

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
NOVEMBER 21, 2011
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:37 PM by President Madigan.

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

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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,.

Reading & disposal of the Minutes of the Regular Meeting of Council held November 7, 2011.

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

Without objection from Council Items 35 & 36 were read first in the agenda order.

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

1. Housing Committee Report regarding Community Reinvestment Area on Sloane Avenue along the Rocky River. (Pg. 8)

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

2. Rules & Ordinances Committee Report regarding Ordinances Nos. 46, 47 and 50-11. (To be provided)

#2 Rules & Ordinances Committee Report regarding Ordinance Nos. 46, 47 and 50-11- Nowlin

The Rules and Ordinances Committee met this evening. Present were Councilman Anderson , Councilman Bullock, Chief Malley, Director Yousefi, Director Butler and Director Pae as well as myself. We had three items before us tonight, the first was proposed ordinance 46-11 which proposed to amend section 529.07 which refers to the open container law and section 905.13 which refers to the disorderly conduct; intoxication law. This is a follow up to the adoption of ordinance 22-11 in June 2011 which allowed alcohol to be served on public property under specific criteria and this allowed these two sections of the code to match up with our actions then. After some discussion the committee unanimously recommended the adoption of 46-11 to full council. Then we moved on to proposed ordinance 47-11 which is an ordinance to continue to modernize the Lakewood Codified Ordinances with replacement of outdated titles and some archaic language in the code. This was a follow up to our efforts a couple of months ago. Specifically, this ordinance amends the title of superintendent to Director of Finance and again, after some discussion the committee unanimously recommended adoption of the proposed ordinance to the full council tonight. Finally, we discussed proposed ordinance 50-11 which dealt with amending the salary ordinance to add the title of part time dispatcher for the Police Department as well as establishing a Chief Prosecutor as a full-time position for the Department of Law. We had some discussion about why these changes were necessary and the need for the part-time positions of the dispatchers for the Police Department as well as the Chief Prosecutor being switched to a full-time position in the Department of Law. After discussion, we unanimously recommended that further reading of this proposed ordinance be dispensed with and that we recommend passage to the full council for tonight.

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

3. **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, 2ND READING 10/17/11) (Pg. 9)

Motion by Ms. Madigan, seconded by Mr. Powers, to adopt Ordinance No. 46-11.
Motion adopted. All members voting yea.

4. **ORDINANCE NO. 47-11** – AN ORDINANCE amending Section 902.09 of the Lakewood Codified Ordinances to modernize the code by updating an outmoded title. (PLACED ON 1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 10/17/11, 2ND READING 11/7/11) (Pg.13)

Motion by Ms. Madigan, seconded by Mr. Powers, to adopt Ordinance No. 47-11.
Motion adopted. All members voting yea.

5. **ORDINANCE NO. 50-11** - 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 after the earliest period allowed by law, to 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 RULES & ORDINANCES COMMITTEE 11/7/11) (Pg. 15)

5 Ordinance 50-11

Councilmember Nowlin added: I neglected to mention during the report the reason for passage tonight of this ordinance is due to the fact there is a time sensitivity I believe, with the Police Department and getting the dispatchers involved. There are some staffing issues, folks going out on leave and such.

Motion by Ms. Madigan, seconded by Mr. Powers, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 5-11 on final reading.

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

Nays: None

Motion adopted. Rules suspended.

Motion by Ms. Madigan, seconded by Mr. Powers, to adopt Ordinance No. 50-11.

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

Nays: None

Motion adopted. Rules suspended.

6. **ORDINANCE NO. 49-11** – AN ORDINANCE amending Section 1783.12, Composting, for the purpose of providing clearer regulation related to composting activity in Lakewood. (PLACED ON 1ST READING & REFERRED TO THE PUBLIC WORKS COMMITTEE 11/7/11) (Pg.21)

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 49-11 on second reading.

Motion adopted. All members voting yea.

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

7. Communication from Councilmembers Madigan, Anderson, Bullock, Juris, Nowlin Powers and Smith regarding Resolution celebrating Lakewood businesses during the Holiday season. (Pg.25)

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

Motion adopted. All members voting yea.

8. **RESOLUTION NO. 8532-11** – A RESOLUTION celebrating and supporting Lakewood businesses by calling on all of us to Shop Hometown for the Holidays this holiday season in coordination with Small Business Saturday; November 26, 2011. (Pg.26)

Motion by Ms. Madigan, seconded by Mr. Powers, to adopt Resolution No. 8532-11.
Motion adopted. All members voting yea.

