

**MINUTES  
OF THE  
REGULAR MEETING OF  
LAKEWOOD CITY COUNCIL  
HELD IN COUNCIL CHAMBERS  
12650 DETROIT AVENUE  
DECEMBER 1, 2008  
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:38 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, Building Department's Jeff Fillar.

Motion by Mr. Dever, seconded by Ms. Madigan, to approve the Minutes of the Regular Meeting of Council held November 17, 2008.

Motion adopted. All members voting yea.

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

1. Committee of the Whole Report regarding Easement Agreement with AT&T (To Be Provided)

Mr. Dever submitted the following report:

**#1 COW Report regarding Easement Agreement with AT&T – Michael Dever**

Dear members of Council, just prior to our meeting this evening we had a Committee of the Whole meeting to discuss an easement agreement with AT&T for the placement project lightspeed boxes at the address of 1422 Belle Ave. which is directly across from Lakewood Hospital, next to their child care facility. This item was brought before the Council back in May. There were some questions asked of Lakewood Hospital, if they were looking at expanding or utilizing this area for construction or a build out or anything like that. Lakewood Hospital has been reviewing the plans to see if they were going to need this area, in turn they have come back to the City and said no, they will not be needing this area for any sort of expansion or any sort of build out. Currently at this location there is one AT&T lightspeed box and they are looking to put a second one at this location. It is somewhat hidden behind some trees so it is somewhat out of view so the Council made a recommendation to adopt this ordinance this evening.

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. 52-08** - 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 the Mayor on behalf of the City of Lakewood to enter into agreements necessary to grant an Exclusive Easement and a Non-Exclusive Easement to The Ohio Bell Telephone Company, d/b/a AT&T Ohio, for placement of and access to equipment used in the transmission of signals used in the provision of communication, video and /or information services on property located at 1422 Belle Avenue. (PLACED ON 1<sup>st</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 4/21/08, 2<sup>nd</sup> READING 5/5/08) (Pg. 7)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Ordinance No. 52-08.  
Motion adopted. All members voting yea.

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3. Committee of the Whole Report regarding Appointment to the Animal Safety and Welfare Advisory Board. (To Be Provided).

Mr. Dever submitted the following report:

**#3 COW Report regarding Appointment to the Animal Safety and Welfare Advisory Board – Michael Dever**

Once again we had met just prior to this meeting to discuss an appointment , Council’s appointment to the Animal Safety and Welfare Advisory Board. This is a two year appointment ending December 31, 2010. Council had deliberated about making sure that we had a licensed veterinarian to serve on this committee. We were fortunate enough that Dr. Bo Rog, with consultation with Councilman Butler has graciously accepted to serve on this committee for the next two years and Council welcomed his addition to this committee so with that we have made a recommendation in committee to appoint him to the board.

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

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4. **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. (Pg. 11)

Motion by Mr. Butler, seconded by Mr. Dever, to amend Resolution No. 8291-08 insert the Name Bo Rog, DVM, into the blank.  
Motion adopted. All members voting yea.

Motion by Mr. Butler, seconded by Ms. Madigan, to adopt Resolution No. 8291-08.  
Motion adopted. All members voting yea.

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5. Public Safety Committee Report regarding Withdrawing Objection to Liquor Permit Application for Hot Spot Food Mart. (To Be Provided)

Mr. Bullock submitted the following report:

**#5 Public Safety Committee Report Regarding Withdrawing Objection to Liquor Permit Application for Hot Spot Food Mart – Tom Bullock**

Before us we have today a proposed resolution to withdraw the objection of Council that we voted on at the last meeting. In this particular case, the property applying for a liquor license had a partner, a corporate partner as part of their application who had a criminal record of a troubling nature. We had requested that that party be removed. At the time their application went to the last meeting, that had not been done and confirmed. Since then, my understanding is that has been confirmed and if I could actually defer to the Law Director for a little update.

Hurley: Yes, we have verified through the Secretary of State that the necessary steps have been taken, the share holder was in fact removed from the corporate structure.

Bullock: And so therefore, if we adopt the resolution tonight, we would be signaling that the problem that we flagged was resolved. I don't know if other Councilmembers would like to speak on this. I know that some had concerns that either the paper issue was corrected, perhaps the actual issue of this party participating or not in the business may not be changed or there was some question as to whether or not we could have assurance of that.

