

**MINUTES
OF THE
REGULAR MEETING OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
NOVEMBER 3, 2008
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:36 PM by President Dever.

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

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Also Present: Mayor FitzGerald, Finance Director Pae, Police Chief Malley, Fire Chief Mroz, Human Services Director Buckon, Public Works Director Beno, Planning & Development Director Kelly, Project Administrator for New Lakewood Fitzgerald.

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Motion by Mr. Dever, seconded by Ms. Madigan, to approve the Minutes of October 20, 2008 without the necessity of a reading.

Motion adopted. All members voting yea.

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1. Committee of the Whole Report regarding Planning Commission Report; Recommendation to Adopt the Detroit Avenue Streetscape Plan into the Lakewood Community Vision. (Report To Be Provided – Executive Summary of Streetscape Plan Enclosed – Complete Report on file in the Council Office(Pg. 6)

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

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2. Committee of the Whole Report regarding Acceptance of Landscaping Funds from AT&T. (To Be Provided)

Mr. Dever submitted the following report:

The Committee of the Whole met just prior to the Council meeting and discussed a corresponding from our Law Director about the acceptance of funds for landscaping on the AT&T boxes. AT&T approached the City last and an agreement was forged between the City and AT&T for the installation of approximately 46 boxes throughout the community. The City is going to accept funds for boxes that were put in after May 1,

2008 of this year for \$1,000 each for landscaping around these boxes. There was a discussion in Committee about those boxes that were placed prior to May 1, 2006 and there's great concern amongst the Council and the also the Administration on trying to come to a resolution about either providing landscaping or giving the City a thousand dollars for each of those boxes that were placed throughout the City. That discussion will continue. The legislation before you this evening is just for the acceptance of dollars for those boxes placed after May 1st of this year. The City will continue to have those discussion with AT&T and their legal Counsel and hopefully come to a resolution to make those boxes look a little more sightly for the community seeing that they are in the right of way throughout the City.

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

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3. **RESOLUTION NO. 8303-08** - 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 at the earliest period allowed by law, authorizing the Director of Finance to accept funds from the Ohio Bell Telephone Company, d/b/a AT&T Ohio (AT&T) in conjunction with future installations of Project Lightspeed boxes. These payments from AT&T are to be in increments of \$1,000 per each lightspeed box that is installed after May 1, 2008. These funds are to be designated for landscaping purposes around the lightspeed boxes, the need to be determined by the City of Lakewood. (REFERRED TO THE COMMITTEE OF THE WHOLE 10/20/08) (Pg. 17)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8303-08.
Motion adopted. All members voting yea.

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4. Committee of the Whole report regarding Animal Safety and Welfare Advisory Board. (Deferred 10/20/08) (To Be Provided)

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

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5. **RESOLUTION NO. 8291-08** - A RESOLUTION 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, to appoint _____ as a member of the Animal Safety and Welfare Advisory Board for a two-year term, ending December 31, 2010. (Deferred 10/20/08) (Pg. 19)

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

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6. Finance Committee Report regarding Use of City Property Fees (To Be Provided)

Mr. Summers submitted the following report:

The Finance Committee met this evening as it had three prior times regarding the ordinances effecting the rental of city property particularly in the parks and this auditorium and other places of City Hall. Ordinance 65-08 - the Finance Committee recommends that we pass on third reading the amended substitute before us. This ordinance deals with the park picnic facilities. The terms, I should say, have not been updated since 1978 for rental of the facilities so we're saying it's time to do so and the next three ordinances are in effect updating terms of picnic rental and 66-08 deals with terms of City Hall facilities and then the Finance Committee recommends substitute and pass on third reading the substituted version of the fees and term of City Hall rental. Finally, Ordinance 67-08 which is item 9 on our agenda we recommend passage. This repeals the previous set of fees and terms that were set in 1978 for in effect doing a little house keeping, a little updating. The effect of all these changes will be a slightly increased rates, more simplified rental process, a clearer accountability in terms of who is responsible for administering these procedures at City Hall and in some respects we will have set forth and in some respects these are updates in the future should costs change as well. The Committee recommends passage of 65-08, 66-08 and 67-08 – 65-08 was an amended substitute - and the amendments really deal with some issues as misspelled words, non-substantive changes in the text.

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

A resident asked if a comparison was made of other cities facilities, stating that she found them cheaper, that the guard required at the facility was not needed.

Councilmember Summers responded that the increases addressed the Kiwanis shelter, picnic pavilions indicating the new fee was \$50.00 – previously was \$25.00 deposit and was free. Mr. Summers indicated that there were significant costs associated with keeping the facility clean. He indicated the fee was designed to help maintain the facility. He indicated the other costs – specifically the auditorium at City Hall - were to cover costs of utilities and routine, janitorial responsibilities. Mr. Summers indicated fees had not been changed in over 30 years and that the Committee did not find it unreasonable to consider increased costs in maintenance over that time. He indicated the intent was not to collect revenue but to offset costs. He added that often times things that are given away free are not respected

Motion adopted. All members voting yea.

To receive and file the communication. All members voting yea.

Motion adopted.

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7. **ORDINANCE NO. 65-08** – 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, 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 picnic pavilions by permit. (PLEASE SUBSTITUTE FOR ORDINANCE NO. 65-08 PLACED ON 1ST READING AND REFERRED TO THE FINANCE COMMITTEE 7/7/08, 2ND READING 7/21/08) (Pg. 20)

Motion by Mr. Dever, seconded by Mr. Butler, to substitute Ordinance No. 65-08.

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

Nays: None

Motion adopted. Ordinance No. 65-08 substituted.

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Ordinance No. 65-08.

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

Nays: None

Motion adopted. Ordinance No. 65-08 adopted as substituted.

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8. **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. (PLEASE SUBSTITUTE for Ordinance No. 66-08 Placed on 1st Reading and Referred to the Finance Committee 7/7/08. Placed on 2nd Reading 7/21/08.) (Pg. 23)

Motion by Mr. Dever, seconded by Mr. Butler, to substitute Ordinance No. 66-08.

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. 66-08.

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

Nays: None

Motion adopted. Ordinance No. 66-08 adopted.

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9. **ORDINANCE NO. 67-08** – 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, repealing Ordinance No. 45-78, adopted May 1, 1978. (PLACED ON 1ST READING AND REFERRED TO THE FINANCE COMMITTEE 7/7/08, 2ND READING 7/21/08). (Pg.26)

Motion by Mr. Butler, seconded by Mr. Dever, to adopt Ordinance No. 67-08.
Motion adopted. All members voting yea.

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10. Communication from Law Director Hurley regarding Fees and Permitting for Use of Picnic Pavilions. (Pg. 30)

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

Motion adopted. All members voting yea.

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11. **ORDINANCE NO. 86-08**- 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, establishing fees for use of picnic pavilions by permit. (Pg. 31)

Motion by Mr. Dever, seconded by Ms. Antonio, to suspend the rules requiring this ordinance be read on three separate days and placing Ordinance 86-08 on final reading.

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

Motion by Mr. Dever, seconded by Mr. Butler, to adopt Ordinance No. 86-08.
Motion adopted. Ordinance No. 86-08 adopted.

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12. **ORDINANCE NO. 87-08** - 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 905.02, Hours Open to the Public, of the Codified Ordinances of the City for purposes of removing the reference to specific picnic pavilions and to remain consistent with Section 905.15, Picnic Areas; Permit for use of Picnic Pavilions. (Pg. 33)

13. Finance Committee Report regarding Ordinance No. 98-07F. (Ordinance is in new business) (To Be Provided)

Mr. Summers submitted the following report:

The Finance Committee met tonight to consider expansion of contracting authority from the sum of \$24,000 to \$34,000 to pay the cost of the roll off cleaner that is used in the Refuse center for construction materials - people drop off very large items. There's a big bin next to a concrete parapet on the west side of the refuse area and that costs of have gone up. The Finance Committee recommends that we expand the contracting authority for the amount of \$10,000.

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. **ORDINANCE NO. 85-08** - AN ORDINANCE to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed Two Hundred Nine Thousand Five Hundred Ninety Dollars (\$209,590.00) for a one year period commencing January 1, 2009. (PLACED ON 1ST READING & REFERRED TO THE HEALTH & HUMAN SERVICES COMMITTEE 10/20/08) (Pg.35)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 85-08 on 2nd Reading.

Motion adopted. All members voting yea.

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15. Liquor Permit Application for new C1 and C2 permit classes to Lakewood Supermarket 14235 Madison Avenue. (DEFERRED 9/15/08, 10/6/08, 10/20/08) (Pg. 36)

Councilmember Bullock indicated the item was referred last time due to the report's lengthiness. Mr. Bullock indicated he had concerns with the report. He deferred to Mr. Summers for input as the Councilmember in the ward the establishment resides. Mr. Summers indicated the location of the establishment served more as a retail gasoline station and not a retail store. He stated it was his general sense that Ward 3 would not be not be well served by granting the liquor license. He indicated that it was important Council take time on the permit.

Councilmember Bullock indicated that he recognized the request was for a new permit in a neighborhood that was already crowded with liquor permit. Angelo's Pizza, Lucas Sunoco, McGinty's Achill Isle, Richland Café, El Tango Taqueria, Dairy Mart, and Players Pizza, all, in immediate vicinity already have liquor permits and there's also Lakewood High, Roosevelt Elementary nearby. Mr. Bullock indicated the report stated that the business plan of the owners was to buy up foreclosed gas stations and to re-sell or sublease them and the purpose of the new liquor permit is to increase the resale value of the new property. Mr. Bullock indicated that he was not sure the City should be in the business of enhancing value for that purpose. He stated he did not know if it was typical for gas stations to sell alcohol. He indicated that in addition the report showed a lack of cooperation with the police. Mr. Bullock indicated there appeared to be a discrepancy in the size of the business loan, and in making arrangements to hire people to do business. He concluded that he had outstanding questions but understood a deferral would be running over the deadline.

Mayor FitzGerald indicated he appreciated the oversight and suggested Council go ahead and file an objection

Motion by Mr. Dever, seconded by Mr. Bullock that the Law Director draft a resolution stating objection.

Mr. Butler indicated that historically Council had not used the resolution process to object or not object to liquor permits and recommended Council's comments to act as a resolution on behalf of the City to object to this liquor permit.

Mr. Butler stated that the Chief has to make a call as to whether there is a statutory reason to object. The Chief has the unenviable position to overlook some of the transgressions based on the statutes of Ohio. He indicated that this puts the Chief in a slightly different position than the Council. He indicated that Councilman Bullock raised a number of objections from the report itself and may or may not fall within the statutory categories for objection.

Mr. Butler asked that for the record, the catch all objection to be made was relative to whether or not a new or current liquor establishment fits within the neighborhood. He stated that based on the report by the Chief, Councilman Summers position, and Councilman Bullock recitation of the facts, the establishment does not fit in the neighborhood.

There was more discussion as to the need to make the objection that evening.

Motion by Mr. Dever, seconded by Mr. Bullock, to object to this liquor permit.
Motion adopted. All members voting yea.

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16. Liquor Permit Application for C1 and C2 transfers to ARD Enterprises d/b/a Hot Spot Food Mart, 16403 Detroit Road, from YLLI & Alma Recka d/b/a Europe Mart, same address. (Deferred 10/6/08, 10/20/08) (Pg. 37)

Motion by Mr. Dever, seconded by Ms. Antonio, to defer action on this item.
Motion adopted. All members voting yea.

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

17. Communication from Councilmember Antonio regarding Endorsing HB 502 and SB 305. (Pg. 38)

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

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18. **RESOLUTION NO. 8306-08** – A RESOLUTION of endorsement for House Bill 502 and Senate Bill 305 of the 127th Ohio General Assembly. (Pg 39)

Motion by Ms. Antonio, seconded by Ms. Madigan, to adopt Resolution No. 8306-08.
Motion adopted. All members voting yea.

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19. Communication from Mayor FitzGerald regarding Appointment to the Board of Zoning Appeals. (Pg.40)

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

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20. Communication from Finance Director Pae regarding Amendment to Purchasing & Contracting Ordinance. (Pg.41)

{This item was incorporated into the Finance Committee Report of Item 13)

21. **ORDINANCE NO. 98-07F** - 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 98-07(E), (Amended on floor) adopted September 15, 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.42)

Motion by Mr. Dever, seconded by Ms. Antonio, to amend Ordinance No. 98-07F.

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

Nays: None

Motion adopted. Ordinance No. 98-07F amended.

Motion by Mr. Dever, seconded by Ms. Madigan, to suspend the rules requiring the Ordinance is read on three separate days and placing Ordinance No. 98-07F 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. 98-07F as amended.

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

Nays: None

Motion adopted. Ordinance No. 98-07F adopted as amended.

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22. Communication from Police Chief Malley regarding Resolution for Rainbow Babies and Children's Hospital Safe Communities Grant. (Pg.49)

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

Motion adopted. All members voting yea.

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23. **RESOLUTION NO. 8307-08** - AN EMERGENCY RESOLUTION authorizing the Mayor, as Safety Director, to enter into agreements on behalf of the City to accept an expend grant funds, in an amount not to exceed \$8,356.60, from University Hospitals Health System/Rainbow Babies & Children's Hospital for the purpose of providing saturation patrols to enforce speeding, running of red lights, seat belt/child restraint usage, youthful driver, school zone and DUI laws within the City of Lakewood. (Pg. 50)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution NO. 8307-08.

Motion adopted. All members voting yea.

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24. Liquor Permit Application for new C1 and C2 permit classes to S & K Deli Inc.
d/b/a Red Rooster Chicken & Deli Mart; 12901 Detroit Avenue. (Pg. 52)

Motion by Mr. Bullock, seconded by Mr. Butler, to file no objection.
Motion adopted. All members voting yea.

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Motion by Mr. Dever, seconded by Ms. Antonio, to adjourn.
Motion adopted. All members voting yea.
Meeting adjourned 9:30 PM.

Approved: _____

PRESIDENT

CLERK