

**MINUTES
OF THE
REGULAR MEETING OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
OCTOBER 18, 2010
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:44 by Council President Butler

....

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

....

Also Present: Mayor FitzGerald, Law Director Hurley, Finance Director Pae, Acting Police Chief Hassing, Acting Fire Chief Gilman, Human Services Director Buckon, Planning & Development Director Kelly, Housing's Apanasewicz.

Motion by Mr. Butler, seconded by Ms. Madigan, to approve the Minutes of October 4, 2010 without the necessity of a reading.

Motion adopted. All members voting yea.

Without Objection, items 12 and 14 were read first in the agenda order.

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

1. Finance Committee Report regarding Updates to Chapter 128 of the City of Lakewood Codified Ordinances: Municipal Income Tax. (To Be Provided)

#1 Finance Report regarding Ordinance 71-10 – Amend Chapter 128, Municipal Income Tax - Summers

I'm going to move that we defer this report until our November 1st meeting. We did meet tonight but there are some further adjustments to the ordinance that may be appropriate and therefore we'll be reporting out on item two November 1st for its third reading.

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

Motion adopted. All members voting yea.

2. **ORDINANCE NO. 71-10** - AN ORDINANCE to amend Chapter 128, Municipal Income Tax, within the Codified Ordinances of the City of Lakewood for the purpose of updating the Code and to be consistent with Ohio Revised Code and

Internal Revenue Code Changes. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/4/10) (Pg. 6)

Motion by Mr. Butler, seconded by Ms. Antonio, to place Ordinance No. 71-10 on 2nd Reading.

Motion adopted. All member voting yea.

3. Public Works Committee Report regarding Ordinance 57-10 (To Be Provided)

#3 Public Works Committee Report regarding Ordinances 57-10 – Chapter 1308, Flood Insurance - Bullock

The Public Works Committee met tonight and heard from the administration on this proposed ordinance and received an updated, amended substitute version of this proposed ordinance which the committee reported out favorably. In brief, this is a routine change to the sections of Lakewood's code relative to flood insurance. We need to update this upon the recommendation of not only the state but the federal government in order for Lakewood property owners who currently have flood insurance to renew and retain that flood insurance which is important for some areas of Lakewood.

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

Motion adopted. All members voting yea.

4. **ORDINANCE NO. 57-10** -AN ORDINANCE to amend Chapter 1308, Flood Damage Prevention, of the Codified Ordinances of the City of Lakewood for the purpose **of complying with the most current and up to date standards and definitions related to flood damage prevention.** (PLACED ON 1ST READING & REFERRED TO THE PUBLIC WORKS COMMITTEE 7/19/10, 2ND READING 9/8/10) (Pg. 20)

Motion by Mr. Bullock, seconded by Mr. Butler, to substitute Ordinance No. 57-10 with that which was brought forward that evening.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.

Nays: None

Motion adopted. Ordinance No. 57-10 substituted.

Motion by Mr. Butler, seconded by Ms. Antonio, to adopt Ordinance No. 57-10 as substituted.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.

Nays: None

Motion adopted. Ordinance No. 57-10 Adopted as substituted.

5. Health & Human Services Committee Report regarding Family to Family System of Care Expansion Project. (To Be Provided)

#5 Health & Human Services Committee Report regarding Resolution 8449-10 – Family to Family System of Care Expansion Project – Antonio

The Health & Human Services Committee met tonight. In attendance were myself, Councilmembers Powers and Butler, Director Buckon as well as a member of the public. We discussed one issue on the agenda which was the communication from Director Buckon regarding Family to Family's System of Care Expansion Project. It is possible for this program to expand in and around estimated to be around \$660,000.00 from Cuyahoga County to continue the work that they're doing. It's a good program and one of the things the director asked the committee to consider and which we bring back to the full floor is to expedite the passage. This is in second reading and the committee recommends passage tonight.

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

Motion adopted. All members voting yea.

6. **RESOLUTION NO. 8449-10** - 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, authorizing the Mayor, or his designee, on behalf of the City, to enter into an Amended Agreement with the Cuyahoga County Department of Children and Family Services to accept and expend funds for the Family to Family System of Care Expansion Project in an amount estimated to be \$660,928.00. (PLACED ON 1ST READING & REFERRED TO THE HEALTH & HUMAN SERVICES COMMITTEE 10/4/10) (Pg. 30)

Motion by Mr. Butler, seconded by Ms. Madigan, to suspend the rules requiring this resolution to be read on three separate days and placing Resolution No. 8449-10 on final reading.

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

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Butler, seconded by ms. Madigan, to adopt Resolution No. 8449-10.

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

Nays: None

Motion adopted. Resolution adopted.

