

A Regular Meeting of the Manitou Springs City Council was held in the City Council Chambers, 606 Manitou Avenue, Manitou Springs, Colorado, on November 1, 2011. Mayor Snyder called the meeting to order at 7:03 pm.

COUNCILMEMBERS PRESENT FOR ROLL CALL:

Mayor Marc A. Snyder
Mayor Pro Tem Matt Carpenter
Councilman Ed Klingman
Councilman Rick Barry
Councilman Michael Gerbig, Jr.
Councilwoman Coreen Toll

COUNCILMEMBERS NOT PRESENT FOR ROLL CALL:

Councilwoman Aimee Cox

STAFF PRESENT:

City Administrator Jack Benson
City Attorney Jeff Parker
Planning Director Dan Folke
Police Chief MaryJo Smith
Deputy Finance Director Rebecca Davis
City Clerk Donna Kast

A. CALL TO ORDER

The meeting was called to order at 7:03 pm.

B. PLEDGE OF ALLEGIANCE

The meeting was opened with a reciting of the Pledge of Allegiance.

C. ROLL CALL

All Members of City Council were present for roll call with the exception of Councilwoman Cox who was excused.

D. APPROVAL OF AGENDA

Upon a motion by Councilman Barry and a second by Mayor Pro Tem Carpenter, the agenda was unanimously approved as presented. Motion carried 6-0.

E. PUBLIC COMMENT ON NON-AGENDA ITEMS

Roger Miller, CEO of iManitou, thanked the police department, fire department, public works department, the City Council and specifically Mayor Pro Tem Carpenter for their hard work and support of the Emma Crawford coffin races.

F. CONSENT CALENDAR (These Items voted on in one Motion)

Mayor Pro Tem Carpenter called up Item No. F.5 for separate consideration.

The following items were acted upon by unanimous consent of the members present:

1. Warrants (Payables)
2. Approval of First Amendment to Cliff House West Development Improvement Agreement
3. Approval of a Special Event and Noise Variance in Soda Springs Park & Pavilion for the 30th Annual Mountain Music Festival, Friday-Sunday, August 24-26, 2012 from 8:00 am – 10:00 pm – The Dulcimer Shop (Bud Ford), Applicant

4. Approval of a Special Event on the Town Clock sidewalk for the 3rd Annual Warm Clothing Giveaway, Saturday, December 10, 2011 from 11:00 am – 3:00 pm – Manitou Springs Real Estate (Rachel Buller), Applicant
5. **SEE ACTION TAKEN LATER IN MEETING**

Upon a motion by Councilman Gerbig and a second by Councilman Barry, Items F.1 through F.4 were passed, adopted and approved. Motion carried unanimously, 6-0.

**CONSIDERATION OF ITEM F.5 OF THE
CONSENT CALENDAR**

F.5. Approval of a Noise Variance in Seven Minute Spring Gazebo for a wedding, Saturday, June 23, 2012 from 3:00 pm – 6:00 pm – Yvette Carrillo, Applicant

Mayor Pro Tem Carpenter explained that he pulled this item because the applicant listed a Colorado Spring address but was charged the local rate for rental of the gazebo. He said he would like the finance department to look into the matter to see if an additional amount needs to be charged.

Mayor Pro Tem Carpenter made a motion, seconded by Councilman Gerbig, to approve the noise variance with the understanding that the City would investigate into the fee that was charged for the gazebo rental. Motion passed unanimously 6-0.

G. NEW BUSINESS

The following two ordinances were considered simultaneously.

1. **Ordinance No. 2011 - an Ordinance Amending Title 5 (Business Licenses and Regulations) of the Manitou Springs Municipal Code by the Addition of a New Chapter 5.89 Entitled “Non-Cigarette Tobacco Product Retailer Licensing Ordinance” Establishing Procedures for Licensing and Regulating Non-Cigarette Tobacco Products – 1st reading**
2. **Ordinance No. 2111 – an Ordinance Amending Title 5 (Business Licenses and Regulations) of the Manitou Springs Municipal Code by the Addition of a New Chapter 5.90 Entitled “Youth Access to Tobacco Products Ordinance” Establishing Procedures for Preventing Youth Access to Tobacco Products in Retail Environments – 1st reading**

Laurie Wood and Justin Armour, representatives of Partners for Healthy Choices, praised the students and adults who worked on this legislation. A brief film was shown that featured students who supported the regulation of non-cigarette tobacco products.

The following Manitou Springs High School student spoke in support of passing the proposed ordinances:

- Steve Peek
- Tim Longfield
- Megan Mohon
- Rebecca Triplet
- Cole Jones

Joy Clark, Community Health Educator with the County Health Department, passed around samples of non-cigarette tobacco products and showed a PowerPoint presentation outlining health issues related to tobacco use.

Roger Miller, CEO of iManitou, said both iManitou and local business owners support this legislation.

Police Chief MaryJo Smith said she doesn't anticipate that enforcement of these laws would add an undue burden on the police department.

During discussion, Mayor Pro Tem Carpenter noted that the City of Manitou Springs paid in excess of \$5,000 in attorney fees to research the law and create the ordinances. He suggested that since the legislation is being proposed by the El Paso County Health Department, it might be appropriate for them to share in this cost.

Upon a motion by Mayor Pro Tem Carpenter and a second by Councilwoman Toll, Ordinance No. 2011 was unanimously approved at 1st reading as presented. Motion carried 6-0.

Upon a motion by Mayor Pro Tem Carpenter and a second by Councilwoman Toll, Ordinance No. 2111 was unanimously approved at 1st reading as presented. Motion carried 6-0.

Mayor Snyder called for a break at 8:05 pm. The meeting resumed at 8:14 pm.

3. **Film Presentation of The Chair Project Installation – Sean O'Meallie**

Sean O'Meallie showed a brief film of The Chair Project Installation and spoke about the success of the event.

4. **Approval of Increased PPACG Member Dues**

Mayor Snyder explained that in 2011, member dues for Manitou Springs was \$2,253. In 2012 dues might be increased to \$2,829.

City Administrator Jack Benson told the City Council that the increased dues did not require a separate vote of the City Council but could be included in FY2012 budget approval. It was the consensus of City Council that should PPACG increase the dues, the increased amount would be included in the budget.

5. **Approval of a Software License Agreement and Software Maintenance Agreement with Caselle, Inc.**

Deputy Finance Director Rebecca Davis explained that Caselle's base cost proposal was \$97,235, with software maintenance and support of \$840 per month. She recommended approval of the agreements.

Upon a motion by Councilman Gerbig and a second by Councilman Klingman, the software license agreement and software maintenance agreement with Caselle, Inc. were unanimously approved as presented. Motion carried 6-0.

H. HEARINGS

1. **VAC 1102 – Vacation of Rights-of-Way (Unnamed Alley and Otter Path) – 15 Beaver Path – Jeff Nohr, Applicant**

Dan Folke opened the hearing by explaining that the applicant requests a vacation of two rights-of-way that bisect the ownership parcel in order to combine these and the current ownership into a single lot. The Planning Commission recommended approval with one finding.

Jeff Nohr, applicant, explained the reasons for his request.

The Mayor opened the public hearing.

Eldon Jordan, a resident of Puma Path, said he was concerned about vacating stairways and alleyways. He said he hoped that approval of this vacation doesn't set a precedent for future applicants.

The public hearing was closed.

Mayor Pro Tem Carpenter made a motion, second by Councilman Klingman, to approve VAC 1102 with the following finding:

Finding:

The rights-of-way proposed for vacation are currently undeveloped, and are unnecessary for future, public access and will not deprive abutting properties of adequate, legal access.

Upon a call for the vote, the motion was unanimously approved as presented. Motion carried 6-0.

Mayor Snyder skipped to Item I.1

I. OTHER NEW BUSINESS

1. **Ordinance No. 1911 – An Ordinance Vacating the Otter Path Right-of-Way Lying Between Blocks 14 and 20, Peakview Addition and an Unnamed Alley Lying Between Lots 10 and 11, Block 13, Peakview Addition to the Town of Manitou Springs, El Paso County, Colorado – 1st reading**

Upon a motion by Mayor Pro Tem Carpenter and a second by Councilwoman Toll, Ordinance No. 1911 was unanimously approved at 1st reading as presented. Motion carried 6-0.

