr. Meyer noted that Ferguson Township officials have preferred the CATA formula in the past. If they oppose, it may be rejected. If that is the case, Council should consider the mileage being paid by the Borough from routes coming in from Ferguson Township and discontinue those routes.

Council's Goals and Priorities

Council reviewed the 2- and 5-year goals as prioritized by Council. Members agreed to take the top five in each category.

All agreed to work on the top five goals and priorities from both the 2- and 5-year plans. Mr. Meyer recommended including the creation of a redevelopment authority in the 2-year project because it could be done in conjunction with the South Fraser Street development.

The top five goals on the 2-year plan are:

1. Deliver balanced budget with no planned use of reserves beginning with 2005 budget
2. Maintain Welch Pool (updated) in Borough
3. Increase frequency of rental housing inspections.
4. Complete Urban Village changes in early 2005; include liberalized development while maintaining scale.
5. Expedite South Fraser Street development and create a redevelopment authority.

The top five goals on the 5-year plan are:

1. Review zoning Borough-wide to protect residents while allowing development with goal of long time applicability.

2. Continue to make traffic safety (speed and volume) a priority.
3. Make neighborhood protection and service of our taxpayer residents the primary basis of decision making.
4. Continue to urge state legislation to pass local tax reforms.
5. Complete storm water/green space protection plan.

Council's November 1 Agenda.

In regards to in-lieu parking, Mr. Fountaine said that, based on comments received from public hearing, staff is working on a proposal to set the fee at 70% of the cost for the construction of a public project versus a private project. This was not acceptable to Council. Mr. Daubert said the purpose is not to sell in-lieu parking but to make it available for residents who do not wish to partake in certain projects. Mr. Fountaine asked Council to keep in mind that residential parking is not affected.

Mr. Kern stated that if the Borough wants to encourage commercial office structures, it needs to make parking and in-lieu costs affordable. Mr. Daubert said the new garage is costing about \$26,000 a space.

The Courtesy Parking Program was next discussed and Ms. Goreham said this is the program residents remember and look forward to. Mr. Daubert requested data for analysis. Mr. Fountaine said staff requested data be entered into the parking enforcement hand-held computers to keep track of how many individuals receive the courtesy parking. Mr. Kern asked if provisions were made for free use of the garages as well because there is merchant parking validation. Once data is gathered, Mr. Fountaine said, it will be determined if the Borough should continue the program.

There being no further business, the meeting was adjourned at 2:30 p.m.

Respectfully submitted by:

Barbara J. Natalie
Assistant Borough Secretary