

**Meeting Minutes
State College Borough Council
Regular Meeting
Monday, August 15, 2005**

The State College Borough Council met in a regular meeting on Monday, August 15, 2005 in the State College Municipal Building Council Room, 243 South Allen Street, State College, PA. Mr. Daubert called the meeting to order at 7:32 p.m.

Present Thomas E. Daubert, President of Council
Catherine G. Dauler
Elizabeth A. Goreham
Jeffrey R. Kern
Richard L. McCarl
James H. Meyer

Absent: Bill Welch, Mayor
Craig Humphrey

Also present: Thomas J. Fountaine, Borough Manager; Terry Williams, Borough Solicitor; Carl R. Hess, Community Development/Planning Director; Thomas M. Hart, Police Lieutenant; Mark A. Whitfield, Director of Public Works; Amy J. Story, Borough Engineer; Cynthia S. Hanscom, Recording Secretary; members of the media; and other interested members of the public.

Mr. Daubert began with a moment of silence and the Pledge of Allegiance.

Public Hour: There were no comments from citizens.

CONSENT ITEMS

Commercial Incentive Zoning. Mr. Fountaine reminded Council they had reviewed the revised Commercial Incentive District and the conditional use criteria at their work session of August 8, 2005. To comply with Municipalities Planning Code, the amendment and conditional use criteria will need to be referred to the Planning Commission for comment. The Planning Commission will have 30 days to review the proposal.

Mr. Kern moved to refer the Commercial Incentive District and the conditional use criteria to the Planning Commission for comment. Ms. Goreham seconded the motion. The motion passed with a 6-0-0 vote.

Crop Walk. Mr. Fountaine said a request had been received to conduct the Crop Walk on Sunday, October 23, 2005, from 2:00 to 4:30 p.m. to benefit the State College Area Food Bank and Crop Walk USA. The walk will start and end at St. Andrews Episcopal Church, 208 West Foster Avenue, and wind through campus.

Mr. Kern moved and Ms. Goreham seconded a motion to approve the use of Borough sidewalks for this event. The motion passed unanimously with a 6-0-0 vote.

NEW BUSINESS

2006 COG Program Plan. Mr. Fountaine said that Council received the Centre Region COG 2006 Program Plan. Comments from the plan are due back to the COG Executive Director by August 22.

Mr. McCarl referenced a memo from the COG Finance Committee dated July 25, 2005, addressing their concerns on the plan. He noted a preliminary budget was included for the library showing participation from Halfmoon and Ferguson Townships. He asked if those townships had approved their funding share. Mr. Daubert replied that Ferguson Township had agreed to provide funding but he had not heard if Halfmoon Township had agreed.

Mr. McCarl mentioned the General Forum should be responsible for the administration of the new fire administrator position and the proposed recruitment and training officer. He believed it was understood but felt it should be repeated.

Mr. Daubert questioned the status of the strategic plan. Mr. Fountaine replied the intent was to get it to the municipalities in July or August. He believed it would be distributed within a week or two. Mr. Daubert did not believe that it was on the COG General Forum agenda for August; therefore, he believed it would be received in September.

Mr. McCarl asked if the COG Program Plan's reference to a regional park committee was the ad hoc Park Committee. Ms. Goreham replied it was not; the ad hoc Parks Committee did not deal with the regional park program. The reference in the plan was to create a new committee and create a shared funding program among the municipalities.

Mr. McCarl asked about the two additional fire inspection staff persons. He noted that the COG Finance Committee was split on this issue. Mr. Daubert reminded Council the additional staff was needed to support the increase in the rental housing inspection cycle for the Borough. However, the program should be self-supporting through rental housing inspection fees. Mr. Meyer indicated the COG Finance Committee was split because some representatives were content with the three-year cycle. Mr. Kern noted the COG Code Committee was supportive of a two-year cycle. He noted the Code Committee would meet the following day and he would get an update. Mr. Meyer commented that College Township may not be in favor because the housing stock is not as old in their township; the COG Finance Committee representative from College Township did see the need for a two-year cycle in the Borough. Mr. McCarl asked the opinion of the Chamber of Business & Industry of Centre County (CCBICC) on this issue. Mr. Daubert replied that they would like to see a continuation of the three-year cycle of inspections.

Ms. Dauler questioned funding for master site plan for Park Forest Community Pool. She believed a plan had already been prepared for that pool. The proposal called for \$44,000 to fund the master plan. Mr. Daubert commented that the same was done for Welch Community Pool; he did not understand why another plan was needed. He explained this would be on the COG General Forum agenda for August 22. Mr. Fontaine noted the master plan was not a redundant process and believed that point would be clarified at the executive committee meeting on August 16.

Ms. Dauler commented on the wage and benefit survey. She noted the COG Personnel Committee had not received the recommendations from the survey. Mr. Meyer noted the COG Finance Committee had received a recommendation that would bring those positions below the norm up to current pay levels immediately. This would require an additional \$55,000. Four positions would be affected this year.

Mr. Fontaine noted, subsequent to the publication of the 2006 Program Plan, Congress passed a new Transportation Bill which includes an earmark for the Eastern Inner Loop. Council members wondered if the funds may be reallocated to other projects. Council did not take a position on this matter, but noted that the Eastern Inner Loop issue may now need to be addressed as part of the 2006 Program Plan.

Council discussed the regional park funding formula. Mr. Meyer expressed concern that the .1 mill proposal was not appropriate, and a more appropriate way to fund regional parks would be through the COG formula. Mr. Fontaine explained that Council had discussed this issue and agreed that the tax rate approach for regional park funding was acceptable to the Borough. Mr. Kern said the funding formula for the .1 mill was not perfect but Council had agreed in order to get the program off the ground. Mr. Daubert noted that a regional park has not yet been defined. Until that is done, he did not feel comfortable agreeing to funding. He noted there were several issues, such as types of development that can occur and how the parks are allocated so that they serve all of the Centre Region rather than private organizations. Mr. Meyer reminded Council that the Miller formula used for CATA funding was very difficult to get changed once it was in place. He did not want to see a similar situation occur here. Ms. Dauler hoped Council did not delay moving forward on this issue. It would be unfortunate after all the work that has been done if the COG General Forum could not agree to fund this program for next year. Mr. Kern noted Council made a pretty strong statement that this program should be moved forward and agreed on the .1 mill. Mr. McCarl observed that the difference was between principles and details. Council was in favor of regional parks but needed to work out the details.

Mr. Daubert questioned whether or not a COG personnel officer was needed. The cost for this position could easily be \$50,000 a year. Ms. Dauler noted that this is a recommendation being made by the consultant. Currently, the COG staff turn to the Borough for human resource needs. It has evolved over time that the Borough is the only municipality with human resource staff and they are a resource to the Centre Region. By hiring a COG personnel officer, this position could be the go-to person for the municipalities. Ms. Dauler noted that this could alleviate some of the pressure on the Borough's human resource staff.

Mr. Kern asked about the replacement schedule change from 8 to 5 years for computer equipment. Mr. Fontaine said the older computers do not run the software needed for some programs, such as the GIS system. This was particularly true for the senior planners. Technology is changing and there is a need for faster computers.

Mr. Daubert asked staff to put together Council's comments and forward them to the Executive Director of COG.

OLD BUSINESS

Posting North Patterson Street No Parking Any Time

Staff received a request from a business owner on North Patterson Street to post North Patterson Street "No Parking". Presently, the west side of the street from Grass Alley to the lands of Penn State is posted for two-hour parking. The street width is 24 feet, and in accordance with standards issued by the Institute for Transportation Engineers, the street is too narrow to safely accommodate parking. The Borough-wide traffic counts taken in November of 2003 indicated that 1526 vehicles per day use the street. Users include tractor-trailer delivery trucks, school

buses, residents, and the street provides access to the West Campus graduate housing development. At Council's meeting of August 1, Council voted to deny the request to remove on-street parking from North Patterson Street. During the work session on August 8, it was requested that this item be placed back on the agenda for further review.

Mr. McCarl moved to approve an ordinance removing the on-street parking from North Patterson Street. Mr. Kern seconded the motion.

Mr. McCarl said he had voted against this at a previous meeting because comments had not been received from the fraternity on the corner of Patterson and West College. Following the meeting of August 1, he contacted the fraternity and was told that they do not use the on-street parking. If parking is needed, they use the lot across the street belonging to Rich Kalin. Mr. McCarl noted that fraternity members feel it is too dangerous to park on the street.

Mr. Kalin agreed the fraternity members use his lot every weekend. He typically lets them use the lot only because it has not caused problems. He noted that there were vehicles in his lot parked illegally but he has refrained from towing. He said parking is a problem and has been exacerbated by the University's West Campus development. He believed removing the on-street parking would make the illegal parking in his lot a more serious problem.

Mr. Meyer said the safety issue is a concern because of width of the street. Staff is recommending the parking be removed because of safety. Council discussed the removal of parking on Garner Street because of safety issues. It was argued that this was a similar situation in that on-street parking has become a safety issue and needed to be removed. Mr. McCarl noted that visitors can park on South Patterson Street. Mr. Whitfield agreed stating that the parking was only one block away and was underutilized.

Mr. Kern said the University agreed to assist with traffic problems created by the impact with the West Campus development. If the Borough eliminates parking because of safety issues created by the University traffic, then that is an impact. The Borough is subsidizing the University transportation system. Mr. Kalin agreed that the University should be made aware of the problem.

The question was called on the motion to remove the parking. The vote was 3-3-0 with Mr. Daubert. Ms. Goreham and Mr. Kern opposed. The motion failed.

Mr. Meyer noted that one Council member was absent and asked this be put on the next Council agenda.

Mr. Kern moved to instruct the Borough Manager to communicate with the University that there was a hazardous problem as a result of traffic on Patterson Street generated by the West Campus development and that solution should be discussed. Ms. Goreham seconded the motion. The vote on the motion was 6-0-0; the motion passed.

Fire Safety Code Amendments. Mr. Fontaine indicated Council proposed four changes to the Property Maintenance Code at their meeting of July 18, 2005 in regards to fire safety. Those four changes included:

- Require 2nd egress for rental units more than 20 feet above ground level;
- Increase fines for tampering with smoke detectors;
- Require a smoke alarm in every bedroom; and
- Increase the frequency of inspections to a 2-year cycle.

Staff has prepared proposed language to amend the Property Maintenance Code according to Council's instruction. Council is asked to receive the proposed language and discuss any changes. The COG Code Committee will also consider these amendments at its meeting on August 16. He noted that comments have also been received from the CBICC's Heritage One group.

Ms. Dauler moved to receive the amendments and schedule a public hearing on September 6 with final adoption scheduled for September 19. Mr. Kern seconded the motion.

Tim Knisely, Centre Region Code Administration, noted that other municipalities had been contacted about the changes. He advised that if the other municipalities do not agree, the costs for Borough rental permits may be increased to compensate for the additional inspections required for the 2-year cycle.

Mr. Daubert referenced the section on reasons to conduct more frequent inspections. He noted that more frequent inspection can occur for more than five corrections or violations. Some corrections are minor and would only take the property owner five minutes to fix, such as a cracked electrical plate. The type of corrections requiring more frequent inspections should be based on a life threatening concern. Mr. Fontaine suggested the language "life safety" be added to clarify.

Mr. McCarl referenced Section 202 which defined a clean and sanitary surface. Mr. Knisely noted this should have been added when the municipalities adopted the code; it was an amendment to maintain consistency in the code language.

Mr. McCarl noted the CBICC endorsed the second egress for buildings with five or more occupants. Mr. Knisely noted this would address their concerns that buildings with single-family occupancy would be excluded.

Mr. Kern asked if the second egress would need to have a roof. Mr. Knisely indicated the international residential code would require the second egress be covered for multi-family structures; however, one or two-family dwellings will not be required to cover the second egress. He noted the code would still require the stairway remain clear and free from ice and snow.

Mr. Kern asked about the language in Section 202 where the "owner" was listed as being responsible. He asked if the owner's representative could be present for an inspection. Mr. Knisely said it was noted on the first page of the amendment that "owner" refers to "owner or his/her representative." Mr. Daubert asked that it be referred back to the definitions for clarification.

Mr. Kern asked about the form to be signed off by the landlord and the tenant verifying the fire safety equipment was in working order. Mr. Knisely indicated that form had not yet been created.

Dan Abruzzo, CBICC, said he sat on a subcommittee with the CBICC on fire safety. This subcommittee had spent a great deal of time over the last few days reviewing the proposed amendments and had presented the letter included with Council's agenda. In general, the CBICC believes the intent of this ordinance is good but was moving very fast. The implementation of these things should be enforceable, practical and reasonable to implement. He referenced the language that required the landlord to be present with all the tenants when the affidavit was signed that the fire equipment was in working order. He noted that during move-in period there are 6,000 renters arriving at the same time. Some property management companies have many tenants, and it would be impractical to have a representative meet with all the tenants. A majority of tenants could sign off that fire safety alarms are functioning. Mr. Kern stressed the importance of having the tenant sign off on the unit that the fire safety equipment is in working order. If a landlord hands over a key to a tenant and there is nothing indicating that the fire alarms are working, it is difficult to make someone responsible. Mr. Fountaine noted that, although they need not be physically present, there was a need for some kind of certification that fire safety equipment is in working order.

