

**MINUTES
OF THE
REGULAR MEETING OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
JULY 21, 2008
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:37 PM by President Dever.

Present: Councilmembers Nickie J. Antonio, Thomas Bullock, Kevin Butler, Michael W. Dever, Mary Louise Madigan, Michael P. Summers, Brian Powers.

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Also Present: Mayor FitzGerald, Law Director Hurley, Finance Director Pae, Fire Representative Hagemon, Police Chief Malley, Public Works Director Beno, Planning & Development Director Kelly, Human Services Representative McMonagle, Human Resources Director Yousefi.

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Reading and disposal of the minute of the Regular Meeting of Council held July 7, 2008.
Motion by Mr. Dever, seconded by Ms. Madigan to approve the minutes without the necessity of a reading.
Motion adopted. All members voting yea.

Without objection from Council Item 19 and 20 were read after Item 9 in the agenda order.

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

1. Committee of the Whole Report regarding Mid-Year 2008 Appropriations Ordinance.
(To Be Provided)

Mr. Dever submitted the following report:

On Monday, July 14th, the Committee of the Whole met to discuss Ordinance 60-08, the Mid-year appropriations ordinance. In attendance were all members of Council, Law Director Hurley, Finance Director Pae and Mayor FitzGerald.

Mayor FitzGerald explained that there had to be an additional 1.5% reduction across the board in operating expenditures with the exception of utilities and fuel. The primary reason for this budget gap was due to the first round of lay-offs and staffing reductions. The City and collective bargaining units through their agreements created a bumping process where if positions are being eliminated that that person who has seniority they are able to bump a person to another position. This process caused administrative delays and in turn a large percentage of the current budget gap. The administration will be laying off up to 16 additional employees to close this gap. That process has already begun.

The administration is also looking at ways to better structure management. This includes exploring the combining of units and divisions such as water administration which are the billing functions under the Finance Department, Community Relations under Planning and Development; parking enforcement will be placed under Police and nuisance abatement or tall grass which is currently under the Health Department will be part of the Building and Housing Department. Finance Director Pae indicated that

another adjustment to the annual appropriation ordinance will be done in October. At the time we will know the impact of bumping, unemployment pay outs as well as revenues.

The Committee recommended that this ordinance be substituted, suspended and adopted as substituted.

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. **ORDINANCE NO. 69-08** 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 establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2008. (PLEASE SUBSTITUTE FOR ORDINANCE NO. 69-08 PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 7/7/08) (Pg. 7)

Motion by Mr. Dever, seconded by Ms. Madigan, to substitute Ordinance No. 69-08.

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

Nays: None

Motion adopted. Ordinance No. 69-08 substituted.

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. 69-08 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. 69-08.

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

Nays: None

Motion adopted. Ordinance No. 69-08 adopted as substituted.

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3. Rules & Ordinances Committee Report regarding Ordinance 59-08 - . Lakewood Sanitary Code Enforcement relative to Cuyahoga County Department of Health Jurisdiction. (To Be Provided)

Mr. Butler provided the following report:

Councilman Powers and I met as members of the Rules and Ordinances Committee three times to discuss the following ordinance; 59-08, most recently this evening. Ordinance 59-08 creates a new sanitary code within the City of Lakewood in light of our recent decision to shift much of our health related responsibilities outside the City of Lakewood to the Cuyahoga County Department of Health. A new sanitary Code was required to update our Codified Ordinance to eliminate many of those functions that the City will no longer perform and to strengthen the functions that we will continue to perform in the health related field. After several revisions in Committee the Rules and Ordinances Committee this evening unanimously voted to substituted for ordinance 59-08 with the substituted ordinance before Council this evening and place it on third reading with the recommendation that we pass the substitute this evening. We would therefore recommend its passage tonight.

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

Motion adopted. All members voting yea.

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4. **ORDINANCE NO. 59-08** - 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 amend the Sanitary Code of the Codified Ordinances of the City of Lakewood for the purpose of retaining jurisdiction for enforcement of violations where the Cuyahoga County Department of Health does not have jurisdiction. (PLACED ON 1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 5/19/08, 2ND READING 6/2/08, DEFERRED 7/7/08) {PLEASE NOTE ORDINANCE 59-08 IS 84 PAGES AND IS PUBLISHED BY FIRST PAGE ONLY IN THIS COUNCIL AGENDA. THE ORDINANCE WAS PUBLISHED IN ITS ENTIRETY ON THREE PREVIOUS AGENDAS AND IS AVAILABLE FOR PUBLIC REVIEW DURING REGULAR BUSINESS HOURS IN THE CITY COUNCIL OFFICE} (Pg .24)

Motion by Mr. Butler, seconded by Mr. Dever, to substitute Ordinance No. 59-08.

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

Nays: None

Motion adopted. Ordinance No. 59-08 substituted.

Motion by Mr. Butler, seconded by Mr. Dever, to adopt Ordinance No. 59-08 as substituted.

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

Nays: None

Motion adopted. Ordinance No. 59-08 adopted as substituted.

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5. Finance Committee Report regarding Ordinance Nos. 65, 66, 67, and 68-08. (to Be Provided)

Mr. Summers provided the following report. (To Be Provided)

The Finance Committee met last Monday to consider three issues dealing with the rental rates for access to City Property. We had a full agenda before us with other items and decided that we needed more information so we agreed to continue to discuss these items in Committee since as a practical matter they wouldn't really have any effect until next season anyway. We will deferring these three items and referring them back to Committee, after second reading this evening.

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

Motion adopted. All members voting yea.

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6. **ORDINANCE NO. 65-08** - 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 section 905.15, Picnic Areas, Permit for use of Picnic Pavilions of the Codified Ordinances of the City of Lakewood for the purpose of establishing fees for reservation of the Kiwanis

Pavilion by permit. (PLACED ON 1ST READING & REFERED TO THE FINANCE COMMITTEE 7/7/08) (Pg. 25)

Motion by Mr. Summers, seconded by Ms. Antonio, to place Ordinance No. 65-08 on 2nd Reading and refer back to the Finance Committee.

Motion adopted. All members voting yea.

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7. **ORDINANCE NO. 66-08** - 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, creating a new section 905.21, Rental of City Property of the Codified Ordinances of the City of Lakewood for the purpose of establishing facilities that shall be made available to the public for rent and to establish fees for such rental. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 7/7/08) (Pg. 28)

Motion by Mr. Summers, seconded by Ms. Madigan, to place Ordinance No. 67-8 on 2nd Reading and refer back to the Finance Committee.

Motion adopted. All members voting yea.

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8. **ORDINANCE NO. 67-08** - 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, repealing Ordinance No. 45-78, adopted May 1, 1978. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 7/7/08) (Pg. 30)

Motion by Mr. Summers, seconded by Ms. Madigan, to place Ordinance No. 67-08 on 2nd Reading and refer back to the Finance Committee.

Motion adopted. All members voting yea.

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9. **ORDINANCE NO. 68-08** - AN ORDINANCE to amend Chapter 557, Parades, of the Codified Ordinances of the City of Lakewood for the purpose allowing community groups the non-exclusive use of park space for special events within the City of Lakewood. (PLACED ON 1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 7/7/08) (Pg. 34).

Motion by Mr. Butler, seconded by Ms. Antonio, to place Ordinance No. 68-08 on 2nd Reading and refer back to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

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{With no objection from Council Item 19 was read after Item 9}

10. Public Safety Committee Report regarding Ordinance No. 58-08 Amending 506.12, Pit Bull Dogs or Canary Dogs;. (To Be Provided)

Councilmember Bullock submitted the following report:

I have an extensive statement to make regarding the Public Safety's work to strengthen dog safety and I realize that it's not Council's common practices to make such extensive remarks but I think they will reflect the complexity of the issue, the thoroughness of our work that we've done to address it, the care we put in our deliberations and the breadth of public comment on this issue, so I thank you advance for your attention.

We opened Public Safety Hearings noting that our job as a community is to balance competing interests as best we can and the balance we strike is often between competing and legitimate interests. In our proposed ordinance before us they include safety; keeping Lakewood's neighborhoods family-friendly; fairness; individual liberty and an enforceable, workable standard. We also noted that different standards will work for different communities and our task is of course to find the right balance for Lakewood. One dog safety standard may fit for a rural community, a second for a sprawling suburb with big lots and houses far apart, and a third will fit for Lakewood. We are a compact community with small yards, families close together, thousands of dogs and thousands of school age kids riding bikes and playing in neighborhoods and senior citizens walking the streets. And in tough economic times of \$4.00 a gallon gasoline, we're seeking to make our community even more walkable, safe, clean, family-friendly so that more families choose to live and stay in Lakewood. When it comes to our dangerous dog safety ordinances what we're doing now isn't working. We have a rising case load of pit bulls who have the potential to be dangerous and we have a wide spread pattern of non-compliance with our dog safety laws. That needs to change and we can do better. Some facts; we have never literally never, out of more than 50 pit bull owners registered in Lakewood has an owner full comply with the law prior to a visit by the Animal Control Officer. Much of this is do to better public education about the law's requirements. But ignorance of the law is never an excuse for non compliance. We are all always responsible for complying with the law. Second, in general, owners have not come into compliance with the law without multiple visits form the Animal Control Officers. The average is 2-3 visits with weeks of delay in between each visit and with the worse cases requiring action by animal control officers on as many as nineteen different dates. Third, a look at the County; dog registration for pit bulls turned up still more non-compliance. The County had only five pit-bulls registered compared to the more than fifty Lakewood has on our records. Meaning that most of our compliant pit bulls with the City were out of compliance with the State and County laws and worse, of the five properly registered with the County only two were registered with the City of Lakewood. Which means an additional three pit bulls were residing un-registered in Lakewood and possibly not in compliance with dangerous dog safety requirements. Under our current practices the burden for compliance with dog safety has not been where it belongs. Right now, it's falling on neighbors call in problems and on Animal Control Officers to teach people their responsibility under the law and to make multiple, follow-up house visits with weeks of delay, to give multiple chances for compliance. That's backwards. We ought to place the responsibility for dog safety where it belongs on the owners.

The most troubling step in our current dog safety system is this; We are putting our neighbors in the position of babysitting a problem not of their own creation and then waiting for weeks; sometimes many weeks to get a solution. That's unacceptable. A family with kids or senior citizens should not have to avoid playing in their front yards or walking in the street because of an irresponsible pit bull owner.

This is part of a broader pattern at City Hall that I invite us to address. Whatever it is that we are doing at City Hall we should to it more effectively, more quickly, more efficiently, and with better customer service. I most of all am interested in reducing the amount of time between a neighbor calling with a problem City Hall delivering a solution. An example of this that the Mayor has already acted to correct is cutting high grass of vacant properties. We'll identify in

the future other examples City services we can streamline. And our dog safety policies are an early example of this broader pattern so in my view it was worth the time and effort that we've spent as an early case study in figuring out how we can deliver better customer service and more effective service with the tools that we have.

Actually as a great animal lover Teddy Roosevelt once said, "Do what you can with what you have, where you are". And that's what we're tasked to do here. In addition, the much debated question of whether pit bulls are dangerous is not open to the City of Lakewood or Lakewood City Council. On this issue, we must follow Ohio Law which defines pit bulls as dangerous dogs and lays out heightened safety requirements for owners. Council may consider strengthening but not weakening Ohio's Dangerous Dog Safety Laws and in fact we've done so previously. But to be clear, our business second guess Ohio Laws that pit bulls are dangerous but rather to determine how to best implement it for our City.

The theater in which to debate whether pit bulls are dangerous is Columbus, not Lakewood. After extensive public comment, multiple rounds of consultation with the Administration, and much deliberation by the Public Safety Committee I propose that Council act on two parallel tracks. First, take immediate action to address wide spread non-compliance with dangerous dog safety laws and second, put the City on track over the long term to develop best practices in our dog safety policies. And that's the ordinance that we just adopted, is the second track.

On the first track, I propose that we amend Councilman Powers proposed ordinance by adopting a zero tolerance policy for irresponsible owners of dangerous dogs including pit bulls and putting the burden for dog safety where it belongs; on the owners. Specifically, we would strengthen penalties for non-compliance with dangerous dog safety requirements and thereby strengthen enforcement and create an incentive for owners to be more responsible and take preventative action.

Secondly, we would set up a grand-parented prohibition on new dangerous dogs in Lakewood that would allow existing dangerous dogs to register with and remain in the City if they're owners fully comply with the law and remain in compliance thereafter within 90 days of enactment. Any future biting incident or failure by owners to comply with safety requirements shall result in the loss of grand-parented status and the removal of the dangerous dog from the City.

Third, add new requirements for registration of the grand-parented dangerous dogs; micro-chipping and photographing to aid tracking and effective enforcement, neutering and spaying which is a good idea for many reasons, annual renewal of registration and annual proof of valid insurance, notice of moving residence and a \$50.00 registration fee. Note that throughout, appeals and due process rights for owners are reserved. Importantly, this strength in policy is also a streamlined policy. In other words, it's easier to effectively enforce. Our goal is to bring irresponsible pit bull owners into compliance with one touch law enforcement. Under our current policies pit bull non-compliance cases have averaged three to four visits, with weeks of delay between each which can lead to months of delay for compliance, months of additional risk to the public, months of additional damage to the sense of safety in our neighborhoods.

This new grandparented registration requirement would in effect front-load all of the safety compliance that has in practice been slipping in Lakewood to within those first 90 days. And afterwards, would simply require the animal control officers to make a stream line check against our micro-chip registry of dangerous dogs and a simple determination of compliance. That means the job of our animal control officers is greatly simplified so they can cover more

ground and more case load with their limited time while delivering superior and more timely customer service aggrieved neighbors.

The second track we've already spoken – so for the purposes of brevity I will skip over that but what I would like to point out is that we are already underway I think in conversations with a number of community-spirited volunteers who said that they can help with things like micro-chipping and owner education which would deliver a better result not just for dangerous dogs but for all dogs. One advantage to having an Animal Safety and Welfare Advisory Board is to deal with this following case an example that is not addressed by a dangerous dog ordinance we're considering now. This is a real example. An Animal Control Officer went to investigate a pit bull complaint and found on the street a large Labrador that has frequently and habitually been at large because the owner either doesn't leash the dog or has chronically left the gate open or has a fence that is ease to jump or a combination of all of these things. That dog can pose a safety threat to kids and residents on that street as well. It has the potential to be dangerous but falls outside the scope of this dangerous dog ordinance so that's the case that we do deserve to consider and address and that's what we can do with the Animal Safety and Welfare Advisory Board.

This two-track approach of short-term and long-term measured would combine the best elements of both strategies and would, in my judgment, correct immediate safety problems while putting us on track to significantly improve dog safety across board which I am optimistic we can do. I believe this policy achieves a good balance between safety, fairness and enforceability and that it has listened to the concerns of both owners and residents concerned with safety. I respectfully recommend its adoption by Council.

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

Mr. Butler asked what actually occurred in Committee that night. Mr. Bullock responded that the Committee amended the Ordinance in the nature of the substitute the original Powers ordinance - to adopt the first track previously described to strengthen dangerous dog safety policy. The Committee therefore recommended to the full Council passage of that amended ordinance.

Motion adopted. All members voting yea.

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11. **ORDINANCE NO. 58-08** – AN ORDINANCE to amend Section 506.12, Pit Bull Dogs or Canary Dogs, of the Lakewood Codified Ordinances for the purpose of banning pit bull terriers within the City of Lakewood. (PLACED ON 1ST READING & REFERRED TO THE PUBLIC SAFETY COMMITTEE 5/19/08, 2ND READING 6/2/08) (Pg.38)

Motion by Mr. Bullock, seconded by Mr. Powers, to amend Ordinance No. 58-08 with the substitute ordinance adopted by the Public Safety Committee this evening.

Councilmember Antonio indicated that at the Committee Meeting she asked the Law Director to help clarify considering the timeliness of the ordinance and the City's ability to enforce. Law Director Hurley responded that she was confident the ordinance does accomplish a significant increase in enforceability.

