

Meeting Minutes
State College Borough Council
September 11, 2006

The State College Borough Council met in a work session on Monday, September 11, 2006, in the State College Municipal Building Council Room, 243 South Allen Street, State College, PA. Ms. Dauler 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: Michele Nicolas, Director of Human Resources; Michael S. Groff, Finance Director; Carl R. Hess, Director of Planning; Herman L. Slaybaugh, Zoning Officer; Sheila Lubold, Recording Secretary; members of the media; and other interested members of the public.

Public Hour – Bob Rightmeyer, Walnut Spring Lane, commented about the five year anniversary of September 11. He commented on Resolution 904 passed on February 21, 2006. Mr. Rightmeyer stated Council should make a mental note of their decision and Council should “search your souls”.

Open Agenda. Mr. Daubert asked to have an item added to a future agenda requesting updates from each of the ad-hoc and non ABC committees. He feels that each of the non-standing committees should provide a report by the end of the calendar year updating Council on the status of current and up-coming projects.

Mr. Daubert again requested information concerning the costs incurred by the Borough relative to the Arts Festival. The food vendors are not required to purchase a permit from the Borough but Borough staff contributes many hours inspecting food stands. Mr. Daubert would like a report showing the costs of providing this service. Mr. Hahn suggested looking at how the Borough of Centre Hall manages the Grange Fair and possibly use that as a reference if changes are to be made to the Arts Festival.

Mr. Daubert also stated next year is an election year and there will be some members of Council who will be replaced. He suggested having a meeting to try and recruit candidates for Council and also members for the ABC's. He did not feel the meeting could wait until January and should be scheduled for a time in November. Council questioned what the meeting would involve. Mr. Daubert felt the meeting would give the community a chance to ask questions and get involved and start thinking about running for office. Ms. Nicolas suggested running a newspaper ad inviting community members to get involved with the ABC's and asking them to attend the meeting suggested by Mr. Daubert. Council agreed with running the ad and with holding the meeting.

Pension Discussion. David Killick, actuary with Conrad M. Siegel, Inc., attended the meeting to explain how the figures for the Minimum Municipal Obligation, MMO, are calculated and to answer any questions Council may have in reference to the Borough's financial obligation to the pension funds.

Attached to Council's agenda was a handout out prepared by Ms. Nicolas entitled “Pension 101”. The handout provided basic information about the Borough's plans and the legal requirements that impact the pension plans.

Mr. Killick provided Council with additional information which outlined the funding status of the pension plans. He explained that Act 205 mandates the obligations of the pension plans for both the police officers and general government employees. The reports given by the actuary are used to determine state funding and how much must be contributed by the Borough and current employees.

Mr. Killick explained the Borough is required, under Act 600, to maintain a pension plan for police officers. Under the current pension plan, an officer must work for 25 years before being able to draw from the pension plan. As the officer is working, money is being set aside to be used as the monthly retirement payments when the officer retires. The benefit amount is determined by officer's annual earnings.

Mr. Killick reviewed the last six years of the pension plans and explained the accrued liability for each plan is growing because there are more employees. While 2003 was a great year for investing and 2004 was a break-even year, it did not make up for the losses in 2001 and 2002.

The plans will start to show signs of recovery but it does take a few years for the improvements to show as the adjustments are made yearly and gradually.

In calculating the MMO, Mr. Killick's assumptions are made based on earning 8% in investment returns. Based on this assumption, the figures for Borough and employee contributions are then determined. The Borough also receives state aid if all the requirements of Act 205 are met. If the state aid is not funded or equal to the anticipated amount the Borough is still required under Act 205 to contribute the full amount.

Both the police and the general government employees' plans required additional Borough and employee contributions in 2005 largely in part to low investment returns in previous years. Mr. Killick also stated the general government employee plan is not as well funded as the police officer plan but there is still no need for concern with either plan.

Mr. Killick also explained the Borough does not want to put excess and unneeded monies into the funds because this money may be better used elsewhere.

Ms. Goreham questioned if the amounts listed on the MMO included amounts of employee contributions and if the Borough has ever borrowed against the pension funds. Mr. Killick stated the amounts are less the contributions of the employees and is the amount the Borough must contribute. Once monies are paid into the pension fund they can not be taken back out.

Mr. Filippelli questioned how the 8% return rate is determined and if it is based on historical averages. Mr. Killick explained the 8% is partially derived from historical averages and the mix of the investments but is also based on money being sent aside by current employees. The money that is contributed by employees is normally untouched for many years so that money is invested for a long time. Based on historical performance of the fund and the performance of the market and in combination of an investment mix, Mr. Killick has determined the 8% return that he uses. Mr. Kern questioned if 8% was too aggressive. Mr. Killick added that he is required to use a return rate between 5% and 9% percent and he feels 8% is a reasonable amount. If his assumption works out, the contributions will be as equal as possible. If the assumption is changed to a lower return rate, the result will be an immediate increase in the Borough's obligation.

Zoning Amendment to Change Building Lot Width Ratio and Lot Coverage Rules. In June, Council voted to rescind the building width ratio rule in the R1 and R2 zoning districts as it applies to dwelling units with the understanding that the Planning Commission would develop a uniform rule. The Borough Solicitor advised that having two standards for dwellings and non-dwellings is problematic from a legal standpoint when the purpose of the rule is to regulate scale. The Planning Commission discussed three approaches and opted for a rule that regulates building width only when lots are combined into larger holdings exceeding 135 feet in width. The amendment also sets maximum building coverage at 30% for lots up to 15,000 square feet; sets maximum coverage at 20% for lots 25,000 square feet or larger; and uses a regression formula to set maximum coverage limits for lots between 15,000 and 25,000 square feet. The new rule would apply to all parcels regardless of the use. The said amendment was received by Council on September 5 and is scheduled for a public hearing on October 3.

Mr. Humphrey pointed out that many of the lots are already developed and questioned if this change would limit the ability for people to make changes to their homes such as adding porches. Mr. Hess stated the new rule using the sliding scale takes into account the lot size and seems to treat the land owners more fairly. Only a few lots are up against the 30% threshold and very few permits are denied based on lot coverage. Mr. Slaybaugh added that when reviewing a sampling of permit applications the lot sizes were roughly 14,000 to 15,000 square feet and only a few lots were over 25,000 square feet. The average lot coverage was 14.4% for lots less than 15,000 square feet leaving a fair amount to build out.

Mr. Hess reviewed the number of lots that have been involved and would be affected and also the number of replots that have occurred. Some members of Council expressed their concern for smaller lots and the limitations that would be imposed on these lots. Mr. Hess stated the smaller non-residential lots would be limited more by setbacks and that lot coverage will become a limitation on total mass of the building. Mr. Hahn feels the change is focused on limiting the scale of buildings that could be placed on a large lot but it does seem that the building will be wider than what is allowed by the current ordinance. Mr. Slaybaugh stated the changes will allow for slightly larger buildings but the Planning Commission felt the current rule took away too much of the owners' rights. Council questioned how this change will control the mass of buildings. Mr. Hess responded the change will allow non-residential buildings to be controlled by using the sliding scale. If the lot is larger than 25,000 square feet it will be controlled by the 20% lot coverage rule. Council discussed various examples of how the changes to the ordinance would affect lots and the buildings that could be constructed on the lots.

John Cahir, chairperson of the Planning Commission, stated there are two flaws with the current rule, one being the difference in the allowed coverage for dwellings and non-dwellings. The second flaw with the non-residential lots is the numerous steps and the drawn out procedure that is required. A new procedure needs to be implemented to do away with the steps and this rule

change would do that. The Planning Commission has worked to correct these flaws in a way to achieve the intended purpose of the ordinance without adversely affecting single-family housing.

Zoning Amendment to Define Open Space and Recreational Structures and Areas. In April, Council adopted Ordinance 1841 establishing a minimum open space requirement in all zoning districts as a percentage of the lot area. This ordinance, however, does not provide a uniform statement of what is meant by open space. The ordinance was approved with the understanding that the Planning Commission would come back to Council with a recommendation for a clear definition of open space. The proposed ordinance creates a definition for open space and also for recreational structures and areas. Council received the amendment at their September 5 meeting and scheduled a public hearing for October 3.

Mr. Hess highlighted the definition for open space as being anything planted or maintained as vegetation or natural features such as a body of water or a rock out cropping. There are allowed to be some impervious areas such as gazebos, patios, swimming pools, and pavilions included as open space. Areas excluded from the 20% coverage allowance are areas to be used as driveways, parking lots, and trash and/or recycling storage areas.

Ms. Goreham questioned that driveways would be excluded from the impervious areas and Mr. Hess stated that was correct. Council did not have any other questions on this proposed zoning amendment.

Proposed Modification to the Mixed Use Overlay District Regulations. In June, the Planning Commission received a proposal from Michael Black, owner of Black Sun Studios at 700 East Beaver Avenue, to modify several sections of the zoning regulations applicable in the Mixed Use Overlay zone. The Mixed Use Overlay allows existing houses to be converted to office uses. Mr. Black suggested modifying existing rules for the number of employees, use of on-street parking to meet parking requirements, and changing the procedures for review plan applications from a special exception (which required review before the Zoning Hearing Board) to the standard land development plan review process. Council received the proposed ordinance on September 5 and scheduled a public hearing for October 3. At that time Council requested that property owners be notified of the public hearing and that the Commission's minutes where this item was discussed be distributed to Council members

Mr. Hess explained the Planning Commission has been working on this proposal for quite some time and the Transportation Commission is also working on addressing the parking aspect involved with this proposal. The proposal would make several changes to the regulations. The changes would base the number of employees on basis of building square footage rather than lot size; allow for more flexibility in the use of on-street parking; encourage the use of residential housing be changed to office use; and update the list of permitted uses.

Mr. Humphrey asked for clarification on the difference between use by right and special exception. Mr. Hess explained special exception means the Zoning Hearing Board takes the place of the zoning officer and issues the permits and grants the approval of the plan.

Mr. Hahn questioned how often special exceptions are rejected. Mr. Hess responded almost never as long as the necessary criteria are met. One exception is if there are some overriding, unexpected health and welfare issues.

Mr. Humphrey stated some citizens have expressed concerns with changing houses into businesses. It is understood these business will employ people and they will want to provide parking for the employees. The citizens of the neighborhoods where the proposed changes would occur are worried their backyards will turn into parking lots as well as having the streets parked full of cars. Mr. Humphrey is concerned this could cause residents to move elsewhere. Mr. Hess commented these concerns have not been brought to the attention of the Commission or the staff. Under the current regulations people can use on-street parking to meet part of their parking requirements. The change that would occur under this proposal is the applicant would not have to prove the parking is "open and available" when it is legally established on-street parking.

Mr. Daubert questioned how the required 250 square feet per employee will be calculated. If a business is going to reuse a residence, will areas such as closets, kitchens and bathrooms be included when calculating the suggested 250 square feet per employee. If so, Mr. Daubert said that should be changed. He also questioned where residents and their visitors will be able to park if the streets are parked full of employees and patrons. Mr. Hess stated the employees of these new businesses would have the same access to the commuter parking zones as any other downtown employee would and it is understood this does not guarantee a parking spot. Mr. Hess also added the Transportation Commission would be addressing some of the issues related to the parking requirements of this proposal.

Mr. Filippelli also expressed his concerns for the neighborhood on Foster Avenue and the effect these changes could have on the residential character of this neighborhood. He feels it is essential for the Borough to protect residential neighborhoods. If the net impact of this proposal will cause more of a strain on the current parking situation Mr. Filippelli will not vote in favor of the change.

Mr. Kern questioned why give the option of parking along Foster Avenue to business owners when it is apparent the option is not reasonable. Why not come up with an alternative parking option from the start? Mr. Hess stated the Borough staff and the Planning Commission agree that Foster Avenue is a transitional street but the Planning Commission believes if additional opportunities are provided adjacent to this area, other than residential rentals, this could provide future stability for the neighborhood because there could be better property maintenance and potentially less disruptive residents. In effect, he argued, the overlay district on Beaver Avenue reduces some of the pressure on Foster Avenue. Mr. Filippelli said he still feels the overlay district will result in more people parking in the neighborhoods adjacent to the district.

Mr. Hahn expressed concern that there was more focus put on the petitioner, Mr. Black, rather than the issue presented. He feels the proposal may be a worthy idea and finding a solution would be beneficial; however, he noted, this does not seem to be the best solution. Mr. Hahn also questioned if there is commuter zone parking on West Foster Avenue west of Atherton Street. Mr. Hess stated there are some commuter zones west of Atherton Street but was uncertain if they are in the 400 block of Foster Avenue. The Planning Commission did entertain the idea of creating two separate districts but felt it was better to keep the district uniform. Mr. Hahn agreed. He said he is supportive of amendments 1 and 3 of the proposal but has some reservation in regards to amendments 2 and 4. He was curious about the traffic generation capacity and if there is a study to show the capacity for different professional uses. Mr. Hess stated, based upon the suggested uses, there would not be a large number of customers and the traffic generated would be limited. Mr. Hahn would like to review the study more closely before making a decision. He also requested clarification and a better definition when referring to tour operating businesses.

Mr. Kern said it would be better to encourage professional businesses in the transitional areas. He would like to see a change made to amendment 4 as well. Rather than making a list, he feels it would be better to provide a definition to set a basis for limiting traffic. He feels the parking aspect is an issue for all of Council and that is what makes this proposal work or not work. While encouraging the change to professional businesses is important, parking is needed for this to be successful.

Ms. Dauler stated she appreciates the work of the Planning Commission but does not feel that this particular item is ready for a vote. Some of the same concerns raised by the Planning Commission were also raised by Council. Mr. Hess stated they could find answers to the questions raised about trip generations from studies completed by the Institute of Transportation Engineers (ITE) but that will not answer the question of how many trips a day is too many before affecting the balance of the neighborhood.

Ms. Goreham questioned if the neighbors have been notified of the public hearing. Mr. Hess said the notices would be mailed this week.

Council questioned if the public hearing should still be held or if Council should give suggestions and then send them back to the Planning Commission for further review. Mr. Hess encouraged Council to proceed with the hearing because there could be other points of view that Council, the Planning Commission, and staff have not considered.

Ms. Goreham suggested basing the number of employees allotted per business on the parking availability.

Mr. Daubert requested a map showing all commuter parking zones and another map showing where parking is prohibited and where it is allowed.

Mr. Hahn responded to Mr. Hess's question about what is acceptable stating he will be relying on prior Councils and the guidelines they established regarding permitted uses. He feels Council needs to anticipate problems rather than wait for the public to point them out. There seems to be a pattern with zoning changes. The change does not draw the attention of the public until the first building under the enacted zoning changes is being built. Mr. Hahn agreed it is important to preserve the single family neighborhoods and there are reasonable parking accommodations that can be agreed upon to make this proposal possible.

Mr. Hess stated when the Planning Commission started to work on this years ago, they felt it would be best to use the existing paved surfaces rather than paving backyards. In order to avoid future problems, it may take some creativity now in anticipating how the current parking options can be made to work in the future as well.

Mr. Kern questioned if trip generation could be incorporated with the current street classification guidelines to determine which buildings are likely to produce "x" number of cars and which streets they are likely to use.

Mr. Cahir stated the question that needs to be answered is what the parking philosophy should be. Parking is an issue for the entire downtown area, not just the overlay areas. There is a method for limiting the number of employees and perhaps a method needs to be determined to

get employees into parking garages or to make the CATA bus system more attractive to the entire downtown area.

Mr. Hess noted the Planning Commission talked about the differences among the areas of the overlay district. South Burrowes Street is within easy walking distance of the parking garages but East Beaver Avenue is not as closely located. Would it be possible for a person who wants to do a mixed use on South Burrowes Street to enter into a long term parking contract, with either a private or public provider, to help them to meet the parking requirements?

Council agreed to hold the public hearing as planned and further discuss this matter.

There being no further business, the meeting adjourned at 10:15 p.m.

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary