

**CITY OF FIRCREST
SPECIAL CITY COUNCIL MEETING MINUTES**

**JUNE 20, 2016
7:00 P.M.**

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

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Matthew Jolibois called the special meeting to order at 6:00 P.M. and led the pledge of allegiance. Councilmembers Blake Surina, Shannon Reynolds, Brett Wittner, Hunter T. George, Denny Waltier and Jason Medley were present.

Substitute Ordinance No. 1573 prohibiting the use of tobacco in recreational areas, parks and playgrounds

Police Chief Cheesman stated that Council is being asked to adopt a new ordinance making it unlawful for any person to smoke on any park property. He indicated that on April 12, 2016, Councilmember Reynolds brought forward a rough draft proposing a possible ordinance of the City of Fircrest prohibiting the use of tobacco in recreational areas, parks and playgrounds and providing penalties for the violation thereof. Cheesman stated he has worked with City Attorney Smith in drafting the ordinance presented for discussion tonight. He noted that the ordinance would make it unlawful for any person to smoke or light cigars, cigarettes, tobacco, or other smoking material within a park and this applies to all designated park properties owned by the City of Fircrest. He stated the law clearly declares that all park properties are designated smoke-free areas including parking lots, municipal pool, sports and athletic fields, walking trails, nature parks, and city owned gardens. Cheesman stated the Tacoma Pierce County Health Department has reported that smoking, including second hand smoke, has been linked with the development of lung cancer, heart attack, low birth weight, bronchitis, pneumonia, asthma, chronic respiratory problems, and eye and nasal irritation. Cheesman reported that the Surgeon General has determined that there is no safe level of exposure to tobacco smoke pollution. Cheesman clarified it wouldn't be a violation of the ordinance to smoke on the sidewalk adjacent to the Park.

Discussion continued as follows:

- Smoking is currently prohibited in buildings in the Fircrest Municipal Code (FMC) 9.52.020
- The substitute ordinance would include the prohibition within Title 10, in Parks and Recreation
- The violations would be the same as any of those outlined as violations within Title 10, Parks and Recreation
- There aren't a lot of people that have been observed smoking in the Park
- The current policies in place have successfully addressed smoking in the Park
- Residents complain about messy streets, unkempt yards and noise issues, but don't complain about people smoking in the Parks
- Not enough information has been presented to convinced that there is a problem
- It isn't necessary to ban smoking with an ordinance, as the policy in place is working
- A compromise to the issue might be to ban smoking at the Pavilions, picnic areas and the Tot Lot
- A citizen testified previously about smoking in the Parks
- There is a tendency to lean towards banning smoking in the Parks after reading about the dangers of smoking and listening to comments from constituents
- Comment that in the last 46 years, smoking hasn't been observed in the Parks and has not been a problem, and the police chief admitted the issue hasn't generated a lot of calls

- It isn't necessary to create a solution to a problem that doesn't exist, as laws and ordinances are created in response to a problem
- Young children don't have a choice in the matter and should be able to use the Parks equitably without being exposed to second hand smoke
- People caught smoking that are asked to relocate will typically move to another location
- Education about the dangers of smoking has reduced the numbers of smokers
- People that smoke enjoy the Parks just as much as those that don't, so passing a law to prevent them from using the Parks and smoking is not the answer
- It isn't illegal to smoke in the Parks and an opinion expressed that telling people it is legal to smoke in the Parks is the same as telling them you are in support of smoking
- The ordinance simply allows the police to tell someone that it is illegal to smoke in the Parks

The following individuals provided public comment:

Corbin Edwards, 1576 Woodside Court; Karen Reynolds, 1576 Woodside Court.

Discussion and direction on the sale of marijuana

Jolibois stated there have been applications received for marijuana retail stores and wanted to discuss with Council directions and ideas on how to manage and control the where and what ifs. Jolibois provided a memo dated February 4, 2014 from James Cole, Deputy Attorney General that highlighted August 29, 2013 guidance for marijuana related financial crimes. He opined that the memo highlighted how to manage and control the where and what ifs relative to marijuana. Jolibois further stated he was hopeful that ideas could be discussed tonight for ordinances that identify where retail marijuana businesses could locate, restrictions on placement of stores adjacent to residential areas, the avoidance of clusters of retail marijuana stores, and consideration of a reduction of the buffer to certain entities excluding elementary and secondary schools and public playgrounds.

