

CITY OF FIRCREST
REGULAR CITY COUNCIL MEETING MINUTES

TUESDAY, NOVEMBER 10, 2009 **COUNCIL CHAMBERS**
7:00 P.M. **FIRCREST CITY HALL, 115 RAMSDALL STREET**

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Pro Tempore Robert F. Thaden called the regular meeting to order at 7:00 P.M. and requested a moment of silence following the Pledge of Allegiance in remembrance of Veteran's Day and the Seattle Police Officer who was murdered. Thaden led the Pledge of Allegiance. Councilmembers Matthew Jolibois, Chris Gruver, Hans Hechtman and David M. Viafore were present. Thaden stated Mayor Kathy L. McVay and Councilmember Mike Weinman were excused.

PRESIDING OFFICER'S REPORT

Application for liquor license renewal – Charley's Steak & Ale

Thaden stated Council was being asked if there were objections to the renewal of the liquor license for Charley's Steak and Ale. He stated Finance had expressed no concerns, Planning and Building expressed concerns regarding possible overcrowding and the Police Department documented concerns in a report included in the agenda packet.

Viafore confirmed the owner of Charley's Steak and Ale had been notified this item was on the agenda. Police Chief Cheesman stated the owner was in attendance.

Gruver stated she met with the owner and he appears to be a good businessman who was cooperating with Cheesman and has hired off-duty Fircrest police officers. She explained this was a bar and grill and the current clientele would continue to create issues. Gruver wasn't sure what else the owner could do to comply without changing the type of business.

Viafore stated he met with the owner approximately three years ago and received assurances the situation would improve but incidents continue. Viafore explained the Liquor Control Board has authority that Fircrest does not to monitor and enforce regulations. The owner may be working with the Police Chief and hiring off-duty officers but as recently as last week there was another incident. Viafore stated the sale of liquor by the drink was not allowed in pre-annexation areas of Fircrest but interest has been expressed about changing that. He voiced concern that if one establishment couldn't be controlled what would happen with additional establishments and what additional police resources would be required. He stated the City did not want the owner to lose his liquor license but it was prudent to have the Liquor Control Board work more closely with this establishment. Last year Council registered objections to this license renewal. This year if Council objects to the renewal the Liquor Control Board will have a hearing. If Council does not object the application will be renewed.

Hechtman stated the issue wasn't about just one incident. Weekly information received by Council has indicated multiple incidents at Charley's over the past years. He explained every business has a targeted demographic and there are things an owner can do to appeal to a demographic. Council's objections last year were an indication of their growing concern. Hechtman suggested consideration be given to making changes over time that would attract a clientele that didn't create so much trouble and his concern was why that hasn't happened in the past.

Steve Kasemeier, owner of Charley's Steak and Ale, stated changes in area bars have pushed a certain clientele his direction. He was in the process of trying to change that and has hired a new disc jockey that attracts an older clientele. He felt many of the past incidents were the result of one bartender who was over-pouring drinks and was fired. Kasemeier noted some arrests were because off-duty police officers were running license plates and finding prior warrants.

Hechtman clarified the information Council received was statistics about incidents not warrant arrests. Council has expressed concerns over the years and those concerns were relayed to the owner. Hechtman asked what assurances Kasemeier would make to Council that effective change would occur over the coming year. Kasemeier stated every time he finds an incident someone is either fired or changes are made. He felt he was doing everything he could possibly do to effect a change in the establishment.

Cheesman stated he had concerns about what goes on at this establishment and has addressed those concerns with Kasemeier. There was a change last weekend because of the new disk jockey and new bouncer. Cheesman stated he appreciated the changes and effort but he still had concerns. Cheesman stated DUI arrest statistics were 19 as of October 2008 and 14 as of this October.

Hechtman inquired if Cheesman felt the owner has incorporated every tool he could to dissuade or attract certain clientele and activities. Cheesman stated the owner was trying and when suggestions were made the owner tried to cooperate. Hechtman stated if these efforts had been made over time Council would have seen the change in the number of incidents and feel more comfortable about the situation.

Hechtman inquired if Kasemeier was willing to commit to following the Police Chief's suggestions so that in twelve months Charley's was no longer seen as a problem establishment. Kasemeier stated he would totally commit to that and he was committed to making positive change and would attend Council meetings to discuss issues.

Viafore stated the Police Chief was not paid to nor should he have to police this business. The Police Chief doesn't have to police other Fircrest businesses like he has to police this one. Council has dealt with this for over three years. Last year there was a unanimous vote to register objections to renewing this liquor license and a letter was sent to the Liquor Control Board. Discussion this evening has shown the situation has not improved significantly. Suggestions made this evening can be put into effect by the Liquor Control Board and they can monitor the situation.

Responding to Thaden, Cheesman confirmed there was a fight at this establishment two weeks ago while a uniformed off-duty police officer was on the premises. Thaden stated he would vote in favor of registering objections and voiced concern about the possible risk of litigation involving the City if serious injury occurs during one of these incidents. Jolibois stated he would also vote in favor of registering objections because the Liquor Control Board was empowered to mitigate these issues. He voiced concern the situation could become even worse without acting in a pro-active manner and not allowing things to continue another year. Viafore stated Council wanted to work with the owner but assistance from the Liquor Control Board was necessary.

MOTION

Moved by Viafore, Seconded by Hechtman, to register objections to the renewal of the liquor license for Charley's Steak & Ale as submitted and to direct the City Manager to prepare a letter to the Washington State Liquor Control Board objecting the renewal and to request a hearing. Ayes: Jolibois, Thaden, Hechtman and Viafore. Noes: Gruver. Excused: McVay and Weinman. Motion Carried.

CITIZEN COMMENTS

Thaden distributed a letter submitted by the Fircrest Greens Homeowner's Association.

Stephen Bader, 1575 Bay Hill Avenue, stated he represented the Fircrest Greens Homeowner's Association (HOA). Bader explained when Fircrest Greens was developed a stormwater retention system was required. After it was constructed and the inspection and maintenance requirements of the system were met by the HOA, a 50% credit was given on Fircrest stormwater fees. A recent letter from the utility billing clerk indicated that credit had been revoked because the credit was never allowed in the Fircrest Municipal Code (FMC). The HOA was requesting the credit be reinstated. Bader reviewed information in the letter submitted to Council detailing budgeting and expenditures for inspections and cleaning of the Fircrest Greens stormwater system. Bader stated the HOA would be more than happy with an option for the City to take over maintenance of this stormwater system.

Responding to Hechtman, Bader explained their stormwater system consisted of on-site, underground detention ponds capable of handling a 100-year storm before any water went into the City's system. Hechtman inquired why, if this was a condition of the development and the system was effectively not using the City's stormwater system, Fircrest Greens would have to pay stormwater fees. Bader stated there was a small amount of outflow into the Fircrest system in certain storms and there was runoff from sidewalks. He explained this agreement was with the developer but apparently the ability to grant the credit was never adopted as part of the FMC. Hechtman inquired if the record about this policy had been reviewed and if not suggested it should be. Bader stated it was his understanding there were other developments that also received this credit and their credit was also revoked. Hechtman requested additional information from staff and suggested Council action may be required.

Viafore stated information on this issue would be available in the minutes and inquired how many developments were sent letters. Interim Public Works Director Larkin indicated three developments were sent letters. Viafore stated this practice started about nine years ago when Council encouraged the developer of West Creek Estates to construct and maintain a stormwater detention system with any overflow going into the City's stormwater system. In return a credit would be given on the stormwater fees. The same arrangement was made with the developers of The Commons and Fircrest Greens. Viafore requested information on what prompted staff to revoke the credit and send letters out instead of having Council correct the situation.

City Manager Brandon stated staff would review this issue and provide additional information. Thaden requested this item be placed on a study session agenda. Brandon stated he would contact the three HOAs and let them know when this item would be before Council.

PUBLIC HEARING

Preliminary 2010 Budget

At 7:37 P.M. Thaden opened the public hearing to receive comments on the 2010 Preliminary Budget.

Finance Director Corcoran stated this was the first of two public hearings for the 2010 Preliminary Budget. The Preliminary Budget was submitted to Council at the September 22, 2009 regular meeting and three study sessions were held in October. There are 11 funds in the 2010 Preliminary Budget and the total Budget was \$21,446,365 including Ending Fund Balance.

Thaden invited comments.

