

**Meeting Minutes**  
**State College Borough Council**  
**Work Session**  
**Monday, August 8, 2005**

The State College Borough Council met in a work session on Monday, August 8, 2005 in the State College Municipal Building Council Room, 243 South Allen Street, State College, PA. President Daubert called the meeting to order at 7:33 p.m.

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

Also present: Thomas J. Fountaine, Borough Manager; Michael Groff, Finance Director; Herman Slaybaugh, Zoning Officer; Thomas King, Chief of Police; Carl Hess, Planning Director; Linda Welker, Tax Administrator; Sheila Lubold, Recording Secretary; and other interested members of the public.

Public Hour. There were no comments made by members of the public.

Noise Ordinance Waiver for HUB Stage. Mr. Fountaine gave a brief history of the HUB Lawn Stage Project to date and Council's discussion at the June 13 meeting at which time Council recommended suggestions to include in the proposed agreement.

Stan Latta and Chad Spackman of Penn State attended the meeting to present Council with the architectural plans for the HUB Stage. The project idea is to improve pedestrian traffic on campus but also take the opportunity to have the HUB lawn used for more student events. The plans showed the upper part of the lawn being used for student seating including tables and also having the function of being used as a stage. A cross section of the new design was presented showing the incline of the lawn from College Avenue to proposed seating area.

Council had questions about the designs shown and what parts were actually going to be the stage area.

Mr. McCarl stated the data on the sound levels measured during Afterfest were gathered from the bottom area of the stage and the sound was muffled. He was concerned with the new design of the stage being at the upper part of the lawn and allowing the sound to go out over the town.

Mr. Kern added that Council is concerned because the stage and the speakers will be facing towards College Avenue and with the current design the lawn absorbs more of the sound. Mr. Kern also added his concern involving the bass for the music and the vibration that results stating the decibel readings do not account for the vibrations.

Ms. Goreham asked David C. Swanson, Associate Professor of Acoustics at Penn State University, to attend the meeting and give his opinion on the effects and the sound that will be projected by the new HUB Stage. Mr. Swanson lives on East Hamilton Avenue and could tell something was different at this year's Afterfest because he could hear nothing at his residence. Data gathered shows that the concert this year was at 89 dB(A) which Mr. Swanson felt was a quiet concert. In previous years it has been 91 dB(A) at his home where he measured the sound. However, Mr. Swanson felt the data from this year's Afterfest may be misleading because the concert was not a "big band" concert. He questioned what was done differently this year.

Mr. Latta responded that the choice of music was different this year. The group was mellow and is the type of music that his office would be asking waivers for, not a loud rock band that would be more appropriate at the Bryce Jordan Center (BJC). The performances that would occur at the HUB would first have to be approved by his officer and many of the events would not require amplified sound and a waiver would not be requested.

Mr. Daubert would like a restriction be included as to when an event could start. He also questioned what the first six events would be that the University would be asking waivers for. Mr. Latta did not know what the first six events would be and some of the events could come from suggestions made by students but they would be special events and not concerts.

Mayor Welch questioned if the agreement allows for only one event to last after midnight and if any event was to get too loud, could it be ended? Mr. Latta stated there would be only one event to last after midnight and an event could be ended if it was too loud.

Mayor Welch felt there was low risk with this agreement because an annual review would be done to determine if the agreement was working properly.

Ms. Dauler expressed her concern with the response time to a complaint and a slow response time could be part of the nuisance the residents are feeling.

Mr. Latta felt this concern was addressed by having a supervisor of the State College Police Department be contacted by his staff during an event if a complaint was received. He also added again that not all the events would have amplified sound and that is why they are asking for only the six waivers to the noise ordinance.

Mr. King was questioned if a fifteen minute response time was reasonable. He stated his staff would be made aware when an event was being held at the lawn and if there were not other high priority calls, fifteen minutes could be reasonable. Mr. King stated that the supervisor would be responsible for making the decision to end an event by information received from the officer in the field or also by responding to the call and then informing the contact person on Mr. Latta's staff.

Mr. Daubert asked even though the complaints were coming from Borough residents; does the Police Department need to get involved?

Mr. Latta stated his office would be purchasing a sound meter to use when a complaint was received to determine how to respond to the complaint. Upon hearing that, Mr. Kern suggested that Penn State take affirmative action and enforce the agreement.

Mr. McCarl asked if a sound curtain he suggested previously was a possibility and Mr. Spackman stated the wall would have to be about twenty feet high and it would not be worth the expense.

Mr. Swanson spoke again asking that the amplification be considered because a sound meter would not take this into consideration. Wind and other weather conditions can affect the sound, along with the buildings, helping to project the sound. He also asked that Council and Penn State consider the many citizens living in that area with younger children and how these events affect those families. Mr. Swanson feels the HUB will work for smaller, mellow bands and big bands should use other sites. Ms. Dauler agreed with Mr. Swanson and felt Council should think about the quality of life of the citizens.

Mr. Meyer questioned if the reconstruction of the HUB could coincide with the reconstruction of the Henderson Building and address some of the present concerns. Mr. Latta stated he does not have control over the Henderson Building and the plans for that reconstruction.

Mr. Fountaine concluded this part of the meeting by summarizing the following conditions:

- Council would have the opportunity for an annual review of the policy and how the agreement was working.
- Council would allow only six waivers per year plus a waiver for Afterfest and Council would be able to deny individual events.
- Special events will not be able to start before 6 p.m.
- When necessary, Penn State would use affirmative action rather than having the State College Police Department involved.
- The possibility of including a limit on the wattage of the sound speakers to be used. Penn State should present a reasonable number for Council to consider.

Commercial Incentive Zoning and Conditional Use Criteria. Carl Hess, Planning Director, summarized the changes that were made to the Commercial Incentive Zoning District (CID) ordinance. These changes include increasing the parking exemption; exempting theaters from some parking requirements; prohibiting first floor residential and parking in the CID east of Atherton Street; eliminating the Floor Area Ratio (FAR) bonus for non-owner-occupied housing; and including seasonal residence within the definition of owner-occupied housing. Council followed with comments.

There were some questions raised by Council as to whether the parking requirement for the theaters would be enforceable. It was unclear if it would be, so Council decided to include that change for now.

Mr. Hess explained the reason for the prohibition on first floor parking in the CID was to encourage more interest at street level. Council agreed.

There followed discussion on what would be considered seasonal residency and whether people residing in the residence on home football game weekends qualify as seasonal. Mr. Daubert felt that 180 days was too long of a time period to be considered seasonal. Mr. Humphrey was also concerned about enforcing and monitoring the time requirement. Mr. Hess did not think having residents there for seven weekends a year during football season would meet the purpose of trying to improve business.

Skip Smith of 914 Red Gate Road spoke and shared his thoughts and concerns about the ordinance. He felt there needed to be a more definite definition for "reside". Mr. Hess said they

would look into a definition. Mr. Slaybaugh, Planner, stated the term resident implies a person spends the night in the residence. Mr. Daubert agreed that it was necessary to define "reside".

It was also decided that the ordinance should include language reference the leasing of units.

The question was again raised who would enforce and monitor the amount a time a person was living in their residence. Mr. Hess stated the condominium associations would be responsible for that. Ms. Dauler expressed her concern that the housing would become more like time shares and only be occupied certain times of the year.

Mr. Kern stated that Council should remember the purpose of the ordinance is to encourage people to build downtown and not worry about petty terms and conditions that would make development in the Borough less attractive.

Mr. Daubert questioned what Council wants in reference to the amount of time occupants will be residing in the housing. Mr. Meyer did not think it was very important to focus on whether or not people would be using the housing for seasonal purposes because not all of the units would be occupied seasonally; some would be used as permanent, year-round housing.

Ms. Dauler reminded Council that the Downtown Vision and Strategic Plan included a covenant that would restrict the use of downtown housing as owner occupied housing only. She encouraged Council to read the covenant and include this restriction in the Commercial Incentive Zoning. Mr. Fountaine noted that developers will most likely want to draft their own covenants, but he suggested that Council look at the proposed covenant to include a downtown vision as an example of what can be done that would be appropriate for the Borough.

Ms. Goreham also added that Council should be considering the effects this housing could have on generating tax dollars and stated she has contacted a professor to look at tax generations. She feels it is important to have attractive buildings that are easy on tax costs. Mr. Meyer added that high-end housing normally has minimum police calls. Mr. Fountaine reminded Council that it should not be expecting a higher earned income tax base because many of the residents in a downtown housing development may be paying earned income tax elsewhere and not to the Borough.

Council was also questioned about whether or not to expand the area for CID. Mr. Kern and Mayor Welch stated they felt there was a need to expand the area if they expect to improve the downtown. After a short discussion it was decided that Council would have the Planning Commission review the proposed expansion of the CID and make a recommendation.

Mr. Daubert asked that the setbacks along Calder Way be taken into consideration. He did not want College Avenue to be overshadowed.

Next Council discussed the proposed criteria for a Signature Development Project. The most dramatic change to the Borough would be the building height allowing for buildings to be as high as 145 feet. Residential FAR would comply with underlying zoning. Lot coverage would need to be a minimum of 30,000 square feet. Corner lots would have special requirements including additional setbacks. A minimum of 5% of the lot must be open space and this does allow for green space to count as open space.

Since the University would be having the same building heights as the Borough along College Ave, Mr. Daubert questioned if it was a good idea to have high buildings on both sides of the street. Mr. Hess stated each application would be reviewed individually and Mr. Daubert's concern could be considered.

Council questioned if there should be Signature Building on each block. It was stated that the number of sites that would allow for a building this size are limited unless older buildings were destroyed to allow for lots to be combined. Mr. Kern did not see a problem with having two Signature Buildings across from each other.

Council expressed the need for a more specific definition of what qualifies as a signature building and the design requirements for such a building. Mr. Hess said he could have the Planning Commission review the requirements and report back to Council at the September 19 meeting.

Tom Smith of 943 Red Gate Road spoke. He stated under the proposed requirements there is only an allowance for two types of building materials to be used. He also stated that under Section 1850b the restrictions should apply to ground floors, just not frontages.

Ad hoc Tax Study Committee Report. Mr. Fountaine started the discussion by stating he felt Council should focus on the recommendations that start on page 33 and consider the example listed there and what impact they would have on businesses. Council was asked to identify any additional data that they would be requiring and it could be provided to them by the September 6 meeting giving Council the opportunity to make a recommendation at the September 19 meeting.

Mr. Kern stated that the committee wanted to include the entire budget and by doing so the report may have been somewhat confusing and misleading. The underlying tax and budget increases

were expected to occur over a period of time. Mr. Fontaine also added that the committee made assumptions based on a worst case scenario to avoid underestimating the impact of tax changes.

Several examples were given and discussed about how changes in the assessed value of a property would affect a resident's tax bills.

Mr. Humphrey questioned where the money would be made up that would be lost by eliminating the business privilege tax. Mr. Kern stated there would be a 1.8 mill increase in real estate taxes and an exemption would be granted to the owners who live in the house they are paying taxes on.

Bob Seibel of 510 East Fairmount Avenue feels that this item and the Commercial Incentive Zoning should go together as one package. He stated the districts are not getting more "student warehouses" and maybe an incentive might change that. There is a lot of money that can be made in the student housing market.

Discussion occurred about the procedure for a property reassessment, and whether the Borough Tax Office is made aware when a change is requested and granted. Mr. Groff stated that his office is not notified on a regular basis. Linda Welker, Tax Administrator, stated the changes can be caught if comparing two years side by side.

Mr. Kern added that the county appeal process is very informal but feels that the Borough should be represented at appeal hearings and also have an appraiser attend if necessary. Mr. Fontaine also felt this was a good idea. He also spoke from his own personal experience that a change can be made by a letter and no hearing is required. Mr. Daubert suggested that Terry Williams be consulted about the Borough having representation at appeals.

Mr. McCarl commented that some changes are necessary if a business is having a bad year. Mr. Groff stated that a commercial property has to provide an income and expense statement in order for the reduction to be granted and Mr. Groff does attend all formal commercial appeals. The problem with this procedure is that when that amount is lowered the County does not follow up the next year and the lower amount remains.

Ms. Goreham requested that Council consider the whole tax picture and plan on how to go forward, keeping in mind a lot of things could change. An example would be the reduction in the wage tax that was paid by Penn State University last year.

It was pointed out by Mr. Fontaine that fewer Penn State employees are living in the Borough. He also mentioned that it is generally the middle income tax payers who are renting rather than purchasing and owning homes. The Borough is not losing tax income from the high end tax payers.

Mr. Meyer asked if it would be possible to get a breakdown on the number of parcels the county is classifying as an "R" property types and from that number, what percent would pay no tax and what percent would pay 50%? Ms. Welker stated she could try to compile that data for Council. Mr. Fontaine also added that any further questions or information that Council needed to facilitate the September 6 discussion should be requested from him and he would get the information for the next meeting.

Centre Region COG 2006 Program Plan. It was decided by Council that this topic would be discussed at the August 15 Council Meeting.

#### ITEMS OF INFORMATION

Patterson Street Parking. Mr. McCarl requested that Council revisit the issue of parking on Patterson Street at the next scheduled meeting. Ms. Dauler agreed that Council should reconsider their previous decision. Mr. Daubert asked that the proper people be notified that this issue would be reconsidered.

There being no further business, the meeting adjourned at 10:00 p.m.

Respectfully submitted,

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Cynthia S. Hanscom  
Assistant Borough Secretary