

Meeting Minutes
State College Borough Council
January 9, 2006

The State College Borough Council met in a regular meeting on Monday, January 9, 2006, in the Council Chambers of the State College Municipal Building, 243 South Allen Street, State College, Pennsylvania. Mayor Welch called the meeting to order at 7:30 p.m.

Present: Bill Welch, Mayor
Catherine G. Dauler, President of Council
Thomas E. Daubert
Ronald L. Filippelli
Elizabeth A. Goreham
Donald M. Hahn
Craig R. Humphrey
Jeffrey R. Kern

Also present: Thomas J. Fountaine, Borough Manager; Terry J. Williams, Borough Solicitor; Carl R. Hess, Director of Planning; Michael S. Groff, Finance Director; Mark A. Whitfield, Director of Public Works, Michele Nicolas, Director of Human Resources, Alan Sam, Borough Arborist; Cynthia S. Hanscom, Assistant Borough Secretary; members of the media; and other interested members of the public.

Mr. Welch began with a moment of silence and the Pledge of Allegiance.

Public Hour - Hearing of Citizens.

Holmes Foster Park Master Plan. In 2004, the Tree Commission began discussions on a re-vegetation plan for Holmes Foster Park. The discussion was initiated in response to the significant loss of mature trees within the park over the past five years. Holmes Foster Park's main feature, 200-year-old oak trees that form an 80 to 100 foot canopy over playgrounds and picnic areas, creates an outdoor atmosphere different from anything else in the Centre Region. However, many of these mature trees are declining rapidly and nearly 15 percent have been removed within the past five years.

Two professors on the Tree Commission agreed to offer class credit to students that would work on a 25-year re-vegetation plan for the park. Five students, three in Forestry and two in Landscape Architecture, agreed to form a team to develop a plan which was to include a historical review, information regarding current maintenance and condition of the park, a survey of park neighbors and users, and recommendations for future plantings and other improvements phased in over the next 25 years.

Mr. Sam introduced the students on the design team: Dennis Walls, Alex Peck, Curtis Runyan, Kyle Berseth and Chad Spidell. He noted this was a unique park with a canopy of 200-year-old trees. Because the trees are older and overmature with a shallow soil, there are safety concerns. The trees are monitored very closely and several trees have had to be removed over the years. The Tree Commission members became concerned with the loss of trees without a plan for replacement. The plan still needs to be finalized but this will be something that can be used to apply for grants.

Each student in turn spoke about a different phase of the project, including the history, the goals, the results from the survey that was conducted of both users of the park and neighboring property owners, and the master plan for the park. The plan included sitting areas with replacement of the canopy trees with native, hardy species. It was noted that oak trees would not be used because of the fungus present in the soil that would continue to destroy the root system of any new trees that were planted. The current oak trees would not be removed unless they become a hazard. The master plan included some understory and ground cover that would provide some color for the park.

Mr. Humphrey asked if the sitting areas would be developed as the oak trees were removed. It was noted that no significant removal of the oaks would be necessary to create the sitting areas. As funding became available, the sitting areas could be constructed.

Ms. Goreham asked about the location of the dog park. One student noted that was proposed for the lower end next to Westerly Parkway.

Ms. Goreham also asked about the existing playground and pavilions and was told that they would remain.

Mr. Humphrey noted that this was a 25-year plan and asked if it would need to take that long to complete. One student responded that the trees would need to be replaced in an on-going basis over a 25-year period.

Ms. Goreham asked the master plan be made available on the Borough's web site. Council thanked the students for their report.

Mr. Welch asked if there were any other comments from members of the public. Mary Marino, 720 South Sparks Street, said she attended the meeting about the school board renovation and had some concerns. She noted that the architects had indicated that work would be done around the clock and was concerned about the construction noise. The renovations are expected to take 3-4 years and this seems excessive. She asked if they had applied for a waiver from the noise ordinance. Mr. Fontaine noted that he had not received anything of that nature. Mr. Hahn noted that the school was an important anchor for the Borough. If some inconveniences are created with the renovations it may be necessary in order to maintain the school in its present location. However, he noted that he was concerned with night-time construction. Mr. Fontaine indicated any request for a noise ordinance waiver would come before Council.

Ms. Marino also asked if soccer could be played in the soccer field where the retention basin was built. Mr. Fontaine indicated it was built to hold water during a heavy storm and the field could be used at all other times.

Ms. Marino noted that there had been some discussion that the bike path would be moved. Mr. Fontaine noted that it could be relocated as part of the reconfiguration for the Welch Pool. The final design for the pool may include this but it would not be part of the school project.

