

LEGAL AND LEGISLATIVE/SAFETY COMMITTEE

JUNE 7, 2011

4:00 P.M.

Councilman Murphy, Chairman, called the meeting of the Legal and Legislative Committee to order with Councilmen Rico, Ladd, Scott, Berz, Benson, Gilbert, Robinson and McGary present. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Daisy Madison, Larry Zehnder, Beverly Johnson, Bryan Shults, Chief Parker, Randy Ray, David Johnson, Chief Dodd, Richard Beeland, Chief Kennedy, Karen Rennich, Capt. Snyder, Lt. Carroll, Officer Haskins, Officer Collins, Attorney Bobo and John Bridger.

On motion of Councilman Gilbert, seconded by Councilwoman Berz, the minutes of the previous meeting were approved as published.

Chairman Murphy called on Bryan Shults of RPA to go over **Ordinance 6(a)** on next week's agenda amending the Code relative to Design Guidelines within the C-7 North Shore Commercial/ Mixed Use Zone. Mr. Shults explained that as of now, only properties contiguous to C-7 can be considered. This action takes this contingency section out.

BEER BOARD CONCERNS

Chairman Murphy turned the floor over to Councilwoman Scott to voice her concerns. She stated that she had attended Beer Board meetings and was familiar with the issues—places selling beer and rowdy behavior that disturbs neighbors; that the Beer Board deals with many violations, which are repetitive in nature. She stated that she would like to hear from the Police Department and anyone else to see if the Council would be interested in perhaps doing a Task Force to look at the Beer Board Ordinance to see if it is good enough to keep repetitive things from coming forth; that violations deal with minors and employees drinking after hours; that the penalty is suspension or revocation of their license; that some keep getting suspended for years with the same violation. She stated that she would like the prescriptive penalties to be explored.

Chief Dodd acknowledged that we do have repetitive problems that put a strain on our resources and manpower. In speaking of the Enforcement Bureau, he noted that we have had problems in the past with new additions to the Board and some old members leaving, but things are getting better—that the new panel is looking better; that property is rented out to clubs and sometimes they have people not involved to get the permits—that these are experts.

Councilman Benson stated that the Beer Board actions are no better than the Beer Board members and how responsibly they enforce the Ordinance—that we need to look at both—to tighten up the Ordinance enforcement and to take a look at our appointee on the Board and watch them in action; that the Board meets two times a month and is a hard Board to serve on. He stated that he had a lot of compassion for this Board and also Officer Collins and Officer Haskins—that they had come a long way.

Sgt. Haskins noted that a club's license was being removed—that they will be out of business. He also noted that a 60-day suspension is a big "hit"—that this particular operator will miss the 4th of July. He stated that he was fairly happy with the punishment being handed out; that the repetitive issues are a drain on resources—that when police have to answer these calls, their cars are not able to patrol neighborhoods—that they are tied up with clubs. He stated that we were handling this, and he was fairly happy; that the Beer Board can revoke a license.

Chairman Murphy mentioned the story in the news where police officers were denied access to a club. He asked if this was true and was told "yes".

Councilwoman Berz asked if when a license is terminated, and it goes by location, can they get a new license? Sgt. Haskins stated that someone else can at the same location. Councilwoman Berz stated that she had sat in on meetings—that it was like a game and was perfectly legal and a "tag team" sort of thing; that someone gets in trouble and has someone else get his license in their name. Sgt. Haskins confirmed that this has happened. Councilwoman Berz mentioned Brainerd Rd. had been problematic, and we have to start from scratch. Chief Dodd also agreed that they get a license in another name.

Chairman Murphy asked Councilwoman Scott how she proposed this to develop? She responded that she wanted to get a small committee together to talk about these issues and to re-look at the Ordinance to see if it fits. She stated that she would be happy to work with the City Attorney, Beer Board, and the Police to have a chat; that they might find everything is "peachy" fine, and we don't need to do anything, but she would suggest that we talk about this.

Chairman Murphy noted that Councilwoman Berz and Councilman McGary had also agreed to serve with Councilwoman Scott; that Officers Haskins and Collins could help them out, and we also have able Beer Board members. Councilwoman Scott noted that they would need an attorney, with Chairman Murphy assuring that they would have a lawyer.

PERSONNEL HEARING

Attorney McMahan asked Councilman Benson to leave the room. He explained that Councilman Benson had asked to be recused because his son is involved; that the Council had received a confidential memo concerning Lillian Smith, a City Court Clerk. She had a hearing

before a City Council panel, and the three members of the Panel upheld her discharge, and the Chancellor had some issues about the City Attorney's office being involved in the prosecution since they represented the City Council. He stated that he would like to see us compromise the situation; that the case could be re-heard by an Administrative Law Judge or since the Chancellor ruled against us, three new members of the Council would have to hear the case.

Chairman Murphy would like for an ALJ to hear the case. Attorney McMahan stated that he would ask the Council for a vote on this tonight. Councilwoman Scott wanted to know when the ALJ's start on a regular basis? Attorney McMahan noted that one case is already scheduled. She asked if Attorney McMahan would let the Council know how the case turns out? He stated that he would make a regular report. Councilwoman Berz wanted to know if the hearing with the ALJ would be open to the public? Attorney McMahan responded "yes". She indicated that she would like to sit in on the hearing and would like to have a schedule of when cases will be heard.

The meeting adjourned at 4:30 P.M.