7. Public Safety Committee Report regarding Ordinance No. 70-10 (To Be Provided)

#7 Public Safety Committee Report regarding Ordinance 70-10 - Create new section 144.15 - Lateral entry hire - Fire - Powers

The Public Safety Committee met in full force this evening to discuss Ordinance 70-10. As a reminder, this ordinance allows lateral entry of fire fighters similar to the ordinance we passed earlier with respect to the police department. This would save us money on training specifically. The union does not object to the passage of this ordinance and so the committee reported favorably on the substituted version that is attached to our docket and recommended passage by Council this evening.

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

8. **ORDINANCE NO. 70-10** - AN ORDINANCE to create new Section 144.15, Original Appointment to the Division of Fire, of the Codified Ordinances of the City of Lakewood to authorize and set out the method of Original Appointments to the Division of Police, to include a combination of appointment from a certified list and lateral entry hire. **(PLEASE SUBSTITUTE FOR ORDINANCE NO. 70-10 PLACED ON 1ST READING & REFERRED TO THE PUBLIC SAFETY COMMITTEE 9/20/10, 2ND READING 10/4/10) (Pg. 31)**

Motion by Mr. Butler, seconded by Ms. Madigan, to substitute Ordinance No. 70-10 with that which was brought forward that evening.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.

Nays: None

Motion adopted. Ordinance No. 70-10 substituted.

Motion by Mr. Butler, seconded by Ms. Madigan, to adopt Ordinance No. 70-10 as substituted.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.

Nays: None

Motion adopted. Ordinance No. 70-10 Adopted as substituted.

9. Economic Development Committee Report regarding Ordinance No. 53-10. (To Be Provided)

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

10. ORDINANCE NO. 53-10 - An Ordinance to amend Chapter 1329, Signs of the Codified Ordinances of the City of Lakewood for the purpose of regulating signs, including provisions to control the type, design, size, location, illumination and maintenance thereof, within the City of Lakewood. (PLACED ON 1ST READING & REFERRED TO THE ECONOMIC DEVELOPMENT COMMITTEE 7/6/10, DEFERRED 7/19/10, 2ND READING 9/20/10, DEFERRED 10/4/10) (Pg. 33)

Motion by Mr. Butler, seconded by Ms. Antonio, to substitute Ordinance No. 53-10 with that which was brought forward that evening.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.
Nays: None
Motion adopted. Ordinance No. 53-10 substituted.

Motion by Mr. Butler, seconded by Ms. Madigan, to adopt Ordinance No. 53-10 as substituted.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.
Nays: None
Motion adopted. Ordinance No. 53-10 Adopted as substituted.

11. RESOLUTION NO. 8450-10 – 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 authorizing and directing the Mayor to submit the Fiscal Year (FY) 2011 One-year Action Plan of the Consolidated Plan, which includes dollar allocations and activities for federal Community Development Block Grant (CDBG) funds and Emergency Shelter Grant (ESG) funds, and incorporates the City’s application for CDBG funds, ESG funds, HOME Investment Partnership funds, and all amendments thereto and all understandings and assurances contained therein, to the U.S. Department of Housing and Urban Development (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 10/4/10) (HUD) (Pg. 41)

Motion by Mr. Butler, seconded by Ms. Madigan, to place Resolution No. 8450-10 on 2nd Reading.

Motion adopted. All members voting yea.

****NEW BUSINESS*

12. Communication from Finance Chair Summers regarding 2010 Annual Report from the Audit Committee. (To Be provided) - Report (Pg.45)

Motion by Mr. Summers, seconded by Mr. Butler, to receive and file the communication.

Motion adopted. All members voting yea.

13. Communication from Finance Chair Summers regarding 2011 Budget Process and Issues. (Pg.48)

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

Motion adopted All members voting yea.

14. Communication from Councilmember Bullock regarding Report on Lakewood's pilot program allowing leashed dog-walking in Lakewood Park and Kauffman Park for a twelve month period. (Pg. 51)

Motion by Mr. Bullock, seconded by Mr. Butler, to receive and file the communication.

Discussion was had and it was indicated that Public Works Director Beno would bring forward his report on the leashed dog-walking program to Council at the next meeting.

15. Communication from Mayor FitzGerald and Public Works Director Beno regarding Declining Condition of Several trees on Clifton and West Clifton. (Pg. 55)

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

Motion adopted. All members voting yea.

16. Communication from Mayor FitzGerald regarding "Sweepstakes Cafes" – A Proposed Moratorium. (Pg.56)

Mayor FitzGerald read from his letter and supplemented as follows...