Ms. Marino noted that the school district has indicated they did not want to plant trees around the perimeter near Prospect Avenue and Gill Street because of the maintenance required with falling leaves. Mr. Kern assured her that Council would take a look at any perimeter buffering that is proposed as part of the school renovation.

Ms. Marino asked where construction vehicles would park during the construction phase. Mr. Welch believed it was too early to make that determination.

Ms. Marino also asked about the problems with storm water and wanted to be assured that water runoff would not be shifted to another location. Ms. Goreham noted that there is an ordinance in place that requires the storm water be retained on-site. The developers indicated the storm water plan would be multi-faceted and would include several solutions to keep the water on-site.

PUBLIC HEARING

Amend the Community Development Block Grant (CDBG) Consolidated Plan. Mr. Fontaine indicated Council received a recommendation from the CDBG Citizens' Advisory Committee on December 19 to reprogram certain funds allocated in the 2005 Consolidated Plan and scheduled this public hearing. The 2005 Consolidated Plan budgets \$18,814 in HOME and \$60,000 in CDBG funds for a rental rehabilitation project. The mix of CDBG and HOME funding presents complex regulatory challenges. Both Borough staff and Temporary Housing Foundation, partners in the project, recommend allocating HOME funds only for this project. The CDBG funding is replaced with HOME funding in the 2006 budget. Additional CDBG funds are needed for the Borough's homeowner rehabilitation program. A total of \$80,000 in 2006 CDBG funding was budgeted for this program, which would allow us to rehabilitate 2 or 3 houses in 2006. An additional \$60,000 will allow us to rehabilitate a total of 4 or 5 houses, and we believe this is a realistic goal for the program.

Mr. Fontaine noted the CDBG Citizens' Advisory Committee met on December 12, 2005, and unanimously recommended the \$60,000 be reprogrammed for the homeowner rehabilitation project.

Mr. Welch opened the public hearing for comments. There being none, he closed the public hearing.

Mr. Humphrey asked if the rehabilitation is overseen by the Borough or the Community Land Trust. Mr. Hess indicated the rehabilitation program is operated by the State College Borough but it could include a home through the Community Land Trust.

Mr. Daubert asked if the Borough was able to recoup the rehabilitation money. Mr. Hess informed Council that it was a forgiveness loan program. If the home is occupied for 8 years the loan is forgiven. The loan amount would diminish over a period of years. Mr. Fontaine added that applicants for the program would need to be owner-occupants and meet certain income qualifications to receive the funds.

CONSENT ITEMS

Appoint Catherine Dauler to the Downtown State College Improvement District Board of Directors. Mr. Fontaine indicated that Ms. Dauler has agreed to serve as a board member of the Downtown State College Improvement District. Ms. Dauler will serve a two-year term which will expire on December 31, 2007.

Mr. Hahn asked how long she has served on the Board and was told she served four years. Previously, Mr. Daubert had served four years and Ms. McManis had served four years before that. Mr. Hahn suggested the position be rotated among Council members.

Mr. Humphrey moved to reappoint Ms. Dauler to the Downtown State College Improvement District Board of Directors. Mr. Daubert seconded the motion, which was approved with a 6-1-0 vote, with Mr. Hahn opposed.

Special Activity: Use of Borough Streets for a Special Activity. Mr. Fontaine indicated a request from the Penn State College of Education was received to conduct a 10-mile cycle-thon on Sunday, April 23, 2006, from 8:00 a.m. to 10:00 a.m. The event will begin and end in Sunset Park and require the closing of several streets in the Borough and on campus.

Mr. Hahn moved to approve the use of Borough streets for this event. Mr. Humphrey seconded the motion, which passed unanimously.

Voting Rights for COG Alternate Delegates. Mr. Fontaine noted that every year each COG municipality is asked to affirm or change their policy regarding alternate delegate voting rights at COG's standing committee meetings. Once established, the policy remains in effect throughout the year. Council's policy has been:

“Any State College Borough staff member or Council member, in attendance at a COG standing committee meeting, who is attending in lieu of the representative designated to attend, has the power to vote on behalf of State College Borough Council.”

Ms. Dauler moved to approve the policy for 2006. Mr. Humphrey seconded the motion.

Mr. Daubert moved to amend the motion to modify the policy to include the phrase “and has been appointed by that representative.” He noted there should be a specific individual assigned to vote at the COG Standing Committees and not just whoever shows up. Ms. Goreham seconded amendment. The vote passed with a 7-0-0 vote.

