

Meeting Minutes
State College Borough Council
October 16, 2006

The State College Borough Council met in a regular meeting on Monday, October 16, 2006, at 7:30 p.m., in the State College Municipal Building Council Chambers, 243 South Allen Street, State College, PA. Ms. Dauler called the meeting to order at 7:30 p.m.

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

Also present: Terry J. Williams, Borough Solicitor; Thomas J. Fountaine, Borough Manager; Carl R. Hess, Planning Director; Herman L. Slaybaugh, Zoning Officer/Planner; Michael S. Groff, Finance Director; Lieutenant Thomas M. Hart, Police Department; Mark A. Whitfield, Director of Public Works; Mark S. Henry, Health Officer; Thomas S. Kurtz, Assistant Manager; Cynthia S. Hanscom, Recording Secretary; members of the media; and other interested observers.

Ms. Dauler began with a moment of silence and the Pledge of Allegiance.

PUBLIC HOUR: There were no comments made by the public.

CONSENT ITEMS

Mr. Hahn announced that his law firm had been engaged by State High Vision and with respect to the State College Area High School Renovation project, he was no longer a disinterested party. Therefore, he announced that he would be abstaining from all discussions and decisions on the project. Mr. Fountaine noted that he had received a written statement to that affect.

Mr. Daubert moved and Mr. Humphrey seconded the motion to approve the following consent items. The vote on the motion was 6-0-1, with Mr. Hahn abstaining.

- o Approve Vouchers for the month of September 2006 for the Borough in the amount of \$1,727,533.95 and, as agents for the Centre Region Council of Governments, in the amount of \$494,038.20.
- o Appoint Alfred Jones, Jr., as the special hearing officer and special counsel for the Borough of State College in the matter of the Conditional Use Request from the State College Area School District.

REPORTS AND PRESENTATIONS

Millbrook Marsh Nature Center Capital Campaign. Rick Marboe addressed Council on the Millbrook Marsh Nature Center and its importance in contributing as an educational center to the local school system and the community. Based on the increased participation in the educational aspect of the center, the Millbrook Marsh Advisory Committee introduced a capital campaign to operate the program throughout the year. Currently the programs at the Millbrook Marsh are run only from March to late October. Funding of \$1,500,000 is available from the state but a matching contribution is needed to receive the funds. Mr. Marboe noted that they have been successful in conducting a private donor campaign and have raised \$550,000. Other grants totaling \$20,000 have also been received from commercial and professional firms. The public portion of the campaign has started and was kicked off at Spring Creek Day. He noted that he was here to request that the Borough of State College help to meet the \$1,500,000 match by contributing \$10,000 a year for the next three years.

Ms. Dauler thanked Mr. Marboe for his presentation and said that Council would consider his request as part of the 2007 budget process.

GENERAL POLICY AND ADMINISTRATION

2007-2011 Capital Improvement Program. Mr. Fountaine said that Council received the 2007-2011 Capital Improvement Program at their meeting of September 11, 2006. Council reviewed the document at their meetings of September 22, 29, October 3, and October 9. A public hearing on the Capital Improvement Program was held on October 3.

Mr. Fountaine noted that in 2007, capital expenditures total \$4,002,929 and are distributed as follows:

Streets	\$1,183,715
Storm Sewers	\$ 96,000
Parks	69,800
Municipal Facilities/Other Projects	1,168,914
Sanitary Sewers	657,970
Parking Projects	345,030
Information Technology	481,500

Mr. Fontaine said that enterprise funds, Community Development Block Grant funds, grants, and other miscellaneous sources will pay for all except \$1,512,660 of these costs. The balance will be covered by the Penn State in-lieu payment, interest, and a transfer from the general fund. The sanitary sewer and parking projects are self-funded.

Ms. Goreham move to approve the 2007-2011 Capital Improvements Program. Mr. Hahn seconded the motion. Mr. Daubert noted that this would only approve the 2007 portion of the plan. The 2008-2011 portion is simply a plan for the future. There being no further discussion, the vote on the motion was 7-0-0.

2005, 2006 and 2007 Earned Income Tax Rules and Regulations. Mr. Welch noted that due to a request for a change from another municipality, the Earned Income Tax Rules and Regulations will be postponed until November 6, 2006.

Use of Public Property and Waive Provisions of the Fire Protection/Prevention Ordinance for the Conduct of First Night®. Mr. Fontaine indicated a request had been received from the Central Pennsylvania Festive of the Arts to conduct this year's First Night® celebration. Activities would include:

- ice sculptures and performances on the 100 and 200 blocks of South Allen Street, and horse-drawn carriage rides to and from Central Parklet on Saturday, December 31;
- a grand procession on Foster, Fraser, and Allen on December 31;
- a 5-kilometer run on College Avenue on December 31; and
- a 10-minute display of fireworks at midnight on December 31 in Community Fields.

Mr. Filippelli excused himself from the discussion and indicated his intention to abstain from the vote because of his involvement with the Arts Festival Board of Directors.

Mr. Daubert noted that he had requested a summary of in-kind and upfront costs for the Central Pennsylvania Festival of the Arts held in July. He asked for a similar summary of expenses for the First Night activities.

Mr. Humphrey moved to enact Ordinance 1851, designating the area and time during which these activities may take place, and waive Sections 203 and 204 of Chapter VI of the Codification of Ordinances, which prohibits fireworks in the Borough. Ms. Goreham seconded the motion, which passed with a 6-0-1 vote, with Mr. Filippelli abstaining.

Resolution to Establish a Redevelopment Committee. Mr. Fontaine noted that Council is being asked to approve a resolution establishing a temporary Redevelopment Committee so that the members of the Redevelopment Authority can begin to review the redevelopment goals and priorities of the community, learn about the duties, responsibilities and powers of the Authority once it is incorporated, and begin drafting Authority bylaws.

Mr. Daubert asked how the committee would be organized. Mr. Fontaine replied that the committee would select its own chair.

Mr. Kern moved to approve Resolution 918 to establish the temporary committee. Mr. Humphrey seconded the motion. The motion passed with a 7-0-0 vote.

Ordinance Amending the Property Regulatory Ordinances in Order to Grant Enforcement Powers to Authorized Employees. Mr. Fontaine noted that at the October 3, 2006, meeting, Council approved an ordinance allowing ordinance enforcement officers to enforce portions of the property maintenance code. Because that ordinance did not cover all of the responsibilities to be assigned to ordinance enforcement officers, an additional ordinance has been proposed which would allow authorized employees to enforce selected ordinances that impact the maintenance of properties. This would reduce the fragmentation that currently exists in the Borough's compliance approach to enforcement.

Mr. Kern moved to enact Ordinance 1852. Mr. Humphrey seconded the motion, which passed with a 7-0-0 vote.

PLANNING AND COMMUNITY DEVELOPMENT

Zoning Ordinance Amendment to Change the Building Lot Width Ratio and Lot Coverage Rules. Mr. Fontaine said Council received this proposed ordinance at their meeting of September 5 and held a public hearing on October 3, where Council instructed staff to publish their notice of intent to enact. The ordinance regulates building width only when lots are

combined into larger holdings exceeding 135 feet in width. The width ratio for dwelling and non-dwellings alike is set at .6 of a given lot's width. The proposed amendment also sets building coverage at 30% for lots up to 15,000 S.F. and reduces coverage to 20% for lots sized 25,000 S.F. or larger using a regression formula to determine building coverage for lots between 15,000 and 25,000 square feet. The proposed rule is uniform for both dwelling and non-dwellings whereas current rules allow more coverage on larger sized lots for dwellings (30%) than for non-dwellings (20%).

Mr. Kern moved to enact Ordinance 1853. Mr. Daubert seconded the motion. The motion passed with a 7-0-0 vote.

Zoning Ordinance Amendment to Define Open Space and Recreational Structures. Mr. Fountaine reminded Council that, back in April, Council adopted Ordinance 1841 which established minimum open space requirements in all zoning districts as a percentage of any given lot's area. However, the Zoning Ordinance did not provide a uniform statement of what is meant by open space, and Council's April action was taken with the understanding that the Planning Commission would subsequently create a definition to make clear what is being regulated. The proposed ordinance does so by creating a definition for open space and also for recreational structures and areas, and by deleting existing open space descriptions wherever they appear in district regulations.

Mr. Fountaine said the amendment was received on September 5 and discussion was held at the September 11 work session. At the public hearing held on October 3, 2006, Council directed staff to publish their Notice of Intent to Enact the ordinance.

Ms. Goreham asked how the open space definition would change for R1 and R2 properties. Mr. Slaybaugh explained, with this ordinance, the definition would not change. Open space in the R1 and R2 would need to be 50 percent of the lot; 75 percent of that open space would need to be grass or pervious area and 25 percent could be recreational in nature, which could be impervious.

Mr. Filippelli moved to enact Ordinance 1854 to define open space and recreational structures. Mr. Kern seconded the motion, which passed with a 7-0-0 vote.

