

Meeting Minutes
State College Borough Council
November 20, 2006

The State College Borough Council met in a regular meeting on Monday, November 20, 2006, in the State College Municipal Building Council Room, 243 South Allen Street, State College, PA. Mr. 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: Terry J. Williams, Borough Solicitor; Thomas S. Kurtz, Assistant Manager; Carl R. Hess, Community Development/Planning Director; Herman L. Slaybaugh, Zoning Officer/Planner; Michael S. Groff, Finance Director; Thomas R. King, Chief of Police; Amy J. Story, Borough Engineer; Mark A. Whitfield, Director of Public Works; Ernest C. Dabiero, Director of Purchasing; Cynthia S. Hanscom, Recording Secretary; members of the media; and other interested observers.

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

Public Hour - Hearing of Citizens

Mr. Whitfield noted that members of Boy Scout Troop 83 were in attendance at tonight's meeting as part of their Citizenship in the Community requirements. They would be meeting with the Mayor following the meeting to discuss the local government process.

John Cahir, chair of the Planning Commission, distributed a memo asking that a letter be sent to the School District on the proposed modular building proposed for Radio Park Elementary School. Although the proposal meets all the zoning guidelines, the Commission was concerned with the precedent this was setting in regards to aesthetics and the health and safety of the school children. The modular classroom would have limited windows and natural light to provide for the art classes that are proposed for the use of the structure. He said they were asking that a letter be sent questioning the suitability of the proposal.

Council discussed the length of time that the modular classroom would be at this location. Mr. Slaybaugh noted that from the information presented by the architect, it could be five to ten years. The proposal was to complete a comprehensive renovation of the school sometime in the future.

Mr. Welch asked if there were similar structures at other schools. Mr. Slaybaugh noted that there was already one at the Radio Park School and another at the Corl Street School.

Council discussed the use of the room, which would be for art and music. Currently, there is not room in the school designated for art and music. Carts with the needed supplies and equipment are wheeled from classroom to classroom.

Ms. Dauler asked how many of the modular classrooms could be installed at the Radio Park School. Mr. Slaybaugh said that modular classrooms could be constructed up to the point that open space limitations or parking limitations restrict further development.

Mr. Kern noted that this was a legal building that fits the needs of the school and follows the guidelines of our ordinance. He did not know what could be said to the school district other than the building should be more aesthetically pleasing. Mr. Filippelli suggested that School District could be urged to make it as temporary as possible.

Mr. Hahn noted that, although he was sympathetic with the concerns of the Commission members, it would be best for letters to be sent from private citizens. In essence, if the Borough sent a letter, it would be a complaint about our own Zoning Ordinance.

Mr. Kern moved that a letter not be sent to the School District on this matter. Mr. Daubert seconded the motion. The motion passed with a 5-2-0 vote with Ms. Dauler and Mr. Filippelli opposed.

Mr. Welch asked if there were other comments from the public. There being none, Mr. Welch closed the public hour.

Consent Items. Mr. Hahn moved and Mr. Kern seconded a motion to approve the following consent items. The motion passed with a 7-0-0 vote.

- Approve the Use of the Municipal Building plaza and lobby by the Chabad of Penn State for the lighting of the Menorah on Sunday, December 17, 2006 from 4:00 to 6:00 p.m.
- Approve the 2007 Council meeting schedule
- Approve the use of various streets and sidewalks in the Borough for a 5K Walk/Race from Delta Sigma Phi Fraternity to benefit the Centre Communities Chapter of the American Red Cross on Sunday, December 2, 2006, from 8:30 a.m. to 2:00 p.m.
- Approve the use of Allen Street, Allen Street parking lot, the Municipal Building plaza and various sidewalks in the Borough for the annual "Cure Autism Now Foundation" 5K Race/3K Walk on Saturday, April 14, 2007, from 6:00 a.m. to 4:00 p.m.
- Approve vouchers for the month of October 2006 for the Borough in the amount of \$2,936,757.48 and, as agents for the Centre Region Council of Governments, in the amount of \$609,063.35.

Minutes. Mr. Hahn move to approve the following sets of minutes with the following corrections:

- October 3, 2006, regular meeting, page 127, last paragraph, 5th sentence, changed to read, "Also, although he supported the update of business uses proposed and the flexibility in meeting parking requirements, it should not be done at the expense of the home owners."
- October 9, 2006, special meeting, no changes.
- October 9, 2006, work session, page 136, 9th paragraph, 5th sentence, changed to read, "Mr. Hahn said his last point was that he did not mind flexibility with regard to parking as long the parking does not go into lower density residential districts."
- October 16, 2006, regular meeting, no changes.
- October 20, 2006, work session, no changes.

Ms. Dauler seconded the motion, which passed with a 7-0-0 vote.

Work Programs. Ms. Dauler moved to approve the 2007 Design Review Board and Tree Commission work programs as received on November 13, 2006, and the 2007 Planning Commission and Transportation Commission work programs as received on November 17, 2006. Mr. Hahn seconded the motion.

Mr. Daubert asked to be assured that the changes that were submitted to Council on November 17 would be included in the Transportation Commission work program. Mr. Kurtz noted that the recommendation was to approve the Transportation Commission work program as received on November 17.

The motion to approve the work programs was unanimously approved.

GENERAL POLICY AND ADMINISTRATION

Renewal of Downtown State College Improvement District. Mr. Kurtz reminded Council that the Downtown State College Neighborhood Improvement District (DID) was established in 2002. Both the Ordinance and the Plan provided for its automatic sunset after a 5-year period, on December 31, 2006. On August 21, 2006, Council received the report on the Downtown Improvement District's first five years of operation and the proposal to extend the DID for an additional fifteen years. Council held a public hearing on September 5. Three people spoke in favor of the renewal; none spoke in opposition. The renewal plan was reviewed by Council at the work session on September 29 and was approved by Council at the October 3 meeting.

Mr. Kurtz explained, beginning with the September 5 public hearing, owners of property within the DID had 45 days to object to the renewal of the DID. Each property owner received a direct mailing about the proposed renewal and the process for filing an objection. At the October 20 meeting Council received a preliminary report that the owners of 7 properties (out of 386 total properties in the DID) had objected to the renewal. He reported there were no more objections received following the October 20 meeting.

Mr. Kurtz said that the remaining steps for renewal of the DID are (1) enactment of an ordinance and (2) approval of an updated management agreement with the DID. The proposed ordinance simply amends the original DID ordinance (1694) to change the sunset date from December 31, 2006, to December 31, 2021, a 15-year extension as provided in the plan approved by Council on October 3. The updated management agreement has no substantive revisions. It has been revised in a number of places to clarify language and reflect current practice, he noted.

Mr. Humphrey moved to approve Ordinance 1855 and the management agreement and authorize the President of Council to sign the agreement on behalf of the Borough. Ms. Dauler seconded the motion, which passed with a 7-0-0 vote.

Electronic Bidding Ordinance. Mr. Kurtz said that on July 1, 2006, the Pennsylvania House of Representatives and the Senate passed House Bill 2441, the Local Government Unit Electronic Bidding Act, allowing local governments to authorize the electronic submission of bids, in addition to the traditional written, sealed bid, as long as the local government has the capability to maintain the confidentiality of the bid until bid opening time. The Act also allows local governments to use competitive electronic auction bidding processes, such as reverse auctions, to purchase supplies or services, with the exception of purchases for construction or design professional services. Reverse auctions differ from the traditional "sealed bid" process. A reverse auction is an Internet-based competitive bidding process where vendors submit bids electronically, learn where they rank with respect to their competition, and have the opportunity to lower their bids to win the business. Reverse auctions are dynamic in nature, and can help governments save dramatically on their purchases.

Mr. Kurtz said that Council will still be required to award the bid for a reverse auction purchase exceeding the Borough's \$25,000 formal bid limit, just as they are required to approve the more traditional paper bids in excess of this amount.

Mr. Daubert asked for an example of this process. He also said that advancing the bid limit from \$10,000 to \$25,000 did not remove Council's right to approve anything over \$10,000. Mr. Dabiero provided the example of a reverse auction in the purchase of police vehicles. Bidders submit bids online and can see where they rank in the bidding list. Vendors can revise their bids during the process to be able to "underbid" other bidders. Mr. Dabiero indicated that anything over \$25,000 is required to go before Council. The Purchasing Ordinance requires that anything over \$100 must be competitively bid but it could be done over the phone. Mr. Kurtz noted that, as an example, the Borough had used the online reverse auction process for bond purchases. Mr. Daubert asked if something for \$20,000 would come before Council. Mr. Dabiero stated that it would not come before Council but have to be approved as part of the budget process.

Mr. Hahn moved and Mr. Kern seconded a motion to approve Ordinance 1856 allowing electronic bidding. The motion passed with a 7-0-0 vote.

Extend Cable Franchise Agreement. Mr. Kurtz said a resolution has been prepared to extend the franchise agreement with Comcast Communications for six months while negotiations to renew the agreement continue. If approved, the agreement will expire on June 30, 2007.

Ms. Goreham asked why it was necessary to extend the agreement. Mr. Kurtz explained the franchise provides for an automatic renewal subject to continuing conditions. However, it is best to formally extend the existing franchise agreement rather than an informal extension; this helps to maintain a working deadline. Ms. Goreham asked if the Cable Consortium had met recently. Mr. Kurtz replied that it had not met for a couple of months. There was a subcommittee working on the review of the master regulatory ordinance.

Mr. Filippelli asked the status of proposed state and local legislation that could limit the local municipality control of the franchise. Mr. Kurtz replied that the proposed federal and state legislation appeared to be "dead" but it could come up again next year. In the interim the municipalities continue to work on the franchise agreement.

Ms. Dauler moved to approve Resolution 924 to extend the cable franchise agreement to June 30, 2007. Ms. Goreham seconded the motion. The vote passed with a 6-1-0 vote, with Mr. Hahn opposed.

PLANNING AND COMMUNITY DEVELOPMENT

State College Area School District Conditional Use Request to Reduce Parking. Mr. Hahn noted that he had submitted a letter indicating his law firm's representation of clients with interest in the high school renovation project and would, therefore, be abstaining from the vote and excusing himself from the table for any discussion of this item.

Mr. Kurtz reminded Council that on November 6 Council held a hearing on a conditional use application received from the State College Area School District. The hearing was lead by Attorney Al Jones who sat as the Hearing Officer. Testimony and exhibits presented at the hearing constitute the entire record on which Council must base its decision. He explained the application seeks permission to reduce required parking incidental to expansion and renovation of the high school (north building) by 386 spaces, a 40.1% reduction. The zoning ordinance requires 962 parking spaces to be provided, but further includes a conditional use provision that allows up to a 50% reduction in the required parking provided certain conditions are met by the applicant.

Mr. Kurtz indicated that the hearing is closed and no additional testimony can be received. Council met at a work session on November 17 to discuss the following questions:

- Does the application show that the north site is large enough to support all of the required parking (962 spaces)?
- Does the application show that the area that otherwise would have been used for parking will be maintained as contiguous planted open space?

- o Has the school district represented it will enter into a written agreement specifying that if the planted open space is converted to parking in the future it shall comply with the provisions of Part H of the zoning ordinance?
- o Is the amount of parking reduction sought 50% or less than the total parking required for the north site?

A written decision has been prepared by the hearing office for consideration by Council. A decision on the application must be made by December 21 (within 45 days of the hearing).

Mr. Welch asked the decision be read into the record. Mr. Kurtz read the following:

State College Area School District owns property, being a 39 acre tract at 653 Westerly Parkway, in the Borough of State College, Tax Parcel No. 36-017-, 150-, 0000-. The District has submitted plans to the Borough for development of its property. The Borough Zoning Ordinance, in pertinent part, contains a formula which determines the number of automobile parking spaces a property owner must construct concomitant with development of such property. Borough Zoning Ordinance Chapter IXX, §2403.b further provides for a reduction in the required parking by application for a conditional use permit to decrease the otherwise required parking spaces.

The State College Area School District thereafter filed an Application for a Conditional Use Permit seeking a decrease in the required parking. A public hearing was scheduled, properly advertised and held on November 6, 2006, before State College Borough Council.

Testimony was given by the Applicant, State College Area School District, by the Borough Zoning Officer and by various State College Borough Citizens and property owners. Based on the testimony and the Exhibits offered during the public hearing, the State College Borough Council hereby determines as follows:

1. The property owner, State College Area School District, demonstrated that its property is sufficient to allow the construction and installation of 962 parking spaces, the number required by the Zoning Ordinance for the proposed development.
2. The Applicant submitted a revised plan with its Conditional Use Application evidencing the use of the area otherwise necessary for parking spaces as contiguous planted open space.
3. The Applicant offered into the record during the hearing a proposed written agreement providing that if the planted open space is ever converted to parking, the Applicant will comply with the provisions of Part H of the Borough Zoning Ordinance.
4. The Application for Conditional Use and the revised plan evidences that the parking reduction sought is less than fifty (50%) percent of the total parking otherwise required for the proposed development.
5. As a result of the foregoing factual determinations, State College Borough Council is satisfied that the requirements have been met for the issuance of a Conditional Use Permit to the State College Area School District permitting a reduction in parking from 962 spaces to a reduced parking space installation of 576 spaces. The granting of the conditional use is conditioned upon the execution and delivery to State College Borough of a written agreement satisfactory in all respects to the Borough and its solicitor with respect to conversion of planted open space in compliance with the provisions of Part H of the Zoning Ordinance.

Mr. Humphrey moved to approve the written decision granting the conditional use. Mr. Daubert seconded the motion. Ms. Goreham noted that reference to the Zoning Ordinance in the first paragraph should read Chapter XIX rather than Chapter IXX. The vote on the motion with the correction was as follows:

Mr. Filippelli – yes
 Ms. Goreham – yes
 Mr. Daubert – yes
 Ms. Dauler – yes
 Mr. Kern – yes
 Mr. Humphrey – yes
 Mr. Hahn – abstention

The motion passed with a 6-0-1 vote.

PUBLIC WORKS

Increase 2007 Sewer Tapping Fees. Mr. Kurtz noted that the University Area Joint Authority (UAJA) will be increasing their sewer tapping fee, effective January 1, 2007. The total tapping fee is comprised of both the Borough's portion and the UAJA's portion. The Borough collects the entire fee and forwards the appropriate portion to the UAJA. The UAJA is increasing their tapping fee from \$3,534 to \$3,682 per connection for residential uses and from \$15.15 to \$15.79 times

the projected use measured in gallons per day for non-residential uses. In accordance with the Borough's agreement with UAJA, this tapping fee increase is to be incorporated into the total fee collected by the Borough. Council is requested to enact an ordinance to increase the total tapping fees accordingly.

Mr. Daubert questioned the need for the increase in their portion of the tapping fee. Mr. Whitfield explained that the Borough entered into an agreement with the UAJA to pass along their portion of the fee. He noted that this would only apply to new connections and would not affect existing connections.

Mr. Hahn moved to enact Ordinance 1857 to increase sewer tapping fees. Mr. Kern seconded the motion, which passed with a 7-0-0 vote.

Renaming a Portion of Harley Alley to Shade Way. Mr. Kurtz said that with the death of Thomas Shade, Jr., the Borough's unofficial "greeter," Council requested that an alley in the vicinity of Mr. Shade's residence be renamed in his honor. Staff researched the alleys in and around the 700 Block of West Beaver and determined that the existing alley to the rear of Mr. Shade's residence between Sparks Street and Patterson Street was suitable for this honor.

Mr. Kern moved to enact Ordinance 1858 to rename a portion of Harley Allen to Shade Way. Mr. Hahn seconded the motion, which passed unanimously.

Mr. Humphrey asked if there would be a plaque installed to commemorate the renaming. Mr. Welch noted that there was not way of installing a plaque in the alleyway. Council discussed other streets that had been named in honor of an event or individual. Mr. Welch asked that staff explore avenues available to prepare a compilation of the history of the naming of the streets in the Borough so that it can be preserved for future generations.

OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch reported on the University/Borough Liaison meeting held on November 7, 2006. He noted the aim of the group is to strengthen town/gown relations and share information. A variety of subjects was discussed such as the status of the Smith property located in the 100 block of North Atherton Street, the bus station relocation, enrollment projections, fan behavior, and community and neighborhood issues. He noted that Council received an update on the status of the law school and the HUB lawn stage project.

President's Report. Ms. Dauler reported an executive session was held on November 13 to discuss personnel matters and possible litigation.

Regional Liaison Reports. Ms. Goreham and Mr. Kern reported on the activities of the State College Area Plan subcommittee. Ms. Goreham said in May and June the committee worked on the study area boundaries. Mr. Kern noted the area is the urban State College which encompassed the Borough and the areas adjacent to the Borough.

Ms. Gorham said there were over 100 challenges and opportunities listed by the committee. From that eight big ideas were developed, which included underutilized shopping centers, gateways and corridors, inter-connected greenway, town and gown integration, environmental protection, neighborhood commercial opportunities, transitional zones, and maintaining existing stable neighborhoods. Ms. Goreham noted that she hoped that affordable housing would be incorporated into this list. Mr. Kern reported that the meetings have included guest speakers to talk about on-going projects such as the urban village and redevelopment authority. In this way the plan would include the goals of other groups currently working on projects.

Items of Information. Mr. Daubert noted that he had attended a Pennsylvania League of Cities and Municipalities (PLCM) Board meeting and reported that a study is being done within the state system of education that will include public universities and their affect on the communities. Also, the chief lobbyist for the PLCM reported the legislature will finish up for the year on November 22 and he did not expect to see the Governor's veto of the Local Services Tax (formerly the Emergency and Municipal Services Tax) overturned by the state legislature.

Mr. Humphrey reported he had been contacted by a resident interested in preserving the white birch tree located on the property of the old municipal building at 118 South Fraser Street. The tree is located at the corner of Fraser Street and Calder Alley. Mr. Whitfield said the tree was located on the property that would be passed on to Susquehanna Development. Council members said this should be discussed with Teresa Sparacino, Executive Director of the Downtown State College Improvement District.

There being no further business, the meeting adjourned at 8:37 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary