

**MINUTES
OF THE
REGULAR MEETING OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
FEBRUARY 2, 2009
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:46 PM by President Dever.

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Present: Councilmembers Nickie J. Antonio, Thomas R. Bullock III, 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 Representative Hageman, Human Services Director Buckon, Law Director Hurley, Public Works Representative Bill Corrigan, Building Representative Jeff Fillar, Planning & Development Director Kelly, Human Resources Director Yousefi.

Motion by Mr. Dever, seconded by Ms. Antonio, to approve the Minutes of the Regular Meeting of Council held January 20, 2009.

Motion adopted. Six members voting yea.

Mr. Bullock abstains.

Without objection from Council a Public Comment regarding Lakewood Hospital was heard first in the agenda order:

Mayor FitzGerald introduces Fred DeGrandis and Jack Gustin from Lakewood Hospital to speak about its new , strategic plan.

Fred DeGrandis provided an overview of Lakewood Hospital new, strategic plan –“Vision for Tomorrow” – (Document is provided regarding goals and are the following:

Mr. DeGrandis talked about the need to elevate wellness in the community with coordinated efforts with the City, Schools, YMCA, Lakewood Hospital and other community partners. Mr. DeGrandis referenced a \$5 million gift provided by the Lakewood Hospital Foundation and a \$500,000 gift given from the Lakewood Hospital Medical Staff in support of the plan

Mr. DeGrandis indicated that community forums would be ongoing to talk about the plan.

Mr. Gustin spoke about the “four Centers of Excellence”.

From document provided:

Focusing on four Centers of Excellence:

Orthopedics, Geriatrics, Neurological Services and Diabetes/Endocrine

Expanding outpatient care

Partnering with community organizations to maximize wellness offerings

Strengthening the management of chronic disease, such as diabetes

Aligning Cleveland Clinic services and community physicians in Lakewood Hospital

Regular Docket Order resumed.

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

1. Committee of the Whole Report regarding Council Appointments to Hospital Board. (To Be Provided)

Motion by Mr. Dever, seconded by Ms. Antonio, to defer action on this report.

Motion adopted. All members voting yea.

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2. **RESOLUTION NO. 8320-09** - 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 to appoint _____ as a Community Trustee of the Lakewood Hospital Association Board for the full five-year term, ending December 31, 2013. (Deferred 1/5/09)(Pg.6)

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

Motion adopted. All members voting yea.

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3. **RESOLUTION NO. 8321-09** - 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 to appoint _____ as a Special Trustee of the Lakewood Hospital Association Board for the full five-year term, ending December 31, 2013. (DEFERRED 1/5/09)(Pg. 7)

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

Motion adopted. All members voting yea.

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4. Housing Committee Report regarding Outdoor Seasonal Dining. (To Be Provided)

Ms. Madigan submitted the following report:

The Housing Committee met at 5:30 this evening and present were Councilman Summers and Councilwoman Antonio who brought this matter before us quite some time ago. We met today to complete a change in our Zoning Code which will allow outdoor dining wherever possible in Lakewood. This ordinance which has taken quite awhile as I've said is really very far-sighted. It anticipates improved streetscapes and it demonstrates really thoughtful planning for one of Lakewood's core business sectors which is our restaurants. I applaud Councilwoman Antonio who, I would say, over two years ago brought this up and was very steadfast in moving it forward to Committee.

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

Mr. Butler asked if the Committee was recommending passage of the substituted ordinance before Council that night with or without an amendment.

Councilmember Madigan responded that the intention was to pass the substituted ordinance with an amendment.

Motion adopted. All members voting yea.

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5. **ORDINANCE NO. 70-07** – AN ORDINANCE to amend the Zoning Code of the City of Lakewood to incorporate sidewalk dining into the current provisions for Outdoor/Seasonal Dining. **(PLEASE SUBSTITUTE** FOR ORDINANCE NO. 70-07 PLACED ON 1ST READING AND REFERRED TO THE HOUSING COMMITTEE 9/4/07, 2ND READING 1/20/09). (Pg. 8)

Motion by Mr. Dever, seconded by Ms. Madigan, to substitute Ordinance No. 70-07.

Ms. Madigan indicates that the substitution was in Section 13 which provides guidance about the hours of operation, when the hours of operation would allow furniture to be left out overnight. “...It would read; *all furniture and fixtures used in an outdoor dining area in the public right-of-way must be readily removable without damage to the surface of the right-of-way* - and the substitution is *and may only remain in the public right-of-way during hours of operation without prior approval of the Planning Commission...*”

On the motion to amend the substituted ordinance.

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

Nays: None

Motion adopted. Ordinance amended.

Mr. Butler made the following comments:

Mr. Chairman, I know that this is not the first incarnation of this, I know the Planning Commission has had an opportunity to review it. The full Council has not had an opportunity to review it unless whoever attended the Housing Committee; most of us are not members of that Committee. I don't want to eliminate momentum but because of the extensive ordinance that we have before us it would seem to me to be appropriate for us to at least, perhaps, convene one session in Committee of the Whole so that we can discuss what it does and just check to see if there are any questions that the remainder of Council may have on it. I don't believe there have been any other committee meetings addressing this final version of the ordinance.

Councilmember Antonio stated the following:

I think it would be possibly helpful to have our planning director address what the biggest change in this final version is - truly this has gone through - the reason why it took two years, one of the reasons is - because we've gone through two administrations and one of the things I want to say is that there were many different ways to address how to address having dining in the public right-of-way and what you

have before you is something that was laboriously researched through our Zoning Code as well as looking at the particular nuances for the City of Lakewood in terms of our sidewalks and things like that and with a lens looking at possible new development as Councilwoman Madigan identified in her opening statement. I think the possibility of the one or two things that really came through might be able to be answered for you right now by our planning director.

Planning and Development Director stated the following:

The Ordinance before you today is lengthening only in such that you've been given a lot of paper but the changes are actually very small. The first change is editing a definition for food service in the definition section at the beginning of the Zoning Code. The second, and the one where I want to draw your attention to is the section 1161.03 (t) which is where the Outdoor/Seasonal Dining portion of our Zoning Code is. That's where we made the larger, wholesale change. What the (inaudible) improvement was that dining can happen outside on the public right-of-way, so it's permitting outdoor dining for the first time, it's permitting it to happen on a sidewalk that's owned by the people of Lakewood. In those rules we created a couple stipulations. The first is, they sign a contract with the City that says anything bad that happens on these sidewalks is not the City's responsibility. The second is that you have approval from the Planning Commission which is a conditional use; it can be revoked at any time by a meeting of the Planning Commission. That conditional use carries with it a concern for neighbors; noise, light pollution, other things that would be brought before the Commission that would become a nuisance if there were outdoor dining. It also creates requirements to make sure that there is consistency with ADA accessibility; that there's a five-foot path for travel on the sidewalk. Lastly it makes requirements that any material that is outside is approved by the Architectural Board of Review. This way someone can't have a lawn chair, throw up an umbrella and call it outdoor dining in the public right-of-way. It also leaves consideration for those establishments which serve alcohol. In that case it has to have a barrier 36 inches tall, consistent and approval from the State Board of Liquor Control. And those are the largest changes, forward are procedural. I would also add that two weeks away is not going to stop us from implementing this and it's not permitted out of season anyway.

Councilmember Madigan stated the following:

Given Councilman Butler's comments the Housing Committee is amenable to having it go to Committee of the Whole so we can tighten up any loose ends and answer any further questions.

Motion by Mr. Dever, seconded by Mr. Butler, to receive, file and refer Ordinance No. 70-07 to the Committee of the Whole.

Councilmember Butler indicated that he did not anticipate undue delay, and very much appreciated all the hard work that went into the ordinance from the Planning Director, Planning Commission, the Housing Committee. He indicated that because the ordinance meant adding much to the Code it was important the full Council review the ordinance.

Councilmember Antonio indicated she recognized the need to have full review in the Committee of the Whole and asked that the review be done in a timely fashion because there were restaurants and establishments that would want to prepare and be able to take advantage of the ordinance this year.

Motion to receive, file and refer the substituted ordinance to the Committee of the Whole

Motion adopted.

All members voting yea.

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6. **ORDINANCE NO. 18-09** - 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 January 1, 2009. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 1/20/09) (Pg.24)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 18-09 on 2nd reading and refer back to the Finance Committee.

Motion adopted. All members voting yea.

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

7. Communication from Councilmember Bullock regarding Ordinance to Expand Local Organic Food in Lakewood by Allowing Backyard Eggs. (Pg. 31)

Motion by Mr. Dever, seconded by Mr. Summers, to receive, file and refer the communication to the Housing Committee.

Motion adopted. All members voting yea.

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8. **ORDINANCE NO. 19-09** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council, otherwise, it shall be in effect and be in force after the earliest period allowed by law, to expand local organic food in Lakewood by allowing backyard eggs. (Pg 35)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 19-09 o 1st Reading and refer it to the Housing Committee.

Motion adopted. All members voting yea.

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9. Communication from Councilmember Bullock regarding Ordinance to Strengthen Lakewood Farmers Markets by Permitting Sale of Dairy, Eggs, and Meat. (Pg.43)

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

Motion adopted. All members voting yea.

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10. **ORDINANCE NO. 20-09** – AN ORDINANCE to take effect immediately providing it receives the affirmative vote of at least five (5) members elected to Council, otherwise, it shall be in effect and be in force after the earliest period allowed by law, to strengthen Lakewood farmers markets by permitting sale of dairy, meat, and eggs. (Pg. 44)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 20-09 on 1st Reading and Refer it to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

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11. Communication from Finance Director Pae regarding \$8,196,000 City of Lakewood, Ohio 2007, 2008 and 2009 Various Purpose General Obligation Bond Anticipation Notes. (Pg. 49)

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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12. Fiscal Officer Notes (Provided that evening) Motion by Mr. Dever, seconded by Mr. Butler, to receive, file and refer the Notes to the Finance Committee.

Motion adopted. All members voting yea.

- **Street Improvement Notes, Series 2009 In Connection With Proposed Issue of Securities to Pay Costs of Improving Certain Streets**
- **Traffic Signalization Improvement Notes, Series 2009**
- **Municipal Recreational Facilities Notes, Series 2009**
- **Buildings and Facilities Notes, Series 2009**
- **Sidewalk Program Notes, Series 2009**
- **Reforestation Program Notes, Series 2009**
- **Various Purpose Refunding Notes, Series 2009 (2008 Street Improvement Projects) Supplemental Fiscal Officer's certificate of Maximum Maturity**
- **Various Purpose Refunding Notes, Series 2009 (2008 Municipal Buildings and Facilities Project) Supplemental Fiscal Officer's Certificate of Maximum Maturity**
- **Various Purpose Refunding Notes, Series 2009 (2008 Municipal Recreational Facilities Project) – Supplemental Fiscal Officer's Certificate of Maximum Maturity.**
- **Various Purpose Refunding Notes, Series 2009 (2008 Traffic Signalization Project) Supplemental Fiscal Officer's Certificate of Maximum Maturity**
- **Various Purpose Refunding Notes, Series 2009 (2007 Municipal Recreational Facilities Project)**

Motion by Mr. Dever, seconded by Mr. Butler, to receive, file and refer the notes to the Finance Committee.

Motion adopted. All members voting yea.

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13. **ORDINANCE NO. 21-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$4,321,000, in anticipation of the issuance of bonds, for the purpose of retiring certain outstanding bond anticipation notes of the City issued to pay costs of various capital improvements, and declaring an emergency. (Pg. 50)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 21-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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14. **ORDINANCE NO. 22-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$310,000, in anticipation of the issuance of bonds, for the purpose of paying the costs of (1) resurfacing and improving city-owned parking lots, (2) reconstructing the fuel tank bulk head in the Fire Department fuel island, (3) reconstructing, renovating and improving various City buildings and facilities, and (4) making capital improvements to the Serpentine Arena at Winterhurst ice rink, and declaring an emergency. (Pg. 66)

Motion by Mr. Dever, seconded by Ms. Antonio, to place Ordinance No. 22-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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15. **ORDINANCE NO. 23-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$850,000, in anticipation of the issuance of bonds, for the purpose of paying the costs of (1) improving the Lakewood Park Shoreline by constructing and installing a stone facing to stabilize the shoreline slope and provide beach access in accordance with the Master Plan for Lakewood Park, and (2) improving City parks, and declaring an emergency. (Pg. 82)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 23-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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16. **ORDINANCE NO. 24-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$60,000, in anticipation of the issuance of bonds, for the purpose of paying the costs of the City's reforestation program, and declaring an emergency. (Pg.97)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 24-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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17. **ORDINANCE NO. 25-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$100,000, in anticipation of the issuance of bonds, and the levy and collection of special assessments, for the purpose of paying the costs of the City's 2009 sidewalk program, and declaring an emergency. (Pg. 112)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 25-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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18. **ORDINANCE NO. 26-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$920,000, in anticipation of the issuance of bonds, for the purpose of paying the costs of improving streets by designing, renovating, and replacing traffic signals in the City, and declaring an emergency. (Pg. 127)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 26-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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19. **ORDINANCE NO. 27-09** - 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, to provide for the issuance and sale of notes of the City in a maximum principal amount of \$1,635,000, in anticipation of the issuance of bonds, for the purpose of paying the costs of improving certain streets in the City, and declaring an emergency. (Pg. 142)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 27-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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20. Communication from Planning & Development Director Kelly regarding Neighborhood Stabilization Program Grant Approval to Accept. (Pg. 157)

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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21. **RESOLUTION NO. 8326-09** - 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, on behalf of the City, to apply for and accept financial assistance under the Ohio Neighborhood Stabilization Program in order to direct funds to projects which address vacant, abandoned and foreclosed in a manner compliant with the State of Ohio's requirements and the federal regulations stated in Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA). (Pg. 158)

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

Motion adopted. All members voting yea.

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22. Communication from Planning & Development Director Kelly regarding Vacant Residential Property Fund Application "Round II". (Pg. 160)

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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23. **RESOLUTION NO. 8327-09** - 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 and directing the Mayor, on behalf of the City, to apply for financial assistance under the First Suburbs Development Council's Vacant Residential Property Fund Program in support of foreclosure prevention and remediation efforts in the Historic Birdtown Neighborhood. (Pg. 161)

Motion by Mr. Dever, seconded by Ms. Antonio, to receive, file and refer Resolution No. 8327-09 to the Committee of the Whole.

Motion adopted. All members voting yea.

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24. Communication from Police Chief Malley regarding Safety Belt Education Program. (Pg.163)

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. 8328-09** - 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, or his designee to enter into an agreement with and to accept compensation from the Ohio Department of Public Safety for the provision of safety belt education programs for the third grade in the Lakewood Schools for a period ending June 1, 2009. (Pg.164)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8328-09.

Motion adopted. All members voting yea.

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26. Communication from Mayor FitzGerald regarding Mayoral Appointment to the City of Lakewood Audit Committee. (Pg. 166)

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

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 9:09 PM.

Approved: _____

CLERK

PRESIDENT