Mr. Abruzzo also felt that increasing the frequency of inspections was not practical. The funds expended to conduct more frequent inspections could be better applied to those properties that have a track record of consistent violations.

Mr. Abruzzo mentioned that he would hope the code officials have some flexibility to approve measures that meet the intent of the ordinance. For example, the intent of smoke alarms is to alert the tenant. The requirement for interconnectivity could be met through wireless technology; however, little discretion is available to code official on whether or the landlord is fulfilling the intent of interconnectivity by using this new technology.

Mr. Daubert asked if the steel emergency ladder would be considered as a second egress. Mr. Knisely said it was not recognized by code as a second means of egress and would not be considered as a viable means of egress.

Mick Trombley, Keystone Real Estate Group, Heritage One, and member of the CBICC fire safety committee, reiterated that having the landlord meet with every tenant is not realistic. It would be an onerous task. The scheduling alone would be a problem. Currently, they have a system where the tenant is to sign off on a check list listing any damage to a unit; the form is the tenant's protection so that they would not be charged when the tenant leaves. However, there is less than a 50 percent return on those forms. To have every tenant certify that the fire systems work would be disastrous. He suggested that, if the tenant does not sign off, the landlord has the right to certify that the fire system is in working order.

Mr. Trombley spoke against the increase in inspections. It was not logical to increase the frequency of inspections when there are problem areas where resources are needed. He believed the three-year inspection cycle was reasonable. Mr. Daubert noted that there were some properties that had not been inspected for five years. He did not believe that a three-year inspection cycle was enough.

Mr. Kern used the analogy of the requirement for vehicle owners to have their cars inspected once a year. He said he owns a good car and he takes care of it. However, all cars are inspected because there may be a car out there that is not safe. The only way we know where those problems are located is to inspect all the units. They do not know which units need to be inspected every two years and which could be inspected less often. He knew that there were many rental properties in this town that were dirty and unsafe. Setting up a regular inspection schedule was the only way to insure safe conditions without being discriminatory. Although he agreed they could identify problem properties now, there could be others in the future. Property owners change hands and that changes the status of whether or not it is a problem property.

Mr. Trombley explained the proposal for a 10-Year lithium power smoke detector that was tamper resistant. Many times the inspections are driven by the conduct of the tenants. By installing this type of smoke detectors, it would be feasible to consider a three-year inspection cycle. He added that as landlords they are trying to provide a safe community. Mr. Daubert stated that would be reasonable but it would be important to first go through the two-year inspection cycle to identify which properties are problems. This could be reconsidered in four to six years.

Bruce Heim, member of CBICC, Heritage One, and member of the CBICC fire safety committee, explained that his properties were inspected once a year by his insurance company to insure that all safety measures are in place. Mr. Kern believed that could be coordinated with the code inspection. Mr. Heim noted the insurance company will look for other risk factors above and beyond code issues. Also, maintenance personnel are to check the smoke alarms for any call for service. As landlords, Mr. Heim said they are concerned about the safety of the tenants and try to protect them from themselves. Ms. Goreham said having the tenants sign off on the fire safety equipment would make them responsible. Mr. Heim agreed with this goal but believed the requirement for an annual on-site meeting between the landlord and all the tenants was unreasonable. Council members agreed that section of the ordinance may need to be rewritten.

Mr. Heim stressed the importance of giving the code officials some flexibility in making decisions. For example, the lithium battery operated smoke detectors in every bedroom may solve a problem so that interconnectivity would not be required. Providing the interconnectivity could be very expensive. Both Mr. Kern and Mr. Daubert expressed concern over giving too much leeway to the code officials. Mr. Daubert stated the administrative decisions needed to be made by this Council. Giving code officials more flexibility could cause issues of favoritism.

Mr. Knisely commented that there needs to be a better system than every two years but agreed there should be a baseline established as to where problems are occurring. He would consider coordinating inspections with insurance companies and moving to a three-year inspection cycle for non-combustible buildings that have sprinkler and alarm systems installed. Mr. Kern noted that this would require that some structures would be pre-identified.

Charles Gable, 1121 S. Atherton Street, said he had recently decided to rent a room in his home and was required by code to have an interconnected smoke alarm. Because this was a new rental permit, he fell under a different set of rules than the existing structures. He believed this was a double standard and was not fair. The same rules should apply to all structures. When asked the cost to provide interconnected smoke alarms, Mr. Cable replied it was \$1,000. Mr. Knisely explained any new rental housing permit would fall under the new construction standards which require hardwired interconnectivity.

