

Meeting Minutes
State College Borough Council
Work Session
Monday, July 11, 2005

The State College Borough Council met in a work session on Monday, July 11, 2005, in the State College Municipal Building's Council Chambers, 243 South Allen Street, State College, PA. Mr. Daubert called the meeting to order at 7:32 p.m.

Present: Bill Welch, Mayor
Thomas E. Daubert, President of Council
Catherine G. Dauler
Elizabeth A. Goreham
Jeffrey R. Kern
Richard L. McCarl
James H. Meyer

Absent : Craig R. Humphrey

Also present: Thomas J. Fountaine, II, Borough Manager; Thomas Hart, Lieutenant; Carl R. Hess, Planning Director; Herman Slaybaugh, Zoning Officer; Michele Nicolas, Director of Human Resources; Amy R. Miller, Recording Secretary; Mark Whitfield, Public Works Director; members of the media; and other interested observers.

Public Hour. There were no comments from the public.

Inter-Municipal Transfer of a Liquor License. Council held a public hearing on the inter-municipal transfer of a liquor license request for Rotelli Restaurant on July 5, 2005. Testimony was received from the applicant, staff and the public. Based on the comments at the hearing, staff has updated the recommendations as follows:

- At least 80 percent of the total business must be in food sales (versus alcoholic beverages) for each liquor license renewal period (every 2 years);
- The applicant will provide quarterly reports to the Borough to verify the food/alcohol sales;
- The bar area, consisting of a combination of bar seats and tables with chairs, shall consist of no more than a total of 30 seats and it shall be physically segregated from the other dining area;
- Entertainment is limited to instrumental music (piano or acoustic guitar) which does not require an amusement permit by the Liquor Control Board;
- No alcoholic beverages served between midnight and 10:00 a.m., 7 days/week;
- Beer and liquor may only be sold by the drink;
- No expansion beyond 250 East Calder Way or transfer of the license to another location in the Borough without Council approval;
- The liquor license shall not transfer to another person or corporation without Council approval; and
- This transfer request shall only be approved if PLCB agrees to place the same conditions set by Council and enforce them if violated.

The Manager, Chief of Police and Solicitor discussed these conditions with the applicant and his Counsel via conference call on Friday afternoon, July 8. The Manager distributed a report on this conference call to Council at this work session. Approval or denial of the transfer request is scheduled for Council's regular meeting on July 18, 2005.

Mr. Hughes responded to these conditions and said he would prefer to have 60 percent food sales but is comfortable with 70 percent as long as sales numbers will be reviewed on a regular basis and he would have an opportunity to react one way or the other. He also suggested limiting entertainment to instrumental music and vocals with no full bands and volume to be kept at a reasonable level as to not disturb neighbors. In regards to hours of operation, Mr. Hughes would like the restaurant to stay open until 2:00 am to be competitive with other area restaurants.

Mr. Meyer said he feels Rotelli's sounds like an additional bar in the downtown area. Council has already denied one liquor application. Another restaurant that serves alcohol would be a nice addition, but the plans change from one floor being a restaurant and the downstairs being a smoking and bar area. Ms. Dauler agreed and said she does not want Rotelli Restaurant to become a bar like the new Pickles Tavern. Mr. Fountaine said staff recommended that some tables be allowed in the bar area so people could have dinner in the bar area. If Council wishes to change that recommendation, they could do so. Mr. Hughes did not object to the separation of tables from the bar area.

Mr. Fountaine said staff is recommending 80 percent food sales, and staff would not consider Mr. Hughes' request of 60 percent food sales. Mr. Meyer said a restaurant that primarily serves food should be satisfied with 80% food sales. Quarterly reports would have to show the restaurant's

percentage of expensive wine sales to be compared to Zola's fine wine sales. Seventy percent of food sales allow more alcohol sales. Council agreed to 75 percent food sales.

Mr. Fontaine said a bigger issue is to stop sales after midnight. Council agreed.

Mr. Kern disagreed with a waiting area with tables for 30 patrons; it constitutes a bar. Mr. Fontaine said the restaurant compares to Ruby Tuesday' or TGI Friday's where one can eat dinner in the bar area if one wishes. Ms. Goreham agreed and wanted to keep it as close to a family restaurant and suggested cutting down on the seating area in the bar. Mr. Daubert felt a 12 seat bar is acceptable with a table separation.

Council agreed the entertainment stipulation should remain as stated originally.

Upon recommendation from the police department, Council also agreed to limit service to no alcoholic beverages between midnight and 10 am.

