

Meeting Minutes
State College Borough Council
Work Session
November 13, 2012

The State College Borough Council met in a work session on Tuesday, November 13, 2012, in the State College Municipal Building, 243 South Allen Street, State College, PA. Council President Hahn called the meeting to order at 4:02 p.m.

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

Also present: Thomas J. Fountaine, Borough Manager; Terry Williams, Borough Solicitor; Debra A. Lang, Staff Assistant; Mark A. Whitfield, Public Works Director; Amy Kerner, Borough Engineer; Roger Dunlap, Assistant Borough Manager; Carl R. Hess, Planning Director; Anne Messner, Planner/Acting Zoning Officer; Meagan Tuttle, Planning Intern; Norma Crater, Manager of Financial Services; Charles DeBow, Parking Manager; Courtney Hayden; Grants & Communications Coordinator; Duke Gastiger, Transportation Commission Chairman; Evan Myers, Planning Commission Chairman; Beth Johnston, Director of Human Resources; Peg Hambrick, representing the Coalition of Neighborhood Associations; members of the media and interested citizens.

Public Hour – Hearing of Citizens

Jane Liszka from 610 North Burrowes Street stated she was speaking on behalf of Ann Pangborn from 322 East Irvin Avenue who could not attend. She read the following statement from Ms. Pangborn:

"The issue of strengthening and enforcing penalties for non-compliance with residential rental property ordinances is not just a matter of aesthetics, money, convenience or even quality of life for those who live in the borough. This is an issue of SAFETY, for everyone concerned. I say this as a borough resident for 26 years, whose husband, Rob, was an Alpha volunteer firefighter for 20 of those years. Please figure out a way to have proper ordinances, and please enforce them properly, and in timely ways, for the safety and well being of every person living in the borough. Thank you."

Peg Hambrick of 305 East Hamilton Avenue stated she was present to speak as a representative of the Coalition of Neighborhood Associations. She stated the Coalition sent a letter to Council in October and received an invitation from Council President Hahn to attend this meeting and address Council with the concerns of the Coalition. She stated a proliferation of student houses destabilizes a neighborhood. Ms. Hambrick read the following statement:

"We are all stewards of this community.

We cannot know what the future holds, but we can be informed by the past.

About a month ago, our Borough Manager addressed the Pennsylvania Senate's Urban Affairs and Housing Committee, describing what has happened to State College over recent decades.

He confirmed what we all know too well:

- The trend that he and sociologists call "studentification" has negatively affected our community.

- 20% of single and two family homes in the Borough are student rentals, with neighborhoods close to the university reaching 25%.
- Between 1970 and 2000 State College Borough was the only municipality in the Centre Region that experienced a decline in the number of families.
- And, over a 30-year span, between 1970 and 2003, the fiscal health of State College Borough significantly declined; from “above average” within Pennsylvania in 1973, to among the state’s municipalities with the most negative fiscal health indicators in 2003.

Our manager further concluded in his address:

“Zoning regulations that address occupancy and student homes are important tools for State College and other Pennsylvania municipalities to help balance the impact of ‘studentification’ of our neighborhoods.”

President Hahn, your letter, in response to our report also confirms we are all in agreement on the facts.

As you indicate in your letter to our Coalition, there is serious opposition to our efforts to strengthen ordinance and zoning. One of the reasons we took the time to prepare this report is that we, too, are serious.

We want to be part of the solution to keep State College a vibrant community for families, single professionals, students and all who prize living in an academic community.

Presenting you with our perceptions and possible solutions in this report is one way we feel we can help. But there are many other ways we may be able to shore up our neighborhoods. Therefore, we ask that you provide our Neighborhood Coalition an opportunity to present our report, point by point, and engage you in conversation which will result in concrete solutions to the problems surrounding student rentals and dwindling tax revenues. It is important that this discussion take place before the 2013 Capital Improvement Program and Budget are finalized in mid-December. We look forward to hearing from you with a date to meet.”

Mr. Hahn stated he did receive the letter Ms. Hambrick referred to. Unfortunately, at this time, staff and Council are very busy with budget preparations. He noted staff, Council and other ABCs met with the Coalition in May and staff is doing an excellent job addressing the issues that were presented at that meeting.

Ms. Hambrick stated the group is appreciative of the work that has been completed thus far, but the Coalition felt there were important issues that should be included in the budget process.

Mr. Hahn noted the opposition from the landlords group which is lobbying the Senate.

Ms. Hambrick thanked Council for their time.

Mr. Morris stated he would like congratulate the voters who turned out in large number this past Election Day. He would also like to thank the election officials for running a good, clean election with no problems that he was aware of. He also wanted to congratulate Ferguson Township on passing the environmental civil rights amendments and stated this is a very good example of grass roots democracy.

ABC Reports

Report from the Transportation Commission –

Mr. Gastiger thanked Council and the Mayor for inviting him to the meeting. He updated them on actions taken by the Commission since his last report and reviewed the 2013 Work Plan. He thanked Mark Whitfield and his staff and other liaisons for all they do during the year to assist the Commission.

Mr. Rosenberger asked if the Commission considered use of pedestrian signs at crosswalks. Mr. Gastiger stated the Commission has discussed this matter however, they are waiting on the findings of the Downtown Master Plan consultants before taking any action on this matter.

Mr. Hahn noted he thought item #6 on the Work Plan (closing of the 100 block of South Allen Street) was on a "special occasion" basis.

Planning Commission Report –

Mr. Myers reviewed items handled by the Commission in 2012. He reviewed a Power Point presentation with those present. He stated the Planning Commission discussed a comprehensive database of student home locations and the status of these permits.

In response to a question from Ms. Goreham, Mr. Myers explained the difference between a neighborhood plan and the Comprehensive Plan. Mr. Rosenberger asked if the Comprehensive Plan is connected to the Land Use Plan and Mr. Myers stated it is not formally connected but will be used with the Land Use Plan.

Mr. Myers discussed the matter of the wall that was erected at The Retreat project. Mr. Filippelli asked what we did or did not know about this wall. Mr. Fontaine noted the wall was probably necessitated because of the change in grading. Ms. Messner noted the wall was part of the plan and was reviewed by the Design Review Board. Mr. Hess stated the wall may have been necessitated due to the relocation of the driveway.

Mr. Daubert stated he wished the Commission luck on the neighborhood plans. He stated the work on the first plan took 7 or 8 years. Mr. Myers stated the Commission has been lucky to have the assistance from the Highlands Neighborhood group. Mr. Daubert also asked what SWOT analysis was and noted the acronym should be defined prior to publishing.

Mr. Hahn stated he believed it was Pierce and Felicia Lewis who had the innovative idea to have the Heights tied to sea level rather than ground level. He stated after watching The Retreat, he has a heightened respect for their creativity, at this point. He stated regarding the West End, the concerns are well stated and felt the Downtown Master Plan consultants seem to be doing a pretty good job on getting input and consensus. He stated he did not think the plan was the downfall of the West End, but instead it was the zoning and such that occurred afterwards that might have been the problem. The implementation was the problem. Lastly, he stated Mr. Myers mentioned something about the cataloging he suggested Mr. Myers stick around for the next agenda item as this items seems to address that issue.

Planning and Zoning

Zoning & Existing Structures Code Amendments

Mr. Fontaine stated there was a fairly extensive narrative in the agenda packet and he would not read the entire narrative in an effort to save some time. He stated, in staff's mind, are not time sensitive with one or two minor exceptions. He stated some of the recommendations are fairly significant changes to what we do now. He stated there will be ample time for Council to consider and review this document. He stated the goals for today would be to review the documents that would be the basis of this discussion in the coming months. He stated some of the documents may be straightforward and could be implemented by the end of the year and others would spill into the new year. Additional discussion is expected at work sessions in December. Mr. Hahn asked if when we state time sensitive, we mean months not years. Mr. Fontaine stated the time sensitive issue is as it relates to Centre Region COG and the Borough's new ERP system. He stated, as part of this, the Borough may need to consider whether or not it is appropriate to continue to be part of the Centre Region Codes. That issue is time sensitive because there is a one year notice required to withdraw from that program.

Mr. Hess reviewed the documents that were in the agenda packet and the document that was presented prior to the start of the meeting. The first document reviewed was the proposed changes to the Centre Region Building Safety and Property Maintenance Code (PMC). He stated most of these changes are minor in nature and if passed, would be adopted early in 2013. He discussed the proposed increased penalty for not renewing permits. In response to a question from Mr. Rosenberger, Mr. Hess stated the late fee charge proposed would be 100% to force the property owners to renew promptly. Mr. Rosenberger also noted the Borough having 30 days to respond and the property owner only having 15 days to respond seems very one-sided. Mr. Rosenberger also stated some of the items in the code are pointless for this area and they don't apply to State College. Mr. Hess stated staff has reviewed the document but did not make recommendations to change sections that were not pertinent. Mr. Fountaine noted the PMC is a national code and we can provide feedback.

Mr. Daubert stated there is repetition between the documents and did not think we could look at the documents separately. He stated he did not feel we could act on one as a separate document since there were sections in the second document which may relate to the first document and so forth. Mr. Hess stated he did not believe this was the only opportunity Council would have to look at these documents. He stated the information presented tonight was to give Council an idea of the proposed changes staff has seen fit to recommend for consideration. This will not, by any means, be the only opportunity to comment on this.

Ms. Klinetob questioned the section dealing with rental permit terms of abandonment, in the legal strength of stating if they don't renew within 15 days that will be abandoned, has this been tested and held up or can they always appeal that decision. Mr. Hess stated they can always appeal that decision and he does not know that it has been tested anywhere and held up. He stated he did not know if, at this point, that has been tested.

Theresa Lafer of 356 East Foster Avenue stated she is updating and improving her late neighbor's home. She stated she is updating wiring, etc. and it relates to Mr. Rosenberger's comment in that Codes wants updates to be completed as if the house was being built new. She did not want to grandfather something that is clearly dangerous. She felt we needed to come up with some way of keeping old housing stock and maintaining the integrity of the old housing stock while keeping it safe.

Susan Venegoni of 323 West Fairmount questioned section 103.5.1. She stated it sounds great that the penalty is increased if someone does not renew their permit on time but wondered if this is attrition or enforcement. She felt this section could be a little stronger and wondered how we would know if the use has changed. She stated it would be great if the permits matched the use. She mentioned people paying for permits on time but not using them and hoped this section could be "beefed up" a little bit.

Mr. Hess stated there are almost 10,000 rental permits in State College and he thought may some did not match the use but we are operating under what zoning says and we are working on getting the information updated and attempting to address this matter. He noted the last item in the agenda packet is stating if you don't renew your rental permit on time, you need to start the entire process all over again as if you had never had a permit. That will not be through the Centre Region Code office because that is the entire Centre Region. It will be addressed through a separate licensing agreement that we are recommending be built into our Codification of Ordinances.

Mr. Filippelli asked then, if a party had to start all over again, they would be subject to all the recent ordinances. He wondered, if that was the case, if they would be subject to the distance requirement between student homes. Mr. Hess stated these were questions that would need to be addressed by the solicitor.

Mr. Williams stated the packet of information Council is looking at has not undergone comprehensive legal review. He stated it is a question of what all is put together as a total in terms of whether or not we think we can get it past the appellate court. He stated it would depend on what the totality of the circumstances are not just what is in the ordinance scheme. He stated it was important that Council think about is to keep separate the language about the concept of licensing and permits because the courts

keep them separate. The concept of licensing and permit is an administrative right versus the property right to use property in a given way. The courts are more susceptible to the latter. He referenced a case he sent to staff to review on a similar matter. He noted there are certainly limits on what a municipality can do but in considering an ordinance scheme, remember that permits are separate from actual property rights use. He noted our appellate courts are pretty clear on that.

Mr. Hahn stated waiver, reliance and prejudice are also very important elements to any future documents and he commended staff regarding for considering the elements for any future enforcement action.

Mr. Hess explained the PMC ordinance. He noted this ordinance covers all the municipalities covered by the Centre Region COG. He stated staff felt it would be cleaner to separate an ordinance dealing with nuisance properties since the abutting municipalities do not need an ordinance of this nature. He explained the changes to the points system; self-reported complaints and terms of suspension.

Mr. Fontaine stated this is a Nuisance Property Ordinance and does not affect the administrative controls of the PMC. He stated this ordinance is modeled after other ordinances around the country. In response to a question from Mr. Rosenberger, Mr. Fontaine stated incidents would not go into the Centre Region program but would be tracked locally. Mr. Hess stated incidents are tracked through the police records.

Mr. Daubert stated "immediate vacation..." could not be done and this needs clarified. He also stated assessing points to the "outside area" is not clear. Mr. Hess stated this would be the area in the public right-of-way. Mr. Daubert also stated he is against the fee proposed for making an appeal. He did not believe this could legally be done.

Ms. Klinetob questioned lowering the points to 9 points for a nuisance property and raising other points. She stated what may not have been a nuisance property before will be now because of re-working of the math. Mr. Hess stated improved behavior is the intent of the ordinance.

Ms. Dauler asked if we would need all of the Centre Region to agree to this ordinance. Mr. Hess stated we would need to look at that and see how that's titled.

In response to a question from Mayor Goreham, Mr. Hess stated the current ordinance allows for a daily citation to be issued if the property were not vacated in time. Mr. Fontaine stated we have never had a suspension where the property was not vacated in time.