Councilmember Antonio referenced the expertise of Mr. Lunter regarding enforceability of the ordinance in regard to staffing.

Environmental Health Supervisor John Lunter responded that there were currently limitations on on-call duties. He indicated there were two animal control officers on staff; that there were recent increases in calls on pit bulls, a couple of incidents just in the last week. He said this could represent a change in efficiency as far as enforcing the ordinance.

Councilmember Antonio provided the following:

I am in total favor of citizens advisory committees and certainly that's how I first got my start with any interaction with City government. My caution earlier and my vote was really about passage so quickly. At the same time, I'm understanding if we already passed a citizens advisory group and it looks like there's quick motion on this I feel confident hearing from the Law Director and also Mr. Lunter in terms of the ability to enforce which has been a major concern in all of the information that I've received as we've gone through this process. So I thank both of you for the information and again the Committee for the work that they've done.

Mayor FitzGerald provided the following comments:

I appreciate Councilwoman's questions which I think were timely and we've also been looking at these enforcement issues and we're also going to be looking at some different methods of enforcing this. One of the things that were mentioned as we're, actually Council President, you mentioned it in your budget communication earlier in the meeting and said because we are contracting now with the County Board of Health we're not going to have a separate health department which our animal control was under. We're talking about what makes sense in terms of where's the home for our animal control officers. We're tentatively looking at rating them up the supervision and control of the Police Department. And that's important I think because one of the advantages, of this whole process that we've gone through although it's been difficult, contentious I understand that and time consuming, is that its given us window into looking at a way our existing laws were working or not working where our enforcement strategy's been working or not working. One of the things where we have on call animal control officers and where we don't, where there's kind of a gap in services sometimes. That communication between animal control and the regular police officers; police dispatch and that's something I'm aware of because there's been three times I think in six months I've been mayor that I've been following dogs around that I've seen on the street and calling into dispatch and trying to get a hold of animal control officers and if they're not on duty at the time so we're hoping that we're going to have a more coordinated response. I don't expect it to be perfect but one of the things that we've all been doing; the Administration and Council together is kind of dealt with the high level issues of the budget and some of our overall strategies that we were do in the first few months but now we're starting to deal with some of these other management issues and enforcement issues and it doesn't matter if you have a perfect piece of legislation if the enforcement isn't there it doesn't matter how its written. We understand that we can do a better job of enforcing whatever law that you pass and we accept that oversight from you and participation from you. And also from the Animal Safety Board that was just passed, if that can be part of their role.

I also just wanted to say, first of all, the amended ordinance as it's proposed I certainly would support and would sign. I think it's an improvement, I don't think it's perfect but I do want to compliment Council for spending time on an issue where you're not going to get 100% consensus from your community. We have heard from people who feel very strongly on one side of the issue or the other side of the issue. The bottom line comes down to I respect the legislative product that you put out here, I don't think it's perfect, there will probably be issues

of fine tuning it again, we'll work with you, the Law Department, Animal Control Officers, our Police Officers will work with you as time goes on. We'll continue to do that. I respect the legislative effort that's gone into craft this. I also think it's extremely important to try and find silver linings where you can. There are going to be individuals in this community who don't agree with this legislation however they are going to be included I think in our enforcement efforts because I think everybody agrees that dog owners should be responsible. That's what's best for the residents and that's what's best for the animals themselves. So that, I think we've laid the ground work for that.

Councilmember Madigan provided the following:

Just to be sure, this amendment still includes a ban, correct?

Mr. Dever responded, "yes it does">

Councilmember Madigan provided the following:

Although it grandfathers in any dog that lives in Lakewood currently.

Mr. Bullock responded, yes. He offered the following:

To clarify it does propose to ban any non-compliant dangerous dog that falls out of compliance either because the owner fails to safety requirements or because the dog has an aggressive incident. And it would give 90 days for the owners to come into 100% compliance. And the definition of a dangerous dog, this amendment, does not touch or adjust so it would retain what's on existing Lakewood ordinance which would say you can be a dangerous dog if you're a pit bull, a canary dog, or if you've been declared so by a hearing by a health commissioner this would also update our language to refer to our Public Safety Director or his or her designee.

Ms. Madigan asks if this bans any new pit bull - if it means no new pit bulls after this legislation – in effect banning a breed of dog.

Mr. Bullock responded that this was correct.

Ms. Madigan responded:

Mr. Chair, and Councilman Bullock, I know you've all done a lot of work on it, I will not be voting for this. I don't think a ban is the way to go just. I understand the argument here is it's less expensive for enforcement but I think that we have to be very careful in that what we are being asked to is to ban these dogs because they pose a significant risk to the health and safety of our most vulnerable citizens and I think that any dangerous dog does and that includes a dog who is not leashed, a dog who's on the loose, a dog who bites anybody is not a dog that we need in Lakewood and I like the phrase zero tolerance for non-compliant owners of any of our animal safety ordinance. However, I don't think a ban is a good way to go. In the original correspondence where it was suggested that the risks of banning would outweigh any competing considerations and I don't think that's true. I think that banning a dog is really infringing on someone's decision about which kind of dog to have and you are going to be punishing law abiding citizens in the quest to punish those who do not comply with the current law.

I thought the whole intention of having an animal advisory group was to get those people we've heard from for two months now who are rational, unemotional residents who have offered their

services to this City free of charge and they are offering professional training to canine testing in order to strengthen our existing legislation and now we're asking them come and participate and I hope that they still will however, we're enacting a ban at the same time we're asking a group of citizens to come up and help us strengthen the law and they have been invested in this for two months trying to get us to an agreement without having to ban a specific breed. I don't think it's a good way to go, I think it might be easier but don't think it's what we deserve here in Lakewood. I think that we could actually better in Lakewood, we're supposed to be more progressive and more enlightened, above average intelligence. I just think we could have come to a better conclusion and we don't need to take the lead from Parma Heights, or Parma or Garfield Heights. We could strengthen the law that we have, get people to come into compliance – yes it will be a burden for enforcement but we can do better than this.

Councilmember Powers provided the following:

Breed specific legislation for dogs commonly known as pit bulls is the law of Ohio. Breed specific legislation with respect to dogs commonly known as pit bulls and canary dogs is the law of Lakewood and has been since 2004. This debate, this discussion is not about whether these dogs should be treated differently or whether these dogs are different, that's the law that we are dealt. Our decision is next to do with it. In discussions with Director Buckon commentary was that several years ago we had ten of these dogs on our list that we had to follow up with. That was do-able. Earlier this year, we had fifty dogs on our list that fell under dangerous dogs and that was very difficult to enforce. We now have more than 70 dogs on our list and the number continues to rise. In the face of a rising population of these dogs and in the face of budget cuts meaning we have fewer hours of animal control officers in which to enforce it. We are left with a law that has basically zero voluntary compliance. Zero. And our history has been, nobody complies with this law unless somebody comes and knocks on their door about it. That's a problem. We need to put the onus back onto the owners of these dogs and we're giving them 90 days in this legislation to become compliant with the law of Lakewood, become compliant with the law of Ohio. Through this process I've met some absolutely wonderful folks in this town who disagree with me whole heartedly and we'll agree on the next issue. Many of them own these dogs that we're talking about. I believe that they're good hearted folks. I believe that they should be able to keep their dogs but the fact is, we can't handle - if we're having trouble handling the 73 on our current list what are we going to do when that's a 100 or higher, or higher or higher? And as we continue to face budget pressures and we have other animals that we need to worry about so this is a ban, this is a ban on dangerous dogs of any type that are non-compliant with our law. Dangerous dogs in Lakewood since 2004 has included very specifically the dogs known as pit bulls and canary dogs. I'm supportive of this law as proposed. I appreciate all the work from a ton of citizens who are here to help us craft what I think is a compromise that a lot of folks won't be happy with but it gets us to where I know where we need to be so that the dogs that exist are compliant and grand parented in and will continue to live in Lakewood but we can't have any new dogs and continue to increase the enforcement problems that we have.

Discussion continued regarding definition of dog deemed dangerous. Councilmember Bullock indicated that passing the ordinance would not complete the work of Council. He said there remained a safety gap that needed to be addressed.

Definition of dangerous dog was discussed. Mr. Butler clarified the change in the ordinance referencing that a dog deemed dangerous was not allowed in the City. It would still give discretion to Animal Control Officers but . Mr. Bullock indicated the ordinance was a compromise that once the dog was declared dangerous no matter what breed it must come in

compliance. Ms. Madigan responded that if the dangerous dog ordinance was not working that it needed to be fixed. Councilmember Antonio indicated that major education was in order to ensure compliance.

A resident from St. Charles indicated that Council should treat all dogs and owners equally. A lake Avenue resident indicated support of the Advisory Board Ordinance.

Councilmember Summers indicated the following:

The criterion that I've chose to help me, to guide my thinking asks these questions. Who benefits from such an ordinance as this, who's harmed buy it, who cares actually about the issue and, how does it fit in the larger landscape of the issues facing our community. And if doubt exists, who gets the benefit of that doubt. And finally, I've learned through actual other issues dealing with bio-ethics when considering such issues as bans as well, cloning etc., considering these things on a loftier level and the question becomes how do you discourage behavior versus banning it. And what is the behavior that you're choosing to discourage and how does it effect that versus discouragement. After weighing all these factors very carefully and seriously, listening carefully to tonight, and with a full expectation and the high hopes I have in our advisory group that's yet to be formed that I will vote in fact for this amended ordinance that's presented to us but I would hope that this group that we're going to form will ask and answer the question - what are the circumstances that a dog that's labeled by whatever ordinance could in fact enter our community safely and happily. So, my asking and answering that question and the answer may be that there is not that possibility that that's the one piece of analysis that we have not spent the time on here. In fact I did not hear through all the deliberations anyone really protesting the litany of expectations for our dogs – the pens, that while may be uncomfortable, micro-chipping was stated as reasonable – the ordinance in fact in a full sense, what I heard from your Committee the dog community in particular that those were not particularly distasteful or unreasonable. So the real question simply came down to the ban question and it's a heavy one for sure, one I don't' take lightly but I think with the expectation of the Advisory Committee and the serious work that I hope they can accomplish that we can ask and answer tough questions that we haven't had the opportunity to do today. But I did want to make it clear as to why and how I would be voting this evening.

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

Nays: Madigan

Motion adopted. Ordinance amended as substituted.

Motion by Mr. Powers, seconded by Mr. Powers, to adopt as substituted.

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

Nays: Madigan

Motion adopted. Ordinance No. 58-08 adopted as substituted.

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12. Health & Human Services Committee Report regarding PASSPORT Program. (TO BE PROVIDED)

Councilmember Antonio submitted the following report:

The Health and Human Services Committee met tonight with Councilmember Powers in attendance as well as members of the public and Paulette McMonagle who was serving as acting Human Services Director. She provided clarification for us on the agreement that we have

before us to enter into with Western Reserve Area Agency on Aging. We discussed and are suggesting tonight that we accept and expend the Passport Program funds for this next year, fiscal year and ratify any and all prior agreements. Also the Committee recommends that we pass this on second reading tonight because there's timeliness involved with expending the funds.

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

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13. **ORDINANCE NO. 72-08** - A 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 and directing the Mayor or his designee, on behalf of the City, to enter into an Agreement with the Western Reserve Area Agency on Aging to accept and expend PASSPORT Program funds for the fiscal period covering July 1, 2008 through June 30, 2010 and ratifying any and all prior agreements to accept and expend funds for this project. (PLACED ON 1ST READING & REFERRED TO THE Health & Human Services Committee 7/7/08) (Pg. 41)

Motion by Ms. Antonio, seconded by Mr. Dever, to suspend the rules requiring this ordinance be read on three separate days and placing Ordinance No. 72-08 on final reading.

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

Motion by Ms. Antonio, seconded by Mr. Dever, to adopt Ordinance No. 72-08.

Yeas: Antonio, Bullock, Butler, Dever, Madigan, Powers, Summers
Nays: None
Motion adopted. Ordinance No. 72-08 adopted.

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14. **Housing Committee Interim Report** regarding 1) Sidewalk Dining Ordinances 2) Foreclosure prevention. (To Be Provided)

Councilmember Madigan submitted the following report:

The Housing Committee met this evening at 6:09; present were Councilman Summers, Councilwoman Antonio, Jennifer from Finance, you were there the whole time and our Clerk. We brought forward a number of ordinances and communication that Councilwoman Antonio had introduced over a year ago regarding outdoor dining. It has been sitting idle for quite awhile and it's Councilwoman Antonio's intention get this moving again. To that end, Planning & Development Director Nate Kelly recommended that his department, the Department of Development and Planning own it, try to figure out a way to make it work for businesses and residents within the City of Lakewood; whether it's through updating a current ordinance or creating a new one the Planning and Development will issue a report to the Housing Committee within 30 days.

Another issue we continued our conversation on; essentially was foreclosure prevention and the resources available. I shared some information with the Committee from the Cuyahoga County

Office on Foreclosure Prevention. I know it is the intention of this City and this Administration to come up with a housing initiative similar to the Law Enforcement Initiative, which the Mayor has already introduced and initiated. I think his approach will be multi-disciplinary and approached with a number of different opportunities and the Housing Committee encourages him to use the resources that we brought forward at our meeting back in May. It was really to update us and to continue our work in our Committee but also to continue inform the Administration about what we're doing and the data and the resources that have been made available to us either individually or collectively so that we move forward with a sound and sensible housing initiative this year.

Motion by Ms. Madigan, seconded by Ms. Antonio, to receive and file the oral report.
Motion adopted. All members voting yea.

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15. **ORDINANCE NO. 73-08** - AN ORDINANCE to amend the Zoning Code of the City of Lakewood, Ordinance No. 91-95, to include provisions to create a conditional use for Wind Energy Facilities and to regulate the placement of Wind Energy Facilities within the City of Lakewood and two miles into Lake Erie from the natural shoreline. (PLACED ON 1ST READING & REFERRED TO THE PUBLIC WORKS COMMITTEE 7/7/08) (Pg.43)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 73-08 on 2nd reading and refer it back to the Public Works Committee.

Motion adopted. All members voting yea.

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16. Liquor Permit Application for a D2 transfer to AED Enterprises d/b/a Deweys Pizza; 18516 Detroit Avenue from Robert R. Tomazic Jr. D/b/a Drinkery - & Patio 130 Wayne St. Sandusky, Ohio. (DEFERRED 7/7/08) (Pg. 53) .

Motion by Mr. Dever, seconded by Mr. Butler, to file no objection to this liquor permit.
Motion adopted. All members voting yea.

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

17. Communication from Councilmember Bullock regarding Resolution to support "Brake 4 Kids" School Safety Initiative Sponsored by the Lakewood Early Childhood PTA. (Pg.54)

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

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18. **RESOLUTION NO. 8271-08** – A RESOLUTION to proclaim the start of classes each school year through September 30th to be a time of Child Safety and Speed Awareness in the City of Lakewood. (Pg. 55)

Motion by Mr. Butler, seconded by Mr. Dever, to adopt Resolution No. 8271-08.
Motion adopted. All members voting yea.

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19. Communication from Councilmember Bullock regarding Ordinance Creating New Animal Safety and Welfare Advisory Board. (Pg.56)

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

Councilmember Madigan asked what Committee the communication was being referred to.

Mr. Dever responded that previous discussion in the Public Safety Committee provided for the Ordinance (Ordinance 74-08) be adopted in tandem with the amended ordinance.

Ms. Antonio asked for clarification; asking if the Council was being asked to receive and file the communication and if it may come back when the other issues would be discussed.

Mr. Dever made a motion, Mr. Powers seconded, to amend original motion to include referring the communication to the Public Safety Committee. Mr. Dever indicated that the new (proposed) committee would be referred to Committee for further discussion and deliberation on its formation.

Motion adopted. All members voting yea.

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20. **ORDINANCE NO. 74-08** – AN ORDINANCE to create new Chapter 146, Animal Safety and Welfare Advisory Board, to curb animal abuse, improve animal welfare and make recommendations regarding policies and procedures relative to animal control and safety within the City of Lakewood. (Pg. 57)

Motion by Mr. Bullock, seconded by Mr. Butler, to amend the whereas clause so that the Whereas clause reads; Whereas an Animal Safety and Welfare Advisory Board would support City enforcement with expanded expertise, resources and community reach; now, therefore,

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

Nays: None

Motion adopted. Ordinance No. 74-08 amended.

Motion by Mr. Bullock, seconded by Mr. Butler, to suspend the rules requiring this ordinance be read on three separate days and placing Ordinance No. 74-08 on final reading.

Councilmember Butler indicated that if Council were going to pass legislation with respect to Councilman Powers' initial proposed ordinance that it would be a sign of good faith effort to pass the present ordinance along with it. He indicated that he reviewed it with the amendment just approved and was satisfied that the ordinance (Board) would do what was stated. He said he would therefore support passing it that night.

Councilmember Antonio indicated that once again it happened in Committee and now it's happening on the floor that we've got an amendment of a proposed ordinance that's happening on the fly which is what it feels like to me and I supported the original intention of this to send this to Committee. I think this is a really good idea, we haven't talked about content. The formation of an advisory board is a good idea but it's clear to me just by this initial amendment that even the ordinance itself; the originator is not quite clear on what the language should be so to me it makes sense to send it to Committee and Councilman Butler I just take a little bit of issue with the fact that you made an assumption that we would pass an ordinance tonight;

something that we haven't discussed yet so to me I really believe in taking our time and making sure that the ordinances that we pass for the safety and well being of the community that we've really done them thoughtfully and carefully, so I will not support suspending the rules.

Mr. Butler indicated that he certainly was not making any assumptions as to what we were going to do with the next piece of legislation. If we are to pass that legislation, I think it would be ministerial to pass this legislation along with it. If we're not going to pass that legislation, then we just passed a good ordinance anyway. I have no problem doing that tonight. On the other hand it is not something I'm willing to take everyone's time debating tonight, so, if we're going to send it to Committee, let's send it to Committee - we have a motion on the floor to suspend the rules, we can either vote yea or nay on that; if we vote nay then we send it to Committee.

Councilmember Dever indicated that there were two pieces of legislation – this is the first piece of legislation, the second piece of legislation is an amendment to an existing ordinance and I am willing to vote on that issue, on that amended ordinance this evening as for this piece of legislation, it was in good faith that I was hoping to pass this also but if we choose to let this sit until after sometime in September or so to fine tune it that is fine but I still plan on moving and voting the affirmative on the piece of legislation that is before us that we are going to be amending.

Councilmember Summers indicated he is a very strong advocate of citizen advisory groups, that he had a front row seat watching citizens work hard to close schools as a member of the school board but one thing I did learn in the process that it's critical, if we're going to ask citizens to give of their time and expertise that we give them a clear focus, a clear charge and an expectation of an outcome. And furthermore that we do our best to make sure it's a well-facilitated process. Whether we can get their tonight or whether we refer to this Committee one thing that's very clear is the expectation from my part that we have a very clear expectation of the outcome of this group for their benefit as well as for the City's. If that takes further work in a committee, fine, I also, though believe that committees, if they are appointed well, and understand that part of their challenge is to create that focus and challenge is to do so but we ought to be clear about what we expect them to do. But to hand them a vague notion and hope that they could put shape to it without our support I think asks for less than we would hope for in this particular group. And this particular group I think has some serious work ahead of it and we want to make sure they get off to a good start. So I would vote to support to suspend the rules to pass this tonight in the spirit of the combination however I do want to make sure that we don't skip a step along the way here, however we get there.

Councilmember Bullock stated the following:

The purpose is clear and I think I just said in the communication that was just received and filed. It's a comprehensive animal and safety advisory board those are carefully chosen words; "animal", not dog; "safety and welfare", not just safety with respect to humans but with respect to animals as well. I think it's fair to say that animal abuse is an early indicator, a red flag of other problems such as child abuse and other problems that we would want to address. In addition, owner education and best practices are all good functions. We've discussed a number of times in budget hearings how we have a finite amount of resources, on staff we have two animal control officers so to supplement with an Animal Safety and Welfare Advisory Board would put us in position to significantly expand the resources and the expertise and do some of the best practices proposals that I've been interested to learn about during the Public Safety Committee's work. Also, right in this proposed ordinance says, "...*establishment and purpose*

The Lakewood Animal Safety and Welfare Advisory Board is hereby established to serve in an advisory capacity for the purpose general animal issues, assist in public education and community outreach to owners of animals for the detection of animal safety and abuse problems, update and improve written educational materials and coordinate and refer animal owners to education classes...”. So I think we do have a clear focus here; in addition the composition of the advisory board was modeled on successful other existing advisory boards in Lakewood, namely the rotating series of two-year terms; some are appointed by the mayor, I believe three of the seven and four by Council. I think Councilman Summers hit it right on the head that who serves and how we initiate the Board will be important and since the Mayor would appoint some and Council would appoint some I think that what we would have in order to inaugurate this Board would be a future meeting of – there would have to be future actions by Council to appoint the Council seats on this Board so there would be discussion and careful thought put into who and really along side that, what the initial scope of work would be for such a Board. So I hope that clarifies and explains, I think that this is a very sensible thing as Councilman Butlers says it’s a good faith effort and it puts us on track over the long term to address animal safety in a comprehensive manner. So I would support us passing it regardless of whether or not we vote on and/or pass the dog safety amendment because I think this is a good thing to do. Thank you.

Councilmember Madigan stated the following:

I think an Animal Safety and Welfare Board is a good thing to do but I will not vote to suspend the rules on an ordinance which came to me on the floor just now.

Mr. Dever announces the motion to suspend the rules: Motion by Councilman Bullock, seconded by Councilman Butler;

Yeas: Bullock, Butler, Dever, Powers, Summers

Nays: Antonio, Madigan.

Motion adopted. Ordinance amended.

Motion by Councilmember Bullock, seconded by Councilmember Butler, to adopt Ordinance No. 74-08 as amended.

Yeas: Bullock, Butler, Dever, Powers, Summers

Nays: Antonio, Madigan

Motion adopted. Ordinance No. 74-08 adopted as amended.

{Without objection from Council Item 10 was read after this item}

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21. Communication from Councilmember Bullock regarding Resolution Supporting Application of First Suburbs Development Council for Grant to Pursue Innovative Regional Collaboration. (Pg.59)

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

Motion adopted. All members voting yea.

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22. **RESOLUTION NO. ~~7272-08~~ (8272-08)** (Item # Corrected)- 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 of the City of Lakewood, or his designee to

jointly apply with other First Suburbs Development Council Communities to the State of Ohio, Department of Development's Local Services and Regional Collaboration Grant Program. (Pg. 60)

Motion by Mr. Dever, seconded by Mr. Butler, to adopt Resolution No. 8272-08.

Motion adopted. All members voting yea.

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23. Joint Communication from Mayor FitzGerald and Councilmember Bullock regarding Unfair and Deceptive Credit Card Practices. (Pg.62)

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

Motion adopted. All members voting yea.

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24. **RESOLUTION NO. 8273-08** – A RESOLUTION to urge the National Credit Union Administration, the Federal Reserve Board and the Office of Thrift Supervision to adopt the reforms proposed for the Federal Trade Commission Act, Truth in Savings Act, and Truth in Lending Act to protect consumers from unfair and abusive practices by the credit card industry. (Pg.63)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8273-08.

Motion adopted. All members voting yea.

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25. Communication from Mayor FitzGerald regarding EMS Equipment and Training Grant. (Pg.65)

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

Motion adopted. All members voting yea.

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26. **RESOLUTION 8274-08** – 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 as Director of Public Safety, on behalf of the City, to enter into an Agreement with the Ohio Department of Public Safety, Emergency Medical Services Division to accept and expend funds for the purchase of qualifying patient care equipment and training in the amount of \$5,000. (Pg.66)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8274-08.

Motion adopted. All members voting yea.

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27. Communication from Mayor FitzGerald regarding 2008 Grand Marshal of the July 4th Parade Kenneth Warren Lakewood Public Library. (Pg.68)

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

Motion adopted. All members voting yea.

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28. **RESOLUTION NO. 8275-08** – A RESOLUTION TO thank Mr. Kenneth Warren, Executive Director of the Lakewood Public Library, for participating as the 2008 Grand Marshal in the City of Lakewood 4th of July Parade. (Pg.69)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8275-08.
Motion adopted. All members voting yea.

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29. Communication from Police Chief Malley regarding Safety Grant from University Hospitals. (Pg.70)

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. **RESOLUTION NO. 8276-08** - 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, as Safety Director, to enter into an agreement on behalf of the City to accept and expend grant funds, in the amount of \$1,632.83, from University Hospitals Health System/Rainbow Babies & Children's Hospital for the purpose of providing targeted enforcement activity within the City of Lakewood. (Pg.71)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8276-08.
Motion adopted. All members voting yea.

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31. Communication from Human Services Director Buckon regarding Resolution for Ohio Benefits Foodbanks Agreement. (Pg.73)

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. 8277-08** - 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 and directing the Mayor or his designee, for and on behalf of the City of Lakewood to enter into an Agreement with the Ohio Association of Second Harvest Foodbanks for the purpose of assisting families with children to apply for the Food Stamp Program, other work support programs, and tax credits using the Ohio Benefit Bank for the time period from August 1, 2008 through June 30, 2009. (Pg.74)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8277-08.
Motion adopted. All members voting yea.

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33. Communication from Planning & Development Director Kelly regarding 17112 Riverside Drive (That House on Riverside and McKinley) (Pg.76)

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

Motion adopted. All members voting yea.

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34. **ORDINANCE NO. 75-08** - 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 and directing the Director of Planning and Development to enter into an agreement with a licensed real estate broker to market for sale the real property located at 17112 Riverside Drive for a period of 120 days, pursuant to Section 155.07 of the Codified Ordinances. (Pg.77)

Motion by Mr. Dever, seconded by Mr. Butler, to suspend the rules requiring this ordinance be read on three separate days and placing Ordinance No. 75-08 on final reading.

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

Nays: None

Motion by adopted. Rules suspended.

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Ordinance No. 75-08.

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

Nays: None

Motion adopted. Ordinance No. 75-08 adopted.

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35. Liquor Permit Application to 714 GRH LTD 1822 Detroit Avenue – from Great Lakes Restaurant Development d/b/a Marias same address. (Pg.79)

Motion by Mr. Dever, seconded by Mr. Butler to defer action on this liquor permit application.

Motion adopted. All members voting yea.

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Motion by Mr. Dever, seconded by Ms. Madigan, to adjourn the meeting.

Motion adopted. All members voting yea.

Meeting adjourned. 10:12 PM

Approved: _____

President

Clerk