

**CITY OF FIRCREST**  
**REGULAR CITY COUNCIL MEETING MINUTES**  
**TUESDAY, DECEMBER 8, 2015** **COUNCIL CHAMBERS**  
**7:00 P.M.** **FIRCREST CITY HALL, 115 RAMSDELL STREET**

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**CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL**

Mayor David M. Viafore called the regular meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Councilmembers Matthew Jolibois, Shannon Reynolds, Brett Wittner, Hunter T. George, Denny Waltier and Jason Medley were present.

**PRESIDING OFFICER'S REPORT**

Viafore stated that Council previously objected to the renewal of the liquor license for Charley's Steak & Ale. He noted that pursuant to the Liquor and Cannabis Board, Council would need to withdraw the objection due to a Final Order and Stipulated Settlement Agreement between the Washington State Attorney General and Charley's Steak and Ale.

**MOTION**

**Moved by George, seconded by Waltier, for the Fircrest City Council to withdraw its November 10, 2015 objection to the renewal of the liquor license of Charley's Steak & Ale since there is a Final Order and Stipulated Settlement Agreement between the Washington State Attorney General and Charley's Steak & Ale.**

Viafore invited public comment. None was provided.

In response to Jolibois, City Manager Rosenblatt stated the Final Order and Stipulated Settlement Agreement supersedes the Council's objection to the renewal of the liquor license, making the objection redundant.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

Viafore called attention to corrected Item 10A and revised 10E.

Following discussion, Viafore noted he would be calling a special meeting for December 28<sup>th</sup> at 6:00 P.M.

**MOTION**

**Moved by Waltier, seconded by George, to cancel the Monday, December 21, 2015 6:00 P.M. study session.**

Viafore invited public comment. None was provided.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA**

Phaedra Miller, 1225 Del Monte Avenue, spoke about technology, the use of social media, and a request that the City of Fircrest look at technology options on a broader scope.

**CONSENT CALENDAR**

Viafore requested the City Clerk read the consent calendar as follows: approval of Voucher No. 206832 through Voucher No. 206905 in the amount of \$407,721.48; approval of Payroll Check No. 12002 through Payroll Check No. 12007 in the amount of \$93,874.69; approval of Payroll Check No. 12008 through Payroll Check No. 12014 in the amount of \$6,119.49; approval of Payroll Check No. 12015 through Payroll Check No. 12020 in the amount of \$84,447.28; approval of the November 16, 2015 Special meeting minutes; and approval of the November 24, 2015 Regular meeting minutes.

**MOTION**

**Moved by George, seconded by Medley, to approve the consent calendar as read. Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion Carried.**

**PUBLIC HEARING**

**Growth Management Act Periodic Update to the Comprehensive Plan (continued from the November 24, 2015 Council meeting)**

At 7:16 P.M. Viafore opened the continued public hearing and outlined the format.

Principal Planner Boers stated that tonight is the second opportunity for public comment on proposed amendments to the City's Comprehensive Plan, noting the proposal would amend the Introduction Chapter, establish a Community Character Element, and amend the Land Use, Housing, Transportation, Utilities, Capital Facilities, and Park, Recreation and Open Space Elements. Boers stated that the proposal would also amend the Land Use Map and repeal the Community Description chapter and Quality of Life Element. Boers noted that Council opened the public hearing on November 24, 2015 and continued the hearing to December 8<sup>th</sup> to allow for additional comment. Boers stated that there is a 60-day state agency comment period that will end on December 21<sup>st</sup>, noting that the public hearing needs to be left open through 5:00 on December 21<sup>st</sup> for additional comment. Boers called attention to an email that had been received from the Washington State Department of Transportation, and a letter from the Puget Sound Regional Council expressing appreciation as well as some requesting additional work to be done prior to their signing off on the plan as being fully consistent with Vision 2040. Boers concluded by stating he was anticipating receiving letters from both the Tacoma-Pierce County Health Department and the Department of Commerce.

