



**COMMUNITY DEVELOPMENT COMMITTEE - DAN SKINNER
MONDAY SEPTEMBER 11, 2017**

COMMITTEE MEETING: 7:30 PM

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068**

1. Call to Order

PRESENT: Clemens, Skinner, Cicak, Spalding, Joseph
ABSENT:

2. Approval of Agenda

3. Approval of Minutes

a. Community Development Committee – Committee Meeting – July 24, 2017

RESULT:	ACCEPTED
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4. Discussion

a. Smoking on City Property

Mr. Skinner: This is something we discussed before our recess in August. I wanted to bring this back before the committee, different ideas have been brought back and there has been some discussion in the community and in fact a while ago a gentleman came to speak to us. There are a number of cities in central Ohio and Ohio itself that has these type of community smoking bans, you can see anything from no ban to a full ban and in the middle with a ban or restrictions with designated areas. When the idea was posed to me, I thought the more sensible way of approaching it, the more middle ground would be to carve out designated zones or areas to allow for smoking but that the rest of the city property would be restricted from using. Thoughts?

Mr. Spalding: As far as smoking in all areas, when hospitals started it, they had designated areas first and then within about 6 months to a year, those were taken away too because of the health hazards and health risks. I think the people that came and complained to us and brought this up were parents that had children. That was what their concern was. Here on city property here, we do have restrictions for that, it says no smoking, well extending that to the parks may make some sense. I think if we're going to do it, we ought to just do it straight across the board and not allow smoking in any of our city facilities or grounds.

Mr. Skinner: And that would be including no smoking zones?

Mr. Spalding: I personally think if we're going to do it, because those are just steps, first you put a zone then what do you do after that, you end up taking them away just like the hospitals. The parks weren't put there so we could go out and smoke, they're there so people can go in and an enjoy them. If somehow we're creating an environment where they can't enjoy that then we need to fix it. That's my opinion.

Mr. Cicak: I don't think a parent should have to go to a Tball game and have someone have a cigarette down by their hip where their kid is so I support it.

Mr. Skinner: Would that be a full ban or with zones?

Mr. Cicak: A full ban.

Mr. Skinner: Donna would you mind coming down to chat with us? Donna has received information from the Community so I thought I would make her available if that's ok. Would you mind giving us the feedback that you've heard?

Mrs. Bauman: The feedback that we have received on Facebook, a few emails and phone calls have been that they would like no smoking at all in the parks.

Mr. Clemens: I agree with you, we have 2 big bad points. To start with you have to enforce it. This deal of just passing laws that sound good is fine, but you tell me how we're going to enforce a smoking ban all over that park and sidewalks. Are we talking about sidewalks and easements? What are we talking about? Our streets? or just the park? Is someone going to come up and say someone is smoking in the park and we're going to jump into the smoke mobile and go down there and try to find them or what? Let's not be ridiculous about the issue. We pass all of these laws and we don't enforce them, that's what bothers me. We have laws on our books now our police department works hard to do what they're doing to throw this on to them, if there is some way to enforce it I have no problem with it, don't get me wrong, I don't have any problem with doing away with smoking but people do have the right to do things, they do pay their taxes, to have 4 or 5 people or 10.. you have to take everyone into consideration when you start talking about this. I don't want to pass a law that we're not going to enforce that's going to make it tough on the Chief and the police department. I don't really know how you enforce it and I think Jed could tell us about some of these other cities, that's the point to me. If we can't enforce why would we want to pass a law that bans everything like that. I don't mind a zone situation if that's what, I'm sure we've had people call and so forth, I haven't heard a soul and I've been here 60 years and nobody has bothered to call me. So 3 4 10 people call we're going to change the law to take care of all this? That's why I look at something like that, we do have other citizens in the city that live here too. The state has all kinds of laws that we follow we want to add on a few more I have no problem with that but just to be doing that to look good doesn't impress me a bit. I want to know how we enforcement, how does other cities enforce it and how about the cities that already have it how do they enforce it? I think that's something we have to look for. Jed, you've studied up on this and how other cities enforce it how that come about?

Mr. Hood: First you have to decide what type of law you want to have before you talk about enforcement. I think something that's pretty common sense and that I think I said to you all when you brought this up, this could be an administrative decision, doesn't have to be a legislative decision. The Mayor has made a decision that we don't allow things that go on the building grounds, he's in charge of keeping our buildings and grounds and there are things that we can do that way, we also believe that if we post this non smoking in the parks, the majority of folks will voluntarily comply as they have just like they do when we post the parks are open from dawn to dusk or from one time to another time. If they don't if they choose not to comply after its been posted and they've been given reasonable warning, they're asked to leave the park. I think any of our employees or site supervisors can be empowered to do that and if they choose not to heed the request to leave the park at that point they'd be trespassing and then it would be a police matter. That's kind of off the top of my head, I don't know if that's how other cities do it but when Donna and I talked about this when it was brought to our attention by the concerned citizen who came to Council, that was kind of what we talked about. That's a common sense solution to this issue if you find its worthy.

Mr. Skinner: Chief do you mind if I ask, are you concerned about enforcement, do you feel like the men and women of the force...

Chief O'Neill: I think our stance would be very similar to what the City Attorney just stated. Our preference would be that we would make this a rule that is established by Parks & Rec and we allow them to evict someone from the park for breaking a rule. We have rules in place for abhorrent behavior, bad language stuff like that and when we run into a situation like that its usually a site supervisor that's the first contact, they tell the people they have to leave, if they don't leave then we get involved. I believe there is still something on the books where a violation of the parks is a minor misdemeanor, unclassified misdemeanor, its' not something that we normally go out and aggressively enforce without being contacted. We're not out there tossing skateboarders off the skate park every time they let one fly but at the same time, if it becomes a habit and one of the site supervisors asks us, yeah we'll take care of them at that point. Quite frankly it would simplify one of the things we do have to deal with and that's those 16-17 year old kids that are smoking, Ohio law says you can't ask a person to prove how old they are if they're smoking so they're not allowed to have cigarettes but we can't make them prove their age so if there was no smoking at all in the parks, the kids at the gazebo and the skate park and such, we could automatically broom them from the park and that would clear away one of our problems.

Mr. Joseph: I kind of agree with Mr. Clemens's view that the enforcement is a major part of it, but I think there is a major factor to look at and that is people might be more inclined to go with a restriction in a designated area like a parking lot or something like that far away from where everyone is congregating for whatever event is going on and we're not totally taking away people's rights its kind of a compromise, everyone gives a little bit and I'm also thinking it would be a place to start. We could go with that, see if there are problems and we can go from there if it doesn't work and we need to look at something more restrictive we can obviously do that. We don't have to go the whole distance initially since we're kind of treading in an area that a lot of communities haven't even tried yet. I'm also concerned that if we do a total ban, it may bring on litigation, we might be in a strong position to win but do

we want to do that, spend money on winning a law suit. My view is we should take a look at designated areas, banning it from grassy areas and restrict it only to parking lots of the parks and the idea of right of ways and sidewalks that's probably more ridiculous to really think that we could ever enforce that because someone could step back onto their own property. I have a neighbor who's a heavy smoker, I don't smoke, and there are times he's in the back yard and I have to go into the house because it is so bad, but I would not dare want to take away his rights, he's doing that on his property. I'm of the opinion we should go for the middle ground and give it a try and go from there.

Mr. Long: I agree with Mel Clemens in the fact that if we have provisions to do this administratively, why turn around and enact a law. Donna you currently have rules within your parks, processes for flying drones, rules that people do abide by or don't abide by as far as leash laws with the dogs. I think this all came about at a movie night over in the park and if you had something in place administratively, that gives you now the teeth to be able to address the individual and say hey look this is an organized function here, you can't smoke here and if you have your difficulty that's when you involve the high priced very high skilled police officer to address it. I'm in agreement with Mel Clemens, I don't want my police officers out there turning into smoke police, I want the parks to be able to manage themselves and I respect the fact that we do have families in the parks that are bothered by it and if you have an individual that doesn't respect that.. I mean Reynoldsburg is known as the city of respect, if you can't abide by our standards and not bother our children and our families with smoking at a family movie night, perhaps Reynoldsburg isn't the place for you.

Mrs. Bauman: All of our rules are ordinances, so everything we have is an ordinance whether it is flying radio controlled helicopters or snowmobiling, horseback riding, everything is listed as an ordinance what you can and cannot do so.. this just falls in a line with it making it..

Mr. Long: That would establish a procedure as opposed to tackling someone on the sidewalk because he's smoking or an individual that is a quarter of a mile away off in another area who isn't bothering anybody.

Mrs. Bauman: I think what the person who came here because of movie night was doing it strictly for smoking in the parks, I don't think they had any concerns about people walking down Haft Drive smoking or on Main Street.

Mr. Long: Lets go ahead and put provisions in place that gives you the teeth and the authority to go ahead and have someone who's disturbing the other members of the public either have them removed, have them put it out or we contact the police officer and have them removed.

Mrs. Bauman: right, but I think it has to be something passed by Council because they'll say what jurisdiction do you have, I can smoke here there's no rule... That's why we brought it forward because we have gotten some complaints and the individual that comes to Council so if we do have something in place it has to come from Council.

Mr. Long: Once again, I think it's something that needs to be put into place that gives you the teeth to go ahead and enforce it and then we can involve the higher level.

Mr. Skinner: My understanding is that there were some employees that expressed concern about a total ban so this goes back to a total ban.

Mrs. Bauman: There were some employees that when they heard about a potential ban for the parks they asked if city hall could be included in that, they don't like they can't open their windows without someone standing outside smoking so there was that request asked about that and I told them I would bring it to your attention.

Mr. Skinner: The other side of the coin, the employees that do smoke and the prospect of losing good qualified employees because they don't have a zone, is that fair to say too?

Mrs. Bauman: Those that smoke have not said anything to me directly about it. The ones in this building I think there's 4 maybe 5 just in this building, I don't know about all of the other buildings.

Mr. Clemens: I respect what Donna said but I don't like the employees that work for us, trying to break up a smoking issue. I don't think that is something that I desire to see happen. We do have a police force and as far as I'm concerned, that's what they're there for. If we pass a law I expect them to do it. I don't want to see our employees have a problem because these are things that can end up on court. Most people would do what you expect them to do and I think that's the way it should be handled. Have a place for them to smoke.

Mrs. Bauman: Currently for our ball diamonds or soccer field, they're not allowed to smoke in that vicinity. Now we don't have anything from Council, its just a rule we put out and they do go to the parking lot and for whatever reason the movie night, the individual didn't want to leave.

Mr. Skinner: So Mel what you're saying essentially is make it a minor misdemeanor where they can be cited for it and the hope is maybe they've been warned but if they don't they get a citation.

Mr. Clemens: I just don't see how someone is going to get arrested to be honest with you.

Mr. Joseph: It would be hard to enforce.

Mr. Clemens: Its going to be like me saying I seen this guy smoke down there at the park and they're going to say what color shirt is he wearing, maybe blue, you know? These are the things that are bothering me.

Mr. Joseph: Mr. Chairman I suggest that legislation be drafted that would give the parks department authority to regulate that with a designated area in parking lot.

Mr. Luzader: I was just going to ask if the City Attorney feels it can be an administrative function of the Mayors office, with backup from the Recreation Department and their employees and they notify the police department, I think that's one way to do because I know as a member of the Tomato Festival Board, the Parks & Recreation Department puts up signs for the Tomato Festival that there are no dogs allowed during the festival in the park. As a member of the Board, we just ask people and I don't think over the last couple years we've had a problem with that. We asked the people, now, you may have received some phone calls, but at the time we really don't have problem. So if it can be addressed as an administrative function then that would probably be the easiest way to go.

Mr. Joseph: I agree in an ideal situation we can do it as an administrative function, but we're probably on stronger footing if we put it in concrete writing. Specifically give the parks the ability to enforce that and to police that directly. That way they can't say there's nothing in the ordinances that I can't do this. By passing something into the law they can't say there's nothing there and it would be specified by action.

Mr. Skinner: One concern I have is your having non law enforcement enforce the law and that can create a lot of problems with the city attorney's office. What I would like to see happen is we designate zones, make it a minor misdemeanor and when it comes to whether or not to enforce it, law enforcement already has that option. They don't have to write ever speeding ticket, we have good people that are able to use their discretion now anyways, I'd like to see it start that way if Donna's folks can say, hey that's not legal here fight and if it becomes an issue they can handle it but I would like to see it be designated a minor misdemeanor and then let our team do what they do.

Mr. Joseph: And you're talking about something that would only address the parks.

Mr. Skinner: Do you want to speak to that Donna, is it only a parks issue, a side walk issue?

Mrs. Bauman: I'd say its more of a parks issue, the grass area around the diamonds, concession stand, restrooms.

Mr. Joseph: Obviously we can readdress it later if it becomes a broader problem but it seems like its only parks.

Mr. Long: Each of the parks do have a parking lot that could be designated as a smoking area, it would keep the cigarettes and smoke out of the park, away from the people, out of the grass, I don't know how many people I see at the Tomato Festival walking along, smoking and then flicking the butt into the grass and our people have to go along and pick those up later. I am a smoker and a dirty smoker just irritates me to no end. That would give both sides, and the teeth and the authority to the folks in the Parks & Rec Department and if an individual is going to be rude and belligerent then we call the Chief's people and take care of the situation.

Mr. Skinner: April, would you mind working with Mr. Hood's office to get a draft of legislation for the next time and Jed, if you're comfortable with this I think it makes sense to

start out as a minor misdemeanor but maybe an escalating offense if there are repeats we can leave that to your judgment, but I can see people ignoring if it is slaps on the wrist here and there.

Mr. Hood: May I just ask what the thought process is if a public employee asks them to leave a park under the Authorization of the Mayor or the Council depending on how you ordain it. They refuse, then its a trespassing issue, a misdemeanor of the 4th degree that the Chief can actually put someone in custody with. You understand that a minor misdemeanor, they can't be placed in custody and removed, its going to lead to a trespassing charge too if they refuse the officer's order.

Mr. Skinner: That's fine, we'll let the officer decide what they want to charge them with.

Mr. Hood: I understand, to me, I can't anticipate a scenario where an officer would just charge the minor misdemeanor smoking prohibition, whatever we all call it.

Mr. Long: Jed, I believe that the officer would not write the ticket for the minor misdemeanor unless that individual refused to stop smoking after being told by Donna or one of the parks employees..

Mr. Hood: In the presence of the officer I assume. Ok fair enough.

Mr. Cotner: Clearly our City Attorney has some concerns about this.

Mr. Hood: Yeah, I do.

Mr. Cotner: I think we're just all of a sudden blowing off our City Attorney here and maybe not clarifying..

Mr. Hood: I don't think I'm blown off, I just think we should treat this like Donna said, like I said, like Chief said. If you guys think this is a good idea in the parks and I think going outside of the parks is very bad, I don't think you'd ever be able to enforce that. In our parks I think you have every right to enforce that and treat it like you're in the parks after hours, you're using belligerent language, you're yelling at a child, have a dog off your leash, how we're doing it now. She's just asking for the authorization to do that and have the enforcement behind it.

Mr. Skinner: So what you're saying Jed is don't even enact the ordinance?

Mr. Hood: No, I'm saying, add it to her ordinance now. The Parks & Rec Director has specific designated authority.

Mr. Joseph: We just simply add it to the other things they can eject from the parks from.

Mr. Skinner: So I guess maybe I'm not..

Mr. Joseph:: With the designation... but they would not be ejected from the parking lots, but if they were in the parks it would be just like any other, dealt with in current law.

Mr. Skinner: Are those misdemeanors or no?

Mr. Hood: No.

Mr. Skinner: Are they anything?

Mr. Hood: Some of the other administrative codes where they don't have penalties associated with them. I'd have to check but I don't remember.. like one of the authorities she has is to prohibit commercial activity in the parks without written permission by her. Not everybody that wants to sell snow cones can sell snow cones in our park without her saying it's ok. I don't think there's a penalty for that, I think we just ask them to leave and if they don't they're trespassing.

Mr. Long: And that's where the penalty comes in.

Mr. Skinner: Ok that makes sense. Well still, April, would you mind working with Mr. Hood to clarify that? Mr. Cotner are you satisfied?

Mr. Cotner: More satisfied yes.

Mr. Skinner: Anyone else?

RESULT:	REFERRED TO COMMITTEE	Next: 9/25/2017 7:30 PM
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