9. Communication from Councilmember Bullock regarding Discussion of sidewalk inspection, enforcement, and funding in 2012. (Pg. 27)

Motion by Mr. Powers, seconded by Ms. Madigan, to receive, file and refer the communication to the Public Works Committee.
Motion adopted. All members voting yea.

{Items 10 & 11 are add-ons; submitted after docket deadline}

10. Communication from Councilmember Powers regarding Revising Chapter 505.18 (Pg.28)

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

Item #10

Mr. Powers: Although I think it's generally poor form to comment upon your own communication, I didn't have time to write a lengthy communication on this issue and so I ask your indulgence to explain a little bit of the reasoning now behind this clarification. First of all, I want to make it absolutely clear to everyone, I have absolutely no issue, concern or problem with the Mayor, his administration on this issue, absolutely no concern or problem with the good people who want to keep chickens in their backyards. I did not put this item on the docket due to any political infighting or to any dispute with anyone. Not sure where that perception came from. I'm the one that put this on the docket. I'm the one that put this law before us and it's not about any dispute or political infighting in the least. For those of you that have been around for a while, you know that I have a very clear views of the separation of powers between the branches of government. The Legislative Branch, which is our City Council, passes laws. The Executive Branch which is the Mayor and his administration, they administer those laws. And the Judicial Branch which is the Judge and his court, they enforce those laws. This is Civics 101. This is the way it's supposed to work. Over the past four years I find myself often in a position of reminding fellow members of this Council that we are not the Mayor. We need to let the Mayor do his job. Those are administrative matters and that's within his purview, not ours. Tonight, I'm reminding everyone to let us do our job. There is currently a loophole in section 505.18 that allows the mayor to grant temporary or permanent exemptions to the laws we pass and he can grant that at any time for any reason. To me, that makes no sense. We need to close this loophole. It makes no sense

to write a law but then say at the end that the mayor can override the law at any time for any reason. What if every law we've passed said at the end "Oh, but hey, the mayor can exempt anyone from this law at any time for any reason." It just doesn't make sense. It usurps our ability to pass legislation in this City. The law I'm proposing tonight is not about chickens and it's not about this Mayor. It's about our job as City Council which is to make the best decisions we can with a broad view and a long term outlook. The good people who want to keep chickens, and I respect them fully, are a special interest group. Like all such groups they take a limited and short-term view. What do they want? Chickens. When do they want them? Now. We as Council cannot afford to take such a short term and narrow view. We need to talk about all of the animals mentioned in this law and we need to think about not this mayor but the next mayor and the next mayor and the one after that. To be clear, I trust this Mayor one hundred percent but what if the next mayor prefers bacon over eggs and wants to allow backyard pigs. He would have the right, under this law, to make that change without even consulting Council. What if it's baboons or crocodiles or leopards or sharks or hippopotami. Those are ridiculous examples but that's what the law says now. The mayor can grant any of those things at any time he wants for no reason. That does not make sense. We need to close this loophole. If anyone wants to have a backyard chicken pilot program they should propose such a law to city council, we will then consider it in three meetings, refer it to committee, research it, debate it, rewrite it if necessary, and ultimately if it gets through the committee process, we'll vote on it. That's our job. That's the way it works. The law I'm proposing tonight simply lets us do our job as the legislative branch of government. I'm just proposing the removal of one word from the current legislation. There's no reason for anyone to be upset or emotional about this. Lets take this under advisement as the Committee of the Whole and let us do the job that we were elected to do. Thank you Madam Chair.

Madigan: Thank you Councilman Powers. Is there any further discussion on this?

Bullock: Madam Chair.

Madigan: Councilman Bullock.

Bullock: Thank you. I would like to speak in opposition to this proposed ordinance though I thank my colleague for what I know is well intentioned and I thank him especially for standing up for Council prerogative which is a cause that is near and dear to my heart. In this case I take a different view. In effect, this proposed ordinance, which is an emergency ordinance, introduced as an add-on, which is not a regular process, would engage in unnecessary legislative brinkmanship with the administration. It would also have the unfortunate effect, or could have the unfortunate effect of halting, at the last minute, specific exemptions for three families to own hens. In doing so, it would send, in my view, a terrible message to the public and set terrible precedent however unintentional to residents who have put in time, effort, care, research, money, good-faith and who have conducted themselves openly and publicly. That when they petition their elected officials their efforts are either not considered or worse, undercut. The proper legal process has been followed here. The Lakewood Animal Safety and Welfare Advisory

