

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
OCTOBER 17, 2011
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:30 PM by President Madigan.

Present: Councilmembers David Anderson, Thomas Bullock, Shawn Juris, Mary Louise Madigan, Ryan Nowlin, Monique Smith,

Also Present: Mayor Summers, Law Director Butler, Finance Director Pae, Public Works Director Beno, Police Chief Malley, Fire Chief Gilman, Human Services Director Buckon, Director of Planning and Development and Assistant Director of Public Safety for Housing and Building. Siley, Human Resources Director Yousefi,

Motion by Ms. Madigan, seconded by Mr. Bullock, to excuse the absence of Mr. Powers. Motion adopted. All members present voting yea.

Reading & disposal of the Minutes of the Regular Meeting of Council held October 3, 2011. Motion by Ms. Madigan, seconded by Mr. Bullock, to approve the minutes without the necessity of a reading.

Motion adopted. All members present voting yea.

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

1. Public Safety Committee Report regarding Ordinances Nos 35-11 and 37-11. (Pg.4)

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

Motion adopted. All members present voting yea.

2. **ORDINANCE NO. 35-11** - AN ORDINANCE amending Section 506.03 of the Codified Ordinances, Pit Bull Dogs or Canary Dogs; Section 506.08, Alternative Confinement; Section 506.09, Hearing by Director of Public Safety; Notice; Section 506.10, Evidence; Section 506.11, Decision of the Director of Public Safety; and Section 506.13, Disposition of Dangerous Animals, for the purpose of clarifying the definitions and hearing processes related to pit bull dogs, canary dogs, other dangerous dogs and vicious dogs. (**PLEASE SUBSTITUTE** for ORDINANCE 35-11 PLACED ON 1ST READING & REFERRED TO THE PUBLIC SAFETY COMMITTEE 6/20/11, 2ND READING 7/5/11, DEFERRED 7/18/11, RECOMMENDED FOR ADOPTION & REFERRED BACK TO COMMITTEE 9/19/11) (Pg. 35)

Cook Avenue resident indicated the wording of the ordinance; “competent and credible evidence” was not clearly defined and left too much up to the opinion of the animal control officer. (506.10); He referenced the terms, “All pitbull dogs” are deemed dangerous. He said the exceptions being police and service dogs and suggested this was contradictory.

Law Director Butler indicted the reference was 506.03; paragraph A. He indicated the provision remained from 2008 when the original ordinance was enacted. He indicated that 506.14 exception was also in effect. He indicted the general statement shows that All pitbulls are deemed dangerous except those listed 506.14. Law Director Butler indicated the two statements work together as far as interpretation.

Councilmember Smith indicated that the wording, “competent and credible evidence” was discussed in Committee and as to whether this was subjective and asked Law Director Butler to elaborate on the reasoning it general terms would be preferred.

Law Director Butler indicated that the terms “competent and credible evidence” “are used by the Courts when they review the decisions of administrative hearing officers from political subdivisions when those decisions are appealed to the Common Please Court which is the next level of appeal...” Mr. Butler further indicated, “...a hearing officer is able to exclude for example hearsay evidence or other evidence or other evidence that wouldn’t meet the test for admissibility in the Court of Law”.

Council President Madigan indicated the change benefits the owners position in its clarification as well.

Councilmember Smith added that in reference to excluding certain categories that the recommendation to exclude service dogs came from the Animal Safety and Welfare Advisory Board.

Councilmember Juris indicated that the service dog stipulation was in response to ADA requirements.

The resident indicated there remained no clarification on the word, “predominant” in the ordinance. He indicated he heard 51% was mentioned.

Law Director Butler indicated that more than 50% was defined.

Councilmember Bullock indicated the proposed change is addressing the process in hearings and is not changing anything regarding the original law.

Law Director Butler confirmed that the impetus behind the ordinance was to clarify the due process steps that need to be taken both by the City’s standpoint and from of the owner or keeper’s standpoint. Her referenced that the current ordinance stating, “an animal may be deemed dangerous with or without a hearing” and that it creates

confusion. He stated that there are different views of what a hearing is; sometimes it is defined as someone looking at the evidence, whether in a public setting or not. He indicated as an example that judges conduct hearings on motions by themselves in their Chambers. He indicated others would assume that a hearing is a public event. He indicated this has been confusing in the past. This is clarified to show that now an in-person hearing is necessary, has to happen within a certain period of time, and a decisions going to happen within a certain period of time, and the decision will be based on competent and credible evidence and decision will be issued within a certain period of time; the decision can also be appealed to a Common Please Court.

Council President Madigan indicated this would be an advantage to the dog owners as well.

Motion by Ms. Madigan, seconded by Mr. Juris, to substitute Ordinance 35-11.

Yeas: Anderson, Bullock, Juris, Madigan, Nowlin, Smith.

Nays: None

Ordinance 35-11 substituted.

Motion by Ms. Madigan, seconded by Mr. Juris, to adopt Ordinance 35-11 as substituted

Yeas: Anderson, Bullock, Juris, Madigan, Nowlin, Smith.

Nays: None

Ordinance No. 35-11 adopted as substituted

3. Liquor Permit Application for C1 & C2 transfers to Evans Investment Group, 14235 Madison Avenue, from D Madison Avenue Lakewood Gas same address. (DEFERRED 9/19/11, 10/3/11) (Pg. 14)

Motion by Ms. Madigan, seconded by Ms. Smith, to defer action on this permit application.

Motion adopted. All members present voting yea.

4. Liquor Permit Application for C1 & C2 transfers to SANVI Inc, d/b/a Madison Convenience; 15019 Madison Avenue from Deena & Nadeen Enterprises same address. (DEFERRED 9/19/11, 10/3/11) (Pg. 15)

Motion by Ms. Smith, seconded by Ms. Madigan, to file no objection.

Motion adopted. All members present voting yea.

{Ordinance Number changed from first publication to classify as an Amending Ordinance}

5. **ORDINANCE NO. 85-10A** AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members of Council otherwise, it shall take effect and be in force after the earliest period allowed by

law amending Ordinance 85-10, adopted December 22, 2010 to purchase additional equipment, 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 bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the purchase of **Computers & Systems**, with contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/3/11) (Pg. 16)

Motion by Ms. Madigan, seconded by Mr. Bullock, to place Ordinance 85-10A on 2nd Reading and refer back to the Finance Committee.

Motion adopted. All members present voting yea.

6. **ORDINANCE NO. 46-11** – AN ORDINANCE to amend Sections 529.07, Open Container Prohibited, and 905.13, Disorderly Conduct; Intoxication, of the Codified Ordinances of the City of Lakewood for the purpose of clarifying that alcohol may be permitted on public property in certain circumstances under the authority of a permit issued pursuant to Chapter 557 or a conditional use permitted by Chapter 1161. (PLACED ON 1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 10/3/11) (Pg. 18)

Motion by Ms. Madigan, seconded by Mr. Bullock, to place Ordinance No. 46-11 on 2nd Reading.

Motion adopted. All members present voting yea.

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

7. Communication from Mayor Summers regarding The Business Attraction and Anti-Poaching protocol. (Pg.22)

Motion by Ms. Madigan, seconded by Mr. Bullock, to receive, file and refer the communication to the Economic Development Committee.

Motion adopted. All members present voting yea.

8. **RESOLUTION NO. 8527-11** – A RESOLUTION authorizing the Mayor to enter into an agreement with the Cuyahoga County Executive committing the City of Lakewood to attract businesses in a manner comporting with that agreement, and urging the remaining communities in Cuyahoga County to do the same. (Pg. 23)

Motion by Ms. Madigan, seconded by Mr. Bullock, to refer Resolution No. 8427-11 to the Economic Development Committee.

Motion adopted. All members present voting yea.

9. Communication from Police Chief Malley regarding Estate of Margaret Mihalek donation to the Lakewood Animal Shelter. (Pg.29)

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

Motion adopted. All members present voting yea.

10. **RESOLUTION NO. 8528-11** - A RESOLUTION to take effect immediately provided it received the affirmative vote of at least five (5) members of Council or 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, a gift from the Estate of Margaret Mihalek in the amount of \$28,736.81 for use by the Lakewood Division of Police for the benefit of the Animal Shelter. (Pg.30)

Motion by Ms. Madigan, seconded by Mr. Bullock, to adopt Resolution No. 8528-11.

Motion adopted. All members present voting yea.

11. Communication from Law Director Butler regarding Ordinance amending Section 902.09 of the Lakewood Codified Ordinances to change the word "Superintendent" to "Director of Finance or his or her designee". (Pg.31)

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

Motion adopted. All members present voting yea.

12. **ORDINANCE NO. 47-11** – AN ORDINANCE amending Section 902.09 of the Lakewood Codified Ordinances to modernize the code by updating an outmoded title. (Pg.32)

Motion by Ms. Madigan, seconded by Mr. Bullock, to place Ordinance No. 47-11 on 1st Reading and refer it to the Rules & Ordinances Committee.

Motion adopted. All members present voting yea.

13. Communication from Law Director Butler regarding Extension of Moratorium on Internet Gaming Café's, Sweepstakes Gaming Café's and Computer Game Centers. (Pg.34)

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

Motion adopted. All members present voting yea.

14. **ORDINANCE NO. 48-11** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, to extend the moratorium enacted by Ord. 72-10 on the granting of permits to operate an Internet Café, Sweepstakes Gaming Café or Computer Game Center

for a period not to exceed six (6) months from October 18, 2011 in order to allow Council and the Lakewood Planning Commission to continue to review applicable case law, Ohio statute, criminal codes and the Lakewood Zoning Code relative to these establishments. (Pg.35)

Motion by Ms. Madigan, seconded by Mr. Bullock, to suspend the rules requiring Ordinance No. 48-11 to be read on three separate days and placing Ordinance No. 48-11 on final reading.

Yeas: Anderson, Bullock, Juris, Madigan, Nowlin, Smith.

Nays: None

Motion adopted. Rules suspended.

Motion by Ms. Madigan, seconded by Mr. Bullock, to adopt Ordinance No. 48-11.

Yeas: Anderson, Bullock, Juris, Madigan, Nowlin, Smith.

Nays: None

Ordinance No. 48-11 adopted.

15. Liquor Permit Application for a New D1 class to Hatim Boutros d/b/a Reagle Beagle; 17617 Detroit Avenue (Pg.38)

Motion by Ms. Smith, seconded by Mr. Anderson, to file no objection.

Motion adopted. All members present voting yea.

16. Liquor Permit Application for D5 and D6 transfers to Cordova & Detroit d/b/a Johnny Malloys Lakewood; from Yellamo 17103 Detroit Avenue. (Pg. 38)

Motion by Mr. Anderson, seconded by Ms. Smith, to file no objection.

Motion adopted. All members present voting yea.

17. Liquor Permit Application for C1 and C2 transfers to Lakewood Beverage d/b/a Friendly Mini Mart; 16708 Detroit Avenue from TAP on Tap Inc/ same address. (Pg.)

Motion by Mr. Anderson, seconded by Ms. Madigan, TO FILE NO OBJECTION.

Motion adopted. All members present voting yea.

Motion by Ms. Madigan, seconded by Mr. Bullock, to adjourn the meeting.

Motion adopted. All members present voting yea.

Meeting adjourned 8:13 PM.

Approved: _____

CLERK

PRESIDENT