

Meeting Minutes
State College Borough Council
Regular Meeting
Monday, January 14, 2019

The State College Borough Council met in a regular meeting on Monday, January 14, 2019, in the Municipal Building, 243 South Allen Street, State College, PA 16801. Mayor Hahn called the meeting to order at 7:00 p.m.

Present: Donald M. Hahn, Mayor
Evan Myers, Council President
Jesse L. Barlow
David J. Brown
Catherine G. Dauler
Theresa D. Lafer
Absent: Janet P. Engeman

Also present: Terry J. Williams, Borough Solicitor; Thomas J. Fountaine, II, Borough Manager; Sharon K. Ergler, Assistant Borough Secretary; Thomas Dougherty, Student Representative; Ed LeClear, Planning Director; John Gardner, Chief of Police; Deborah A.S. Hoag, Director of Public Works; Thomas R. King, Assistant Manager for Public Safety; Dwight Miller, Finance Director; P. Rick Ward, Parking Manager; Douglas Shontz, Communications Specialist; Anne Messner, Senior Zoning Officer; Alan Sam, Arborist/Sustainability Coordinator; Borough residents and members of the media.

Proclamation

National Day of Racial Healing – Mayor Hahn issued a proclamation declaring January 22, 2019, as the National Day of Racial Healing in the Borough of State College.

Ms. Dauler noted that this was the 3rd year the Borough participated in the effort. She said the proclamation was suggested from meetings held with the National League of Cities. She added there were several troubling and frightening events that had occurred across the country the past few years. She stated that as a member of the NLC's Race, Equity and Leadership Committee she was glad to see the Borough participated in the effort. She added that the recipients are everyone and the National Day of Healing was something everyone could endorse and support as Americans.

Ms. Lafer said we, as a community, have shown that we stand behind each and with each other. She stated she personally took the idea of racial healing and a unified community very seriously. She said she saw evidence of this unity, after the Pittsburgh synagogue shooting, especially at the service held in State College. She credited the NLC for teaching all of us how to live together. She said the Council and the community stood together against hatred, violence, bigotry, etc.

Public Hour

Pat Vernon, a College Township resident, said the Borough had recently approved the 2019 Budget, which included a tax increase. He commented that Borough residents could not endure the continual tax increases from the COG Budget, which included a 5% increase last year. He commented that the Centre Region Code Office continued to make money and he hoped there was a citizens' group who was interested in looking at what COG did. He questioned all their tax increases.

Items of Information from Council Members

Mr. Myers said there was an important issue facing State College, which was the partial shutdown of the Federal Government. The partial shutdown negatively impacted the Borough because services were cutback, there was reduced security, and the Food and Drug Administration's inspection of foods decreased.

He added that the direct impact to State College residents included delays on tax refunds and grants or human service agencies funding were cut the longer the shutdown continued. He urged the President, Congress and others to put an end to the shutdown and to stop harming citizens.

Mr. Barlow said the depth and breadth of the shutdown increased by each passing day. He commented that the NLC cited several possible affects that may come to the local economy because of the shutdown.

Consent Items

Mr. Brown asked to have Item G removed from the list of Consent Items for further review and discussion.

Mr. Myers moved to approve the following Consent Items. Ms. Dauler seconded the motion, which passed unanimously in favor:

- Approve *with conditions* the closure of South Allen Street, from the Municipal Building to Foster Avenue, along with other various streets and sidewalks, as well as the use of the Municipal Building Lobby and Room 112, on Saturday, April 6, 2019, from 5 a.m. to 3 p.m., for the annual Autism Speaks U 5k Race/3k Walk.
- Approve with conditions the use of multiple parking meters along East College Avenue (between Atherton Street and University Drive), starting on Saturday, April 6, 2019, to raise awareness about Lyme Disease. The Yarnbombs will be removed no later than May 11.
- Approve with conditions the use of the Dr. Martin Luther King, Jr. Plaza, along with the closure of the 100 block of South Allen Street and the partial closure of Calder Way (between Kelly Alley and South Allen Street) on Saturday, May 18, 2019 from 10 a.m. to 6 p.m. for the second annual JAM Fest.
- Approve the 2019 Work Plans for the following Authorities, Boards, Commissions and Committees:
 1. Planning Commission
 2. Transportation Commission
 3. Tree Commission
 4. LGBTQ Advisory Committee
 5. Design Review Board
 6. Historical Architectural Review Board
- Approve Payroll and Accounts Payable Vouchers for the month ended December 31, 2018 totaling \$5,129,349.94.
- Award Blocks A, B, C and D to Cutting Edge Tree Professionals in the amount of \$75,846 for the Contract Tree Pruning.
- Approve a resolution authorizing the officers of the Borough to execute the Section 902 Grant Application with the PA Department of Environmental Protection.
- Authorization to contact the local Congressional Delegation to oppose the FCC's ruling on PEG Access, franchise fees for public and government (public education and pay channels).
- Refer a zoning text amendment request for a new commercial building to reduce the amount of required parking (Penn State's James Building located on South Burrowes Street) to the Planning Commission for review and recommendation.

