

**Meeting Minutes**  
**State College Borough Council**  
**December 19, 2005**

The State College Borough Council met in a regular meeting on Monday, December 19, 2005, at 7:30 p.m. in the State College Municipal Building Council Chambers, 243 South Allen Street, State College, PA. 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; Thomas R. King, Chief of Police; Michael S. Groff, Finance Director; Amy J. Story, Borough Engineer; Mark A. Whitfield, Director of Public Works, Michele Nicolas, Director of Human Resources; John P. Marchek, Risk Manager; Norma J. Crater, Accounting Supervisor; Cynthia S. Hanscom, Assistant Borough Secretary; members of the media; and other interested observers.

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

Approval of Minutes. Ms. Goreham moved and Mr. Kern seconded a motion to approve the following minutes:

November 4, 2005, Work Session	November 21, 2005, Regular Meeting
November 7, 2005, Regular Meeting	November 30, 2005, Work Session
November 16, 2005, Work Session	

The vote on the motion passed unanimously.

Public Hour: There were no comments made by the public.

**CONSENT ITEMS**

Appoint or Reappoint Members to Various Authorities, Boards, Commissions, and Committees (ABCs). Mr. Daubert noted that Council selected several nominees to serve or continue to serve as members of ABCs. Each of the following nominees has been contacted and expressed a willingness to serve on the boards assigned to them by Council:

<b>Authority, Board or Commission</b>	<b>Term Expires</b>	<b>Nominee</b>
Water Authority	12/31/2010	Albert L. Guber
Civil Service Commission	12/31/2011	James W. Locker
Design Review Board	12/31/2009	Kevin J. Gombotz
	12/31/2009	Kelleann Foster
	12/31/2007	Robert A. Keal
Historic Resources Commission	12/31/2006	Thomas W. Campney
	12/31/2006	David Putterman
SC Planning Commission	12/31/2009	Elizabeth Toepfer
	12/31/2007	Michael Freeman
	12/31/2007	Charles R. Gable
Tree Commission	12/31/2008	William F. Elmendorf
	12/31/2007	Ken Tamminga
Rental Housing Revocation Appeals Board	12/31/2008	Louie Torres
Transportation Commission	12/31/2009	Christopher J. Falzone
	12/31/2009	Jon Eich
	12/31/2009	Andrew Lau
Zoning Hearing Board	12/31/2008	Paul W. Brown
Alternate	12/31/2007	Joseph A. O'Leary
Library Board	12/31/2008	David W. Miller
Centre County Airport Authority	12/31/2010	Richard L. McCarl
Centre County Community Foundation	12/31/2009	Rebecca M. Mills
Centre Network	12/31/2008	Cynthia Hahn
Alternate	12/31/2008	Catherine G. Dauler

Mr. Daubert moved to appoint the members listed to their respective boards for the terms quoted and, as required by the Municipalities Planning Code, to enact Resolution 899, affirming the appointments of Paul W. Brown and Joseph A. O'Leary to the Zoning Hearing Board. Mr. Kern seconded his motion, and it carried unanimously.

Readopt A Resolution Approving the Transfer of a Liquor License into the Borough of State College for the Fuji & Jade Garden Restaurant and Establishing Conditions for the License. Mr. Fountaine indicated Council had approved Resolution 891 at their meeting of November 21, 2005, authorizing the liquor license transfer for Fuji & Jade Garden Restaurant from Gregg Township. The resolution was signed and forwarded to the applicant. However, the Pennsylvania Liquor Control Board (LCB) has rejected the resolution because of missing information, notably the license number and the official legal name of the applicant. Therefore, it is necessary to approve a second resolution that can be forward to the LCB from the applicant.

Ms. Dauler moved to approve Resolution 893 approving the liquor license transfer. Mr. Kern seconded the motion. The motion passed with a 7-0-0 vote.

Municipal Building Use for Menorah Lighting. Mr. Fountaine noted a request was received to use the lobby in the municipal building and the plaza on Tuesday, December 27, from 5:00 to 8:00 p.m., for the lighting of the menorah. In accordance with the adopted policy on facility use, such requests to use the municipal building must be approved by Council.

Mr. Kern moved to approve the use of the plaza and lobby for the event. Ms. Dauler seconded the motion, which passed with a 7-0-0 vote.

Authorize the Execution of Agreements with Property Owners on West Park Avenue. Mr. Fountaine noted the 2005 Capital Improvement Program included authorization to for the West Park Avenue reconstruction project. The project was approved based on an agreement that the costs would be shared by the Borough, property owners abutting West Park Avenue and Penn State University. Agreements have been executed by twenty-two of the twenty-six property owners required for the project. Since this meets the threshold criteria that the Borough previously established, Council is being asked to approve the agreements, authorize the officers of the Borough to execute the agreements on behalf of the Borough, and direct the Solicitor to proceed to acquire the necessary property for this project.

Ms. Dauler moved to authorize the officers of the Borough to execute the agreements with the property owners and direct the Solicitor to proceed to acquire property for the project. Mr. Kern seconded the motion. The motion was approved with a 7-0-0 vote.

#### ABC RECOMMENDATIONS

2005 Community Development Block Grant (CDBG) Consolidated Plan Amendment. Mr. Fountaine noted the 2005 Consolidated Plan budgeted \$18,814 in HOME and \$60,000 in CDBG funds for a rental rehabilitation project. The mix of CDBG and HOME funding presents complex regulatory challenges. Both Borough staff and Temporary Housing Foundation, partners in the project, recommend allocating HOME funds only for this project. The CDBG funding is replaced with HOME funding in the 2006 budget. Additional CDBG funds are needed for the Borough's homeowner rehabilitation program. A total of \$80,000 in 2006 CDBG funding was budgeted for this program, which would allow us to rehabilitate 2 or 3 houses in 2006. An additional \$60,000 will allow us to rehabilitate a total of 4 or 5 houses. The CDBG Citizens' Advisory Committee met on December 12, 2005, and unanimously recommended the \$60,000 be reprogrammed for the homeowner rehabilitation project.

Mr. Humphrey asked if the moving of money from CDBG to HOME would limit the Community Land Trust. Mr. Hess indicated it would not affect the land trust allocation.

Ms. Goreham asked if rehabilitation costs had increased since the Katrina hurricane. Mr. Hess indicated he was not aware of increased costs but would check with staff and SEDA-COG to determine if construction fees had increased.

Mr. Kern moved to receive the recommendation and schedule a public hearing on January 9. Ms. Dauler seconded the motion, which passed unanimously.

#### OLD BUSINESS

2006 Tree Commission Work Program. Mr. Fountaine noted that Council had received the 2006 Tree Commission work program at their meeting of December 5 and reviewed the plan on December 12.

Mr. Humphrey moved and Ms. Dauler seconded a motion to approve the 2006 work program for the Tree Commission. The motion passed unanimously.

2006 Transportation Commission Work Program. Mr. Fountaine indicated Council received the 2006 Transportation Commission work program at their meeting of December 5 and reviewed the plan on December 12.

Mr. Daubert indicated Council had made revisions at their meeting of December 12 and asked if they were shown on the work program. Ms. Goreham indicated the bold faced language was the new language and the deleted language was stroked through.

Mr. Kern moved to approve the Transportation Commission 2006 work program. Ms. Dauler seconded the motion. The vote on the motion was 7-0-0 in favor of the motion.

2006 Planning Commission Work Program. Mr. Fontaine said Council received the 2006 Planning Commission work program at their meeting of December 5 and reviewed the plan on December 12.

Mr. Daubert indicated the Downtown ad hoc committee was formed between the Planning Commission and the Downtown State College Improvement District. He noted that it does not say who appoints that committee. Ms. Dauler explained it was made up of three representatives from the Planning Commission, three representatives from the Downtown State College Improvement District, and a Council liaison, which is Ms. Goreham. Both Carl Hess and Teresa Sparacino, Director of the Downtown State College Improvement District, serve as staff support. Mr. Kern suggested the group be recognized as an official committee and asked that this be brought back to Council in January.

Mr. Kern asked about the revitalization plan for the Urban Village. At the request of Council, this is something that should move forward quickly; yet, it is shown on the work program as a year-long project. Mr. Hess noted a request for proposal would be prepared by March or April. Assuming it is approved, there will be two months to advertise and hire a consultant. The revitalization would be on-going as the consultant comes up with a plan for the area.

Ms. Dauler moved to approve the 2006 Planning Commission work program. Ms. Goreham seconded the motion, which passed with a 7-0-0 vote.

#### NEW BUSINESS

2006 Operating Budget. Mr. Fontaine began by stating the proposed 2006 budget was presented to Council on November 16, 2005. The proposed budget was made available for public inspection immediately following its presentation to Council. A public hearing was held on December 5 to receive comments on the budget proposal. One comment was received asking for opportunities for real estate professionals to comment on the increase in property taxes. Council noted that three additional budget review work sessions would follow the public hearing allowing additional opportunities for comment by any person.

Mr. Fontaine reported there were no significant changes made during the work session reviews. The Regional Programs budget was increased by \$10,548, to provide additional money for the library after Halfmoon Township announced that it would not participate in the program. The 2006 budget includes the following:

- o Repeal of the Business Privilege Tax
- o Implementation of tax relief for homeowners
- o Expanded services via the Borough's web page
- o Improve neighborhood services
- o Update land use goals & begin re-write of Borough's zoning ordinance
- o Complete Centre Region cable consortium franchise agreement
- o Establish redevelopment plan for Urban Village
- o Renew publication of Borough print newsletter
- o Performance measurement/benchmarking program
- o Financial trend monitoring system
- o Expansion of the School Resource Officer program for middle schools
- o Implementation of a domestic violence program
- o Expand use of speed sentry devices in neighborhoods
- o Explore self-insuring health care costs
- o Capital Improvement Program

Mr. Fontaine said the General Fund budget is balanced with revenues of \$14,925,497 and expenditures of \$14,858,200. The total budget for the Borough after adjustments for interfund transfers is \$26,450,188. The budget is broken down into the following amounts:

General Fund	\$ 14,858,200.00
Capital Project Fund	1,137,440.00
Refuse Fund	2,894,193.00
Sanitary Sewer Fund	4,815,461.00
Parking Fund	2,861,508.00
Highway Aid Fund	648,831.00
Bellaire Court Fund	54,740.00
Bus Terminal Fund	15,820.00
Adjustment for Inter-Fund Transfers	(836,011.00)

The proposed 2006 budget includes the provisions of Council's Resolution 889, adopted in October establishing Council's intent to repeal the Business Privilege Tax and enact the Homestead Exclusion. This represents a significant shift in taxing philosophy for the Borough. The tax package presented with this budget shifts the tax burden for most owner-occupied homes to commercial property by providing an exclusion of \$25,000 for qualified homeowners, funded by the Realty Transfer Tax. As a result, many homeowners will see a reduction in their Borough property tax in 2006. A detailed explanation of the tax package is included in the budget document.

In November 2004, the Pennsylvania legislature amended the Occupation Privilege Tax for the first time in forty years. The amendment provided for a local option to increase the tax from \$10 to \$52 and renamed the tax the Emergency and Municipal Services Tax (EMST). In 2005, the tax was assessed against all persons employed in the municipality earning more than \$5,200. Revenue from the EMST was included in the budget and applied to fund police services. As a result, the Borough was able to avoid reducing police staffing as part of the 2005 budget. Currently, the legislature is considering amendments that would raise the income exemption for the EMST to \$12,000. Thus, the revenue generated by the EMST will be reduced by about 40% or \$400,000 as a result of the amendment. The 2006 budget includes a proposed real estate tax increase of .0835 mills to replace the revenue lost as a result of the legislature's amendments to the EMST taxing authority.

Mr. Fontaine noted that a rate increase for municipal refuse collection services is needed in 2006. This is primarily due to an 18% increase in disposal fees paid to the Centre County Solid Waste Authority and for higher diesel fuel costs. Increases in commercial recycling fees are also a factor. Because the commercial accounts generate 77% of the total weight of collected refuse, that group of customers bears the vast majority of increased disposal costs. In addition, an analysis of the source of bulk item collection demonstrated that a substantially larger portion of these items were collected from commercial apartment buildings and fraternities than was previously estimated. Consequently, the commercial rate increase is higher than the residential increase to reflect actual cost of collection. Most commercial rates will increase from 10% to 12%, depending on the type of business. Commercial apartment and fraternity rates will increase 16% and residential rates will increase about 3%.

Mr. Fontaine said that, as part of the budget adoption process, Council must also approve a pay plan for non-union employees and establish member contributions for both the police pension plan and the non-uniformed employees' pension plan. The resolution providing for a position classification and compensation plan for non-union employees in 2006 represents an across-the-board cost-of-living adjustment of 3 percent for non-union workers. The pension resolution authorizes contributions by participants at 4 percent, with the annual rate established based on the amount of state aid anticipated. The police pension ordinance requires contributions by police pension participants whenever an actuarial study shows that such funds are needed to maintain the soundness of the fund. Based on the actuary's advice, it will be necessary to set police pension contributions at 5 percent in 2006.

Mr. Fontaine indicated the 2006 operating budget includes regional programs and the COG budget. Last month, Council reviewed the proposed 2006 COG budget and, at the General Forum meeting in November, the budget was forwarded to participating municipalities for adoption. For 2006, the COG budget totals \$9,279,721.00, of which \$1,015,678.00 is to be funded by the Borough of State College.

Mr. Kern moved to approve Resolution 894 appropriating those sums listed and required for the purposes specified during 2006 for the operating budget. Ms. Dauler seconded the motion. The vote was 7-0-0 in favor of the motion.

Mr. Kern moved to enact Ordinance 1827 to repeal the Business Privilege Tax. Mr. McCarl seconded the motion.

Mr. Daubert stated that it should be made clear to residents that the repeal would mean that the tax would need to be paid on gross receipts in 2005 but not in 2006.

Mr. Humphrey commented that he was opposed to repealing the Business Privilege Tax because it limits the ability for the Borough to spread tax over several sources. If the legislature decides to draw back the Local Services Tax (formerly the Emergency and Municipal Services Tax), the pressure to make up the difference will fall on the permanent residents through the real estate tax.

Mr. Meyer noted he was in favor of repealing the Business Privilege Tax. He saw it as the Borough's first real tax reform. Coupled with other actions, such as the Homestead Exclusion, it represents a shift in the tax burden from businesses to the commercial residential properties.

Ms. Goreham said business is good in State College. The businesses have paid the Business Privilege Tax for years and, although a nuisance, it does not create a financial drain. Businesses have been successful and have grown. She felt the Business Privilege Tax was a fair tax.

The question was called on the motion. The vote was 5-2-0 with Mr. Humphrey and Ms. Goreham opposed. The motion passed.

Mr. Kern moved to enact Ordinance 1828 establishing the Homestead Exclusion of \$25,000 effective January 1, 2006. Ms. Dauler seconded the motion.

At Mr. Daubert's request, Mr. Fontaine explained what the Homestead Exclusion would entail. He noted that qualified owner-occupied properties were eligible for the \$25,000 exclusion from the assessed value of their property, thereby lowering the amount of real estate taxes paid to the Borough of State College.

The vote on the motion was unanimously in favor.

Mr. Kern moved to enact Ordinance 1829 fixing the real estate millage at 10.035 for 2006. Mr. Daubert seconded the motion.

Mr. Fontaine noted that part of the tax rate increase is based on the amendment proposed by the legislature to increase the exemption level of the Emergency and Municipal Services Tax from \$5,200 to \$12,000. If this occurs, it is expected to result in a loss in revenue for the Borough of \$400,000. If that change is not enacted by the legislature, the real estate tax ordinance may need to be revisited to lower the rate.

Ms. Goreham noted that this would create the highest real estate millage rate in the Centre Region. The real estate taxes paid by Borough residents had doubled since 2003. In addition, the increase would translate into higher rents. Therefore, she was opposed to the increase.

The question was called on the motion, which passed with a 6-1-0 vote, with Ms. Goreham opposed.

Mr. Kern moved to enact Ordinance 1830 to set the 2006 tax penalty for late payments at 10% and the discount rate for early payments of 2%. Mr. Humphrey seconded the motion, which passed unanimously.

Mr. Kern moved to enact Ordinance 1831 to increase the garbage and refuse fees as of January 1, 2006. Ms. Dauler seconded the motion.

Ms. Goreham commented that the increase for a single residence would be 50 cents a month. Considering the increases in tipping fees and fuel costs, this seemed reasonable.

The vote on the motion was all in favor.

Mr. Kern moved to approve Resolution 895 establishing the pay plan for non-union employees in 2006. Mr. Meyer seconded the motion, which passed unanimously.

Mr. Meyer moved and Mr. Kern seconded a motion to approve Resolution 897 to establish the general government member contributions at 4 percent for 2006. The motion passed with a 7-0-0 vote.

Ms. Dauler moved and Mr. Kern seconded a motion to approve Resolution 898 to establish member contributions to the police pension fund at 5 percent for the year 2006. The motion passed unanimously.

Mr. Meyer moved to approve the COG budget, in amount \$9,279,721.00 and appropriate \$1,015,678.00 as the Borough's share to support it. Ms. Dauler seconded the motion.

Mr. Daubert noted that \$48,000 was budgeted for regional parks. Since this was the estimated revenue from the .1 mill increase in real estate taxes, he asked what would happen if less than \$48,000 was collected in real estate tax. Mr. Fontaine noted the Borough would remit to the parks program the equivalent of .1 mill.

Mr. Kern asked if the budget would include a change in funding for CATA should the Miller formula no longer be used. Mr. Groff indicated the appropriation for CATA includes sufficient funds to cover the Borough's share should the funding formula change.

The question was called on the motion. The vote was 7-0-0 in favor of the motion.

Millage Rates for Property Assessments in the Downtown. Mr. Fontaine said that every year it is necessary for Council to enact an ordinance to establish millage rates for the assessment of properties located within the Downtown Improvement District. The millage rates for 2006 are the same as those assessed for the past three years. Approximately \$307,657.00 will be generated from the assessment of 483 properties within the district.

Mr. Daubert raised concern that this was being done without a financial report. Council does not know if they are getting enough money and it was difficult to vote on something without knowing the financial condition. Mr. Fontaine indicated an annual report was completed by Downtown

State College Improvement District, which was distributed to Council. He added the Board of Directors had approved the 2006 budget based on the assessments.

Ms. Dauler commented that, as a member of the Board representing Borough Council, she knew that they were careful with their money and added that she could make copies of the budget available. Mr. Daubert agreed that they were very careful in their spending habits but believed some of their programs served individuals and businesses not located within the district.

Mr. Fontaine noted that the Downtown Improvement District will need to be reauthorized next year and Council can revisit some of those issues.

Mr. Kern observed that it was important for the public to understand that the assessment collected in the downtown was not tax dollars. The ordinance authorizes staff to collect and forward the funds to the Downtown Improvement District. Ms. Goreham asked if staff is successful in collecting the tax. Mr. Groff noted that of the 483 properties, only three were unpaid at the end of the year, which he believed to be very good.

Ms. Dauler moved and Mr. Kern seconded a motion to enact Ordinance 1832 to establish the amount and method for assessing properties within the Neighborhood Improvement District for the year 2006. The vote on the motion was 7-0-0 in favor.

Approve a New Retainer for the Borough Solicitor. Mr. Fontaine said the Solicitor's retainer has been adjusted annually since 2001. To keep the retainer current, it is recommended that small adjustments be made on a routine basis. The Solicitor's current retainer of \$32,340.00 covers all legal matters for the Borough with the exception of actual litigation and legal work related to municipal bonds and other debt instruments.

Mr. Kern moved to approve Resolution 898 establishing a retainer of \$33,310.00 per year, a 3 percent increase, for the Borough Solicitor. Ms. Goreham seconded the motion, which passed unanimously.

Authorize Tax Collection Agreements with the State College Area School District for Act 511 and Real Estate Taxes. Mr. Fontaine said the Borough's Tax Office has collected Act 511 (earned income and emergency and municipal services) and real estate taxes for the State College Area School District since 1978. The School District has reimbursed the Borough for the actual cost of collecting their taxes, plus a 20 percent overhead charge. The current three-year collection agreement expires at the end of this year. The School District has prepared three-year tax collection agreements for the Borough to collect taxes in the Borough for both Act 511 and real estate taxes and in Halfmoon Township for Act 511 taxes. The agreements renew the current compensation agreement to collect these taxes for the School District.

Ms. Goreham moved to enact Ordinance 1833 authorizing the execution of the agreements. Ms. Dauler seconded the motion. The motion was approved with a 7-0-0 vote.

Vehicle & Traffic Ordinance Amendment to Expand the 5-minute Parking in East Calder Way. Mr. Fontaine noted that staff received a request to expand the 5-minute parking on the south side of Calder Way between McAllister Street and McAllister Alley. The entire block can be signed for 5-minute parking, with the exception of the area around the utility poles. Additionally, parking would be prohibited 30 feet east of the McAllister Alley (parking is prohibited 30 feet from a STOP sign) and 20 feet west of McAllister Street (parking is prohibited 20 feet from a crosswalk).

Mr. Daubert commented that he was opposed to this because the current 5-minute parking area was not enforced. Vehicles are parked there for 20 or 30 minutes without receiving a ticket. He felt that setting a precedent of allowing free parking for some businesses and not others was inappropriate.

Ms. Goreham commented that there has been some consideration of Calder Alley as a bicycle lane. Having vehicles parked in the alley could create a safety concern. Mr. King indicated the alley is used as a bikeway for bicycles traveling west bound. The proposed amendment would add two or three additional spaces, which should not create a problem for bicyclists. Mr. King agreed that enforcement was a concern that needed to be addressed. Mr. Meyer noted that there will be people that will get away with parking for more than 5 minutes but the parking enforcement officer cannot come around the block every 15 minutes to check vehicles. He stated he was in favor of the ordinance because it did something for the businesses that were already operating in an alleyway. Vehicles travel very slowly in the alley, so additional parking should not conflict with the use of the alley as a bikeway. He believed the amendment was a positive action for the downtown.

Mr. Kern moved to enact Ordinance 1834, amending the Vehicle & Traffic Ordinance. Mr. Meyer seconded the motion. The motion passed unanimously in favor.

Vouchers for the Month of November, 2005. Upon motion of Mr. Meyer, second by Ms. Dauler, Council voted 7-0-0 to receive vouchers for the month of November, 2005, for the Borough of State College, in amount \$1,719,545.91, and, acting as agent for the Centre Region Council of Governments, vouchers totaling \$532,417.83.

#### OFFICIAL REPORTS AND CORRESPONDENCE

##### Mayor's Report

Mr. Welch took the opportunity to congratulate Adam Smelts, Centre Daily Times reporter, on his graduation from Penn State University.

##### President's Report

Mr. Daubert reminded Council and the public that the first Council meeting of 2006 would be on Tuesday, January 3, at 3:30 p.m. The old Council will meet to finish a few end-of-year items. The newly elected officials will be sworn in and then a meeting will be held to reorganize the new Council.

There being no further business, the meeting adjourned at 8:25 p.m.

Respectfully submitted,

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Cynthia S. Hanscom  
Assistant Borough Secretary