

## **LEGAL AND LEGISLATIVE COMMITTEE**

**JANUARY 4, 2011**

**5:10 P.M.**

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

Others present included Dan Johnson, Karen Rennich, Bryan Shults, John Bridger, Larry Zehnder, Daisy Madison, Patrick Bobo, Vickie Haley, Gary Hilbert, Valerie Malueg, Ken Fritz, and Phil Noblett.

### **BRAINERD ROAD DEVELOPMENT POLICIES**

Chairman Murphy called on Councilwoman Berz. She stated that for the last two years Brainerd has been working on a Land Use Plan and Policy; that this was presented at the Planning Commission with a recommendation for approval.

Bryan Shults of RPA was present with presentations on Brainerd Road Development Policies and Brainerd---A Vision for Today, which he made available to the Council and which are made a part of this minute material. He, too, stated that both were recommended for approval and had a lot of community support.

### **NIGHTCLUBS**

Attorney Phil Noblett was present to go over **Ordinance (b) First Reading** on next week's agenda relative to the regulation of nightclubs. He noted that we were amending the Nightclub Ordinance to make it more enforceable; that we had worked on definitions as to what "makes a duck a duck"; that restaurants and Sports Bars have been defined. He mentioned that the Zoning Ordinance deals with 750 ft. boundary conditions; we will still require a site plan on the front end and are trying to specify the number of "triggers" for revocation of permits and defined areas; that this will give the Ordinance a lot more teeth.

Councilwoman Berz stated that this had been taken to the Planning Commission, and everyone had worked hard, and this was a wonderful thing that had gotten "rave" reviews. She noted that three were coming up and one has to do with the old Deep Blue; that it was very important that we get this in place for a good balance of the right to do business and the right of quiet enjoyment of neighborhoods. She stated that this was an excellent job.

Councilman Gilbert asked if we were going to decrease the distance requirement? Attorney Noblett explained that the distance is covered under Section E and is 750 ft.—that it can be

decreased and additional conditions can be imposed, which gives some flexibility. Councilman Gilbert asked about an owner leasing a parking lot for parties—if there was anything in here concerning this? Attorney Noblett responded “not currently”. Chairman Murphy stated that “Pop-Up” Parties would cover this situation, and a Special Permit should be obtained.

Councilwoman Scott stated that she thought this was a great Ordinance and should be helpful to neighborhoods. She inquired about the problem of loudness, and if this would be measured by decibels? Attorney Noblett explained that this would be covered under the Noise Ordinance right now, and this is what he would prefer that people use; that it is not in this Code; that too loud could be in violation of the Noise Ordinance. She went on to ask about parking in other peoples’ lots and trashing of their property. She asked if it would be enough for a property owner to say if you park on my lot, I can have you towed away”? Attorney Noblett noted that a complaint from an adjoining property owner would be a basis for taking the Special Permit away. Councilwoman Scott asked if we had a club for 150 people if there were guidelines for the number of parking spots? Gary Hilbert stated that this was in the Zoning Ordinance.

Chairman Murphy asked about the status of the moratorium? Attorney Noblett stated that it was for 90 days and would be up around January 9<sup>th</sup>. He suggested extending the moratorium for two more weeks. Councilwoman Berz noted that one attorney had called her and said when the moratorium is up, they would apply. She asked if we should not extend the moratorium for 30 days? Chairman Murphy stated that we could do that or either move up the passage of this Ordinance. Attorney Noblett reminded that it takes two readings; that the moratorium could be extended to January 31<sup>st</sup>.

Councilman McGary asked if we extend it for 30 days, would the moratorium stand or this Ordinance? Attorney Noblett stated that there could be an understanding that the moratorium ends on the final passage of this Ordinance. He stated that this needed to be taken up this evening.

Chairman Murphy stated that there were other issues to be taken up next week since time was running short.

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