

Creating long-term community stability  
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On November 8, 2011, State College voters became the first municipal community in America to adopt a Community Bill of Rights charter amendment by popular vote. Among other provisions, the amendment affirms our community's Right to Self-Government.

“...All residents of State College Borough possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them...” (State College Borough Charter, 41.2-205)

The charter amendment emerged from a local campaign to push back against growing momentum for natural gas drilling in Pennsylvania – Groundswell. It was supported by the Community Environmental Legal Defense Fund, which confronts environmental threats by restoring usurped local self-governing power instead of working through the demonstrably ineffectual regulatory system.

CELDF's organizing model derives from a historical analysis of American law. “In 1819 in *Dartmouth College v. Woodward*, the U.S. Supreme Court introduced a distinction between the rights of a public corporation and a private one. The U.S. Constitution's contract clause did not protect the political powers granted in the charter of a public corporation such as a municipality. State legislatures could, therefore, unilaterally amend or revoke municipal charters and strip a city of authority without the municipality's consent. But the charter of a private corporation, such as a business enterprise or a privately endowed college, was an inviolate grant of property rights guaranteed by the nation's Constitution.” (Jon Teaford, *Municipal Charters*)

By the mid-19<sup>th</sup> century, there was still some high-profile debate about power-sharing among citizens, local governments, corporations and state legislatures. In 1868, Judge John Forrest Dillon wrote: “Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature...As it creates, so may it destroy...” In contrast, Judge Thomas Cooley upheld an inherent human right to local self-determination, writing in 1871: “Local government is a matter of absolute right; and the state cannot take it away.”

Dillon's view won. State legislatures defined charters between the State and private corporations as contracts between legal equals, but charters between the State and municipal corporations as non-contracts, between a superior (the State) and an inferior (the municipality), relegating citizens to the status of mere “tenants.” Stripped of power, citizens are currently subject to preemptive codes drafted by corporations, adopted by state legislatures, and enforced at the local level by – in our case – the Borough Council and Borough Solicitor Terry Williams.

Many communities' supervisors have adopted self-governance ordinances in recent years as an antidote to that “virtual citizenship;” the list includes more right-leaning farming and small-business communities, than left-leaning college towns.

It's always an uphill struggle. In a July 2009 conference call, CELDF organizers discussed how corporations manipulate local governments, by playing on volunteer officials' lack of legal knowledge and deference to municipal solicitors and preemptive state laws, summarizing: “municipal officials have no confidence.” (Notes by Gail Darrell, CELDF organizer.)

In most communities, the local laws have been enacted after the environmental eruption, by supervisors in panic mode. State College, in contrast, had our Community Bill of Rights in place before the 2013 Columbia Gas/Penn State pipeline controversy erupted. The controversy became a test of the tool's strength and potential uses.

Going into the fray, Columbia Gas and Penn State regarded the Borough Council members and citizens as subservient, not as political equals. But when citizens spoke out against the pipeline project, uncovered a few lies and misrepresentations in the pipeline plan, and turned out in large numbers at an April 2013 public hearing, Borough Council members lost some faith in the corporate dominance framework, and had an alternative legal

framework to fall back on. Emboldened by those *two* factors – the Community Bill of Rights tool and citizen encouragement to use it – Council and Borough Manager Tom Fontaine acted decisively to protect community health, safety and welfare.

Penn State's corporate hierarchy – and state legislators for that matter – may look at a continuing rights-inspired rebellion on State College Borough Council as irritating confrontation by misguided subordinates. But during these next few decades of constrained energy and collapsing debt-based financial systems – the end of exponential growth on a finite planet – more people will become aware of the tragic mismatch between existing social institutions and current physical circumstances. Large, brittle, change-resistant systems that thrive in times of abundance are already facing a terrible loss of legitimacy and a new struggle for homeostasis.

Strategic planning for the past several generations has been aimed at growing the overall size of the economic “pie” for a given system. Economic planning for the next several generations will be aimed at living on an economic pie whose area is decreasing, by increasing the relative size of the locally produced and consumed “slice.”

From that perspective, the 2011 popular adoption of the Community Bill of Rights and the 2013 test of the rights-based governing framework become the start of an essential negative feedback loop pushing large institutions to right-size and right-shape themselves for better environmental fit and more long-term community stability.