

**Meeting Minutes**  
**State College Borough Council**  
**Regular Meeting**  
**Monday, September 12, 2011**  
**7:30 p.m.**

The State College Borough Council met on Monday, September 12, 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; Carl Hess, Planning Director; Sharon K. Ergler, Assistant Borough Secretary; Roger A. Dunlap, Assistant Borough Manager; Mark A. Whitfield, Director of Public Works; Thomas R. King, Chief of Police; Norma J. Crater, Accounting Supervisor; Charles J. DeBow, Parking Manager; Beth A. Johnston, Human Resources Director; Michael S. Groff, Finance Director; Brendan McNally, UPUA Student Representative; journalism students, and interested members of the media and concerned residents.

**Special Reports** – Kate Doe, Neighborhood Services Coordinator, introduced Kelsey Fleming community outreach and Joyce Eveleth, environmental needs with Alan Sam, the Borough's newest AmeriCorps members.

The AmeriCorps Program is a national service program. There are different service sites around the United States to meet critical needs. These members must provide 1700 hours of service.

Ms. Doe presented Casey Horvay, a member of the Off-Campus Student Union, with a certificate of appreciation through the AmeriCorps Presidential Service Award for volunteering 100 hours of service to the State College community. Volunteers who work with us in the Presidential Service Award Program recruited Casey Horvay and she served 100 hours for the Borough of State College. Her major role was in the expansion of the Lion Walk and to strengthen Town/Gown relations.

Chief of Police Tom King and Director of University Police Services Tyrone Parham introduced two members of the Neighborhood Enforcement and Alcohol Team. (NEAT) Officers Jordan Pieniasek and Melanie Medina who briefly explained what NEAT is doing in the Borough neighborhoods. In August of 2010, this program was implemented. Enforcement takes place on Thursday, Friday and Saturday evenings in addition to resources put into the neighborhoods. Recently, the Holmes-Foster neighborhood was added. This is a joint NEAT team effort with the State College Police Department and the PSU Police. The goal is to improve the quality of residency in these neighborhoods, address quality of life issues, gain a better knowledge of the neighborhood, and determine what areas need attention. It will provide consistent enforcement. Members are assigned during the fall semester and a portion of the spring semester and patrol from 8 p.m. to 3:30 a.m. There are also student auxiliary officers in the neighborhoods.

The NEAT Team is trying to cut down on citizen initiated complaints, i.e. assaults, noise, alcohol, rubbish, etc. They make pre-party contacts, investigative follow up, and partner with F8 to build relationships with residents and remain positive while being assertive.

NEAT patrolling is done in two man teams with one member from each; PSU and the Borough. There will be one team in each neighborhood and patrol will be by marked vehicle, bicycle, on foot as well as park and walk patrols.

The team will park their vehicle and walk throughout the neighborhood. In addition to the previous resources, members will be the eyes and ears in the neighborhoods. They will give out the proper information. The majority of NEAT tasks are initiated by the officers for loud noise and proactive-type offenses. Over the last 4 weeks, NEAT has handled over 100 calls. Of this amount, 87% were initiated by NEAT and 13% by citizens. Eighty percent have resulted in arrests for underage drinking, loud music, loud voices and yelling, fights, disorderly conduct and open containers.

There were forty-nine sworn officers before the NEAT program. Based on the feedback of this program and other PSU programs, PSU administration has approached University President Graham Spanier and Vice President of Finance and Business Al Horvath and last year, we added 2 additional officers to help out in the NEAT program. These two officers contribute on the busiest nights in these neighborhoods. There is a lot more presence in the neighborhoods because of this program.

Chief King gave a quick overview of NEAT. There were over 100 pre-party contacts in the first four weeks. Staff gathered community expectation and talked to them about how to have a safe party and keep things safe for everybody. Most often with a pre-party contact we don't have to go back to a property. He stated he is appreciative of what these officers are doing. This is one more way PSU is contributing.

Council discussed and commented on how nice it is to have this presence in the neighborhoods. They discussed the noise ordinance and how this group enforces this. It was noted the pre-party contacts made by this group is considered their "warning". Warnings are issued at the officer's discretion.

**Public Hour - Hearing of Citizens.** Pat Vernon was present to discuss several items with Council. Firstly, he wondered if the Borough was contacted, in any way, about the building of a methadone treatment center in Ferguson Township. If they were, he asked if they have looked at the impact on the rental housing in that area. He stated he knows the county was not contacted.

Secondly, he wanted to thank the Council members for serving noting it takes a lot to do what they are doing. He stated he would like Council to consider rescinding their vote on the inclusionary housing ordinance and follow the recommendation of the Planning Commission and look at an incentive based plan. He thought Council would find it makes the building of new housing, especially smaller upscale multi-housing, more difficult if not impossible.

Thirdly, he questioned the large party ordinance Council was looking at and wondered if there was any progress on that? He discussed the need for that type of an ordinance. He noted some areas need something like that for more effective enforcement.

Lastly, he discussed the fact that the Borough is a member of COG. He discussed the push to buy all new trucks and vehicles. He stated we should look at the present economy and extend the use of existing vehicles. Anything we can do to control the expenditures would be great.

### **Consent Items**

Mr. Rosenberger made a motion to approve the following consent items. Mr. Morris seconded the motion, which passed unanimously.

- Approve the closing of West Prospect Avenue, from South Gill Street to South Barnard Street, from 3:30 p.m. to 6 p.m. on September 13, 16, 17, and 29, 2011 for the State College School District's Girls' Tennis matches.

- Approve the closing of Holly Alley and a portion of High Street, from Foster Avenue to Hetzel Street, on Saturday, September; 17, 2011 from 5 p.m. to 10 p.m. for a neighborhood block party.
- Approve the closing of South Gill Street, between East Foster Avenue and Beaver Avenue, from 6 p.m. to 9 p.m. on Friday, September 30, 2011 for a neighborhood block party.
- Approve the closing of the 200 block of South Allen Street, from Beaver Avenue to Foster Avenue, on Saturday, October 1, 2011 from 5 a.m. to 7 p.m. for the Downtown State College Improvement District's Annual Fall Festival.
- Approve the use of the Bike Path and various sidewalks on Sunday, October 9, 2011 from 1 p.m. to 2:30 p.m. for the Nittany Valley Running Club's 5K Race.
- Approve the closing of various downtown streets, from Westerly Parkway to South Allen Street to West Nittany Avenue on Wednesday, October 19, 2011 from 5:30 p.m. to 9 p.m. for the State College Area School District's Homecoming Parade.
- Approve the closing of various downtown streets, from North Burrowes Road on campus to College Avenue to South Allen Street to West Foster Avenue, on Sunday, October 30, 2011 from 6:30 p.m. to 8:30 p.m. for the Centre Region Parks & Recreation's Annual Halloween Costume Parade.
- Approve vouchers for the month of August in the amount of \$1,930,361.07.

Mr. Filippelli noted one correction that it should be West Foster and Beaver Avenue for the Gill Street block party. The correction was made to the motion.

The amended motion passed unanimously.

## **General Policy and Administration**

### **Downtown State College Improvement District Plan Amendment**

Rich Kalin and Dolores Taricani were present to discuss this item with Council. Mr. Filippelli moved to receive the report and schedule a public hearing on October 17, 2011. Mr. Rosenberger seconded the motion.

James Meashey, 308 South Corl Street, stated he would like to encourage Council to move quickly and calmly. He felt the DID should be equipped to maintain our downtown in a clean, safe manner. He noted assessment rates have remained the same.

A Councilman questioned the legal notice where it discusses Borough Council may approve and amend the plan with 60% of concurrence and asked if this is a requirement. Staff said the State law requires 60% concurrence which is determined by objections of the plan. Silence is determined to be a yes. He discussed the pre-existing district and an area to be annexed and asked if this 60% was of each of or of the whole. Staff responded that the Borough Solicitor said this would 60% of the entire district.

Another Councilman stated he talked to two business owners on South Allen St. whose businesses are south of the boundary. Both of them would like their properties to be part of the DID. He asked if that part of Allen Street and parallel part of Pugh Street could it be considered and extending this district to the south for a block or so.

Dolores Taricani, Chairman of the DID, was present to answer questions. She stated there was a small committee who worked on this amendment for over a year.

A Councilman asked Ms. Taricani if they talked to the property owners on East College Avenue and that not every property owner was terribly excited about an increase. He stated they said they would not object and the services were well provided. They praised the CLEAN team. He stated he found that a lot of property owner who felt it was worth including all of the properties on College Avenue, would also be more supportive of the amendment.

Another Councilman asked why does the district only go to Calder Way and not Beaver Avenue. Rich Kalin, Vice Chair of the DSCID, stated he was on the Study Committee and they analyzed the cost and the benefit and revenue and services provided. Studying all of that, they did receive a request from a major property owner down Allen Street. The move is to add the highly dense area along College Avenue.

Ms. Taricani stated they feel this amendment is a good stewardship on their part. She noted no increase in 10 years is unrealistic. She is very excited about what is happening. In response to a question about replacing Mr. Alessandrino, she stated they would not actively seek to replace him immediately. Mary Kay Williams, Acting Director, is doing a lot of visioning. She stated people are stepping back and looking at how we can do things differently. The group is looking forward to Fraser Centre and she noted they appreciate the support of Council.

The motion passed unanimously.

Consider receiving a new Noise Control Ordinance and a Noise Abatement Ordinance - Mr. Hahn moved to recommend Council receive the two Noise Ordinance Amendments, discuss the amendments and schedule consideration of the ordinances at a regular meeting to be held on September 19, 2011. Mr. Morris seconded the motion.

A Councilman stated he is happy to use the noise ordinance and not the disorderly conduct ordinance, which he has been against for years. He stated he had three comments about this ordinance. The first two are things he does not like about it. This ordinance extends the ability to allow construction noises until 9 p.m. against the neighborhoods. He felt contractors should get their work done between 7 a.m. and 7 p.m. He felt there was no reason to increase it until 9 p.m. He stated he is not talking about mowing your lawn noise but real construction noise. He stated he is also against school events being exempted. This ordinance exempts PSU and he didn't think that should be allowed and it should be removed. He stated there is no objective way these things will be enforced and it depends on which Police Officer will be enforcing it the ordinance. Also, the only way to complain about a citation is to go to court. He was also concerned that there will be sixty different people interpreting the ordinance.

Another Councilman stated he is supportive of this ordinance. He stated he understands why noise meters don't work downtown. He felt the definition of plainly audible is subjective. He wondered what the criteria are. He felt the problem could be solved by supplementing this ordinance with a list of guidelines for the officers.

Another Councilman stated he agreed with the previous comment from Council regarding the hours. In an emergency arises, a waiver could be granted. He questioned the enforcement of this ordinance by the current District Magistrates. The Chief of Police discussed the ability to get qualified readings in the neighborhoods and downtown with so many multiple sources of ambient noise. He responded that he didn't know where the Magisterial Justices stand on this particular ordinance. Also, in response to a question from this Councilman, the Chief of Police stated this ordinance is more enforceable and fairer. The Councilman stated more and more communities are doing away with decibel readings. He asked that staff look into ordinances of this nature in similar college communities.

Another Councilman also expressed concern about construction noise. Peace and quiet in the neighborhoods may be the most important quality of life issues in these neighborhoods. He felt anything that gives officers and/or the NEAT team latitude to regulate would be helpful. He discussed deferring action to the Police on discretionary issues and felt the noise ordinance falls under that category. He felt there is professionalism in our offices and enforcement of this ordinance would not be any different.

A Councilman stated she felt we should let logic prevail when officers make those decisions. She stated children can go to bed early and extending this ordinance to 9 p.m. is unfair to children and families or people who have to get up at an unusual hour to go to work. She also wondered why we would exempt schools. She felt they should be considerate of their neighbors. Special event and emergency waivers are good example of when a waiver would be granted.

Another Councilman discussed the recent construction noises during the construction of a building on Garner Street. She stated as long as this time of 9:00 p.m. is in the ordinance, she is unwilling to vote in favor of it. She stated she likes separating the HVAC noise from the party noise. She stated she noticed a number of times lately, a problem with a high rise along Beaver Avenue and their HVAC unit making noise. They took action and surrounded their HVAC unit. A number of fraternities leave stereos blaring and they do not take any action to reduce the noise. She felt this was a reasonable suggestion.

In response to a question from the UPUA representative, Chief King stated the penalty for a disorderly conduct is a summary offense of \$300 regardless of how many times it happens. This is the maximum set by state law.

Mr. McNally stated it is reasonable that there will be ambient noise in populated areas. He felt it is important to subjectively have consistency across the lines for all officers and felt it was a good idea to include something in the ordinance, if possible.

Noah Coleman, 301 South Garner Street, stated he is a grumpy old man. He stated he did not like the idea of 9 p.m. the noise abatement ordinance. He discussed banning the use of gas powered leaf blowers anytime. He stated they pollute the air and noise. He asked that Council consider adding this as part of the noise abatement ordinance.

Staff stated this was an appropriate request and we have looked at models from other communities that address gas powered lawn mowers and other leaf blowers. He stated we could take a look at that and provide feedback and ask Council to make a decision on that.

Elizabeth Shirey, 317 West Prospect Avenue, stated she is bothered by noise at all times of the day by several properties adjacent to her residence. Her neighbors have been talking about noise that wakes them up. She stated her experience was when the Police are called; they handle the problems extremely well. She stated she is respectful of the students and has daughters who are now college age. She said students often ask why we can't make noise, no one lives downtown. The residents do still live in the town and are bothered by the noise and there are people of all ages who like to live downtown. She stated more and more of her neighbors do not like to be awakened by a loud party. She stated the residents could make calls about the noise. She noted the fairer the ordinance, the easier it will be for everybody. She also noted the 7 p.m. restriction makes sense to her too.

Chief King noted the 9 p.m. time limit is something we will change prior to bringing back this ordinance to Council. He noted a part of this restriction is related to home repairs and home gardening, mowing, etc. and asked if Council wished to keep these issues in the ordinance. Some members of Council felt these items should remain in the ordinance. One Council member stated perhaps we should consider what is acceptable to 51% of the public. He felt we needed to be more accommodating and more tolerant. These practices are not done every day. He felt this question should be done by majority vote. He noted in the mid 1980s, we passed a noise ordinance and we have been having difficulty enforcing it. He noted we are dealing with noise and that is great but he did not want to pass another ordinance to demonstrate we care about noise if it is not enforceable.

A Councilman noted Police would use their thought process before they cite someone for a mere infraction. With regard to lawn mowers and home construction repairs, compared to a big construction project, he felt we should include lawnmowers in the ordinance. That is, assume the people enforcing will use their thought process. If you include home lawn mowing, we are creating violations across the community. We are automatically creating a whole series of violations. Construction and heavy construction is one thing versus home maintenance types of projects. He felt staff could come back to Council with suggestions.

Following these discussions, it was proposed to consider information about banning leaf blowers, power equipment, etc. Staff was asked to bring that information back at the October 3 meeting. Council accepted the amendment and all voted in favor of it.

## Public Works

Changes in Refuse Service - Mark Whitfield and Ed Holmes discussed the sustainable refuse and recycling program. Staff discussed landfill bound materials and noted we can make progress by recycling organic materials. The top four materials collected are food waste, paper, corrugated cardboard and wood. These items are the most abundant materials in the waste stream.

The staff noted we began green waste collection in late 2007 with a food waste pilot program. Staff discussed required changes. A permit from the PA Department of Environmental Protection is needed. More staff time is needed to handle the material. Organic material is being taken from the waste stream. Staff discussed Act 198, public education, equipment needed, testing and evaluation of composting techniques, and analysis of the finished product.

Schools, restaurants and grocery stores were added to the program. The pilot program officially ended June 30, 2011. The Public Works Department is still collecting under an extension of the demonstration permit from DEP. There are 549 homes and 9 businesses with carts to collect the organic wastes. Collection is on Tuesdays and Thursdays. In the first nine months of collection, the average cart contained 14 pounds of waste, as the program continued the average was then 28 pounds of waste per cart. In total, over the 18 months of the program, we diverted 240 tons of material through the food waste pilot program. It was noted that the carts are not efficient for commercial establishments.

Staff noted we need some infrastructure improvements in place. We need a receiving area to process and hold the materials. We need to come up with an effective and efficient way to handle commercial food waste. All this is predicated on a sustainable collection system. The volumes are not there on the residential side. We collect four days a week, and sixty hours a week. The drivers lift cans and/or bags. There are 3600 residential refuse costumers. Of those, 3,000 are curbside collection. There are ninety-two residences that are collected at the door and are exempt from the fee.

This proposal gives all customers two carts: one for residential and one for organics that would include food. Automated trucks with compressed natural gas will do the collection. With new trucks, the material is collected more efficiently.

Staff discussed establishing a differential rate for low volume of residual refuse. The average is seventy gallons a week. This works out to .8 tons of refuse per year. The same equipment collects the thirty-five gallon cans. Doing the math, this saves \$28 a 9% discount for people with low volume residual waste. The system still has to be self-supporting. Fifteen percent of the COG customers are low volume customers. There are 540 customers paying reduced rates. At-door service would continue to be offered for residual waste only.

Some of the benefits of automating are that we anticipate reducing residential refuse hours from 60 hours a week to less than 40 hours. Looking at the organics collection labor, we are taking 60 hours per week but right now we have the trucks on for 40 hours a week, so there will be a net reduction of hours. There would be a reduction in greenhouse gas emissions and we would have a more sustainable, environmentally friendly composting operation.

Staff noted the commercial side is more straightforward. They discussed the rate schedule simplification. They noted commercial organic waste easy to identify. With regard to infrastructure, the one-time cost is \$605,500; however, there is a potential for a DEP grant reduce it to \$355,500. The net labor savings would be \$98,000. The fuel savings over 2010 is \$22,184. Compressed natural gas versus diesel fuel is \$1 less. Net estimated annual cost savings is approximately \$109,109.

The grant funding was discussed and it was noted the net investment is reduced and the net payback is just under 4 years. Commercial residential collection is the ability to collect curbside residential organic waste if combined with green waste and it is automated. It would take 6.5 years without a grant and 4 years with a grant. If implemented, there would be no rate increase until 2016.

One recommendation is to supply carts to all customers and purchase two automated trucks to complete the residential refuse residual waste collection. Crews would work three 10 hour days. Additional time is needed for at-door customers. We would eliminate alley collection and establish a low volume rate. We could collect organics from commercial accounts without adding an impact on the financial model of the current refuse funding.

Dick Gold, 134 East Doris Avenue, stated he feels like the devil's advocate. He has been a part of the pilot program for 21 months now. His own cart is at the back of his property under a tree. He noted the cart is a 35-gallon container and the payload part of the box is very heavy. He said he cannot lift up the cart. He stated that on the inside is a little basket you might carry to a picnic. He stated they hardly ever had more than one little package about the size of a loaf of bread made up of coffee grounds when they were trying to use this cart. He discussed the full capacity of the carts, not simply the container in the pilot. The canister will be hollow on the inside and the residents would have another one separate. Residents would have two containers – one for refuse and one for green waste or other organic material (yard waste, food waste, etc.) He said the estimated cost is \$100 for the two containers. He said this has been a strange experience with just 10 ounces of coffee grounds. Mr. Gold said he would be happy to return the compost container to the Borough.

One Councilman stated he felt this program was rather contentious. It was a good idea but he wants to hear what our customers have to say.

Another Councilman asked if this changes the leaf collection every fall or if we will still maintain curbside leaf collection. He also wondered if there would be a penalty if you do not do it.

Staff noted the project would use containers from 35 to 96 gallons in size depending on the resident's needs for yard and garden waste.

Staff noted the low volume rate is something Council has asked for for several years. This change does create a low volume rate and creates the low volume discount.

Another Councilman questioned the size of the garbage cans most people use. She stated she could not imagine a 95-gallon can at her house. Her can is always half empty. She also cannot imagine wheeling in a 95-gallon cart but noted a single family home with young children generates a lot of waste. She also questioned the new trucks and the time it will take to complete each stop. She also questioned whether residents could still use bags.

Another Councilman stated he would appreciate hearing from other pilot program residents. He stated he is strongly in favor of the low rate for low use. He felt the program was environmentally sound but it is important and a worry that people get two wheeled carts out to the curb once a week. He expressed concern that people might just throw organic waste in with the trash and the whole program could fail. We would be out the money for the carts and it would be a tragedy.

A Councilman discussed phasing out at-door customers. She stated in all the time she has been on Council, only comment anyone every makes is will my garbage still be picked up the same way? She stated whether it is an 89-year-old person or a young with kids in diapers, residents are uncomfortable with this. She said you could not put garbage out on the curb where you want it unless you want to come through with a sweeper. She said in the past she received a violation from an Ordinance Enforcement Officer for garbage in her yard which was placed there by passersby. The program is impractical and the bottom line is it is not workable. Most residents will be unhappy with it. She felt there should be no proposed change for those at-door collections. She felt residents should be allowed to be able to come in and see these carts so they can understand the scale.

Justin Witherite, 301 South Garner Street, stated he moved here from Los Angeles three years ago. In California, he had three color-coated cans that were 96-gallon containers with massive wheels on them. They were easy to maneuver; however, they did not have snow in Los Angeles. He said it was a fantastic

program. It took a while to get people to understand it and educate them. He stated there would need to be a great deal of public education and the carts would need to be easy to maneuver.

Dick Gold, 134 East Doris Avenue, stated he would be remiss if he did not say the service the Borough provides is extraordinary! There is no reason you could not have a bin for organic waste. You would have fewer vehicles and all the waste would be taken care of at once. A lot of people will not have space for two containers. Mr. Gold said people from other towns are amazed at what Borough residents put at the curb and the Public Works crews take away.

Following these discussions and comments, Mr. Hahn moved to hold a public hearing on October 3 to hear input from the citizens on this proposal to change the refuse services. Mr. Daubert seconded the motion. The motion passed 7-0-0.

## **Planning and Zoning**

Replot of Common Lot Line between 463 and 477 East Beaver Avenue

Mr. Filippelli moved to approve the replot with the condition to require a shared parking agreement between the two parcels. Ms. Lafer seconded the motion. Council asked what was the purpose of the replot. Staff stated the purpose of the replot is to allow the Bryce Jordan Towers apartments to be in compliance with the parking ordinance and to allow the site at 477 to be redeveloped at the configuration they are proposing. Future development of this site will come forward later this fall.

All members of Council were in favor of the motion and the motion passed unanimously.

## **Open Agenda**

A Councilman asked about the time for the Resources Fair and dedication of the William Welch Plaza. Dedication will be at 9:30 a.m. with a ceremony for that purpose and the Resources Fair will begin at 10 a.m.

A Councilman suggested changes to the Nuisance Property point system. She suggested we might change the system to something more serious. Many places get to 10 or more points before it becomes serious. Ten points is not very hard for most rental properties to get to. Perhaps given the listing of repeat houses, it should not be quite as hard as it is. She suggested making the break point at an 8 point maximum instead of 10. She stated in looking at the change, there are a number of problem properties that should have been addressed more seriously and we are just not getting there. She stated overall, the system is working pretty well but could be improved with the suggested change.

Another Councilman stated she received offers from 2 separate companies to rent out her house for football weekends. She stated Council has discussed this in the past; however, it seems now some serious campaigns are going on. She felt Council should discuss this matter again. She noted his particular issue has been addressed through the Centre Region. She noted it is currently being considered but not in time for this football season. She stated another issue we dealt with on this is the cost of enforcement. She stated it is difficult to track and locate these properties. There would also be some cost in terms of enforcement. She noted none of the municipalities have addressed enforcement. The group discussed a report the Centre Region Code office was to prepare on this matter. It was noted the goal was to have this report before now. It was noted there is some urgency to get this issue resolved prior to the next football season. It was noted a more concerted effort should be made on this matter.

## **Official Reports and Correspondence**

Mayor's Report. Ms. Goreham had nothing to report.

President's Report. Mr. Filippelli reported that Council held an Executive Session on August 30 to discuss real estate, personnel matters, and litigation. Council will also adjourn to an Executive Session following this meeting to discuss personnel and real estate matters.

Staff/Committee Reports - There were no staff/committee reports.

UPUA Student Representative Report – Mr. McNally had nothing to report.

There being no additional business, the meeting adjourned at 10:00 p.m.

Respectfully submitted,

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Sharon K. Ergler  
Assistant Borough Secretary