

**Meeting Minutes**  
**State College Borough Council**  
**Work Session**  
**November 16, 2005**

The State College Borough Council met in a work session on Wednesday, November 16, 2005, at 12:00 noon in the State College Municipal Building Council Room, 243 South Allen Street, State College, PA. Mr. Daubert called the meeting to order at 12:07 p.m.

Present: Thomas E. Daubert, Council President  
Elizabeth A. Goreham  
Craig R. Humphrey  
Jeffrey R. Kern  
James H. Meyer  
Richard L. McCarl

Absent: Catherine G. Dauler

Also: Thomas J. Fountaine, II, Borough Manager; Carl R. Hess, Planning Director; Michael S. Groff, Finance Director, Mark A. Whitfield, Director of Public Works; Norma J. Crater, Finance Supervisor; John P. Marchek, Risk Manager, Michele Nicolas, Director of Human Resources; Cynthia S. Hanscom, Recording Secretary; members of the media; and other interested members of the public.

Public Hour. There were no citizens wishing to address Council.

2006 Operating Budget. Mr. Fountaine presented the 2006 Operating budget. He began with a summary of the third quarter financial report and indicated the Borough was in a better position financially this year than in the previous year. He noted that the unreserved fund balance goal of 12 percent will be achieved (\$2,210,151) as of December 31, 2005. The specific amount of the fund balance may warrant Council's further discussion.

Council discussed changes in the revenue trends and the net revenue of \$219,000 in excess of the budget. Mr. Fountaine noted that expenditures were down in most departments mainly due to staff savings because vacant positions were not filled. Mr. Meyer asked if the reduction in Police Department personnel costs would affect the police service charges to the townships. Mr. Fountaine indicated the hourly rate for officers would be the same.

Mr. Fountaine reviewed the highlights from the proposed budget and the proposed changes in taxation. The increase in real estate taxes would cover both the loss of the Business Privilege Tax as well as expected reduction in the Emergency and Municipal Services Tax.

Mr. Groff reviewed the Homestead Exclusion and the eligibility requirements. He presented illustrations of how the change in real estate tax would affect property owners that receive the Homestead Exclusion and those that would not.

Mr. Fountaine reviewed the proposed changes in personnel. Five of the seven added positions would be funded by contracts or grants. The Facilities Coordinator position and the Information Systems Help Desk position would be funded through the General Fund.

Mr. Fountaine reviewed several issues for discussion, which included:

- o Is the tax package as presented in the budget acceptable?
- o Is 12 percent of total annual budget an appropriate General Fund reserve balance?
- o How should the Borough address the long-term issue of funding capital improvements and pension costs?
- o Should the Borough consider self-insuring employee health care costs?

Mr. McCarl commented that he was impressed with the presentation and believed the budget review process would go much smoother with the information provided. Mr. Fountaine noted the budget preparation was a team effort with a great deal of coordination with department directors and Finance Department staff.

Musser Gap Forest Gateway Project Proposal. Mr. Fountaine reminded Council that the General Forum received a report from Katie Ombalski representing ClearWater Conservancy at the September 26 meeting. Ms. Ombalski explained that an opportunity has presented itself to obtain a 423 acre parcel of land on Tussey Mountain referred to as Musser Gap. The purchase price of the parcel is \$2 million, and a sales agreement that has been in the works for two years should be finalized by the end of the year. The ClearWater Conservancy has received a \$600,000 grant and a tentative pledge from the State College Borough Water Authority. The Conservancy is asking the General Forum for municipal support.

Mr. Meyer stated that Ferguson Township rezoned the land so that the value was increased from \$500,000 to \$2,000,000. Now Ferguson Township thinks they made a mistake by rezoning land that should have been reserved for water resources. During the library budget process, the Borough contributed additional funds so that all of the townships would agree to fund the project. The Thompson Woods project (located in College Township) affected the entire region but was financed only by College Township and the Borough. All of the Musser Gap parcel is located in Ferguson Township. The Conservancy knows that Ferguson Township will not pay the \$300,000. He did not see why the Borough or any of the townships should pay for a rezoning mistake made by Ferguson Township.

Mr. Kern stated he had believed this was a "protection racket." He was reluctant to contribute because he believed the developer was extorting money from local governments. He asked if staff had a recommendation. Mr. Fontaine replied staff had made no recommendation on this but indicated funding for the Musser Gap would require changes in the proposed budget.

Ms. Goreham stated this is one of several opportunities for joint cooperation among the Centre Region municipalities. Although she believed the Borough should help fund the project, she agreed that the principal contributions should come from the home municipality. Mr. Daubert agreed. He stated the State College Borough Water Authority should be willing to contribute additional funds as well because of the benefit they would receive.

Mr. Meyer believed that each municipality should decide on what they were willing to pay. Ms. Goreham disagreed and felt this was a regional issue and a shared resource; each municipality should pay a share of the cost.

Mr. Daubert summarized that comments should be forwarded that this Council believes the host municipality should contribute additional funding but more time may be needed to discuss this issue before action can be taken.

Centre Region Council of Governments 2006 Budget. Mr. Fontaine indicated the Centre Region Council of Governments General Forum received the 2006 budget at their meeting of October 24. Municipal comments need to be distributed to James Steff by today so that the COG Finance Committee can receive them for a meeting on November 17. There are currently three possible changes to the budget. They include:

- A \$15,000 increase in the CRPA budget for the cost of a marketing campaign to develop business users for the water generated through the beneficial reuse project. The costs will be distributed according to the COG funding formula.
- A contribution for the acquisition of the Musser Gap property.
- Changes in funding levels for the regional library program as a result of Halfmoon Township's tentative withdrawal from the program.

Council discussed the funding for the library in relation to Halfmoon Township's withdrawal. James Steff, Executive Director of the Centre Region Council of Governments, said that he had received a letter from Halfmoon Township Vice-Chair Timothy Tressler indicating their willingness to make a donation directly to the library of \$10,000. However, Township officials did not agree that their usage formula was correct because all residents with a Port Matilda address were being charged to their township. Council members expressed concerns about the precedent this would set for other municipalities to opt in or out of regional programs. Mr. Daubert stated Council should recommend to the General Forum that the \$10,000 not be accepted and that costs be redistributed. Mr. Kern agreed.

Liquor License Transfer – Fuji & Jade Garden Restaurant. Mr. Fontaine noted that Council held a public hearing on a request to transfer a restaurant liquor license from Gregg Township to the State College Borough. The party requesting the transfer is Fuji & Jade Garden, Inc., for a restaurant located at 418 Westerly Parkway. At the November 21 meeting, Council will vote whether to approve or deny the liquor license transfer request and, if approving the request, whether to identify any specific conditions that are warranted for the liquor license transfer approval. Council should discuss the proposal.

Mr. Fontaine noted that one of the issues was the health inspection record of the restaurants operated by the principle owner. Several violations have occurred, resulting in the forced closure of the restaurant. During the period when the restaurant was closed, food was being prepared in the kitchen and taken to another location, in direct violation of the order. In reviewing all of the issues, staff recommends the application be denied because of the concerns about applicant's ability to effectively manage the liquor license. Another concern is that once the license is transferred, it resides within the Borough.

Mr. McCarl asked if the license could be conditioned on the eating and drinking license. Mr. Fontaine replied Council can only deny or approve the transfer of the liquor license with conditions. Because this is a new law in Pennsylvania, there is no track record on how the conditions are enforced. If the transfer is denied, the applicant may appeal. Applicants' appeals have typically been won in court. Therefore, there is no guarantee that the court will not override the Borough's decision.

Ms. Goreham asked if the license could be conditioned on flawless health inspections. Mr. Fountaine noted that the conditions were enforced by the Liquor Control Board and must be reasonable in regards to the license. If the restaurant were prohibited from selling food, the owner would not be able to serve alcohol. Ms. Goreham expressed concern about the possibility of an unconditioned license. Mr. Kern said that he would like to support staff in its recommendation, but agreed with Ms. Goreham that a liquor license operating with no restrictions could be a problem.

Mr. Meyer agreed the transfer should be approved with restrictions. There are specific conditions on the liquor license imposed by the state. The Liquor Control Board usually enforces strictly with fines and suspension. If there are problems, the Borough could contact the Liquor Control Board.

Marilyn Haugh, 335 Arbor Way, indicated she owned three rental properties within close proximity to the restaurant. She was a local owner and felt that she has a good relationship with her renters. Her concern was with the noise level at the Atherton Street/Westerly Parkway intersection. Many of her tenants have complained about screeching tires, fire engines, and tremendous noise during the evening. She believed the intersection was a traffic hazard. Having another liquor license in close proximity to this troublesome area is of concern. She recommended Council not approve the liquor license because of the traffic in the area.

Mr. Fountaine noted that, if approved, staff is recommending the following conditions be placed on the license:

- 85 percent total business is food sales (versus alcoholic beverages) for each liquor license renewal period (every 2 years);
- Applicant will provide quarterly reports to the Borough to verify the food/alcohol sales;
- No more than 10 seats at a bar;
- Entertainment is limited to and may only consist of instrumental music (piano or acoustic guitar) wherein vocals are prohibited;
- No alcoholic beverages served between midnight and 10:00 a.m., 7 days a week;
- Beer and liquor may only be sold by the drink in a container no larger than 22 ounces; no alcoholic beverages to go are permitted to be sold;
- No discounted drink specials nor any alcoholic beverage advertising permitted.
- No lease or use of 418 Westerly Parkway for any function between midnight and 6:00 a.m.
- No expansion beyond 418 Westerly Parkway or transfer of the license to another location in the Borough without Council approval;
- Liquor license must be retained by Fuji & Jade Garden Restaurant and not be transferred to another person or corporation without Council approval; and
- Transfer request shall only be approved if PLCB agrees to place the same conditions set by Council and enforce them if violated.

Mr. Daubert stated Council would consider this request at the meeting of November 21.

There being no further business, the meeting adjourned at 1:52 p.m.

Respectfully submitted,

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Cynthia S. Hanscom  
Assistant Borough Secretary