Board had multiple public meetings. I had the privilege to attend one of those, part of one of those. In addition, the law was followed here. The law, section 505.18 (D), which has been on the books since May 20, 1985 at least if not earlier, was followed. That authorizes the Director of Public Safety, which is the Mayor, to grant specific exemptions. The Mayor also did the decent thing here in fulfilling both duties as a representative and as a deliberative leader, duties that we have on council meaning that the representative function is to meet with people, consider their petition, honor what they're asking even if I don't agree with it and the deliberative function is to learn the facts, to keep an open mind, to be persuaded by the facts. I support these specific exemptions that have been reported in the media though I haven't had the chance to talk yet with the Mayor. I believe they should go forward regardless of the Council's deliberations on this proposed ordinance before us. In addition, as to providing Council a role in the discussion of hens, this ordinance before us tonight, this proposed ordinance is the incorrect ordinance. This proposed ordinance would not add a voice for council but only deny a voice for the Mayor. The proper way for Council to gain a voice on the topic of hens is to introduce an ordinance on the scope and proper circumstances of ownership and I will happily co-sponsor such an ordinance with any member of Council that wants to introduce one. What is getting confused here is the specific case vs. the general case. The general case is properly the jurisdiction of Council. The specific case is properly the jurisdiction of administrations and our various boards and commissions. And for specific cases there are many instances in which the administration or board, rather than Council, have jurisdiction. For example, storefront renovations go before the Board of Building Standards and Review. An oversized garage or a very extensive renovation to a home would go before the Planning Commission. Parking on certain streets, right now the Director of Public Safety under ordinances, has some discretionary ability to grant or change the rules and the hours and the postings. These are all examples in which decisions are made about specific cases under standing laws that Council has passed. Now, I may have an interest as a Councilmember in a major remodeling project for example, in a neighborhood that I represent, and may attend and speak at a board meeting or consult with the Mayor in terms of the proper procedure it is proper for that board or executive to make a decision. So, that is directly analogous to section 505.18 (D) which has been on the books as I stated since at least May 20, 1985. I don't think that qualifies as a loophole. In addition, we on this council unanimously reaffirmed that section of law July of this year. We made amendments to that section and no member of council brought up any real world cases, brought up any objections or problems with the way that law was written. It was a non-issue at the time. My own view is that I agree with the pilot and I think it will be, I will be happy to introduce an ordinance after the pilot. I think pilot programs are exactly that, middle ground. We have 52 and a half thousand residents, more than 17 and a half thousand, 16 and a half thousand housing structures, housing units, 12 hens at three homes is not going to bring down the City, even if it is a complete flop. I will also point out that I think pilot projects are exactly that, they're not a foregone conclusion. They're a way to test and evaluate. We've had some successful experiences recently with the leashed dog proposal for example. What happened there was...we did two things. One is we set the quality precedent very high and by not saying yes at first blush which was a frustration to some residents, I think what happened was, the net effect was that the citizens really got engaged and took ownership and set the bar

high and got involved. I think that's important to the success of that. In addition, there was at one time a proposal that we allow leashed dog walking in all Lakewood parks. As it turned out we haven't proposed that. In fact, I think the advocate for leashed dog walking, when it came time at the end of the project to evaluate how we did, didn't propose expanding it beyond the two parks where it's permitted right now, Kauffman and Lakewood. The reason for that is we have yet to see formation on neighbor groups who really came together to do the work that was present for those other two parks. So, my point there is that there's no foregone conclusion in the pilot. We found a middle way in that example. We could take a couple of others but I'll leave it there. A little word on the status of the law as it stands right now. I've done some, beginnings of research on the legislative history of how we got to this present state of law that we have. It was in 2004 for the first time that domestic fowl, including hens, were added to the ordinance. When you go back to that record, it was what we do frequently for traffic, for misdemeanors, we modernize the entire language of the entire chapter of code on block. At that time there were two changes that I detected, the major one being the addition of domestic fowl. Now, if you read the committee report by Councilmen Dunn and Demro, they talk about dogs, they talk about animal control officers and what they term new technology which at the time was invisible fences. There was no discussion of fowl or hens or anything. In addition, when you go back even further, what you find is that Lakewood had at one time a sanitary code that was originally adopted on July 6, 1942 which is an interesting bit of trivia, is the day that Anne Frank's family went into hiding. As part of that code there are rules for butcheries, there are rules for how you keep your horses. I'm told from Director Buckon there used to, going back to the teens and twenties, used to authorize barbershops for properly pulling out tonsils. We had all kinds of things in our code that survived from a long time ago and what I think has been going on is that we have taken the sanitary code as we have outsourced that or rather gone under the county services and taken some of those provisions and brought it under a law that is really written for exotic pet ownership. The guy who killed himself and let loose all the tigers a month and a half ago in Columbus, very tragic. That's what this ordinance is written and if you look at the list of animals there are wild animals that have a violent bite or a venomous bite and then over the course of time, since 2004, we've started adding in animals that are properly regulated under the health and sanitary code. But I think what we've inherited here is a mish mash and we've never had any explicit conversations but I do agree that there's a valid conversation for us to have. I'll conclude by saying there's also a role for evolving community standards. I recall my colleague Mr. Powers, when we were considering the leashed dogs, doing research, in the 1950's there was a trend across many cities to disallow and then recently it has been going in the other direction to allow. I think this has been a non-issue because nobody until the last five or ten years has been interested. Now we're seeing interest. I think that there is no reason why we couldn't successfully make it work if we allow ourselves to learn the facts and deliberate in a fair minded way so that we put conditions on it that would be safe, sanitary and non neighbor nuisance creating much as we've done successfully for backyard fire pits which have rules about setbacks, smoke pollution to your neighbors and allows the chief to order them extinguished if things, actually in their conduct, are not done in a quality way. I think we could come up with those standards if we are interested and I hope we don't terminate discussion and I hope that we don't use this legitimate discussion of a council

ordinance to stop at the last minute three specific exemptions which I think is a middle ground and reasonable step. Thank you.

Ms. Madigan: Any further discussion?

Powers: Madam Chair, I just want to clarify one thing that clearly I'm not asking to be voted on this evening. I'm just asking that we follow our normal procedure which would be three readings on this rule, referral to committee and debate. This is not intended to be a last minute stop on anything. It's just to allow us to do our job both to consider the closing of this loophole and then if someone wants to propose a law, a pilot program to Council, that would be terrific. I think this is the proper way to go about this. Mr. Bullock in 2009 did exactly that so I'm surprised that now he thinks Council is not the right place to consider this law when in 2009 he thought this was exactly the right place to consider such a thing instead of going through the Mayor's office. Same as the dogs, same as the fire pits, all of that I agree with fully. In all those instances Council decided, not the Mayor's office, not by administrative fiat but by legislative process. That's how we get things done and get things done right in the City. That's all I'm asking for here, that it get referred to the Committee of the Whole, that we read it three times, that we do our work and we vote on it accordingly. Thank you.

Madigan: Is there further discussion?

Bullock: Madam Chair just a very brief response. I appreciate the point made by Mr. Powers. The ordinance that I proposed and that we didn't get very far into deliberating on in 2009 was what I'm terming the general case, wasn't a pilot proposal. I agree that one option for going to create a pilot proposal would be to create an ordinance. There's no reason why proposing three exemptions under the existing law is in any way an illegitimate manner in which to get some real world, on the ground experience. I don't agree that the only way for a pilot is to go through a Council ordinance. I think we've had a legitimate process. In addition, the last thing I'll say is the thing that we have today that was lacking in 2009 is three families that have trained themselves on the topic, who have said that they wanted to do this in the real world as opposed to the abstract, and who have done a lot of preparation to do this in a quality way. Thank you.

Madigan: Thank you. Any further conversation? From the administration? Mr. Mayor, go ahead.

Mayor Summers: Thank you Madam Chairman, members of Council. I very much enjoyed the conversation. I agree with both points of the role of Council, I don't question that as well. I think it's appropriate that I take an opportunity to explain why I took the action that I did or actually proposed to do, it hasn't actually been executed, and why I stand behind what I believe to be the appropriateness of it. My intention on these very controversial, complex issues is to put this community in a better position to understand real facts, not conjecture, not innuendo, not anecdote, and I think we've demonstrated in a couple of instances, the leashed dogs was mentioned, that we were able to move beyond

