

# PC Zoning Subcommittee

## Meeting Minutes

Wednesday, June 29, 2016  
10:30 a.m. Conference Room B



City of South Haven

Present: PC members Heinig, Fries, Paull, Webb, Frost, Gruber, Peterson and Stimson. Also present was the zoning administrator and Acting Police Chief, Natalie Thompson. City Attorney Nick Curcio was present via speaker phone.

The meeting was called to order by Chair Heinig. Discussion would center of the amendments to the noise ordinance and the nonconforming uses ordinances and a new ordinance addressing nuisance gatherings. These ordinances have already been the subject of public hearings but were sent back to committee for further discussion.

Members Frost and Fries asked Curcio why the owner of a property should be penalized for ordinance violations if he/she is not even present at the time the violation occurred. Curcio explained that ticketing the owner would be discretionary on the part of whoever is the enforcing the code, be it police or a code enforcement officer. The ordinance is intended to provide additional tools should it become necessary to repeat offenders. All of the committee members agreed that they did not like the attorney's use of words like "discretionary" and "maybe", stating that the whole thing seemed so vague as to be unenforceable. Curcio explained that the ordinances in question were not really necessary but could be useful during the violation process.

Thompson said that in order to ticket the owner, they would need to demonstrate a pattern of disregard to ordinances and have a pattern of violations. Curcio said that three violations, especially in a short time, would demonstrate that pattern of disregard.

Frost asked if these ordinances are even constitutional. Curcio responded that they are used often, especially in college towns, and was not aware of any constitutional challenges.

Anderson asked if there were any further questions of the attorney regarding the noise or nuisance gathering ordinances and all members said no. Members decided that, since there was no urgency in the either the, that it would be best to hold off on any decisions until the fall when more short term rental data is available. It may then be found that the ordinances are unnecessary.

Discussion then turned to the Nonconformities section of the zoning ordinance. Anderson explained to Curcio that the members of the committee had some concerns over the use of the word "discontinued" and what the definition was as used in this section of the ordinance. Curcio and the members discussed when a land use or structures could be declared discontinued or abandoned. It was determined that any nonconforming use or structure which was not used for

the intended purpose for at least 12 months would be considered discontinued and any future use/structures would need to comply with zoning. Members decided to have Anderson move forward with the city council action on the nonconformity section of the ordinance.

The committee members then had a lengthy discussion with Thompson concerning enforcement issues in the city. Stimson and Peterson question why some get ticketed and some don't.

There was no date set for the next subcommittee meeting.

Respectfully submitted,  
Linda Anderson  
June 29, 2016