

**Council Minutes  
State College Borough Council  
Regular Meeting  
August 6, 2012**

The State College Borough Council met in a regular meeting on Monday, August 6, 2012, in the State College Municipal Building, 243 South Allen Street, State College, PA. Mayor Goreham called the meeting to order at 7:31 p.m.

Present: Elizabeth A. Goreham, Mayor  
Donald M. Hahn, President of Council  
Thomas E. Daubert  
Catherine G. Dauler  
Ronald L. Filippelli  
Sarah Klinetob  
Peter Morris  
James L. Rosenberger

Also present: Terry J. Williams, Borough Solicitor; Thomas J. Fountaine, Borough Manager; Sharon K. Ergler, Assistant Borough Secretary; Thomas R. King, Chief of Police; Carl R. Hess, Planning Director; Kevin D. Kassab, Supervisor of Inspections; Mark A. Whitfield, Director of Public Works; Charles DeBow, Parking Manager; Beth Johnston, Human Resources Director; Roger A. Dunlap, Assistant Borough Manager; Courtney Hayden, Communications/Grants Coordinator; Laurel Petrulionis, UPUA Student Representative; and numerous residents and members of the media.

**Public Hour** - There was no one in the audience who wished to speak about matters not on Council's agenda.

**Presentation** - Mayor Goreham announced that the Musser Gap Greenway preparation has been postponed.

**Consent Items**

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

- Approve the closing of Sunset Road, from Hillcrest Avenue to Ridge Avenue, for the annual Ruth Fergus Memorial Neighborhood Picnic, on Saturday, September 9, 2012, from 3 p.m. to 9 p.m.
- Approve the closing of the Orchard Park bike path and surrounding sidewalks for the Knights of Columbus 5K Race, on Sunday, October 7, 2012 from 1 p.m. to 2:30 p.m. The race benefits the Schlow Centre Region Library's Children's Department.
- Approve the closing of College Avenue, from Shortlidge Road to North Burrowes Road, on Friday, October 5, 2012, from 5 p.m. to 10 p.m., for the Penn State Homecoming Parade.
- Award a contract for the preparation of construction documents and construction administration services for repairs to the Pugh Street Garage to Walker Parking Consultants, in an amount not to exceed \$43,160.
- Approve the resignation of Kelleann Foster, with regret, from the Design Review Board, effective August 1, 2012.

- Approve minutes for the following meetings held in April, May and June:

April 2, 2012	Regular Meeting
April 9, 2012	Work Session
April 16, 2012	Regular Meeting
May 7, 2012	Regular Meeting
May 14, 2012	Work Session
May 21, 2012	Regular Meeting
May 30, 2012	Work Session
June 4, 2012	Regular Meeting
June 11, 2012	Work Session
June 18, 2012	Regular Meeting

### Resolution

PA Voter ID Law – Mr. Morris made a motion to approve the PA Voter ID Law resolution included in Council's agenda. Ms. Klinetob seconded the motion.

Mr. Hahn moved to schedule this item for a public hearing on the first Monday in September and with potential action by Council at their third Monday meeting in September. He added that it is important to thank Penn State University for its action to add expiration dates to Penn State identification cards.

Mr. Morris seconded and said he was hoping Council would vote on the resolution this evening. While the resolution is close to his heart, another point to remember is that there is a case in PA Commonwealth Court that seeks to overrule this law in Pennsylvania and make it unconstitutional. By the time Council meets on the third Monday in September, this law may no longer exist. Otherwise, Council would simply be making a symbolic statement, which is why he would prefer Council passed the resolution this evening.

Mr. Morris said he would not be in favor of Mr. Hahn's motion.

Mr. Daubert asked whose motion is Council discussing.

Mayor Goreham asked the Borough Solicitor for some guidance. Mr. Williams said the Chair can declare Mr. Hahn's motion out of order, since it was inconsistent with the motion to approve. He said Mr. Hahn could offer an amendment to have Council postpone consideration of this resolution until public input has been received.

Mr. Hahn withdrew his motion.

Mr. Daubert asked whether this resolution was in the purview of the State College Borough Council, and, he is not in favor of the statement that reads "State College opposes all voter ID laws." He said this statement is too broad, even if it is within Council's purview.

Mr. Fontaine said there has been some inconsistency in how the issue of whether or not certain matters should come before Council has been approached. In Council's Manual, related to conducting meetings, there is a provision that Council should not consider any matters outside its purview; however, there have been a number of instances of national significance that Council has discussed. He did point out that Council's Manual is a document that provides guidance but is not controlled by law. Despite the policy statement in the Manual, the Manager said there have been several occasions, within the last five to six years, when Council has addressed national issues.

Mr. Morris said some examples include a resolution Council passed in opposition to the Patriot Act. Another example was Council's stand on the War in Iraq. Mr. Morris said on at least two occasions, Council has passed resolutions related to the work of Dr. Martin Luther King, Jr. Whether this is in Council's purview, the precedent is fairly strong and convincing to continue.

Mr. Rosenberger said he would have supported Mr. Hahn's suggestion to have a public meeting where residents could offer their input. He said he was disturbed this law was put through in a very partisan way and it will disenfranchise many voters. He said he was probably going to vote in support of resolution; many voters will not be prepared with the appropriate documentation the next time they go to vote. He said he is not against people identifying themselves properly; however, he is concerned on how this gets accomplished and we need to be sensitive to it. He agreed that more discussion would be appropriate.

Mr. Hahn made a motion to amend the resolution to replace the last five "whereas" with the word "resolve". Mr. Rosenberger seconded the amendment.

Mr. Hahn's amendment passed unanimously.

Mr. Daubert said he still believes that to oppose all voter ID laws is unrealistic. He said the current law is not the way it should be and voters should not be held back from voting under the current law. He said it was his understanding that in order to register to vote the registrant must be able to provide some proof of identification.

Mr. Hahn said he would have preferred Council solicited the public for comments before voting.

Ms. Dauler said she would not be able to vote for the resolution as it stands with State College Council opposing the voter ID laws.

Mr. Rosenberger asked if an amendment was made to that clause, would it make the resolution acceptable.

Mr. Morris said that clause opposes voter ID laws and not how one registers to vote. He added that the voting system has worked fine for many decades. According to the testimony of legislators, the number of cases of fraud in voting is zero. He said this is a solution without a problem and he was not sure what the problem was with this wording.

Mr. Rosenberger made an amendment to add the word "incriminating" before the words voter ID laws. Ms. Dauler seconded the amendment. The motion failed 2-5 with Mr. Rosenberger and Mr. Hahn voting in favor of the amendment.

Ms. Dauler said this is an example of why it is difficult to vote on this resolution. She said she wished Council would reconsider this resolution and not push ahead with it this evening. Ms. Dauler commented that more time was needed in order to have public discussion about it.

Ms. Klinetob asked if there was a way to hold public discussion earlier than September.

Mr. Fountaine said since no formal public hearing is required; Council could solicit public comment at its next regular meeting in August.

Ms. Klinetob offered an amendment to request public comment on this proposed resolution at Council's next regularly held meeting in August. Mr. Hahn seconded the amendment.

Mr. Morris noted he would not be attending Council's August 20 meeting but would be disappointed if he would not be able to vote on this resolution.

Ms. Klinetob's amendment passed 4-3 with Mr. Filippelli, Mr. Morris and Ms. Klinetob voting against the amendment.

Mr. Fountaine said Council could consider action on this resolution anytime after the August 20 meeting, so it is possible for Mr. Morris to be present when Council votes on the resolution.

Mr. Filippelli asked the Manager what was the appropriate acceptable date he would have in mind to vote on the resolution.

Mr. Williams said these types of resolutions are not usually brought before Council and it does not require a public hearing. He said Council could not hold a public hearing but could request public input.

Mr. Fountaine said staff generally likes to get this information out for the public to let them know when it is going to be discussed and provide them with an opportunity to provide input at that point. Council could vote to change the work session into a voting session, but that is Council's choice.

Mayor Goreham said she did not know if there was anyone in the audience who was prepared to speak on this matter at tonight's meeting.

Ms. Susan Venegoni-Lestz, 323 West Fairmount Avenue, said she works at the Centre County Election polls and first time voters are always required to show identification before they can vote.

Mr. Morris said he appreciates Ms. Venegoni-Lestz comment. He said he also appreciates the different point of views expressed by Council members. He said others who passed this resolution admitted they are not presently having any problems. He noted that this will have the effect of decreasing the Obama vote in PA, which is the point of this new law, which is a terribly undemocratic way to proceed to use the voting laws to twist the process.

Mr. Hahn suggested the following amendment by using the following wording "Resolved that the State College Borough Council opposes the Pennsylvania recently enacted voted ID laws and calls for the repeal of the one in Pennsylvania". Mr. Rosenberger seconded the amendment.

Mr. Daubert said he does not agree with that either because some other states may have passed a voter ID law that was reasonable.

Mr. Hahn's amendment passed unanimously.

Council voted unanimously on the original motion, which was to approve the resolution with the following amendments: to schedule the resolution for public comment at Council's August 20 meeting; replacing the word "Whereas" with the word "Resolve" in the last five instances, and to amend the wording related to State College Borough Council opposes the "Pennsylvania recently enacted voter ID laws and calls for the repeal of the one in Pennsylvania."

### **General Policy and Administration**

Pension Amendments – Mr. Filippelli made a motion to enact Ordinance 1995, which amended the Police Pension Ordinance by including a Deferred Retirement Option Plan. Mr. Hahn seconded the motion. A roll call vote was taken and the motion passed unanimously.

Next, Mr. Hahn made a motion to enact Ordinance 1996, which also amended the Police Pension Ordinance by adding a death benefit in order to comply with Act 600 of 1966. Mr. Rosenberger seconded the motion. A roll call vote was taken and the ordinance passed unanimously.

### **Department of Ordinance Enforcement and Public Health**

Dog Ordinance Amendment - Kevin Kassab, the DOEPH's Supervisor of Inspections, briefly reviewed the proposed amendments. He said the purpose of the amendment was to clean up the ordinance language, increase the minimum fine from \$50 to \$100 for more egregious repeat offenders and to eliminate the

requirement of a certified letter to notify violators, thereby reducing the length of time it takes to bring a violation into compliance.

Mr. Rosenberger said if staff does not send a notice by certified mail, what is the alternative. Mr. Kassab said staff would leave a field violation at the property in violation but would also mail a copy to the property owner and person-in-charge. Mr. Rosenberger asked what is the assurance that the property owner received the notification. He said this reminded him of a similar issue during snow season where a resident was out of town and had not received the violations in time to respond before the property was already cleared by the Borough's contractor. Mr. Kassab said DOEPH is not required to send a letter via certified mail for snow removal.

Mr. Hahn asked Mr. Kassab how often does the DOEPH staff resort to mailing versus leaving a notice of violation at the door of the property or mailing it. Mr. Kassab said of the 46 complaints received in 2010 for the accumulation of dog feces and dogs running at large, four resulted in violations. In most cases, staff is able to make immediate contact with a property owner without issuing a violation.

Mr. Hahn said he had some concern about not notifying property owners by mail. He said there are certain expectations of promptness. Compliance within seven days is a long time to wait for compliance from the standpoint of the complainant.

Mr. Daubert said there was one instance in the ordinance where the word "registered" was not changed to "certified" but should be corrected.

Mr. Morris said he finds it strange and ironic that dogs are not permitted in parks but guns are.

The motion to approve the dog ordinance amendment passed unanimously following the roll call vote.

Food Establishment Amendment – Mr. Kassab briefly outlined the proposed amendments, which were to simplify the ordinance in accordance with the PA Department of Agriculture's Food Facility Safety Act of 2010. He noted that the State has been slow in coming up with the food regulations that were developed in the Federal Food Code. By amending our Food Establishment ordinance to read "the Food Code Regulation" issued under the Retail Food Facilities Safety Act of 2010 as now enacted and as may be hereafter amended, will eliminate the need to change the Borough's ordinance every time the PA Food Code is amended.

Mr. Kassab said another amendment was to eliminate the Clean Indoor Act from the Food Code because Pennsylvania has enacted a PA Clean Indoor Air Act. This act designates all establishments as non-smoking unless they are able to petition the State and obtain an exemption from the State if they can prove their liquor sales exceed their food sales.

Lastly, Mr. Kassab said the Food Establishment Amendment also eliminates the alcohol awareness portion of the ordinance because this has also been taken over by the State.

Mr. Filippelli made a motion to approve the food establishment amendments as presented. Mr. Rosenberger seconded the motion.

Ms. Klinetob asked if there are any establishments within the Borough that would not be in compliance with the new ordinance. Mr. Kassab said the Borough establishments are all in compliance. He said the establishments seeking exemptions have already done so with the State.

By a roll call vote, the motion passed to amend the Food Establishment Ordinance #1998.

### **Official Reports and Correspondence**

Mayor's Report – Mayor Goreham said she had nothing of interest to report.

President's Report – Mr. Hahn said after discussions with the President of College Township's Board of Supervisors, the recommendation was to defer consideration of Paterno Way indefinitely. He also said it was appropriate to point out that it was a year before Borough Council voted to rename the Municipal Building Plaza after the late Mayor Bill Welch. Mr. Hahn said who knows Joe Paterno may end up being the Robert E. Lee of Penn State.

Mr. Hahn announced that Council will be adjourning to an Executive Session, following this meeting, to discuss personnel matters.

Regional Liaisons - Ms. Goreham announced that Council will review Regional Liaison Reports at their next meeting.

Staff Reports – Mr. Fontaine announced that the Planning Committee for the PA Municipal League Conference met recently. There is a lot of work to be done within the next few months to plan for the June 2013 conference.

UPUA Student Representative Report – Ms. Petrulionis said she had nothing to report at this time.

**Items of Information** – Mr. Morris said this is the first Council meeting since the killings in Aurora, Colorado. He said there was another senseless slaughtering yesterday in the Oak Creek, Wisconsin. Events such as these are tragic for the victims and their families. Mr. Morris said Aurora and Oak Creek are two more in an endless series of mass murders, usually perpetrated by men with semi-automatics. He said there are widespread calls for gun control, as well as, a ban on assault weapons. The initial law on gun control contained a sunset provision and these kinds of weapons are no longer banned. He said that many politicians seem to be immobilized by the NRA and friends which is very disappointing.

The meeting adjourned at 8:29 p.m.

Respectfully submitted,

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Sharon K. Ergler  
Assistant Borough Secretary