

**MINUTES
OF THE
REGULAR MEETING OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
MAY 18, 2009
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:34 PM by Acting President Madigan (Mr. Dever arrives 8:08 PM).

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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.

Motion by Ms. Madigan, seconded by Mr. Butler, to excuse the absence of Mr. Dever. (Mr. Dever arrives at 8:08 PM)

Motion adopted. All members present voting yea.

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Also Present: Mayor FitzGerald, Law Director Hurley, Finance Director Pae, Police Chief Malley, Fire Representative, Public Works Director Beno, Human Services Director Buckon, Planning & Development Director Kelly, Assistant Director Safety – Division of Building and Housing Ashby.

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Reading and disposal of the Minutes of the Regular Meeting of Council held May 4, 2009.

Motion by Mr. Dever, seconded by Ms. Madigan, to approve the minutes without the necessity of a reading.

Motion adopted. All members voting yea.

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Without objection from Council the 2009 Lakewood Heritage Advisory Board Preservation Awards were presented:

Former Councilman and Council President Robert Seelie and former Councilmember Joe Gibbons were honored with a Preservation Found's Award as "lead sponsors of the ordinance authorizing the citywide historic preservation study (1994) and lead sponsors of the ordinance creating the Lakewood Heritage Advisory Board (1995). This is the first awards presentation since the passage by Lakewood City Council of the comprehensive historic preservation ordinance in 2008.

1045 Homewood, Tom and Colleen Johncock,
1201 Ramona Norine and John Prim

1273 Belle – Hilary Schickler, Marc Rose
Emerson Elementary, Horace Mann Elementary
1229 Manor Park – Jennifer and Kevin Scott
1059 Homewood; Jeffrey and Mary Therber;
13908 Clifton – John Brown
Dewey’s Pizza, 18516 Detroit – Dave Igle, Store Manager, Michael Pigg, Cleveland
Manager; Andrew DeWitt, AED Enterprises;
Lakewood Public Library, 15425 Detroit
St. Peters Episcopal Church, 18001 Detroit (‘Reverend Keith Owen),

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

1. Committee of the Whole Report regarding Ordinances Nos. 39-09, 40-09, 42-09, 43-09, and Resolution No. 8348-09. (Pg.6)

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

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2. **ORDINANCE NO. 39-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, repealing Lakewood Codified Ordinance §1306.521, Repair or Demolition of Unsafe Structures. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 4/6/09, 2ND READING & REFERRED TO THE COMMITTEE OF THE WHOLE 4/20/09) (Pg. 7)

Motion by Ms. Madigan, seconded Mr. Butler, to adopt Ordinance No. 39-09.

Motion adopted. All members voting yea.

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3. **ORDINANCE NO. 40-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, adopting section 1306.521, Public Nuisance Buildings and Structures, Repair or Demolition thereof, for the purpose of adopting a clear and concise method for the repair or demolition of unsafe structures of nuisance properties. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 4/6/09, 2ND READING & REFERRED TO THE COMMITTEE OF THE WHOLE 4/20/09) (Pg. 13)

Motion by Ms. Madigan, seconded by Mr. Butler, to substitute Ordinance No. 40-09.

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

Nays: None

Motion adopted. Ordinance No. 40-09 substituted.

Motion by Butler, seconded by Ms. Antonio, to adopt Ordinance No. 40-09 as substituted.

Mr. Butler indicated after consultation with the Law Director the following amendments should be noted

on Section 1306.521a where it says Public nuisance structures are hereby defined as those...

“for the purposes of this Building Code, Capital B, Capital C. under unsafe structures remove hyphen between shut and off.. – (page 16 of docket) – Subsection C1 at bottom – last line – replace property in public nuisance property with structure (C1 – four instances of public nuisance property changed to public nuisance structure) (remove the comma before structure...numeral 5 (remove first “structure”)as it is a typo. Third line after word structure - in (d) Vacation buildings and prohibiting use – 3rd line – after the word structure in the beginning of that line add the word, “or” so that it would read ‘public nuisance structure or a portion thereof...

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

Nays: None

Motion adopted. Ordinance No. 40-09 amended.

