

Council allows bear carving business to continue for now

By Jeanne Davant

Manitou Springs City Council on Tuesday granted a chainsaw bear carving business owner permission to continue operating for another year, provided that he reduces the noise coming from his business to comply with state-set levels.

Neighbors have complained that noise from Nature of Things Chainsaw Art, 347 Manitou Ave., has been a daily disturbance for the past five years. The business was established in 1993.

Owner William Fee built a foam-insulated wall in an effort to stop the sound, but neighbors said a 4-foot opening for ventilation allows noise to escape. He also agreed to limit chainsaw use to weekdays.

The Planning Commission granted Fee a conditional use permit in June allowing him and his employees to continue the outdoor wood carving. The commission reviewed the situation in November and gave Fee permission to expand use of the chainsaws to Saturdays most of the year.

But neighbors told Council on Tuesday that the noise had not abated and offered evidence they said showed violations of state law.

Lakewood environmental services contractor Jeff Pothast took noise readings at the neighbors' request. He said he measured the chainsaw noise at 10 decibels above the legal limit. He said that the low-frequency noise emitted by chainsaws was the most irritating factor.

"If I was sitting on my porch reading and there was that growl, it wouldn't make me very happy," Pothast said.

"There must be a balance between business owners of this city and the rights of its residents," Marjorie Lundgren, a resident of El Paso Boulevard said, suggesting that Fee consider moving his carving operations to a more suitable industrial area.

Other witnesses supported Fee, saying he has been active in supporting the community.

Another neighbor, Steven Symonds, who lives across the street from the Lundgrens, said the noise was not audible inside his cabin.

"I hear it when I go to my car, but only a very faint buzz," Symonds said. "Manitou Avenue creates way more noise than (Fee) ever would.... The squirrels outside my window are louder than the chainsaw."

Jeff Robinson, who worked as a code enforcement officer for Colorado Springs until recently, said it was his opinion that the decibel level was within the limits of the law and that ambient noise had not been taken into account.

"When people take noise readings, they need to give you more information," Robinson said. He added that the law permits increased noise levels for 15 minutes every hour.

Fee said readings had indicated there was no increase above ambient noise at the Lundgrens' residence.

Planning Director Dan Folke said the city of Colorado Springs had informally measured noise from the business in May.

"Across the street from the business, the ambient noise exceeds the state levels," Folke said. "You have a variety of numbers to choose from."

After almost three hours of testimony, Mayor Marc Snyder said Council was faced with a difficult decision that could put Fee's livelihood at risk.

"Often in a case where you attempt to (satisfy everyone), you satisfy no one ... I think the neighbors really have a problem. At the same time, Mr. Fee is a wonderful member of our community ... He did everything we asked him to, but even by Mr. Folke's testimony it doesn't seem to have done much."

Mayor Pro Tern Aimee Cox said she "didn't see any evidence Mr. Fee has abated the noise.... We have to consider community noise levels when protecting property rights. If we cannot figure out ways to further abate this noise, I don't think we can allow this conditional use."

Cox moved to deny the conditional use, and her motion was defeated by a 2-4 vote, with Snyder also voting for denial. (Councilwoman Ingrid Richter was absent.)

Council then voted 5-1 to extend the conditional use for another year, with the requirement that Fee must comply with the levels set out in the state law by Feb. 28. Snyder dissented.

In other business, Council...

- Unanimously approved on second reading ordinances setting next year's mill levy and approving the most recent version of the 2011 budget. The budget includes a \$10,000 appropriation for a group that is updating the Rainbow Vision Plan and shows an ending General Fund balance of \$191,334.
- Approved an emergency ordinance for the purchase of the Iron Mountain Open Space that reflects changes in financing terms.
- Okayed a change in the conditional use for the Smischny Parking Lot, removing a condition that Metropolitan Parking District must build a restroom at the lot.
- Granted a waiver of fees up to \$1,500 for the Carnivale Parade on March 5 but asked applicant Philip Selva, who asked for a waiver of fees for T'ai Chi classes in Memorial Hall, to reapply. Under a new fee waiver and sponsorship policy, Selva could obtain the fee waiver from city administration or appeal to City Council if his application is denied.
- Approved a resolution supporting regional participation in the FHA Power Saver Home Energy Retrofit Loan Pilot Program, under which qualifying homeowners could get low-interest loans to make energy-saving improvements. More information about the program will be available if the region is approved for the program in January.

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