H. HEARINGS

2. **CU 1110 – Conditional Use Permit (Chainsaw Carving) – 419 Manitou Avenue – David Gonzales, Applicant**

Dan Folke asked the City Council if they had any *ex parte* contacts or conflicts of interest to declare for the hearing that was about to be held. None were disclosed.

Mr. Folke opened the hearing by explaining that the applicant is seeking approval to allow outdoor wood carving in conjunction with the Colorado Bear Country Retail Store. The Planning Commission recommended approval with 9 conditions and 3 findings.

David Gonzales, applicant, said he was happy with both the staff recommendations and the Planning Commission recommendations.

There was no public comment.

Councilman Barry said he was opposed to this request because of the noise and the impact it would have on residents and existing businesses.

Mayor Pro Tem Carpenter made a motion, second by Councilman Gerbig, to approve CU 1110 with 9 conditions and 3 findings. The motion passed 5-1 with Mayor Snyder, Mayor Pro Tem Carpenter, Councilman Klingman, Councilman Gerbig, and Councilwoman Toll voting for; and Councilman Barry voting against. The conditions and findings are as follows:

Conditions:

- 1) Electric chainsaws, grinders and similar electric tools may operate within a designated work area which includes noise buffering as identified on the site plan. Monday through Friday between the hours of 10 am and 5 pm. No operation of chainsaws is permitted on New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. Operation of hand tools on Saturday and Sunday are limited to non-production repairs,

personalization and similar minimal operation between the hours of 11 am and 4 pm. Operation of gas powered saws is not permitted.

- 2) The operation of equipment may not exceed 55 decibels measured 25 feet from the property line as contained in the residential section of Colorado Revised Statute 25-12-013(1) but the exception granted by C.R.S. 25-12-103(2) shall not apply.
- 3) No more than one electric chainsaw carver may operate at a time.
- 4) Surrounding residential and business owners may contact Mr. Gonzales in advance of outdoor special events and reasonable efforts will be made not to operate equipment during those times.
- 5) Sawdust, wood chips and debris will be cleaned up on a regular basis and properly disposed.
- 6) All parking areas will be kept free of debris.
- 7) Fire Extinguishers and other safety measure will be provided as required by the Manitou Springs Fire Department.
- 8) Operator will comply with OSHA and City regulations for discarding flammable and toxic materials.
- 9) The Conditional Use is specific to the applicant and no-transferable to another business owner without approval of a new Conditional Use.

Findings:

- A) That the value and qualities of the neighborhood surrounding the conditional use will not be substantially injured and the proposed use, under the conditions imposed, is compatible in function and design with surrounding land uses.
- B) That the conditional use is consistent with the intent and purpose of the Zoning Code to promote public health, safety and general welfare.
- C) That the conditional use is consistent with the Rainbow Vision/Comprehensive Plan of the City.

J. MAYOR'S REPORT

Mayor Snyder announced the results of the November 1, 2011 election and congratulated all the winners.

K. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE

Councilwoman Toll said discussions were ongoing regarding safety issues related to walking on Crystal Park Road.

L. CITY COUNCIL LIAISON REPORTS

Mayor Pro Tem Carpenter asked Chief MaryJo Smith to review the police report she prepared regarding the Emma Crawford Coffin Races. Chief Smith reviewed the report. She also informed the City Council regarding some ongoing police investigations.

Councilman Gerbig said the library is still pursuing the possibility of joining the Pikes Peak Library District.

Mayor Pro Tem Carpenter said the Business Improvement District will be coming before City Council on November 15 regarding re-authorization.

M. CITY ADMINISTRATOR'S REPORT

Jack Benson informed the City Council that a traffic study was conducted on Crystal Park Road and it was apparent from the study that many drivers are speeding.

N. FUTURE AGENDAS

- November 8, 2011 – Work Session
- November 14, 2011 – Work Session
- November 15, 2011 – Regular Meeting
- December 6, 2011 – Regular Meeting
- December 13, 2011 – Work Session
- December 20, 2011 – Regular Meeting

ADJOURNMENT

With no further business to conduct, Mayor Snyder concluded the Regular Meeting at 9:50 p.m.

MAYOR AND CITY COUNCIL

CITY CLERK

Minutes Prepared by: Donna Kast, City Clerk