Council discussed the existing structures and interconnectivity provided through a wireless system or possibly the tamper resistant detectors as mentioned by Mr. Trombley. Mr. Knisely believed this would meet the intent of the code for existing structures. Mr. Daubert asked if this could be applied for new construction. Mr. Knisely indicated the statewide code would need to be changed for new construction.

Mr. Fontaine said there were substantial changes to the proposed amendment, which included changes in the frequency of inspections and exceptions for tamper resistant batteries. Mr. Daubert stressed that he would not want to see changes in the frequency of inspections. The same standards should be applied to all rental units. Just because a building has a sprinkler system and is built of concrete does not mean code violations are not occurring. Mr. Fontaine agreed but believed frame constructed buildings were of major concern and concentrating the two-year inspection cycle on those properties could alleviate some problems. Mr. Kern noted that he would be willing to consider a change in the inspection cycle for classes of construction where systems are in place to insure fire safety. Mr. Meyer noted that fraternities were inspected twice a year because they were recognized as something different. He would not have a problem with looking at alternate proposals for different types of structures.

Ms. Goreham believed the affidavit was an important issue and that tenants need to bear some responsibility. Mr. Daubert noted that property owners need to realize that they have responsibility as well. Mr. Fontaine noted the consensus from Council is that the proposed ordinance should be changed to require that a tenant sign some kind of certification but does not need to be certified by every tenant.

Because there were changes, Mr. Fontaine suggested Council review a revised ordinance at their work session on September 12. Mr. Daubert disagreed. He believed that would push any changes back another semester. Mr. Fontaine indicated that it would push the enactment back by two weeks. Ms. Dauler said there were good suggestions made at this meeting and Council should take the time to consider them.

In a revised motion, Mr. Kern moved to review the changes to the proposed ordinance at their meeting of September 12 and Council could hold a public hearing on September 19, with adoption on October 3. Ms. Dauler seconded the motion. The vote on the motion was 6-0-0 in favor of the motion.

Receive Vouchers for the Month of July, 2005. Mr. Meyer moved and Ms. Dauler seconded a motion to approve the vouchers for July 2005 in the amount of \$2,576,252.85 for the Borough of State College, and as agents for COG in the amount of \$801,954.70. The vote on the motion was 6-0-0; the motion passed.

OFFICIAL REPORTS AND CORRESPONDENCE

President's Report Mr. Daubert reported he attended a presentation of the Susquehanna River Basin report which was excellent. He believed the public was able to get a better perspective and the presentation was well attended.

Mr. Daubert also informed Council there would be two major items on the COG General Forum agenda for August 22. One would be the approval of the ownership of regional parks and the second would be the regional growth boundaries.

Mr. Daubert announced there would be a special noon meeting of the COG General Forum in the last week of August so that the CBICC can make a presentation on their strategic plan.

Staff/Committee Reports

Mr. Fountaine indicated the second quarter enforcement activity report from the Health Department was enclosed with Council's agenda. He noted that Mark Henry, Health Officer, could not be present but any questions could be forwarded to him. Mr. Kern noted there was no reference to enforcement activities for restaurants. Mr. Fountaine indicated he would find out and respond back to Council.

Mr. Fountaine indicated the consultant would report on Urban Village Market Feasibility Study at a special meeting with Ferguson Township Supervisors at 6:00 p.m. on Monday, September 12. Following the presentation, Council would adjourn to their regularly scheduled work session.

Growth Boundary Issues. Robert Crum, Director of the Centre Regional Planning Agency (CRPA), presented the issues on the expansion of growth boundaries for the COG General Forum meeting of August 22, 2005. He explained there were 26 requests for expansion that had been forwarded to the local municipalities for comment and elimination. Of those 26 properties, 12 were forwarded to COG for inclusion in the growth boundary and sewer service area. Mr. Crum noted there were many meetings in the townships on this issue but the Borough Council has not been involved because there were no expansion areas located in the Borough. However, this group has one-sixth of the vote at the COG General Forum. At the COG meeting of August 22, each member will receive a two-page information sheet on all 12 parcels and maps showing the relationship to the transit routes and transportation improvements. The COG General Forum will be asked if these properties should continue through the process. No final decision would be made on August 22 but the planners will work with the sewer consultant to examine what kind of pump station improvements would be needed. A final plan will be presented in November. Mr. Kern asked if a staff recommendation will be made from the CRPA staff. Mr. Crum replied staff would make recommendations in November.

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

Respectfully submitted,

Cynthia S. Hanscom
Assistant Borough Secretary