Motion by Mr. Butler, seconded by Ms. Antonio, to adopt Ordinance No. 40-09 as substituted and amended.

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

Nays: None

Motion adopted. Ordinance No. 40-09 adopted as substituted and amended.

{Without objection from Council Item 17 & 18 were read after item 3)

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4. **ORDINANCE NO. 42-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, to repeal Section 149.07, Longevity Compensation, of the Lakewood Codified Ordinances. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 4/6/09, 2nd READING 4/20/09) (Pg. 24)

Motion by Mr. Dever, seconded by Mr. Powers, to adopt Ordinance No. 42-09.

Mr. Butler asks how many employees would be impacted by the repeal and Mayor FitzGerald indicated he believed 36. Mr. Butler asks if those who work for the judge would be effected.

Finance Director Pae indicated that all non-union city employees would be effected which would include Court employees; impacting employees who have been here five years or more; indicating that not everyone in that category is receiving longevity. Mr. Butler asked if Court employees do receive longevity bonuses. Ms. Pae responded that

this was correct. Mr. Butler asked if the Judge has authority to give his employees longevity despite the fact that Council does not legislate for them. Ms. Pae indicated they could not receive longevity as prescribed by the ordinance.

Mr. Butler asked for verification that part-timers did not receive longevity – Ms. Pae indicated they did not. Mr. Butler asked if part-timers would be subjected to merit bonuses under the new system. Ms. Pae indicated that it was not mentioned in the ordinance.

Mr. Butler indicated that an over-riding concern that remained was that base salaries would be ignored over the years in favor of bonuses and that impacts retirement benefits and bonuses do not. He indicated that cost of living increases may not provided.

Mayor FitzGerald indicated that all the ordinance does is takes away a current bonus that is provided solely on the basis of seniority. He indicated that it doesn't say that in 2010 someone who was a non-union employee salary could not be given a raise.

He indicated that you could not have long term where a non-union employee could not have an increase in their base salary. He indicated increases in salary could be provided for either merit or across the board increases.

Mr. Butler asked if in future union negotiations this issue would be addressed. Mr. Butler indicated that his support of the ordinance was for two reasons – that it was not good policy to reward people solely on the basis of longevity, and secondly it was not good policy to automatically give people raises or upward adjustments every year because the City can't afford that every year.

Mayor FitzGerald indicated the issue would be on the table in future negotiations. He said he didn't know if it would be a 2,3 or 4 year process. He indicated that the non-union employees did have sacrifices imposed immediately but eventually everyone would end up in the same place.

Councilmember Madigan asked how many contract negotiations in 2009 (all 7).

Councilmember Madigan indicated that she understood to righting this inequity eventually but there may be different Council, different Administration. She indicated the best would be the negotiations. She said that it was about taking steps to change the policy the City has had all these years. She indicated that for those 36 employees, that this did make a difference.

Clarification was made stating that part-time employees are eligible for merit bonuses. And that no part-time employees did receive health care – except Councilmembers and Law Department.

Discussion was had regarding theory behind providing part-time law department employees with healthcare.

Question regarding opt-out provisions given to part-time people who chose not to get health care.

Councilmember Antonio indicated reference to previous Administration with regard to raises. Clarification was made regarding raises versus bonuses – one impacting retirement. It was stated that longevity has been looked at as a bonus. Discussion was had – regarding the subject being taken away for good, per Budget Hearings, to save money in the budget, as well as replacing a practice with a merit system. A reference to an outline to be provided to Council was referenced to see if Council would do away with the longevity (permanently).

Mayor FitzGerald indicated that it was his recollection that if there would be merit bonuses provided and evaluations given, a uniform system would have to have been implemented – - and if merit bonuses were given; a merit evaluation system would be in place.

Councilmember Antonio asked if there is was a freeze as far as increasing salaries now. Mayor FitzGerald indicated there was a freeze, there haven't been any raises given.

Discussion was had regarding future ability to make the union and non-union employee compensation more equitable.

Further discussion was also had regarding the different roles of administrative versus legislative parts of city government.

On motion to adopt.

Motion adopted. All members voting yea.

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5. **ORDINANCE NO. 43-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law, to enact new Section 149.07, Merit Bonus Awards, of the Lakewood Codified Ordinances. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 4/6/09, 2ND READING 4/20/09) (Pg. 27)

Motion by Ms. Madigan, seconded by Mr. Dever, to amend Ordinance No. 43-09

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

Nays: None

Motion adopted. Ordinances No. 43-09 amended.

Motion by Mr. Dever, seconded by Mr. Butler, to adopt Ordinance No. 43-09 as amended.

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

Nays: None

Motion adopted. Ordinance No. 43-09 adopted as substituted.

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6. **RESOLUTION NO. 8348-09** – 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 City of Lakewood to adopt an identity Theft Prevention Program. (REFERRED TO THE COMMITTEE OF THE WHOLE 5/4/09)(Pg. 29)

Motion by Mr. Dever, seconded by Mr. Butler, to adopt Resolution No. 8348-09.

Motion adopted. All members voting yea.

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7. Committee of the Whole Report regarding Withdrawal of Objection for Lakewood Supermarket. (To Be Provided)

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

Motion adopted. All members voting yea.

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8. Communication from Law Director Hurley regarding Withdrawal of Objection for Lakewood Supermarket. (Pg. 36)

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

Motion adopted. Six members voting yea.

Ms. Antonio absent for vote.

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9. **RESOLUTION NO. 8349-09** – 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 go into force after the earliest period allowed by law, withdrawing the objection to the issuance of new C1 and C2 liquor permits to Lakewood Supermarket, LLC for an establishment located at 14235 Madison Avenue, City of Lakewood, Ohio 4410. (Pg. 37)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 349-09.

Motion adopted. Six members voting yea.

Ms. Antonio absent for vote.

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10. Housing Committee Report regarding Ordinances Nos. 46-09 and 47-09. (To Be Provided)

#10 Housing Committee Report regarding Ordinances 46-09 & 47-09 – Mary Louise Madigan

Mr. Chair, the Housing Committee met this evening with Planning and Development Director Kelly. Also present was Councilman Summers, Councilwoman Antonio and various members of the public. We met to discuss the renewal of the Mixed Use Rental Assistance Program (MURAL) and the Senior Deferred Loan Program. Mr. Kelly’s correspondence explains it very well. The existing MURAL program was recently approved by the Cuyahoga Housing Consortium. It expands our storefront renovation program by creating a subsidy to renovate the interior of residential units located above these commercial spaces. In Mr. Kelly’s original communication, he indicates that there are seventy plus first floor storefronts in Lakewood with apartment units above in need of major improvements. The program requires that participants must first complete facade and building improvements through the City’s storefront renovation program and when finished they are eligible to receive a five-year loan deferment of either up to seventy percent of the total project cost per building or \$15,000 per unit up to eleven units. The loans must be paid if the program requirements are not met and these are County dollars with built in municipal efficiencies, we want to keep these dollars available in Lakewood. We also discussed the Senior Deferred Loan Program contract. It was also approved by the Cuyahoga Housing Consortium. Adoption of this ordinance will authorize an agreement with the Cuyahoga Housing Consortium for deferred payments on interest loans for those persons 62 and older and in an amount not to exceed \$200,000. The funds will be used provide loan assistance lower income owner occupants who are seniors and to bring their one, two and three family homes up to code. The program will not require any additional City funds or the use of additional employees or services. We voted unanimously to approve ordinances 46-09 and 47-09 and recommended approval to the Council. In addition, the Housing Committee had asked Director Kelly to come in and give us an update on the Neighborhood Stabilization Program which he did very well, as well as the dollars that Lakewood has received so far, federal stimulus dollars that Lakewood has received so far. This has come up a number of times at Council and the way that Director Kelly has it laid out is very clear and may be the model for how the City wants to do it from here on out.

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

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11. **ORDINANCE NO. 46-09** - AN ORDINANCE authorizing the Mayor to enter into an agreement with the Cuyahoga County Housing Consortium for the Lakewood Mixed Use Rental Assistance Program “MURAL” Program to be funded with HOME Program funds. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 4/20/09, 2ND READING 5/4/09)(Pg. 39)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Ordinance No. 46-09.
Motion adopted. All members voting yea.

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12. **ORDINANCE NO. 47-09** – AN ORDINANCE authorizing the Mayor, on behalf of City, to enter into an agreement with the Cuyahoga Housing Consortium (“Consortium”) for Deferred Payment & Interest Loans for Seniors in an amount not to exceed \$200,000. PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 4/20/09, 2ND READING 5/4/09)(Pg. 41)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Ordinance No. 47-09.
Motion adopted. All members voting yea.

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13. **ORDINANCE NO. 18-09A** - 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. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 5/4/09)(Pg. 42)

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

Motion adopted. All members voting yea.

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14. Liquor Permit Application for a D5 classification to BAR 2 Inc.; 15625 Detroit Avenue. (DEFERRED 5/4/09) (Pg.48)

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

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

15. Communication from Mayor FitzGerald regarding Emergency Medical Services Week – May 17 – May 23. (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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16. **RESOLUTION NO. 8350-09** – A RESOLUTION authorizing the Mayor, as Director of Public Safety and on behalf of the City of Lakewood, to proclaim May 17-23, 2009 as Emergency Medical Services Week. (Pg.50)

Motion by Mr. Dever, seconded by ms. Madigan, to adopt Resolution No. 8350-09.

Motion adopted. All members voting yea.

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17. Communication from Mayor FitzGerald regarding Lakewood Partnership with National League of Cities to provide Discount on Prescription Medications (Pg.51)

Representatives of Northcoast Health Ministries spoke about their mission. – A Faith based free clinic providing services to low income, uninsured people in the area.

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

Motion adopted. All members voting yea.

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18. **RESOLUTION NO. 8351-09** – 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 declaring the intent of the City of Lakewood to participate in the National League of Cities Prescription Discount Card Program. (Pg.52)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution NO. 8351-09.

Motion adopted. All members voting yea.

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19. Communication from Finance Director Pae regarding June 2009 Appropriations Ordinances. (Pg. 54)

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

Motion adopted. All members voting yea.

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20. **ORDINANCE NO. 48-09** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall 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. (Pg. 55)

Motion by Mr. Dever, seconded by ms. Madigan, to place Ordinance No. 48-09 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

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21. Communication from Finance Director Pae regarding 2009 2nd Quarter Transfers. (Pg. 68)

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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22. **ORDINANCE NO. 49-09** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall take effect and be in force after the earliest period allowed by law to authorize the transfer and advance of certain funds. (Pg.69)

Motion by Mr. Dever, seconded by ms. Madigan, to place Ordinance No. 49-09 on 1st Reading and refer it to the Finance committee.

Motion adopted. All members voting yea.

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23. Communication from Planning & Development Director Kelly regarding Acquisition and Sale of 1346 Webb Road. (Pg.71)

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

Motion adopted. All members voting yea.

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24. **ORDINANCE NO. 50-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to Council otherwise, it shall 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 1346 Webb Road for a period of 120 days, pursuant to Section 155.07 of the Codified Ordinances. (Pg.72)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 50-09 on 1st Reading and refer it to the Housing Committee.

Motion adopted. All members voting yea.

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25. Communication from Planning & Development Director Kelly regarding Acquisition and Sale of 1667-1669 Waterbury via \$1 HUD Home Program. (Pg.74)

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

Motion adopted. All members voting yea.

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26. **ORDINANCE NO. 51-09** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members elected to

Council otherwise, it shall 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 1667-1669 Waterbury Road for a period of 120 days, pursuant to Section 155.07 of the Codified Ordinances. (Pg.75)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 51-09 on 1st Reading and refer it to the Housing Committee.

Motion adopted. All members voting yea.

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27. Communication from Planning & Development Director Kelly regarding Re-launch of OneLakewood.com. (Pg. 77)

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. Madigan, to adjourn.
Motion adopted. All members voting yea.
Meeting adjourned 9:45 PM.

Approved: _____

CLERK

PRESIDENT