

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
JULY 5, 2016
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:30 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 20 members of the public, members of the media.

Reading & disposal of the minutes of the Regular Meeting of Council held June 6, 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.

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

1. Committee of the Whole Report regarding July 5, 2016 Committee of the Whole Meeting. Mr. O'Leary; Chair. (To Be Provided)

Mr. O'Leary indicated the Committee met earlier and discussed the proposed Third Amended Charter and reaching consensus for not placing the item on the ballot in the Fall. The Committee also discussed the Foundation Planning Task Force and scheduled a meeting July 12, 2016 to meet with Debbie Read of Thompson Hine.

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

Motion adopted. All members voting yea.

2. **ORDINANCE NO. 25-16** – 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, determining to proceed with the improvement of the shoreline abutting The Meridian Condominium, 12550 Lake Avenue, by the construction and installation of a revetment on the northerly property line by Lake Erie and including any and all appurtenances thereto. (1st READ & REFERRED TO THE FINANCE COMMITTEE 5/2/16, 2ND READING 5/16/16, RECOMMENDED FOR ADOPTION & DEFERRED 6/6/16) (Pg. 5)

Rose Mohr -12550 Lake Ave
Full remarks are attached.

Jay Cusimano – 50 Public Square, Cleveland

Mr. Cusimano thanked the City for its participation to get the project moving forward. He noted that state law and the City charter have been followed in the process. He referenced relevant sections of state law. He noted that 67% of Meridian ownership has signed a petition in support of the project. He remarked that the Meridian is not trying to restore lost shoreline; rather, it is trying to stop the loss of additional shoreline.

Gabriella Kaplan -12550 Lake Ave

Dr. Kaplan expressed strong objection to the ordinance and the proposed revetment project. She asserted that the proposed revetment will not save the cliff because it has not been properly designed. She noted that 52 Meridian residents oppose the project and that expert testimony supports her statements. She references a legal opinion that she sought which states that Ordinance 25-16 is illegal and an abuse of power.

John Matricardi – Director of Coastal Engineering, KS Associates, Elyria

Mr. Matricardi spoke in favor of the cliff revetment project that he designed. He noted that the project has been approved by the Army Corps and ODNR. In response to the remarks of Dr. Kaplan, he stated that no great lakes state has outlawed stone revetments. He also responded to her charges that he is unqualified to design such a revetment. He discussed the breadth of his work and his qualifications.

Director Butler corrected the record, stating that in his response to Dr. Kaplan's lawyer he did not assert that condo owners voted. He wrote that they petitioned.

Councilmember Bullock remarked that any conflict about this project is among condo owners and not between owners and the City. He noted that the extent of the City's involvement is as the project's financial agent. He noted that the condo's elected leadership has made a decision to go forward with the project and the City is interested in helping to facilitate the project. He questioned the expectation that council ignore the two-thirds majority of owners who signed a petition in favor of the project. He stated that the Finance Committee held a thorough meeting with a lot of public input and that he feels comfortable supporting the project.

Councilmember O’Leary remarked that Council has extensively debated this topic and that he is entirely satisfied with the City’s role as fiscal agent as well as the other logistical considerations of the project. He is satisfied with the sufficiency of the petitions and is convinced that residents who signed them were expressing their support for the project.

Councilmember Anderson remarked that Council has done its due diligence on this issue. He cited other examples where the City helped to finance improvement projects. He expressed appreciation for the process and for the members of the public who have participated in it. He voiced support for the project and the ordinance.

Councilmember O’Malley remarked that petitioners made clear their support for the project when they signed. He stated that he is satisfied with the project design and the review conducted by the Public Works Department. He noted that many of the outstanding issues should be decided privately. He noted that the City has a public interest in protecting its shoreline which this project accomplishes. He noted that similar projects may be considered in the future.

Director Butler indicated the substitute was not substantive.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to substitute Ordinance 25-16.

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

Nay: None

Motion adopted. Ordinance 25-16 substituted.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Ordinance No. 25-16 as substituted.

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

Nay: None

Motion adopted. Ordinance 25-16 adopted as substituted.

3. **ORDINANCE NO. 26-16** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, 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 the **Meridian Condominium Special Assessment Revetment Project** 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 READ & REFERRED TO THE FINANCE COMMITTEE 5/2/16, 2ND READING 5/16/16, RECOMMENDED FOR ADOPTION & DEFERRED 6/6/16) (Pg. 8)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Ordinance 26-16.

Motion adopted. All members voting yea.

4. **ORDINANCE NO. 31-16** – 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, to approve the editing and inclusion of certain ordinances as parts of the various component codes of the Codified Ordinances to provide for the publication of such new matter. (1ST READING 6/6/16, 2ND READING 6/20/16) (Pg. 10)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Ordinance 31-16. Motion adopted. All members voting yea.

5. **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)(Pg. 12)

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

6. Civil Service Commission Biennial Report regarding recommendations for Council/Mayor salaries. (Pg. 16)

Judy Gillespie – 23003 Chandlers Lane, Olmsted Falls

Ms. Gillespie asked about the population of Lakewood cited in the documents. She questioned why the number was lower than what was previously cited.

Councilmember O’Leary directed Ms. Gillespie to the Census Bureau.

Director Butler advised Council that the Charter suggests that council accept, reject, or make modifications to the recommendations of the Civil Service Commission but that it is not bound by law to do so.

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

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

7. Communication from Mayor Summers regarding Clean Water Act Compliance. Bob Greytak of CT Consultants Presentation. (Pg. 44)
{44 page Integrated Wet Weather Improvement Plan -presentation attached)

In response to questions by Council, Mr. Greytek made the following points:

- The March 2019 deadline for the final Integrated Wet Weather Improvement Plan is firm but the timelines within the final plan are negotiable. Implementation of the plan will be much longer term.
- There are currently 68 combined sewer overflows in the City. It is not known how many CSOs there were originally. Over the years, some have been remediated in the course of construction and repair. Last year, an early action project eliminated 10 CSOs to the EPA's satisfaction.
- This has been the most exhaustive investigation of the sewer system that the city has ever taken.
- Developers have been willing to add bio-swales on their own because they are attractive and add value to properties.
- The City does collect and treat 90% of the water entering the system.
- The Clean Water Task Force served the City well and was truly engaged.

Councilmember Anderson pointed to two bio-swales as examples of how the City has compelled private entities to bring storm water control measures into their developments without legislation. He also pointed out that re-development offers additional opportunities to reduce runoff through the addition of pervious pavement and other features.

Councilmember Marx acknowledged the Mayor, the Clean Water Task Force, and the administration for their work. She remarked on the high quality of the work done by the task force. She remarked on the monumental task ahead.

Councilmember Bullock remarked on the importance of clearly communicating about the City's water issues to the public. He provided examples of messages that might resonate. He recommended putting the issue in perspective to the size of Foster Pool. He credited Rep. Kaptur for securing funds for the Madison Park bio-swales and to Public Works for identifying the need. He remarked on

the outstanding questions of how to pay for the needed upgrades and how construction will be coordinated.

Councilmember O’Leary asked councilmembers to send questions about this topic to the Clerk in advance of the next Committee of the Whole.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to receive, file and refer the presentation to the Committee of the Whole.

Motion adopted. All members voting yea.

8. Communication from Mayor Summers regarding appointments to the Lakewood Community Relations Advisory Commission. (Pg. 45)

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

Motion adopted. All members voting yea.

9. Communication from Finance Director Pae regarding Capital Contracting Authority – CDBG. (Pg.46)

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

Motion adopted. All members voting yea.

10. **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. (Pg. 47)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to reFer Ordinance 43-15A to the Finance Committee.

Motion adopted. All members voting yea.

11. Communication from Law Director Butler regarding Moratorium on cultivation, processing, or retail sale of medical marijuana. (Pg. 49)

Discussion:

Councilmember Anderson thanked Director Butler for following up on this so that Council can debate the issue.

Councilmember O’Leary asked if the proposed Resolution would have any impact beyond the effective date of the state law in September.

Director Butler replied that the state has decided in this case to allow municipalities the opportunity to further regulate the use of medical marijuana. Some municipalities have already adopted zoning regulations to zone medical marijuana out of existence.

In response to a question by Councilmember O’Malley, Director Butler clarified that without legislation, the City could not prohibit a person from opening up a medical marijuana establishment in September, provided that the proposed establishment does not violate state codes.

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

Motion adopted. All members voting yea.

12. 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. (Pg. 50)

Motion by Mr. O’Leary, seconded by Mr. O’Malley, to receive, file and refer Resolution 8878-16 to the Public Safety Committee .

Motion adopted. All members voting yea.

13.Communication from City Planner Russell regarding Lakewood Garden Club donation - Gateway to Kauffman Park. (Pg.52)

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

Motion adopted. All members voting yea.

14.Liquor Permit Application for A New D1 classification to Namaste India Garden; 14412 Detroit. (DEFERRED 6/20/16)(Pg. 53)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to file without objection.

Motion adopted. All members voting yea.

15.Liquor Permit Application for D1, D3, D3A and D6 transfers to El Torito Taqueria Bar and Grill; 1572 West. 117th from Mober Group; same address. (Pg.54)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to file without objection.

Motion adopted. All members voting yea.

16.Liquor Permit Application for D5 transfer to YUZU, 13603 Madison Avenue from Bonnie and Clydes same address. (Pg. 55)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to defer.

Motion adopted. All members voting yea.

******PUBLIC COMMENT******

Coletta Graham – 1286 Chase Ave

Mrs. Graham complained about construction materials laying on Merl Ave for several months with nothing being done to remediate the situation. She complained about traffic issues caused by school pickups and drop offs. She complained about a tree laying adjacent to the railroad tracks for over one month. She complained about vacant storefronts at 13415 and 13427 Madison Ave that look bad.

Mayor Summers replied that the school traffic patterns have ended. Students will return to Lincoln school. He also explained that the tree in question is on private property and that the owner is in dispute with Norfolk Southern about the issue.

Director Beno replied that the construction material will remain in place for several months until the sidewalk construction is completed.

Judy Gillespie – 23003 Chandler’s Lane Olmsted Falls

Ms. Gillespie complained about the presentation made by Dr. Welsh at the last council meeting. She expressed concern that the public was not acknowledged and she felt disrespected.

Gabriella Kaplan – 12550 Lake

Dr. Kaplan expressed disapproval with council’s decision to pass ordinances 25-16 and 26-16. She criticized the emphasis on the City sewers and stated that climate change will ultimately cause evaporation of Lake Erie and so revetments will be unnecessary.

Councilmember Bullock responded to Dr. Kaplan. He countered that global warming will increase the intensity of storms thereby increasing erosion. He remarked that the City needs to protect the Lake using multiple strategies including correcting our sewers.

*******ANNOUNCEMENTS*******

Councilmember O’Leary acknowledged the successful July 4th celebration and thanked all who were involved in it.

Summer Meltdown is this Saturday. Front porch concerts kicked off.
Motion by Mr. O’Leary, seconded by Mr. Anderson to adjourn.

Meeting adjourned at 9:36 PM.

Approved:_____

CLERK

PRESIDENT