Duke Gastiger, 600 W. Foster Avenue and owner of the Rathskeller and Spats Cafe, said he would love to have additional restaurants in town but not bars. Spats Café has a service bar and he recommended the same for Rotelli's as an alternative to a bar. There are restaurateurs that purchased their liquor licenses for a great sum of money and covet their licenses.

Pat Vernon, 900 Walnut Springs Lane, College Township, said if you consider the new Kelly's Restaurant in Boalsburg they have tables in the bar area with seating for about 10 to 12, a nice situation. There are tables close to the bar. Mr. Vernon does not agree with separating the bar area and feels it is up to the integrity of the owner to make the restaurant what it is. He believed the limitations were too strict.

Mark Sapia, 811 Wheatfield Drive and owner of the Shandygaff, said he believed the owner spoke with all good intentions but questioned what happens six months to one year from now and asked who would monitor the establishments at that time. Mr. Sapia said he has a piece of paper that is worth a lot of money and the license is what keeps his bar in check. The Borough cannot monitor liquor licenses.

Ms. Goreham said Mr. Sapia had a good point. Mr. Fontaine said the license would be controlled by the Pennsylvania Liquor Control Board (PLCB). If there were violations to any conditions set, the license holder would lose the license. The Borough would have not control over the license. Any violations by the restaurant should be reported to the PLCB.

Mr. Kern asked if expansion control can be put in the occupancy license, not the liquor license; Mr. Fontaine felt there was no way the Borough could control the expansion. Mr. Meyer said PLCB could accept the Borough's stipulations. Mr. Fontaine said the Borough can recommend to PLCB that if conditions are not met, the Borough does not accept the transfer.

Raymond Rockey, 102 Wyndham Circle, Boalsburg, and co-owner of the Brewery, said the consensus is that people do not want additional bars. He asked Council why allow a little bar with the restaurants. Once all restaurants have the right to have a bar, then the whole look of the downtown is changed. Mr. Rockey also paid a large amount for his liquor license and feels the license is what drives his establishment to stay on track.

Mr. Meyer agreed and said Mr. Rockey's point was important and suggested a service bar only; then other restaurants will know what the regulations are for the next restaurant. Everyone agreed with the service bar except Mr. Daubert.

Jack Sapia, 827 Saxton Drive, said real estate values will go down with liquor licenses which will not help the downtown. Mayor Welch responded that the aim of the DID and the Borough is to have better restaurants downtown which means alcohol service, but not additional bars.

Council's new recommendations are as follows (changes are in bold face type):

- **75 percent total business is food sales** (versus alcoholic beverages) for each liquor license renewal period (every 2 years), provided the borough reserves the right to increase the ratio of food sales up to 80% of total sales if more than one liquor law violation occurs during any two year term of this license; The applicant will provide quarterly reports to the Borough to verify the food/alcohol sales;
- **The Establishment shall have a service bar only. No bar seating shall be permitted;**

Commercial Incentive Zoning. On April 4, 2005, the Planning Commission presented a Commercial Incentive District Ordinance for Council's consideration. The Ordinance includes incentives for certain types of commercial and residential uses in areas 7 and 8 as identified in the Downtown Vision and Strategic Plan. On April 11, 2005, Council decided against establishing a pending ordinance and instead, asked that the proposed ordinance be reviewed first by Council and other interested parties. Council started their review at the April 29 work session. Four public meetings were held in May to take public comment. A public hearing before Council was held on June 6. Council received a report summarizing comments received through the public hearing in addition to comments received from the Design Review Board.

Mr. Hess distributed revised handouts. Council agreed the revised schedule looked reasonable.

Mr. Hess said staff believes comments from the public hearing can be summarized in the following questions:

- Is 95 feet the appropriate height cap to apply in the CID?
- Should the existing 10,000 square-foot parking exemption for non-residential uses be increased?
- Should FAR for non-owner occupied housing (student housing) be increased by receiving bonuses from incentives? The proposed CID rule allows an increase in FAR from 2 to 3 using 2 incentives.
- Do the incentives provide enough return to encourage commercial/retail development or owner occupied housing?
- Are the proposed boundaries set appropriately?
- How can the Cineplex project be interfaced with the CID?

Staff proposes the following recommendations that address both policy issues and public input:

- Keep the base zoning requirement as proposed for the CID.
- Do not extend boundaries of the CID in to the RO zone.
- Develop a conditional use provision applicable to large redevelopment sites in an expanded CID that includes much more downtown land. If not expanded, the conditional use would be applicable in the CID and commercial district.
- Parameters on parking, building height and size, lot size, etc. need to be developed.
- Adopt the proposed 95-foot height cap, but couple it with creating a conditional use provision applicable in an expanded CID that would allow redevelopment projects like the Cineplex to go higher than 95 feet.
- Eliminate all FAR bonuses for student housing projects.
- Mandate street level commercial within the entire business district.
- Explore non-regulatory mechanisms to reduce operating costs; e.g., business privilege tax break, sewer tapping fee waivers, parking fee discounts in public facilities, etc.
- Increase the current parking exemption from 10,000 square feet to 30,000 square feet and apply it in both the CID and commercial district.
- Change the residential parking rule in the commercial district to match that proposed in the CID.
- Retain the differential (base rule) setback between residential and commercial uses.

Mr. Hess said at this time staff is evaluating the Centre Region Planning Commission's (CRPC) comments and will prepare a response to be included in the July 18 agenda. CRPC was also concerned with the complexity of administering the owner occupied housing covenants and thought maybe age restricted housing would be a simpler alternative. Mr. Hess feels that the market for owner occupied housing might be limited if there were age restrictions.

Mr. Hess also defined the central business district as that part of the commercial district bounded by Sowers Street on the east, Atherton Street on the west, College Avenue on the north and Beaver Avenue (southside) on the south. He also indicated potential changes to the schedule stating Council was originally asked to complete the review this evening; however, the schedule had been pushed back one month. A revised ordinance is expected in August based on feedback from Council as well as additional public meetings; September would bring a final look from Council with a vote to enact the CID in October.

Mr. Kern commented that height restrictions were silly; what if someone proposed the best looking building but it was 96 feet high. Mr. Hess responded that would be a case when conditional use is put on the stipulations. Mr. Fountaine added staff is suggesting conditional use clauses be added to the ordinance. For example, if a developer presented plans that required additional heights or some other modification, then they could be approved.

Ms. Goreham asked if the ordinance would specify market rate housing. Mr. Hess said the ordinance refers to owner occupied. Mr. Fountaine added the bonuses offered for owner occupied would come with covenants that would guarantee owner occupied housing. Student housing bonuses would not be available. Mr. Hess stated the commercial incentive district does not apply to student housing; it would be financially less advantageous to build student housing.

Mr. McCarl agreed with Mr. Kern's suggestions for height restrictions; the only way to expand is up. Mr. McCarl also suggested to be careful with incentives but suggested Council see a list of conditional uses.

Pat Vernon suggested Council listen to the Centre Region Planning Commission's comments closely. Mr. Vernon questioned the open space; big box-like buildings will end up where there is current open space. Mr. Vernon feels less than a 25 foot sidewalk is too small. In addition very narrow streets will create problems for fire trucks to pass properly. He also recommends keeping height to 4 stories. Mr. Vernon suggests Council ask COG to reinstate the Centre Region Rental Housing Advisory Committee.

Fire Safety Recommendations. This discussion was prompted by COG Code staff's recommendations presented to Council previously and the COG Code Committee discussion of the Property Maintenance Code amendments related to fire safety. Mr. Fontaine suggested Council consider the Code staff's recommendations in two parts. The recommendations related to requirements for sprinkler systems should be deferred until later. The discussion related to third story egress, smoke alarms, inspection frequency and increasing fines for tampering with smoke alarms should proceed over the next 30 to 60 days.

Mr. Daubert read questions from Page 20 of the agenda packet referring to staff's recommendations for Council's consideration. Questions/recommendations are as follows:

1. Should rental properties be required to install battery-operated smoke alarms immediately (within 60 days) while allowing a reasonable time (24 months) to install the required interconnected smoke alarms? Mr. Knisely responded that interconnected means that if one alarm sounds then all alarms will sound. Mr. Kern asked the approximate cost of interconnecting an eight bedroom house. Mr. Knisely said the cost to install each alarm is approximately \$50 per smoke alarm. He added another option is the 10-year battery that is tamper resistant, but they should still be interconnected to have the best results. These alarms would not be in a cage, but they are tamper resistant and the only way to remove the battery is to destroy the unit. Council agreed that a smoke detector be installed in each sleeping room beginning in September or October. Mr. McCarl questioned who would keep the owner's record stating he had properly installed the smoke detectors, and that the renter had signed the agreement to maintain them. Mr. Kern suggested the signed document should be required by the ordinance. Mr. Fontaine suggested that staff develop recommendations for administration of this requirement. With the volume of paperwork involved, Mr. Fontaine also suggested landlords be required to keep the documents and present them upon request.
2. The egress requirement for a third floor window or 20 feet above the grade below could impact more than three story houses. Some two story homes could be included in this. Mr. Fontaine explained the property on Hetzel Street prompted this item. The second story of the Hetzel property was at a height that should have required a second means of egress. Rather than state second or third story, staff felt it more appropriate to state the second means of egress be relevant to the elevation difference between ground level and that room. Mr. Daubert replied this may lead a landlord to build a huge mound of dirt outside a window so he would not have to install a means of egress; he feels this is not appropriate and the third floor should be absolute no matter what. Mr. Meyer asked Mr. Knisely if third floor egress was required if the third floor was used only as a bedroom. Mr. Knisely said it depends on the language of the ordinance. He continued that a living room or recreation room could be slept in, but if it does not resemble a sleeping room then it would not be regulated as such. Mr. Fontaine asked for clarification on the terminology for the ordinance. Mr. Daubert suggested it read 'any occupied space above the second floor'. Council agreed, except Mr. Meyer.
3. Code requires that emergency lighting and exit signs be installed in any building that requires a second means of egress. Would a single family house that requires this egress also be included? Staff recommends that the lighting not be required. If Council agrees, an exception would need to be inserted. Mr. Fontaine said this is one instance where grandfathering should apply; such that if a single family home has been converted to a rental and requires a second means of egress, Code would require exit signs. Mr. Knisely said this could be done by means of definition; stating that a single family house would be limited to five people. In addition, new construction does not allow fire escapes with descending ladders but they must be a true exterior or interior stairs. Mr. Daubert suggests staff provide Council with a proposal that would include such wording.
4. Code requires that when a second means of egress is required, all occupants must be provided two means of egress. This would require the exterior stairway being tied into the second floor. Staff does not think this is necessary, but another exception would need to be inserted in the specific chapter. Council agreed.
5. Should sprinklers installed throughout the building be allowed in lieu of a second means of egress? Council feels sprinklers should not be considered in lieu except for new construction.
6. Basement egress windows have changed over the years. There is a need to identify what is approved or "grandfathered" and what year standard to reference. Mr. Kern said he noticed a home on Gill Street that removed large windows from the home and replaced them with small basement-type windows; no one could use any of the replacement windows as a means of escape. Mr. Knisely said Code is working on getting window sizes standard. He added almost all ranch style homes in the Borough that were built in the 1950s and 1960s do not meet egress requirements. Above grade windows have not been discussed in the property maintenance code, only below grade windows and windows starting on the third floor. However, new construction does require minimum window sizes whether they would be for a single family home or an apartment.

Mr. Daubert added that no grandfathering should be allowed for rental properties of any kind with regard to fire safety regulations, with no exceptions. Mr. Daubert suggested postponing the last four items on the list until the next meeting.

Mr. Fontaine asked Council how quickly they would like to see recommendations returned to them. Mr. Daubert replied that it cannot be determined as this time; Council will have a better idea next week or by August 1.

Council should consider whether or not it wants to act on the amendments before students return in August. If student input is deemed to be important to this process, public hearings on the proposal may be held in September prior to enactment of an ordinance in October. Whether or not Council wishes to delay the enactment until September or October, an opportunity for public input on the proposals should be made available, especially for landlord and tenant groups. Mr. Daubert suggested Council not wait for students to return.

Vacation of Unnamed Alley in College Heights. Council held a public hearing on the request for the vacation of an unnamed alley in College Heights on July 5, 2005. Adjacent property owners spoke both for and against the vacation at the public hearing. The unopened alley runs perpendicular northward from Hillcrest Avenue between North Allen Street and Woodland Drive and is approximately 163 feet in length. A petition has been signed by three of the five abutting property owners. Recommendations from the Planning Commission, Transportation Commission, and the Centre Regional Planning Agency were attached to the agenda. Council should discuss the vacation and decide how to proceed. The proposed ordinance is scheduled for Council's July 18, 2005 meeting for approval/denial. Council had no concerns because neighbors would continue use of the alley.

Communications with Citizens on Policy Matters. Dr. Daubert delayed discussion until next Monday night.

Items of Information. Mr. Fontaine said the building where Rotelli Restaurant will be located was inspected by Code Administration and there are kitchen vents which extend over the sidewalk. Terry Williams will prepare a license agreement to present next Monday night regarding these vents.

There being no further business the meeting adjourned at 9:43 pm.

Respectfully Submitted by:

Cynthia S. Hanscom
Assistant Borough Secretary