John Bozich, 1533 Estate Place, stated online information from the State indicates the City would receive \$20,000 more in Sales Tax revenue than was budgeted for 2009. He voiced concern about projected 2010 Planning/Building revenues and reviewed shortfalls in those revenues in past years. Bozich felt there would also be a shortfall in 2009 and suggested reviewing staffing levels in the Planning/Building Department. He discussed the hiring and firing policies for a City Manger/Council form of government.

Thaden invited additional comments. None were noted. At 7:42 P.M. Thaden closed the public hearing.

Increase the City of Fircrest utility tax on water revenues

At 7:42 P.M. Thaden opened the public hearing to receive comments on a proposal to increase the utility tax effective January 1, 2010.

Public Works Director Larkin stated the proposal was to increase the utility tax on water from 6% to 8%. In the past the Water Utility paid for costs associated with fire protection including upsizing water mains to meet fire flow requirements and installing and maintaining fire hydrants. In October 2008 the State Supreme Court issued a decision requiring the cost of fire protection be borne by the General Fund instead of the Water Utility. Larkin explained the increase in cost to the Water Fund from an increase in the utility tax would be offset by a decrease in the Water Fund for fire protection costs. In the General Fund the increased revenues from the utility tax increase would be offset by the increased costs of fire protection. The proposal would be budget neutral to both the Water Fund and the General Fund. The increased utility tax will provide approximately \$20,000 additional revenue per year to General Fund.

Thaden invited comments.

Responding to Hechtman, Larkin stated this proposal has no affect on water rates. The savings in fire protection costs to the Water Utility are offset by the increased utility tax which is transferred to General Fund. The increased costs for fire protection to General Fund are offset by the increase in utility tax revenue that is transferred from the Water Utility.

John Bozich stated the 2009 Water Utility tax was budgeted at \$53,940 and inquired if the 2% increase in the utility tax would increase customer water bills. Larkin responded water rates would not increase.

Pat Langevin, 1208 Contra Costa, inquired about the status of the City's fire protection system. Larkin stated the estimated fire protection costs for the next three years was approximately \$60,000. A significant portion of that was to replace older two and three inch water mains and older hydrants in the north end of town. In addition, as part of the 19th Street grind and overlay project next year, the difference in the cost to replace the existing main with a twelve inch main for fire flow instead of a standard eight inch main would be funded.

Thaden invited additional comments. None were noted. At 7:52 P.M. Thaden closed the public hearing.

Thaden stated the meeting would continue by going back to Citizen Comments.

CITIZEN COMMENTS CONTINUED

Stan Schack, 1053 Daniels Drive, stated at the last meeting residents asked Council to consider lowering sewer rates but in the most recent bill sewer rates increased from \$98.00 to \$114.00. He inquired about tying the sewer rate to water usage as opposed to a flat fee or offering a senior rate. Schack stated senior citizens, on limited incomes and usually with small or single person households use less water yet pay the same sewer rates as families.

Mary Jankowski, 1103 Panorama Drive, stated she spoke with Council previously concerning her utility bill for a single person household. In the current bill the sewer rate increased \$16.00. Jankowski reviewed the lower utility bills from University Place that her friends pay. She inquired why the sewer rate was not based on water usage.

Hechtman inquired if staff had contacted Jankowski to discuss sewer rates based on water usage, to explain her bill for her and to conduct a water audit to determine if there might be a water leak in her system. Jankowski stated staff did call but she didn't return the call because she didn't feel there was anything staff could do. Hechtman stated rates have increased due to the \$21 million dollar Relocation of Backyard Sewer Mains Project but that Fircrest rates were fairly competitive for a small city. He explained increased sewer treatments costs from Tacoma account for \$6.00 of the \$18.00 in increases that have been implemented since he has been on Council. Hechtman stated one component of any reduced senior utility rate would have to be Federal low income guidelines.

Viafore explained Fircrest contracts with City of Tacoma for sewage treatment and that Pierce County rates are lower because they received a Federal grant. When Fircrest entered into the treatment contract with Tacoma Fircrest did not have metered water so an estimate of the sewage to be treated was made. That estimate has always been considered high. Fircrest also owns their share of the Tacoma treatment facility and has to pay to maintain that share. This year is the last year of upgrades to the treatment facility but the first year of upgrades to the Fircrest sewer infrastructure. Viafore stated he was researching a senior, disabled, low income rate discount rate and a Share Program to assist seniors with their utility bills.

Tony Randall, 1226 Del Monte, stated he has a family of five and his parents are Fircrest seniors. He stated he would be willing to pay more for sewer if seniors like his parents paid less. Randall explained Tacoma utilizes winter quarter averaging which is based on winter water usage. Summer water usage includes activities like lawn watering and car washing where the runoff water is not treated. Winter

water usage probably the house via the sewer system. He explained one year of metering provides the necessary data and suggested considering this method because it was fairer.

John Bozich stated with sewer rates increasing due to infrastructure expenses something like winter quarter averaging should be considered. Bozich also reviewed the history of the Local Tax. Instead of the collected tax going back to locale where people paying the tax live the State distributes it to the area where it was paid. Of the 22 cities in Pierce County three cities, Fife, Sumner and Puyallup, receive more than their fair share. Fircrest receives the lowest amount local tax back in the entire State, \$45.00 per capita.

Viafore explained this issue was decided at the State level and that was where this issue would have to be taken. Bozich felt the Association of Washington Cities should take the lead on this.

COMMITTEE, COMMISSION & LIAISON REPORTS

Environment, Planning and Building

Jolibois reported the Planning Commission discussed potential code amendments that would allow increased building height along the Mildred Street corridor and a docketing process for Comprehensive Plan amendments and Areawide Rezones. The Planning Commission would like these items on the agenda for the joint Council and Planning Commission meeting in February 2010.

Gilmore stated the current maximum building height allowance is 45 feet in the Community Commercial districts. At their last meeting the Planning Commission considered incentives to allow increased height and also considered increasing the base height. The docketing process came up again to help establish an orderly process for the seven year update to the Comprehensive Plan.

Finance and Information Technology

Viafore stated Finance staff continues to refine the 2010 Budget and requested Councilmembers submit any comments or concerns that need to be addressed prior to adopting the budget in December. Viafore requested Council consider having staff contact all banks on the State approved list to determine if they that will accept and secure government investment funds. Investment requirements would include a minimum interest rate of 1.5% and the ability of the banks to accept and make wire transfers. The maximum investment per bank would be \$240,000 so the investment would be covered by the Federal Deposit Insurance Corporation. Staff would investigate this option and report back to Council. Viafore noted the Local Government Investment Pool interest rate was currently less than .5%.

Thaden obtained consensus of Council for staff to investigate investing options with eligible statewide banks and bring the information back to Council for direction.

CONSENT CALENDAR

Thaden requested City Clerk Rosenbladt read the consent calendar as follows: approval of Voucher No. 40328 in the amount of \$84,451.48, approval of Voucher No. 40329 through Voucher No. 40389 in the amount of \$179,656.64, approval of Payroll Warrant No. 31469 through Payroll Warrant No. 31519 in the amount of \$90,870.01, approval of Payroll Warrant No. 31521 through Payroll Warrant No. 31531

in the amount of \$6,412.22, approval of Payroll Warrant No. 31532 through Payroll Warrant No. 31540 in the amount of \$63,317.56, Payroll Warrant No. 31520 was voided, Approval of Minutes of the October 12, 2009 Regular Council Meeting, approval of the Minutes of the October 19, 2009 Special Council Meeting and approval of the Minutes of the October 27, 2009 Regular Council Meeting.

MOTION

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

NEW BUSINESS

Amending the Professional Services agreement with Sound Inspections and Investigative Engineers, LLC

Gilmore stated the proposal before Council was to amend the contract with Sound Inspections and Investigative Engineers, LLC, (SIIE) to provide continued plan review and inspection services through December 31, 2010. No rate increase was proposed and \$20,000 was budgeted in the 2010 Preliminary Budget. Staff did contact adjacent jurisdictions and obtained a quote from a company that performs inspection services. Fees from those sources were 25% to 40% higher than SIIE.

RESOLUTION NO. 1107

Moved by Hechtman, seconded by Gruver, to adopt Resolution No. 1107, a Resolution of the Fircrest City Council, Washington, authorizing the City Manager to execute an amendment to the Building Inspection and Plan Review services contract with Sound Inspections and Investigative Engineers, LLC, extending the term of said agreement to December 31, 2010. Ayes: Jolibois, Gruver, Thaden, Hechtman and Viafore. Noes: None. Excused: McVay and Weinman. Motion Carried.

Amending the Professional Legal Services agreement with the Law Firm of Morris-Taraday, PC

Gilmore stated Council was being asked to authorize the City Manager to execute an amendment to the professional services agreement with the Law Office of Morris and Taraday, P.C., for Attorney Carol Morris to provide legal services in land use matters and environmental law through December 31, 2010. The hourly rate remains \$250 per hour and the amount budgeted in the 2010 Preliminary Budget was \$10,000.

RESOLUTION NO. 1108

Moved by Jolibois, seconded by Gruver, to adopt Resolution No. 1108 authorizing the City Manager to amend the professional services agreement with the Law Office of Morris and Taraday, P.C., for special legal counsel services in land use matters and environmental law through December 31, 2010. Ayes: Jolibois, Gruver, Thaden, Hechtman and Viafore. Noes: None. Excused: McVay and Weinman. Motion Carried.

DEPARTMENT COMMENTS

Corcoran stated the Auditor's Entrance Conference was rescheduled to November 16, 2009 at 3:30 P.M.

COUNCIL COMMENTS

Councilmembers thanked citizens in attendance.

Viafore stated Princeton Street residents contacted him concerning garbage cans left on the sidewalks behind businesses in Town Center. He has driven by and observed the cans remained on the sidewalks for over two weeks. They must be removed from the handicapped accessible sidewalks. Gilmore stated this was a Right of Way issue but Planning/Building did contact the businesses and will contact them again to get this resolved. Viafore requested action within two weeks.

Viafore voiced concern that the City of Fircrest was not responding to the City of Tacoma's plan for a five-year extension at the Landfill. He suggested sending a letter, similar to the one that was sent for the last three extensions, reminding Tacoma that due to mitigation and litigation Tacoma must comply with certain restriction regarding the plume that is now underneath the landfill. Viafore explained Tacoma does not put garbage in the landfill but continues to ask for extensions so they can designate the landfill for emergency disasters. Viafore explained the court has ordered Tacoma comply with requirements to protect Fircrest's drinking water. Fircrest must ensure nothing is done that could jeopardize the landfill liner. Thaden stated Council was in agreement for staff to respond to the City of Tacoma.

Viafore suggested contacting Columbia Bank regarding the contract for the Time and Temperature sign that expires in 2010. He requested street sweeping information be provided in the next General Update. Viafore inquired about Training Request forms from the Mayor and City Manager for conferences they attended. He also inquired about funds spent for winter plantings, noting \$1,200 in donations was budgeted but only \$438 was spent. He requested discussion at the November 16, 2009 study session on a utility rate discount for senior, disabled, low income customers and a Project Share to help seniors pay their utility bills.

Viafore stated he met with officials from the Health Department and was starting to understand how other municipalities and government agencies were handling budget cuts. The Pierce County Health Department has implemented 13 furlough days in 2010 and will not face layoffs or medical benefit cuts. He was still a proponent of furloughs.

Viafore acknowledged Mike Fitzgerald from Tacoma Fire Department was in attendance.

Gruver voiced appreciation to Corcoran for providing information Gruver had requested and appreciation to staff for the success of the Pumpkin Patch and Haunted Trails events. She thanked Police staff for representing Fircrest at the funeral of the Seattle Police Officer who was murdered.

Jolibois inquired about having garbage receptacles placed at all the Pierce Transit bus stops in Fircrest.

Thaden stated Councilmembers still had issues to discuss concerning the 2010 Preliminary Budget. Viafore requested discussion of the 2010 Preliminary Budget be added to all agendas through the end of the year.

EXECUTIVE SESSION

Thaden requested Council move into executive session at 8:40 P.M. not to exceed the hour of 9:00 P.M. to discuss pending litigation and labor negotiations. The City Manager, City Attorney and Public Works Director were invited to attend the discussion on pending litigation. The City Manager, City Attorney and Police Chief were invited to attend the discussion on labor negotiations. Thaden stated no action would take place following the executive session except to adjourn. At 9:03 P.M. Thaden returned to the Chambers to state the executive session would be extended not to exceed the hour of 9:15 P.M. Thaden reconvened the meeting at 9:08 P.M.

ADJOURNMENT

Moved by Viafore, seconded by Gruver, to adjourn the Regular Meeting at 9:08 P.M. Ayes: Jolibois, Gruver, Thaden, Hechtman and Viafore. Noes: None. Excused: McVay and Weinman. Motion Carried.