

**Meeting Minutes**  
**State College Borough Council**  
**April 2, 2007**

The State College Borough Council met in a regular meeting on Monday, April 2, 2007, 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 Williams, Borough Solicitor; Thomas J. Fountaine, II, Borough Manager; Thomas S. Kurtz, Assistant Manager; Carl R. Hess, Planning Director; Herman L. Slaybaugh, Zoning Officer/Planner; Michael S. Groff, Finance Director; Amy J. Story, Borough Engineer; Mark A. Whitfield, Director of Public Works; Thomas R. King, Chief of Police; Mark S. Henry, Health Officer; Cynthia S. Hanscom, Recording 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

Yuqing Gao, 2007 Greek Week Community Relations Overall Chair, gave a brief presentation highlighting the main objectives of Greek Week and emphasizing their desire for community involvement. She noted the main goal is "to realize our prior achievements and continue to build upon our foundation by showcasing a successful, flourishing Greek community. With high participation and enthusiasm our innovative events and programming will engage and foster a sense of community and pride among Penn State Greeks." She reviewed several of the activities planned, including the House Tours event on April 16 and the AIDS Walk on April 22.

Regis Kinjera, a resident of Parkway Plaza, invited Council and the public to help with or attend the Workers Memorial celebration at Central Parklet on April 21 at 6:00 p.m. He noted this was the observance of those people who died on the job. This year 50,000 people have died because of job related injuries and diseases from chemical conditions.

CONSENT ITEMS

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

- Special activity to conduct the Chariot Races for Penn State Greek Week on Friday, April 20, 2007, on East Fairmount Avenue from Fraternity Row to Locust Lane between 1:30 p.m. and 4:00 p.m., conditioned that access to Centre Eye Associates is maintained from East Fairmount Avenue until 3:00 p.m.
- Special activity to use various sidewalks in the Borough for the Take Back the Night March/Rally on Wednesday, April 18, 2007, from 6:00 p.m. to 8:30 p.m.
- Special activity to use various sidewalks in the Borough to conduct the AIDS Walk to benefit The AIDS Project, on Sunday, April 22, 2007, from 10:00 a.m. to 3:00 p.m.

Council reviewed the following minutes for February 2007.

February 2, 2007	Work Session
February 5, 2007	Regular Meeting
February 12, 2007	Work Session
February 20, 2007	Regular Meeting
February 23, 2007	Work Session

Mr. Hahn moved to approve the minutes with a change in the minutes of February 12, Page 203, 7<sup>th</sup> paragraph, third sentence to read: "He felt such inconsistency makes the zoning ordinance less reader friendly." Ms. Dauler seconded the motion, which passed with a 7-0-0 vote.

## GENERAL POLICY AND ADMINISTRATION

**Graffiti Ordinance.** Mr. Fontaine noted that Council is asked to enact an ordinance to require property owners and occupants of private property to remove graffiti on their property. This ordinance was received on February 5 and discussed at a work session on February 23. Based on Council discussions, the ordinance has been revised to provide a 30-day notice during the warm part of the year (March 16 through October 15) and a 90-day notice during the cold season (October 16 through March 15) instead of the original 14-day notice provided in the previous version.

Mr. Filippelli noted he was not present for the discussion on this item at the work session. He believed that this ordinance was a solution in search of a problem. Most people whose properties are defaced are the victims and want to remove the graffiti as soon as possible. He did not believe the ordinance was necessary. Mr. Daubert agreed with Mr. Filippelli and said he could not support an ordinance that penalizes the victim. Mr. Kern said he believed the ordinance was searching for a problem that does not exist. There have been only a few problems, mostly on dumpsters. He felt the ordinance was onerous for the property owners.

Mr. Hahn said he saw this ordinance as a way of getting ahead of the problem. The additional time provided by creating seasons was an improvement over previous versions.

Mr. Humphrey said he did not believe the Borough was searching for a problem. He could understand that this ordinance appeared to be blaming the victim but graffiti is a community problem. It may not be as dramatic now but felt the ordinance would get ahead of the problem.

Ms. Goreham supported the ordinance. She had received several e-mails and all were in favor of the ordinance.

Ms. Dauler said the ordinance appeared to be reasonable. Staff has spent considerable time doing research and comparing our situation to other communities. Although it appears that this is punishing the victim, the same could be said for making property owners responsible for vehicle parked on front lawns or returning trash cans from the curb. This ordinance is clear and understandable so that everyone in the community will know where to turn if there is resistance to cleaning up the problem.

Mr. Daubert asked the effective date and what department would enforce the ordinance. Mr. Fontaine said the ordinance would be effective immediately and would be enforced by ordinance enforcement personnel. Mr. Daubert said the \$600 fine seemed ridiculously high. Mr. Fontaine said the fine is according to state law and is set at the discretion of the magistrate if it becomes necessary to issue citation.

Mr. Filippelli asked the rationale for setting different time frames for clean-up of the graffiti. Mr. Fontaine explained that Council had expressed concern that clean up may take additional time during the winter months because of freezing temperatures. Mr. Filippelli believed that more citizens would go away for the summer months and could be away for longer periods of time.

Ms. Dauler moved to enact Ordinance 1869 to adopt the Graffiti ordinance. Ms. Goreham seconded the motion. The vote was 4-3-0 with Mr. Kern, Mr. Daubert and Mr. Filippelli opposed; the motion passed.

**Ordinance to Conduct the 2007 Central Pennsylvania Festival of the Arts.** Mr. Fontaine informed Council that Rick Bryant, Executive Director for the Central Pennsylvania Festival of the Arts, submitted a request to permit the 2007 Arts Festival. The Festival will occupy the same area as in previous years and will begin with Children & Youth day on July 11 and end with the sidewalk sales of arts and crafts on July 15. To enable the Festival to take place in a controlled environment, an ordinance is enacted each year to designate the time and place for the Festival and to suspend certain other activities designated by ordinance.

Mr. Daubert requested the statement that indicated the Festival would need to approve of any events in the Municipal Building be removed. He commented that the Borough should be allowed to have anything they want in the building. Ms. Dauler noted that this statement has been in place for several years and objections by other Council members had not been made.

Mr. Filippelli noted that he would abstain from voting on this ordinance because of his conflict of interest as a board member of the Central Pennsylvania Festival of the Arts.

Ms. Dauler moved and Mr. Hahn seconded a motion to enact Ordinance 1870 to allow the 2007 Arts Festival to be held. The vote on the motion was 6-0-1, with Mr. Filippelli abstaining.

## PLANNING AND ZONING

**Comments on the Sale of 118 South Fraser Street and the Realignment of South Fraser Street.** Mr. Fontaine noted that Section 303 of the PA Municipalities Planning Code requires that the Planning Commission be afforded the opportunity to review and make a recommendation on any proposed action by the governing body that includes, among other items, the widening of

any street and the demolition, removal or sale of any public structure. The proposed sale of property in the 100 block of South Fraser Street owned by the municipality and the realignment of this block of South Fraser Street was referred to the Centre County and Centre Regional Planning Commissions on February 14, 2007 and to the State College Planning Commission on February 7, 2007. Comments supporting the street realignment and sale of the old municipal building at 118 South Fraser Street were received from both the Centre Regional Planning Commission and the State College Planning Commission. Because of the agreement between the county and the Centre Regional Planning Commission to provide Act 247 services (which include comprehensive plan certification), no comment was received from the Centre County Planning Commission. Council is asked to receive the comments and authorize the Borough Manager and Solicitor to complete the agreement to convey the property to Downtown State College for the Fraser Centre Development.

Ms. Goreham asked when a traffic impact study would be done. Mr. Fontaine explained it was done when the Beaver Avenue garage study was completed. Mr. Hess noted that economic development agreement calls for the completion of a new study once the Beaver Avenue garage was complete. This will be done with the land development process. Since the Fraser Centre project will require conditional use approval, the plan will be coming before Council for approval. The traffic study will be the responsibility of developer and will be addressed within the next several months. Ms. Goreham asked if the transportation issues would be addressed before the land development plan is approved. Mr. Hess replied that once a transfer agreement is approved, a firmer timetable can be developed. Many of the transportation issues will need to be addressed prior to land development plan approval, he noted.

Mr. Hahn asked about the transfer agreement. Mr. Fontaine replied that details of the agreement had been completed by Council in executive session. Several drafts have been developed and a final version will be prepared to be approved on April 16.

Mr. Daubert moved to authorize the Manager and Solicitor to complete an agreement to convey the property, which would be approved by Council at a future meeting. Mr. Hahn seconded the motion. The motion passed unanimously.

**Zoning Amendment: Mixed Use Overlay.** Mr. Fontaine reminded Council that they had received the proposed amendment to the mixed use overlay regulations on February 5 and held a public hearing on March 5. At the hearing 14 people testified on the proposed amendment. Council took no action following the public hearing and, following discussion, directed staff to include the proposed amendment on a subsequent meeting agenda for further discussion. Council may authorize notice of intent to enact the ordinance at a future meeting, reject the amendment, or send comments back to the Planning Commission for further modification to the proposed amendment. Mr. Fontaine suggested Council discuss the ordinance and provide direction to staff on this matter. If Council decides to return the amendment to the Planning Commission, it should include specific guidance for the Commission to consider in preparing a new amendment.

Mr. Kern moved to publish Council Notice of Intent to Enact the ordinance for the May 7 meeting. Mr. Humphrey seconded the motion.

Mr. Hahn said he was in opposition to moving forward with the mixed use overlay as it was currently written. He said Mr. Black has done an excellent job in putting forward the mixed use overlay and making it successful. Although staff and the Planning Commission had done a good job of clarifying the specifics of the ordinance, he disagreed with the parking requirements. The requirements were out of scale with what is required in other parts of the zoning ordinance. According to the off street parking ordinance, there is one space required for 250 of square feet of use for medical uses and one space for 300 square feet of professional office use. The proposed mixed use overlay is requiring one space for 500 square feet of medical use and one space for 600 square feet of professional office use. He would prefer parking requirements in the proposed ordinance match those in other parts of the zoning ordinance.

Mr. Kern said that Council had studied this for more than six months and agreed that Mr. Black had done a good job of supporting this ordinance. He believed the concerns in regards to parking were a "red herring" and would not occur as predicted. The mixed use area was urban where public street parking is not used to its full extent. By requiring more parking, the rear yards would be paved over which creates storm water problems. The issue is to allow the rehabilitation of structures that would be a companion to both the abutting high density and nearby residential areas.

Ms. Goreham said she would oppose the adoption because she believed there needed to be more compromises. The preservation of stable neighborhoods and protection of the existing single-family homes are two key goals that need to be respected in this ordinance. She said she walked the western portion of the mixed use overlay district and found that there is no parking available on some streets. If minimal parking is provided on site, clients would find it difficult to find parking. Although comments had been made that the area is close to a parking garage, the Beaver Avenue garage is actually more than 1200 feet. Ms. Goreham also commented that the regulations for the Highway Transitional Use zone, which is along South Atherton Street, may

have language that could be incorporated into the mixed use overlay that would protect the residential character of the neighborhood.

Mr. Daubert stated that he, too, had walked the western mixed use overlay district. There were many single family homes, particularly in the 600 block, that were in very good repair. He said he would not want to see those homes converted to businesses.

Ms. Dauler said she believed that some Council members had concerns about the ordinance in its current form. She said she was not prepared to move ahead with the ordinance in its current form.

Mr. Filippelli said he was ready to move forward with the ordinance but believed that there could be minor changes to the ordinance. He agreed that the three areas of the mixed use district were different and that one solution may not be appropriate. He noted that some flexibility is needed for the property owner; if redevelopment is made so difficult, the property will decline.

Wesley Glebe, a resident of Ferguson Township, commented that there were parking concerns in relation to the mixed use overlay along Burrowes Street; he noted that the Beaver Avenue parking garage was within walking distance. He said he believed there was a misconception that public parking was too far away.

Mr. Daubert questioned why the ordinance would have to be returned to review by the Planning Commission if the West Beaver Avenue section was removed. Since the ordinance would be less restrictive, it should be acceptable to be enacted. Mr. Williams explained the state supreme court had changed the rules by setting precedential decisions that make it more difficult to modify an ordinance once it has been forwarded from the Planning Commission. He said he believed removing the properties along West Beaver Avenue would be a substantial change.

Michael Black, Allen Street, said he felt that Council was making this a personal issue. There had been an enormous amount of theatrics with this ordinance that were sensationalized. There are concerns about the scale when the base zoning would regulate the scale. Council is trying to over-regulate for businesses which he believed was moving in the wrong direction. The ordinance should be more encouraging for business to locate in these homes so that the structures can be maintained. The amendments have been recommended for approval by the Planning Commission and the staff at the Centre Regional Planning Commission. The residents, realtors and business owners had indicated their agreement with the proposal. He recommended that Council make a good decision and approve the amendments.

Council discussed the process and it was noted that advertising their intent to enact did not mean that the ordinance would have to be approved at a future meeting.

Mr. Filippelli proposed an amendment to the ordinance that would change the design criteria to require a six-foot view restrictive screen within one year. Currently the language does not specify when screening using plants must grow to the required height. Mr. Filippelli also suggested the screening should include alleyways. He asked if such an amendment would require the ordinance to be returned to the Planning Commission for review. Mr. Williams advised that type of change would not require the ordinance to be returned to the Planning Commission because it would not change the intent or direction of the ordinance. He cautioned that too many minor changes could accumulate to a change that could be challenged.

Mr. Hahn noted that the length of time this has taken is due to the amount of deliberation. Any amendments that were made at this time would only include advertising and review by the Planning Commission. With amendments the process could be expeditious to have an amended ordinance. He would prefer to have the amendments included so that it would result in approval of the ordinance. Mr. Fontaine agreed that if the expectation was to not approve the amendment at a future meeting, it would make more sense to forward comments now to the Planning Commission.

Ms. Goreham noted that Council had not had a substantive discussion on the amendments. She said she believed that she would be in favor of passing an ordinance with some amendments.

Mr. Kern noted that there was obviously some concern among Council members on the enactment of this ordinance; therefore, he asked to withdraw the motion. Mr. Welch noted that motions once made and seconded cannot be withdrawn.

The vote on the motion to advertise Council's intent to enact the amendment to the Mixed Use Overlay District Regulations passed with a 4-3-0 vote, with Mr. Hahn, Ms. Dauler, and Ms. Goreham opposed.

#### OFFICIAL REPORTS AND CORRESPONDENCE

**Mayor's Report.** Mr. Welch acknowledged the passing of Thomas Rogers, an author and teacher of English at Penn State University. He said Mr. Rogers was a good neighbor with a gift for gardening; his yard was always filled with flowers which were now springing into bloom.

**President's Report.** Mr. Fountaine reminded Council members that Wednesday, April 4, was the central district meeting of the Pennsylvania League of Cities and Municipalities held here in State College at the Nittany Lion Inn.

**Regional Liaison Reports.** Ms. Goreham said that she had attended the Centre County Solid Waste Authority meeting where the newly appointed Borough representative, Richard Stehouwer, was warmly welcomed. She reminded Council and members of the public that the Centre County electronics recycling event would be May 11 and 12.

**Staff/Committee Reports.** Mr. Fountaine noted that a memo was attached to the agenda from the Centre County Solid Waste Authority indicated the amount of the rebate for the Borough of State College. In accordance with Resolution 866, the residential portion of the rebate has been forwarded to fund the Household Hazardous Waste Collection. The commercial portion of the rebate was refunded to the Refuse fund.

Mr. Fountaine also announced that the Centre Region Schlow Memorial Library received an award from the Pennsylvania Library Association.

#### ITEMS OF INFORMATION

Mr. Daubert noted that there was a story in the Centre Daily Times on April 1 on the Borough raising parking rates. He was concerned that Borough staff had been releasing information to the press prior to informing Council. Mr. Fountaine noted that the story was not originated by Borough. He explained that staff continues to work on the business plan for parking. He added the parking fund had been performing better this year than in past years.

Mr. Daubert also commented that the COG agenda included a report on a plan by the Borough for meeting affordable housing needs. Mr. Fountaine explained the report given by Carl Hess, Director of Planning, to the COG General Forum was the same report that Council had received a few months ago. The Executive Committee decided that, since a presentation had been prepared, they asked that it be the first logical step in addressing affordable housing in the Centre Region.

There being no further business, meeting adjourned at 8:47 p.m.

Respectfully submitted,

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Cynthia S. Hanscom  
Assistant Borough Secretary