

State College Borough Council
March 1, 2004

The State College Borough Council met on March 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; Carl R. Hess, Planning Director; Herman L. Slaybaugh, Zoning Officer; Amy J. Story, Borough Engineer; Edward C. Holmes, Parking Facilities Coordinator; Alan W. Sam, Arborist; members of the media; and other interested observers.

The Pledge of Allegiance followed a moment of silence.

PUBLIC HOUR.

Improving the Downtown. Paul Simpson and Kevin Gombotz reminded Council of the *City Repair Project*, a presentation made available to the public several months ago that was designed to initiate an improvement in the quality of life by creating a healthy downtown. Mr. Simpson noted that downtowns are threatened by sprawl, which is turning State College's downtown into a monoculture of student activity. They hoped to reverse that trend, beginning with a series of activities surrounding Earth Day 2004, and finishing with a *Local Renaissance* day being held in Central Parklet on April 24.

Street Lighting. Emily Armbruster, one of the Undergraduate Student Government (USG) representatives present, spoke to the need for better lighting of streets. She mentioned there were 17 indecent assaults reported last semester, half of which were off campus; so far this semester, four have been reported. Ms. Armbruster reasoned that, if better lighting existed, it would be more likely the victim would be able to identify his or her attacker. Ian Rosenberger said they have been working with the University and fraternities to provide better lighting on campus and in the fraternity district. Christopher Babic displayed a map showing areas where additional lighting is needed. Mr. Babic asked that Council instruct staff to provide street lights on existing poles in the areas noted before April 19, 2004, when the annual *Take Back the Night* march is held.

Council agreed and, upon motion of Ms. Knauer, second by Mr. Kern, voted 7-0-0 to instruct staff in the Public Works Department to work expeditiously to install lights on existing poles where no objection is raised.

False Fire Alarms. Christopher Babic, a resident of 220 East Nittany Avenue (Nicholas Towers apartment complex), told of numerous incidents when fire alarms sounded in the middle of the night without cause. He knew there were fines imposed for falsely sounding alarms, and he did not dispute the need for alarms. His purpose was to ask if Council could do anything about the time it takes for management to respond to the alarms, which was often 15 minutes or more. Members of Council were unsure about what could be done, but suggested Mr. Babic put his concerns in writing and forward them to the Fire Administrator for resolution.

Home Rule Charter Amendment (Proposed). Kimberly Anne Roth, a USG member, discussed a proposal for amending the Borough's home rule charter to create a ward system for electing Council members. The proposal was to amend Section 402 of the charter to

create five wards, electing three council members from among these wards and two members at large. Mayor Welch mentioned that the student body is 72 percent of State College's population, ward system notwithstanding. Ms. Roth said her purpose is not only to enhance student participation on Council but to elect representatives who will focus on the needs of their particular ward. Council agreed to hear Ms. Roth's proposal and asked that it be scheduled for discussion on April 2.

CONSENT ITEMS

ABCs: Building & Housing Code Board of Appeals. The first item of Consent was to endorse the appointment of members to the Centre Region Code Administration's Building & Housing Code Board of Appeals.

On February 23, Mr. Fountaine said, the Centre Region Council of Governments' (COG) General Forum asked participating municipalities to endorse the appointment of members to the Building & Housing Code Board of Appeals, as follows: John Deffenbaugh be appointed to the Core Board for a 3-year term; and Edward Gannon, Galen Dreibelbis, Jesse Smith, Thomas Brown, and Walter Schneider, III, be reappointed to the Core Board for a 3-year term.

Upon motion of Ms. Knauer, second by Ms. Goreham, Council voted unanimously to endorse the appointments, as recommended by the Centre Region Council of Governments (COG).

Special Activity: Blood Drive in New Alley. The only other item of Consent was to take action on an application to use New Alley for a blood drive.

Mr. Fountaine described a request to use New Alley to conduct a blood drive. New Alley is that right-of-way separating the James and Rider II buildings, running between Burrowes Street and Miller Alley (the alley behind the former municipal building). The Red Cross would like to conduct the drive on March 17, from 7:30 a.m. until 3:30 p.m. He noted that this blood drive has been held at this same location for several years without problem.

Upon motion of Ms. Knauer, second by Ms. Goreham, Council voted 7-0-0 to approve the use of New Alley for this purpose, contingent upon the applicant notifying the occupants of bordering buildings that the alley will be closed to through traffic; the applicant posting "Road Closed Ahead" signs at both the Burrowes and Miller entrances to New Alley during the time that their van is occupying the alley; and the applicant informing the Penn State parking office that they will be using the alley on that date.

BIDS/CONTRACTS/AGREEMENTS

Adelphia Cable Television Franchise Agreement: Extension Of... The first item of Bids/Contracts/Agreements was a resolution, drafted to extend the cable franchise agreement with Adelphia.

Mr. Fountaine distributed the resolution, noting that it had been prepared to extend the franchise agreement with Adelphia Central Pennsylvania, LLC, for one year while negotiations to renew the agreement continue. If approved, he added, the agreement will expire on December 31, 2004.

Ms. Dauler moved to enact Resolution 855 to extend Adelphia's franchise agreement to December 31, 2004. Mr. Humphrey seconded her motion, and it carried by a vote of 7-0-0.

Parking Garages: Maintenance Repairs On... The only other item of this category was to take action on a contract for repairs to be made to the Fraser and Pugh Street parking garages.

Mr. Fountaine reminded Council that condition appraisals were performed on the Fraser and Pugh Street garages during 2003. Results of those appraisals were discussed in February. The repairs recommended at Fraser include post-tensioning tendon repair, several shallow slab repairs, routine caulk replacement, shot-blasting and sealing of all levels, and the

application of a traffic-bearing membrane at construction joints. Repairs recommended at Pugh include a floor crack on level 3B of the garage and two areas of spalled concrete on level 2B. The recommended repairs have an estimated cost of \$367,224.00. Walker Parking Consultants submitted a proposal to prepare construction documents, provide pre-bid and bid review services, and administer construction for this project as follows:

Construction documents.....	\$16,625.00
Pre-bid and bid review [not to exceed]	4,950.00
Construction administration [not to exceed].....	19,390.00
Reimbursable expenses [not to exceed].....	4,375.00
Concrete testing [estimated]	1,500.00

Ms. Dauler moved to award a contract to Walker Parking Consultants for the preparation of construction documents and administration of the construction project, as proposed. Mr. Kern seconded her motion, and it was approved unanimously.

OLD BUSINESS ITEMS

Tot's Lot Rebuild: Central Parklet. The first item of Old Business was to approve a design for the tot's lot in Central Parklet.

In May, Mr. Fontaine said, Council approved a request from the Rotary Clubs to rebuild the tot's lot in Central Parklet. At the time, it was estimated the rebuild would cost \$50,000.00, \$25,000.00 of which was pledged by the Rotarians. The Rotarians have been working with staff and Battaglia & Jones to produce a design for the Lot, which Council reviewed on February 27, and he recommended it be approved.

Mr. Humphrey moved to approve Battaglia & Jones' design for the tot's lot and authorize the Rotarians to proceed with the project. Ms. Dauler seconded Mr. Humphrey's motion.

Mr. Daubert moved to amend the motion to specify that this project would cost the Borough no more than \$25,000.00. Ms. Knauer seconded his amendment.

Voting on the motions, both the amendment and the main motion were approved unanimously.

Allen Street Walkway and Parking Lot: Design For... Next, Council was asked to approve a design for the walkway and parking lot at 242 South Allen Street.

Late last year, Mr. Fontaine recalled, Council reviewed preliminary concepts for a walkway and parking lot at 242 South Allen Street. Since then, the firm of Battaglia & Jones has been working with staff and the adjacent property owner to design a walkway and parking lot that will serve as a connection between Allen Street and Central Parklet as well as provide a parking lot for 32 vehicles on the site. Council reviewed design sketches for the walkway/lot at its work session on February 27, and Mr. Fontaine recommended the design be approved.

Mr. Humphrey moved to approve the design and authorize staff to proceed with the project. Ms. Goreham seconded his motion, and it was unanimously approved.

Ferguson Township: Development of 26.3 Acres at Whitehall/Blue Course Drive. The only other item of Old Business was to prepare comments regarding a proposal to rezone 26.3 acres of land in Ferguson Township abutting the Borough of State College.

Mr. Fontaine stated that Council recently received a request from Ferguson Township to comment on a proposal to rezone 26.3 acres along Whitehall Road at the terminus of Blue Course Drive. The land is in Ferguson Township and owned by Penn State. Penn State wants to rezone the land from Rural Agriculture to R-4 (residential). Comments were requested by March 5. The Planning Commission reviewed staff's assessment of the request and not only agreed with the staff's analysis of the request but also with staff's opinion, that there is no pressing need for this rezoning even though there is no vacant R-4 land in Ferguson Township. Council reviewed staff's report and the Commission's recommendation and asked that the subject be included on this agenda for formal action.