Council then voted on the main motion to approve the policy, which was approved unanimously.

AFSCME Local 1203A Agreement. Mr. Fontaine said the collective bargaining agreement between the Borough and AFSCME Local 1203A for calendar years 2003 through 2007 included specific wage rates for 2003 through 2005, but provided for a wage re-opener to determine the rates for 2006 and 2007. A tentative agreement was reached late in December between Borough management and union representatives. The tentative agreement provides for a 3.25% wage increase for 2006, but also opens the entire agreement for negotiation during 2006 for 2007 and subsequent years. In discussing wage rates with union representatives, it became clear that there are job classification and scheduling issues too complex to be resolved in a “wage re-opener,” so both sides agreed to set rates for one year only. The employees voted to approve the tentative agreement on December 20, 2005.

Ms. Dauler moved to approve the agreement. Mr. Humphrey seconded the motion, which passed with a 7-0-0 vote.

BIDS/CONTRACTS/AGREEMENTS

Vent Stack Encroachments. Mr. Fontaine indicated the building located at 219 East Beaver Avenue, owned by H. I. M. Enterprises, LLC, is being renovated for use as a restaurant. The Shack, a sandwich shop, is expected to be opened at this location. Because the building is constructed on the property line, there is insufficient clearance for the installation of the required flues, chases and pipes necessary to properly vent the restaurant without encroaching on the air space above the Borough's sidewalk adjacent to the McAllister Parking Deck at a minimum height of 10 feet above the walk. The vent cannot be constructed directly above the restaurant since the space is occupied by another tenant. The Borough does have an existing easement agreement with the property owners for various utility encroachments, but the easement does not include provisions for flues, chases, and vents.

Mr. Fontaine said the Borough must grant a license to H. I. M. Enterprises, LLC to permit these vent pipes to encroach the airspace above the sidewalk. The Solicitor has drafted a license that allows the described installation. The Borough's Public Works Department recommends approval of the license agreement.

Mr. Humphrey moved to approve the license agreement to permit the described encroachment in the air space above the Borough's property. Mr. Kern seconded the motion.

Mr. Daubert noted a similar agreement had been approved for a building on Calder Way. He asked if this could create problems in the downtown. Mr. Whitfield explained the Borough is protected through the agreement by the ability to end the agreement. The Borough can give the property owner 90 days notice to remove the vent at any time.

Mr. Welch asked if the vent encroachment would be in the alley. Mr. Whitfield replied, "Yes."

Ms. Goreham asked if the agreement would carry with the restaurant. Mr. Williams replied it was like an easement and would belong to the property regardless of the restaurant.

Jay Horgas, 911 S. Atherton Street, informed Council that he would be managing the restaurant, which would be operated from both 219 and 233 East Beaver Avenue.

Ms. Goreham asked when the restaurant would be opening. Mr. Horgas said he planned to open by the end of January.

There being no further discussion, Mr. Welch called for a vote on the motion to approve the agreement. The vote was 7-0-0 in favor; the motion passed.

Verizon Agreements. Mr. Fontaine said that Council is being asked to complete two easement agreements with Verizon. The first is an overhead aerial for Walnut Springs Lane and the second is for the underground cables at the Beaver Avenue Parking Garage. Both easements were approved but now require Council to authorize the execution of the easements.

Mr. Kern moved and Mr. Daubert seconded a motion to authorize the President to sign the easement agreements. The motion was approved with a 7-0-0 vote.

ABC RECOMMENDATIONS

Historic Resources Commission 2006 Work Program. Mr. Fontaine said the 2006 work program for the Historic Resources Commission was received and should be scheduled for discussion at a work session on January 20 and for approval on February 6.

Ms. Dauler moved to receive the work program. Ms. Goreham seconded the motion, which passed with at 7-0-0 vote.

Mr. Daubert asked that a representative of the Historic Resources Commission be present at the January 20 work session to answer questions.

Subdivision Plan for 1555 University Drive. Mr. Fontaine explained the Planning Department received a proposed subdivision plan from Resicol Limited Partnership for a 5.8 acre tract of land located at 1555 University Drive. The Planning Commission approved the plan at its meeting of December 21, 2005. Pursuant to the Borough's subdivision regulations, Council action is also required. The Planning Department recommends conditional approval contingent upon College Township also approving the plan and the appropriate deeds and driveway access easement being prepared and recorded.

Mr. Hahn moved to approve the plan contingent on College Townships' approval and the appropriate deeds and driveway access easements being prepared and recorded. Ms. Dauler seconded the motion. The motion passed unanimously.

OLD BUSINESS

Council May Discuss Funding the Musser Gap Forest Gateway Project Proposal. Mr. Fontaine noted that during the September 26, 2005, meeting, the General Forum received a report from Katie Ombalski, ClearWater Conservancy, who explained that an opportunity has presented itself to obtain a 423 acre parcel of land on Tussey Mountain referred to as Musser Gap. The purchase price of the parcel is \$2 million. The ClearWater Conservancy has received a \$600,000 grant and a tentative pledge from the State College Borough Water Authority in the amount of \$300,000. The Conservancy asked the General Forum for municipal support and the General Forum indicated that contributions should be made on an individual municipal basis rather than through the COG. Funding commitments have been made by Ferguson Township, Harris Township and College Township. He noted that if Council wishes to contribute to the Musser Gap project, funds may come from the unappropriated fund balance in the Capital Reserve Fund.

Ms. Ombalski was present to make a brief presentation and answer any questions. She showed the location of the property and the proposed Highland Hills land development project which was proposed by the developer for several residential lots. She said there were several threats to natural resources, particularly water. She noted that project has been well-received and is consistent with the Centre Region Comprehensive Plan, Nittany Bald Eagle Greenway Plan, and Spring Creek Rivers Conservation Plan. The Pennsylvania Department of Conservation and Natural Resources (DCNR) has been involved and is supporting the project.

Ms. Ombalski told Council that the purchase price for the land is \$2,200,000 with closing costs an additional \$50-100,000. Depending on the intensity and length of time needed for public fundraising, there could be additional costs. She noted that \$606,000 has been awarded from the DCNR and the Conservation Fund may match that DCNR grant. Commitments have been received from the following local government entities: State College Borough Water Authority for \$300,000, Ferguson Township for \$88,759, Harris Township for \$29,100, and College Township for \$25,000.

Ms. Ombalski added that she hoped to receive an additional \$200,000 from DCNR (which would raise the matching amount from the Conservation Fund to \$800,000), and that would put the total over \$2 million.

Council discussed the funding for the project. Mr. Kern said that, even with the possible additional funding from DCNR, the project would still be short approximately \$200,000 plus closing costs. He believed that all the townships (not just the Ferguson and Harris) would benefit from this project, particularly in relation to the preservation of the "viewscape" of the mountainside.

Mr. Humphrey asked about the Conservation Fund and was told that it was a national organization with efforts focused on land conservation. The Conservancy has worked with the Conservation Fund in the past with preservation efforts of state game lands.

Mr. Filippelli asked if there was a deadline to come up with the money. Ms. Ombalski noted that there was no agreement of sale with the property owner. Although he is interested in getting fair market value for the property, he has been very patient in the two years that it has taken to coordinate funding. It was important that the project continue moving along. Although there is no deadline, she reminded Council that everyday that goes by costs the landowner money.

Council considered whether they wanted to discuss this further at a work session or move forward with a vote. Mr. Hahn believed that Council could move forward now.

Mr. Daubert moved to fund the project at a reasonable amount of \$40-50,000. There was no second to the motion. The motion failed.

Mr. Kern moved to approach the COG formula and fund the project at \$76,110. Mr. Dauler seconded the motion.

Kelleann Foster, 210 Hartswick Ave, noted that this project would have long-term effect. An \$80,000 contribution will benefit the region forever. It would benefit the urban residents more than others because of the water supply protection. It would benefit a greater area by providing recreational uses, such as hiking.

Mr. Daubert stressed the importance of publicizing the recreational uses of the land. Clearwater needs to tell citizens that the land is available for hiking and other outdoor activities. Ms. Ombalski noted that Clearwater hopes to be able to publicize something on this project soon. Since they do not have a signed sales agreement, is it difficult to advertise. Once the public fund raising phase of the process begins, there will be a lot of information sent out to the public.

Mr. Hahn noted that, although he did not have a problem with the \$76,110, he suggested that the Borough fund at one-third the amount rather than the COG formula (which is approximately 25 percent). This would allow for more of a match and could provide an incentive for more municipalities to get on board with the project or even to increase their contribution.

The question was called on the motion. The vote to fund Clearwater Conservancy at \$76,110 for the Musser Gap Forest Gateway Project was approved with a 6-1-0 vote, with Mr. Daubert opposed. Mr. Daubert indicated the reason for his opposition was that he did not believe the Borough could afford to fund this project at that amount.

