

**MINUTES  
OF THE  
REGULAR MEETING OF  
LAKEWOOD CITY COUNCIL  
HELD IN COUNCIL CHAMBERS  
12650 DETROIT AVENUE  
SEPTEMBER 9, 2009  
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:34 PM by President Dever.  
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Present: Councilmembers Nickie J. Antonio, Thomas R. Bullock III, Kevin Butler, Michael W. Dever, Mary Louise Madigan, Brian E. Powers, Michael P. Summers.

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Also Present: Mayor FitzGerald, Law Director Hurley, Finance Director Pae, Police Chief Malley, Fire Chief Mroz, Public Works Director Beno, Human Services Director Buckon, Planning & Development Director Kelly, Assistant Director Safety – Division of Building and Housing Ashby.

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Reading and disposal of the Minutes of the Regular Meeting of Council held July 20, 2009.

Motion by Mr. Dever, seconded by Ms. Madigan, to approve the minutes without the necessity of a reading.

Motion adopted. All members present voting yea.

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Without objection from Council items 7, 8 and 9 were read first in the agenda order.

**\*\*\*\*OLD BUSINESS\*\*\*\***

1. Finance Committee Report regarding Lakewood's 2008 Financial Audit. (Pg. 7)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the report.

Motion adopted. All members voting yea.

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2. Public Safety Committee Report regarding Mutual Aid Agreement for Rivers and Lake Patrols/Northern Border Initiative. (TO BE PROVIDED)

**#2 Public Safety Committee Report regarding Mutual Aid Agreement for Rivers and Lake Patrols / Northern Border Initiative – Tom Bullock**

The Public Safety Committee met in August and had a chance to hear from the police department about the initiative and we recommended passage of the proposed ordinance. Briefly, I had a chance to talk with the Chief yesterday. What this ordinance will do is authorize our city to join the Northern Border Initiative Mutual Aid Agreement which is necessary to grant our patrol officers the authority to engage in law enforcement in other jurisdictions that are included which stretch all along the lakefront throughout Cuyahoga County. This is part of the Homeland Security Federal initiatives to address terrorism and other border issues. I'll note that of course this week we are coming up on the eighth anniversary of 9/11. Locally, what this essentially does is give Lakewood patrol officers the ability to engage in patrol of the lake on the water, in a watercraft. We wouldn't be able to do this financially or otherwise without engaging in the mutual aid agreement. The funding comes from the federal government and the only local cost, from my understanding, and Chief please speak to this if you'd like, are some training and some equipment needs. There are some officers that have already done some training so we are poised to start actual law enforcement patrols as soon as next month is my understanding.

Motion by Mr. Bullock, seconded by Mr. Dever, to receive and file the report.  
Motion adopted. All members voting yea.

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3. **ORDINANCE NO. 61-09** - AN ORDINANCE to take effect immediately provided it received the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, to authorize the Mayor to enter into an agreement between the Cities Lakewood, Cleveland, Euclid and Cuyahoga County for the interchange of public safety marine patrol services in support of the Northern Border Initiative. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE PUBLIC SAFETY COMMITTEE 7/20/09) (Pg. 8)

Motion by Mr. Dever, seconded by Mr. Bullock, to suspend, the rules requiring this ordinance be read on three separate days and placing Ordinance No. 61-09 on final reading.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Ordinance No. 61-09.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Ordinance No. 61-09 adopted.

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4. **ORDINANCE NO. 60-09** - AN ORDINANCE authorizing the grant of a Limited Easement to Lisa J. Roth, homeowner of the property located at 2093 Clarence Avenue, Lakewood, Ohio to maintain a fence encroaching on City property located at 13201 Madison Avenue, Lakewood, Ohio (Madison Park). (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE HOUSING COMMITTEE 7/20/09) (Pg. 10)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 60-09.  
Motion adopted. All members voting yea.

``\*\*\*\*NEW BUSINESS\*\*\*\*

5. Communication from Councilmember Antonio regarding Shingle Signs. (Pg.14)

Motion by Ms. Antonio, seconded by Ms. Madigan,, to receive and file the communication.

Motion adopted. All members voting yea.

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6. Communication from Councilmember Antonio regarding Railroad Companies' Use of Chemicals on Railroad Tracks. (Pg.16)

Motion by Ms. Antonio, seconded by Mr. Dever, to receive, file and refer the communication to the Health & Human Services Committee.

Motion adopted. All members voting yea.

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7. Communication from Mayor FitzGerald and Councilmembers Bullock and Butler regarding St. James Church . (Pg.17)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Committee of the Whole and the Planning Commission.

Motion adopted. All members voting yea.

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8. **RESOLUTION NO. 8365-09** – A RESOLUTION supporting St. James Catholic Church in Lakewood, Ohio, and the Friends of St. James Parish in their efforts to appeal from the decision to close the parish in 2010. (Pg. 19)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8365-09.  
Motion adopted. All members voting yea.

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9. **ORDINANCE NO. 62-09** – AN ORDINANCE to amend Chapter 1134, Historic Preservation Districts (HPD) and Historic Properties (HP), of the Zoning Code of the Codified Ordinances of the City of Lakewood to expand the scope of the chapter to public interior portions of buildings with unique historical value. (Pg. 21)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 62-09 on 1<sup>st</sup> Reading and refer it to the Committee of the Whole and the Planning Commission.

Motion adopted. All members voting yea.

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10. Communication from Councilmember Butler regarding Amending Section 506.04. (Pg. 36)

Motion by Mr. Butler, seconded by Ms. Madigan, to receive and file the communication.

There was discussion as to what other laws provide for leniency when addressing deadlines. Housing Codes laws were cited as providing for extenuating circumstances.

Motion adopted. All members voting yea.

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11. **ORDINANCE NO. 63-09** – AN ORDINANCE to amend Section 506.04, Exception, Registration and Fee, of the Codified Ordinances of the City of Lakewood to permit owners of dogs deemed dangerous under the preceding section an additional, limited opportunity to become compliant with the law without having to remove those dogs from the City. (Pg. 38)

Discussion was had regarding a request to have the ordinance passed in a timely fashion to allow the Administrative employee addressing appeals guidance.

Motion by Mr. Dever, seconded by Ms. Antonio, to suspend the rules requiring this ordinance to be read on three separate days.

Yeas: Antonio, Butler, Dever, Madigan, Summers

Nays: Bullock, Powers

Motion adopted. Rules suspended.

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Ordinance No. 63-09.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Summers

Nays: Powers

Motion adopted. Ordinance No. 63-09 adopted.

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{Without objection from Council the Public Comment Portion of the Meeting was addressed at this time – regarding RTA circulator}

12. Communication from Mayor FitzGerald regarding Consulting Services for a Cooperative Agreement for the Consolidation of Fire Services within the WCOG Communities. (Pg. 41)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the communication.  
Motion adopted. All members voting yea.

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13. **ORDINANCE NO. 64-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into a n agreement with the Westshore Council of Governments and Emergency Services Consulting International to provide consulting services to develop a cooperative agreement for the consolidation of fire services. (Pg. 42)

Motion by Mr. Dever, seconded by Ms. Antonio, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 64-09 on final reading.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers  
Nays: None  
Motion adopted. Rules suspended

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Ordinance No. 64-09.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers  
Nays: None  
Motion adopted. Ordinance No. 64-09 adopted.

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14. Communication from Law Director Hurley regarding Editing and Inclusion of Certain Ordinances and Resolutions Into the Codified Ordinances. (Pg.61)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the communication.  
Motion adopted. All members voting yea.

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15. **ORDINANCE NO. 65-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter. (Pg. 62)

Motion by Mr. Dever, seconded by Ms. Antonio, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 65-09 on final reading.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Ordinance No. 65-09.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Ordinance No. 65-09 adopted.

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16. Communication from Planning & Development Director Kelly regarding Updating and Enhancing the Citywide Parking Study. (Pg. 64)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the communication.

Motion adopted. All members voting yea.

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17. Communication from Planning & Development Director Kelly regarding EDF Support for 14701 Detroit, LLC – The INA and Baily Buildings. (Pg. 65)

Motion by Mr. Dever, seconded by Ms. Madigan to receive, file and refer the communication to the Committee of the Whole.

Motion adopted. All members voting yea.

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18. **ORDINANCE NO. 66-09** - AN ORDINANCE authorizing the Mayor or his designee to enter into an agreement with 14701 Detroit, LLC or its designee for participation in the Lakewood Business Investment Program (BIP) of the Economic Development Fund (EDF) for a seven (7) year loan in an amount of Two Hundred Thousand Dollars (\$200,000.00).(Pg. 67)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 66-09 on 1<sup>st</sup> Reading and refer it to the Committee of the Whole.

Motion adopted. All members voting yea.

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19. Communication from Planning & Development Director Kelly regarding Acceptance of 2070 Dowd from the Center for Families and Children. (Pg.69)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Housing Committee.

Motion adopted. All members voting yea.

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20. **ORDINANCE NO. 67-09** - AN ORDINANCE authorizing the Director of Planning and Development to enter into an agreement with the Center for Families and Children to accept title to real property located at 2070 Dowd Street, Lakewood, Ohio (Permanent Parcel No. 315-23-199) and allowing the Center for Families and Children to share in the proceeds of the sale of the property in the event that the property is sold. (Pg. 70)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 67-09 on 1<sup>st</sup> Reading and refer it to the Housing Committee.

Motion adopted. All members voting yea.

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21. Communication from Finance Director Pae regarding Chapter 129.59 Vital Statistics Fees. (Pg. 71)

Motion by Mr. Dever, seconded by Ms. Antonio, to receive and file the communication.

Motion adopted. All members voting yea.

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22. **ORDINANCE NO. 68-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law establishing Chapter 129.59, Vital Statistics Fees, of the Codified Ordinances of the City of Lakewood for the purpose of charging fees for Vital Statistics per chapter 3705 and 3109 of the Ohio Revised Code. (Pg. 72)

Motion by Mr. Dever, seconded by Ms. Madigan, to suspend the rules requiring this ordinance to be read on three separate days and placing Ordinance No. 68-09 on final reading.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Butler, seconded by Mr. Dever to amend Ordinance No. 68-09 by replacing the words "chapter" in the preamble and in Section 1 with the word "section", capitalize the word, "department" in the second to the last line on page 72 and lowercase the word "ordinance" in that same sentence, change the first "section 3" to "Section 2.

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Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers  
Nays: None  
Motion adopted. Ordinance amended.

Motion by Mr. Butler, seconded by Ms. Madigan, to adopt Ordinance No. 68-09

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers  
Nays: None  
Motion adopted. Ordinance No. 68-09 adopted as amended.

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23. Communication from Finance Director Pae regarding September 2009 Appropriations Ordinance. (Pg.74)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Finance Committee.

Motion adopted. All members voting yea.

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24. **ORDINANCE NO. 69-09** – AN ORDINANCE to take effect immediately provided it received the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law to establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2009. (Pg.75)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 69-09 on 1<sup>st</sup> Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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25. Communication from Finance Director Pae regarding 2009 3<sup>rd</sup> Quarter Transfers. (Pg.83)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Finance Committee.

Motion adopted. All members voting yea.

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26. **ORDINANCE NO. 70-09** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law to authorize the transfer and advance of certain funds. (Pg. 84)

Motion by MR. Dever, seconded by Ms. Madigan, to place Ordinance No. 70-09 on 1<sup>st</sup> Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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27. Communication from Finance Director Pae regarding Memberships for 2009. (Pg. 85)

Motion by Mr. Dever, seconded by Ms. Antonio, to receive and file the communication.

Motion adopted. All members voting yea.

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28. **ORDINANCE NO. 90-08A** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, amending Ordinance 90-08A, adopted December 22, 2008 for the purpose of adding American Planning Association, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for **Memberships** as authorized by the 2009 Appropriation Ordinance and the Administrative Code of the City of Lakewood, contracts not to exceed \$60,000 without separate Resolution of Council. (Pg. 86)

Motion by Mr. Dever, seconded by Ms. Antonio, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 90-08A on final reading.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Ordinance No. 90-08A.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Ordinance No. 90-08A adopted.

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29. Communication from Finance Director Pae regarding 2009 Planning & Development Ordinance. (Pg. 93)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the communication.

Motion adopted. All members voting yea.

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30. **ORDINANCE NO. 91-08B** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, amending Ordinance 91-08A, adopted April 20, 2009 for the purpose of adding the Lakewood Christian Service Center, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into service contracts in accordance with the Administrative Code of the City of Lakewood for the **Division of Planning & Development** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (Pg. 94)

Motion by Mr. Dever, seconded by Ms. Antonio, to suspend the rules requiring this ordinance to be read on three separate days and placing Ordinance No. 91-08B on final reading.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Ordinance No. 91-08B.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers

Nays: None

Motion adopted. Ordinance No. 91-08B adopted.

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31. Communication from Finance Director Pae regarding Lakewood Kiwanis Donation for Soundboard. (Pg. 97)

Motion by Mr. Dever, seconded by Ms. Antonio, to receive and file the communication.

Motion adopted. All members voting yea.

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32. **RESOLUTION NO. 8366-09** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, authorizing the Director of Finance to accept, on behalf of the City of Lakewood, a donation from the Lakewood Kiwanis of two thousand five hundred thirty dollars (\$2,530) to fund the purchase of a sound board and travel case to allow the City of Lakewood to continue having this equipment available for public events. (Pg. 98)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8366-09.  
Motion adopted. All members voting yea.

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33. Communication from Police Chief Malley regarding Northern Ohio Violent Fugitive Task Force. (Pg. 100)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the communication.  
Motion adopted. All members voting yea.

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34. **RESOLUTION NO. 8367-09** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, authorizing the Mayor (Director of Public Safety) or his designee to enter into an agreement with the US Marshalls Service for participation in a Regional Fugitive Task Force to accept reimbursement for employee wages and expenses and to accept a vehicle and equipment valued at approximately \$25,000 for the Fiscal Year 2009. (Pg. 101)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8367-09.  
Motion adopted. All members voting yea.

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35. Communication from Human Services Director Buckon regarding Influenza A (H1N1) Virus (Pg. 103)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive and file the communication.  
Motion adopted. All members voting yea.

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36. Liquor Permit Application for New C1, C2, and D6 classes to Walgreens; 14815 Madison Avenue. (Pg. 105)

Motion by Mr. Bullock, seconded by Mr. Dever, to file no objection to this liquor permit application.

Motion adopted. All members voting yea.

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37. Liquor Permit Application for New C1, C2 and D6 classes to Walgreens, 11701 Detroit Avenue. (Pg.106)

Motion by Mr. Bullock, seconded by Mr. Dever, to file no objection to this liquor permit application.

Motion adopted. All members voting yea.

\*\*\*\*\*END OF AGENDA ITEMS\*\*\*\*\*

Motion by Mr. Dever, seconded by Ms. Madigan, to adjourn.  
Motion adopted. All members voting yea.  
Meeting adjourned 10:23 PM.

Approved: \_\_\_\_\_

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CLERK

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PRESIDENT