conjecture and to gain a better understanding. The leashed dogs issue particularly resonates with me because I voted against that pilot. I feared that irresponsible dog owners and dogs would in fact have a very detrimental effect on the quality of our parks. A year after we tried it I was proven wrong and therefore my fears were unfounded. I approached this issue in a very similar manner. I have concerns about whether or not hens would work in Lakewood but I pondered that fact that hundreds of other cities like ours, some not, have instituted these types of policies with apparently a degree of success and therefore there's much to learn about it. I also acknowledge the legitimacy of local food and how it's produced and supported in particular a community like ours. Now, I'm very, very concerned, and Lakewood Hospital emerges as a key conversation here about chronic diseases and diabetes, hypertension and obesity and local foods and diet and nutrition are a key element of how we in fact will advance our position against these diseases and other diseases like them. The notion of hens in Lakewood is one part of a broader conversation that I think is important to Lakewood and I thought it made sense for us to gain some understanding of it. Simply that. I think there's much to learn about it. I do share concerns as many of you do and there are many questions to be asked and answered. The trial is one way to do that. I'm not certain on these controversial issues that have some sort of strong dimension of neighborhood impact. If there's a better way, there might be, but nevertheless I did approach it from that angle and I did not do it rashly or capriciously. I put a great deal of thought and I would say in fairness, my thinking very much evolved over the month that I really weighed down on it and came to the conclusion that having met with the three individuals in particular, and gaining an understanding of their commitment and their training that in fact if we were to go to learn successfully as a community, I thought we could do so with these three examples. Simply that. Now I respect the role of Council and its budget responsibilities and oversight. I certainly respect and understand your role in terms of developing and overseeing laws and I certainly respect your position as leaders in our community and I certainly am prepared to stand by and abide by whatever decision you make on this matter and any other for that matter but please understand that there was no diabolical attempt to mislead, under communicate or misdirect. Were there opportunities to improve communication? You bet. In the fast paced world we live in today where ideas and information go as nuclear in minutes, the social network issues, internet blogs and internet journalism, things move faster than probably I was in this particular case able to keep up with. I intend to do better on that point. I have much to learn and I intend to learn it and I intend to improve my performance and communication to you. But, that's all part of the fabric of how these issues sort of present themselves here. My hope is, and I'm sure you share this goal, is that we can put ourselves in a position to have informed, civilized conversations about complex issues that will no doubt be coming forward and I know we share that goal. I stand ready to work with you on this issue.

Madigan: To my colleagues, I'm going to take a lead from both of you. We are going to, I'm going to move that this go to Committee of the Whole. I don't have anything to add to really what anyone said. I do just want to say just to remind the people who are here, we're talking and we want to hear from you, believe me. I stand ready to talk about this issue, the exemption issue, chickens, anything you want to talk about. We'll work this through as a community as we have before. We'll work it through committee. This will

go on. We stand ready, willing and able to do that. Tonight, the conversation is going to be about possibly deleting one word from the ordinance which Mr. Powers was talking about. And we stand ready to hear all of your comments about that too. I just want to take up Councilman Bullock who said we have to a conversation about this and I couldn't agree more. So, on the motion that we have, without any further comment, the motion by the way, for those of you in the audience, is to receive and file this communication. On this motion, those in favor... (all ayes) all opposed.

That motion passes

Ordinance title read by Clerk of Council

Madigan: Move to place on first reading and refer to Committee of the Whole.

Powers: Second

Madigan: Motion by the Chair, seconded by Councilman Powers. Is there any discussion?

Juris: Madam Chair.

Madigan: Councilman Juris.

Juris: If I may on this, again, I'm just trying to think through the real situations of these. I appreciate what Councilman Powers has brought forward in the request to review this, to discuss it further, to make sure that the rule of Council is respected. I appreciate as well the Mayor's communication with me directly being that a few of these pilot programs are within my ward and certainly trust and appreciate the process that he went through to get to this point. In terms of this ordinance in particularly removing the word "other", I think that does open up a catchall. However, in reality of how this would be exercised I would anticipate that given folks that would come forward with this, then an argument could be made that almost anything could either be scientific, educational or commercial. So, I don't know that this, you know, the word "loophole" is used quite a bit and the sense of commercial taxes which are just generally, that's the tax law. It's not a loophole. That's the way that it's written. I think that "other" is a catchall and may well be something that should be removed. However, you could make a case for anything and those three categories are pretty broad. I think that if we are giving the Mayor the authority, as we often have in other cases, to exercise some discretion and how he wants to use Public Safety, I don't know that this would change much along the way. Again, I just wanted to put that out on the table regarding any questions that this may be raised along the road of how this would impact anything.

Madigan: Thank you, Councilman Juris. Exactly. You're talking about good reasons why this is going to be a lot of work in committee and we want all of you with us every step of the way. On that motion, is there any further discussion.

Motion adopted. All members voting yea.

11. **ORDINANCE NO. 51-11** – 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 after the earliest period allowed by law, modifying Section 505.18 of the Lakewood Codified Ordinances to eliminate other reasons from those reasons permitting the Director of Public Safety to grant specific exemptions to certain animals in the City. (Pg.29)

Ordinance title read by Clerk of Council

Madigan: Move to place on first reading and refer to Committee of the Whole.

Powers: Second

Madigan: Motion by the Chair, seconded by Councilman Powers. Is there any discussion?

Juris: Madam Chair.

Madigan: Councilman Juris.

Juris: If I may on this, again, I'm just trying to think through the real situations of these. I appreciate what Councilman Powers has brought forward in the request to review this, to discuss it further, to make sure that the rule of Council is respected. I appreciate as well the Mayor's communication with me directly being that a few of these pilot programs are within my ward and certainly trust and appreciate the process that he went through to get to this point. In terms of this ordinance in particularly removing the word "other", I think that does open up a catchall. However, in reality of how this would be exercised I would anticipate that given folks that would come forward with this, then an argument could be made that almost anything could either be scientific, educational or commercial. So, I don't know that this, you know, the word "loophole" is used quite a bit and the sense of commercial taxes which are just generally, that's the tax law. It's not a loophole. That's the way that it's written. I think that "other" is a catchall and may well be something that should be removed. However, you could make a case for anything and those three categories are pretty broad. I think that if we are giving the Mayor the authority, as we often have in other cases, to exercise some discretion and how he wants to use Public Safety, I don't know that this would change much along the way. Again, I just wanted to put that out on the table regarding any questions that this may be raised along the road of how this would impact anything.

Madigan: Thank you, Councilman Juris. Exactly. You're talking about good reasons why this is going to be a lot of work in committee and we want all of you with us every step of the way. On that motion, is there any further discussion.

Motion adopted. All members voting yea.

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 51-11 and refer to the Committee of the Whole.

Motion adopted. All members voting yea.

12. Communication from Law Director Butler regarding Withdrawal of objection over China Garden liquor permit transfer. (Pg.34)

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

Motion adopted. All members voting yea.

13. **RESOLUTION NO. 8533-11** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of a least five (5) members elected to Council, or otherwise to take effect and go into force after the earliest period allowed by law, withdrawing the objection to the transfer of ownership of a C1 liquor permit from FLA Forever Inc. *dba* China Garden to Heng and Zhu Inc. *dba* China Garden located at 14867 Detroit Avenue in the City of Lakewood. (Pg.35)

Motion by Ms. Madigan, seconded by Mr. Bullock, to adopt Resolution No. 8533-11.

Motion adopted. Resolution No. 8533-11 adopted.

14. Communication from Law Director Butler regarding Resolution authorizing the Mayor to enter into agreement with the Cuyahoga County Board of Health for the provision of public health services in Lakewood in 2012. (Pg.37)

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

Motion adopted. All members voting yea.

15. **RESOLUTION NO. 8534-11** - 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, to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed Two Hundred Thousand, One Hundred Eighty-Three Dollars (\$200,183.00) for a one-year period commencing January 1, 2012. (Pg.38)

Motion by Ms. Madigan, seconded by Mr. Powers, to refer Resolution No. 8534-11 to the Finance Committee.

Motion adopted. All members voting yea.

16. Communication from Law Director Butler regarding Proposed ordinances following November 8, 2011 charter changes adopted by the citizens of Lakewood. (Pg.40)

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

17. **ORDINANCE NO. 52-11** - AN ORDINANCE to take effect on January 1, 2012 provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, establishing Section 125.01, Acting Mayor, to provide for the position of Acting Mayor when temporary vacancies occur in the office of the mayor. (Pg.41)

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 52-11 on 1st Reading and refer it to the Committee of the Whole.

Motion adopted. All members voting yea.

18. **ORDINANCE NO. 53-11** - AN ORDINANCE to take effect on January 1, 2012 provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, modifying Section 107.01 of the Lakewood Codified Ordinances to modernize the posting of public notices to the citizens of Lakewood (Pg.43)

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 53-11 on 1st Reading and refer it to the Committee of the Whole.

Motion adopted. All members voting yea.

19. **ORDINANCE NO. 54-11** - AN ORDINANCE to take effect on January 1, 2012 provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, limiting the law director's duties pursuant to Article VII, Section 2 of the Second Amended Charter of the City of Lakewood. (Pg.47)

Motion by Ms. Madigan, seconded by MR. Powers, to place Ordinance No. 54-11 on 1st Reading and refer it to the Committee of the Whole.

Motion adopted. All members voting yea.

20. Communication from Finance Director Pae regarding 2011 Year-end Appropriation Ordinance. (Pg.49)

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

Motion adopted. All members voting yea.

