

Meeting Minutes
State College Borough Council
October 3, 2005

The State College Borough Council met in a regular meeting on Monday, October 3, 2005, in the State College Municipal Building Council Room, 243 South Allen Street, State College, PA. Mayor Welch called the meeting to order at 7:30 p.m.

Mayor Welch began with a moment of silence and pledge of allegiance.

Present: Bill Welch, Mayor
Thomas E. Daubert, President of Council
Catherine G. Dauler
Elizabeth A. Goreham
Craig R. Humphrey
Jeffrey R. Kern
Richard L. McCarl
James H. Meyer

Also present: Thomas J. Fountaine, II, Borough Manager; Terry J. Williams, Borough Solicitor; Carl R. Hess, Community Development/Planning Director; Linda S. Welker, Tax Administrator; Amy J. Story, Borough Engineer; John P. Marchek, Risk Manager; Timothy Grattan, Director of Information Systems; Michael S. Groff, Finance Director; Michele Nicolas, Director of Human Resources; Mark A. Whitfield, Director of Public Works; Cynthia S. Hanscom, Recording Secretary; members of the media; and other interested members of the public.

Public Hour - Hearing of Citizens

Steven Thorne, 701 West Foster Avenue, commented that he had come before Council a few weeks ago regarding traffic concerns on Sparks Street. He had some very good interactions with the Transportation Commission and the Borough staff. He was here tonight to ask that Council include in the Capital Improvement Program allocation in the 2006 budget funds for study and implementation of speed mitigation for the Holmes-Foster Neighborhood.

Kevin Gombotz, 323 Keller Street and Design Review Board member, invited Council to an open house and reception on Friday, October 7, from 5:30 to 8:00 p.m. at 833 West College Avenue. This was the first home being provided as a shared living cooperative in order to meet affordable housing needs for the community.

PUBLIC HEARINGS

2006-2010 Capital Improvement Program. Mr. Fountaine reminded Council they had received the 2006-2010 Capital Improvement Program at their meeting of September 12. Council discussed the Program at their meetings of September 23 and September 30. Final review is scheduled for October 10 with approval at the regular meeting of October 17.

Mr. Welch asked if there were members of the public wishing to speak on the Capital Improvement Program. There being none, Mr. Welch closed the public hearing.

Amendment to the 2005 Community Development Block Grant (CDBG)/HOME Consolidated Plan. Mr. Fountaine said the 2005 Consolidated Action Plan includes allocations of CDBG funds for three specific planning activities that are now being covered using local funds due to the decrease in 2005 CDBG funding. The CDBG Citizens Advisory Committee and staff are recommending Council reprogram these funds to the general administration line item.

Mr. Welch asked if there were members of the public wishing to speak on the amendment. There were none. Mr. Welch closed the public hearing.

2006 CDBG/HOME Consolidated Annual Action Plan. Mr. Fountaine said the 2006 Consolidated Annual Action Plan provides details on projects proposed to be funded by federal Community Development Block Grant (CDBG) and Home Investments Partnerships Program (HOME) grant money in 2006. The CDBG Citizens' Advisory Committee reviewed the Plan at its meeting September 12 and recommended it be approved by Council. The Plan must be submitted to HUD by November 15.

Mr. Welch asked if there were any comments from members of the public. There were none. Mr. Welch closed the public hearing.

Mr. Daubert asked when further information on the plan would be distributed. Mr. Fountaine indicated Council would approve the plan at their meeting of November 7. Further information would be provided at that time.

CONSENT ITEMS

Resolution Distributing State Aid for Pension Funds. Mr. Fountaine explained each year the Borough receives money from the state to assist in meeting pension obligations. In 2005, the Borough received \$781,448.28 to be distributed between the police and general government

employees' pension funds. In accordance with Act 205, distribution of the funds must take place by Resolution.

Mr. Kern moved and Mr. Daubert seconded a motion to approve Resolution 888 to distribute state aid to the Borough police pension fund and the Borough's general government employees' pension fund. The vote on the motion was 7-0-0 in favor.

Use of Council Chambers for the State College Community Land Trust. Mr. Fontaine indicated a request was received from the State College Community Land Trust to use the Council Chambers for their annual meeting on Wednesday, November 16, 2005, from 6:15 to 10:00 p.m. As per Facility Use Policy, any use of the Council Chambers requires approval.

Ms. Goreham moved to approve the use of Borough facilities. Ms. Dauler seconded the motion, which passed unanimously.