Butler: Chief, in your investigation, if you were to find out that one of the employees, but not shareholders, had a criminal record, would that give you, if that record were bad enough, would that give you cause to object? If it were just going to be an employee?

Chief Malley: If it was bad enough, yes.

Butler: Ok. In this case, we don't know if that shareholder, the former shareholder that was removed as a shareholder, is going to be an employee. In that instance, is there any opportunity for the police maybe to follow up in a few months or so and find out if the guy's working there because that may be some cause for us to perhaps object to a renewal a year from now. If you think the record is bad enough and if he's still working there that may give us some reason to object in September.

Chief Malley: Yearly, in June, we do a report, the administration and all our permit holders in regards to their activities during the past year. Anything that's brought to our attention through those reports would be a cause to submit a resolution to object for 2009. Even if we have no particular problems with the Hot Spot if their operation has been brought to our attention, we'll stop in ...

Butler: It might be worth following up on. OK. Thanks. Other than that I would have no objection to passing this resolution, withdrawing our previous objection to the liquor permit, transfer. I think that if we can assure ourselves that the police are going to follow up in the future and find out if this guy's still working there then that's enough for me. Thanks.

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

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6. **RESOLUTION NO. 8314-08** - 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 withdrawing the objection of Council to the transfer of ownership of C1, C2 liquor permits from YLLI & ALMA RECKA d/b/a Europe Mart, 16503 Detroit Road, Lakewood, Ohio to ARD Enterprises Inc d/b/a Hot Spot Food Mart, 16403 Detroit Road, Lakewood, Ohio. (Pg.12)

Motion by Mr. Dever, seconded by Mr. Butler, to adopt Resolution No. 8314-08.  
Motion adopted. All members voting yea.

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

7. **ORDINANCE NO. 88-08** - 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, 2009. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 11/17/08) (Pg.13)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 88-08 on 2<sup>nd</sup> Reading and refer back to the Committee of the Whole.

Motion adopted. All members voting yea.

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8. **ORDINANCE NO. 89-08** - 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 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 2009 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. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 11/17/08) (Pg. 26)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 89-08 on 2<sup>nd</sup> Reading and refer back to the Committee of the Whole.

Motion adopted. All members voting yea.

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9. **ORDINANCE NO. 90-08** - 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 the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for **Memberships** as authorized by the 2009 Appropriation Ordinance and the Administrative Code of the City of Lakewood, contracts not to exceed \$60,000 without separate Resolution of Council. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 11/17/08) (Pg. 30)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 90-08 on 2<sup>nd</sup> Reading and refer back to the Committee of the Whole.

Motion adopted. All members voting yea.

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10. **ORDINANCE NO. 91-08** - 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 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 service contracts in accordance with the Administrative Code of the City of Lakewood for the **Division of Planning & Development** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 11/17/08) (Pg. 34)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 91-08 on 2<sup>nd</sup> Reading and refer back to the Committee of the Whole.

Motion adopted. All members voting yea.

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11. **ORDINANCE NO. 92-08** - 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 Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bids and enter into contracts with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the purchase of Vehicles, Machinery and Motorized Equipment, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 11/17/08) (Pg. 36)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 92-08 on 2<sup>nd</sup> Reading and refer back to the Committee of the Whole.

Motion adopted. All members voting yea.

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12. **ORDINANCE NO. 93-08** - 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, requesting Council's specific approval of and authorizing the Mayor to enter into a lease for property located at 17415 Detroit Avenue, Lakewood, Ohio for use by the Division of Police ("Division") as the Ward I Neighborhood Police Station, in accordance with Lakewood Codified Ordinance §111.04(a)(4). (PLACED ON 1<sup>ST</sup> READING 11/17/08) (Pg. 38)

Motion Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 93-08 on 2<sup>nd</sup> Reading.

Motion adopted. All members voting yea.

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13. **ORDINANCE NO. 94-08** - AN ORDINANCE authorizing the Mayor, on behalf of the City, to enter into an agreement with the Cuyahoga Housing Consortium ("Consortium and various lending institutions and individuals participating in the Lakewood HOME Program and the American Dream Down Payment Initiative (ADDI) )collectively the "Modified Programs" in and amount not to exceed Five Hundred Thousand Dollars (\$500,000). (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE HOUSING COMMITTEE 11/17/08). (Pg. 43)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 94-08 on 2<sup>nd</sup> Reading and refer back to the Housing Committee.

Motion adopted. All members voting yea.

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

14. Communication from Council President Dever regarding Planning Commission Appointment Resolution Amendment. (Pg.45)

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

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15. **RESOLUTION NO. 8233-08A** – 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 possible period allowed by law, to amend Resolution No. 8233-08, adopted February 19, 2008 to correct a typographical error in the appointment of Mary Cierebiej as a member of the Lakewood Planning Commission. (Pg.46)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8233-08A. Motion adopted. All members voting yea.

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16. Communication from Councilmember Bullock regarding Ordinance Creating New Environment Committee of Lakewood (ECO Lakewood). (Pg.48)

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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17. **ORDINANCE NO. 95-08** – AN ORDINANCE to create Chapter 160, a new Environment Committee of Lakewood (ECO Lakewood) to assist with planning and implementing sustainable practices in City of Lakewood operations and in the community at large. (Pg.49)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 95-08 on 1<sup>st</sup> Reading and refer it to the Committee of the Whole.

Motion adopted. All members voting yea.

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18. Communication from Law Director Hurley regarding Grant of Easement to AT&T for Lightspeed cabinets at Lakewood Park. (Pg.51)

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

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19. **ORDINANCE NO. 96-08** – 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 the Mayor on behalf of the City of Lakewood to enter into agreements necessary to grant an Exclusive Easement and a Non-Exclusive Easement to The Ohio Bell Telephone Company, d/b/a AT&T Ohio, for placement of and access to equipment used in the transmission of signals used in the provision of communication, video and /or information services on property located at 14532 Lake Avenue, Lakewood, Ohio. (Pg.52)

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

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20. Communication from Police Chief Malley regarding \$1,000.00 Donation from “Spooky Pooch Parade” to Animal Control Department. (Pg. 60)

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

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21. **RESOLUTION NO. 8315-08** - 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 Mayor to accept, on behalf of the City of Lakewood, the donation of \$1,000 from the Spooky Pooch Parade organizers for the benefit of the City of Lakewood, Division of Police, Animal Control Department. (Pg. 61)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8315-08.  
Motion adopted. All members voting yea.

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22. Communication from Police Chief Malley regarding Accepting Donation of Two Copiers valued at \$1,200 from Ace Copier of Cleveland. (Pg.63)

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

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23. **RESOLUTION NO. 8316-08** - 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 Mayor to accept, on behalf of the City of Lakewood, the donation of two copiers for use at Neighborhood Police Offices from Ace Copier of Cleveland valued at \$1,200.00. (Pg. 64)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution NO. 8316-08.  
Motion adopted. All members voting yea.

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24. Communication from Human Services Director Buckon regarding Amended Resolution Authorizing a Partnership Agreement with Community Care Network and Positive Education Program. (Pg. 66)

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

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25. **RESOLUTION NO. 8304-08A** - 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 possible period allowed by law, to amend Resolution NO. 8304-08, adopted October 20, 2008 to allow the Mayor, or his designee, on behalf of the City, to enter into a Partnership Agreement with The Community Care Network and Positive Education Program to enable the City of Lakewood to receive the services of a Tapestry System of Care Parent Advocate and a Positive Education Program Tapestry Care Coordinator for the period of November 1, 2008 to October 31, 2009 and to receive reimbursement for overhead costs associated with those position in an amount not to exceed \$24,500 from The Community Care Network. (Pg. 67)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8304-08A.  
Motion adopted. All members voting yea.

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26. Communication from Planning and Development Director Kelly regarding EDF Support for Wholesome Development LLC. (Pg. 70)

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

Motion adopted. All members voting yea.

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27. **ORDINANCE NO. 97-08** - AN ORDINANCE authorizing the Mayor or his designee to enter into an agreement with Wholesome Development, LLC or its designee for participation in the Lakewood Business Investment Program (BIP) of the Economic Development Fund (EDF) for a five (5) year loan in an amount of One Hundred Thousand Dollars (\$100,000.00). (Pg. 71)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No.97-08 on 1<sup>st</sup> Reading and refer it to the Committee of the Whole.

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 9:08 PM.

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

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CLERK

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PRESIDENT