

**Meeting Minutes**  
**State College Borough Council**  
**November 21, 2005**

The State College Borough Council met in a regular meeting on Monday, November 21, 2005, in the State College Municipal Building Council Room, 243 South Allen Street, State College, Pennsylvania. Mayor Welch called the meeting to order at 7:30 p.m.

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

Also present: Thomas J. Fountaine, II, Borough Manager; Terry J. Williams, Borough Solicitor; Carl R. Hess, Planning Director; Amy J. Story, Borough Engineer; Mark A. Whitfield, Director of Public Works; Thomas R. King, Chief of Police; Michele Nicolas, Director of Human Resources; Cynthia S. Hanscom, Assistant Borough Secretary; members of the media; and other interested citizens.

Mr. Welch began with a moment of silence followed by the Pledge of Allegiance.

Public Hour. There were no comments received from the public.

**CONSENT ITEMS**

Records: Administration Department. Mr. Fountaine indicated, in accordance with Act 428 of 1968, adopted for use by Council through enactment of Resolution 706 in 1993, each individual act of record disposition must be approved by resolution of the governing body. A list of obsolete records that are proposed to be destroyed, as well as a Resolution for enactment by Council approving their destruction, have been prepared to destroy obsolete records in the Administration Department.

Mr. Kern moved and Ms. Goreham seconded a motion to approve Resolution 890. The motion passed with a 7-0-0 vote.

2006 Meeting Schedule. Council reviewed a legal notice showing the 2006 meeting schedule. Ms. Goreham asked about the changes in the January schedule. Mr. Fountaine explained the January 3 meeting would be held at 3:30 p.m. to reorganize and welcome the new members. Since the meeting agendas for January are usually light, there is a regular meeting on January 9 with a work session on January 20.

Mr. Kern moved to approve the schedule. Ms. Goreham seconded the motion, which passed unanimously.

Resignation of a Member of the Historic Resources Commission. Mr. Fountaine indicated an e-mail was received from Caitlin Osborne, member of the Historic Resources Commission, requesting that her resignation from the Historic Resources Commission become effective immediately.

Mr. Kern moved to accept Ms. Osborne's resignation, with regret. Ms. Goreham seconded the motion, which passed unanimously.

**BIDS/CONTRACTS/AGREEMENTS**

Council May Approve the Purchase of a Brush Chipper. Mr. Fountaine indicated sealed bids for one 2005 model brush chipper were opened on November 3, 2005. This chipper will replace a 1994 model brush chipper in the refuse department. Availability of bid packages was advertised in the *Centre Daily Times* in accordance with the Borough's Purchasing Ordinance and six vendors obtained bid packages for review. Three bids were submitted, as follows:

<u>Bidder</u>	<u>Base Bid Amount</u>	<u>Less Trade-In</u>	<u>Net Bid</u>
Deacon Equipment Co. Bloomsburg, PA	\$31,355.25	\$5,000.00	\$26,355.25
Stephenson Equipment Harrisburg, PA	\$30,694.65	\$3,000.00	\$27,694.65
Bradco Supply Company Towanda, PA	\$36,142.50	\$5,000.00	\$31,142.50

The low bid submitted by Deacon Equipment Company does not comply with the minimum specifications. The next low bid from Stephenson Equipment is for a Bandit Industries chipper, and this bid does comply with all minimum specifications.

Staff notes that the 2005 budget projects a replacement cost for this chipper of \$21,500, and the low bid exceeds this projection by approximately \$6,200. The difference can be explained by a significant increase in the cost of steel prices since the 2005 operating budget was prepared in November 2004, and the fact that the trade-in allowance offered by the low bidder is \$4,000 lower than projected. There are sufficient funds in the Refuse Collection's asset replacement fund to cover the higher than expected replacement cost.

Mr. Kern moved to award the bid for one 2005 model brush chipper to Stephenson Equipment, Incorporated, the low bidder meeting specifications, in net amount \$27,694.65, and to reject all other bids. Ms. Goreham seconded the motion. The vote was 7-0-0 in favor of the motion.

#### OLD BUSINESS

Liquor License Transfer: Fuji & Jade Garden, Inc. 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 Restaurant, located at 418 Westerly Parkway. Council discussed the request at their meeting of November 16. At that meeting, staff raised concerns about the applicant's ability to manage the liquor license. These concerns reflect past food violations at restaurants owned and managed by the sole shareholder of the Fuji Jade Garden Restaurant. During Council's discussion, several members noted that the applicant did not have a record of operating a nuisance establishment and expressed the opinion that it would be in the Borough's best interest to establish strict conditions for the liquor license transfer rather than leave the issue open for the courts to decide.

Council reviewed a proposed resolution listing the following conditions:

1. PLCB Concurrence Required. Approval of the transfer request is conditioned on the PLCB agreeing to encumber or restrict the license with the same conditions as set forth by Council and the further agreement of the PLCB to enforce such conditions as provided by law in the event the conditions are violated.
2. Modification. Modification of these conditions may be obtained only following submission to and approval by Council. Applications to the PLCB for changes in these conditions without the prior approval of Council shall be regarded as a violation of the within agreement.
3. Further Transfer Prohibited. The liquor license issued to Fuji & Jade Garden Restaurant may not be transferred to another person, corporation or entity without Council approval.
4. Expansion Prohibited. No expansion of the license premises beyond 418 Westerly Parkway or transfer of the license to another location within the Borough may occur without Council approval.
5. Alcohol Sales Limitation. Alcoholic beverages may only be sold by the drink in a drink container that does not exceed twenty-two (22) fluid ounces. No alcoholic beverages to go are permitted to be sold. In addition, neither discounted drink specials nor any alcoholic beverage advertising shall be permitted, and no draft beer may be served. This condition does not apply to the sale of wine.
6. Hours of Operation. Alcoholic beverages may only be sold and served when food service is available. In no case shall alcohol be served before 10:30 a.m. or after 10:00 p.m., Sunday through Thursday, and before 10:30 a.m. or after 11:30 p.m. on Friday and Saturday.
7. Entertainment. Entertainment shall be limited to instrumental music (for example, piano or acoustic guitar). The applicant shall not apply for an Amusement Permit or allow bands or disc jockeys to perform at the establishment. No video games shall be permitted.
8. Bar Seat Limitation. The bar service area shall be limited to a maximum of ten (10) seats.
9. Non-Smoking. The entire restaurant will be non-smoking.
10. Food/Alcohol Sales Ratio. Eighty (80%) percent of gross revenue for the business premises located 418 Westerly Parkway shall be generated by food sales for each two-year liquor license renewal period. Applicant will provide quarterly reports to the Borough to verify food and alcohol sales figures.

Mr. Kern moved to adopt Resolution 891 approving the transfer of the liquor license with the conditions listed. Mr. Daubert seconded the motion.

Mr. Meyer suggested the limitation on the sale of draft beer could be eliminated. Mr. Fontaine noted the applicant had listed this as a condition in their application. Mr. Meyer said the applicant could choose to not sell draft beer but did not think this should be a restriction. Mr. McCarl agreed. Mr. Daubert indicated there was already a limit on the size of a container so that pitchers of draft beer could not be sold. Mr. Meyer added that drinking problems occur with the sale of hard liquor. Ms. Goreham disagreed and believed the applicant had indicated their willingness to agree to this condition and that it should be included.

Mr. Meyer moved to amend the motion to delete the phrase "and no draft beer may be served." Mr. Daubert seconded the amendment. The vote on the motion was 5-2-0 with Ms. Goreham and Ms. Dauler opposed. The motion passed.

Ms. Goreham asked what would happen if the applicant violated the conditions of the transfer. Mr. Fontaine explained the Liquor Control Board would enforce the conditions and could penalize the applicant for non-compliance or revoke the license.

Mr. Williams suggested the words "shall be" be inserted after the word "advertising" to clarify the statement. Mr. Meyer moved to amend the motion to insert those words. Mr. Kern seconded the amendment to the main motion, which passed unanimously.

Mr. Kern asked the Borough's options if a problem occurs with the liquor license. Mr. Fontaine said the correct procedure would be to have the Police Department file a complaint with the Liquor Control Board. The Liquor Control Board would then follow-up with an investigation.

The question was called on the original motion. The vote was 7-0-0 in favor of the motion with the two amendments.

Mr. Welch asked the limitations on the liquor license be posted on the Borough's web site.

#### NEW BUSINESS

Amendment to the General Government Employees Pension Plan. Mr. Fontaine explained Ordinance 1790 adopted a comprehensive restatement of the General Government Employees Pension Plan. The plan document was drafted by the Borough's consulting actuary, and was intended to bring the plan into conformity with Internal Revenue Service (IRS) regulations so that the pension plan would constitute a "qualified plan." When the new plan document was drafted, a plan provision regarding credit for prior years of service was inadvertently omitted from the rewrite. To correct this oversight, an amendment was drafted by the plan actuary and is recommended for approval by Council.

The provision restored by the attached amendment awards credit for prior years of service. This provision had been added to the General Government Employees Pension Plan by amending Ordinance 1294, and became effective January 1, 1991. The provision does not conflict with state or federal laws, including IRS regulations, and should be restored to the plan provisions. Because it had been a part of the existing plan, the cost of this provision has already been included in all actuarial studies and there is no additional cost to correct the oversight.

Ms. Dauler moved to approve Ordinance 1824 amending the General Government Pension Plan. Mr. Humphrey seconded the motion, which passed with a 7-0-0 vote.

Amend the Vehicle & Traffic Ordinance. Mr. Fontaine explained that Council is being asked to amend the Vehicle and Traffic Ordinance in several ways. First, parking is being prohibited on a portion of Sparks Street, south of Foster Avenue, due to sight distance issues. Amendments are included to modify the on-street parking as a result of the shift in chicanes on Beaver Avenue, add the Beaver Avenue parking garage, and other minor housekeeping issues.

In addition, a previous Council authorized an application to PennDOT to amend the permit for the signal at Park and Atherton to prohibit right turns on red. PennDOT completed their review in September and approved the permit amendment to restrict right turns on red from 6:00 a.m. to 6:00 p.m.

Mr. McCarl suggested discussion on this be postponed to a work session. Mr. Fontaine noted that most of the items included in the ordinance had been discussed and approved previously. The only new issue is the removal of parking on South Sparks Street to accommodate problems with sight distance.

Mr. McCarl asked if the no turn on red for the Atherton Street/Park Avenue intersection had been discussed by Council. Mr. Fontaine explained it had been approved five years ago but it has taken that long to get PennDOT's approval.

Mr. Whitfield reviewed other changes included in the ordinance. He explained the first section of the ordinance deletes on-street parking on West Beaver Avenue as a result of the installation of the chicane. It also adds the parking spaces on the south side of Beaver Avenue. Mr. Kern indicated the road should be striped better so that vehicles traveling on Beaver Avenue in the

south lane are aware that the lane shifts. Mr. Whitfield explained that would be done as part of the Fraser Street realignment.

Mr. Whitfield noted the ordinance also adds unloading and loading zones at three locations and changes the metered zones. Both of these changes were created as a result of the chicanes. He noted other changes in the ordinance which would bring the Vehicle and Traffic Ordinance in line with existing practices.

Ms. Story explained the proposal to restrict right turns on red at the intersection of Atherton Street and Park Avenue started five years ago with the installation of the 3-second pedestrian lead. Pedestrians were complaining that crossing two lanes, a median, and then two additional lanes before entering the turning lane could not be done in a timely manner. Pedestrians would be stuck in the intersection and turning vehicles would not stop. Since that intersection includes a turn arrow, the suggestion was to restrict right turn on red. PennDOT approved the restriction but recommended it be limited.

Ms. Dauler asked how the public would be educated on the change. She noted many neighborhood residents use that intersection. Ms. Story said that signs would be installed, the media would be contacted, and patrols would monitor the intersection. Mr. Welch suggested a giant sign be placed on the Nittany Lion Inn lawn notifying motorists of the change.

Mr. Kern asked if the controller could be modified. Ms. Story replied the controller was full and would need to be replaced to accommodate this change. The cost to replace the controller would be between \$25,000 and \$27,000. Mr. Kern noted that this could be a consideration for the future.

Mr. Whitfield explained the ordinance also changed the hours of operation of the parking garages because they would run on a 24-hour operation. In the past there was language that included "when an attendant is on duty."

Mr. Whitfield noted another minor change was to add the metered lot in the 200 block of South Allen Street. The lot was previously listed as a non-metered lot. Mr. Daubert asked about the non-metered spaces in the lot. Mr. Whitfield stated there were four spaces in that lot for municipal vehicles.

Mr. Humphrey moved to enact Ordinance 1825 to amend the Vehicle and Traffic Ordinance. Mr. Kern seconded the motion.

Mr. McCarl questioned the timing of the right turn restriction at Park Avenue. He believed there was a great deal of activity at the corner because of the events in Rec Hall. Ms. Story explained that PennDOT recommended a "partial day restriction." It was suggested that the restriction be limited to 6 a.m. to 9 p.m., rather than 6 a.m. to 6 p.m.

Ms. Dauler moved to amend the ordinance restricting right turns on red at the Atherton/Park intersection during the hours of 6 a.m. to 9 p.m. Mr. Kern seconded the motion. The vote was 7-0-0 in favor of the amendment.

Council voted on the original motion to approve Ordinance 1825, as amended. The vote was 7-0-0 in favor of the motion; the motion passed.

Increase Tapping Fees as Imposed by the University Area Joint Authority (UAJA). Mr. Fountaine said UAJA's portion of the tapping fee for treatment expansion has increased from \$3,415 for residential uses to \$3,534 (for a total tapping fee of \$6,109) and \$14.65 gallons per day for non-residential uses to \$15.15 gallons per day (for a total tapping fee of \$27.59). Council should enact an ordinance to increase the tapping fees as imposed by the UAJA.

Mr. Daubert asked when the UAJA last increased their fees. Mr. Whitfield indicated it was two years ago.

Mr. Kern moved to enact Ordinance 1826 to increase tapping fees. Mr. Meyer seconded the motion. The motion was approved with a 7-0-0 vote.

Vouchers. Mr. Meyer moved and Ms. Dauler seconded a motion to approve vouchers for the month of October in the amount \$3,390,578.50, and as an agent of COG for \$860,981.00. The vote was 7-0-0 in favor of the motion.

## OFFICIAL REPORTS AND CORRESPONDENCE

Mayor's Report. Mr. Welch acknowledged the death of Jean McManis, former Council member. He noted she was a dedicated and articulate member of Council and provided an important contribution to the community.

Mr. Welch also announced the Interfraternity Council would be conducting the first Holiday Lights Tour on Wednesday, November 30 from 7:00 to 10:00 p.m. A trolley would be available and make four stops. At each stop, individuals could get off or back on the trolley. The fraternities would be open to the public and food and drink would be provided at each house as well as a

brief history. The event was free of charge and sponsored by the Interfraternity Council as part of their community outreach. Information will be posted on the Borough's web site about the tour. Ms. Dauler commented she was pleased to see this kind of effort for reaching out to the communities by the fraternities and complemented the Interfraternity Council on their work.

Mr. Welch also announced his participation with the Greek Sing. He noted that Ms. Dauler was also in attendance as a judge. He noted the event was a good example of how the perceived divide between the town and gown is exaggerated.

President's Report. Mr. Daubert reported on the Centre Region Council of Governments General Forum agenda. He noted the General Forum would be discussing the level of contribution for the Musser Gap project, voting on the continuation of the Eastern Inner Loop, and discussing the 2006 COG budget. Ms. Goreham asked if there was agreement among this Council on the funding for the Musser Gap project. Mr. Daubert indicated following the discussion on November 16, the general consensus among Council was that primary funding should come from the home municipality; in this case it would be Ferguson Township. Mr. Meyer noted the COG Finance Committee discussed funding the project and there was some consensus that each municipality should consider funding the project separately rather than through the COG formula.

Mr. Daubert announced there would be an executive session following the meeting to discuss personnel matters.

Liaison Reports. Mr. Kern reported the State College Borough Water Authority had discussed funding for Musser Gap. He noted the Authority has spent a great deal of money to buy land to conserve water. The intention of the Authority was not to buy the land but not to reject the project. The Board believed there may be alternative ways to protect the water.

Staff/Committee Reports. Mr. Fontaine noted the 2<sup>nd</sup> quarter enforcement activities report from the Health Department was attached to the agenda. He asked for questions on that report; there were none.

Mr. Fontaine reported the State College Police Department was recognized by the Underage Drinking Enforcement Training Center as the Law Enforcement Partner of the Year. The Department was nominated by the Pennsylvania Liquor Control Board and received the award in connection with the Source Investigation Program, which is currently being coordinated by Sergeant Dana Leonard. Sgt Leonard received the award at a ceremony held in August in Tucson, Arizona.

#### ITEMS OF INFORMATION

Council discussed the proposed budget and asked that a summary be posted on the web site.

Ms. Goreham noted that she would like Council to refer downtown bicycle parking issues to the Transportation Commission. She noted there was an on-going problem with bicycles being locked illegally to meters and trees in the 100 block of South Allen Street. She saw a real need for appropriate bike racks in the area around Webster's Book Store (128 South Allen Street). Mr. Fontaine noted that staff had been discussing this problem and it would be included on the Transportation Commission's 2006 Work Program.

Mr. Welch suggested the Borough's web site be posted in the front of Council on the dais so that the public can see it when the meetings are publicly broadcast.

Mr. Kern suggested Council's e-mail addresses be available on the Borough's website. Mr. Fontaine indicated there was a security concern with listing individual addresses but a system could be established so that e-mail addresses could be forward to personal accounts. Mr. Daubert expressed concern that individuals would expect a reply. Mr. Fontaine said a statement could be added that indicates that a response may not be received depending on the situation.

There being no further business, Council adjourned to an executive session at 8:35 p.m.

Respectfully submitted,

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Cynthia S. Hanscom  
Assistant Borough Secretary