

# Planning Commission

## Meeting Minutes Thursday, November 13, 2014 7:00 p.m., Council Chambers



City of South Haven

### 1. Call to Order by Paull at 7:00 p.m.

### 2. Roll Call

Present: Frost (arrived 7:03 p.m.), Heinig, Peterson, Smith, Stimson, Webb, Paull  
Absent: Miles, Wall

Motion by Smith, second by Stimson to excuse absent members.

All in favor. Motion carried.

### 3. Approval of Agenda

Motion by Heinig, second by Stimson to approve the agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – October 2, 2014

Motion by Heinig, second by Peterson to approve the October 2, 2014 regular meeting minutes as written.

All in favor. Motion carried.

### 5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

### 6. New Business – Approve 2015 Meeting Schedule

Motion by Smith, second by Heinig to approve 2015 schedule.

All in favor. Motion carried.

### 7. Unfinished Business

a) Draft Noise Ordinance Review

Paull explained that the purpose of the meeting is to review the changes to the noise ordinance proposed by the sub-committee. Paull also noted that he is hopeful that after review this committee's recommendation can be recommended to City Council. The Planning Commission will not be approving these changes but City Council will be making that decision.

Anderson gave an overview of the original ordinance and the sub-committee's work since March 2014. She noted that this task was assigned to the Planning Commission because reviewing the noise ordinance was one of the City Council's goals for this year. It was important to the subcommittee to draft an ordinance that would be easy to understand and enforce. There was vague or confusing language which had to be addressed right away. Some language was too subjective or not specific enough for an ordinance. Anderson reviewed the language in question pointing out the sections that are vague, confusing or subjective.

Anderson also noted that the ordinance contained a table of acceptable decibel limits which were different for day and night which was very confusing and which also required the police officers to know the zoning districts and specific land use categories within the city. The ordinance also had confusing language in regard to decibel limits. Anderson reviewed the table of decibel limits, distances, land uses and zoning districts noting this could be really confusing.

The decibel level limitations included a sentence which read "Noise levels shall be measured on the property line or on the adjacent property." Anderson noted that it was not difficult for the subcommittee to see how these readings were confusing.

After identifying those issues the subcommittee tried to come up with something that would be easy to use and fair for everyone, according to Anderson. Noted that Teri Webb will speak to the methodology used by the subcommittee, then Larry Heinig will talk about noise levels and decibels, and finally, Anderson will explain the specific changes recommended in the proposed ordinance.

Terry Webb, subcommittee member: "The subcommittee met with the mayor, the police chief and directors and managers of the Housing Commission and Old Harbor Village. They then took a field trip to Listiak Auditorium to hear what decibel levels sounded like. Once that was accomplished, the subcommittee also wanted to hear the decibels in the open environment in which they were taken, including the ambient noises such as traffic, wind and conversation. It was thought that it would be different to experience the decibel levels in this environment rather than in a closed auditorium."

Webb noted that the subcommittee went with one of the police officers to visit the sites around the Saturday night midnight hour. "We wanted to hear what the noise sounded like, not to determine if the bars were complying with the ordinances, but to hear what seventy-five (75) or sixty (60) decibels sounded like at the establishment."

Webb observed that while four members of the subcommittee were having a quiet conversation the decibel meter spiked to about sixty-eight (68) decibels. “We went to the different areas, and looked at the decibel levels when someone was walking down the street and saw that the drawbridge registered in the eighties. We thought it was responsible for us to go out and hear and see what different noises registered on the decibel meter. It was a windy night and we were on the drawbridge, the yacht club had a band playing, which you could hear all the way up to the drawbridge. It became evident that there were many factors.” Webb noted that the subcommittee felt best practice would be to take the readings at a predetermined place at each establishment: 1.) for consistency and 2.) because previous readings were being taken from all different places including across the street or from neighboring properties which brought in many other factors. “We felt it was important to take the readings from the same place each time.”

Anderson interjected that readings taken in the summer were around the mid-to-high fifties but when the decibel reading was close enough to rule out ambient noise the numbers rose considerably. Even ten feet (10’) away made a terrific difference.

Larry Heinig, subcommittee member: “The question we had was with all these decibel readings taken from all different places and in many different circumstances. *‘How can we use this information?’*” He explained the subcommittee used a ~~logarithm~~ *logarithmic formula* which comes with the decibel reader the city is using. The point of using the ~~logarithm~~ *formula* was to try to explain how decibel levels reduce the further the decibel reader is from the source of the noise. Heinig noted that there are limitations to this kind of formula. Being theoretical the ~~logarithm~~ *formula* does not consider every possible situation in the real world such as air density, wind speed and direction and interference of other sounds with the noise you are trying to measure. “So the subcommittee tried to work with measuring noise from a point as close as possible to the source of the noise; even then you have never completely taken into consideration other noises.”

Heinig noted that the source of noise is different from one establishment or location to another. “Black River Tavern is all enclosed so the best place would be an open window or door. Captain Lou’s is very open so you need to look closer at where the noise is being measured.” Heinig explained that the maps in the Planning Commission packet take into account the distance and other factors that need to be considered. Once the subcommittee had visited and measured sound at various sites, they tried to come up with an average that could be used with all of the sites throughout the city.

Webb pointed out that when the subcommittee first began meeting they started by looking at other cities along the lake and what levels they had set. “But after doing our research, the group questioned whether these cities actually did research and knew what a decibel sounded like or if some city somewhere set a level and maybe others just followed suit.” Webb stated that she is glad the subcommittee went out in the field and learned what these decibel levels sound like.

Anderson interjected that the majority of cities the group looked at “don’t use decibels, but still use that ‘unreasonably loud’ language, and hardly enforced the ordinance.

Smith questioned the table with average decibels and weighted decibels. Heinig explained that the weighted decibels were what the group felt those readings would

convert to when measuring from a pre-determined location. Heinig explained, "It's the same noise and the table is just showing how we come up with a different reading."

Anderson went over the changes in the ordinance that may be proposed to the city council. "We added 'ambient noise level' to the definitions. From 1:30 a.m. to 7:00 a.m. ambient noise (around 55 – 60 decibels) would be permitted in the general area. In Section 30-29: 'Specific Prohibitions' the last line regarding reproducing sound was deleted. The decibel limit levels were changed quite dramatically. The group eliminated the table that was in the ordinance and clarified that taking the reading from different locations each time is not working; we are saying that noise levels will be measured at the property line or a specific location determined by the police chief or his representative. Because the measurements will be taken at the closer proximity, by setting a designated location where the readings would be taken, the subcommittee combined commercial and residential together – the areas where the majority of the sound is occurring. Downtown there is a mix of commercial and residential. The subcommittee decided not to recommend that decibel levels change various times during the evening. Their recommendation is that the decibel level would be raised to seventy-five (75) over the sixty (60) currently in the ordinance but would be measured at close proximity." Anderson noted that the readings taken last summer by the subcommittee ranged between sixty-eight (68) and seventy-four (74), the average reading at close proximity.

Anderson noted that the subcommittee recommends seventy-five (75) decibels around the clock in industrial areas and eliminated sections following the table which reference specific noise activities and talking about the one hundred foot (100') distance. "The goal was to have real consistency. This is how it's measured, to measure in the same spot every time to be absolutely consistent."

Regarding Section 30-31 the part concerning operation or use between 9:00 a.m. and 10:00 p.m. regarding amplifiers, loudspeakers, and similar devices, it was noted that it does not matter what the noise is if you are staying within the decibel level. The subcommittee also combined a few things regarding lawn maintenance and snow removal. Anderson noted, "We didn't want people to be unable to come home from work and mow their lawn." Anderson also pointed out that (6) *Construction sounds* has not changed "except that we have placed a limit of 100 decibels for that and limited the work to no more than two (2) hours at one time."

The biggest changes made, according to Anderson, were to take out conflicting language and vague language that is not enforceable to base the ordinance solely on decibel levels, not distances, and identify exactly where readings would be taken. "This makes it much easier to enforce; seems fair to bar owners, fair to the public and should work fairly well. The subcommittee put literally hundreds of hours into this. If you have questions for the subcommittee ask them. We cannot send this document to City Council without the full planning commission reviewing it first. Then it is up to the city council what they decide to do and what they will do." Anderson explained that the ordinance cannot be adopted or enacted without a public hearing. "We have to have at least one more before adoption can happen. The subcommittee believes the Planning Commission has fulfilled their task as assigned."

Heinig noted that we had a recommendation regarding the fine. Anderson explained that the current ordinance recommends a fine of \$50 for most things in the code. The subcommittee proposes that be increased to \$100 for a first offense.

Smith again brought up the issue of average decibels versus weighted averages. Heinig said the weighted average is louder than what is being proposed. Webb noted that the formula was used simply to reconcile the differences between the summer readings and what subcommittee members were hearing at the site as opposed to across the street or down the block. Webb further explained that the weighted averages were used to show what the summer readings would have been if taken at the proposed sites. The subcommittee was trying to reconcile the reason why the readings taken by the police officers and the subcommittee members were different.

Peterson pointed out that the people that spoke at the last public meeting should be given credit because that is what prompted the subcommittee to go into the field and hear for themselves.

Webb reiterated that the way the original ordinance was worded needed to be reconciled with what the subcommittee was hearing. In fairness to the establishments, when the reading is taken in close proximity, that is something they can control. If you are taking it from a different location there will be interference from other activities and noise.

Frost asked what the decibel reading of seventy-five (75) is comparable to, which is conversation, according to Anderson. Sixty-five (65) is approximately the ambient noise downtown. Frost does not understand why the recommendation is seventy-five (75) decibels when quiet conversation is sixty (60) and a vehicle going over the Dyckman Bridge registered eight-three (83) decibels. Why is it not higher?

