

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
JULY 18, 2016
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:34 PM by Council President O'Leary.

Present: David Anderson, Thomas R. Bullock III, John Litten, Cindy Marx, Ryan Nowlin, Samuel T. O'Leary, Daniel J. O'Malley .

Motion adopted. All members voting yea.

Also Present: Mayor Summers, Law Director Butler, Finance Director Pae, Public Works Director Beno, Police Chief Malley, Human Services Director Gelsomino, Assistant Director for Planning & Development Sylvester, approximately 60 members of the public (approximately 25 exited after items 11 & 12 read first in agenda order having received parade awards), members of the media.

Reading & disposal of the minutes of the Regular Meeting of Council held July 5, 2016. Motion by Mr. O'Leary. Seconded by Mr. Anderson, to approve the minutes without the necessity of a reading.

Motion adopted. All members voting yea.

{Without objection items 11 & 12 were read first in agenda order}

*******OLD BUSINESS*******

1. Committee of the Whole Report regarding July 18, 2016 Committee of the Whole Meeting. Mr. O'Leary; Chair. (Report to Be Provided)

Committee of the Whole met last week, we had with us Thompson and Hine's managing partner, Debra Read. Debra Read gave us extensive background information on formation, governance, and set up and programming of non-profits throughout our community as well as conceptually. Councilmembers had the opportunity to engage and ask questions. We will continue to work through the

issues that were raised there as we go about the work of appointing the Foundation Planning Task Force. Move to receive and file that oral report.

Councilmember Bullock communicated that while he was unable to attend the meeting that he watched a recording of it. He expressed agreement with Ms. Read's preference for the Foundation to take a broad focus.

Motion by Mr. O'Leary, seconded by Mr. Anderson, to receive and file the oral report.

Motion adopted. All members voting yea.

2. Finance Committee Report regarding Ordinance 43-15A. Mr. Bullock; Chair. (Report to Be Provided)

The Finance Committee met tonight and discussed two items. One was proposed ordinance 43-15A. The Finance Committee recommended adoption on second reading which would add \$150,000 in contracting authority capacity to the same projects we have already deliberated upon and approved as part of our 2015 budget deliberations for the 2016 budget year. The reason is to add capacity for contingency. Construction projects need approximately 10% for potential unanticipated circumstances. We know we have sufficient funds appropriated to accommodate this additional contracting authority. The Finance Committee agreed with that recommendation. Due to the time sensitivity of that project and the fact that Council will not meet in August we also recommended to suspend the rules and adopt tonight.

The second item we discussed was our ongoing development of a council priorities budget process. That will be planned to continue next Monday July 25th. That will be an ongoing discussion and I look forward to councilmembers' feedback on that. Move to receive and file.

Motion by Mr. bullock, seconded by Mr. O'Leary, to receive and file the oral report.

Motion adopted. All members voting yea.

3. **ORDINANCE 43-15A** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Ordinance No. 43-15, adopted December 21, 2015, authorizing and directing 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 advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the

City of Lakewood for **C.D.B.G. Fund Infrastructure Improvements** in accordance with the administrative code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (1ST READING, REFERRED TO FINANCE COMMITTEE 7/5/16) (Pg. 5)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to suspend the rules requiring this Ordinance 43-15A to be read on three separate days and placing Ordinance 433-15A on final reading.

Yeas: Anderson, Bullock, Litten, Marx, Nowlin, O’Leary, O’Malley

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Ordinance No. 43-15A.

Yeas: Anderson, Bullock, Litten, Marx, Nowlin, O’Leary, O’Malley

Nays: None

Motion adopted. Ordinance 43-15A adopted.

Councilmember Anderson expressed appreciation to Director Beno for providing detail on the projects via email and in Committee of the Whole.

4. Public Safety Committee Report regarding Resolution 8878-16. (To Be Provided) Mr. O’Malley Chair.

Public Safety Committee met this evening. The sole item on the agenda was discussion of Resolution 8878-16. The State legislature passed and the Governor signed into law making it permissible to use marijuana for medical purposes. This Resolution was introduced to allow for a moratorium not to exceed 6 months allowing us to determine the best way forward in terms of a potential regulation. The legislature gave municipalities a great deal of latitude in determining how they would implement or indeed outright ban cultivation or sale within their own cities. We were joined by Director Butler who provided a very helpful overview of the new law and by Chief Malley as well. We determined that a short period of time to discuss the best public policy on this matter was reasonable and recommended adoption of the Resolution.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to receive and file the oral report.

Motion adopted. All members voting yea.

5. **RESOLUTION NO. 8878-16** –A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, to impose a moratorium on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed six months from the effective date of this resolution, in order to allow Council and the Lakewood Planning Commission to review applicable Ohio statutes, criminal codes and the Lakewood Zoning Code relative to such use. (REFERRED TO PUBLIC SAFETY COMMITTEE 7/5/16) (Pg. 7)

Discussion:

Councilmember O’Malley remarked that he followed this issue as it moved through the legislative process in Columbus and was moved by the testimony presented. He expressed support for a reasonable amount of time to determine the best implementations strategy.

Councilmember O’Leary expressed optimism for the opportunity to explore this issue further and find the right balance for Lakewood.

Councilmember Anderson reminded Council that it is not out of the ordinary for the City to impose a temporary moratorium when there is a new proposed use of property.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Resolution 8878-16. Motion adopted. All members voting yea.

6. Rules and Ordinances Committee Report regarding Ordinance 32-16. Mr. Litten, Chair. (Report to Be Provided)

The Rules & Ordinances Committee met on July 5th with one agenda item, which was Ordinance 32-16 regarding moving provisions of Chapter 1722 of the Sanitary Code Location of Swimming Pools to the Zoning Code which would allow residents to apply for a variance where they are currently unable to do so. After a brief discussion on the mechanics of such a move, the Committee agreed to recommend adoption on third reading pending the decision of the Planning Commission. Move to receive and file.

Motion by Mr. Litten, seconded by Mr. O’Leary, to receive and file the oral report. Motion adopted. All members voting yea.

7. **ORDINANCE NO. 32-16** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Section 1722.01, Location of Family Pools, Section 1121.10, Additional Accessory Structure Regulations, and Section 1123.10, Additional Accessory Structure Regulations, of the Codified Ordinances of the City of Lakewood, in order to provide for the regulation of the location of family swimming pools within the Zoning Code. (1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 6/20/16, 2nd READING 7/5/16)(Pg. 9)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to defer Ordinance 32-16.
Motion adopted. All members voting yea.

8. Liquor Permit Application for D5 transfer to YUZU, 13603 Madison Avenue from Bonnie and Clydes same address. (DEFERRED 7/5/16) (Pg. 13)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to file without objection.
Motion adopted. All members voting yea.

******NEW BUSINESS******

9. Communication from Councilmember Bullock regarding Enumerating costs to Lakewood taxpayers of defending hospital lawsuit. (Pg. 14)

Tom Monahan – 1487 Waterbury Rd

Mr. Monahan responded to the Councilman’s letter and critiqued its premise and assumptions. He explained Save Lakewood Hospital’s motivation for the lawsuit and why it was limited to five plaintiffs. He defended his right to use the legal system. He stated that Council is the cause of money being wasted because it is choosing to fight Lakewood citizens. He criticized the motivations of Councilmember Bullock.

Ed Graham – 1286 Chase

Mr. Graham accused LHA of improper spending for political purposes. He spoke about bid rigging and accused the City of this activity. He characterized Save Lakewood Hospital’s lawsuit as an attempt by good people to counteract evil and theft by Council.

Councilmember Bullock responded to public comment. He argued that the master agreement preserves healthcare services and the alternative was no services. He explained that Council's choices were to do something or to end up with nothing. He acknowledged that the decision was painful but that it preserved money and services and that it was a market-driven decision. He defended the spirit of his docket letter. He noted that the citizen lawsuit bears a cost that not all citizens agreed to. He remarked that the voting electorate is the appropriate body to settle public policy debates and not a judge. He expressed hope that the administration can identify the amount of money spent.

Judy Gillespie – 23003 Chandler's Lane Olmsted Falls

Ms. Gillespie asked Councilmember Bullock to consider retracting his communication. She discussed the idea of finger pointing and criticizing others.

Councilmember O'Malley asked Councilmember Bullock for clarification on his reference to compensation for taxpayers.

Councilmember Bullock responded that he is interested in knowing if the plaintiffs could be responsible for paying all the legal costs rather than the taxpayers. He remarked on the climbing costs of the lawsuit. He stated that an election is the appropriate place for a community to express its collective will and that there was never an election to decide about whether or not to engage in this lawsuit.

Law Director Butler declined to share his views on recouping costs because this would/could be part of the legal strategy. He shared figures related to Edward Graham v. City of Lakewood lawsuit. He clarified that his figures exclude costs related to the Skindell v. Madigan suit and also exclude the administration's time responding to related public records requests.

The City has spent \$125,148 on outside counsel related to the suit. Director Butler estimated that \$19,000 - \$20,000 of his salary has been put towards efforts related to the lawsuit. He stated that he can't estimate future spending because it is unknown when the lawsuit will come to a close.

Councilmember Anderson expressed appreciation for the update, noting that it is important for budgetary considerations.

Motion by Mr. Bullock, seconded by Mr. O'Leary, to receive and file the communication.

Motion adopted. All members voting yea.

10. Communication from Councilmember Marx regarding Fitbits. (Pg.15)

Councilmember Anderson reminded everyone that the FitBits are no cost to the taxpayers because they are funded by a grant and from their sale to employees.

Councilmember O'Leary expressed enthusiasm for continuing and expanding the program.

Director Pae stated that she will introduce an ordinance to increase the contracting authority for FitBits.

Motion by Ms. Marx, seconded by Mr. O'Leary, to receive and file the communication.

Motion adopted. All members voting yea.

11. Communication from Mayor Summers regarding 2016 Grand Marshal of the 4th of July Parade Rear Admiral Janet Russell Donovan. (Pg.16)

Motion by Mr. O'Leary, seconded by Mr. Anderson, to receive and file the communication.

Motion adopted. All members voting yea.

Mayor Summers recognized the winners of July 4th parade awards and distributed plaques.

12. RESOLUTION NO. 8879-16 – A RESOLUTION to thank Rear Admiral Janet Russell Donovan for participating as the 2016 Grand Marshal in the City of Lakewood 4th of July Parade. (Pg.17)

Mayor Summers explained Rear Admiral Donovan's leadership achievements and the work she completed to reach her rank. He remarked on the great spirit she brought to the parade.

Motion by Mr. O'Leary, seconded by Mr. Anderson, to adopt Resolution 8879-16.

Motion adopted. All members voting yea.

13. Communication from Finance Director Pae regarding 2016 3rd Quarter Transfers and Advances. (Pg.18)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to receive and file the communication.

Motion adopted. All members voting yea.

14.**ORDINANCE NO. 33-16** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the transfer and advance of certain funds. (Pg.19)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to refer Ordinance 33-16 to the Finance Committee.

Motion adopted. All members voting yea.

15.Communication from Law Director Butler regarding Update to contractor insurance requirements. (Pg. 21)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to receive and file the communication.

Motion adopted. All members voting yea.

16.**ORDINANCE NO. 34-16** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to establish minimum coverage limits and fees required under various sections of the Lakewood Codified Ordinances related to insurance. (Pg. 22)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to refer Ordinance 34-16 to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

17.Communication from City Planner Russell regarding \$1,200 Donation from The Friends of Kauffman Park. (Pg. 24)

Councilmember O’Leary recognized that this is the second recent community based donation to Kauffman Park. He expressed enthusiasm for the community sponsored improvements.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to receive and file the communication.

Motion adopted. All members voting yea.

18. Communication from City Engineer Papke regarding Council Resolutions – CUY-Lakewood Heights Blvd. PID 100257. (Pg. 25)

Councilmember O’Leary clarified that the project is not new but the ability to get the funds approved is what is before council tonight.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to receive and file the communication.

Motion adopted. All members voting yea.

19. RESOLUTION NO. 8880-16 – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, appropriating \$394,070.00 and authorizing the Mayor to enter into an agreement which will allow the City of Lakewood to participate in the resurfacing of Lakewood Heights Boulevard from Chesterland Avenue to Alger Avenue in the Cities of Lakewood and Cleveland with the Ohio Department of Transportation. (Pg.26)

Councilmember O’Leary clarified that the project is not new but the ability to get the funds approved is what is before council tonight.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Resolution 8880-16.

Motion adopted. All members voting yea.

20. RESOLUTION NO. 8881-16 – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into a cooperative agreement with the City of Cleveland for the resurfacing of Lakewood Heights Boulevard from Chesterland Avenue to Alger Avenue in the Cities of Lakewood and Cleveland with the assistance of the Ohio Department of Transportation. (Pg. 45)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Resolution 8881-16.

Motion adopted. All members voting yea.

21. Liquor Permit Notice for a New C1 class to Food & Fancy Store LLC, 13702 Madison Avenue. (Pg. 53)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to file without objection.
Motion adopted. All members voting yea.

****PUBLIC COMMENT****

Tom Monahan - 1487 Waterbury Rd

Mr. Monahan asked that Council consider putting forth a resolution to show support for the Dallas, Baton Rouge, Cleveland, and Lakewood Police Departments. He asked for a resolution to memorialize the Glenville shootout in Cleveland.

Coletta Graham – 1286 Chase

Mrs. Graham expressed thanks to Director Beno getting debris cleared and a tree on Manor Park cut down. She asked how many homes have been rented for the RNC. She expressed fury over the communication sent in the water bill, stating that it is propaganda.

Mayor Summers responded that at least 9 homes have been rented in advance of the RNC. Mayor Summers defended the use of the water bill as a way to communicate to residents. He explained that the cost is about \$200 and there is no additional postage cost.

****ANNOUNCEMENTS****

Councilman O’Leary announced that the auditorium will have enhanced AV and technological changes in September.

Councilman Anderson thanked LPD for its help policing the Republican National Convention while also caring for Lakewood residents. He expressed hope that the RNC week would be peaceful.

Mayor Summers wished Council a good break and mentioned some of the work ahead for the fall.

Director Gelsomino announced the H2O Fundraiser at Around the Corner tomorrow night.

Motion by Mr. O'Leary, seconded by Mr. Anderson to adjourn.

Meeting adjourned at 8:50 PM.

Approved: _____

CLERK

PRESIDENT