

**MINUTES  
OF THE  
REGULAR MEETING OF  
LAKEWOOD CITY COUNCIL  
HELD IN COUNCIL CHAMBERS  
12650 DETROIT AVENUE  
SEPTEMBER 21, 2009  
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:32 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 E. Powers, Michael P. Summers.

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Also Present: Mayor FitzGerald, Law Director Hurley, Finance Director Pae, Police Chief Malley, Fire Chief Mroz, 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 September 9, 2009.

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

Motion adopted. All members present voting yea.

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Without objection from Council items 9 and 10 were read first in the agenda order.

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

- 01.** (Add-on) Committee of the Whole Report regarding filling vacancy on the Nuisance Abatement Appeals Board. (To Be Provided)

Council President Dever submitted the following report:

**#01 Committee of the Whole Report Regarding filling vacancy on the Nuisance Abatement Appeals Board – Mike Dever**

This evening the Committee of the Whole met to discuss the vacancy on the Nuisance Abatement Appeals Board. Three candidates names were submitted for these positions, all ably qualified for the position. With discussion in the Committee of the Whole, Council decided, made a recommendation to select Mr. Dan Bartos to fill the unexpired

term of Lori Stewart who had moved out of our community. So, with that, I'll move to receive and file that communication.

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

Motion adopted. Six members voting yea

Ms. Antonio absent from room for vote.

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**02. (Add-on) RESOLUTION NO. 8372-09** – 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 City of Lakewood Board of Nuisance Abatement Appeals for the unexpired three-year term, ending December 31, 2011.

Motion by Mr. Dever, seconded by Mr. Bullock to amend Resolution No. 8372-09 by inserting the name Daniel Bartos.

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

Nays: None

Motion adopted. Resolution amended.

Motion by Mr. Bullock, seconded by Mr. Dever, to adopt Resolution No. 8372-09 as amended.

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

Nays: None

Motion adopted. Resolution adopted amended.

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1. Finance Committee Report regarding Finance Committee of September 17, 2009. (Pg. 5)

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. 69-09** – 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 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 FINANCE COMMITTEE 9/9/09) (Pg.6)

Motion by Mr. Dever, seconded by Ms. Madigan, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 69-09 – on final reading.

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

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Bullock, seconded by Ms. Madigan, to adopt Ordinance No. 69-09.

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

Nays: None

Ordinance No. 69-09 adopted.

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3. **ORDINANCE NO. 70-09** – 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. (PLACED ON 1<sup>ST</sup> READING AND REFERRED TO THE FINANCE COMMITTEE 9/9/09) (Pg. 19)

Motion by Mr. Dever, seconded by Ms. Madigan, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 70-09 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. 70-09.

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

Nays: None.

Motion adopted. Ordinance No. 70-09.

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4. Housing Committee Report regarding Ordinance No. 60-09 – Easement Madison Park. (To Be Provided)

Ms. Madigan submitted the following report.

#4 Housing Committee Report Regarding Ordinance 60-09 – Easement – Madison Park – Mary Louise Madigan

The Housing Committee met this evening and present were Councilman Summers, Director Hurley, Director Ashby and one or two members of the public were there. What we were doing tonight was just considering legislation that would authorize the grant of a

limited easement to a Mrs. Lisa Roth whose property abuts Madison Park. There is a tree in her backyard, there's a fence around the tree. What this is just doing is allowing a .9-foot encroachment and she will maintain the tree. We find no problem with this and in the event, by the way, that the fence is ever removed, the easement automatically terminates. We're not asking for a vote on this tonight, it will go back for a third reading but that was the report out from the Housing Committee. Move to receive and file.  
... I apologize, this has had two readings.

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

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5. **ORDINANCE NO. 60-09** - AN ORDINANCE authorizing the grant of a Limited Easement to Lisa J. Roth, homeowner of the property located at 2093 Clarence Avenue, Lakewood, Ohio to maintain a fence encroaching on City property located at 13201 Madison Avenue, Lakewood, Ohio (Madison Park). (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE HOUSING COMMITTEE 7/20/09, 2<sup>ND</sup> READING 9/9/09) (Pg. 20)

Motion by Ms. Madigan, seconded by Ms. Antonio, to adopt Ordinance No. 60-09.  
Motion adopted. All members voting yea.

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6. **ORDINANCE NO. 62-09** – AN ORDINANCE to amend Chapter 1134, Historic Preservation Districts (HPD) and Historic Properties (HP), of the Zoning Code of the Codified Ordinances of the City of Lakewood to expand the scope of the chapter to public interior portions of buildings with unique historical value. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE PLANNING COMMISSION AND THE COMMITTEE OF THE WHOLE 9/9/09) (Pg. 24)

Discussion was had regarding the intent of the legislation with a resident. A Planning Commission Meeting for the next Thursday was discussed and an indication that the issue would be further discussed in Committee.

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 62-09 – on 2<sup>nd</sup> reading.

Motion adopted. All members voting yea.

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7. **ORDINANCE NO. 66-09** - AN ORDINANCE authorizing the Mayor or his designee to enter into an agreement with 14701 Detroit, LLC or its designee for participation in the Lakewood Business Investment Program (BIP) of the Economic Development Fund (EDF) for a seven (7) year loan in an amount of

Two Hundred Thousand Dollars (\$200,000.00). (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE COMMITTEE OF THE WHOLE 9/9/09) (Pg. 53)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 66-09 on 2<sup>nd</sup> Reading and refer it back to the Committee of the Whole.

Motion adopted. All members voting yeah.

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8. **ORDINANCE NO. 67-09** - AN ORDINANCE authorizing the Director of Planning and Development to enter into an agreement with the Center for Families and Children to accept title to real property located at 2070 Dowd Street, Lakewood, Ohio (Permanent Parcel No. 315-23-199) and allowing the Center for Families and Children to share in the proceeds of the sale of the property in the event that the property is sold. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE HOUSING COMMITTEE 9/9/09) (Pg. 55)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 67-09 on 2<sup>nd</sup> Reading and refer back to the Housing Committee.

Motion adopted. All members voting yea.

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

9. Communication from Councilmember Antonio regarding 100<sup>th</sup> Birthday of Captain Harry Anderson. (Pg.56)

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

Motion adopted. All members voting yea.

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10. **RESOLUTION NO. 8368-09** – A RESOLUTION honoring Lakewood Resident Harry Anderson, retired Cleveland Cliffs Great Lakes captain, for celebrating his 100<sup>th</sup> birthday October 5, 2009. (Pg. 57)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8368-09.

Motion adopted. All members voting yea.

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11. Communication from Mayor FitzGerald regarding 2009 Fire Prevention Week and Lakewood Fallen Firefighters Memorial Day. (Pg. 58)

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

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12. **RESOLUTION NO. 8369-09** – A RESOLUTION proclaiming October 4, 2009 as Fallen Firefighter memorial day in the City of Lakewood. (Pg. 59)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8369-09.  
Motion adopted. All members voting yea.

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13. **RESOLUTION NO. 8370-09** – A RESOLUTION to declare October 5, thru October 29, 2009 Fire Prevention Week. (Pg. 61)

Motion by Mr. Dever, seconded by Ms. Antonio, to adopt Resolution No. 8370-09.  
Motion adopted. All members voting yea.

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14. Communication from Law Director Hurley regarding Lakewood Codified Ordinance 903 – Penalties for Failure to Repair Sidewalks & Driveway Aprons, Tree Lawns. (Pg. 62)

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

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15. **ORDINANCE NO. 71-09** - AN ORDINANCE to amend Section 903.10, Duty to Repair and Maintain Sidewalks and Driveway Aprons and Section 903.99, Penalty within Chapter 903, Sidewalks and Curbs of the Codified Ordinances of the City of Lakewood to include tree lawn in the definition of sidewalk for the purpose of clarification and to create a penalty for failure to repair a sidewalk or driveway apron. (Pg. 63)

Motion by Mr. Dever, seconded by Ms. Madigan, to place Ordinance No. 71-09 on 1<sup>st</sup> Reading and refer it to the Rules & Ordinances Committee 9/21/09).

16. Communication from Public Works Director Beno regarding Ohio Public Works Commission Grant Program – Athens, Clarence, Belle, and Westwood Watermain Replacement Project. (Pg. 68)

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

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17. **RESOLUTION NO. 8371-09** - A RESOLUTION to take effect immediately provided it receives the 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, for and on behalf of the City, to seek financial assistance from the Ohio Public Works Commission for funding of the Watermain Replacement Project for portions of Athens Avenue, Clarence Avenue, Bell Avenue and Westwood Avenue. (Pg. 69)

Motion by Mr. Dever, seconded by Ms. Madigan, to adopt Resolution No. 8371-09.  
Motion adopted. All members voting yea.

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18. Communication from Planning & Development Director Kelly regarding Participation on the Northeast Ohio Area Wide Coordinating Agency's (NOACA) Transportation for Livable Communities Initiative (TLCI). (Pg. 71)

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

Motion adopted. All members voting yea.

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19. **ORDINANCE NO. 72-09** - AN ORDINANCE authorizing and directing the Mayor, or his designee to enter into an agreement with the Northeast Ohio Areawide Coordinating Agency (NOACA) to receive and expend financial assistance under the Northeast Ohio Areawide Coordinating Agency's (NOACA) Transportation for Livable Communities Initiative (TLCI) Planning Grant Program, including the expenditure of a required 20% non-federal match. (Pg. 72)

Motion by Mr. Dever, seconded by Ms. Madigan, to Place Ordinance No. 72-09 on 1<sup>st</sup> Reading and refer it to the Public Works Committee.

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 8:36 PM.

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

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CLERK

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PRESIDENT