Subdivision Plan for 1269-1271 University Drive. Mr. Fountaine said that Council is being asked to approve a minor subdivision plan for 1269-1271 University Drive. The land owner, Phoebe Varenilli, proposes to subdivide the lot so that a single-family home can be built on the new lot. The property is zoned R-1 which only permits single-family homes. The Planning Commission reviewed the plan and recommended conditional approval based on the applicant posting surety in the amount \$4,500, which is large enough to cover the cost of closing the southern curb cut and reducing the driveway coverage to 9.6 percent. Since the lot could be quickly sold after approval, posting surety is important so that a new owner is not responsible for this cost and the Borough can do the work in the event that the subdivider defaults. Approval should also be conditioned on the applicant generating new deeds for the lots and that they be recorded concurrently with the subdivision plan.

Mr. Humphrey asked if the proposed subdivided lot had been sold. Mr. Slaybaugh indicated he did not know. Chad Stafford, from PennTerra Engineering representing the property owner, indicated the lot had not been sold. It was being subdivided for future sale. Mr. Humphrey asked if the owner was a resident of State College. Mr. Stafford indicated the owner was from out of state and has been operating the existing house as a rental.

Mr. Kern asked how the lot width ratio and lot coverage ordinance passed previously in the meeting would affect this property. Mr. Slaybaugh explained that it would not be subject to the ordinance because if the lot width was less than 135 feet. Mr. Hess indicated the lot width of the proposed subdivided lot would be about 120 feet. Ms. Goreham asked if there were minimum lot width requirements. Mr. Slaybaugh indicated the minimum lot width was 80 feet, which is less than the lot width provided.

Mr. Hahn moved to approve the subdivision with the following conditions:

- Applicant must post surety in the amount \$4,500, to cover the cost of closing the southern curb cut and reducing the driveway coverage to 9.6 percent; and
- Applicant must generate new deeds for the lots and that they be recorded concurrently with the subdivision plan.

Mr. Humphrey seconded the motion. The vote was 6-1-0, with Mr. Kern opposed. The motion passed.

2007 Historic Resources Commission Work Program. Mr. Fountaine indicated Council was presented with the 2007 Historic Resources Commission work program at their meeting of October 9. Council is being asked to approve the plan at this time.

There being no discussion about the plan, Mr. Hahn moved and Mr. Humphrey seconded a motion to approve the work program. The motion passed unanimously.

Core Communities Housing Program Funding. Mr. Fontaine said that Council is being asked to enact a resolution authorizing the submission of an application for \$96,776 for funding through the Pennsylvania Department of Community and Economic Development's Core Communities Housing Program to acquire and rehabilitate homes for middle-income households. Funds already budgeted are available to meet the 50 percent match requirement of the grant. In addition to expanding the level of funding available, staff is recommending the Borough enter into a contract for services with one or both of the Community Housing Development Organizations (CHDOs) to purchase and rehabilitate homes and then sell the rehabilitated homes to qualified middle-income homebuyers. The local CHDOs are the State College Community Land Trust and the Temporary Housing Foundations, Inc.

Mr. Humphrey asked if these funds would be used specifically for housing in the Borough. Mr. Fontaine replied that it would. Mr. Humphrey asked that a statement be added indicating that it would be used for properties "in the State College Borough." Mr. Fontaine noted that according to the funding, applicants would be limited to purchasing property in the Borough.

Mr. Daubert noted there were several different programs and funding streams for housing programs operated by the Borough of State College. He asked staff to prepare a one-page summary on where the money for each program is being spent. Mr. Hess indicated a presentation had been made to Council on the housing programs with a one-page summary through the end of 2005. He said he would prepare a similar table for Council ending in 2006.

Mr. Humphrey asked if this was the first time state funding would be used for this type of program. Mr. Hess noted there were funds used in the mid-90s, but this would be the first state funding since that time. He explained that the funding for this program would apply to medium income families. Currently, the federal funding for similar programs is used to assist low income families. This would allow the Borough to assist a greater number of people.

Ms. Goreham indicated that she was pleased the expertise of the CHDOs would be used for the program. This would alleviate some staff time necessary to operate the program.

Mr. Humphrey moved to approve Resolution 919 authorizing the application for funding and authorizing staff to prepare an agreement with one or both of the CHDOs to administer these funds on behalf of the Borough. Mr. Hahn seconded the motion. The motion passed with a 7-0-0 vote.

Urban Village Revitalization Plan Steering Committee Charge. Mr. Fontaine indicated that staff prepared a draft charge for the Urban Village Revitalization Plan Steering Committee, which would work with the consultants from Delta/EDSA on the preparation of the Revitalization Plan for the Urban Village area.

Mr. Daubert noted that staff did a good job in putting the charge together. He hoped that there would be a schedule of meetings soon. Mr. Fontaine believed that a schedule would be submitted to Council by the consultants at the work session of October 20.

Mr. Kern moved to approve the steering committee charge. Mr. Humphrey seconded the motion, which passed unanimously.

Zoning Ordinance Amendment to Modify the Mixed Use Overlay District. Mr. Fontaine said that Council requested a memo be sent to the Planning Commission guiding their discussion on the revisions of the Mixed Use Overlay. Staff has provided a draft memo addressing Council's concerns with the proposed ordinance and providing direction for the Planning Commission. Mr. Fontaine noted that, at the request of Michael Black, Council also received a detailed background on the building size, parking requirements and number of employees for his business located at 700 East Beaver Avenue.

Council discussed the information provided by Mr. Black. Mr. Kern said he would like the Planning Commission to be aware that the changes proposed to the mixed use overlay would change more than just Mr. Black's property. There are three different neighborhoods that would be affected by this ordinance.

Council also discussed the number of employees to be permitted. Mr. Daubert noted that a majority believed that there should be a limit on the number of employees.

Michael Black, 726 N. Allen Street, made several comments about his existing structure and noted that if he had built an office on each of the four individual lots before they were consolidated, he could have 8 employees in each building with a total 32 employees. The footprint of his building was less than 20 percent of the lot and he had supplied five times the required amount of landscaping. Council discussed the parking permitted by the ordinance and Mr. Black reminded them that he could have paved over the front of his lot with 5 spaces, which would have detracted from the green space. He also commented that Council was restricting the business community. He said the neighborhood would do better with a business that takes care of their property rather than a rental structure.

Mr. Hahn reminded Mr. Black that Council had been discussing this for several months and, although there were several points in mixed use overlay that needed to be changed, the proposed ordinance as presented included some points that could not be changed without sending the entire ordinance back to the Planning Commission.

Mr. Humphrey moved to approve the memo be sent to the Planning Commission. Mr. Kern seconded the motion. The motion passed with at 7-0-0 vote.

PUBLIC WORKS

Resolution Authorizing the Borough Solicitor to File a Declaration of Taking. Mr. Fountaine explained, as part of the Borough's storm sewer construction project along Westerly Parkway, a portion of the storm sewer must be constructed from the sinkhole on Saxton Drive to Westerly Parkway, which means crossing private lands. There is an existing 10 foot easement, but the width is insufficient for both the existing pipe (which remains) and the proposed pipe. During design, staff met with the property owners, explained the project and requested an easement. To date, all but one easement has been executed. It should be noted that the requested easement is situated along the rear property line and outside of the building setback. Because the storm sewer cannot be constructed without the easement, it is necessary for the Borough's Solicitor to be authorized and directed to prepare and file with the Court of Common Pleas of Centre County a Declaration of Taking. While staff is hopeful that an agreement can be reached with the property owner without condemnation, this action is being taken so that the contractor is not delayed with construction.

Mr. Kern moved to approve Resolution 920 authorizing and directing the Borough's Solicitor to prepare and file with the Court of Common Pleas of Centre County a Declaration of Taking. Mr. Hahn seconded the motion. The motion passed with a 7-0-0 vote.

OTHER REPORTS AND CORRESPONDENCE

President's Report. Ms. Dauler announced an executive session held on October 9 to discuss litigation and personal matters. She added that there would be an executive session following tonight's meeting to discuss litigation.

Mr. Daubert reminded the public that Council would have an informational meeting on October 24 for residents interested in serving on an ABC in 2007 or anyone interested in running for Council in 2007.

Report from Health Department on Enforcement Activities. Mr. Fountaine noted the third quarter report of enforcement activities for the Health Department was attached to the agenda and asked if Council had any questions about the report.

Mr. Daubert asked if property owners were being fined for not returning their recycling bins following the day of pick up. He had noticed that some bins were left by the curb all the time. Mr. Henry indicated the tenants or property owners were advised to remove the recycling bin from the curb. If the recycling bin continued to be left at the curb, a violation was issued. Mr. Daubert noted that there were some rental properties in the 200 block of Bradley Avenue where tenants were leaving the bins by the curb. Mr. Henry indicated that he would have enforcement staff follow up; if a violation was occurring, the tenants would be fined \$10.00.

Council discussed the point accumulation for rental properties. Mr. Henry noted that there were two properties that were being closely watched as they were nearing the permit suspension process. One rental license has been suspended at 211 Adams Avenue for a property owned by Daniel Haskins. Mr. Haskins owns a number of other properties. Currently the house at 211 Adams Avenue is being occupied by his son and is no longer a rental. The other two properties nearing the total accumulation of points to warrant a rental housing permit revocation are fraternities. Mr. Hahn asked if a landlord could avoid revocation of the rental housing permit if remedial steps were taken. Mr. Henry noted that several remedial actions could be taken including eviction of culpable tenants. The active approach by a landlord is taken into consideration when considering revocation.

There being no further business, Council adjourned the meeting into an executive session at 9:47 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary