

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
JANUARY 3, 2011
7:30 P.M.**

Regular Meeting of the Lakewood City Council called to order at 7:33 PM by Presiding Officer Madigan.

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

Also Present: Mayor Summers, Law Director Butler, Finance Director Pae, Public Works Director Beno, Police Chief Malley, Fire Chief Gilman, Human Services Representative Hall, Director of Planning and Development and Assistant Director of Public Safety for Housing and Building. Siley; Approximately 15 members of the public.

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

Motion by Ms. Madigan, seconded by Mr. Powers, to approve the minutes of the Regular Meeting of Council held December 19, 2011 without the necessity of a reading.

Motion adopted. All members present voting yea.

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

1. Elections for President and Vice President of Council.

Motion by Ms. Madigan, seconded by Ms. Smith, to nominate Brian Powers to be president of Lakewood City Council.

Ms. Madigan stated the following:

I am pleased and honored to nominate Brian Powers who has given nothing but 100% the entire time he's been on. I think he will lead us through very difficult years with attention to detail and vision which are two qualities a council president needs.

Mr. Anderson stated the following:

I wanted to take this opportunity to thank you for your leadership and to say thank you publicly for that and I appreciate the nomination of Councilmember Powers and look forward to supporting that nomination so thank you again.

Motion adopted. Five members voting yea.
Mr. Powers abstains.

Mr. Powers made the following comment:

Thank you to all my fellow members of Council. I really appreciate the opportunity to have served with each of you for a period of time and to be here tonight for the swearing in of so many of us and I'm absolutely honored to be able to do this. I've had the pleasure of sitting on Council with President Mike Dever and Kevin Butler and Mary Louise Madigan and learned so much from all three of those folks. Even when we disagree which I do sometimes with Mary Louise and I do sometimes with our current Law Director and I did with Mr. Dever. Those of you who know me know I disagree with a lot of people at various times. But that's okay, we do it with a smile and we shake hands and we celebrate the fact that that's what a democracy's all about. So I really am deeply honored to be doing this and I pledge that I will work with each and every one of you along with Mary Hagan and Amy Antel to make this Council function and hopefully I can do as good a job as Mary Louise Madigan did. Thanks.

Motion by Mr. Powers, seconded by Mr. Anderson, to nominate Mary Louise Madigan as Vice president of Council.

Motion adopted. All members present voting yea.

Ms. Madigan stated the following:

I am happy to do the supporting role to you, Brian and I was happy to have had the support that I had from all of you on here and the staff of courts and the Administration staff. It's a fun and difficult and very time consuming job but one that is very gratifying in many ways, so thank you and I look forward to 2012.

2. Certificates of Result of Official Count General Election, November 8, 2011; Charter Amendments and Mayor/Council seats. (Pg.4)

Law Director Butler advises the vote regarding the certificates is to receive and file.

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

Motion adopted. All members present voting yea.

3. Committee of the Whole Report regarding Ordinance No. 51-11 (To Be Provided)

Committee of the Whole Report regarding Ordinance No. 51-11- Madigan

In attendance at Committee of the Whole were all Councilpersons with exception of the excused absence of Councilman Bullock, the Law Director, the Mayor and various members of the public. In it we discussed ordinance 51-11 which is an ordinance, which would essentially eliminate two words from section 505.18 giving the Director of Public Safety specific exemptions to the prohibition of certain animals in the City. We had a long and lively and sensible discussion where we discussed executive discretion. We discussed policy by exemption. We discussed essentially good government and we concluded that the words “or other”, we recommended for adoption for that. In addition, we recommended 5-1 to remove another two words “or permanent” so that we would remove “or permanent” and then add, under section (d), item 7 The Director of Public Safety shall notify Council at least 30 days prior to any exemption taking effect. What Council took time to get to was to allow the Director of Public Safety, who happens to be the Mayor, to use his or her discretion, but on a temporary basis so that no decision would be permanent. In addition, we required that the executive would give Council at least 30 days notice to that exemption. We thought that this would give Council time to consider the possibility of an educational or commercial or any legitimate scientific opportunity to bring any of those animals listed in the ordinance into the City and let allow Council the opportunity to object to that. With that, we are going to move to substitute ...

Mr. Powers: If I may...

Ms. Madigan: Would you please.

Mr. Powers: Sorry for putting you on the spot here. We will move to substitute for the version that is before us this evening as the Law Director typed up and then we will move to adopt and the Council voted 5-1 on those motions.

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

4. **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 the prohibition on certain animals in the City. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 11/21/11, 2ND READING 12/5/11) (Pg.7)

Motion by Mr. Powers, seconded by Ms. Madigan, to substitute with the ordinance provided that evening.

Mr. Juris stated the following:

I appreciate again the effort of the discussion here tonight, earlier in the day, with going through this and attempting to make the most practical and enforceable ordinance that we can for the City. However, based on this I do believe still that the process that we've had so far, the example has been good from where I sit. So again, just to clarify, I will be looking to keep my vote the same as I had before but I certainly appreciate the discussion that we had earlier in the day and the attempt that we had to re-craft this. I think there's further work that has to be done which I think may better improve upon this.

Mr. Powers: Thank you Mr. Juris. I'll say it's meetings like tonight where, you know, I'm a nerd with respect to the legislative process. I enjoy it and I enjoyed tonight's meeting in the way we ground through some issues. I don't think the law is yet perfect and I agree with Councilmember Juris that there are ways that we would like to suggest improvements as we as Council are always open to continuous improvements on the laws that we've passed but the substitute is before us this evening if the Clerk will call the roll on the motion to substitute.

On the motion to substitute

Yeas: Anderson, Madigan, Nowlin, Powers, Smith

Nays: Juris

Motion adopted. Ordinance No. 51-11 substituted.

Mayor Summers: Thank you Mr. Chairman, I appreciate the opportunity to talk on this subject. I do understand the narrow concerns and debate of the ordinance and the change thereof and I support the Council's ability and right to do it. I would say I'm still disappointed that we don't have the chance to explore what I consider to be a very interesting and compelling subject. I know that that may come up in another way, at another time that Council may deem more appropriate. I think we are challenged as a community to figure ways to explore these issues that many in Lakewood might approach with emotional rejection or anecdotal approaches. I think our public is better served if we, working together, can figure ways to add fact experience that makes sense for Lakewood. So, my pledge to you on this subject and others like it is to really strive to find those ways that we can understand these complex issues, communicate, discuss them with intelligence and vision that suits us. Not that that didn't happen here. We didn't get that far on this issue but I do think the underlying premise of my attempt to use the exemption was to in fact put Lakewood into a better position to consider a complex issue. So, those challenges still remain before us. Thank you for your consideration.

Mr. Powers: Thank you Mr. Mayor. I will say we have a process by which such things can be accomplished – a legislative process by which things are read three times and we have open meetings, committee meetings that are all open to the public and then we vote on things. I think that hopefully, if this should come before Council, that's how items like this are supposed to be handled and that's our job so we look forward to it.

Motion by Mr. Powers, seconded by Ms. Madigan, to adopt Ordinance 51-11 as substituted.

Yeas: Anderson, Madigan, Nowlin, Powers, Smith

Nays: Juris

Motion adopted. Ordinance No. 51-11 adopted as substituted.

5. **ORDINANCE NO. 65-11** – AN ORDINANCE amending Chapter 1301, Regional Dwelling House Code, to update its language and references to be consistent with the City of Lakewood’s state certification and current Ohio law. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 12/19/11) (Pg. 12)

Motion by Mr. Powers, seconded by Ms. Madigan, to place on 2nd Reading.

Motion adopted. All members present voting yea.

6. **ORDINANCE NO. 66-11** – AN ORDINANCE amending Chapter 1302, Ohio Basic Building Code, to update its language and references to be consistent with the City of Lakewood’s state certification and current Ohio law. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 12/19/11) (Pg.23)

Motion by Mr. Powers, seconded by Ms. Madigan, to place on 2nd Reading.

Motion adopted. All members present voting yea.

7. **ORDINANCE NO. 67-11** – AN ORDINANCE repealing Chapter 1304, National Electrical Code, to be consistent with the City of Lakewood’s state certification and current Ohio law. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 12/19/11) (Pg. 32)

Motion by Mr. Powers, seconded by Ms. Madigan, to place on 2nd Reading.

Motion adopted. All members present voting yea.

8. **ORDINANCE NO. 68-11** – AN ORDINANCE repealing Chapter 1310, Residential Code for One, Two and Three Family Dwellings, to be consistent with the City of Lakewood’s state certification and current Ohio law. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 12/19/11) (Pg. 34)

Motion by Mr. Powers, seconded by Ms. Madigan, to place on 2nd Reading.

Motion adopted. All members present voting yea.

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

9. Communication from Councilmember Powers regarding Appointment of Dan Saracina to the Community Relations Advisory Commission. (Pg.42)

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

Motion adopted. All members voting yea.

10. Communication from Mayor Summers regarding Appointment for Community Relations Advisory (Pg.43)

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

11. Liquor Permit for a New D5 Permit class to Eddie & Eddie 14725 Detroit Ave. (Pg.44)

Motion by Ms. Smith, seconded by Ms. Madigan, to file no objection to this permit.
Motion adopted. All members voting yea.

Public Comment for non-agenda items:

Lakeland Avenue Resident spoke to object the increase in housing license fee which she indicated went from \$25.00 to \$60.00 per unit. She further indicated a third floor fee she suggested was unfair as an owner occupied person who rents to family members and asked for a decrease.

Mayor Summers indicated that the resident had made her concerns known to the Administration previously. He indicated that the issue is in reference to owning a triple and by Council action last year housing rates were raised on three-family from \$25.00 to \$60.00. He indicated that a double paid \$75.00 per unit and that for some reason, for years three-families have received a significant discount below any other housing license in the City of Lakewood at \$25.00 per unit. Mayor Summers indicated the following:

Council's action and certainly I supported this action was to make it more equitable in terms of how doubles approach this same license versus triples. There's about 300 triples in the City of Lakewood...has a couple choices; she can de-certify her triple into a double fundamentally and allow her to view her first and second floor as one unit or has to pay as a certification of a triple and understand whoever lives in each of the units is considered a tenant...

Mr. Summers indicated the discussion has been had when a family member is involved; a family member or a tenant. It was indicated that under the Code there was little distinction if living in a lease hold.

The question was placed to the Law Director that if there was a dispute if Courts considered the residents as tenants and therefore obligating the City to approach it in that manner.

Mr. Summers said that in this case, it was unusual in that originally it was a double, paid a discounted rate since 1968 and now an approach dealing with equity is present.

Mr. Siley indicated the following:

Even though your children may have been living in that second unit, it's still a second, independent unit with kitchen facilities, bathroom facilities and the only way to access those units is from the exterior. You can't get from unit one to unit two so under our Code, the way they're considered is as individual lease-able units, now if you were going to consolidate two of the units as we've done to some properties through our double-conversion program and actually requires structural modification so that the interior of the space, so that your unit that you live in now would have direct access into that upstairs unit. That's how you can modify that to a double. You could decommission that third unit if it's not ...it's sounding like you're renting it still, though so that's really not an option for you though, so that's really not an option for you but under our Code that's how those units are considered as individual, rentable space.

Mr. Powers stated the following:

...the description was accurate that for a long period of time perhaps owners of triples were benefited by the fact that it slipped the attention of the increases that had happened over time and we caught that up at this time to get it more in line to what folks in doubles were paying.

The resident asked where to continue the questions. Mr. Siley was referenced along with the resident's ward Councilmember; Mr. Bullock.

Motion by Ms. Madigan, seconded by Mr. Powers to adjourn the meeting.
Motion adopted. All members present voting yea.
Meeting adjourned 7:57 PM.

Approved: _____

CLERK

PRESIDENT