

**STUDY SESSION NOTES  
CITY OF WHEAT RIDGE, COLORADO**

July 2, 2012

Mayor DiTullio called the Study Session to order at 6:30 p.m. Council Members present: Davis Reinhart, William "Bud" Starker, Kristi Davis, Joyce Jay, Mike Stites, George Pond, Joe DeMott and Tracy Langworthy.

Also present: City Clerk, Janelle Shaver; City Treasurer, Larry Schulz; City Manager, Patrick Goff; Police Chief, Dan Brennan;

PUBLIC COMMENT ON AGENDA ITEMS

**Steve Keller**, who lives close to 44<sup>th</sup> Avenue, encouraged Council to take into consideration the residents who live close to potential noise venues. He and his neighbors are concerned that excessive use, such as 8 times a year, would be about once every two weeks in the warmer months. Something that regular is not "special". When special uses are nearby the neighbors lose something – there is diminution of their quality of life. This ordinance has no mitigation provided for nearby homeowners.

**Moe Keller** had a handout for Council. She and several neighbors she represents don't think it's necessary to have a Special Use Permit. Police currently have the authority to tell people to turn their noise down, or shut them down. We have 2 businesses near our neighborhood that do joint events. Taking turns to apply for event permits will turn 1 or 2 events a year into 2-4 events a year for us. She noted suggestions on the 2<sup>nd</sup> page about loopholes – noting there is no definition of "event" as far as number of days or the amount of time per day. The last recommendation is that this be a pilot program with an expiration date so it can be reviewed.

**Laura Jenkins** posed that since there is no mention of amplified sound in the current noise ordinance, it is already allowed. Passage of this ordinance would now require that the police *have to* be involved. They'll have to check to see if there's a permit, and if there isn't, a neighbor can just say they don't want to hear it and the event would have to tone down or shut down. She wants to be fair to everyone. Looking at the steps for addressing amplified sound, you may be restricting some things you don't want to.

**Justin Vogel** of Right Coast Pizza related that they are looking at movie nights, and this ordinance would hurt them.

**Jerry Nealon** spoke for the WR Business District and WR 2020. They are trying to sustain a vibrant community. The restrictions in this ordinance will be more hoops to jump through. Please don't hogtie them.

**Jesse Hill** said he would like to see something clear and simple, handled administratively. The 45 day review period is too long. 21 days is better. He doesn't think letters or fliers need to be delivered to the nearby neighborhoods or that there

should be an extensive review. He prefers decibel level monitoring because it's more objective, and he looks forward to vibrant events.

**Mike Huld** lives across the street from T Bird Roadhouse. He says it's not just noise from the band that is troublesome; it's also the noise of the motorcycles. There is no value added to our houses, only value added to his business.

**Sheila O'Connor** of Iris Street is a nurse. She explained to Council that each loud decibel noise affects the hearing and those losses are permanent.

**John Marriott** clarified that the business community wants flexibility. They're not looking for advantage over the neighbors. For years neighboring cities have had events. We have a good start and doing anything that will stifle that isn't good. Businesses want some certainty that if they spend money on an event they aren't going to be shut down. The answer to the problem isn't to strangle the businesses.

## **APPROVAL OF AGENDA**

1. Amplified Sound Ordinance Discussion

## STAFF PRESENTATIONS

**Mayor DiTullio** briefed Council on his discussions with Mr. Dahl and Chief Brennan. Some provision he highlighted were:

- Event permits should probably just be for 1 day (24 hours).
- For a waiting period the Chief prefers 45 days to allow for an appeal process.
- Hand-delivering notices comes from a desire to have neighbors informed.
- 300 feet is used because that's what's used for land use decisions.
- There could be different hours or a range of hours.
- Permit assignee is two people – the mayor and the Chief: The Chief knows the law; the mayor knows the political side.
- Permit being approved by community development director should be taken out.
- The number of event permits per year was an arbitrary number.
- If a permit isn't pulled a business will operate under the current noise ordinance, and be subject to being shut down.

**Mr. Dahl** pointed out a few things in the proposed ordinance that the mayor didn't cover:

- How many times at one location per year?
- Really no reason for community developer to be involved
- A permit would waive the strict standards in the current noise ordinance.
- The current law and the proposed ordinance both have a reasonableness standard. It will come down to the judgment of the office.
- What radius do you want for notification?
- On the permit form, how many hours should be granted per event?
- The cost of the decibel meters and training is extensive.

**Chief Brennan** explained that the decibel standard is similar to radar guns. The meter would have to be calibrated, certified, and tested in court. As in a traffic case, the gun uses the same kind of methodology and you do have to take into consideration the background noise. His research shows that a decibel level may not give what you want, and reasonableness, while it is subjective, is actually easier to execute. From a training and financial point of view he recommends the subjective determination.

### COUNCIL ROUNDTABLE DISCUSSION

The Council went around the table and gave their thoughts.

**Mr. Reinhart** was torn between protecting residents and supporting businesses. He wanted to hear what other people had to say.

**Mr. DeMott** began with some reflections on the T Bird Roadhouse situation. Chief Brennan gave some history of calls for services to that location. For the amplified sound ordinance Mr. DeMott wants to get businesses and neighbors to work together, and this gives them a tool. It also gives the police a tool. He supports the following:

- 9:00 PM on weekdays, 10:00 PM on weekends.
- Limit the number of hours.
- 4-5 times a year is adequate
- 30 days between events.
- 45 days isn't too long to plan ahead.
- Fliering the neighborhood is a good thing.
- Doesn't want to just do nothing and leave it up to the police officers.

**Mr. Dahl** clarified that adding an amplified sound line item to a Special Events Permit would not work.

**Ms. Davis** is torn as well, but said there are neighborhoods that exist successfully with businesses and amplified sound. They are very organized events.

- She thinks allowing 8 times a year will make people irate, but she hesitates to set a number because if there are numerous businesses close to each other and they stagger their permits it could end up being almost every weekend.
- She thinks 30 days is a reasonable time for applications.
- She supports 2-3 permits a year, and thinks 8 are too many.
- She wonders if we could have an exception for businesses that are not surrounded by homes.
- She thinks notice to the neighbors by signage is adequate.
- Events shouldn't exceed 4 hours and she'd like to make it administrative.

**Mr. Stites** is torn and concerned about a ripple effect with an ordinance like this. It can create problems when you write an ordinance for one problem. We want to encourage things to happen, but we do already have a noise ordinance. He thinks we are creating more problems by trying to fix one. He is inclined right now to do nothing.

**Mr. Pond** thinks:

- The Community Development Director should be in the process.
- We should say that if a permittee is in violation of the conditions of the permit additional approvals will be suspended pending review.
- He's not hung up on 2, 3, 4, 5, 8 times a year. If they adhere to guidelines there shouldn't be a problem.
- He thinks there should be some relative measure to use for judging loudness.
- 4-5 times a year is ok; 2-3 is not enough.
- He is more concerned about how to resolve things if there's a problem.

The Chief reported that he has talked to other jurisdiction and he thinks that as written there is enough there to allow for enforcement of the permit.

**Mrs. Langworthy** agrees with Mike Stites that we shouldn't be crafting policy based on only once issue. She wants to have a process for the citizens if something is very onerous. She has researched what other cities do. Lakewood and Denver both have amplified sound ordinance and it works for them.

- She wants to protect the neighbors but wants to support the businesses.
- She feels a good business would want to work with the neighbors.
- She thinks 3 - 4 permits a year is enough.
- She wants an appeal process for the neighbors and is OK with "reasonableness".
- She saw cases where the process is approved by the City Clerk or the City Manager, so she prefers an administrative process.

**Mrs. Jay** asked questions which revealed that our current ordinance already allows for amplified music – nothing precludes having amplified sound. She appreciates not having an ordinance based on one business, but we are wanting to create a more vibrant community. She thinks tightening up the current ordinance might be a better way to go. If we do go with a special permit she prefers:

- A shorter application time. 45 days is too much; 30 is enough.
- 2-3 times per year should be the maximum.
- There should be 45 days in between events (permits).
- She thinks areas where there are multiple businesses will apply for this.
- 4 hours per time is plenty, and that the 10:00 PM limit is late enough.
- She thinks the application process should not be done by elected people,
- She believes it's too open by allowing the police to be the sole judge.

**Mr. Starker** inquired about the musical instruments allowed in the ordinance and if there would be a fee for the permits.

- He thinks 45 days of application time + 14 days for the neighborhood protest process makes it a pretty long process. He prefers 30 days + 14.
- He thinks 8 times a year is excessive.
- He doesn't like the idea of having one permit for several events. An event that occurs over and over is not a "special" event. He supports an entity coming in once to ask for 4 dates, but believes that each event should have its own permit.
- Limiting the time to 4-5 hours is fine and 10:00 PM is a good time limit.
- He favors an administrative approval process.
- Like Mr. Stites he is uncomfortable trying to craft legislation based on one event.
- He wants to support economic activity.
- He doesn't want to prevent fun things from happening, but people need to realize that they need to work together.

**Mr. Reinhart** asked the Chief if this will make his life easier or harder. The Chief said there are always calls for service; he just wants something that is understandable and workable. Mr. Reinhart struggles with trying to fix something and end up making it harder. He is not comfortable that we really have something that doesn't just create more unintended consequences. He thinks we should keep trying.

**Mayor DiTullio** thinks that based on the comments tonight Council is probably right – that we don't need a special permit. It would be better to just wrap some of these ideas into our current noise ordinance. The Chief has some things he'd like cleaned up in that ordinance anyway, so if we incorporate some of the ideas that have come out tonight we can address the future and the present. Without a permit the police can enforce the ordinance on a case by case basis.

Mrs. Langworthy, Ms. Davis and Mr. DeMott offered final comments on some issues.

**Mr. Goff** reminded Council that not all activities will have amplified sound. He recommended amending the current ordinance as the way to go, and interjected that staff prefers that zoning not be brought into this process.

**Jerry Dahl** related that he sensed Council wants him to add an amplified sound component to the existing Code 16-103 that addresses the issues raised tonight. He alerted Council that some of these ideas can be imported into the current ordinance and some can't. The procedural things will go away but the substantive standards will be addressed.

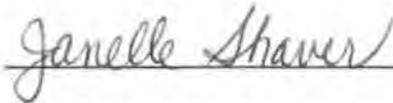
**Mr. Goff** commented that Copper Fields will be a whole different animal, will involve a different discussion and will probably be a zoning issue.

Everyone agreed to proceeding as Mr. Dahl explained and review the changes at a study session.

STAFF REPORTS

**Mr. Goff** passed out the script that will be used for the public opinion survey they discussed at the retreat.

The study session was adjourned at 8:31 pm.



Janelle Shaver, City Clerk