Planning and Building Administrator Stahlnecker handed out maps showing the 1,000 foot buffer around the Transit Center at Tacoma Community College, and the Odyssey 1 on Mildred Street in the Commercial Mixed Use areas, but noted she was waiting for a response from the Washington State Liquor and Cannabis Board (WSLCB) if the buffer would apply to the Rollin' 253 Skate Center. Stahlnecker reported the use is presently allowed in the Commercial Mixed Use area at Emerson Courtyard. Stahlnecker stated if Council reduced the buffers for other than school and public playgrounds, there would be areas on Mildred Street where retail marijuana stores could potentially locate. Stahlnecker noted that performance standards can be set up through zoning.

Rosenblatt read the definition for a game arcade from the Washington Administrative Code that stated the entity would primarily need to feature video games and simulators.

Discussion continued as follows:

- The law allows Council to reduce the buffer to as little as 1,000 feet for other than elementary and secondary schools and public playgrounds
- If Council doesn't make any changes, the 1,000 foot buffer would stay in place

- Residential areas are not part of the exclusions in the 1,000 foot buffer and would need to be Fircrest specific
- Consider specifying separation distances from one retail marijuana store to another to avoid clustering
- If the Cities of University Place and Tacoma have maintained the 1,000 foot buffer, it is possible that retail marijuana businesses on most of Mildred and 19th Street would be excluded from being able to open due to being trumped by the adjacent jurisdiction's regulations
- The only possible zoning location where retail marijuana could be sold would be within a Commercial Mixed Use area and City Attorney Smith reported that the state of Washington determines what the buffers are before issuing a license
- If the State has recommended a 1,000 buffer it should be maintained and not reduced
- Reducing the buffer would allow retail marijuana to be located closer to critically sensitive populations
- The Fircrest Municipal Code states that a license 'may' be denied and not 'shall' be denied if they fail to follow local, state and federal laws
- Retail marijuana stores could be regulated through performance standards in the zoning code
- The inconsistency regarding how the buffer is applied is troubling
- If a City bans the sale of retail marijuana there is no possibility for revenue sharing
- The only way to participate in revenue sharing is if there is a retail marijuana store currently located in the City
- Is it possible to find out what a local store could generate in revenue
- From an economic standpoint, there is revenue to be had from allowing a retail marijuana store to open in Fircrest
- Which jurisdictions in Pierce County have banned the sale of marijuana, which jurisdictions allow it and which jurisdictions have a moratorium
- How much local sales tax is received from the sale of marijuana
- What is the amount of revenue that has been received in like-sized cities from the sale of marijuana and how many stores do they presently have
- What is the formula the State uses for revenue sharing
- Will there be increased police activity if a retail marijuana store opens
- What is the square footage of the areas zoned that allow marijuana in like-sized cities
- How many retail marijuana establishments are there in like-sized cities
- What is the population density in like-sized cities where there are retail marijuana stores
- Council could consider reducing the buffer from 1,000 feet to as low as 100 feet or some number in between
- Perhaps the City of University Place would be open to discuss how to work together on this issue regarding the Mildred Street corridor and retail marijuana stores
- The City of Fircrest would share in the revenue stream created by the sale of marijuana if a retail marijuana store is allowed to open in Fircrest

City Attorney Smith reported if Fircrest reduces the buffer to 100 feet but the City of University Place maintains the 1,000 foot buffer, the state of Washington might deny a retail marijuana license along Mildred Street due to the more restrictive control from University Place. Stahlnecker reported she would be in contact with the WSLCB regarding this issue. Stahlnecker further stated that buffer reductions, residential setbacks, specific zones that allow the sale of marijuana, etc., should be done

through amendments to the zoning code and those amendments would start with a review and public hearing by the Planning Commission.

There was Council consensus that the Planning Commission move forward with a discussion about this issue and consider reductions to the buffer zone, discuss the districts that could allow the sale of marijuana and provide input on possible setbacks from residential areas.

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Medley asked Jolibois to respond to the public comment regarding why this issue is resurfacing when the majority of Council previously stated that they wouldn't violate federal law due to their oaths of office, and the fact that Jolibois asked that this item be placed on the agenda. Jolibois stated the memorandum he provided previously from the Deputy Attorney General indicated that the feds would not be prosecuting the retail selling of marijuana. Medley countered that it is still a federal law and Council had stated previously that they wouldn't violate the federal law. Jolibois stated the citizens voted to allow marijuana and the prosecution issue was clarified from the Department of Justice and that cleared it up for him.

Smith reviewed federal law and ramifications from a change in the federal administration relative to marijuana.

ADJOURNMENT

Moved by Reynolds, seconded by Medley, to adjourn the meeting at 7:25 P.M. Ayes: Surina, Reynolds, Wittner, Jolibois, George, Waltier and Medley. Noes: None. Motion carried.



Denny Waltier, Mayor Pro Tempore



Lisa Keely, City Clerk