Use the Council Chambers for the Medicaid Listening Tour. Mr. Fontaine said the Governor is sponsoring a series of "listening tours" to obtain public comment. A six-panel board consisting of members from the Department of Public Welfare, the Department of Aging and state legislators will receive public testimony on the status of Medicaid and Medicare on October 6, 2005 in State College. This event was previously scheduled at the College Township Municipal Building. The Borough is being asked to accommodate this event because the College Township elevator broke down and the replacement part will not be available in time for the meeting. It is expected that handicapped individuals will be in attendance so it is necessary to find another location that is accessible.

Ms. Goreham moved and Ms. Dauler seconded a motion to approve the use of the Council Chambers for this event. The motion passed with a 7-0-0 vote.

BIDS/CONTRACTS/AGREEMENTS

5-2005 Sewer Rehabilitation Project. Mr. Fontaine announced bids for Project 5-2005 Sewer Rehabilitation were opened on September 27, 2005 at 11:00 a.m. This project consists of the rehabilitation of existing gravity sewer lines by the Cured In Place Pipe Process (CIPP) and will include lining approximately 884 linear feet of 18-inch Vitrified Clay Pipe (VCP), 606 linear feet of 12-inch VCP, 285 linear feet of 10-inch VCP, 814 linear feet of 8-inch VCP, and reinstating approximately 18 service connections. The bids were advertised in the Centre Daily Times in accordance with the Purchasing Ordinance and a total of 10 bid packages were purchased. The following bids were received:

	Bidder	Amount Bid
1.	Intercounty Paving Assoc. LLC Carl Lizza – Managing Member Hackettstown, NJ	\$133,906.00
2.	Insituform Technologies, Inc. H. Douglas Thomas, Vice President Chesterfield, MO	\$151,316.00
3.	American Water Services Underground Infrastructure, Inc. Mark Harris, President Hillard, OH	\$155,405.00
4.	Humphrey & Son, Inc. Hugh Humphrey, President Laurel, MD	\$184,090.00
5.	Insight Pipe Contracting, L.P. S. Michael Marburger, President Harmony, PA	\$204,150.00

Construction time for this project is 45 days and is anticipated to begin with the Notice to Proceed being issued on October 17, 2005. Although the apparent low bidder has not conducted previous work for the Borough, they have submitted adequate references as required. Based on the review of the bid and the references, staff is satisfied that Intercounty Paving Association is qualified to do the work. The engineer's estimate for this project was \$175,000. The budgeted authorization for this project is \$237,500 and available in Account #08-429-724.

Mr. Kern moved to award Project 5-2005 to Intercounty Paving Assoc. LLC, the low bidder, in the amount of \$133,906.00. Mr. Daubert seconded the motion. The vote on the motion was 7-0-0; the motion passed.

Mr. McCarl asked if the project was being done as part of the 2006 Capital Improvement Program. Ms. Story explained the sewer rehabilitation will need to be completed to prepare for the street projects proposed for 2006.

Auditing Services Contract. Mr. Fontaine noted that the Borough's contract with Maher Duessel for professional auditing services for Borough, Centre Region Council of Governments, and Schlow Library accounts concluded with the completion of the fiscal year 2004 audits. Because of the complexities involved in the continuing implementation of the Governmental Accounting Standards Board (GASB) Statement 34 financial reporting model, staff has concluded it is desirable to maintain the continuity of our professional relationship with Maher Duessel for an

additional year, due to their experience with our accounting processes. Maher Duessel's proposed fee for this additional year is \$59,800 for all entities, which is a modest increase from the \$57,500 fee for the 2004 reporting year, and staff believes the fee is reasonable.

Mr. Daubert moved to approve the extension of the professional auditing services contract with Maher Duessel for a one-year period at a cost not to exceed \$59,800. Mr. Kern seconded the motion. The motion passed with a 7-0-0 vote.

OLD BUSINESS

ad hoc Tax Study Committee Report. Mr. Fontaine explained the 2005 budget was approved with a tax structure that would allow Council to consider various tax and spending options for 2006. Among the provisions in the 2005 plan was the repeal of the Occupation Privilege Tax and the establishment of the Emergency and Municipal Services Tax, with expected revenues of about \$1 million. It was Council's expectation that the additional revenue from the Emergency and Municipal Services Tax would allow Council to repeal the Business Privilege Tax in 2006. However, before making a decision on the appropriate taxes to be included in the 2006 budget, Council agreed to appoint an ad hoc Tax Study Committee to evaluate the impact of various tax options. Thus, the Borough of State College Tax Study Committee was charged as follows:

- o Evaluate the advantages and disadvantages of the following taxes:
 - o Business Privilege Tax
 - o Real Estate Tax
 - o With Homestead Exclusion
 - o Without Homestead Exclusion
 - o Earned Income Tax
 - o Emergency Municipal Services Tax
- o Evaluate the impact of these taxes based on the ability to pay principle of the tax and who pays the various taxes
- o Evaluate impact on neighborhoods of various tax alternatives
- o Evaluate the impact of economic development in the community of various tax alternatives
- o Evaluate the impact of the Homestead Exclusion on property owners in the Borough
- o Recommend a tax plan for the Borough to implement in 2006

Council received the final report from the ad hoc Tax Study Committee on August 1 and discussed the Committee's recommendations on August 8. The report has been posted on the Borough's web site and made available for public inspection at the Municipal Building. Questions raised by Council were compiled by staff and responses were distributed to Council on September 6. A staff recommendation on this matter was also distributed to Council on September 6th, as was an alternative proposal by Council Member Goreham.

In summary, the ad hoc Tax Committee report recommended that Council shift taxes from homeowners to commercial properties by implementing the following:

- o Enact a Homestead Exclusion in 2006 to exclude the first \$30,000 of assessed value for eligible homestead properties;
- o Repeal the Business Privilege Tax in 2006 and replace the revenue from the Business Privilege Tax with an increase in real estate tax;
- o Do not increase the Borough's Earned Income Tax to offset revenue from the Business Privilege Tax;
- o Lobby the Pennsylvania legislature for meaningful tax reform aimed at changing the income tax base to personal income and authorizing a local sales tax; and
- o Adopt a more aggressive approach to defend assessment appeals.

As a general statement, staff concurred with the Committee's recommendation, but recommended two modifications:

- o Staff recommended that the Homestead Exclusion should be explicitly linked to revenue generated by the Emergency and Municipal Service Tax, resulting in a 2006 Homestead Exclusion of \$20,000; and
- o Staff recommended that Council discuss an increase in the Earned Income Tax to offset part of the lost revenue from the repealed Business Privilege Tax, resulting in an increase in the Earned Income Tax of .1% and reducing the property tax increase necessary to replace the Business Privilege Tax.

Ms. Goreham's proposal called for the Borough to retain the Business Privilege Tax and dedicate \$400,000 from the tax for the following purposes:

- o \$200,000 would go to the following activities:
 - o Reimbursement of business start-up or business expansion costs
 - o Recruitment of targeted businesses
 - o Marketing assistance/market research
- o \$200,000 would go to the following activities:
 - o Subsidy for public transportation
 - o Parking subsidies for employees
 - o Market research

Council conducted a public hearing on this issue at the September 19th meeting, and Council has received a number of written comments. After nine months of study by the committee, public hearings and debate by Council, Council asked that this matter be placed on the agenda for final consideration this evening.

During the Council work session on September 30th, it was the consensus of Council to act on the following proposal:

- Shift taxes from homeowners to commercial properties by
- Repealing the Business Privilege Tax and replacing the BPT revenue by increasing the real estate tax rate by approximately 1.8 mills
- Enact a Homestead Exclusion at \$25,000 with revenue coming from either the Emergency and Municipal Services Tax or the Penn State University Impact Fee and/or in lieu payment

The implementation and final details of this shift will be approved as part of the 2006 budget

Mr. Kern moved to approve the ad hoc Tax Study Committee report and enact Resolution 889. Ms. Dauler seconded the motion.

Mr. Daubert asked why the Penn State impact and in lieu payment was listed in the resolution. He indicated that had not been discussed by Council. Mr. Fontaine said it was recommended by staff because the EMST had not been amended. Mr. Daubert said the Penn State impact fee would not be enough to cover the losses from the Homestead Exclusion; therefore, the language should say the EMST and/or the Penn State University Impact Fee.

Ms. Goreham cautioned that the Homestead Exclusion was not guaranteed. A future Council could elect to discontinue the exclusion and the property owners would be covering the loss of the BPT through the increase in property taxes.

Mr. McCarl noted that there was some uncertainty with what was happening in the state legislature. Mr. Fontaine said changes could occur in the financial projections for EMST. Currently, staff is assuming the tax will be reduced by \$400,000 or \$500,000 as a result of legislative changes.

Mr. Kern called the question. Mr. Goreham felt there were several people that wanted to speak on this issue. Mr. Kern noted that Council has held a public hearing and has been discussing this for weeks. Ms. Goreham believed this was a big decision. The resolution was only presented to Council members a few hours ago and she would like the opportunity to understand things better.