NEW BUSINESS

Authorize the Temporary Borrowing in Connection with the Medical Arts Building Acquisition and Fraser Street Realignment. Mr. Fontaine noted that, in March 2005, Council approved a Memorandum of Understanding with the Medical Arts Partnership, and the Towne Centre Partnership providing for the Borough's acquisition of the Medical Arts Building on Beaver Avenue and the long term lease of approximately 17,000 square feet of commercial space in the Beaver Avenue garage. Under the terms of the MOU, the Borough will acquire the Medical Arts Building for consideration of \$2 million, the value established by an appraisal of the site. The Borough will then lease the commercial space in the garage to the Towne Centre Partnership for 29 years for \$1.2 million dollars. The Borough is acquiring the Medical Arts Building for the purpose of realigning the intersection of Fraser Street and Beaver Avenue as required by the Beaver Avenue Parking Garage Traffic Study.

Mr. Fontaine said that the Borough is currently seeking state and federal grants to cover the costs of the realignment project, including the property acquisition. Since it is necessary to close on the sale at this time, Council is asked to approve a resolution authorizing an advance of funds from the Parking Fund for this property acquisition.

Mr. Humphrey moved to approve Resolution 900 authorizing the use of a temporary loan from the unreserved fund balance for the purpose of property acquisition. Mr. Hahn seconded the motion, which passed with at 7-0-0 vote.

Vouchers for the Month of December 2005. Upon motion of Mr. Daubert, second by Ms. Dauler, Council voted 7-0-0 to receive vouchers for the month of December, 2005, for the Borough of State College, in amount \$2,651,123.66, and, acting as agent for the Centre Region Council of Governments, vouchers totaling \$1,851,871.00.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch noted the December 2005 edition of the PLCM League Link included mention of Councilwoman Catherine Dauler receiving a Bronze certificate of achievement for completing 16 credits in the National League of Cities' Leadership Training Institute. He congratulated Ms. Dauler on her accomplishment.

President's Report. Ms. Dauler announced the COG standing committee assignments as follows:

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|--|-------------------|
| Executive Committee | Catherine Dauler |
| Code Committee | Jeffrey Kern |
| Finance Committee | Thomas Daubert |
| Public Services | Craig Humphrey |
| Transportation/MPO Technical Committee | Elizabeth Goreham |
| Ad hoc Park Committee | Thomas Daubert |

Ms. Dauler also welcomed the two new members Mr. Hahn and Mr. Filippelli and thanked them for donating their time to serve on Council.

Ms. Dauler announced an executive session held prior to this meeting to discuss possible litigation, personnel matters and real estate.

Liaison Reports. Ms. Goreham distributed information from the Intermodal Transportation Committee on the pros and cons for placement of the bus station at different sites. She asked that any comments from Council members on the proposed sites should be passed along to her or Ms. Dauler.

Mr. Kern noted the site off University Drive would be inappropriate because of the amount of traffic; it would create congestion problems. Mr. Filippelli agreed.

Mr. Hahn asked if representatives from Fullingtown Trailways have expressed a preference. Ms. Goreham indicated they did not like the University Drive site but had not expressed opposition to the others.

Staff/Committee Reports

Conflict of Interest Policy. Mr. Fontaine noted that as part of the Conflict of Interest Policy established last year, it is recommended that the policy be distributed once a year, and that its receipt be made part of the meeting record. The policy was distributed to Council as part of the agenda. He noted that Council members are asked to review the policy so that conflicts of interest do not occur in the coming year.

Emergency Municipal Services Tax Report. Mr. Fontaine said the legislature has taken no further action on the expected amendments to the Emergency and Municipal Services Tax (EMST). The 2006 Borough budget included an increase in the real estate tax levy to cover revenues expected to be reduced as a result of the EMST amendments. Since there is still uncertainty over this issue, it may not be prudent for Council to reduce the tax. However, if Council wishes to consider reducing the real estate tax rate in relation to the EMST revenue, it should direct staff to provide notice for a special meeting on January 20th immediately preceding the work session for this single issue. Mr. Kern noted that, although he was not suggesting that the tax be changed, he did feel that Council owes the citizens a more formal statement. Mr. Daubert said the additional real estate tax revenue could be used for many projects that were currently unfunded.

Items of Information. Mr. Daubert noted that the students completing the Holmes Foster Master Plan report did a very nice job. He believed Council should write a letter to the instructors and the students expressing Council's appreciation. Mr. Whitfield added that staff will continue working with the students to prepare a formal plan that can be approved by Council.

There being no further discussion, the meeting adjourned at 9:12 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary