

**CITY OF FIRCREST
REGULAR CITY COUNCIL MEETING MINUTES**

**TUESDAY, JULY 28, 2009
7:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Kathy L. McVay called the regular meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Councilmembers Matthew Jolibois, Chris Gruver, Robert Thaden, Mike Weinman, Hans Hechtman and David M. Viafore were present.

PRESIDING OFFICER'S REPORT

McVay reported attending a Liquor Control Board Outreach meeting with Sergeant Villamor. She was pleased with the attempts they are making to help municipalities with liquor license applications and renewals. She explained when a municipality opposes a license renewal and identifies the issues the Control Board will review that information and investigate. Responding to Viafore, Villamor stated an establishment on 19th still hires off duty police presence on Friday nights but on duty officers also walk through at other times. Viafore stated he heard there may be issues about Saturday evenings too. McVay suggested the next time that establishment's license comes up for renewal the City may want to submit a report detailing police involvement there.

COMMITTEE, COMMISSION & LIAISON REPORTS

Public Safety and Court

Gruver reported municipal court activities were status quo, welcomed Acting Police Chief Villamor and reviewed police statistics.

CONSENT CALENDAR

McVay requested City Clerk Rosenblatt read the consent calendar as follows: approval of Voucher No. 39799 through Voucher No. 39885 in the amount of, \$420,391.27, approval of Payroll Warrant No. 30884 through Payroll Warrant No. 30970 in the amount of \$110,533.02 and approval of the minutes of the July 14, 2009 regular meeting.

MOTION

Moved by Thaden, Seconded by Gruver, to approve the Consent Calendar as read. Ayes: Jolibois, Gruver, Thaden, McVay, Weinman, Hechtman and Viafore. Noes: None. Motion Carried.

CITY MANAGER COMMENTS

City Manager Brandon stated at the July 20, 2009 study session issues were identified relating to a shortfall in the 2009 Budget. Suggestions were made to meet with employees to get their input on cost savings, to consider voluntary furloughs and a 32-hour workweek and to investigate the option of offering early retirement.

Brandon stated he met with staff from all departments. A suggestion made relating to furloughs was to schedule them around holidays so everyone would take the same days off and City buildings could be closed for additional savings. If all non-represented General Fund employees take a furlough day the savings would equal approximately \$5,800.

Other staff suggestions included not having recreation facilities open all the time but scheduling them on a reservation basis and to establish a non-resident reservation fee. Also suggested: increasing recreation fees, going to a two-year budget cycle, publishing the Town Topics online with hard copies available at City buildings and the possible consolidation of some positions. Viafore requested a report on the cost saving ideas for the August 17, 2009 study session.

Brandon stated a 32-hour work week would equate to a 20% pay cut and could create a significant hardship for non-represented employees. Savings would equal approximately \$70,000 to \$75,000. He was still researching how early retirement and COBRA medical could be handled. One of the concerns was the gifting of public funds. He was waiting for a response from Municipal Research Services Center. Viafore suggested contacting the Port of Tacoma as they have completed a study of that option and have offered early retirement to 47 employees.

Brandon explained addressing the 2009 shortfall right now may be difficult because so many summer events and maintenance programs are underway. Over the past weeks staff has suggested significant savings ideas but there was still a shortfall. Brandon stated more tough decisions had to be made and invited questions from Council.

Gruver requested that City Manager Brandon do what he felt was best for the City of Fircrest. She felt that Council should stand behind him doing that.

Hechtman stated Council sets policy and adopts the budget. He suggested if funding was required to address the shortfall, whether by cutting service levels or using reserves, the City Manager should make that known to Council. Hechtman stated he did some research on the Revised Code of Washington (RCW) and he distributed copies of 35.18.060 - City Manager Authority, 35.18.090 – City Manager - Department Heads - Authority and 35.18.110 – City Manager – Interference by Councilmembers. He reviewed the three RCWs. He felt staffing decisions were an administrative function and that Council was overstepping their bounds by discussing furloughs and layoffs. He referenced in RCW that Council “shall deal with the administrative service solely through the City Manager” and shall not “give orders to any subordinate of the City Manager, either publicly or privately. However, nothing shall be “constructed to prohibit the Council, while in open session, from fully and freely discussing with the City Manager anything pertaining to appointments and removals of City officers and employees and City affairs.” Hechtman clarified the City Manager has to keep Council informed of what was being done and had to advise Council of the City’s financial condition and future needs.

Jolibois stated Council had the right to make inquiry with the City Manager. Hechtman stated Council has the right to make inquiry with all staff but except for just an inquiry, everything else had to go through the City Manager. When Council starts discussing staffing levels and hours worked they are getting into daily operations which are the responsibility of the City Manager. Hechtman stated there was a budget shortfall issue and the City Manager should talk with Council if more money was needed or if service levels need to be changed but not about personnel matters.

Viafore disagreed and clarified that RCW 35.18.110 reads: “PROVIDED HOWEVER, That nothing herein shall be construed to prohibit the Council, while in open session, from fully and freely discussing with the City Manger anything pertaining to appointments and removals of City Officer and employees and City affairs.” He identified the regular Council meetings and study sessions were open meetings. The City Manager was Council’s employee and needed direction from Council. Viafore stated he supported furloughs but was opposed to layoffs at this time because economic conditions could turn around and the City would have laid off seasoned employees. He also supported scheduling furlough days around holidays. He explained that he created funding for Emphasis Patrols and suggested keeping the traffic enforcement part of the program but due to the economy eliminating the business patrols.

Viafore stated Council does set policy and level of service and furloughs would impact level of service. A decision may be made to have furlough days but by the Fircrest Municipal Code (FMC) City buildings cannot be closed without Council approval or declaring an emergency. He explained State law identifies parameters and the FMC identifies further parameters without contradicting State law. According to FMC City Hall is to be open from 8:00 to 5:00, Monday through Friday except holidays that have been designated by Council.

Viafore stated suggestions to resolve the shortfall were moving in the right direction but things needed to move quickly so solutions would be in place by September. He supported using some Undesignated Ending Fund Balance as part of the solution and noted the Undesignated Ending Fund Balance was created to purchase one time capital items and establish a “rainy day fund.” The City needed to bridge the gap until July 1, 2010. By then it will be known if the Federal and State stimulus plans are working.

Hechtman stated RCW 35.18.110 states there can be discussion between Council and the City Manager in open meeting and that the City Manager does need to keep Council informed. Nothing in that RCW indicates that Council is to dictate to the City Manager what he needs to do regarding staffing levels, furloughs, departmental hours of operation, etc. He suggested the City Manager needs to come up with a plan to bring City operations as close to budget as possible for the remainder of 2009. What is done to accomplish that is up to the City Manager but he can ask Council for more funding or authorization to lower services. Hechtman called for a consensus of Council for the City Manager to come back with a plan to best meet budget and levels of service and then Council can act accordingly.

McVay clarified there were two issues before Council. The first was to balance the 2009 Budget through December 31st. The City Manager had to come back to Council with a plan on how that would be done, whether a combination of furloughs and undesignated Ending Fund Balance or other cost savings. The second issue was to submit a balanced 2010 Preliminary Budget. Discussion of the 2010 Preliminary Budget would take place during four meetings in October. McVay stated she wanted to be certain City is in compliance with RCW and FMC.

Viafore requested the City Manager point out when Council had given direction to him so far. He felt the City Manager had asked for Council input and Council had provided that input. McVay clarified it may be a matter of semantics but Council was getting away from the discussion about a deficit issue for the 2009 Budget. She stated the City Manager asked for input and Council gave some suggestions. It was now the City Manager’s responsibility to bring Council a budget that is balanced for the rest of 2009 and in September a balanced 2010 Preliminary Budget. Council’s deliberations start when they receive those documents.

Viafore inquired where in the FMC the City Manager is authorized to grant furloughs. Brandon stated there was certain legislation that may be required to accomplish some of the suggestions for balancing the remainder of the 2009 Budget and the 2010 Preliminary Budget. Viafore explained that was the point he was trying to make, it takes a team approach. The City Manager asked for input, Council gave their input, now the City Manager will formulate a plan that Council will take action on. McVay clarified this discussion was about bringing Council a budget that was balanced for the rest of 2009. Council has had input.

Viafore called for a Point of Order and stated he was granted the floor and had questions that he would like to complete without interruption.

McVay stated she was trying to move the discussion past responsibility and authority to a discussion about balancing the 2009 Budget. The City Manager had Council input and needed to be given the opportunity to work out a plan and bring it back to Council.

Brandon explained he was asked a series of questions at the last study session and tried to bring back the answers this evening. Viafore inquired if the City Manager hadn't asked for Council input in order to formulate a plan. Brandon responded he was reporting on the 2009 Budget shortfall and identifying if there might be solutions that require enabling legislation to carry out his plan.

Hechtman stated when an employer tells an employee that the employer is supportive or not supportive of an option, the employer is giving direction. When a Councilmember does it in regard to budget or level of service they are acting within the realm of what Councilmembers are chartered to do. When it is done regarding personnel issues that is over stepping RCW. With regard to FMC, if FMC specifically precludes something like furloughs, then that needs to be brought before Council. But State law gives the City Manager the authority to oversee all personnel matters.

Jolibois stated, as governing body, Council sets policy. That means Council will come up with a definite course of action selected from alternatives. That was Council giving direction. In light of the budget shortfall it is time for definitive action. Arguing about who does what, when, where and how isn't going to get anything done. There are tough choices to make. RCW stipulates Council can make inquiry and the City Manager can ask for Council input which he has done. Alternatives have been identified and Council was going to set the policy. The longer that is put off the less that will get done and the more harm to the citizens, staff and the reputation of this Council.

Viafore stated if the City Manager believed Council has overstepped their authority the City Manager should inform them. Brandon stated he believed in the team approach and he understood how Fircrest government has operated for many years. He stated he may need to take a stronger approach in presenting his plan and he would come back with some solid suggestions.

Thaden complimented the City Manager doing exactly what he was supposed to and for following State law. He also noted how the real world works in day to day operations. Thaden explained the City Manager came to Council and informed them of the 2009 Budget shortfall and asked what Council thought about different alternatives. If the City Manager had come in and tried to settle the shortfall without Council input that wouldn't have worked. In the real world organizations discuss ideas. Now the City Manager will bring back a proposal to balance the remainder of the 2009 Budget that will be also discussed. Thaden suggested not getting into semantics but getting the job done.

Hechtman stated in the real world there usually weren't seven bosses to deal with. There was a reason State law addresses the relationship between Council and City Manager in a Council/Manager form of government like Fircrest has. The City has operated in a certain way for many years but that has also caused some problems. When Council expresses support or non support they are giving consent or disapproval from an employer to their employee. Under State law when that is done with regard to budget or the level of service that is within the purview of Council. When Council discusses staff decisions, employment levels, hours worked and that sort of thing Council is outside their purview. He acknowledged it was easy to cross the line but Council should be respectful of State law. He felt the situation may be one where Councils' employee does not feel empowered to do his job. Hechtman stated he was trying to illuminate that issue tonight and that was why he was calling for a consensus.

Jolibois stated all the RCW stipulates was what the City Manager's authority was. It did not stipulate what the relationship between the City Manager and the Council was. The City Manager was Council's employee and Council can talk to their employee and give direction and directive. He suggested it would be difficult to give consensus based on photocopied information brought up without any prior examination.

McVay stated Council needed to move to budget discussion. She felt there was agreement that there were two issues before Council. The first was for the City Manager to bring back his plan to balance the 2009 Budget through the end of the year as quickly as possible. The second issue was the 2010 Preliminary Budget that would be discussed by Council in October.

COUNCILMEMBER COMMENTS

Jolibois inquired about construction on Regents Boulevard near Harvard and if a plan was submitted and reviewed. Brandon stated it was a Pierce County Transit stop. Interim Public Works Director Larkin stated Pierce County was installing a handicap bus pad and that a plan was submitted. That plan was not brought before Council. Viafore stated Council sets policy and they set a policy concerning what can go in the public right-of-way, that Public Works was to be notified and a fee charged. He inquired if Pierce County filed an application and submitted a fee. Larkin stated an application was filed but he didn't know if a fee was charged. Viafore requested the City Manager let him know there was a policy that requires a fee and if there was the date that fee was collected.

Jolibois inquired about the status of the Municipal Development Committee he has been suggesting to set a policy regarding municipal projects. He again requested this item be scheduled for a study session. Responding to McVay, Jolibois stated he had twice submitted a mission statement for the committee.

Gruver stated Movie in the Park and the Car Show events went well. She inquired if a fee was charged for the Car Show. Viafore stated the City co-sponsors the event. Gruver suggested since staff had to be present and the Community Center opened for the event consideration should be given to establishing a fee. Gruver stated National Night Out was scheduled on August 4, 2009. Block watch forms would be available at the event. Gruver also reported that Fircrest resident Mary DeFazio recently passed away.

Viafore explained the Car Show was a joint venture that provides the City an opportunity to showcase Fircrest Park. Local businesses sponsor the event and Kiwanis and other groups raise funds that are

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used for Parks activities and programs. He noted other events also require staffing and for the Community Center to be open. He suggested that because the car show is one of the biggest in the area, with large crowds attending the event and visiting Fircrest, consideration should be given before requesting a report about charging a fee.

Viafore inquired about the meeting with State Representative Kelley. Brandon stated the meeting was scheduled next week. Viafore stated he met with State Representative Larry Seaquist from the 26th District. Seaquist stated House Speaker Chopp was making a request to do away with the Public Works Trust Fund loan program. Seaquist also stated he would look into an alternative loan service schedule for the Relocation of Backyard Sewer Mains project preconstruction loan.

Viafore voiced concern about the discussion of Council violating the City Manager's authority. He noted in the past charges were made that he had violated City Manager rights. Following an investigation a report was submitted regarding Council violation of City Manager rights. Viafore requested that if at any time City Manager Brandon felt the Council or any member of the Council had violated his rights as prescribed by RCW or FMC that Brandon notify Council at the next regular public meeting.

ADJOURNMENT

Moved by Thaden, Seconded by Gruver, to adjourn the Regular Meeting at 8:09 P.M. Ayes: Jolibois, Gruver, Thaden, McVay, Weinman, Hechtman and Viafore. Noes: None. Motion Carried.