Robert Seibel, 510 East Fairmount Avenue, said from his rough figures, the Borough would lose \$1.77 million in revenue between 2005 and 2006 with the repeal of the BPT and the reduction in the EMST. To generate that kind of revenue, there would need to be an increase by 3.6 mils in real estate tax. That is a 50 percent increase. One of the major motivations of the ad hoc Tax Study Committee was to shift the burden away from the owner-occupied property owner to the rental properties. However, based on preliminary figures and assumptions regarding occupancy in a high-rise structure, the rental property owner would see very little change. Therefore, the tax burden would not shift to the rental properties.

Darrel Farber, 117 Logan Avenue, said the 2006 budget numbers are not yet final and asked Council to postpone this decision until those numbers are available.

Michael Casper, 103 E. Hamilton Avenue, expressed concern with the haste of Council's action. The future of downtown homeownership should be considered. The BPT is not an excessively expensive tax. As a homeowner, he believed he would pay more in real estate tax. This change creates a hardship for the property owners. Mr. Daubert explained that a homeowner would not pay more in real estate tax under this proposal, except for those properties that are assessed over \$275,000. The tax office has estimated that there are 3 percent (80 properties) of the total 2161 owner-occupied properties that would be negatively affected by this change. He noted that this would not hurt the average homeowner. Ms. Goreham added that this was not final until the budget was passed at the end of the year. Council is simply agreeing on their intent to make changes.

Mr. Kern explained that Borough staff, particularly in the tax office, have run the numbers and have put considerable time and late nights to come up with the numbers that would meet the goal of this Council, which is to get rid of the BPT and raise property taxes while not negatively impacting the owner-occupied property owners. He said he had total faith in the figures prepared by staff on how the tax would affect a majority of the residents. Specific buildings would see a higher tax. High rise rentals would gain by not having to pay the BPT but would lose by an increase in real estate taxes.

Ms. Dauler did not believe Council was being hasty. Council has been very deliberate in their discussion. She believed it was important to move forward with this.

Mr. Humphrey expressed apprehension that the BPT could not be re-enacted or reversed. The Borough will become more dependent on the EMST and what the state government does with this tax.

Ms. Goreham moved to amend the motion to specify that financial stability be the first priority of this Council and that, if the BPT is repealed, the Homestead Exclusion be locked in at \$25,000 for future years. Mr. Welch said decisions of future Council could not be bound by a decision made at this meeting. Mr. Williams agreed stating that each year is a separate taxing year. Ms. Goreham commented that she could not, in good conscience, vote in favor of a motion that she believed would negatively impact home owners in the future.

Mr. Daubert moved to amend the original motion to change the second point of the resolution on the Homestead Exclusion to say "A Homestead Exclusion estimated at \$25,000 will be enacted by Council as part of the final budget adoption for the year 2006, with the final amount of the Homestead Exclusion to be linked to either the Emergency and Municipal Services tax revenue, and/or the Penn State Impact Fee and In Lieu Payment." This would basically strike the word "or" and replace it with "and/or." Mr. Humphrey seconded the amendment. The vote on the amendment was 7-0-0 in favor of the motion.

The question was called on the original motion. The vote was 5-2-0, with Ms. Goreham and Mr. Humphrey opposed. The motion passed.

Ms. Dauler moved to direct to staff to adopt a more aggressive approach to assessment appeals and non-exempt status of non-profits in the Borough. Mr. Kern seconded the motion. The motion passed with a 7-0-0 vote.

Mr. Daubert moved to direct staff to review those properties in the Borough that have been given the Homestead Exclusion by the county in error and appeal those designations so that they can be correctly classified. Mr. Kern seconded the motion. The motion passed with at 7-0-0 vote.

Fire Safety Code Amendments. Mr. Fontaine noted that the Council and the Centre Region Code Committee have been reviewing amendments to the Property Maintenance Code for the past few months. Following the most recent Council discussion, the draft amendment has been modified to address concerns raised by Council, the COG Code Committee and public comments. The final revised amendment was presented to Council at their meeting of September 19, at which time a public hearing was held. Following the public hearing, Council considered the comments received and authorized staff to prepare the ordinance for adoption at this meeting. The ordinance has been reviewed by the Solicitor and includes the following main points:

- o Up to six months for installation of either permanent, hard wired or wirelessly interconnected smoke detectors in each sleeping room and common areas in all rental units, or temporary battery operated smoke detectors in each sleeping room and common areas in all rental units. If temporary smoke detectors are installed during this grace period, the units shall be brought into full compliance with hard wire, interconnection provision within two years. Also, tamperproof detectors may be installed in lieu of hard wired detectors. In cases where there is a dwelling unit fire separation wall and the unit has sprinklers, the provisions requiring interconnection would not apply.
- o An inspection schedule that calls for all rental units to be inspected on three year cycles, with any unit that receives an unsatisfactory inspection moved up to annual inspections until three consecutive satisfactory inspections are achieved.
- o Increased penalties for property owners/landlords that fail to make the rental units available for inspection as required by the Code.
- o Increased penalties for tampering with life safety devices in rental units, and requirements for tenants and landlords to verify that life safety devices are in working order at the beginning of the lease period.
- o Second means of egress in all rental units where a third level is occupied by no later than August 15, 2007.
- o Technical corrections to references to the International Property Maintenance Code and the local amendments.
- o Remove recycling violations from the property nuisance provisions of the code.

Ms. Goreham asked why recycling violations was being removed. Mr. Fontaine noted this was a housekeeping item to amend the property maintenance code. It has been determined that recycling violations do not constitute a neighborhood nuisance. It is still illegal to throw recyclable materials in the garbage and fines will be assessed but it would not be included in the points assigned to rental properties. Ms. Goreham asked about leaving the recycling bin at the curb and Mr. Fontaine indicated that was a violation and would be included as a neighborhood nuisance.

Mr. Daubert noted there were inconsistencies in Section 702.5 and 702.5.1 with respect to designating the third story as 20 feet above grade. Mr. Knisely noted that Section 702.5 addresses everything except one- and two-family homes, which already have the provision in the code that a two independent means of egress are required. He noted it could be stated the same in both cases for clarification.

Mr. Kern moved and Ms. Dauler seconded a motion to adopt Ordinance 1817 to modify the Property Maintenance Code incorporating additional fire safety standards. The vote was 7-0-0 in favor of the motion.

Mr. Daubert moved to instruct staff to prepare a handout available to property owners providing references to rental housing codes, a list of common life safety violations, and appropriate contact

information. Mr. Kern seconded the motion. The vote on the motion was 7-0-0; the motion passed.

Capital Improvement Program. Council continued their review of the 2006-2010 Capital Improvement Program by considering proposals listed under "Other Projects."

Mr. Daubert asked about the key-less entrance project for the Municipal Building. Mr. Whitfield explained the proposal was to extend the use of the key-less entry system. Currently it is cumbersome for police officers to get in the building and into the lower level with all of the equipment that they must carry. Mr. Meyer said this was a maintenance item and should not be used in this category, which is a reserve for replacing depreciated equipment. Mr. Kern agreed and suggested this project be deleted.

Mr. Daubert said the generator replacement should be shared with the other municipalities. The building-related costs are the responsibility of the host municipality but he believed the generator costs should be shared. Mr. Fontaine believed that capital improvements would be the responsibility of the Borough. Mr. Daubert asked staff to determine if other generators were bought by the municipalities.

Mr. Daubert asked about the police records management system. Mr. Fontaine explained it has been in the list of capital projects for some time. This is the final installment to replace the police records management system.

Council discussed an electronic payment system and whether or not that should be considered for tax purposes. Mr. Daubert cautioned that he did not want to lose tax revenue to cover the cost of electronic payments.

Mr. Daubert said he would rather hire temporary staff so that existing staff would have the available time to complete the zoning ordinance rewrite. Consultants never seem to do what they are supposed to do. The last two consulting reports have not been done well because outside agencies do not understand the needs and desires of the community.

Mr. Daubert noted the new aquatics facility indicated the design will be worked out with the school district. However, the design will not be the responsibility of the school district. He suggested the language be changed to indicate the site plan only will be coordinated with the school district.

Ms. Goreham also suggested that money should be set aside for a new pool. With the cost of the renovation being so extensive, it appears that a new pool will be more suitable. Mr. Fontaine said the costs are not finalized at this point; it is difficult to put in a number.

Mr. Daubert stated Council will provide final comments on the Capital Improvement Program at their work session of October 10 and then schedule approval for the October 17 meeting.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch announced that he was delighted and relieved to see that the new Schlow Centre Region Library opened today. It has been many years in the making and he saluted everybody involved in the process, including the staff, the patrons, and the contributors that helped to make it possible. This was an achievement for the entire community. Mr. McCarl also asked that all the contributing municipalities be recognized for their support as well.

President's Report. Mr. Daubert announced an executive session to be held following the meeting to discuss litigation.

Staff/Committee Reports. Mr. Fontaine announced he received a request for a liquor license transfer for Fuji & Garden Jade, Inc. Staff is coordinating with the applicant and a public hearing is tentatively scheduled for November 7.

There being no further business, Council adjourned to an executive session at 8:47 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary