

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD ONLINE
AUGUST 3, 2020
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:30 PM by President O'Malley.

Present: Thomas R. Bullock III, Sarah Kepple, Tess Neff, Daniel O'Malley, Tristan Rader, Jason Shachner

Also Present: Mayor George, Law Director Corrigan, Planning Director Leininger, Finance Director Rancatore, Acting Police Chief Wilkins, Fire Chief Dunphy, Public Works Director Ducu, Human Services Director Gelsomino, and members of the public.

President O'Malley made a motion, seconded by Councilmember Rader to excuse the absence of Councilmember Litten.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. Councilmember Litten's absence was excused.

Reading and disposal of the minutes of the Regular Meeting of Council held July 20, 2020.

President O'Malley made a motion, seconded by Councilmember Rader to approve the minutes of the July 20, 2020 meeting without the necessity of a reading.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. The minutes were approved.

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

1. Health & Human Services Committee report regarding meeting held July 27, 2020 (to be provided)

Councilmember Kepple read the following report into the record:

Committee members Litten, Rader, Kepple were present along with Councilmembers Shachner, Neff, & Bullock; Law Director Corrigan, Mayor George, Fire Chief Dunphy, Police Chief Wilkins, Planning Director Leininger, Human Services Director Gelsomino, and members of the public

The meeting was called to order at 7:00pm, and the minutes from the previous meeting were unanimously approved.

The main focus on the meetings was discussion of RESOLUTION 2020-45 regarding face coverings and public safety in businesses and public spaces. The Committee discussed a revised version of the ordinance that was distributed to on Friday Council via email. The revised version takes into account feedback from local small businesses, with the most significant change being the removal of the 50% occupancy requirement, as several bars and restaurants have provided examples of how they are able to safely maintain a higher occupancy through barriers, physical distancing, and expanding outdoor dining. The revised version continues to mirror the state's mask mandate language and exemptions. In response to a question from a member of the public about effective mask wearing, it was noted that the resolution defines a face covering as "any material covering the individual's nose, mouth and chin."

The revised resolution also introduces the idea of using the Chapter 510 Nuisance Abatement to enforce violations of the Governor's order related to social distancing. Mayor George explained that enforcement is currently performed by the State Investigative Unit and CCBH, both of which are overwhelmed. She expressed confidence that the legislation will empower local safety forces to enforce the mandates. She also noted that the revised version removes the warning for a first offense and replaces it with a \$50 citation.

Councilmember Shachner and I asked for some clarification from Law Director Corrigan regarding the criminal nature of an individual or business not following a state Public Health Order vs the local civic penalty proposed in the resolution. Mayor George expressed reluctance to enforce a criminal penalty, and Director Corrigan acknowledged that de-criminalizing failure to wear a mask could potentially be challenged but that he feels the City is on solid ground. He noted that other municipal mask mandates are written in this way.

We had some robust conversation around whether the nuisance chapter provided sufficient incentive and enforcement tools. Councilmember Shachner and I expressed some concern that the proposed penalties under the nuisance chapter would not be enough to deter the boldest and most affluent offenders, creating an inequity issue, when part of the goal is to support small businesses who are behaving responsibly by enforcing these public safety requirements universally. We expressed concern that some businesses with larger pockets might roll the dice, taking the risk that over-crowding would increase

profits sufficiently enough to pay fines should they be caught three times, as the nuisance chapter allows for three strikes prior to penalty.

Safety forces and law provided assurances that the City has additional enforcement authority not written into this legislation. For example, Chief Dunphy stated that there are penalties for failing to cooperate with a direct order of the fire marshal. He explained the department's experiences dispersing crowds at bars by orders music stopped and drinks not to be served. Acting Chief Wilkins stated that since July 2, 2020 the City has done about 16 bar checks per weekend using police body cams and that most establishments have been very receptive. Director Corrigan added that the advantage of using the nuisance chapter is that the process is already established and proven effective, including a built-in appeals process. Councilmember Litten suggested that the negative media attention may be more of an incentive to establishments than any fine, although there was some concern among council that the establishment most resistant to these public safety measures may not see the attention as negative.

Tom Fraiser of First Federal of Lakewood expressed support for legislation and enforcement of masks and social distancing. He discussed how he has had 150 employees working from home since March and that employees would feel more comfortable returning to the office knowing that Lakewood is prioritizing safety. Ian Andrews of Lakewood Alive and Patty Ryan of Lakewood Chamber thanked the committee and the administration for listening to and supporting small businesses, most of whom are trying to be safe and want to see universal compliance.

The Committee and the Mayor discussed the importance of disseminating the information regarding the legislation, assuming it passes. The Mayor is planning a press release, social media posts, and a virtual community conversation hosted by Lakewood Alive for this Thursday at 6:30pm. She invited all councilmembers to help spread the word within their networks as well.

A motion was made and seconded to recommend the substitute version of Resolution 2020-45 for adoption.

During the discussion, Councilmember Bullock stated his intention to make a motion at the regular council meeting to amend Section 4 to include language allowing physical barriers, as effectively utilized by some local establishments to be an appropriate alternative to distance. I believe Director Corrigan has included that proposed language in the most recent version emailed to council for tonight's regular council meeting.

Though I expressed some lingering doubt over the efficacy of the enforcement I joined councilmembers Litten and Rader in a unanimous vote to recommend the substitute version for adoption.

In the interest of time, Councilmember Litten did not address the COVID-19 situation briefing agenda item but advised the committee to refer to the attachments on the docket.

President O'Malley made a motion, seconded Councilmember Rader by to receive and file the report.

Discussion: Councilmember Bullock discussed misconceptions created by media graphics regarding compliance with COVID regulations and guidelines among bars and restaurants in Lakewood. He noted that the majority of businesses are complying and stated the need for communication.

On the motion: A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. The report was received and filed.

2. **SUBSTITUTE RESOLUTION 2020-45** - A RESOLUTION, to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, requiring the use of face coverings within the City of Lakewood and reducing interior occupancy loads to 50% of prior stated occupancy expiring upon lifting of the state-wide State of Emergency. (*Referred to HHS 7/20/20*) (pg. 001)

President O'Malley made a motion, seconded by Councilmember Bullock to substitute the amended version of Substitute Resolution 2020-45 that was distributed to Council on Friday.

Discussion: President O'Malley thanked the administration and Council for its work on this piece of legislation. He noted his preference to mirror the state health mandates and incorporate them into the code to give local law enforcement the tools they need to enforce the mandates. Mayor George stated that it is a unique piece of legislation in the state and applauded police department efforts to be proactive and educate bar and restaurant owners. Councilmember Bullock asked whether businesses would be cited for non-compliant patrons, despite attempts to comply. Acting Chief Wilkins spoke to the department's efforts to educate and noted how the legislation seeks to strike a balance between education and enforcement. Councilmember Kepple added that the call for this legislation has largely been from compliant businesses.

Public Comment: Ian Andrews of Lakewood Alive – Mr. Andrews thanked the administration and Council for providing clarity and means for enforcement, which was requested by businesses.

McKenzie Levi – Mr. Levi spoke against the resolution and the wearing of masks. He stated that the health mandates are hurting the community. He asked to pay a ticket in advance.

Ralph Piunno – Mr. Piunno inquired whether a personal photo or video of non-compliance with the ordinance at bars or restaurants would help the police. Acting Chief Wilkins stated

that it could be helpful in making the department aware of repeated problems at an establishment.

On the motion: A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. Substitute Resolution 2020-45 was substituted.

President O’Malley made a motion, seconded by Councilmember Shachner to adopt Substitute Resolution 2020-45.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. Substitute Resolution 2020-45 was adopted.

3. Public Works & Sustainability Committee report regarding meetings held July 27, 2020.
(to be provided)

Councilmember Rader read the following report into the record:

Last Monday the Public Works & Sustainability Committee met with all members present and joined by Councilmember Neff, Directors, Corrigan, Leininger, Ducu, Chief Dunphy, and members of the administration. The first item we discussed after approving the minutes were two resolutions that had already passed, but Council had indicated that it wanted further discussion in committee about how these two resolutions, which accept \$197,000 and \$35,000 respectively, and the funds they provide would be spent and plans surrounding them.

At this point, the administration believed the \$197,000 would be spent on energy efficiency needs per the grant and that it would also take a further look at the budget to see where those funds could fill in towards more energy efficiency measures. The other \$35,000 would be spent on EV charging. Director Leininger pledged to keep Council in the loop on the distribution of those funds.

We also talked briefly about the EV settlement application for more EV charging infrastructure. I offered to set us up with the Clean Fuels Ohio folks who we already pay to have that membership, which is offering free grant writing support for the EV settlement.

We moved onto Resolution 2020-44, which is the Pyke Park Resolution. Director Corrigan gave an update on how legally defining that space was going. We’ll have to defer that as more work was involved in defining it.

On Resolution 2020-48, we recommended adoption, which involved entering into agreement with the county to accept funds to resurface Hilliard Rd. NOACA is paying for the lion's share of this, over \$2 million. The county will pay \$480,000 of this project and Lakewood will pay \$400,000 of that resurfacing. One the highlights is that the project will include bike lane re-striping, and that work is set to commence in 2022. The design work will start in 2021.

The only action needed out of this committee tonight is the adopting of Resolution 2020-48, which follows this communication.

Councilmember Rader made a motion, seconded by President O'Malley to receive and file the communication.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. The communication was received and filed.

4. **RESOLUTION 2020-48** - A RESOLUTION to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing an agreement between the City of Lakewood, Cuyahoga County, Ohio hereinafter referred to as the MUNICIPALITY, in the matter of the hereinafter described improvement and requests the cooperation of the County of Cuyahoga, Ohio, hereinafter referred to as the COUNTY. (*Referred to PWS 7/20/20*) (pg. 006)

President O'Malley made a motion, seconded by Councilmember Rader to adopt Resolution 2020-48.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. Resolution 2020-48 was adopted.

5. Housing, Planning, & Development Committee report regarding meetings held July 27, 2020 & August 3, 2020. (to be provided)

Councilmember Shachner read the following report into the record:

We'll start with the Jul 27th Housing, Planning & Development meeting. The focus of that meeting was to talk about the temporary parklet guidelines. This was a long and collaborative process. Director Leininger presented the committee with a draft form of the temporary parklet guidelines. All members of Council that were present had an opportunity to question the Director and state which provisions they believed would be successful or wanted to change. There was discussion about a portion that limited the use of umbrellas. In the final form, Director Leininger allowed umbrellas provided they are well-secured and do not overhang the parklet area. I and others advocated that the administration provide some help to businesses to obtain jersey barriers. I believe everybody was very impressed with the work that the Planning Department did do. We already have one restaurant, LBM, who is working through the process to get theirs. I hope that we see other businesses taking advantage of the opportunity.

Today, we spoke about a resolution proposed by Councilmember Bullock and Councilmember Kepple that has to do with express parking. Director Leininger passed around a substitute version to councilmembers. It was the opinion of the members present that the content of this resolution does provide enough discretion and guidance for businesses to seek express parking in front of their businesses. This may encourage some businesses instead of going through a circuitous route of trying to contact every department. It proposes to be streamlined through the Planning Department.

At the end of the meeting, the committee recommended that the substitute version of Resolution 2020-39 provided by Director Leininger be approved by the whole of Council this evening.

Councilmember Shachner made a motion, seconded by President O'Malley to receive and file the communication.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. The communication was received and filed.

6. **RESOLUTION 2020-39** – A RESOLUTION to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing and directing the Director of Public Safety to designate express parking spaces under certain circumstances. (*Referred to HPD 07/06/20*) (pg. 011)

Councilmember Shachner made a motion, seconded by President O'Malley to substitute Resolution 2020-39.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner
Nays – None

Motion passed. Resolution 2020-39 was substituted.

President O’Malley made a motion, seconded by Councilmember Shachner to adopt Substitute Resolution 2020-39.

Discussion: Councilmember Bullock thanked Council and the administration for working on the issue. Ian Andrews of Lakewood Alive applauded Council and the administration for working on the issue and expressed the joy of business owners on the matter. President O’Malley stated the need for these tools in light of the pandemic. Councilmember Kepple thanked the administration for their work on the matter.

On the motion: A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner
Nays – None

Motion passed. Substitute Resolution 2020-39 was adopted.

7. Finance Committee report regarding meeting held August 3, 2020. (to be provided)

Councilmember Bullock delivered the following oral report:

We deliberated on two pieces of legislation tonight and reported both out favorably. One was the transfers and advances ordinance, which is a quarterly, routine ministerial piece of legislation. The briefing from the Finance Director stated that we are keeping on the same quarterly transfer schedule. The second item of legislation deals with the administration’s request to adjust and/or create 2 positions in the mayor’s office, which has had traditionally 2 staff positions. One is to create a career track for the administrative assistant position, that way in the future if that employee merits a promotion that is an option available to that position. The second is to define a Chief of Staff position in the mayor’s office that falls in the same salary band that already exists for the executive assistant position in the mayor’s office. After that deliberation and explanation, the committee recommended adoption to the full Council upon third reading. With the remainder of our time, we had a recap of the Council budget priorities process and a brief review of June tax receipts for the city. The highlights are that we have around a \$4 million deficit, that we have received \$1.9 million from the federal government and that is allocated to a COVID relief account. It will be reflected in our budget as expense reduction. As the budget is reconciled at the end of the year, expenses charged to each department will be reduced by \$1.9 million. The hope is that July tax receipts will provide clarity about where our budget position stands.

Councilmember Bullock made a motion, seconded by President O’Malley to receive and file the oral report.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. The oral report was received and filed.

8. **ORDINANCE 15-2020** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, authorizing the transfer and advance of certain funds. (*Referred to Finance 7/20/20*) (pg. 013)

President O’Malley made a motion, seconded by Councilmember Rader to defer Ordinance 15-2020.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. Ordinance 15-2020 was deferred.

9. **ORDINANCE 46-19A** - 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 46-19 adopted December 16, 2019 to create the position of Chief of Staff and Administrative Assistant II to the Mayor. (*First read & referred to Finance 07/06/20; 2nd reading 7/20/20*) (pg. 015)

President O’Malley made a motion, seconded by Councilmember Rader to adopt Ordinance 46-19A.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. Ordinance 46-19A was adopted.

****NEW BUSINESS****

10. Communication from President O’Malley & Councilmember Neff regarding honoring the late James Anderson. (to be provided)

President O'Malley noted that Mr. Anderson worked for the city of Lakewood for 66 years in various positions. He spoke to his great character and stated his sorrow at his passing. Councilmember Neff shared her personal experiences with Mr. Anderson and his family, highlighting his record of service to the community. Chief Dunphy stated his appreciation for the support shown to Mr. Anderson and his family.

President O'Malley made a motion, seconded by Councilmember Rader to receive and file the oral communication.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. The oral report was received and filed.

11. **RESOLUTION 2020-50** – A Resolution to honor James R. Anderson on the occasion of his death and to express condolences to his family, friends, and to the many who have been touched by his kind and cheerful spirit. (pg. 020)

President O'Malley made a motion, seconded by Councilmember Rader to adopt Resolution 2020-50.

Discussion: Councilmember Bullock shared his positive experiences with Mr. Anderson and noted the strong bonds between members of the Fire Department.

On the motion: A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. Resolution 2020-50 was adopted.

12. Communication from President O'Malley regarding recognizing Dr. Amy Acton for her service as Director of the Ohio Department of Health. (to be provided)

President O'Malley noted that Councilmembers Kepple and Litten, along with Mayor George, co-sponsored Resolution 2020-49. President O'Malley stated his appreciation for Dr. Acton and her leadership, while coming under personal fire from within and outside state government.

President O'Malley made a motion, seconded by Councilmember Kepple to receive and file the communication.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. The communication was received and filed.

13. **RESOLUTION 2020-49** - A RESOLUTION to recognize and thank Dr. Amy Acton for her public service and steady leadership during the COVID-19 pandemic as the Director of the Ohio Department of Health. (pg. 022)

President O’Malley made a motion, seconded by Councilmember Rader to adopt Resolution 2020-49.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. Resolution 2020-49 was adopted.

14. Communication from Councilmember Shachner regarding appointment to Lakewood Animal Safety & Welfare Advisory Board.

Councilmember Shachner made a motion, seconded by President O’Malley to receive and file the communication.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O’Malley, Rader, Shachner

Nays – None

Motion passed. The communication was received and filed.

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

McKenzie Levi – Mr. Levi spoke about his experience observing protests in downtown Cleveland.

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

Mayor George shared information about an upcoming webinar she would be participating in along with the Cleveland Clinic and Cuyahoga County Board of Health to provide an update on the COVID-19 situation.

Councilmember Kepple credited Director Gelsomino and the Human Services Department for a successful produce distribution day.

President O'Malley made a motion, seconded by Councilmember Bullock to adjourn the meeting.

A roll call vote was taken as follows:

Yeas – Bullock, Kepple, Neff, O'Malley, Rader, Shachner

Nays – None

Motion passed. The meeting was adjourned.

The meeting was adjourned at 8:39 p.m.

Approved: 8/17/2020

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CLERK

David O'Malley
PRESIDENT