The readings, according to Anderson, at the bars at midnight outside the doors were about sixty-eight (68) to seventy-three (73), so it was felt that seventy-five (75) was reasonable. Increasing acceptable levels to seventy-five (75), according to Anderson, would reflect the noise level at about what it was last year. "This doesn't change the noise level, just the decibel level because of where the readings will be taken."

Frost asked if there was discussion about allowing louder noise on Friday night and Saturday night. Heinig said one of the goals we had was to get an ordinance that was easy for the police officers to understand and enforce. To keep it simple, we concluded it was best to keep one decibel level. Anderson said changing by day of the week would still be simpler than the way the original ordinance was, changing by hour. Frost feels it makes sense to explore that, at least during the summer. Heinig pointed out you have people in residences trying to sleep; "we are trying to find a balance."

Anderson interjected that most of the people who live in condos nearby showed support at the public hearing but it was the Nichols Hotel and Old Harbor Village owners and managers that felt the music/sound was too loud and went too far into the night.

Smith questioned whether there is a big difference between a reading of seventy-five (75) and a reading of eighty (80). Peterson said the music playing was very loud right at the door. Paull explained the decibel reading is logarithmic so five (5) units means a very

large change. The difference between seventy-five (75) and eighty (80) is actually significant. Paull explained the committee spent a lot of time to try to determine a reasonable level to permit the noise coming out of an establishment.

Frost noted that “reasonable” is a malleable term, as was explained, but he understands what Paull is saying. Smith asked why the averages shown using the logarithm are around one hundred (100). Heinig explained it by noting that those readings were taken at quite a distance and would have ambient noise which would make interpreting the readings we were getting very difficult.

Frost doesn’t understand why the noise at the door or the source matters. Webb explained that the readings are not proposed to be taken at the door; the maps show the locations that were determined. Heinig noted that most proposed locations are at the property line of the establishment.

Smith asked what the subcommittee’s conclusion was regarding changing to a higher permitted decibel level on Friday and Saturday. Peterson noted that the subcommittee ended up throwing out that idea after doing their own decibel level readings.

Anderson asked if the subcommittee wants to meet another time to determine whether to change the decibels on the weekends. Peterson noted that the readings were done the weekend before Labor Day, and the subcommittee rarely saw louder decibels than what is proposed. Stimson said the number we are proposing is not saying the noise level would have to be reduced. “The fact is the numbers taken from the proposed locations are what we are proposing.” Webb explained that the subcommittee used the formula only to reconcile the readings we had from the police with what we were hearing.

Stimson stated that she thinks the Planning Commission is ready to go to City Council and give them our recommendation. City Council can take it from there and implement it or not. Stimson noted that it is her understanding that this portion of the ordinance is not even in the Planning or Zoning venue, but that City Council asked the Planning Commission to put this information together and they can do whatever they want to with it.

Webb wondered about whether the subcommittee should meet again to discuss the Friday/Saturday increase. Heinig stated, “We do not have any new information.” Peterson added, “We were out on a typical Saturday night, a nice night, and we didn’t hear anything louder than what we are proposing.”

Webb asked if the subcommittee would consider raising the permitted decibel level on Friday and Saturday nights to which Heinig said he has been against that from the very beginning and that he would not consider it. Peterson said he would. Stimson said she would like to hear the reasoning. Webb said City Council can make that change if they want to. Anderson agreed. “They can accept the recommendation, not use it or change it.”

Motion by Heinig, second by Stimson to recommend the findings of the sub-committee to City Council for their consideration.

A roll call vote was taken:

Yes: Heinig, Peterson, Smith, Stimson, Webb, Paull  
No: Frost

Motion carried.

Paull noted that this recommendation will go to City Council, possibly with a work session with Planning Commission. Anderson said it will be an open meeting and anyone may attend. "Then City Council will decide."

Paull: "This has been a long and arduous process and I appreciate the effort and the stick-to-it-iveness in coming up with a recommendation for City Council. I am sorry to say that I have heard that this recommendation may not go anywhere and feel bad about that as it clarifies the current ordinance and makes it easier to enforce. We will have to see where it progresses from here. It would be unfortunate if this recommendation were not implemented as a lot of work and thought has gone into this, and as chairman, I appreciate that a lot."

## **8. Commissioner Comments**

Frost: Said the roads are nasty; drive safe if you have to go out.

Stimson: Agreed with Frost.

Webb: Hoped that the city council, when they receive this recommendation, will go out and hear decibels in their environment for themselves.

Smith: Thanked those who went on the field trip.

Peterson: Backed up what Webb said; would like council to hear what the subcommittee heard on a late night.

Heinig: Reminded that November is Prostate Awareness Month and encouraged men to have the test and have the blood test. "I am here today because I had the blood test."

Paull: None.

## **9. Adjourn**

Motion by Heinig, second by Frost to adjourn at 8:02 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary

November 13, 2014  
Planning Commission  
Regular Meeting Minutes  
Draft