

'Loud' party being probed — attorney

By Joanne Maliszewski
staff writer

Farmington Road resident Donald Stolberg says Farmington Hills police wouldn't issue a ticket after he complained about loud noise from a Nov. 17 birthday party at the Community Center of Farmington Hills.

"The police refused to issue a ticket," said Stolberg who lives 200-300 feet south of the center on Farmington Road, between 10 and 11 mile roads.

But city attorney John Donohue says the incident is still under investigation. The police officer who arrived at Stolberg's home late Saturday, Nov. 17, did not personally hear any disturbing or disruptive noise.

"I believe that's the only fair way to deal with disturbing the peace complaints," Donohue said.

The Nov. 17 incident was part of Stolberg's complaints to the city council Nov. 19 about what he believes is a lot of conflict of interest between city officials and the community center, whose president is councilman Ben Marks.

Farmington Hills police continue to investigate the Nov. 17 noise complaint. Det. Sgt. Charles Nebus has already provided a report of his interview of a community center representative on hand the night of the party. Police have yet to interview the disc jockey who provided music for the party.

DONOHUE SAID that police

may issue tickets when they actually witness a disturbing the peace incident. If not, police will be required to draft an incident report and forward it to the city attorney to determine probable cause and if necessary, that a ticket should be issued.

The police, Donohue said, will be followed in all disturbing the peace violations, not just at the community center. But the police is still subject to approval by police Chief William Dwyer who is waiting to see the policy in writing.

The police, Dwyer admitted, was discussed at a city council executive session several weeks ago. "We'll cover all the bases and submit our recommendation to the city attorney," Dwyer said about the Nov. 17 complaint.

"This department is not going to take a position attempting to assist the community center or any other institution. This will be treated like any other complaint. There will be an impartial investigation, which the community deserves and wants," Dwyer said.

Since 1976, 13 noise complaints have been filed against the community center, including three this year. Four complaints were filed in 1989, Dwyer said.

The community center's deed says that should the center fail financially, it will fall to the Farmington Community Library. If the library board chooses not to take it, the center becomes the responsibility of Farmington Hills.

Noise battle hits high decibels

Continued from Page 1

operate its controversial outdoor theater.

THE COURT-APPROVED agreement, which center neighbors opposed, does not specifically state that tickets would not be issued. It says complaints will be evaluated by the city attorney.

"This (ticket moratorium) was never a condition of that agreement," said Stolberg, who lives 200 feet or so south of the center.

City, police and center officials, however, have varied opinions whether there was ever a moratorium on tickets.

It's my understanding the judge (Fred Harris) approved of that," said Farmington Hills city councilwoman Nancy Bates, a member of the committee that drafted the noise agreement.

Harris said Wednesday, through a district court spokeswoman, that he was too busy with the docket to discuss the Community Center issue.

City councilman Ben Marks, Community Center president, said he believed no tickets were to be issued because everyone was operating under the court order (agreement).

But councilman and committee member Aldo Vagnozzi disagreed. "I did not think it would mean no tick-

ets would be issued. We tried to establish a mechanism so there would be a review (of noise complaints against the center.)"

The July 24 ticket prompted questions about a ticket moratorium. At the time, Marks said, and still maintains, that ticket was issued erroneously.

Like the court-approved agreement, the police directive, issued by deputy Chief Miri Spencer, did not say tickets would not be issued. The directive reiterated the agreement.

"There was a request by the assistant city manager (David Call) and he (Spencer) was obliging," police Chief William Dwyer said.

BUT CALL said he never told police "specifically not to issue tickets. My intent was to fairly evaluate the complaint on its merits. I asked Miri (Spencer) and he told me today (Wednesday) he never got a memo not to issue tickets."

Spencer, who said he had met with Call and former city attorney Tim Kenny, said in a telephone interview Wednesday, "I can't recall officers being told not to issue tickets."

But in a conversation Stolberg had with Dwyer and Spencer Oct. 26, the deputy chief initially said it was

clear to him that tickets weren't supposed to be issued, Stolberg said. Dwyer confirmed the meeting, which Stolberg documented in a letter to the Observer.

When Stolberg pointed out that the directive did not specify a ticket moratorium, both police officials agreed, according to Stolberg. Dwyer said that if there was a moratorium, the officer who issued the July 24 noise ticket would have been reprimanded, and he wasn't.

"To our knowledge, the only people from the city who have, at one time or another, taken the position that tickets were not to be issued to the Community Center are (former) city attorney (Paul) Bibeau and his associate Timothy Kenny, deputy Chief Miri Spencer, assistant city manager David Call and Ben Marks," Stolberg said.

IN AUGUST, the Observer quoted Bibeau, who was no longer a city attorney but was acting as special counsel to the city, as saying that part of his evaluation of the July 24 ticket would include the reason the police officer issued the ticket in contradiction of the department's ticket moratorium.

That ticket was dismissed Aug. 17 at Bibeau's telephone request because the attorney didn't believe the incident breached the court-ap-

proved agreement. According to court records, to which Harris directed the Observer, however, no other specific reason is given.

Stolberg believes that Bibeau had the right, according to the agreement, to evaluate the ticket, but not to request dismissal.

In his report, the officer who issued the July 24 ticket said he could hear the amplified music at the center while at Stolberg's house.

The officer also wrote that he advised a Community Center representative to "take appropriate action to cease the bothersome activity."

On Oct. 29, Stolberg wrote to Judge Harris asking him to investigate the ticket's dismissal and Bibeau's belief that tickets were not to be issued to the center.

Harris' response came in the form of a short letter dated Nov. 5 from court administrator Marilyn Duguid that said the ticket was dismissed. The letter included a document showing the dismissal.

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obituaries

EDITH E. WATSON

Edith E. Watson, 74, formerly of Farmington Hills, died Nov. 18 after an illness in Mesa General Hospital, Mesa, Ariz. She was born Aug. 17, 1919.

Mrs. Watson, a homemaker, was the wife of the late Maurice B. Watson. Survivors include daughter

Sharon Watson of Madison Heights; sons Michael J. and James T. Watson, both of Mesa, Ariz.; brothers Conrad East of Mesa, Ariz. and Joseph East of Warren; sister-in-law Barbara East of Austin, Texas. Services were Nov. 24 at Honey-Sundquist Funeral Home in Farmington, the Rev. Lowell Schlanbusch of St. Christopher Episcopal Church in Madison Heights officiating. Burial was in Acelia Park Cemetery.

TIMOTHY ALOYSIUS MOONEY

Timothy Aloysius Mooney, 45, a Detroit resident and president of Monal Construction Management Inc. of Farmington, died after a heart attack Nov. 21 at Mount Carmel Hospital in Detroit. He was born July 11, 1945 in Norfolk, Va.

Mr. Mooney was a graduate of the University of Detroit and the University of Detroit Law School. He

was a captain in the U.S. Air Force in Japan and Korea.

He was president of St. Scholastica School Board and chairman of Boy Scout Troop 123. A resident of Detroit's North Rosedale Park, he was very active in the area's Civic Association. He was also an associate of John A. Allen Architect of Farmington.

Survivors include wife, Michele Allen Mooney; sons, John and Brian; daughter, Colleen; parents, Frances and Gabriel Hayes; brothers, Gregory Mooney and Gabriel Hayes and sister, Bridget Fallon.

A funeral Mass will be at 10 a.m. today at St. Scholastica Catholic Church, 8210 W. Outer Drive. Burial will be in Holy Sepulchre Cemetery in Southfield.

The family suggests memorial contributions be made to U of D Jesuit High School or St. Scholastica Catholic Church.

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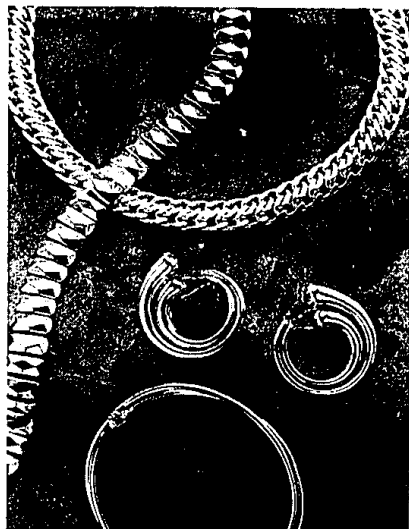
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