Mr. Hahn noted Mr. Morris has a previous commitment and must leave at 6 p.m. and C-Net has a round table meeting at 7 p.m. He noted these items so that staff and Council would in the hope that all items on the agenda could be discussed.

Mr. Hess explained the ordinance would cover all rental units in R-1, R-2 and R-3 districts which would comprise 60% of the Borough.

Mayor Goreham questioned non-use of the permit and abandonment and wondered if anything would be grandfathered in. Mr. Fontaine stated the proposed ordinance would not modify any student rentals. Mr. Hess stated the proposed ordinance would be for 1- and 2-family dwellings in R-1, R-2 & R-3 districts. He stated it is our intent to identify student homes. Mr. Fontaine stated non-conforming uses now will still be non-conforming uses but would need a permit. Mr. Williams explained the difference between a license and a permit.

Mr. Morris left the meeting at 5:45 p.m.

In response to a question from Ms. Klinetob, Mr. Hess stated it is the intent of this ordinance to have the permit and license dates match.

Ms. Hambrick stated whatever we do, we have to have people to oversight and enforce this. That is what is needed. She stated this is where the budget is concerned, We need to make a commitment. She stated if she was Council, she would want to talk to the Neighborhood Coalition about this matter after they have had a chance to review the report. She also asked who would understand this ordinance. The professional geared to rent, perhaps, but the normal citizen does have a difficult time figuring out who is living next door.

Michael Roeckel, from Hamilton Avenue, stated he did not think we should mix student rental and regular rental permits. He thought the thrust was to reduce student rentals and the two should be separate. He thought a potential buyer of a property should know what type of rental they are purchasing. Mr. Hess stated a student home is a land use category we created. It is treated differently because this is a category that we created. He stated abandonment would be handled through zoning. He stated we are operating under a set of rules that is not really of our making. Mr. Fountaine noted we are enforcing of this is handed under Pennsylvania law and not locally.

Mr. Roeckel noted examples sent out by Homeowner's Associations in Lancaster that once the student home was abandoned, they found a way to do this. Mr. Williams stated the Lancaster ordinance is not quite as it would appear. He noted the language is abandonment and there still has to be proof of abandonment. He briefly discussed the distinction between licenses and permits and property protected rights. He stated these are different concepts and need to be separated when considering ordinances.

Ms. Venegoni asked if copies of this report would be available on line and stated she is hopeful for a meeting with Council and the Neighborhood Coalition.

Memorial Field Update

Mr. Fountaine noted the State College School Board has reached an agreement to close the depression at Memorial Field. This item will be on the Board's December 3rd agenda for approval. He would recommend Borough Council adopt the agreement.

Ms. Dauler stated she watched the School Board meeting on C-Net and stated the Board conveyed thanks to Borough Council on this matter. Mr. Hahn also wished to thank Borough staff for their work on this matter. Mr. Fountaine especially wished to thank Mark Whitfield and Amy Kerner for their work on this matter.

Ms. Klinetob left the meeting at 6:07 p.m.

General Policy and Administration

Pension Amendment and Pension Advisory Boards

Mr. Fountaine explained the Pension Amendment and the Policy Briefing regarding the Pension Advisory Boards. Mr. Daubert stated he had concern that Council did not know who would be on the Pension Advisory Board. Mr. Fountaine stated staff would get this information to Council. Mr. Rosenberger asked if there would be public members on this Board and Mr. Fountaine stated there would be no public members.

2013 Operating Budget

Mr. Dunlap distributed the 2013 Operating Budget to Council. Mr. Fountaine noted the budget is a balanced budget and reflects no tax increases. He noted concern with revenues and expenditures and health insurance and pension costs. He stated revenues are up 3.3% and expenditures are up 5.6%. He stated pages 16 & 17 give the highlights of the budget and there are no significant surprises. The budget calls for three new positions: zoning officer and 2 IT positions.

Mr. Fontaine also noted page 21 of the budget has an incorrect date of December 12th and a revised calendar for budget review would be sent to Council electronically.

Mr. Hahn asked if the 2 full-time positions in IT were due to services provided to the outside municipalities/agencies. He noted this is probably needed. Mr. Hahn noted this is the 5th year in a row without real estate increases and stated that was impressive. Mr. Fontaine briefly explained the fund balance and noted this is the reason why no real estate increases were needed.

There were no other items to come before Council.

Council adjourned at 6:18 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary

Prepared by: Debra Lang, Staff Assistant