

**MINUTES  
OF THE  
REGULAR MEETING OF  
LAKEWOOD CITY COUNCIL  
HELD IN COUNCIL CHAMBERS  
12650 DETROIT AVENUE  
September 2, 2008  
7:30 P.M.**

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

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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, Police Chief Malley, Human Services Director Buckon, Public Works Director Beno, Planning & Development Director Kelly, Human Resources Director Yousefi.

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Reading and disposal of the minute of the Regular Meeting of Council held July 21, 2008.

Motion by Mr. Dever, seconded by Ms. Madigan to defer action on the minutes.  
Motion adopted. All members voting yea.

Without objection from Council items 6 and 7 were read first in the agenda order.

**\*\*\*\*OLD BUSINESS\*\*\*\***

1. **ADD-ON** - Public Works Committee Report regarding Ordinance 73-08 – Wind Energy Facilities. (To Be Provided)

Mr. Dever submitted the following report:

The Public Works Committee had had met two weeks ago to concerning this wind ordinance that was introduced initially last year. I had put the communication and a draft ordinance on the docket and the Council agreed in sending it to the Planning Commission and the Planning Commission did a lot of hard work on it and put together a ordinance that is reflective of information that was gained from the state of Pennsylvania which has a model ordinance in place right now. A little bit of information was gathered also from the state of Wisconsin who does have a model ordinance in place. The Planning Commission had brought this forward, it was referred to the Public Works Committee, we sat and discussed it just recently two weeks ago. We decided, with input from the Cuyahoga County Regional Energy Task Force that this ordinance at least get some input from the Ohio Department of Development to see if this model ordinance that is being proposed would be well suited to be used in other communities possibly. We sent this ordinance after it was referred to Committee down to Columbus. The Director was in contact with a person from the Ohio Department of Development. They reviewed the ordinance, offered some comments, it came back to us this evening and this evening the group recommended adoption of this ordinance that we put together here. We're not a 100% sure but we think it might be the first wind ordinance in the State. We're still searching that out but we think it's a good ordinance - it was put together and it will apply to the City of Lakewood. It's been incorporated into our Zoning Code, or it will be this evening. There's a provision, also

there, to have input on any type of structure that is put out into Lake Erie, two miles out. There's a regulation on the Ohio Revised Code that allows Ohio cities to regulate up to two miles out into open waters of Lake Erie within their borders. That provision is in this also. We talked back and forth about the ordinance and also what came out of this Committee was a recommendation to formalize a Green Committee which is another communication that the Director has on the docket for this evening. The Committee recommends adoption of this ordinance as it has been put together by the Planning Commission.

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

Councilmember Dever thanked the people who worked very hard on the ordinance - stating Director Kelly, Planning Commission, The Cuyahoga County Regional Task Force. Mr. Dever indicated he wanted to particularly recognize Lou McMahan for playing an instrumental role in bringing this forward.

Motion adopted. All members voting yea.

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1. (A) – **ADD-ON - 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 1<sup>ST</sup> READING & REFERRED TO THE PUBLIC WORKS COMMITTEE 7/7/08, 2<sup>ND</sup> READING 7/21/08) (Pg.4A)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Ordinance No. 73-08.

Motion adopted. All members voting yea.

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1. (B) - **ADD-ON** - Public Works Committee report re: Formalizing Committee Promoting Pro- Environment Practices in the City. (To Be Provided) (Planning & Development Director Kelly's Letter Included) (Pg. 4S)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Committee of the Whole.

Motion adopted. All members voting yea.

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1. **(C)** Rules & Ordinances Committee Report regarding Ordinance No. 86-07. (To Be Provided) )

Mr. Butler submitted the following report:

I passed out to Council and submitted to the Clerk's attention (the report).

Having met several times before, on August 29, 2008, Councilman Brian Powers and I met as the members of the Rules and Ordinances Committee regarding the following ordinance, which was introduced last fall. The proposed ordinance adds strength to Section 1306.44 of our residential housing code, requiring applicants for housing licenses to reveal the number of their tenants and the identities of their adult tenants on annual application forms promulgated by our

Building Department. Without being unduly burdensome, the changes are designed to promote increased income tax revenue from otherwise unidentifiable tenants and to bolster the Building Department's ability to recognize overcrowding in rental units which are not owner-occupied. Both Building Commissioner

Edward Fitzgerald and Tax Commissioner Patricia Chittock attended our several meetings and signed off on the changes to the existing code section. They will now be responsible for creating an updated application form in time for the next round of housing applications to be sent at the end of November. The substituted version of the ordinance before you replaces the tax-related penalty provision originally introduced in the ordinance with a building-related penalty provision, upon the Law Department's astute recommendation. With that change, the committee voted unanimously to place the ordinance on third reading this evening, with the recommendation that we pass the substitute into law.

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

Motion adopted. All members voting yea.

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2. **ORDINANCE NO. 86-07-** AN ORDINANCE to take effect immediately provided it received the affirmative vote of at least five (5) elected members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Section 1306.44 of the Codified Ordinances to add a requirement that applicants for housing licenses identify adult tenants and the number of minor tenants living in the residential property at the time of the application. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 10/1/07, 2<sup>ND</sup> READING 10/15/07) (Pg.5)

Motion by Mr. Butler, seconded by Mr. Dever, to substitute.

Councilmember Madigan asked for clarification on the law on overcrowding with respect for rental properties.

Mr. Fitzgerald from Building responded that the City's maintenance Code determines overcrowding based on square footage.

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

Nays: None

Motion adopted. Ordinance substituted.

Motion by Mr. FitzGerald, seconded by Mr. Butler, to adopt Ordinance No. 86-07 as substituted.

Mr. Summers asked for clarification regarding a landlord having multiple tenants in the course of twelve months if fee would need to be filed multiple times.

Councilmember Butler responded this was not the case that based on what was learned in Committee, the Building Department sent out application forms twice a year to known landlords in the City. Live-in landlords were exempted.

Mr. Butler indicated the form would not be modified to permit the landlord to identify the adult tenants living and identify the number of additional minor tenants living there. He indicated this would process the information in the Tax Department where transient residents have been difficult to identify but also permits the Building Department to determine if overcrowding is occurring.

Mr. Summers indicated that once a year there would be accuracy in the data indicating in his ward – ward 3 there was turn over of less than twelve month cycles.

Mr. Butler responded that the ordinance would not address the turn-over but does allow the City on an annual basis to figure out who resides in the City. He indicated that a landlord with a more transient tenant base fills out the form, at the time required, doing so mis-leadingly – the penalties are stiff.

Mr. Powers indicated that discussions in Committee did show that for both Tax and Housing that the ordinance was less than perfect but was considered to be another view, through which to examine a problem and was proved somewhat successful in other communities.

Mayor FitzGerald indicated that through weekly meetings with the Housing Task Force, the issue was relevant to housing enforcement. He indicated the Task Force was looking into incentives to landlords for updating a City on tenant population. He indicated some cities have done this through schools.

Councilmember Antonio asked how the City is made aware of when owner occupied units change into non-owner occupied rental units. Mr. FitzGerald from Building responded that this is monitored monthly through water bills.

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

Nays: None

Motion adopted. Ordinance substituted.

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3. Liquor Permit Application to 714 GRH LTD 1822 Detroit Avenue – from Great Lakes Restaurant Development d/b/a Marias same address. (DEFERRED 7/21/08)(Pg.8)

Motion by Mr. Butler, seconded by Mr. Dever, to file not objection to this liquor permit.

Motion adopted. All members voting yea.

**\*\*\*\*NEW BUSINESS\*\*\*\***

4. Communication from Councilmember Dever regarding September, 2008 as National Alcohol and Drug Addiction Recovery Month. (Pg.9)

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

Motion adopted. All members voting yea.

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5. **RESOLUTION NO. 8278-08A** – A RESOLUTION declaring September, 2008, as National Alcohol and Drug Addiction Recovery Month in Lakewood, Ohio. (Pg.10)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8278-08A.

Motion adopted. All members voting yea.

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6. Communication from Councilmembers Antonio and Bullock regarding National Arts and Humanities Month. (Pg.11)

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

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7. **RESOLUTION NO. 8279-08** – A RESOLUTION declaring October, 2008 as National Arts and Humanities Month in the City of Lakewood. (Pg.13)

Motion by Ms. Antonio, seconded by Ms. Madigan, to adopt Resolution No. 8279-08.  
Motion adopted. All members voting yea.

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8. Communication from Councilmembers Antonio, Butler and Madigan regarding Creating Cultural Arts Neighborhood Districts. (Pg.14)

Motion by Ms. Antonio, seconded by Mr. Butler, to receive, file and refer the communication to the Planning Commission.  
Motion adopted. All members voting yea.

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9. Communication from Law Director Hurley regarding Codification. (Pg.21)

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

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10. **ORDINANCE NO. 76-08** - 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 approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter. (Pg.22)

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. 76-08 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. 76-08.

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

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11. Communication from Law Director Hurley regarding Charter Amendment on the Ballot. (Pg.24)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

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12. **ORDINANCE NO. ~~77-08~~ – (78-08)** AN ORDINANCE, providing for the submission to the electors of the City of Lakewood, an amendment to Article III, Section 8, Enactment of Ordinances and Resolutions of the Second Amended Charter of the City of Lakewood, to provide consistency within the Charter to permit the dispensing of the requirement of reading on three (3) separate days by two-thirds (2/3) vote of members of council. (Pg.25)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 78-08 on 1<sup>st</sup> Reading and refer it to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

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13. Communication from Law Director Hurley regarding Submerged Lands Lease for the Sisters of Charity 14808 Lake Avenue, Lakewood, Ohio. (Pg.28)

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

Motion adopted. All members voting yea.

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14. **RESOLUTION NO. 8280-08** - 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, approving the use of submerged lands for property located at and abutting 14808 Lake Avenue in the City of Lakewood, Ohio (a legal description of which is attached hereto as “Exhibit A”) so that the owner can undertake lakeshore protection measures. (Pg.31)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8280-08.

Motion adopted. All members voting yea.

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15. Communication from Law Director Hurley regarding Submerged Lands Lease 15404 Edgewater, Lakewood, Ohio. (Pg.33)

Motion by Mr. Dever, seconded by Ms. Madigan, to receive, file and refer the communication to the Public Works Committee.

Motion adopted. All members voting yea.

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16. **RESOLUTION NO. 8281-08** - 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, approving the use of submerged lands for property located at and abutting 15404 Edgewater Drive in the City of Lakewood, Ohio (a legal description of which is attached hereto as “Exhibit A”) so that the owner can undertake lakeshore protection measures. (Pg.35)

Motion by Mr. Dever, seconded by Ms. Antonio, to receive, file and refer Resolution No. 8281-08 to the Public Works Committee.

Motion adopted. All members voting yea.

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17. Communication from Police Chief Malley regarding Resolution for D.A.R.E. Program Funding. (Pg.37)

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. 8282-08** - A RESOLUTION supporting the grant application by the Division of Police to the Ohio Attorney General's Office for funding for the City's Drug Abuse Resistance Education program, and commending the Division of Police for its continued efforts to educate young people of the City of Lakewood as to the hazards of alcohol and drugs. (Pg.38)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8282-08.  
Motion adopted. All members voting yea.

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19. Communication from Acting Finance Director Schuster regarding Substitute to Purchasing & Contracting Ordinance. (Pg.40)

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

Motion adopted. All members voting yea.

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20. **ORDINANCE NO. 98-07C** - 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 Ordinance 98-07B, adopted March 17, 2008 for the purpose of adding, deleting, and increasing contracting authority for 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 professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2008 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law. (Pg.41)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 98-07C, on 1<sup>st</sup> Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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21. Communication from Human Resources Director Yousefi regarding Revised Salary Ordinance. (Pg.48)

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

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22. **ORDINANCE NO. 55-08A** - AN ORDINANCE to take effect immediately provided it received 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 provide for creating positions and rates of pay for full-time and certain part-time annual salaried employees and hourly rate employees not covered by a collective bargaining agreement in the several departments, divisions and offices of the City of Lakewood, including the Chief of Fire, Chief of Police and Civil Service Commissioners effective August 25, 2008. (Pg.49)

Motion by Mr. Dever, seconded by Ms. Madigan, to suspend the rules requiring this Ordinance be read on three separate days and placing Ordinance No. 55-08A 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. 55-08A.

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

Nays: None

Motion adopted. Ordinance No. 55-08A adopted.

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23. Liquor Permit Application for a D1 transfer to Jay Lor IV Inc, 16300-02 Detroit Avenue from Soup & Stew Inc, d/b/a Venezia, same address. (Pg.56)

Motion by Mr. Dever, seconded by Ms. Madigan, to defer action on this item.

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.

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Meeting adjourned at 9:03PM.

Approved: \_\_\_\_\_

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President

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Clerk