"...City of Lakewood does not have any "sweepstakes cafes" or pending requests...(adding : .."as of the date of this communication")

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

Mayor FitzGerald further adds to the communication the following comments:

Mayor FitzGerald: There's been a lot of talk in the news about this, so just to add onto the correspondence it's an area of the law of what is permitted and what is not permitted under state law that is in significant doubt right now in terms of legality and we thought that this is an appropriate measure to bring forward because we don't want these things springing up until we know what their legal status is and we don't want business people investing in them with the assumption that they're going to be allowed when later they may not be allowed. And this has happened several times in the past by the way, there have been some things that have been analogous with other types of gambling activity when state law changes in terms of what's allowed and what isn't. And we're not the first City that's proposed this kind of moratorium until things settle out legally and we understand better what's allowed under state law and how our ability as a municipality is to regulate them. And we're asking that the rules be suspended for the reasons that I just stated that we don't want a business to be up and running and making investment and having people participate in it and have people be in kind of a legal limbo in terms of both operators and potential patrons. So we think that it's appropriate that it be dealt with in a timely manner.

A description was asked as to what a sweepstakes café is and provided by the Planning & Development Director.

Eric Weiss: (Provided address/ Northfield) - I do have a couple questions. The Mayor brought up that there's currently no internet cafes in Lakewood and I thought there were. I think Mr. Bullock, the call was about me today 'cause I talked to Bob in Building.

FitzGerald: Well I can answer, I said there's no sweepstakes cafes. I don't know if there's... I'm not sure there's an internet café either that I can think of to be honest.

Weiss: I thought (inaudible) Video, that's what that is.

Nate Kelly: That's not in Lakewood

FitzGerald: That's not in Lakewood.

Weiss: Oh, that's Cleveland? So it's right on the border then.

FitzGerald: Right. It's on the other side of the street.

Weiss: Ok. I didn't know that. I actually was planning on opening one in here, in Lakewood. I'm only going to put in about...I can't even talk today... about thirty machines in there and you know, I've seen a couple of them myself and you're right, the

majority of the business is probably about 30% surfing and fax services and some people do resumes and about 70% of it is games of chance or online gaming in some cases. It just depends on what people want to do. A lot of it I see...I've checked a lot of these places out and believe it or not it's a good thing for when bars close, some people go there just to blow off steam, just to... you know.

FitzGerald: I don't know that after the bars close people should go gamble but look, I'll tell you what it reminds me of. It reminds me of when there was this legal grey area about bingo. There was a number of bars and storefronts that started doing bingos and they believed it was legal or they said they believed it was legal. They had a legal theory that they thought they could operate certain bingo machines out of. It was always a question, whether it legal, whether it was not legal and there was this kind of grey area. Some of them may have gotten caught up in it without knowing that eventually the rulings that came down that were clear from the Ohio Attorney General is that they weren't legal. And then we ended up having to go around and shut them down in different places in Lakewood. So, we could wait and see if they are legal and people could make an investment in them and then we could handle it as a criminal matter. But to me it makes more sense to get clarity on this issue before people start operating them as a business. That's the reason that we're asking for a moratorium so that we can clarify these issues. We can clarify them within one hundred and eighty days, we can get clarity from the federal government, from the state government and then we won't be trying to close the barn door after the horse is already gone. And there are people that ended up having their entire businesses seized, people that ended up being charged criminally in those matters. To me it's preferable to try to clarify it before investments are made and people start participating in activity that in our opinion is questionable.

On the Motion to receive and file the communication:
Motion adopted. All members voting yea.

17. **ORDINANCE NO. 72-10** - 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 at the earliest period allowed by law, to place a moratorium on the granting of permits to operate an Internet Café, Sweepstakes Gaming Café, or Computer Game Center Business for a period not to exceed six months in order to allow Council and the Lakewood Planning Commission to undertake a review of applicable criminal codes and the Lakewood Zoning Code relative to these establishments. (Pg. 57)

Council President Butler indicates that based on the comments of the mayor he will move to suspend the rules.

Motion by Mr. Butler, seconded by Ms. Madigan, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 72-10 on final reading. .

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.

Nays: None

Motion adopted. Rules suspended.

Discussion was had regarding timing of any pending applications and if so where applications were planned. It was indicated that an application was made that morning for 11800 Detroit.

Motion by Mr. Butler, seconded by Ms. Madigan, to adopt Ordinance No. 72-10.

Yeas: Antonio, Bullock, Butler, Madigan, Powers, Smith, Summers.

Nays: None

Motion adopted. Ordinance No. 72-10 Adopted.

Mayor FitzGerald This was drafted before we ever heard of Mr. Weiss, so I want to be clear. It wasn't like Mr. Weiss came in and he proposed this and we said we don't want it at that location, that's not what this had to do with. This had been drafted, he ended up coming in this morning. We never heard of him before he came in this morning. I just want to be clear about that because people, I want to make sure that nobody later can make an argument saying, well they passed this law because they didn't want me to open this at this location. This was drafted, written, prepared for the docket before Mr. Weiss ever made any application. What we've seen is that other people in other cities were doing it and we're getting into this legal no man's land that we're trying to avoid.

Mr. Butler: Yes, this is a topic that's certainly been making the rounds in the news lately. We know that it's very fluid right now. And I think that merits saying as well.

18. Communication from Finance Director Pae regarding City of Lakewood Financial Policies & Guidelines. (Pg. 60)

Motion by Mr. Butler, seconded by Ms. Madigan, to receive, file and refer the communication to the Finance committee.

Motion adopted. All members voting yea.

19. Communication from Finance Director Pae regarding \$7.771 million Issuance of City of Lakewood, Ohio General Obligation Bonds, and \$4.55 million Refunding of the 1998 General Obligation Bonds. (Pg. 74)

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

Motion adopted. All members voting yea.

20. **ORDINANCE NO. 73-10** - 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, providing for the issuance and sale of bonds in the aggregate principal amount not to exceed \$7,771,000 to pay costs of various improvements; approving and authorizing various documents and actions related to the issuance of the bonds. (Pg. 75)

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

Motion adopted. All members voting yea.

21. **ORDINANCE NO. 74-10** - 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, providing for the issuance and sale of bonds in the aggregate principal amount not to exceed \$4,550,000 to refund all or a portion of the City's outstanding various purpose general obligation bonds, series 1998; approving and authorizing various documents and actions related to the issuance of the bonds. (Pg. 92)

Motion by Mr. Butler, seconded by Ms. Antonio, to place Ordinance No. 74-10 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

22. Communication from Fire Chief Mroz regarding Amendments to Chapter 15 Fire Prevention Code. (Pg.109)

Motion by Mr. Butler, seconded by Ms. Madigan, to place Ordinance No. 74-10 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

23. **ORDINANCE NO. 75-10** – 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 1501.01, 1995 Edition Adopted and section 1501.11, Copies, of the Lakewood Codified Ordinances, to adopt the most recent version of the Ohio Fire Code and to clarify where the public may access copies of the Code. (Pg. 110)

Motion by Mr. Butler, seconded by Ms. Antonio, to place Ordinance No. 75-10 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

24. Communication from Public Works Director Beno regarding Great Lakes Construction donation to remove Little Links. (Pg. 113)

Motion by Mr. Butler, seconded by ms. Madigan, o receive and file the communication.

Motion adopted. All members voting yea.

25. **RESOLUTION NO. 8451-10** - 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 to accept, on behalf of the City of Lakewood, services in the form of removal of concrete and grading of the area at Kaufmann Park known as Lakewood Little Links, from The Great Lakes Construction Company valued at approximately \$5,000. (Pg. 114)

Motion by Mr. Butler, seconded by Ms. Madigan, to suspend the rules requiring this Resolution to be read on three separate days and placing Resolution No. 8451-10 on final reading.

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

Nays: None

Motion adopted. Rules suspended

Motion by Mr. Butler, seconded by Ms. Madigan, to adopt Resolution No. 8451-10.

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

Nays: None

Motion adopted. Resolution No. 8451-10 adopted.

26. Communication from Human Services Director Buckon regarding Juvenile Diversion Program. (Pg. 116)

Motion by Mr. Butler, seconded by Ms. Antonio, to receive, file and refer the communication to the Health & Human Services Committee.

Motion adopted. All members voting yea.

27. **RESOLUTION NO. 8452-10** 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, or his designee to enter into an Agreement with the Cuyahoga County Board of County Commissioners and their successors to accept and expend funds in an amount estimated at \$40,251 to expand services provided under the City's Juvenile Diversion Program. (Pg. 117)

Motion by Mr. Butler, seconded by Ms. Madigan, to place Resolution No. 8452-10 on 1st Reading and refer it to the Health & Human Services Committee.

Motion adopted. All members voting yea.

28. Liquor Permit Application for new C1 and C2 classifications for Lakewood Supermarket; 14235 Madison Avenue. (Pg. 119)

Motion by Mr. Summers, seconded by Mr. Butler, to file no objection to this liquor permit application.

Motion adopted. All members voting yea.

Motion by Mr. Butler, seconded by Ms. Antonio, to adjourn the meeting.

Motion adopted. All members present voting yea.

Meeting adjourned 9:20 PM.

Approved: _____

CLERK

PRESIDENT