Viafore invited public comment. None was provided.

**MOTION**

**Moved by Reynolds, seconded by Medley, to continue the public hearing to December 28, 2015 at 6:15 P.M. or shortly thereafter.**

Viafore invited public comment. None was provided.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**NEW BUSINESS**

**Amending Fircrest Municipal Code Title 22 – Liquor Regulations**

Boers stated tonight was an opportunity to consider proposed zoning code amendments relating to the sale of liquor by the drink for on-premise consumption in the Neighborhood Commercial (NC) District. He noted that Council held a public hearing on November 24, 2015 to receive comments and consider the recommendations of the Planning Commission. Boers stated that Council received public comments, closed the public hearing, and continued the matter to tonight's meeting for consideration. Boers noted the Planning Commission is recommending:

- amendments to the NC District to allow restaurants that serve beer and/or wine, or spirits, beer, and wine as defined by the Liquor Cannabis Board (LCB)
- prohibiting taverns, nightclubs, sports entertainment facilities and lounges
- the establishment of performance standards that would apply to NC District establishments serving liquor by the drink for on-premise consumption

Boers indicated that an Ordinance was provided for consideration and adoption and noted that a code section that was proposed to be added was incorrectly identified and should be FMC 22.58.029.

**MOTION**

**Moved by George, seconded by Medley, to adopt proposed Ordinance No. 1568, an ordinance amending ordinance 1562 section 21 and FMC 22.46.002; amending ordinance 1325 section 1 and FMC 22.46.007; and adding a new section FMC 22.58.029 pertaining to establishments serving liquor for on premises consumption.**

**MOTION**

**Moved by George, seconded by Medley, to adopt Amendment No. 1 to proposed Ordinance No. 1568.**

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George explained that the proposed amendments modify the Planning Commission's recommendation as follows:

- puts in place enforceable standards, i.e., requires screening of refuse collection and recycling containers for any business that wants to start serving liquor by the drink for on premises consumption
- restores the outdoor seating component that was in the initial version, puts controls in place to limit the hours of outdoor seating, and requires an administrative use permit
- permits taverns and lounges
- includes the prohibition on the sale, service and consumption of alcohol after 10:00 P.M.

Viafore invited public comment.

The following individuals provided comment: Phaedra Miller, 1225 Del Monte Avenue, Fircrest WA; Pat Linggi, 1017 Princeton Street, Fircrest WA.

Council comments and concerns were expressed regarding allowing taverns and lounges, the introduction of a revised ordinance that is different than what was advertised, and a concern about the safety and well-being of the citizens with the introduction of high-traffic taverns and lounges.

#### **MOTION**

**Moved by Viafore, seconded by Reynolds, to strike the word lounge and tavern from permitted uses in FMC 22.46.002.**

Boers suggested that it might be useful to have a companion change so that the words lounge and tavern are added to FMC 22.46.007 Prohibited Uses instead of being removed from Permitted Uses.

Viafore invited public comment.

Phaedra Miller, 1225 Del Monte Avenue, Fircrest WA spoke on the amendment, noting her understanding was that there are special licenses available for taverns that would allow minors.

Council discussion continued on the differences between taverns and lounges. Regarding allowing taverns and lounges, Chief Cheesman voiced agreement to the prohibition on the sale, service and consumption of alcohol after 10:00 P.M. but stated he had a concern with potential increased traffic that could occur and the types of businesses that could locate.

Medley raised an appearance of fairness/conflict of interest challenge regarding Viafore voting on the ordinance and requested a legal opinion from City Attorney Smith. Smith stated it is up to the individual member to determine whether the doctrine applies in a particular situation, and to disqualify himself if it does.

Viafore clarified that a challenged decision-maker should either refrain from participation or explain why the basis for the challenge does not require him to refrain. He stated that he has indicated both publicly and privately that he does not intend to apply for a liquor license to serve liquor by the drink at

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his business establishment, noting there would be not be financial gain, no appearance of fairness issue and no basis for the challenge of a conflict of interest. Attorney Smith noted that the certificate of election illustrated that the citizens of Fircrest have spoken to allow the sale of liquor in the NC district and Council is fine-tuning permitted uses that are not specific to an application.

Viafore requested a Roll Call vote.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore and Waltier. Noes: George and Medley. Motion carried.**

Boers stated that enforcement would be handled on a complaint driven basis and subject to the same type of enforcement action as other zoning violations, up to and including legal action, if necessary.

Viafore invited public comment. None was provided.

**ORDINANCE NO. 1568**

Viafore requested a Roll Call vote.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**Biennial Washington State Department of Ecology Municipal Stormwater Capacity Grant**

Wakefield stated the resolution would authorize the City Manager to accept and execute the 2015-2017 Biennial Washington State Department of Ecology Municipal Stormwater Capacity Grant in the amount of \$50,000. He noted the grant is biennium in nature with the City receiving \$25,000 now and another \$25,000 in July 2016. Wakefield stated the money is primarily used for the NPDES discharge permit from the state to address some of the compliance issues, i.e., street sweeping, keeping the storm drainage system clean, and funding of the calendar program.

**RESOLUTION NO. 1407**

**Moved by Medley, seconded by Waltier, to adopt proposed Resolution No. 1407, a resolution authorizing the City Manager to accept and execute the 2015-2017 Biennial Washington State Department of Ecology Municipal Stormwater Capacity Grant in the amount of \$50,000 to assist with the implementation and management of the City of Fircrest Phase II National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit.**

Viafore invited public comment. None was provided.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**Close-Out Change Order to Tucci & Sons, Inc. for the Regents Boulevard Grind and Overlay Project**

Wakefield stated that Regents Boulevard project construction has been completed and the proposal is a request to provide a “close-out”. He noted that all of the tasks and documentation that are associated with the close-out process with the Washington State Department of Transportation (WSDOT) have been completed and approved by WSDOT. Wakefield stated the final close-out change order to Tucci & Sons Inc. is an increase in the project cost of \$154,300.76 but below the March 2015 budget amendment amount of \$156,473.66. Wakefield concluded by stating there had been complications with the project that had delayed the timing of the change orders.

**MOTION**

**Moved by Medley, seconded by Waltier, that the City Council approve Close-Out Change Order to Tucci & Sons, Inc. for the Regents Grind and Overlay Project increasing the contract total by \$154,300.76 for the project and increase the total contract amount payable to an adjusted total contract price of \$1,018,287.51, and authorize the City Manager to sign the necessary documents for acceptance of the project.**

Viafore invited public comment. None was provided.

Wakefield provided an explanation on the cost overruns the change order process required by WSDOT. Wakefield concluded by stating the goal is to close out the contract with the contractor.

Concern was expressed that Council follows through on this going forward to recoup any applicable money from the consultant, Exeltech, as more money was spent on the project than was needed. There was further concern expressed that the engineering designs should have been more thorough and the funding source more thoroughly explained.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**Agreement with the Washington State Transportation Board for the 2016 Emerson Street, Alameda Avenue to Orchard Street Sidewalk Project**

Wakefield stated that Council is being asked to authorize execution of an Agreement with the state of Washington Transportation Improvement Board to accept grant funding for the 2016 Emerson Street, Alameda Avenue to Orchard Street Sidewalk Project. He indicated the grant application was filed in

July 2015 and the City received notice of award on November 30, 2015. Wakefield stated the required local match is \$143,814 and the grant is for \$575,252.

**RESOLUTION NO. 1408**

**Moved by George, seconded by Medley, to adopt Resolution No. 1408, a resolution authorizing the City Manager to execute Agreement No. P-P-130(P01)-1 between the state of Washington Transportation Improvement Board and the City of Fircrest to accept grant funding for the 2016 Emerson Street, Alameda Avenue to Orchard Street Sidewalk Project.**

Wakefield stated that he will be involved in the selection process to hire the consulting engineer that will design the project and provided assurances that the consultant will be one that will work well with the City and perform satisfactorily. Wakefield concluded by stating that once the grant is accepted, the process will commence, the project designed in the spring, and construction beginning in the summer of 2016.

Viafore invited public comment. None was provided.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**Revised Resolution Canceling the December 22, 2015 Regular Council Meeting**

Rosenblatt stated that a resolution is required to cancel a regular Council meeting pursuant to the Fircrest Municipal Code.

**RESOLUTION NO. 1409**

**Moved by Medley, seconded by George, to adopt proposed Resolution No. 1409, a resolution authorizing the cancellation of the second regular meeting in December 2015.**

Viafore invited public comment. None was provided.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

**Agreement with the Humane Society for Tacoma and Pierce County**

Police Chief Cheesman stated the resolution would authorize the City Manager to execute an agreement between the Humane Society for Tacoma and Pierce County and the City of Fircrest for animal sheltering services for 2016. Cheesman stated the cost for these services will be \$7,790.40 for the year 2016 to be paid in monthly payments of \$649.20. He noted this is an increase of \$10.20 a month over

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what was paid in 2015. Cheesman stated a contract has been in place for many years and concluded by stating there has been a good working relationship between Fircrest and The Humane Society for Tacoma and Pierce County.

**RESOLUTION NO. 1410**

**Moved by Reynolds, seconded by Wittner, to adopt proposed Resolution No. 1410, a resolution authorizing the City Manager to execute the Agreement between The Humane Society for Tacoma and Pierce County and the City of Fircrest for Animal Sheltering Services for 2016.**

Viafore invited public comment. None was provided.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, Viafore, George, Waltier and Medley. Noes: None. Motion carried.**

At 8:41 P.M. Waltier left Council Chambers.

**Bilateral Compliance Agreement between the Washington State Department of Health and the City of Fircrest**

At 8:43 P.M. Waltier returned to Chambers.

At 8:44 P.M., Viafore noted that Council would take a five-minute recess and stated he would be excused for the remainder of the meeting.

At 8:49 P.M. Jolibois reconvened the meeting.

Wakefield stated that Council is being asked to authorize execution of a Bilateral Compliance Agreement between the Washington State Department of Health (WSDOH) and the City of Fircrest. Wakefield reported the City received a Notice of Violation as a result of violations within a 12-month period and each well site will require a permanent disinfection component. He noted the financial impact is not known at this time and could range from \$10,000 to \$50,000 per site, and there are four sites. Wakefield noted that each site would need to be reviewed in detail to know what needs to be done. He reported that in addition to the permanent disinfection component, there will be chemical costs which could be \$50,000 to \$75,000 annually. Wakefield noted that the raw water doesn't need to be treated but there needs to be a residual within the distribution system and the facilities to be able to keep the level of protection for coliform bacteria in the system and tanks. Wakefield stated that proceeding with the agreement provides time to work on the proper design and application for the system, noting that the system needs to be installed in March 2016. He indicated that a consultant agreement will be brought forward to be able to move forward on the design and to maintain compliance with the Bilateral Compliance Agreement timelines. Wakefield stated that the regional engineer has the authority to work with the City and adjust dates in the Bilateral Compliance Agreement, if necessary. Wakefield concluded by noting if the Bilateral Compliance Agreement isn't approved and executed within the allotted timeframe, WSDOH will categorize the City's annual operating permit as Red, which may result

in the denial of loans, food permits, building permits and on-site sewage disposal permits for properties the City's system currently services or plans to serve.

**RESOLUTION NO. 1411**

**Moved by Medley, seconded by Waltier, to adopt Resolution No. 1411 authorizing the City Manager to execute the Bilateral Compliance Agreement Docket No. 2015-BCA-0031 between the Washington State Department of Health and the City of Fircrest.**

Wakefield outlined the next steps in the process to satisfy WSDOH and discussed funding sources for the costs. Wakefield clarified that WSDOH has made the decision that permanent disinfection is required and is a step to provide safeguards and assurances that the system doesn't have future coliform hits. Wakefield further clarified that by signing the Bilateral Compliance agreement, the City is stating a willingness to work with WSDOH in providing disinfection to alleviate a violation received and continue working towards maintaining and sustaining compliance with the system. Wakefield concluded by noting that the level of disinfection that will be required is small in dosage due to the well water not needing to be treated.

Jolibois invited public comment.

Phaedra Miller, 1225 Del Monte Avenue, inquired about public notification.

Wakefield stated that signing the Bilateral Compliance Agreement is the first step in the process and that will be followed with public notification. Wakefield further noted that disinfecting at the source allows the injection of chlorine to be controlled more accurately and based on the flow of the well water being pumped out of each well. Wakefield described the differences between the City of Tacoma surface water chlorination requirements versus what will be required for ground water disinfection in Fircrest.

**VOTE**

**Ayes: Jolibois, Reynolds, Wittner, George, Waltier and Medley. Noes: None. Excused: Viafore. Motion carried.**

**CITY MANAGER COMMENTS**

Rosenblatt stated the phone system will be installed soon. Rosenblatt provided names of ten engineering firms that appeared to have qualifications to design the chlorination disinfection. He stated he would work with Wakefield to further narrow down the field to make a selection.

**DEPARTMENT HEAD COMMENTS**

Cheesman thanked everyone that has been involved in getting ready for the sleigh ride and described the timeframe for the ride and picture-taking that will occur at the event.

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Wakefield stated the 2016 calendars are being printed and should be distributed by the end of the week. He stated that the pizza feed and ice cream social will be held at Whittier next week to reward the children for their efforts on the calendar.

Parks and Recreation Director Grover noted that the Fun Days Committee has been meeting and there have been a lot of good comments and ideas voiced. Grover concluded by recognizing everyone's efforts on the tree lighting ceremony, noting there was a great turnout.

**COUNCILMEMBER COMMENTS**

Councilmembers thanked everyone for their efforts on the Tree Lighting, noting it was a great event, well organized and heavily attended.

Waltier commented about the recent house fire and cautioned everyone that fumes in a garage can ignite an explosion when a gas furnace comes on and indicated it is a good safety feature to be aware of. Waltier called attention to the passing of Robert (Bob) Gilbertson, an individual who, following his discharge from the Navy, worked as a meat cutter and several years later opened Gils Deli, in the restaurant area where Spring Lake Café is presently located. Jolibois commented that prior to the deli, the business was the first "We Make'em U Bake'em Pizza" business in Tacoma.

Cheesman, in response to George, stated the police department was following up on leads regarding the recent drive-by shooting in Fircrest. Wakefield indicated, in response to George, that there was a coupling split in the main in the 900 block of Daniels Drive. Wakefield noted the repairs were completed within approximately two hours. George concluded by stating he appreciated the commentary on his amendments to the liquor by the drink ordinance, noting his plan was that the draft was prepared in advance so that Council could receive it in their packets last Friday and review over the weekend to make a decision.

Wittner stated he attended the Newly Elected Officials seminar last Saturday that was organized by the Association of Washington Cities. Wittner concluded by stating that someone had spray painted arrows throughout the City and encouraged those that witness this type of spray painting to let them know that it isn't allowed.

Reynolds noted the Young Elected Officials network was recognizing the City of Fircrest on a national level.

Jolibois welcomed Wittner to Council.

**ADJOURNMENT**

**At 9:26 P.M. Jolibois declared the meeting adjourned.**



David M. Viafore, Mayor



Lisa Keely, City Clerk