

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
APRIL 3, 2017
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:35 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.

Also Present: Mayor Summers, Law Director Butler, Finance Director Pae Fire Chief Gilman, Police Chief Malley, Health & Human Services Director Gelsomino, Planning & Development Director Sylvester, Human Resources Director Yousefi, approximately 11 members of the public, members of the media.

Reading & disposal of the minutes of the Regular Meeting of Council held March 20, 2017.

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 April 3, 2017 Committee of the Whole Meeting. Mr. O’Leary; Chair. (To Be Provided)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to defer action on this item.

Motion adopted. All members voting yea.

2. Rules & Ordinances Committee Report regarding Ordinance 59-16. & Communication regarding Overlook Park Neighborhood Sign Project. Mr. Litten; Chair. (To Be Provided)

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

3. **ORDINANCE NO. 59-16** - 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, enacting Chapter 904, Use of Public Ways by Service Providers; creating Section 901.22, Conflict with Use of Public Ways Chapter; and amending Section 903.09, Sidewalk Permit, of the Codified Ordinances of the City of Lakewood. (**PLEASE SUBSTITUTE** for ORDINANCE NO. 59-16 First Read & Referred to the Rules & Ordinance’s Committee 12/19/16, 2ND READING 1/3/17, DEFERRED 1/17/17, 2/6/17 and 3/6/17) (Pg. 5)

Kevin Lynch – External Affairs Director AT&T

Mr. Lynch distributed a letter expressing AT&T’s opposition to the ordinance, stating that the ordinance is overly burdensome to AT&T and will negatively affect its projects. He questioned AT&T’s ability to comply with the requirements of the ordinance and stated that it would stall investments and the deployment of 5G technology to residents. He characterized the ordinance as one of the most restrictive in the state. He asked Council to please reconsider the ordinance and take it off tonight’s agenda.

Director Butler responded that the City remains committed to working cooperatively with all utilities working in the public right of way as these regulations go into effect. He noted that Bill Hanna of Walter Haverfield is present to answer questions.

Councilmember Anderson asked Mr. Hanna to remark on AT&T’s characterization of the ordinance as one of the most restrictive in the State.

Director Butler remarked that he is aware of local legislation that is more detailed and asks more of the utilities than this ordinance. He remarked that it is unfair to characterize Lakewood’s ordinance as the most burdensome statewide.

Mr. Hanna remarked on the matter, stating that many communities do not exercise their authority to regulate the right of way. He noted that while Lakewood’s proposed ordinance is comprehensive, Cleveland Heights and Painsville have more burdensome ordinances. He added that Ordinance 59-16 has been modified since its introduction to accommodate concerns expressed by the utilities.

Mayor Summers remarked that Lakewood is unique and so comparisons to other communities aren't necessarily relevant. He noted that he, Director Beno, and AT&T engineers are meeting tomorrow to figure out how to work within the new regulations.

Councilmember O'Leary expressed agreement with the Mayor. He took issue with AT&T's characterization of the Ordinance as overly burdensome and criticized AT&T for lobbying the state legislature to achieve a great deal of overreach that violates local home rule authority.

Councilmember Anderson emphasized that the substitute ordinance incorporates changes that were made in response to concerns of the utilities during an extended collaborative committee process.

Councilmember O'Leary responded to AT&T's claim that it would divest in Lakewood, noting that doing so would go against the wishes of customers throughout the region who expect consistent coverage.

Motion by Mr. O'Leary, seconded by Mr. Anderson, to substitute Ordinance 59-16.

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

Nays: None

Motion adopted. Ordinance 59-16 substituted.

Motion by Mr. O'Leary, seconded by Mr. Anderson, to adopt Ordinance 59-16 as substituted.

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

Nays: None

Motion adopted. Ordinance 59-16 adopted as substituted.

4. **ORDINANCE 45-16A** – 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, to amend Ordinance No. 45-16, adopted December 19, 2016 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 2017 Appropriation Ordinance and the Administrative Code of the City of Lakewood, contracts not to exceed \$60,000 without separate Ordinance of Council. (1ST READING & REFERRED TO THE FINANCE COMMITTEE 3/6/17, READ, 2ND READING REPORTED OUT ON & RECOMMENDED FOR ADOPTION 3/20/17)(Pg. 39)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Ordinance 45-16A.
Motion adopted. All members voting yea.

5. **ORDINANCE NO. 18-17** – AN ORDINANCE authorizing the Mayor on behalf of the City of Lakewood to enter into agreements necessary to grant three Exclusive Easements to The Ohio Bell Telephone Company, d/b/a AT&T Ohio, for placement of and access to equipment used in the transmission of signals used in the provision of communication, video and/or information services on property located at 14740 Lakewood Heights Boulevard, Lakewood, Ohio (PPN 314-13-060); 13029 Madison Avenue, Lakewood, Ohio (315-20-003); and 14601 Detroit Avenue, Lakewood, Ohio (314-04-020) (READ & REFERRED TO THE PUBLIC WORKS COMMITTEE 3/20/17) (Pg. 46)

Councilmember Nowlin announced that the Public Works Committee will meet next Monday to discuss this ordinance.

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

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

6. Communication from Council President O’Leary and Councilmember Marx regarding Amending Chapter 146.04 – Animal Safety Welfare Advisory Board. (Pg. 56)

Councilmember Anderson expressed appreciation for the proposed change, stating that it will empower the Board more.

Council deliberated about which Committee to refer the matter.

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

Motion adopted. All members voting yea.

7. **ORDINANCE NO. 19-17** – AN ORDINANCE amending Section 146.04, Advisory; Reports, of the Codified Ordinances of the City of Lakewood to further clarify the role and duties of the Lakewood Animal Safety and Welfare Advisory Board. (Pg.57)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to refer Ordinance 19-17 to the Public Safety Committee.

Motion adopted. All members voting yea.

8. Communication from Mayor Summers regarding Resolution Opposing Centralized Net Profit Return Collection in HB 49. (Pg. 59)

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

Motion adopted. All members voting yea.

9. **RESOLUTION NO. 8926-17** 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, strongly opposing the State of Ohio Governor’s proposed 2017-2018 Budget (House Bill 49), which proposes centralized collection of net profit tax returns and other provisions related to the municipal income tax which will cause a substantial loss of revenue needed to support the health, safety, welfare and economic development efforts of Ohio municipalities. (Pg. 60)

Councilmember Anderson expressed support for the communication and speculated that the State will continually increase income tax collection fees if municipalities lose control of this function.

Councilmember O’Leary expressed enthusiastic support for the Resolution. He remarked that this proposal could systemically hurt Lakewood year after year and should be regarded as a real threat.

Councilmember O’Malley applauded Mayor Summers for raising this issue and for testifying in Columbus.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Resolution 8926-17.

Motion adopted. All members voting yea.

10. Communication from Law Director Butler regarding Lakewood Park concession lease with Cornucopia, Inc. (Pg. 63)

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

Motion adopted. All members voting yea.

11. **ORDINANCE NO. 20-17** - 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 and directing the Mayor to enter into a concession lease agreement with Cornucopia, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances. (Pg. 64)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to refer Ordinance 20-17 to the Public Works Committee.

Motion adopted. All members voting yea.

12. Communication from Law Director Butler regarding 2017-19 collective bargaining agreement, corrections officers. (Pg. 67)

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

Motion adopted. All members voting yea.

13. **RESOLUTION NO. 8927-17** - 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, ratifying and authorizing the Mayor of the City of Lakewood, Ohio, to enter into an agreement with the Ohio Patrolmen’s Benevolent Association (OPBA) (Corrections Officer Unit), for a three-year period commencing January 1, 2017 and ending December 31, 2019. (Pg. 68)

Director Butler advised that there is time for Council to refer the Resolution to committee if it so chooses. He stated that the agreement follows the same pattern as the other collective bargaining agreements as far as wages and healthcare. He confirmed that the agreement falls within the constraints of the 2017 budget adopted by Council.

Motion by Mr. O’Leary, seconded by Mr. Anderson, to adopt Resolution 8927-17.

Motion adopted. All members voting yea.

14. Communication from Planning & Development Director Sylvester regarding Authority to Acquire Real Property. (Pg. 98)

Councilmember Anderson asked the administration to provide context for the request including the number of times it has used this authority since 2014.

Councilmember O’Leary noted that this Resolution represents an extraordinary request by the administration. He remarked that the Resolution doesn’t provide Council with much information about how often this authority could be used or has been used. He noted that the three year duration of the agreement would bind a future Council to this decision. He added that the program has a lot of value.

Councilmember Bullock asked for the source of the funds.

Director Sylvester responded to Councilmembers. He explained that the funds used are CDBG funds. He noted that this Resolution was first passed in 2008 during the housing crisis and that the City has used the authority 21 times since then. He remarked that it is helpful for the administration to have this authority in a competitive marketplace.

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

Motion adopted. All members voting yea.

15.RESOLUTION NO. 8928-17 – A RESOLUTION to permit the purchase of real property for an amount not to exceed \$70,000 without advertising and competitive bidding or specific approval of Council as required by Lakewood Codified Ordinance §111.04 for a period of three years from the effective date of this legislation. (Pg. 99)

Motion by Mr. O’Leary, seconded by Mr. Anderson, to refer Resolution 8928-17 to the Housing Committee.

Motion adopted. All members voting yea.

****PUBLIC COMMENT****

Kayleigh Sullins – 15009 Athens Ave

Ms. Sullins expressed concern about number of trees being cut down on Clifton Blvd. She asked if they will be replaced and expressed general environmental concerns.

Councilmember O'Leary spoke about the value of the tree canopy in Lakewood and the efforts taken to improve it.

Director Beno responded stating that the trees were assessed and 22-25 will be removed in 2017 for health and safety reasons. He stated that trees will be replanted.

Mayor Summers remarked on the City's broad plans and goals concerning trees as well as the resources the City dedicates to trees. He spoke on the benefits of trees.

Councilmember Anderson assured everyone that the City will not cut down a healthy tree and expressed appreciation for the City's dedication to trees.

Councilmember Marx referred Ms. Sullins to the Tree Task Force for more information.

Councilmember Bullock suggested that in order to make true progress on the canopy coverage the City should find a way to incentivize tree planting on private property.

Councilmember Nowlin mentioned that the Public Works Committee will meet soon to catch up with the Tree Task Force and Ms. Marx referenced members who meet with Keep Lakewood Beautiful Board.

Director Butler clarified the Tree Task Force is no longer meeting as a formal body but as individuals.

Director Beno responded to Mr. O'Leary's question about white dots on Clifton Blvd. trees or an "O" indicating they could mean the tree is scheduled for removal or that work is being done underground in the area. Close to ground usually mean utilities underground.

Councilmember Anderson announced that per Chris Perry, 33 new trees were repopulated in the peninsula that had to be razed for construction of a pipe. He thanked the Administration for following through.

In response to a question Director Beno clarified that two locations on Edgewater between W. 117th and Cove are being blocked for repairs and the work is expected to take a day at each location.

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

Motion adopted. All members voting yea.

Meeting adjourned 8:34 PM.

Approved: _____

CLERK

PRESIDENT