21. **ORDINANCE NO. 55-11** - AN ORDINANCE 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, to establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2011. (Pg.50)

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 55-11 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

22. Communication from Finance Director Pae regarding 2011 4th quarter Transfers and Year-end Advances. (Pg. 63)

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

Motion adopted. All members voting yea.

23. **ORDINANCE NO. 56-11** - AN ORDINANCE 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, to authorize the transfer and advance of certain funds. (Pg.64)

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 56-11 on 1st Reading and refer it to the Finance Committee.

Motion adopted. All members voting yea.

24. Communication from Finance Director Pae regarding 2012 Budget Ordinances. (Pg.66)

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

Motion by Ms. Madigan, seconded by Mr. Powers, to suspend the rules and direct the Clerk to read Ordinances Nos. 57, 58, 59, 60, 61, and 62-11 consecutively with one vote (blanket vote)

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

Nays: None

Motion adopted. Rules suspended. – The Clerk is directed to read:

25. **ORDINANCE NO. 57-11** - AN ORDINANCE 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, to establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2012. (Pg.67)

*Vote after item # 30

26. **ORDINANCE NO. 58-11** - AN ORDINANCE 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 (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2012 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law. (Pg.80)

*Vote after item # 30

27. **ORDINANCE NO. 59-11** - AN ORDINANCE 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 (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into service contracts in accordance with the Administrative Code of the City of Lakewood for the **Department of Planning & Development** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (Pg.84)

*Vote after item # 30

28. **ORDINANCE NO. 60-11** - AN ORDINANCE 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 (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for **Memberships** as authorized by the 2012 Appropriation Ordinance and the Administrative Code of the City of Lakewood, contracts not to exceed \$50,000 without separate Resolution of Council. (Pg. 87)

*Vote after item # 30

29. **ORDINANCE NO. 61-11** - 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, to amend Ordinance 101-10 adopted December 20, 2010 to amend Chapter 915, Water Rates, of the Codified Ordinances of the City of Lakewood for the purpose of adjusting water rates charged against each lot, parcel of land or premises which may have an active water connection with the Municipal water system. (Pg.91)

*Vote after item # 30

30. **ORDINANCE NO. 62-11** - AN ORDINANCE 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, amending Ordinance 102-10, adopted December 20, 2010 to amend section 902.04, Rates and Charges, of the Codified Ordinances of the City of Lakewood for the purpose of adjusting sewer rates charged against each lot, parcel of land or premises which may have an active sewer connection with the Municipal wastewater disposal system or which may otherwise discharge wastewater either directly or indirectly into such system or any part thereof. (Pg.94)

*Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinances Nos. (57-11, 58-11, 59-11, 60-11, 61-11 & 62-11 on 1st Reading and refer them to the Finance Committee. Motion adopted. All members voting yea.

31. Communication from Human Resources Director Yousefi regarding Revisions to Hospitalization Coverage for Employees. (Pg.98)

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

Motion adopted. All members voting yea.

32. **ORDINANCE NO. 63-11** – AN ORDINANCE to take effect on January 1, 2012, provided it receives the vote of at least five (5) members of Council or otherwise, to take effect at the earliest period allowed by law, repealing Section 149.13 and modifying Sections 149.14 and 149.141 of the Lakewood Codified Ordinances to modernize the code by revising or eliminating outmoded language regarding hospitalization coverage for employees. (Pg.99)

Motion by Ms. Madigan, seconded by Mr. Powers, to place Ordinance No. 63-11 on 1st Reading and refer it to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

33. Communication from Human Resources Director Yousefi regarding Entering Agreement for City's 457 Plan. (Pg.104)

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

Motion adopted. All members voting yea.

34. **RESOLUTION NO. 8535-11** - A RESOLUTION to take effect immediately provided it receives the vote of at least five (5) members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Director of Human Resources to enter into one or more agreements with representatives of government-employee deferred compensation plans in order to continue to provide a wide array of options for employees participating in such plans. (Pg. 105)

Motion by Ms. Madigan, seconded by Mr. Powers, to receive, file and refer Resolution No. 8535-11 to the Rules & Ordinances Committee.

Motion adopted. All members voting yea.

35. Communication from Police Chief Malley regarding Lakewood Police Department participation in the community response task force to address sexual assault, domestic violence, dating violence and stalking (SADDVS) (Pg. 107)

Council President Madigan echoed the comments and welcomed speakers.

