

Meeting Minutes
State College Borough Council
Regular Meeting
Monday, December 5, 2011

The State College Borough Council met on Monday, December 5, 2011, in the State College Municipal Building, 243 South Allen Street, Room 304, State College, PA. Mayor Goreham called the meeting to order at 7:30 p.m.

Present: Elizabeth A. Goreham, Mayor
Ronald L. Filippelli, President of Council
Thomas E. Daubert
Donald M. Hahn
Theresa D. Lafer
Silvi Lawrence
Peter Morris
James Rosenberger

Also present: Thomas J. Fountaine, II, Borough Manager; Terry J. Williams, Borough Solicitor; Carl Hess, Planning Director; Sharon K. Ergler, Assistant Borough Secretary; Anne Messner, Acting Zoning Officer; Mark A. Whitfield, Director of Public Works; Thomas R. King, Chief of Police; Roger A. Dunlap, Assistant Manager; Norma Crater, Accounting Supervisor; Charles DeBow, Parking Manager; Brendan McNally, UPUA Student Representative; Courtney Hayden, Grant & Communication Coordinator; Amy Story, Borough Engineer; Edward Holmes, Facilities Manager; Kate Doe, Neighborhood Services Coordinator; Michael S. Groff, Finance Director; and interested members of the media and concerned residents.

Public Hearings

Mayor Goreham opened the first of two public hearings at 7:35 p.m.

2012 Operating Budget – There was no one in the audience who wished to speak about the proposed 2012 Operating Budget.

Proposed Revisions to Student Home Zoning Regulations – Dr. Donna Queeney, 520 Ridge Avenue, spoke on behalf of the College Heights Neighborhood Association. She said she supports neighborhood preservation and the proposed amendment to increase the distance between student homes. Dr. Queeney expressed her concern about rental property owners who do not maintain their properties, which deteriorates the neighborhood. In turn, the tax base suffers with student rentals. She noted the proposed changes are only accomplished by enforcement efforts. Dr. Queeney commended Borough staff by making infractions easy to report. She said Borough staff doesn't know about the infractions unless residents report it.

A Councilman asked Dr. Queeney how often staff attends the College Heights Neighborhood Association meetings. Dr. Queeney said although the neighborhood association only has one official meeting a year, for the last four years there has been at least one staff member at every meeting held. She added that often times a staff member has been a speaker. The Borough Manager has come back two years in a row by popular demand.

Dr. Queeney was asked how often a staff member shows up to discuss the enforcement of ordinances and the three unrelated rule. She praised Borough staff. When questions arise, the Planning Director and the Acting Zoning Officer schedule a meeting and listen to resident's questions and then responds to them. She said most residents are not aware of the process they need to follow when filing a complaint. Dr. Queeney encouraged neighborhoods to report infractions to the Planning Office.

Mr. Jeffrey Hoeflich, 733 Holmes Street, said he is also in favor of extending the distance between student homes; however, he asked what stops a family from buying a home with their son and/or daughter and then inviting two friends to move in with them.

Acting Zoning Officer Anne Messner said that exception was removed from the Student Home Ordinance in December 2009. She noted properties that predate that exception can still be maintained in that way. A property owner can still rent their property to a family or a maximum of three unrelated people who are nonstudents.

Staff commented that enforcement occurs as soon as we are made aware of the violation but noted it does take time to investigate and prosecute violators through the Municipalities Planning Code.

Ms. Messner reported that over the past nine years, there have been 57 reports of potential violations. Of those reported, six were found to be unfounded, four were able to become registered as student homes and the remaining fifty were resolved. There are seven this year that are in process.

Mr. Brendan McNally, UPUA Student Representative, said the students' gut reaction is this is a way to keep students out of the neighborhoods. He said a better way to look at it is the Borough is built out and the best way to grow revenue is through earned income taxes, which is not generated by students but by residents. Mr. McNally urged students to not consider this as an attack on them. While it is nice for students to live in homes off campus, it is important to consider the financial health of the Borough as well.

Mayor Goreham closed the hearing at 8:01 p.m.

Mr. Filippelli made a motion to direct the Manager to prepare a notice of intent to enact the ordinance at Council's December 19 meeting. Ms. Lafer seconded the motion.

Council members commented that several residents submitted comments about this amendment and asked staff to make certain their comments were made part of the permanent record.

Ms. Peg Hambrick, 305 East Hamilton Avenue, who also was unable to attend the public hearing, commented she supported increasing the minimum distance between students. She encouraged Council to pass the amendment. She also recommended that Council give consideration to ensuring that there is enough staff support to enforce this ordinance.

Ms. Polly Dunn, 212 East Irvin Avenue, who was unable to attend the meeting, wrote that she wholeheartedly supported the revised regulations for student homes. She added that the Highlands Neighborhood is packed with rental housing, much of it for students. She said we need to stop the encroachment of more student homes.

Dr. Donna Queeney, 520 Ridge Avenue, also submitted comments electronically which stated the College Heights Neighborhood Association strongly supports the proposed revisions to the student home regulations. She added that the neighborhood association has faced several challenges regarding student homes within the past year. She said the College Heights neighborhood is on the verge of a highly undesirable turning point. Thus strong regulations and strict enforcement are more critical than ever if our neighborhood is to continue to be a desirable place for permanent residents to purchase homes and reside. Lastly, the Borough's Strategic Plan, which Council adopted earlier, recognizes neighborhood preservation as the top priority. The proposed revisions are essential if the Borough wants to support that priority.

Council members offered their view points on the proposed amendment. When the student home ordinance was originally passed in the 1990's, the intent was to control the erosion of non-student housing. While this ordinance was successful, it was not perfect. Many of the problems mentioned by residents can be addressed by stiffer enforcement. Council members said they appreciated that a lot of the problems have been addressed by staff's stiffer enforcement. Residents and neighbors have an

important role in the neighborhood. When violations are observed, they need to report them to staff. Others said the ordinance will do nothing if we cannot enforce it. In the past twenty years, the number of students in the neighborhoods has increased on a drastic and fast curve leaving the neighbors angry and upset. Since the community has been talking regularly, and Ordinance Enforcement Officers have been more responsive, the behaviors have made a difference. Residents are urged to call staff if they see problems in the neighborhood, such as too many cars at a particular property, loud parties, etc.

Borough Solicitor Terry Williams said the three unrelated rule is also subject to a challenge; however, the three unrelated rule is not at risk by reason of the amendment. He noted that space zoning is modeled after ordinances approved by the Supreme Court. Mr. Williams said the larger you make the zone, at some point there is a tipping point. The bigger you make the zone the more likely it is subject to a challenge.

A Council member said she was pleased that both the Centre Region Planning Agency, as well as the Planning Commission, has looked at all aspects of this ordinance. The amendment will allow the Borough to protect the majority of our neighborhoods. She encouraged Penn State to construct additional on-campus student housing.

Staff prepared maps for Council showing the existing distance between student homes, as well as the distance proposed with the amendment. Council members encouraged staff to prepare a larger map or two separate maps making it easier for Council to understand.

The motion passed unanimously.

Public Hour/Presentation

UPUA Student Conduct Advisors (SCA) – Ms. Genevieve Farrell, Director of the SCA presented Council with an overview of their organization. She said the main goal of the SCA is to guide undergrads faced with legal charges. Ms. Farrell reviewed the criteria necessary to become a SCA. She also commented that the SCA have a very close connection with the Office of Student Conduct. She said the purpose of the SCA is to review and explain possible charges, as well as telling the students what the consequences will be and what options they have.

Council members asked if the SCA were part of a club or are they paid staff members. Ms. Farrell said the SCA is a completely voluntarily run student organization. All SCA members are undergrad students who do not receive any payment or credits for taking part. She said presently there are 15 full-time staff members and eight more are currently in training.

Mr. John Shorba, Vice President of United Entertainment Corporation, and owner of Premiere 12 and College 9 Theatres, asked Council questions about the proposed Fraser Centre. He asked if due diligence was used in determining whether Fraser Centre was economically viable.

One Council member said the Fraser Centre project was approved before most of present Council members on Council.

Mr. Shorba questioned if Council made wise decisions based on the information provided to them.

Mr. Anthony Smith, 125 Northbrook Lane, the General Manager of one of the two theatres owned by United Entertainment Corporation, questioned where is the proof that Susquehanna Real Estate will succeed.

ABC Reports

Report from Historic Resources Commission – Mr. Rick Bryant, Chair of the HRC, presented the Commission's proposed 2012 work program. He said the HRC exists to promote and safeguard and

design environments throughout the community. The HRC is working on a survey to expand the historic districts.

Council members said they appreciated the work done by the HRC. They also commented that this Fall Council had discussed a collaborative DRB and HRC. Council requested the two ABC's have at least two joint meetings in 2012. Mr. Bryant said everyone on the HRC is fine with that recommendation.

Several Council members commented that they valued the two separate ABC's. Both provide a real value to the community. The HRC is a commission that needs to continue and has a practical and very real input and purpose.

Consent Items

Mr. Hahn asked that the 2012 meeting scheduled be discussed separately.

Mr. Rosenberger made a motion to approve the consent items. Mr. Morris seconded the motion.

- Accepted the resignation of Kathryn Bittner, with regret, from the CATA Board, effective immediately. Ms. Bittner has recently relocated outside the area.
- Appointed Tammy Gentzel, to the CATA Board, effective immediately with a term to expire on December 31, 2011.
- Approved the use of Mayor Welch Plaza on Tuesday, December 20, 2011, from 5 p.m. to 8 p.m. for the public Menorah lighting.

The motion passed unanimously.

Mr. Hahn said he had no problem with the proposed 2012 meeting schedule with the exception of four dates, April 20, October 19, November 16, and December 14. He said he is unable to attend any of these work sessions because he is scheduled to be at hearings on those Fridays.

Mr. Daubert asked why there was no meeting in late January. Staff said that is because Council's January calendar is usually light.

Council urged staff to look at four replacement dates and add the December 14 meeting back on the calendar. Staff's recommendation would be to not adjust the November or December meeting dates.

Mr. Hahn made a motion to add April 13, October 12 and to restore the December 14 meeting dates. Mr. Morris seconded the motion, which passed unanimously with the proposed revisions.

General Policy and Administration

Report Only – No Action Necessary – Downtown State College Improvement District's Reassessment

Staff reported that based on the objections received from property owners, the approval threshold for the Downtown State College Improvement District's Reassessment has not been met. As a result, no further action on the amendment can be taken by Council.

Planning and Community Development

Receive and Refer Rezoning Request at 323 West Fairmount Avenue (Dan Lestz & Susan Venegoni-Lestz)

Staff said Mr. Dan Lestz and Mrs. Susan Venegoni-Lestz, the property owners of 323 West Fairmount Avenue, submitted a request to rezone their property from R2 to ROA. The property owners stated their property is surrounded by R-OA properties to the west and north and if the rezoning request is granted,

the R-OA designation would be contiguous with all of the properties within that block bordered by Fairmount Avenue, Atherton Street, Nittany Avenue, and G Alley.

Ms. Lafer made a motion to receive the request and refer it to the Planning Commission for review and recommendation before Council's February 6, 2012 meeting. Mr. Rosenberger seconded the motion, which passed unanimously.

Request to Close the 100 block of Hetzel Street (from Calder Way to East Beaver Avenue)

Mr. Paul Caracciolo, Project Manager, for Leonard S. Fiore Inc., the contractor, explained that he was requesting the closure of the 100 block of Hetzel Street, from East Calder Way to East Beaver Avenue, to allow for the construction of a new apartment building at 477 East Beaver Avenue. He said the purpose of the closure would allow the contractor to have a staging area for demolition and construction of a new apartment building. Mr. Caracciolo said the last time he brought this proposal before Council there were some questions in terms of footprint and layout. He said he was requesting the full close of Hetzel Street during the time period from March to December 2012. If Council does not approve of this closure, Mr. Caracciolo said he had already contacted PennDOT about closing one lane of East Beaver Avenue from South Garner Street to High Street. Mr. Caracciolo said PennDOT would require the closure from Garner Street because of the dip in the roadway before 477 East Beaver Avenue.

Borough Solicitor Terry Williams said he would recommend one additional stipulation be added into the agreement. The Borough would require the property owner to be named in the agreement because they would ultimately be the one responsible for the general contractor.

Council members asked why this building is so much different from the Grace Lutheran's renovations at the corner of East Beaver and South Garner Street. During the reconstruction of the church there was very little closure of anything.

Mr. Caracciolo said at other locations where construction has occurred in the Borough, there has been a parking lane that could be closed instead of a traffic lane.

Council members felt they were being pushed into granting this closure because they did not want to close a lane of East Beaver Avenue. Closing a lane of East Beaver Avenue would be inconvenient to thousands of people every day.

A Council member expressed a major concern for closing Hetzel Street during special events. Could the closing be modified for special events, specifically football weekends, student move-in and move-out?

Mr. Caracciolo said if they need to move the fence or equipment for special events, they are prepared to do that.

Staff said they would amend the resolution to include this recommendation to reopen the street for special events such as Arts Festival, football weekends, student move-ins and move-outs.

Mr. Filippelli said a ten-month closure was excessive. He asked if the time frame could be cut down further.

Mr. Caracciolo said it is easier to keep public streets open when there are parking lanes available; however, Hetzel Street does not have a parking lane.

A Council member questioned why this building needed to be built out to the setback line. Perhaps Council should send this issue back to the Planning Commission for their review and recommendation regarding future development. Also, the existing 5' sidewalk is also inadequate for the number of people who use these sidewalks.

Staff said there is a penalty clause in the resolution that if the street is closed for longer than requested, for other than weather related delays, a penalty is payable to the Borough if the closure period were exceeded.

Mr. Rosenberger said it would be helpful if the contractor could keep access from Wilson Alley to Calder Way open. Mr. Caracciolo said he was willing to work on that.

Council members asked if the 8 1/2 to 10 months time frame includes night work. There is a possibility they may be working at night to complete the project by the completion date but noted night work would be an inconvenience. Staff said the approval for any night work would need to come back for Council's review and consideration.

Mr. Rosenberger made a motion to recommend closing Hetzel Street, between Calder Way and East Beaver Avenue for a period not to exceed 10 months. In addition, the contractor and the property owner enter into an agreement with the Borough to enforce the conditions and penalties, in addition to the improvements included in the proposed resolution. In addition, additional openings are provided for football weekends, student move-in and move-out, graduation, and Arts Festival. Also request the opening of Wilson Alley to Calder Way whenever possible. Mr. Morris seconded the motion.

Mr. Williams said he would work with staff to prepare the agreement with the recommendations made by Council.

Mr. Filippelli offered an amendment that would reduce the closing of Hetzel Street from 10 months to 8 1/2 months. Ms. Lafer seconded the motion.

Mr. Williams pointed out Mr. James Faust, an Architectural Professor, who reviewed the building's plans and recommended closing, was selected by the Borough and paid for by the contractor. Mr. Faust's analysis was for 8 1/2 months and limited lane and street closures beyond 8 1/2 months.

The amendment failed 2-5 with Mr. Filippelli and Ms. Lawrence voting in favor of the motion.

The motion to close Hetzel Street, between Calder Way and East Beaver Avenue passed 4-3 with Messrs. Filippelli and Daubert and Ms. Lawrence voting against the motion.

Inclusionary Housing Fee In-Lieu Resolution

As per Section 3.c of the Inclusionary Housing Ordinance, a fee in-lieu option is permitted as an alternative to construction of units as part of a land development plan. A resolution is required to establish the fees. Mr. Hahn made a motion to approve the resolution adopting the fee schedule for the in-lieu housing option. Mr. Filippelli seconded the motion. The motion passed unanimously.

Official Reports and Correspondence

President's Report – Mr. Filippelli reported that Council will recess to a work session to discuss the proposed 2012 budget.

Regional Liaisons

Transportation – Ms. Lafer reported that the Transportation Committee met and discussed the planning schedule for the next few months. In addition, the Committee is working on a new planning document, which includes walkways, bike paths and how we would do the designs. The Committee also continues to attempt to sequence the lights throughout the major corridors in the Centre Region for both control of traffic itself and to keep things moving smoothly for emergency and other vehicles

Staff/Committee Reports – None

Student Representative Report - None

Council recessed to work session at 9:30 p.m.

Mr. Filippelli reconvened the meeting at 9:40 p.m.

2012 Operating Budget

Council continued its review of the proposed 2012 Operating Budget.

Refuse Collection – Mr. Whitfield reviewed the Public Works refuse collection budget.

Council members commented that it was difficult to figure out the beginning and/or ending balance in this fund. Ms. Hayden said she made a mistake when she put the fund balance in the proposed budget. She noted this would be fixed in the finalized budget.

Council noted there is \$250,000 in the income side but there is nothing on the expense side. Staff said they applied for a grant but the grant was not awarded; however, they anticipate the income in 2012.

Staff said they are committed and want to work with regional neighbors on these kinds of issues. We want to share what we have learned with others.

Bus Terminal – Staff said in reviewing the Bus Terminal budget there is a decent fund balance. Whenever we have a project involving alternate transportation, we move money from the bus terminal to other alternative transportation projects.

Compost Operations – Staff said the budget for the Compost Operation is a fairly standard budget. A few highlights include that the fuel and lubricant line item is up because of the use of the horizontal grinder. We are proposing a site improvement project for the compost facility to move \$500,000 worth of equipment indoors to get it out of the weather.

A Council member noted that the fees charged by Hawbaker's for compost has gone up this year. Hawbaker is now competing with other landscape companies to sell the compost. The pricing of compost was discussed as well as the pros and cons of having Hawbaker sell the compost.

Fleet Services – Mr. Whitfield highlighted the upgrade our storage tank monitoring system and to certify three people, on staff, to be tank monitors in case there is a spill and or an accident at the fueling facility.

Council members had questions about the significant increase in labor costs. Staff said each year the cost allocation plan is updated. By doing the cost allocation plan we are able to more accurately reflect where our employees are spending their time and more effort is being put into that enterprise.

Highway Aid – Staff said when using highway aid money, we are limited on what we can use these funds for. Street maintenance costs are up significantly. Bellaire Avenue will be reconstructed and all of the curbing will need to be replaced as well.

The meeting adjourned at 10:12 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary