

**Meeting Minutes**  
**State College Borough Council**  
**Regular Meeting**  
**Monday, July 1, 2019**

The State College Borough Council met in a regular meeting on Monday, July 1, 2019, in the Municipal Building, 243 South Allen Street, State College, PA 16801. Mayor Hahn called the meeting to order at 7 p.m.

**Present:** Donald M. Hahn, Mayor  
Evan Myers, Council President  
Jesse L. Barlow  
David J. Brown  
Catherine G. Dauler  
Janet Engeman  
Theresa D. Lafer  
Dan Murphy

**Also Present:** Terry Williams, Borough Solicitor; Thomas J. Fountaine, II, Borough Manager; Edward LeClear, Planning Director; Dwight Miller, Finance Director; P. Rick Ward, Parking Manager; Douglas Shontz, Communications Specialist; John Wilson, Zoning Officer; Deborah A. S. Hoag, Public Works Director; John A. Gardner, Chief of Police; Matthew Wilson, Assistant Police Chief; Amy J. Kerner, Borough Engineer; Thomas Brown, Facilities Supervisor; Thomas R. King, Assistant Borough Manager for Public Safety Jenna Wargo, Planner; Alan Sam, Borough Arborist; Craig Bowser, Chief Technology Officer; Genevievre Miller, Student Representative; Stacy E. Hall, Administrative Assistant; Borough residents and members of the media.

**Public Hearings**

Intermunicipal Liquor License Transfer Request for 138 & 142 East College Avenue and 114 South Pugh Street

Mr. Fountaine said an application to transfer a restaurant liquor license from Moerschbacher Enterprises Inc., to 138 & 142 East College and 114 South Pugh Street had been filed as required by the Borough's Code and had been deemed to be complete. He added Chapter V, Part C, Section 303(e) of the Borough's Code required that a hearing be conducted to determine whether to approve the application. He said Borough Solicitor Terry Williams would serve as the hearing officer for the Public Hearing and on July 15 Council would vote whether to approve or deny the application. He said Council could approve the application and impose additional conditions.

Mr. Williams opened the Public Hearing at 7:03 a.m. and called Tom King, Assistant Borough Manager, on behalf of the Borough and Ellen Friedman, Attorney representing the applicant, and both parties were sworn in.

Mr. King briefly reviewed the Intermunicipal Liquor License Transfer Law and reviewed the various types of liquor licenses. He said the applicant was requesting an "R" restaurant liquor license and explained that the Borough currently had 19 licenses and that each license could have multiple establishments under one license. He stated that, in addition, there were 48 retail establishments presently selling alcoholic beverages in State College and of those establishments 38 operate within 5 blocks of 138 & 142 East College Avenue and 114 South Pugh Street. He pointed out the most common offence among Penn State students was underage drinking and reviewed incidents of riots in State College that were fueled by alcohol. He said the applicant needed to keep in mind the percentage of food sales to alcohol ratios. Mr. King said he does not doubt the sincerity of the applicant but reminded Council with no restrictions there would be no control of how the license would be used moving forward. He outlined the staff recommendations in detail which included the following:

- 65% total business would be food sales (versus alcoholic beverages) for each two-year license renewal period.
- No sales for off-premise consumption after (reasonable time).
- Alcohol sales by AKE Enterprises, Inc. shall not be permitted at any time when food sales were not available.
- AKE Enterprises, Inc. shall not transfer the license to any other person, corporation, entity or location without Council approval.
- Except for 118 South Pugh Street, no further expansion beyond 138 & 142 East College Avenue and 114 South Pugh Street or transfer of the license to another location within the Borough of State College without Council approval.
- AKE Enterprises, Inc. shall not be permitted to rent any parts of 138 & 142 East College Avenue and 114 South Pugh Street to any outside third party.

Mr. King reviewed conditions the Pennsylvania Liquor Control Board (PLCB) would consider and highlighted the two conditions staff would recommend which were:

- No sales for off-premise consumption after (reasonable time).
- No less than 65% total business must be food sales (versus alcoholic beverages) for each liquor license renewal period.

Mr. Myers asked Mr. King what restrictions Spat's had on their liquor license? Mr. King said Spat's had an unrestricted license. Mr. Myers asked if other restaurants with a bar had restrictions, and Mr. King answered there were two restaurants in the Borough that had similar restrictions as was proposed for the applicant. Mr. Brown asked how the food to alcohol ratio was measured? Mr. King answered that the PLCB would require an audit of the books to prove the ratio that would involve a tracking system to track proceeds and sales based on the products sold. Ms. Lafer pointed out according to the original paperwork, the applicant was looking for 40% food sales. She added the Borough needed a real restaurant and if people did not like what was on the menu, what was to stop the applicant from changing the establishment into another bar. She said she thought there were already too many liquor licenses. She requested that there be protection that it would not become a night club, but still allow the restaurant to be successful. Ms. Dauler asked if there would be conditions? Mr. Williams answered if Council granted the agreement, it would be prepared between the Borough and the licensee. Mr. Myers asked if it could be discussed at a Work Session and Mr. Fontaine answered yes it could be. Mr. Murphy asked if now was the time to consider restrictions and Mr. Fontaine answered yes. Mr. King stated Sheetz was another establishment that had a liquor license with restrictions.

Mr. Williams called Ellen Friedman, an attorney with Flaherty and O'Hara, to speak on behalf of the applicant. Ms. Friedman said the name of the restaurant would be Queenstown and introduced the co-owners, Martin and Deanna Gillespie. She asked Council to keep in mind the decision made on July 15 should be based on substantial evidence of health, welfare, peace and morals. She said if someone went to them with distasteful business plans, Council could stop it, but that was not the case with the Gillespie's. She asked Council to reconsider putting restrictions on the license as all employees would undergo training on how to card appropriately and how to handle customers who had over-indulged. She added that neither Mrs. nor Dr. Gillespie planned on operating a brewery, but a high-end restaurant with higher priced meals where students would not be frequenting.

Dr. Gillespie explained it was a great opportunity to bring a nice facility to State College. He gave background information about how the restaurant came about and how he started in San Diego, California, opening five restaurants and desired to open one in State College. He showed before and after pictures of the establishment and explained the changes in detail. He gave a background of where he and his wife came from. He described the types of food he would serve. He asked Council for a 40% food restriction and asked for the nonrestrictive license as Spat's had as now was his opportunity to do something great for State College and he wanted to be successful and not be hampered on the front end. Mr. Williams asked Council if they had any questions for Dr. Gillespie.

Ms. Lafer said State College was a nice little town and should not be compared to San Diego and did not like that the two were being compared. She said it should not be assumed there would be no problems as people will misbehave from time to time. She said she lives near downtown and was aware there were times when it was not a safe and easy place to live due to the misuse of alcohol. She asked if Council insisted on restrictions, would he still apply? Dr. Gillespie answered that he would use insurance percentages in that case as the 65% ratio would be difficult to get, but it would average out over time and it would all come down to good management. Dr. Gillespie introduced Cole Ghidella who would be the general manager of the restaurant. Mr. Ghidella gave a background of his education and experience. He said the restaurant would be considered refined casual and he reviewed the design of the restaurant. He explained the idea was to bring the vibe of New Zealand to State College emphasizing natural light making it a great place for students to get coffee and study as well as a dining destination for locals and visiting families. He said the plan was to employ young professionals and offer flexible schedules for students. There were no further questions from Council. Mr. Williams asked if anyone from the public wished to speak.

Andy Zimmerman, a Patton Township resident, said he lived in State College his entire life and thought the restaurant was a great idea for downtown. He hoped Council would allow the Gillespie's the tools they needed to make it a success.

Matt McClenahan, 248 East Waring Avenue, said it was an easy decision because a restaurant like Queenstown was needed downtown. He added that State College was filled with bars for students and more adult venues were needed.

Mary Kay Hort, 317 Hartswick Avenue, said she lived in State College her entire life and she supported the transferring of the liquor license and lessening the restrictions. She added she had known Dr. Gillespie for a long time and could say he was hard working and she would put her trust in him.

Mark Travand, a Potter Township resident, thought it was a good business for downtown.

Nick Kello, 914 Robin Road, urged Council to consider the license transfer with restrictions, but be mindful of the time restrictions. He thought there should be a way to calculate volume rather than dollar value of alcohol versus food. He said the Borough needed a restaurant to compliment the few that were downtown already.

Sophia Mayer, who did not give her address, said it was crucial to maintain a common standard and there should be freedom and justice for everyone in State College.

Rob Schmidt, who resides at 403 South Allen Street and is the Executive Director of the Downtown Improvement District, said he heard many opinions and a common one was that State College needed more adult downtown dining options. He said many of his friends say they do not come downtown, and Queenstown would offer a dining consideration for adults. He added that whether there was a restricted license or not, it would be easy for them to take the space and make a student bar and he respected the ordinances that were in place for very good reasons to curb the drinking.

Bob Langton, a Ferguson Township resident, said he believed the restaurant would be a good addition to downtown. He asked that a precedence not be set for future restaurants downtown.

Pat Vernon, a College Township resident, said he was in favor of the restaurant. He thought putting restrictions on the license would doom it to failure. He stated the restaurant would be a great opportunity for recruiting young professionals. He hoped Council would be in favor of the license but lower the percentage restriction.

Scott Barger, a Borough resident, pointed out with all the high rises being build, it was nice an old building was being restored to bring charm to State College. He was in favor of the restaurant and thought responsible adults would go there versus students.

Mr. King read an e-mail from Cindy Zimmerman, 917 Lilly Circle, who stated she was also in favor of the restaurant. Mr. Williams said he would make her e-mail a part of the public hearing record.

With no further comments from the public, Mr. Williams closed the public hearing at 8:36 p.m.

### 2020-2024 Capital Improvement Plan

Mayor Hahn said the 2020-2024 Capital Improvement Plan (Plan) was distributed to Council for review on June 3. He added Council reviewed the Plan during public meetings held on June 10 and June 17. He said a public hearing was being held to accept feedback and following the hearing, Council would continue their review. A final review and wrap-up session would be held on July 8, and approval of the Plan was scheduled for August 5. Mayor Hahn asked if any members of the public wished to speak regarding the Plan. No one wished to speak, and the public hearing was closed at 8:40 p.m.

### **Public Hour – Hearing of Citizens**

No one wished to speak during the Public Hour.

### **Consent Items**

Ms. Lafer motioned to approve the following Consent Items. Ms. Engeman seconded the motion. The motion passed unanimously.

- Approve the use of Sidney Friedman Park on Saturday, October 5, 2019, from 11:00 a.m. to 5:00 p.m., for the Penn State African American Alumni Picnic.
- Approve, *with conditions*, the use of various Borough streets and Orchard Park on Saturday, September 21, 2019, from 10:00 a.m. to 12:00 p.m., for the Family Fun Ride.
- Approve the closing of a portion of West Prospect Avenue, from South Gill Street to South Barnard Street, for the State College Area School District's Fall High School Girls' Home Tennis matches, scheduled on August 19, 22, 23, and 28, September 3, 10, and 23, 2019, from 3:00 p.m. to 7:00 p.m.
- Approve, *with conditions*, the closing of the 400 block of Homan Avenue on Monday, July 29, 2019, from 5:00 p.m. to 12:00 a.m., for the Homan Block Party.

### **General Policy and Administration**

#### Resolution 1230 - Immigrant Children and Family Separation

Mr. Fountaine said on January 9, 2017, Council adopted Resolution 1180 addressing immigration enforcement, and the proposed Resolution 1230 expands that prior action and addressed recent events where immigrant children were separated from their parents and/or detained in inhumane conditions.

Mr. Myers stated he would like to put an end to the child detention camps. He added Council had made strong statements of welcoming to immigrants and the role of government was to protect all its residents. He said immigrants should be welcomed into the country and he read the proposed resolution to Council.

Ms. Lafer made a motion to accept Resolution 1230 – Immigrant Children and Family Separation. Mr. Barlow seconded the motion.

Mr. Barlow commented it was imperative to speak out against the immigrant crisis at United States borders. Ms. Dauler said the psychological damage done to the children was immeasurable. Ms. Engeman pointed out a situation could be created in the future where there would be a generation of angry immigrant children. Ms. Lafer said what was being done at the border was illegal under United

States and international law. Mr. Brown agreed with the proposed resolution and his fellow colleagues. Mayor Hahn said people from halfway around the world were going to institutions in the United States to be educated, which was a tribute to Penn State University. He was concerned such applications would begin to decline.

The motion to approve Resolution 1230 – Immigrant Children and Family Separation passed unanimously.

#### Possible Refinance of General Obligation Note, Series of 2013 - Report from the Borough's Financial Advisor

Mr. Fontaine introduced Christopher Gibbons of Concord Public Finance to review recent bank financing proposals received in relation to the possible refinance of the Borough's General Obligation Note, Series of 2013. He said it was suggested Council consider the bank loan versus bond issue financing options and provide direction as to whether the borrowing ordinance, which was set for consideration at the August 5<sup>th</sup> meeting, should be written as a bank loan or bond issue financing option.

Staff recommended Council receive the analysis, discuss the merits of each option, and determine which course of action was preferred.

Mr. Gibbons reviewed a handout outlining Council's options in detail. He said if Council decided to move forward with refinancing, the Borough could save \$100,000. Mr. Myers commented there were speculations of declining interest and asked if it would be prudent to wait? Mr. Gibbons said his role was to provide alternatives, and interest rates had come down over the last year and a half. Mr. Murphy asked if the large federal government deficit influenced interest rates. Mr. Gibbons answered as long as the government could print money at a low expense, it would not be a problem. Mr. Murphy asked what the current interest rate was and Mr. Gibbons answered the bank loan would be 2.34% through November 2020 with a cap of 2.25%. Mr. Murphy asked if refinancing had different cap and Mr. Gibbons said he proposed the bond be fixed at a rate of 2.75%. Mr. Murphy asked what the range had been like with bond interest rates and Mr. Gibbons said they had been around 4.7%. Mr. Barlow asked if there were a trade war, what would be effect be on the bond? Mr. Gibbons said the difference would be about the same.

Mr. Fontaine noted one of the financial policies was to consider refinancing when the savings were 3% or more and the risk in waiting was not knowing what would happen to interest rates in the time left on the current loan. He added Council could decide to wait on the issue observe what happened with interest rates and would not lose anything by exploring the bond market. Mr. Myers said he agreed and asked when the Feds next meeting was to set the funds rate. Mr. Gibbons answered the end of July. Mr. Fontaine said the Borough was in a good financial position and could be in a good position for the bond rating to improve. He said his recommendation would be to proceed evaluating where the bond market was even if there was a cost involved with the reasonable expectation of a savings of more than 3% with refinancing. Council was in agreement with the plan.

#### Ordinance 2130 - 2019 Central Pennsylvania Festival of the Arts (CPFA)

Mr. Fontaine said Rick Bryant, Executive Director of the CPFA, had submitted the annual request to allow for the 2019 Arts Festival. He said to enable the Festival to take place in a controlled environment, an ordinance was enacted each year to designate the time and place for the Festival and suspend certain other activities designated by ordinance.

He stated staff recommended Council adopt the Ordinance to designate the time and place for the Festival and suspend certain other activities designated by the Ordinance and a roll call vote was required.

Ms. Dauler made a motion to enact Ordinance 2130 to designate the time and place for the Festival and to suspend certain other activities designated by the Ordinance. The motion was seconded by Mr. Barlow. Via a roll call vote, the motion passed unanimously.

#### Approve the State College Young Professionals Fundraiser and Request for an Exception to the Open Container Ordinance

Mr. Fontaine said the State College Young Professionals organization had applied for a Special Activity Permit to close a portion of the 100 block of South Fraser Street, use the Dr. Martin Luther King, Jr. Plaza and requested for an open container exception for the location on Saturday, July 27, 2019, from 3 p.m. to 8 p.m. He added as required by the open container exception ordinance, the Downtown State College Improvement District (“DSCID”) was co-sponsoring the event and had recommended approval of the open container exception, with the following conditions.

- The State College Young Professionals satisfactory completion of all requirements set forth by the Borough of State College.
- DSCID named as additional insured on General & Liquor Liability policy of no less than \$1,000,000 per occurrence limit. The coverage should be on a primary and non-contributory basis.
- The State College Young Professionals would indemnify the DSCID, signing an indemnification agreement.

Mr. Fontaine said staff recommended Council approve the State College Young Professionals Fundraiser as described above, grant the applicant an Open Container Ordinance waiver request and approve the Noise Ordinance waiver request with the conditions listed below.

- Applicant obtains and provides to the Borough and DSCID the liability coverage and indemnification requirement listed above and in Ordinance 2098.
- Applicant meets and adheres to all other requirements listed in Ordinance 2098.
- Applicant provides Building Permit, for tenting, from the Centre Region Code Administration prior to the event, if applicable.
- Applicant notifies Borough staff by calling 814-234-7135 on or before 12:00 p.m. on Friday, July 26, 2019 if they intend to cancel or change the location of the event.

Mr. Myers made a motion to approve the State College Young Professionals Fundraiser as described above, grant the applicant an Open Container Ordinance waiver request and approve the Noise Ordinance waiver request with the conditions listed above. Mr. Murphy, Ms. Dauler and Mr. Brown seconded the motion, and all were in favor.

#### **Public Works**

##### PennDOT 24-hour Work Request – Atherton Street

Mr. Fontaine said the presentation provided by PennDOT at the June 10 meeting explained how work on Section 152 of Atherton Street had been altered to accommodate a pipe crossing for Penn State University and in doing so, extended the work limits to Curtin Road and the completion date to June 2020. He added construction for the pipe crossing was extensive and PennDOT was requesting an exemption to the

Borough's Noise Ordinance to complete a 24-hr construction schedule beginning at 9 p.m. on Friday, May 15, 2020, and concluding Monday, May 18, 2020, at 6 a.m.

He said staff recommended Council approve PennDOT's request for a waiver to the Borough's Noise Ordinance, specifically for pipeline construction across Atherton Street during the time of 9 p.m. on May 15, 2020, through 6 a.m. on May 18, 2020.

Eric Murnyack, a representative from PennDOT, told Council these dates were coordinated with Penn State University and it was the weekend the University suggested. Mr. Brown asked if he could guarantee the work would be done in one weekend? Mr. Murnyack said PennDOT was confident they could get the work done within the timeframe.

Ms. Dauler made a motion to approve PennDOT's request for a waiver to the Borough's Noise Ordinance, specifically for pipeline construction across Atherton Street during the time of 9 p.m. on May 15, 2020, through 6 a.m. on May 18, 2020. Mr. Murphy and Mr. Barlow seconded the motion which passed unanimously in favor.

### **Official Reports and Correspondence**

Mayor's Report – Mayor Hahn inquired when staff would be providing updates on race and equity reports? Mr. Fountaine said updates would be reported with regular regional reports on the second regular meeting of each month. Mayor Hahn announced responses to questions from the May 13 Special Council meeting were available on the Borough's website. He gave an update on the Police Department body-worn cameras. Mr. Fountaine said there was a link on the Borough website directly to the reports and information regarding the police body-worn cameras. Mayor Hahn said he attended the Mental Health Forum and expressed the hard work ahead in dealing with the issue.

President's Report – Mr. Myers said he attended the Mental Health Forum and thought that it was painfully clear from each person who spoke that there was a lack of services and funding for mental health issues and drug abuse in the area. He reported that local governments were now unable to address the problem of the use of plastic bags. He added that for the next year local governments cannot ban, tax or institute a similar program on plastic bags because Senator Corman wanted to study the matter. He suggested that Council look for creative ways to work on the issue.

Manager/Staff Reports – Mr. Fountaine reminded Council that the 2018 Annual Report was available on the Borough website. He distributed a draft that was presented in connection with the State College Area School District (SCASD) South Field lighting. He added that staff had been working with the SCASD and affected residents regarding the lighting and the same draft was shared with the school board. He asked Council to let him know if they had comments, questions or concerns at their earliest convenience prior to being discussed at the July 15 meeting.

Student Representative Report – No report.

### **Recess to a Work Session**

Council recessed to a Work Session at 9:50 p.m. to continue its review of the 2020-2024 Capital Improvement Plan.

### Review of 2020-2024 Capital Improvement Plan (CIP)

#### Streets

Ms. Hoag reviewed street reconstruction and the resurfacing of curbs and ramps stating that the Borough inventory included 860,000 square yards of asphalt pavement and 507,000 lineal feet of concrete curb. She emphasized that the life cycle with on-going maintenance was 20 to 25 years for pavement and 50 years for curbs. She added that street pavement evaluations were done every two years with

reprioritizations done each time new results were received. She reviewed the street reconstruction schedule for 2020 which included Oneida Street and O'Bryan Lane. She outlined the plan for 2021-2024 which included B Alley, North Allen Street, Woodland Drive, West Fairmount Avenue, South Allen Street and South Pugh Street. Ms. Hoag outlined bicycle facility improvements, Atherton corridor improvement projects and downtown streetlight upgrades that were also a part of the CIP.

Mr. LeClear reported on the Downtown Infrastructure Plan which he said would be based on the Downtown Master Plan. He said staff was looking to make Calder Way more destination friendly and vibrant as a gathering place downtown.

Mr. Myers asked about the progress of ideas presented over the years to make the intersections of College Avenue and Atherton Street and Beaver Avenue and Atherton Street more visible? Ms. Hoag answered PennDOT was reviewing the designs and staff was hoping that they would be approved. Ms. Hoag gave a detailed report regarding plans for traffic signals and intersection safety.

### Storm Water

Ms. Hoag reviewed storm water quality improvements which included stream bank restoration at Walnut Spring Stream and Duck Channel slated for 2022. She emphasized that storm water pipes and infrastructures were aging and reviewed a list of prioritized areas that required attention. She discussed sinkhole repairs pointing out that sinkholes were an important feature of the Borough's storm water system accepting runoff from various areas in the Borough.

### Other Enterprise Funds

Ms. Hoag reported there would be recycling enterprise improvements which would focus on leveraging Borough resources with Department of Environmental Protection (DEP) grant funds. She added a current grant contract in process involved paving improvements at the composting facility.

Ms. Hoag discussed a Sanitary Sewer Capacity Increase Project for East Calder Way explaining a Sanitary Sewer Capacity Study began in 2017 recommended the sanitary sewer interceptor be increased in size to accommodate peak flows to minimize overflow or the possibility of surcharge conditions. She said construction was planned for 2021-2022.

Ms. Hoag outlined Compost Facility improvements which included processing equipment which was grant eligible for reimbursement.

Ms. Hoag reported the purchase of a refuse hook-lift truck in 2020. She explained the truck would be capable of hauling roll-off containers which would close the loop on refuse business in State College. She said it would be a new business enterprise which was currently served only by private-sector providers. She added that the municipal dumpster locations downtown would be better served by self-contained compactors.

Ms. Hoag reviewed the Sanitary Sewer Rehabilitation/Replacement Project which included the rehabilitation or replacement of sanitary sewers, manholes, or lateral within the street or right-of-way. She said the project would be coordinated with the street reconstruction and resurfacing projects and included various streets in the Borough.

### Regional and Other Projects

Mr. LeClear outlined potential redevelopment projects in the CIP which included the Calder Way Redesign/Redevelopment Project. He said it would be a big project and clearly needed a project manager. Ms. Hoag explained the Energy Savings Project that included systematic funding for conservation and energy efficiency projects such as the replacement of Municipal Building light fixtures in 2020 followed by updating the HVAC system, installing specialty lighting and mitigating the heat load of the rear stairwell

glass. Ms. Hoag discussed the Slab Cabin Run Initiative which involved funds requested by ClearWater Conservancy for Meyer-Everhart Farm easement to conserve and preserve open space.

Mr. Barlow asked what the vision was for the Calder Way redesign. Mr. LeClear answered there was a lot of material in the downtown plan, but mainly it would be made more pedestrian friendly and continue to be a service alley. Mr. Fontaine added that power lines would be relocated, and the project was an opportunity to do a holistic review of the Calder Way right-of-way. He said the design and planning needed to be done now so another opportunity was not missed.

Mr. LeClear reviewed the West End Transportation Infrastructure. He said the improvements identified included evaluation of a potential road diet for Beaver Avenue and College Avenue, sidewalk conditions, bike and pedestrian connection between the West End and West Campus and basic streetscape infrastructure.

Mr. LeClear reported staff was working closely with housing nonprofits an in attempt to get the public more involved with the Rental Housing Redevelopment Project and the affordable rental market.

### **Adjournment**

With no further business to discuss, Mr. Myers adjourned the meeting at 10:25 p.m.

Respectfully submitted,

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Sharon K. Ergler  
Assistant Borough Secretary

Prepared by Stacy Hall, Staff Assistant