Mr. Brown asked why the referral of a zoning text amendment was listed in the agenda as a Consent Item and not a regular agenda item. Mr. Fountaine said this was a ministerial function. He said it was being referred to the Planning Commission for their review and recommendation.

Ultimately the decision to approve or to deny the request must be made by Council. Council would have the opportunity, at a public meeting, to deny the request or advance it and schedule a public hearing and Council would then have another opportunity to vote yes or no on the ordinance. He said the request was a routine procedure when the request came from the land owner.

Mr. Murphy made a motion to approve Item G, which was to refer a zoning text amendment request for a new commercial building to reduce the amount of required parking to the Planning Commission for review and recommendation. Mr. Barlow seconded the motion and Council voted unanimously to approve this item.

General Policy and Administration

Request for an Exception to the Open Container Ordinance and Approve the Pop-Up Spring and Fall Market Events

Mr. Fontaine pointed out that the organizers of the event, Andrea and Brad Groznik and Rob Schmidt, were in the audience to answer any questions Council had.

Mr. King said the proposed Spring and Fall events, were like the events held in 2018. The difference was the Open Container Waiver was not required on the Garner Street Parking Lot because it was private property. To have the waiver, the event must be sponsored or cosponsored by the Downtown State College Improvement District contingent upon the following:

- Pop-Up Ave's satisfactory completion of all requirements set forth by the Borough of State.
- DSCID named as additional insured on the General and Liquor Liability policy of no less than \$1,000,000 per occurrence limit. The coverage should be on a primary and non-contributory basis.
- Pop-Up Ave will indemnify the DSCID, signing an indemnification agreement.

Event must be sponsored or co-sponsored by DSCID contingent upon the following.

Mr. Myers made a motion to conditionally approve the spring and fall events based on the conditions outlined. Ms. Dauler and Mr. Murphy seconded the motion.

Ms. Lafer said she thought the laws in place were there for a reason. She said she was not going to vote against the request and she hoped their events were very successful.

Mr. Myers said he and the Manager had originally planned to place this item on Council's Consent agenda; however, due to the nature of this event he thought it was good to consider that the event(s) each happened to review and discuss any concerns someone may had about it.

The motion to approve passed unanimously.

Amend the Borough Codification Chapter VIII, Part A, Section 8-114 Municipal Waste to Establish the Restriction of and Fine for Leaving Refuse and Organic Carts at the Curb after the day of Collection

Mr. King explained that currently there was a \$25 fine for leaving recycling carts at the curb after the day of collection. The proposed amendment would also prohibit persons from leaving their refuse and/or organic carts at the curb after the day of collection and provide consistency within the ordinance. He noted that the fine for that violation was also \$25.

Mr. Barlow made a motion to adopt the ordinance amendment. Ms. Dauler seconded the motion.

Mr. Vernon said with close to 58,000 transient students in town, most were not educated on what to do with their recycling bins. He said some of his tenants called him to ask him to remove their red bins from the curb, because they were going away. He asked for a one-day grace period before issuing a violation.

Mr. Myers asked if staff knew how many violations were handed out for recycling carts left at the curb. Mr. King said he did not have the exact number; however, generally once someone receives a warning it takes care of itself. He added that what Council was being asked to consider was to amend the ordinance to include organic carts being left at the curb.

Mr. Fontaine said this ordinance amendment provides for one violation, not three separate ones.

The motion to approve the ordinance amendment passed unanimously in a roll call vote.

Amend the Borough Codification Chapter XVI, Part H, Section 16-705 and Section 16-709 Streets and Sidewalks to establish a minimum height for trees, shrubbery, bushes overhanging the sidewalk and providing for the contracting for abatement of obstructions when the property owner fails to comply with the Ordinance

Without any discussion, Ms. Dauler made a motion to adopt the ordinance amendment. Mr. Murphy seconded the motion.

Pat Vernon said part of the proposed amendment might have to do with a clear sight triangle at an intersection, and which shrubbery, trees or bushes obstructed a person's view. He said College Township enforced a similar ordinance regularly. He said there was GPS software on the market to let staff know where violations like this occurred.

Mr. Myers said he was concerned that the Borough would provide someone with 30 days to allow clearance of any hazard. Waiting 30 days enabled continuance of unsafe conditions. He agreed that a property owner should have time to clear away the obstruction; however, it should be for less time. He said motorists may not be able to see pedestrians if the line of sight is obstructed.

Mr. Fontaine said the ordinance presented for consideration did not address site triangles at intersections. The current ordinance required staff to give notice. He noted there were other provisions to deal with site distance and view, not the subject of the proposed amendment.

Mr. Myers said those types of violations were immediate and he said he thought staff dealt with site distance or hazards promptly. He said if a concern was immediate, a 30-day notice was too long. Mr. Myers offered an amendment, which was to reduce the time limit from 30 days to 7 days to rectify the problem. Mr. Brown seconded the amendment.

Mr. Lafer said 7 days was not long enough if a property owner needed to have a landscaper or someone else come to the property to remedy the problem. She said the amendment was turning a simple problem and making it a tempest out of a teapot.

Mr. Barlow said he would not be voting in favor of the amendment because residents take vacation longer than 7 days. Once they receive the notice, they return to town and would not have time to address the problem in 7 days. He thought the 30-day period in the ordinance was satisfactory.

Mr. Myers said he would be willing to amend his amendment to a longer period. He stated he was willing to compromise for something less than 30 days but more than 7 days.

Ms. Dauler suggested Council adopt the ordinance amendment as written and then see how it works. If the amendment does not solve the problem, there are other provisions in the Borough Code to clear any obstruction. She said from personal experience, those who live on a busy street, especially, have houses which tend to have large hedges to protect their residence from traffic noise. She said bushes/hedges grow out into the sidewalk. If someone raised a concern, staff responded quickly, and the problem was solved. Most property owners respond in a short-time period.

Mr. Murphy said he was torn because he had gone on record in favor of clearing sidewalks of snow and ice obstructions in a timely manner. Because in that respect, 30 days was too long. He said he could work with 14 days if Council was looking for a number great than 7 and less than 30. He added that method of delivery could be challenging. Some people would prefer an email notification and others like it to come from the post office. He said notification could become a challenge.

Mr. Myers offered a friendly amendment which was to change the time limit for a response from 30 days to 14 days. Mr. Brown agreed with the amendment and seconded the motion.

Mr. Fontaine said it may be better to postpone enactment of the amendment since the 30-day notice was already in the existing ordinance. Staff could investigate the question of how quickly a property owner/landlord takes care of a problem once it was brought to their attention.

Mayor Hahn said the alternative was for Council to vote on the amendment. If the 14-day amendment was voted down, proceed with the original motion which was to approve the amendment initially proposed by staff.

Council voted on the amendment to reduce the time from 30 days to a 14-day time frame to abate the violation. The motion failed with a 3-3 vote. Mr. Myers, Mr. Murphy and Mr. Brown voted in favor of the amendment.

The amendment to notify a property owner of a violation of trees, shrubbery and bushes overhanging the sidewalk and abatement within a 30-day time frame, passed unanimously in a roll call vote.

State College Police Association Collective Bargaining Agreement

Mr. Myers made a motion to approve the Collective Bargaining Agreement for the State College Police Association. Ms. Lafer seconded the motion, which passed unanimously without any questions or comments.

Official Reports

Mayor's Report – Mayor Hahn welcomed back students returning from break. He said he had not resumed his scheduled hours yet but had planned to do so shortly. Mayor Hahn said that three Penn State fraternities opened their houses for public tours. He said he hoped they continued this tradition in the future.

Mayor Hahn said State College leadership met recently with Penn State student leadership, namely, twice within the last year. He stated he hoped the number of times they meet could be increased to four times a year. He commented that he wished to commend student activism on Campus, especially those interested in local government.

President's Report – Mr. Myers said Council met prior to this meeting to discuss real estate and personnel matters.

Manager/Staff Reports – Mr. Fontaine provided Council with an update on the Regional Parks Committee meeting held last week. The first issue was an amendment to the Whitehall Road Regional Park Master Plan. In November, the Parks Authority recommended the Master Plan be amended to build restrooms and a concession area using funds earmarked toward an all-season pavilion. Second, the Comprehensive Park Plan was proceeding, and the Parks Authority was seeking public input at a meeting being held at the State College High School on January 30. He noted the make up day was set for February 6 if the weather was not fit for a meeting on January 30.

Zoning Revision Input Review – Ed LeClear provided Council with an update on the progress of the Zoning Revision Input Review. A PowerPoint presentation was distributed.

Student Representative Report – Mr. Dougherty said he hoped everyone had a great holiday. He commented that the UPUA has started a group that would meet at the HUB to discuss the issues raised by the Highlands neighborhood. He said the MLK Day of Service was next Monday and he anticipated seeing a lot of student participation.

Adjournment

There were no new items to discuss so the meeting adjourned at 8:09 p.m.

Respectfully submitted,

Sharon K. Ergler
Assistant Borough Secretary