

Meeting Minutes
State College Borough Council
Work Session
January 18, 2008

The State College Borough Council met in a work session on Friday, January 18, 2008, in the State College Municipal Building, 243 South Allen Street, State College, PA. Ms. Goreham called the meeting to order at 12:00 p.m.

Present: Elizabeth A. Goreham, President of Council
Ronald L. Filippelli
Donald M. Hahn
Theresa D. Lafer
Silvi Lawrence
Peter Morris
James L. Rosenberger

Also present: Thomas J. Fountaine, II, Borough Manager; Thomas S. Kurtz, Assistant Borough Manager for Community Services; Carl R. Hess, Planning Director; Roger Dunlap, Assistant Borough Manager for Budget and Administration; Thomas R. King, Chief of Police; Mark Whitfield, Public Works Director; Art Caccavale, Parking Manager; Amy R. Miller, Recording Secretary; members of the media; and other interested observers.

Public hour. There were no comments from the public.

Transfer of Liquor License. Mr. Fountaine said the Borough received an inquiry from the law firm of Flaherty & O'Hara, representing ARC Restaurants, LLC, requesting an opportunity to discuss on a preliminary basis with Council the transfer a liquor license from the Pizza Hut at 2609 East College Avenue, College Township, to the Pizza Hut at 760 South Atherton Street in the Borough of State College. Mr. Fountaine then presented an overview of the Borough's liquor license transfer ordinance and the state law for the benefit of new Council members. He said that in 2001 the state law changed to allow license transfers from other municipalities without conditions set. He added that in 2003 the law again changed to enable Council to recommend reasonable conditions which, if acceptable, are adopted by the Pennsylvania Liquor Control Board (PLCB). Mr. Fountaine noted that Council policy has been that the transfer of a retail liquor license without any conditions would adversely affect the welfare, health, peace, and morals of the Borough of State College or its residents.

Mr. Fountaine then introduced ARC Restaurants' legal representative Mark Flaherty. Mr. Flaherty thanked Council for the opportunity to address Council on the subject. He stated that his firm handled the previous liquor license transfers requested by Fuji Jade Garden and Rotelli. He noted the law also requires advertising of the transfer two weeks prior to a hearing. Mr. Flaherty stated that ARC Restaurants is in agreement with setting reasonable conditions.

Roger Gates, owner of ARC Restaurants, said the Pizza Hut on East College Avenue will soon close because of decreased sales. He added that the store on South Atherton is the second oldest in the state of Pennsylvania and is in need of remodeling. He said that his goal is to improve and modernize the physical building and bring back the liquor license the store once had before selling to Chili's Restaurant ten years ago. Mr. Gates noted that 65 percent of sales at the South Atherton Street location come from carryout and delivery and that dine-in sales decreased after the sale of their original liquor license. He added that 98 percent of his sales are from food and that all his establishments are non-smoking.

Mr. Hahn asked if ARC owns the Pizza Hut in Bellefonte. Mr. Gates replied that he owned the Bellefonte store as well.

Mr. Hahn then requested information on liquor licenses in the Borough. Mr. Fountaine said background information would be distributed prior to a public hearing.

Mr. Filippelli said he was concerned because the South Atherton location is a heavily populated student area and asked what estimate of their business stems from students. Mr. Gates said he estimates that student business is in the 50-60 percent range because of deliveries to student apartments. Mr. Gates added that it is against the law to deliver alcohol.

Ms. Lafer questioned the hours of operation. Mr. Gates said the restaurant is open from 11 am to 10 pm Sundays through Thursdays and until 12 midnight Thursdays, Fridays and Saturdays.

Ms. Goreham asked if square footage of the restaurant would be increased. Mr. Gates said space would not be added because parking requirements would not allow for additional interior space.

Council then questioned the types of alcohol that would be served. Mr. Flaherty said there is no such thing as a beer & wine license, but rather the liquor license is to sell all types of alcohol. He added that Pizza Hut is known for selling pitchers of beer, but ARC Restaurants is willing to give up the pitchers as a conditional use.

Mr. Filippelli said Rotelli's Restaurant continues to advertise with posters of alcoholic drinks. Mr. Gates said that seven of his nine restaurants have a liquor license and none advertise alcohol. He added that his transfer request is specifically for the convenience of the customer to have a glass of wine or beer with their dinner.

Emergency Management. Mr. Fontaine said the Centre Region Municipalities and Penn State have formed a regional Emergency Management Council (EMC). He noted that a unique feature of the Centre Region EMC is the region wide response to emergency management as opposed to the more traditional model found in Pennsylvania where each individual municipality has its own emergency management structure.

Steve Abrams, Emergency Management Coordinator for the Centre Region, presented Council with an overview of how emergency management is handled within the Centre Region. Mr. Abrams said prior to his five years as Emergency Management Coordinator for the Centre Region, he spent 11 years coordinating emergency programs in the state of Florida. He added that he was appointed by the Governor based on the local governments' recommendation and he acts on behalf of the local elected officials. Mr. Abrams noted that he serves under the EMC which is comprised of the municipal managers from the Centre Region municipalities and Penn State. He said the EMC meets publicly once a month to ensure the two primary goals of the EMC are met. The goals are life safety and protection of property.

Mr. Abrams said for a program to be successful, the program must be community based, meaning that the public and government share responsibilities in all five phases of emergency management. He added the five phases for successful emergency management are prevention, mitigation, preparedness, response and recovery. Mr. Abrams noted that public outreach plays a large role in the success of the program and the EMC recently prepared a "Family Preparedness Guide" that was distributed via the Centre Daily Times throughout the Centre Region as well as showing special programs on C-Net.

Mr. Abrams said that in 2007 COG developed an Article of Agreement for Emergency Management which brought up to date his responsibilities as Emergency Management Coordinator as well as including a contingency budget for emergency management. The budget was developed so that in case of emergency the local governments are not taxed and the EMC is not spending money that is not there. More information on emergency management can be found online at Cog.centreconnect.org/emergmgmt, he noted.

Ms. Lafer questioned the types of emergencies responded to the most. Mr. Abrams said there are three broad categories which include natural disasters, technical events, and man-made events. He said an example of a technical event would be a power outage and a man-made event would be a terrorist attack.

Council questioned if flood maps of the Centre Region are available. Mr. Abrams said the FEMA flood maps can be found in the county office in Bellefonte.

Mr. Morris asked if locally the EMC is capable of handling a catastrophe such as Hurricane Katrina. Mr. Abrams explained the chain of command beginning with the County; next, the state is divided into three sections and then the top level is the central PEMA headquarters located in Harrisburg. He said that situations are evaluated locally and elsewhere to determine the best way to respond. Mr. Abrams said responses are analyzed after an incident to determine if anything went wrong and how to be better prepared in the future.

Mr. Rosenberger questioned Mr. Abrams' relationship with the public health directors. Mr. Abrams said he routinely meets with health representatives as well as staff from Mt. Nittany Medical Center.

Council asked who was in charge of public information for EMC. Mr. Abrams said that Vicky Fong is responsible and the backup person is Harris Township Manager Amy Farkas.

Ms. Lawrence asked if the Centre Region had an evacuation plan. Mr. Abrams said there is no plan on paper, but there are certain techniques that should be used for evacuation. Mr. Fontaine added that weather related events are the main concern of the EMC and not much time has been spent discussing evacuation.

Ms. Lafer questioned how residents would be notified in the case of a weather emergency. She also asked where residents would assemble in the case of an emergency. Mr. Abrams said one of his duties is to monitor the weather. He said if he would see a dangerous storm approaching, he would send out advance warnings to the municipal managers and all the media in order to get the information to public. In addition, he said there is a program through the radio that alerts schools, day care centers, senior centers, and first responders to get information out as quickly as possible. Mr. Abrams said in regards to where one should go, there is an emergency shelter program which includes the following facilities: the Boalsburg Fire Station, Mt. Nittany United Methodist Church on Branch Road, and the Park Forest Elementary School. He noted that each location has adequate room for lying down and is equipped with generators for heat and emergency power. Mr. Fontaine added that communication strategies are not foolproof and the

EMC has created a number of ways to communicate ways to mobilize whatever response is needed. As an example, Mr. Fontaine said the Borough recently implemented the Code Red Telephone Alert System when an escaped prisoner was at large. He added that the combination of communication can saturate the community so that all are informed.

COG Voting. In preparation for the COG General Forum meeting on January 28, Mr. Kurtz provided new Council members with an overview of voting procedures used at the COG General Forum and committee meetings. He said that all Council members are expected to attend the General Forum and are representing the State College Borough. In addition, he said that Council members are assigned to COG committees and that if the assigned committee member should miss a meeting, a replacement should be sought. He noted that if another Council member cannot attend, Council can authorize a staff member to sit in. COG should be advised who the alternate is ahead of the meeting so that agenda materials can be provided to him or her, he added.

Mr. Kurtz explained that during a General Forum meeting if a Borough Council member makes a motion, then the motion cannot be seconded by another Borough Council member. He added that the Articles of Agreement states that majority votes are informal voice votes used when there is an item with no opposition and everyone votes unanimously. Mr. Kurtz said anytime before or after a majority vote, and usually if opposition voices are heard, a unit vote can be requested which negates the voice vote. Unit votes are cast by municipality with just one vote for each member municipality, although the vote can be split internally within the municipality.

Mr. Kurtz stated that certain subjects under the Articles of Agreement such as the sale of real estate require a unanimous vote. He added that the municipality may have a split vote internally, but each municipality must cast a yes vote for COG to approve an item requiring a unanimous vote. He added that borrowing of more than 1.5 percent of the COG budget or having a payback period of more than five years also requires a unanimous vote,

He then said there are two types of abstentions relevant with COG voting. The first is an abstention based on a conflict of interest for individual Council members under the same rules that apply at Council meetings. The second is for the whole Council to abstain if the Borough does not partake of the service. Mr. Kurtz gave the example of the COG program for trash removal in the townships, which the Borough does not participate.

Mr. Kurtz said there are also non-voting members who attend the COG meetings such as the University representative at the General Forum meeting and Borough Township staff at COG committee meetings.

There being no further business, the meeting adjourned to an executive session at 1:07 p.m. to discuss litigation.

Respectfully submitted by:

Cynthia S. Hanscom
Assistant Borough Secretary