Bill Wagner; Awarded one of 9 awarded nationwide; indicating only grant recipient in the State of Ohio. Key focus of grant, services that are provided not just to students but to administrators, teachers, to parents, to community members; education and professional development; review of policies from our school resource officers as well as Board of Education policies. The impetus came from a grant originated in 2005 and provided an opportunity to leverage resources for the City of Lakewood.

Lakewood City Schools, Lakewood Police Department, Rape Crisis Center and Domestic Violence and Child Advocacy Center; - Already have done partnerships throughout; Schools that will be served; Lakewood High School, both middle schools, Lakewood City Academy and actually the entire community of Lakewood as a primary focus of the grant is not just in the schools but to also improve the education and understanding and knowledge of these various items community wide.

Student task force, Parent Task Force, On sight resource person – within school working students, parents and community members. A Ranger 360 Task Force (over arching community structure) – oversee student, parent, administrator 360 cmte – (taking a look at policies) – looking at how to provide educational opportunities and resources to anyone throughout the community of Lakewood.

Proactive approach from (key was great partnership - in the development of this project – 3 year program – will be a model for others throughout the country –

Bill Eyman (Tim Bayline could not be here) from Domestic Violence Center) Cleveland Rape Crisis Center Sandra Miller.

Vice President Cleveland Rape Crisis Center – thanks Mayor and Chief; one in 4 girls and one in six boys will experience some form of sexual abuse before they turn age 18. Easy thing is to do is to pretend it doesn't happen. Courageous thing to do is to have a proactive program to raise a generation that says this kind of violence and this kind of abuse is not going to be tolerated in our community. Thanks for great support

Bill Eyman Chief Operating Officer for Domestic Violence and Child Advocacy Center; Thanks for support of vital program. Indicates program will be a model for country; Leadership for prevention and treatment
Coordinated effort.

Councilmember Powers indicated his pleasure in Lakewood receiving the grant and expressed appreciation to the work that went into securing it. He reaffirmed Lakewood's longstanding good reputation in this area and gave further credit to the Chief. He stated that he wanted to ensure that the need of the nearly 2000 students who attend Catholic schools or are homeschooled in Lakewood are included in the plans.

Council President asked to have the Powerpoint presentation to be emailed to the Council Office.

Council President Madigan indicated that part of the message she was being made aware of that the program was not just about teaching girls but about teaching boys how to behave.

Councilmember Anderson stated support of the program indicating the importance of addressing serious non-academic issues that end up preventing learning and growth.

Councilmember Bullock congratulated the team for securing one of only nine grants nationwide.

Motion adopted. All members voting yea.

Councilmember Smith recognized the Lakewood Police Department publicly indicating that Lakewood does an especially great job in engaging the Domestic Violence Center early when there's a domestic disturbance. She indicated that Lakewood stands out among other cities in terms of working cooperatively with agencies. Ms. Smith further indicated that the efforts are helpful for families and households involved and expressed appreciation to Chief Malley for choosing to operate in that manner and for choosing to participate in the referenced grant.

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

Motion adopted. All members voting yea.

36. **RESOLUTION NO. 8536-11** – A RESOLUTION to support the Lakewood City Schools in its efforts under this grant to be a national leader in sexual assault and teen dating violence education and prevention. (Pg.108)

Motion by Ms. Madigan, seconded by Mr. Powers, to adopt Resolution No. 8536-11.

Motion adopted. All members voting yea.

37. Liquor Permit application for a New D5I liquor classification to Eddie & Eddie LLC; 14725 Detroit Avenue (Pg.109)

Motion by Mr. Bullock, seconded by Mr. Powers, to file no objection to this liquor permit application.

Motion adopted. All members voting yea.

38. Liquor Permit Application for D5 and D6 transfers to MAD concepts LLC, McCarthy's Ale House; 16918-24 Detroit Avenue from Lakewood same address. (Pg.110)

Motion by Ms. Smith, seconded by Mr. Powers, to defer action on this liquor permit application.

Motion adopted. All members voting yea.

POST AGENDA COMMENTS

Six people spoke in favor of the pilot program for allowing hens in the backyard for egg production; limited to four families. Comments included the following; ecological, nutritious food source, aids in garden compost, good for physical activity and social well-being; small businesses supplying coop owners with various tools and supplies benefit, teaches kids responsibility, part of a trend to be more organic, more humane to animals; One resident indicated that several other residents needed more information on the benefits and that not everyone was in agreement hens in backyards is a good idea.

Closing remarks were made by Council President Madigan, Bullock and Smith indicating the discussion would continue in Committee.

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

Motion adopted. All members voting yea.

Meeting adjourned 9:32 PM.

Approved: _____

CLERK

PRESIDENT