

Meeting Agenda
State College Borough Council
Work Session
Monday, July 8, 2019
7 p.m.

I. Call to Order

II. Moment of Silence and Pledge of Allegiance

III. Roll Call

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

IV. Public Hour – Hearing of Citizens

Anyone in the audience wishing to address Council with an item that is not on the agenda should ask to be recognized at this time. Each speaker will have up to four minutes to present comments to Council.

V. Intermunicipal Liquor License Transfer Request for 138-142 East College Avenue

On July 1, 2019, Council had received an application for a “Restaurant” liquor license transfer from Moerschbacher Enterprises, Inc., which was located at 2280 Commercial Boulevard, College Township, Centre County, PA 16801 to 138 & 142 East College and 114 South Pugh Street, State College, Centre County, PA 16801.

Chapter V, Part C, Section 303.e of the Borough’s Codification required that the Borough hold a public hearing to determine whether to approve the transfer of the liquor license into the Borough. A public hearing was held on July 1, 2019.

Council is asked to review and discuss the record of the hearing and provide direction to the Solicitor on any specific conditions Council deemed appropriate to set and whether or not it planned to approve the request. The presentation exhibits from the hearing, a draft resolution and draft agreement for conditional approval based on the staff report is enclosed [Pages 3-31]

Borough Council will be asked to vote to approve or deny the liquor license transfer request at the August 5, 2019 regular meeting.

VI. State College Area School District South Track Lighting Operational Agreement:

As required by the recent amendment to the zoning code that allows for a height increase in outdoor lighting, a draft agreement setting forth the operational terms has been developed. The staffs of the State College Area School District and the Borough have prepared an agreement. This agreement has been reviewed with residents in the neighborhood adjacent to the South Track at the State College Area High School. Modifications have been made to the draft agreement based on those discussions. The draft agreement was distributed to both the School Directors and Council on July 1, 2019. Both Boards are scheduled to act on the agreement at their respective meeting on July 15, 2019. Council is asked to provide any additional comments related to this agreement at this meeting. The draft agreement was distributed to Council. Borough staff and SCASD staff met on Friday to review comments from the SCASD Board discussion. Any modifications to the agreement resulting from that discussion will be distributed at the meeting on July 8.

VII. National Citizens' Survey Monthly Update

In December 2018, staff provided Council with an overview of the 2018 National Citizens' Survey results from the surveying of State College Borough residents in 2018. This survey is part of the National Citizens' Survey by the National Research Center, Inc. This year, staff will periodically provide Council with an overview of the survey results of specific components or sections of the report. This evening, staff will review the Economy section of the report. No action is required of Council at this time.

VIII. 2020-2024 Capital Improvement Plan (CIP) Wrap Up

Council should provide guidance to staff on any questions or changes that it wishes to make in the CIP. This review should also take into consideration all of the oral and written comments that are part of the June 1 Public Hearing record. The comment matrix is attached with the agenda [Page 33-35].

Council will be asked to approve the 2020-2024 CIP at the July 15, 2019 meeting.

IX. Adjournment

Public Hearing for an Inter-municipal Liquor License Transfer Request

- Applicant: AKE, Enterprise, Inc.
- Date: Monday, July 1, 2019
- Time: 7:00 PM

The Intermunicipal Liquor License Transfer Law

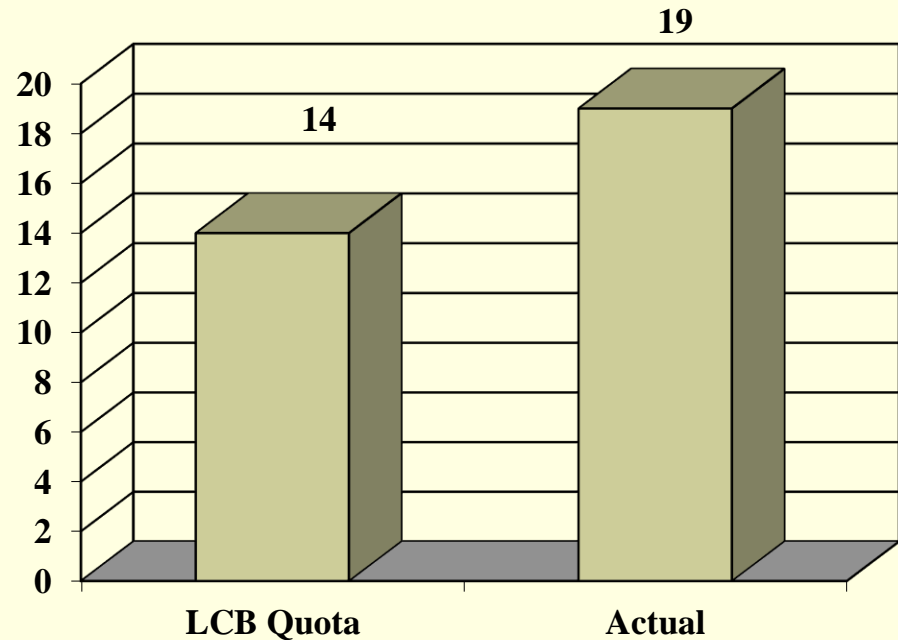
- Permitted the transfer of a liquor license from one municipality to another within the same county.
- If receiving municipality has equal to or greater than 1 license per 3,000 population, approval was required.
- Public hearing is required.
- Municipal decision is required within 45 days, though the Municipality may extend this by 60 days.
- Transfer can be denied by the Municipality without having to demonstrate the transfer would adversely impact the health, peace, and morals of the municipality or residents.
- The PLCB now limits what conditions they adopt or place on the transfer approval by the Municipality.

The Request for Approval

- AKE Enterprise, Inc. has requested approval to transfer a retail liquor license from College Township to 138 & 142 East College Avenue and 114 South Pugh Street in State College.
- Request was received on April 25, 2019.
- The Borough took a 60-day extension beyond the standard 45 day time limit.
- A public hearing is being held tonight.
- A decision is expected on July 15, 2019.

Restaurant “R” Liquor Licenses in State College

- Using LCB quota of one license per 3,000 population, 14 restaurant licenses would be permitted.
- State College has 19 restaurant licenses, or 1.4 licenses per 3,000 population.
- State College has 36% more restaurant liquor licenses than allowed under the PLCB quota.

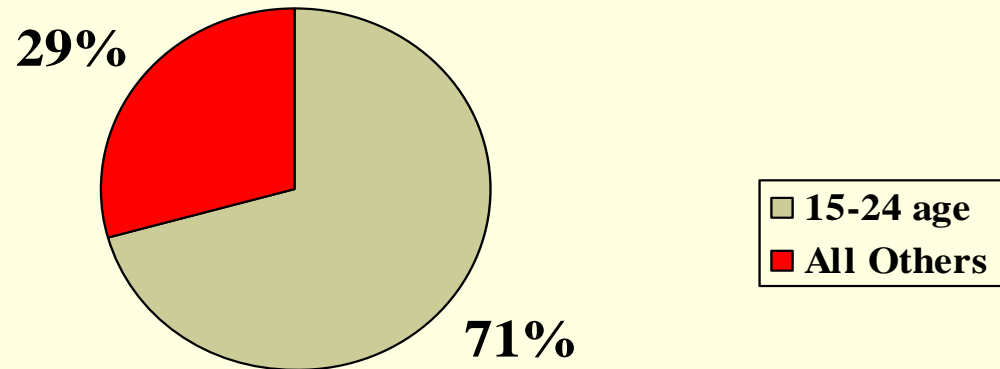


Retail Establishments Serving Alcoholic Beverages in State College

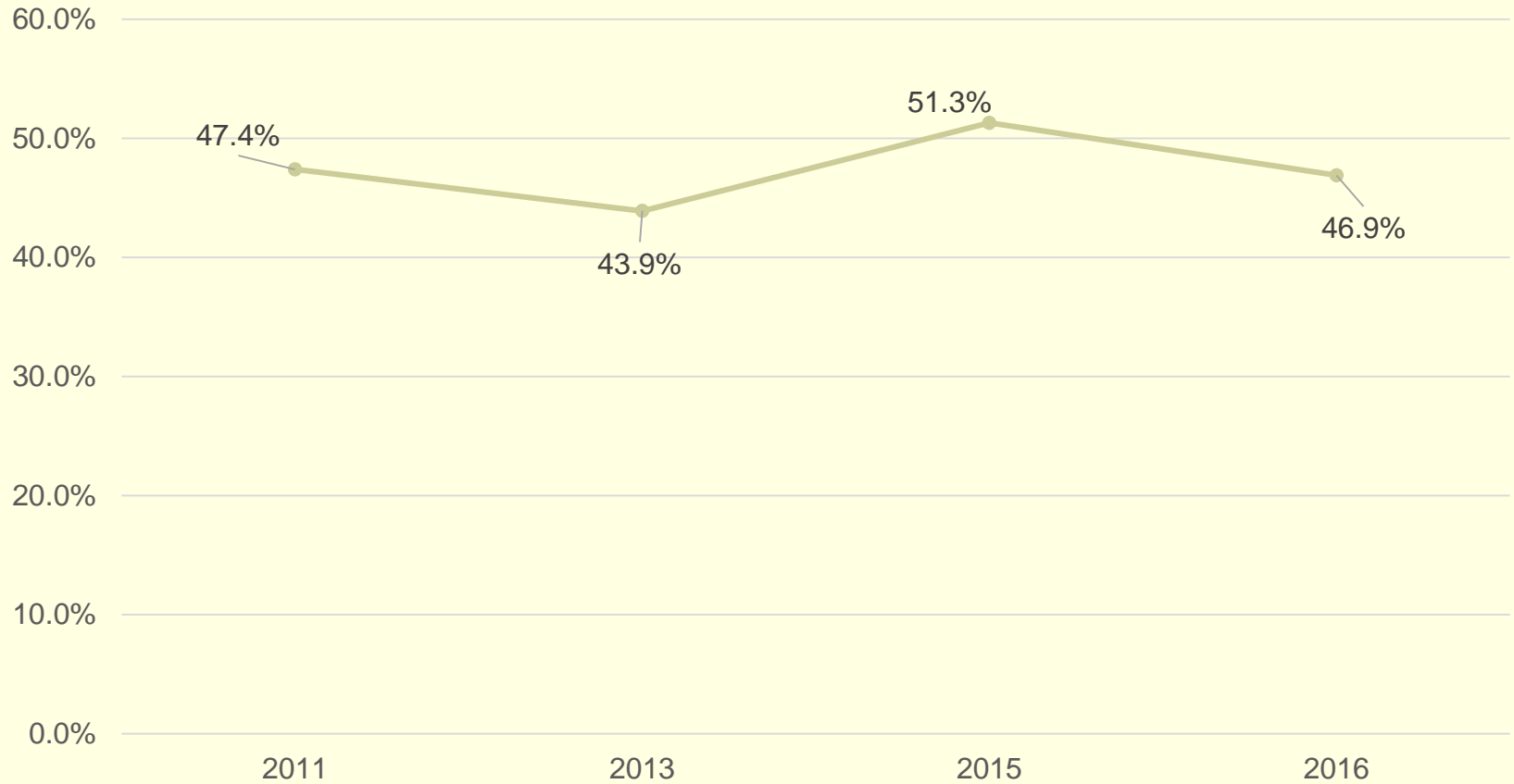
- There are 48 retail establishments selling alcoholic beverages. This includes 26 bars/restaurants, 16 hotel bars, 2 distributors, 2 private clubs, 1 Performing Arts Facility, and 1 liquor store.
- Of the 48 establishments, 38 operate within 5 blocks of 138 & 142 East College Avenue and 114 South Pugh Street in State College

Population Characteristics of State College Borough

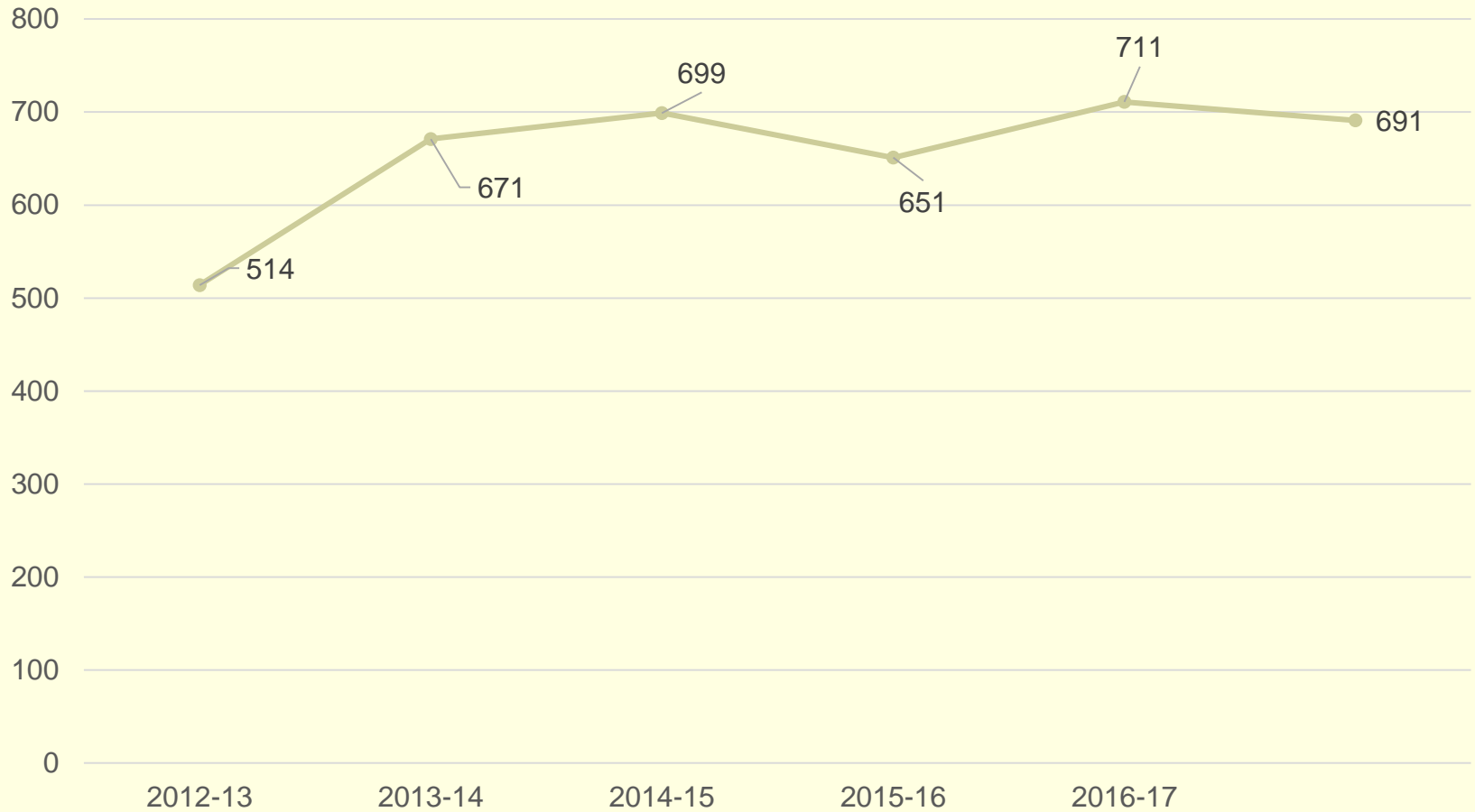
- Borough Population: 42,034
- Persons ages 15 to 24: 29,671 (71%)
- All others: 12,363 (29%)



Percentage of Penn State Students Who Drink Reporting Frequent High-Risk Drinking Behavior



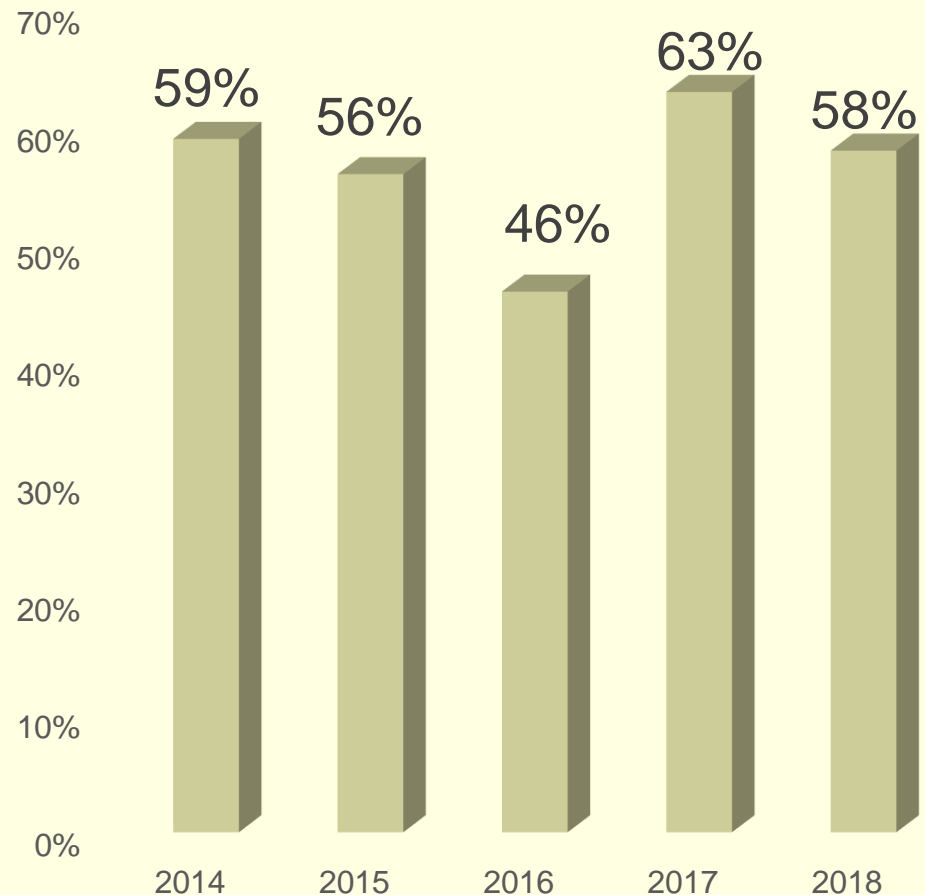
PSU Student Alcohol Overdose Visits to the Mount Nittany Medical Center Emergency Department



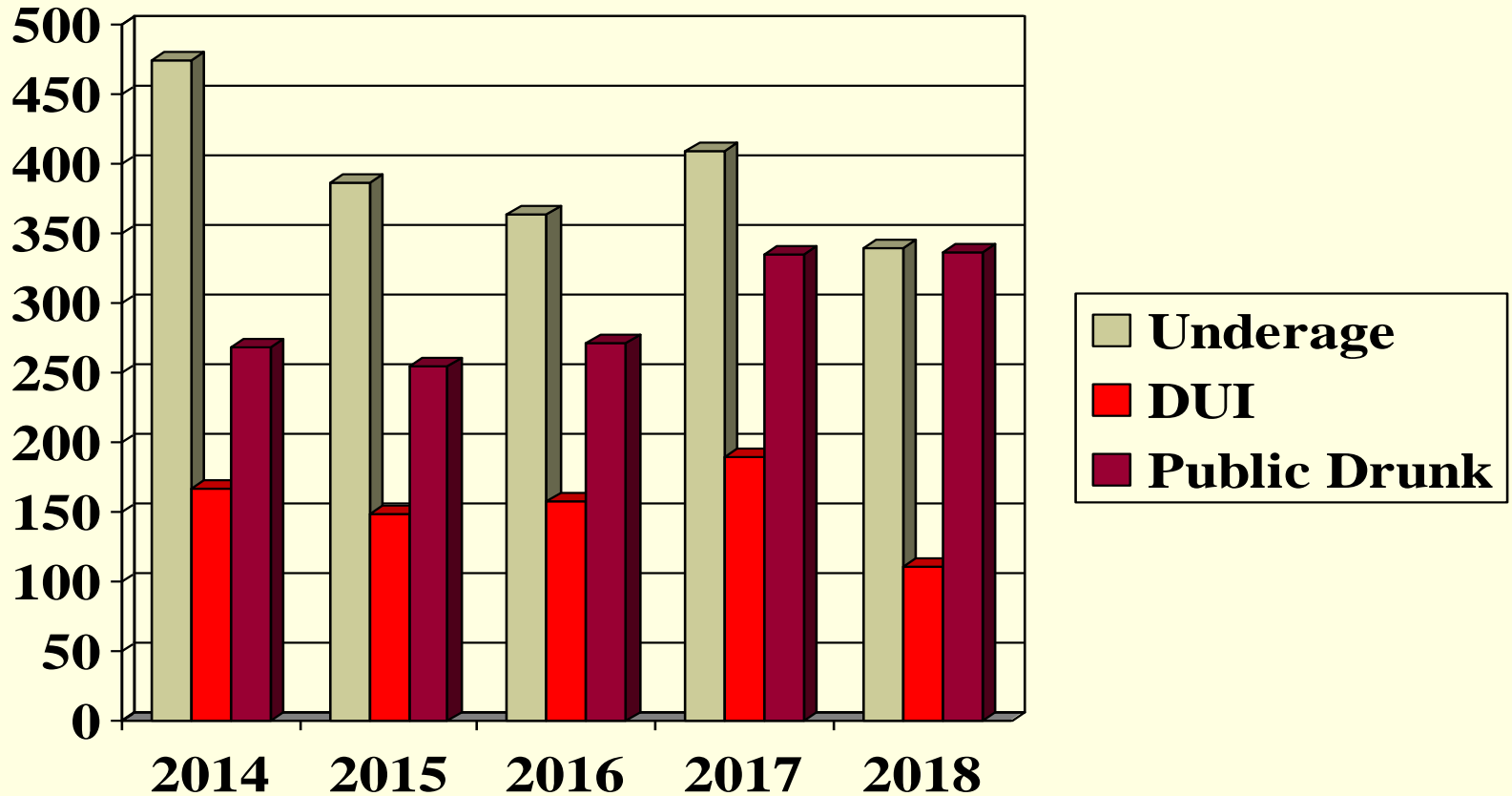
Alcohol-related Crime Reported in the Borough of State College

Between 2014 and 2018, known alcohol-related crime reported in State College ranged from 46% in 2016 to 63% in 2017.

It was 58% in 2018.



Arrests for the Most Common Alcohol Offenses 2014 - 2018



RIOTS

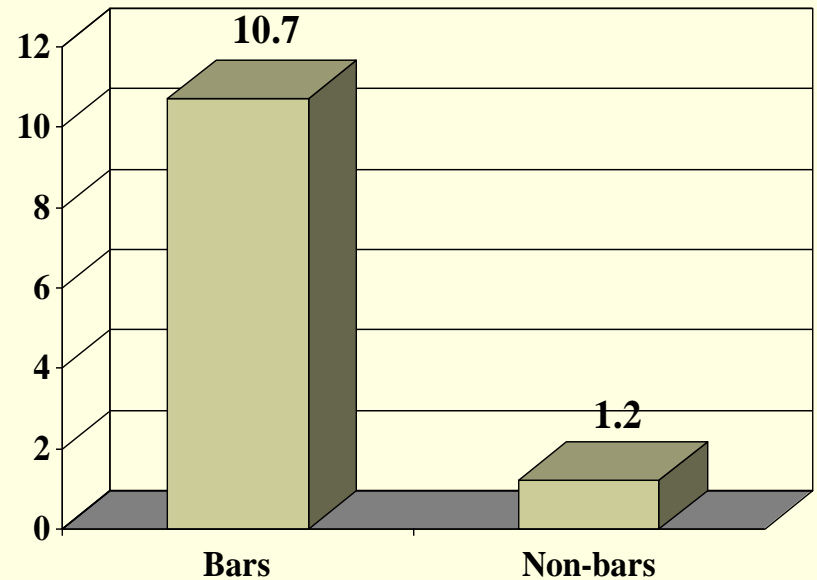
- Over the past 20+ years (dating back to 1998), the destructive riots experienced in the downtown were fueled by alcohol. These riotous incidents have resulted in:
 - Over \$100,000 in property damage.
 - Additional costs to the Borough over \$100,000.
 - Many reported injuries
 - Many arrests for Riot, Failure to Disperse, and Disorderly Conduct.
 - Additional financial impact on the University and the Commonwealth of Pennsylvania.

National Institute on Alcohol Abuse and Addiction (NIAAA) Research Findings

- A Call to Action: Changing the Culture of Drinking at U.S. Colleges
 - Provided several research-based recommendations
 - Tier 2 Strategy: Restrictions on Alcohol Retail Outlet Density
 - Relationship found between density of alcohol outlets, consumption and related problems such as violence, crime, and health problems.

Comparison of Average Police Calls: All Properties versus Bars/Restaurants

- Average number of police calls to bar/restaurant establishments are 9 times greater than calls to all other Borough properties



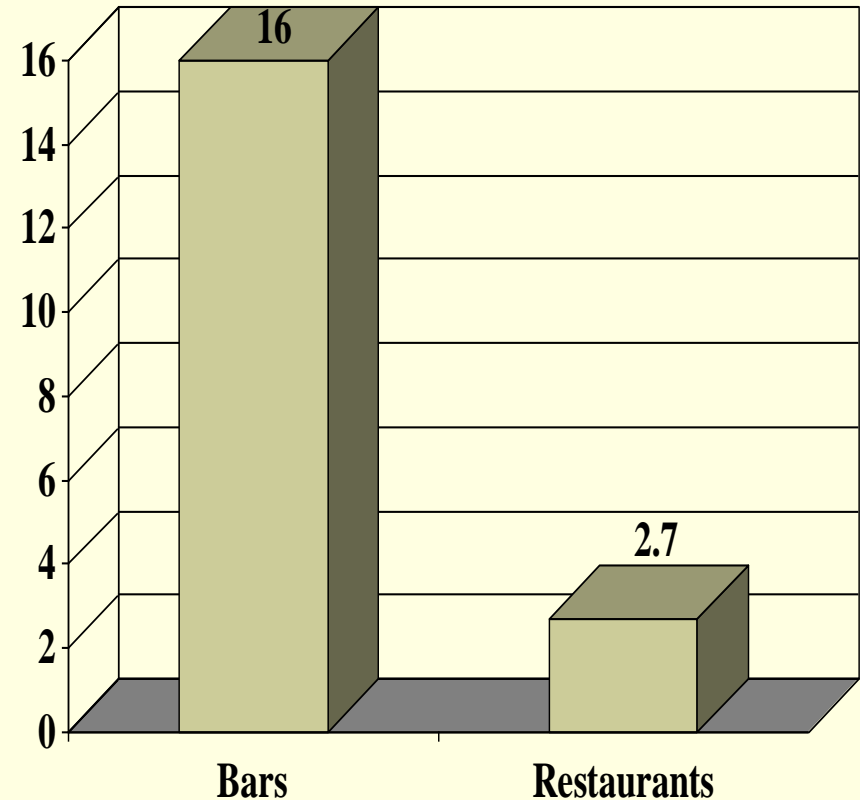
Common Uses for Retail Liquor Licenses in State College

- Generally, there are three (3) common uses for Retail Liquor Licenses:
 - Bar and/or nightclub
 - Bottle Shop (take out of closed containers)
 - Restaurant (primarily food sales)

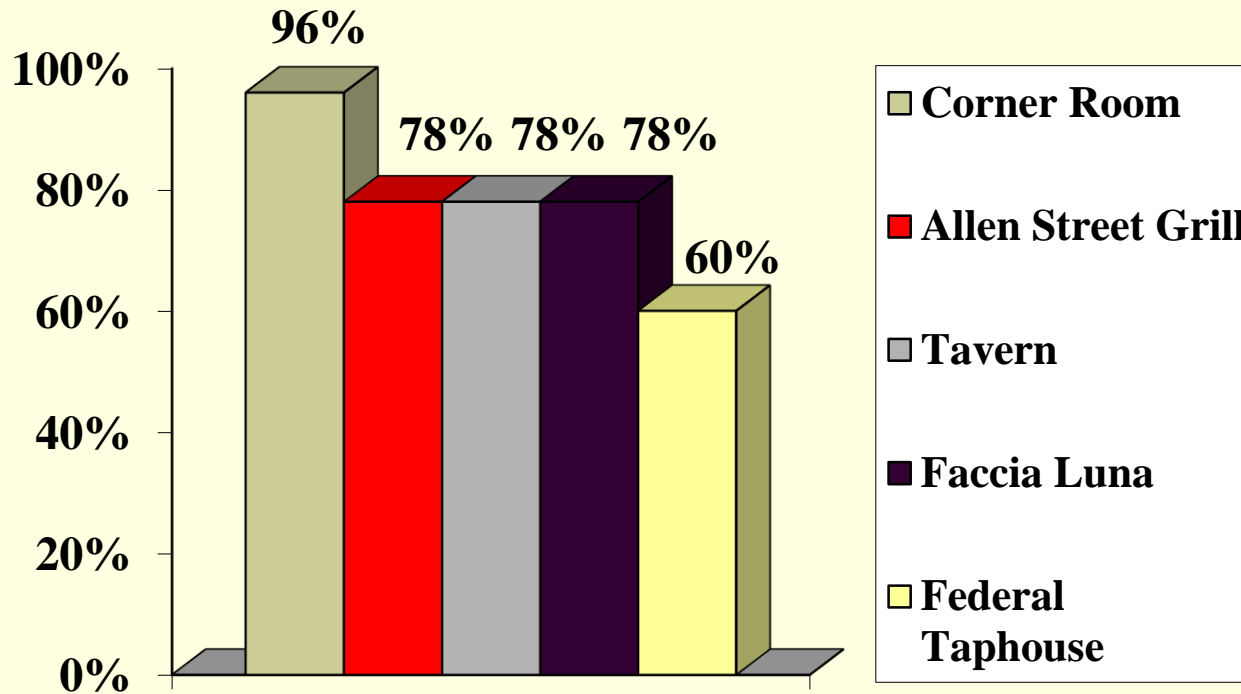
- NOTE: Though there are 19 active restaurant “R” liquor licenses in State College, there are 26 separate establishments selling or serving alcoholic beverages using restaurant “R” licenses.

Comparison of Liquor License Uses: “Bars versus Restaurants”

- Comparing retail liquor licenses for “bars” versus “restaurants”, cases for police service are 6 times greater at “bars” vs. “restaurants”.
- Restaurants include:
Corner Room, Deli, Spat’s at the Grill, Tavern, Federal Taphouse, Fugi & Jade, and Faccia Luna



Percentage of Food Sales to Alcohol at Dining Establishments/Restaurants



Retail Liquor Licenses

“Adverse Affect”

- The transfer of a retail liquor license without any conditions could adversely affect the welfare, health, peace, and morals of the Borough of State College or its residents.
- Retail liquor licenses associated with establishments that are primarily for dining versus bars do not adversely affect the welfare, health, peace, and morals of the Borough of State College or its residents.

Recommendation

- AKE Enterprise, Inc. Restaurant “R” liquor license transfer request should be approved ONLY if reasonable conditions are set by Council and accepted by PLCB and/or AKE Enterprise, Inc. enters into a legally binding Agreement with State College Borough.
- Staff Recommends the following conditions:
 - 65% total business is food sales (versus alcoholic beverages) for each two-year license renewal period.
 - No sales for off-premises consumption after (reasonable time)
 - Alcohol sales by AKE Enterprises, Inc. shall not be permitted at any time when food sales are not available.

Recommendation (Con't)

- Staff Recommends the following conditions (Con't):
 - AKE Enterprises, Inc. shall not be 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 State College Borough Council approval.
 - AKE Enterprises, Inc. shall not be permitted to rent any parts of 138 & 142 East College Avenue and 114 South Pugh Street, State College, Centre County, Pennsylvania to any outside third party.

Conditions PLCB Considers

- RAMP
- No service of alcohol after (reasonable time) in the licensed outside portion of the premises
- No sales for off-premises consumption after (reasonable time)
- No outside third party to sell tickets at the door or online or to charge patrons for food, alcohol and/or entertainment. Band, DJ or similar third party to perform services is permissible
- Maintain, at all times, seating at tables or booths for (number) of patrons
- May not apply for extended hours food permit
- No less than 65 percent total business must be food sales (versus alcoholic beverages) for each liquor license renewal period
- At least 15 days prior to requesting reconsideration, recession or renegotiation of terms of CLA or for applying to extend premises, written notice to protestant, borough, legislator, association group – whichever applies to the situation)
- No consideration to rescind, amend or alter the CLA until at least one year has passed since agreement in effect

BOROUGH OF STATE COLLEGE

RESOLUTION _____

A RESOLUTION OF THE BOROUGH OF STATE COLLEGE,
COUNTY OF CENTRE, COMMONWEALTH OF
PENNSYLVANIA, APPROVING THE TRANSFER OF
RESTAURANT LIQUOR LICENSE, R-21292 INTO BOROUGH
OF STATE COLLEGE FROM COLLEGE TOWNSHIP

WHEREAS, Act 141 of 2000 (“the Act”) which amends the Commonwealth’s Liquor Code, authorizes the Pennsylvania Liquor Control Board to approve, in certain instances, the transfer of restaurant liquor licenses across municipal boundaries with the same county regardless of the quota limitation provided for in Section 461 of the Liquor Code, if sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

WHEREAS, the receiving municipality issues a resolution approving the transfer of the license outside the municipality to inside the municipality; and

WHEREAS, amendments to the Liquor Code stipulate that, prior to adoption of a resolution by the receiving municipality, at least one hearing be held for the purpose of permitting interested parties to state their concerns regarding the transfer of a restaurant liquor license into the receiving municipality; and

WHEREAS, an amendment to Act 141 of 2003, authorizes the receiving municipality to attach reasonable conditions as part of the approval of the license transfer; and

WHEREAS, an application for the transfer filed under the Act, must contain a copy of the resolution adopted by the municipality approving the transfer of a restaurant liquor license into the municipality.

NOW, THEREFORE, BE IT RESOLVED, AKE Enterprises, Inc., has requested the approval of the Council of the Borough of State College for the proposed transfer of Pennsylvania restaurant liquor license to its facilities with the Borough of State College which will trade as Queenstown SC with the understanding that said transfer must be approved at a later date by the Pennsylvania Liquor Control Board; and

BE IT FURTHER RESOLVED, that the Council of the Borough of State College finds that, subject to the conditions established in Exhibit A, attached hereto, the transfer of a restaurant liquor license into the Borough of State College by AKE Enterprises, Inc., will not adversely affect the welfare, health, peace and morals of the municipality or its residents.

BE IT FURTHER RESOLVED, that the Borough of State College approves, by adoption of this Resolution, the proposed transfer of AKE Enterprises, Inc., to be located at 760 South Atherton Street, Borough of State College, State College, PA, subject to the following conditions:

1. **PLCB Concurrence.** Approval of the transfer request of AKE Enterprise, Inc. is conditioned on the PLCB agreeing to encumber or restrict the license with the same conditions as set forth herein by State College Borough Council and the further agreement of the PLCB to enforce such conditions as provided by law in the event the conditions are violated;

AND/OR

2. **Modification.** Modification of these conditions may be obtained only following submission to and approval by Council.
3. **Further Transfer Prohibited.** The liquor license issued to AKE Enterprises, Inc. shall not be transferred to any other person, corporation, entity or location without Council approval.
4. **Expansion Prohibited.** Except for 118 South Pugh Street, no further expansion beyond 138 & 142 East College Avenue and 114 South Pugh Street, State College, Centre County, Pennsylvania, or transfer of the license to another location within the Borough of State College without State College Borough Council approval.
5. **Food Service Required.** Alcohol sales by AKE Enterprises, Inc. shall not be permitted at any time when food sales are not available.
6. **To Go Sales.** No alcohol sales for off-premises consumption after Midnight.
7. **Food/Alcohol Sales Ratio.** Sixty-five (65%) percent of gross revenue for the business premises located 138 & 142 East College Avenue and 114 South Pugh Street shall be generated by food sales and no more than thirty-five (35%) percent of gross revenue shall be produced by the sale of alcoholic beverages for each calendar year. Applicant will provide semi-annual reports to the Borough to verify food and alcohol sales figures.

NOTE: After one (1) full year of operation, the State College Borough agrees to review with AKE Enterprises, Inc. their food/alcohol sales ratio to determine whether any modification to this ratio is appropriate.

8. **Rental of Facility Not Permitted.** AKE Enterprises, Inc. shall not be permitted to rent any parts of 138 & 142 East College Avenue and 114 South Pugh Street, State College, Centre County, Pennsylvania to any outside third party.

LIQUOR LICENSE TRANSFER AGREEMENT
LICENSE NO. R-21292

THIS AGREEMENT made this ____ day of _____, 2019, by and between:

BOROUGH OF STATE COLLEGE, a Home Rule Municipality, having offices at 243 South Allen Street, State College, Centre County, Pennsylvania, hereinafter referred to as "**Municipality**,"

- A N D -

AKE ENTERPRISES, INC., a Pennsylvania corporation, having offices at 261 Old Fort Road, Spring Mills, Centre County, Pennsylvania, hereinafter referred to as "**AKE**."

RECITALS:

AKE has applied for the transfer of a Liquor License No. R-21292, currently located in College Township, Centre County, Pennsylvania to a location in the Municipality, identified as 138 & 142 East College Avenue and 114 South Pugh Street, State College, Centre County, Pennsylvania.

Following hearing, State College Borough Council has agreed to authorize the transfer in accordance with the provisions of 47 P.S. § 4-461(b.3) of the Pennsylvania Liquor Code.

The approval of the license transfer is made subject to the conditions as hereinafter set forth.

NOW, THEREFORE, in recognition of the approval of the license transfer, AKE, with intent to be legally bound hereby, agrees that the following restrictions or conditions shall apply:

1. Food/Alcohol Ratio. The license is a restaurant license and agrees that 65% of its gross revenue will be generated by food sales and no more than 35% gross revenue shall be produced by the sale of alcoholic beverages in any given calendar year. AKE will provide semi-annual reports to the Borough to verify food and alcohol sales.
2. Review of Operational Characteristics. After one year of operation, Municipality will review with AKE their food/alcohol sales ratio to determine whether any modification to this ratio is necessary or appropriate.
3. Contemporaneous Food & Alcohol Sales Required. Alcohol sales on premises will not be permitted at any time when food sales are not available.
4. Location Limitation. The license is devoted to 114 Pugh Street and 138 & 142 East College Avenue, State College, Pennsylvania. Further expansion of the business premises with the exception of 114 South Pugh Street is not permitted.
5. Prohibition against Transfer. The Liquor License issued to AKE shall not be transferred to any other person, corporation, entity or location without approval of State College Borough Council.
6. Facility Rental. Rental of the facility as to all of any part of 114 South Pugh Street and 138 & 142 East College Avenue to third parties is strictly prohibited.
7. Modification. Modification of the within Agreement may be obtained only following submission to and approval by State College Borough Council.
8. Compliance with PLCB Requirements. AKE agrees to comply with all requirements and orders of the Pennsylvania Liquor Control Board and the parties acknowledge that license restriction, as described herein.
9. Enforcement. This Agreement contains legally binding obligations and shall be enforceable in the Court of Common Pleas of Centre County, Pennsylvania, at law or in equity, including specific performance.

10. Partial Invalidity. In the event that any provision of this Agreement is determined to be legally invalid, the affected provision shall be stricken from the Agreement and the remaining terms of the Agreement and their enforceability shall remain unaffected thereby.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first written above.

ATTEST:

MUNICIPALITY:
BOROUGH OF STATE COLLEGE

By: _____

ATTEST:

AKE:
AKE ENTERPRISES, INC.

By: _____

COMMONWEALTH OF PENNSYLVANIA)) SS:
COUNTY OF CENTRE)

On this, the ____ day of _____, 2019, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of the Borough of State College, the foregoing municipality, and that he/she being authorized to do so executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA)) SS:
COUNTY OF CENTRE)

On this, the ____ day of _____, 2019, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of AKE Enterprises, Inc., the foregoing corporation, and that he/she being authorized to do so executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT "C"

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#	Date	Comment	Response	Council Disposition
1	6/10/2019	Are there still currently bricks in the Municipal Building Plaza?	Yes, but the Government Building Improvements (BD131) project would fund the replacement of these bricks with pavers. This will lower staff cost to maintain the plaza and walks.	
2	6/10/2019	Will the Borough no longer utilize bricks in the downtown sidewalks?	Yes, all new projects utilize pavers, not bricks.	
3	6/10/2019	Why do we have a design where Borough sidewalks split the bricks with concrete? These concrete strips can be a trip hazard.	That is the design standard that has been implemented as part of the Downtown Master Plan. The Borough is currently working on repairing these issues and will explore different options in the future.	
4	6/10/2019	In the CIP Project IT201 (GIS Solutions) has a round number of \$100,000 is that the anticipated cost or just an estimate? Also, why is there no ongoing costs?	Borough staff is still working on estimating the total costs. The project is included the Capital Improvement Plan for planning purposes. Final cost estimates will be presented during the budgetary process if the project is approved in the final CIP	
5	6/10/2019	CIP Project IT202 (Infrastructure Management System) has a score of 24 and is only listed as "should do". Why is this project no a "must do"?	Must do projects are only those projects that meet legal mandates or moves the Borough closer into compliance and/or eliminates/reduces hazards.	
6	6/10/2019	Are CIP Project IT201 and IT201 dependent? Can one be implemented without the other?	So the projects are related and should be done sequentially. However, the projects may be implemented independant of the other. The goal plan is to implement the GIS Solution project first and then tie in the Infrastructure Management System. The Infrastructure Management System would be more useful if it utilized the GIS Solution.	

7	6/10/2019	The estimated useful life for IT201 is seven years but the IT201 project does not have a useful life. With both the projects being dependent, why does one have a useful life and not the other?	The GIS Solution software will always exist, however, it may be upgraded and utilized differently. In 5-7 years, the organization may explore utilizing a different Infrastructure Management System.	
8	6/10/2019	With CIP Project IT280 (High-Speed Internet), is there an opportunity for Borough revenue?	There could be a revenue opportunity. If approved, the Borough could explore a way to monetize this project by selling high-speed internet as a utility.	
9	6/10/2019	Will CIP Project IT280 be beneficial to the public's access to high-speed internet?	It may be possible for this high-speed infratsture to be available to the public. However, the primary goal for this project is to Borough service delivery.	In the future, the Council would explore this service from a policy standpoint, however, there are some state regulations that need to be reviewed prior to policy implementation.
10	6/17/2019	The project score for PK182 (Park Land Restoration) is higher than other projects, however, it's only identified as a could do. Can you provide additional details about this project's prioritization?	Theneed to coordinate this project with the Clearwater Conservancy removes some control over final approval and schedule resulting in a lower prioritization. This project cannot be prioritized until the scheduling details are further developed.	
11	6/17/2019	Did Council approve the transfer of an action sports park project to be explored as a regional project?	The Council did approve the Action Sports Park report to be transferred to the Centre Region Council of Governments. The project included in this CIP is in response to the recommendation from some members of the Action Sports Park Committee for the Borough to develop an ASP in Highpoint Park.D5	Council will continue to explore an Action Sports Park in the Borough.
12	6/17/2019	Are the additional parking structures being explored in Downtown State College?	Yes, the off-street parking facilities are for downtown State College. The Borough will complegte a parking inventory, supply and demand analysis by 12/31/19. The study identify locations for additional parking structures in downtown State College.D7	