Ms. Knauer moved to urge that Ferguson Township not rezone the land based upon the Planning Commission's recommendation and staff's analysis, a summary of which follows:

- The proposed rezoning represents only a small percentage of Penn State's land holdings south of West Whitehall Road. Moreover, Penn State's holdings are only a fraction of the vacant land in this section of the Centre Region. The Borough is concerned that approval of the rezoning would lead to pressure for additional zoning changes and sprawl in the Slab Cabin Run valley.
- The Centre Region recently completed growth forecasts on behalf of all COG municipalities. These forecasts did not identify the expansion of the regional growth boundary at any point during the next 30 years. The Borough believes it is inappropriate to change the growth boundary without the benefit of a revised growth forecast based on the potential development of this site.
- The proposed rezoning is one of several proposals to revise the regional growth boundary and sewer service area. Modifying these two important growth management tools should not be undertaken in a piecemeal fashion. The appropriate process for determining when and where to modify the boundary and sewer service area should involve all COG municipalities.
- Under Ferguson Township's R-4 zoning regulations as many as 400-plus dwelling units could be developed on the site. Even if the site cannot be practically developed to this density, the Borough is concerned with the potential post-development traffic impact on streets in State College. Based on a trip generation rate of 6.59 trips per occupied unit for low-rise apartments from the ITE Trip Generation manual (6th Edition), a 400-unit development could generate 2,600-plus trips per day. Because of the scale of the potential traffic impacts, a traffic impact analysis should be completed prior to rezoning any portion of the site.
- Ferguson Township and the Borough have agreed to equally share the cost of installing a traffic signal at the intersection of Blue Course Drive and West Whitehall Road. Development of this site may provide an opportunity for Ferguson to have the developer agree to a portion of the signal and intersection improvement costs, either pre- or post-signal installation. Any costs reimbursed by the developer to Ferguson for the signal and intersection improvements should be shared equally between the Township and the Borough. The developer of the site would be expected to pay all costs for upgrades to the signal and intersection necessitated by the development.
- It is likely that any future development would request a connection to State College Sewer Authority lines. Because the development is outside the sewer service area and was never considered for development with respect to tapping onto the Borough's sewer system, the Borough would require a capacity analysis of our sewer system prior to allowing the connections. Should the rezoning occur, the future developer would be required to pay for this analysis and any subsequent sewer system improvements necessary to accommodate the increased flow. Additionally, if the connection is made to the Borough system, the developer would be required to pay not only UAJA's tapping fee but the Borough's tapping fee as well.
- The proposed area to be rezoned is located outside the 537 sewage planning area. Before any development may occur on this site, the 537 plan must be amended. This will require unanimous approval by all parties to the 537 plan. The 537 plan amendment should be approved before the site is rezoned.

Ms. Goreham seconded Ms. Goreham's motion, and it was approved by the whole of Council.

NEW BUSINESS ITEMS

Storm Water Ordinance: Amendment to Comply with National Pollution Discharge Elimination System (NPDES) Regulations. The first item of New Business was to consider an amendment to the storm water ordinance.

Mr. Fountaine distributed an amendment to the Storm Water Ordinance, prepared by staff and recommended for adoption by Council. The revisions, he said, are a requirement of our

NPDES, Phase II permit for Municipal Separate Sewer Systems (MS4s). Revisions include a section on prohibited discharges, stricter requirements regarding an erosion and sedimentation control plan, additional requirements for post-construction operation, and maintenance of BMPs (best management practices). The amendment also includes some additional requirements for enforcing the ordinance. Ordinance changes must occur prior to the expiration of our permit reporting deadline, March 9, 2004.

Upon motion of Ms. Goreham, second by Ms. Knauer, Council voted 7-0-0 to enact Ordinance 1774, amending the Storm Water Ordinance to comply with NPDES regulations.

Zoning Ordinance: Amendment to Modify the Definition of Motor-Vehicle-Oriented Business (MVOB). Council was then asked to receive an amendment to modify the definition of MVOB in the Borough's zoning ordinance.

Mr. Fountaine mentioned that the amendment was prepared in response to a challenge to the Borough's MVOB ordinance. As written, the amendment creates an exception for restaurants providing curb-side takeout service; it was reviewed by Council on February 20 and placed on this agenda for consideration.

Ms. Knauer moved to receive the amendment, refer it to the planning commissions for comment, and schedule a public hearing to be held on it on April 19. Ms. Dauler seconded her motion and it was approved by a vote of 7-0-0.

Beaver/Fraser Parking Garage: Condemnation of Land For.... The next item was to authorize the condemnation of land for a parking structure on Beaver Avenue at Fraser Street.

To enable negotiations to begin for the land needed to construct a parking structure on Beaver Avenue, Mr. Fountaine said, staff is recommending that Council enact five resolutions authorizing the taking of land and any action that may be necessary to acquire title to it. The lots are: 206 West Beaver Avenue, 212 West Beaver Avenue, 220 South Fraser Street, 224-226 South Fraser Street, and 230 South Fraser Street.

Ms. Knauer moved to enact the resolutions provided and described by the Manager. Mr. Daubert seconded her motion.

Ms. Goreham said she would be voting against the motion. Although she supported the construction of a new parking facility, she objected to taking so many parcels off the tax rolls. She believed that taking this land jeopardized the Borough's ability to support a downtown transportation center in the future. Ms. Dauler responded that she did not consider her planned affirmative vote lightly but was familiar with the need for parking in this area. She also noted that the concept to create a downtown transportation center to replace the bus station was in its early stages while the need for parking is imminent. Mr. Meyer countered that any transportation center constructed in the downtown would have to be funded by grants; State College cannot afford such a facility. Taking these properties off the tax rolls, he said, is a small loss when compared to the benefits this garage will produce.

Having read the most recent financial report on parking, Ms. Knauer said it appears that the Fraser Street garage is not self-sustaining and wondered why Council should consider another parking structure of this size in that same area. Mr. Fountaine replied that the area was identified in the Cambridge Study as having the highest need for parking; the proposed footprint was expanded to achieve the shortfall of 500 spaces identified in the report. And, although funds exist to meet the debt service in the short-term, Mr. Fountaine advised that, with the taking of additional land, it will be necessary to adjust the cost of parking at some point in the future. Mr. Holmes added that the failure of the Fraser garage to achieve a profit is not because it is not used heavily but because the on-going cost of operations in today's dollars is not supporting the debt service; however, staff projects that revenues from the overall parking system will generate enough to cover losses in the short term.

The question was called and Council voted 6-1-0 for the motion; Ms. Goreham voted against it.

Centre County Air Port Authority: Revival Of... The only other item of New Business was to consider a resolution to reconstitute the Centre County Air Port Authority.

Mr. Fountaine distributed a resolution, prepared to revive the Air Port Authority, which, he said, is necessary to make legal all of the actions taken by the Authority since it expired. Mr. Meyer, Council's member representative on the Authority, said resolutions to revive and expand the Authority were previously approved by the participating municipalities but rejected by the state as being premature. The Commonwealth is requiring the Authority to proceed by first submitting a resolution to reconstitute the Authority and following approval, Council will be asked to approve a resolution to add Benner and Patton Townships.

Upon motion of Ms. Knauer, second by Ms. Dauler, Council voted unanimously to enact Resolution 856 to revive the expired Centre County Air Port Authority as a body politic for an additional term to expire March 11, 2051, and to execute a Municipal Statement of Revival for consideration by the Commonwealth.

OFFICIAL REPORTS AND CORRESPONDENCE

President's Report. President Daubert announced an *executive session* to be held following this meeting to discuss personnel matters.

Staff/Committee Reports. Mr. Fountaine referred to a memo, previously distributed to Council, explaining a minor change in the 2004 Community Development Block Grant Consolidated Action Plan. Council action on it is not necessary, he said, because the changes do not meet the requirement for a substantial amendment to the Plan. Summary pages, showing the revisions' affect on the budget, were also distributed for Council's information.

ITEMS OF INFORMATION

Lobby Staffing. Ms. Knauer asked when the subject of lobby staffing would be returned to Council's agenda for consideration. Mr. Fountaine said staff hoped to be prepared to discuss this within the next 60 days.

There being no other business to come before Council, the meeting was adjourned at 8:52 p.m.

Respectfully submitted,

Barbara J. Natalie
Assistant Borough Secretary