

**MINUTES
OF THE
REGULAR MEETING
OF
LAKEWOOD CITY COUNCIL
HELD IN COUNCIL CHAMBERS
12650 DETROIT AVENUE
JUNE 3, 2013
7:30 P.M.**

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

Present: Councilmembers David Anderson, Thomas R. Bullock III, 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, Police Representative, Fire Chief Gilman, Public Works Director Beno, Planning & Development Director Siley, Human Resources Director Yousefi.

Motion by Mr. Powers, seconded by Ms. Madigan, to approve the minutes of the Regular Meeting of Council held May 20, 2013.

Motion adopted. All members voting yea.

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

1. Committee of the Whole Report regarding Lakefront Improvement Design – Lakewood Park - Chair Powers (To Be Provided)

Dear Members of Council,

The Committee of the Whole met this evening. All members of Council were present. The Committee had two items of business. The first was proposed resolution 8657-13 which is to authorize an amount not to exceed \$25,000 for an agreement with a consultant for a proposal related to design at the Lakewood Waterfront Design Project. As you all know from attending that meeting moments ago. We have \$300,000 that we held in reserve on that larger project that had not been completed. We held that money to make sure that it didn't need to be returned in any way and it turns out that it is available for us to use. It needs to be used at Lakewood Park and on this waterfront project. Other than that we are free to re-visit the situation and do what we can. The first part of that is an estimate, typically 7-10% as we heard from Director Siley this evening, for the design of the project. Committee of the Whole voted unanimously to recommend to the full Council that we adopt the Resolution this evening.

The other item before us was our agenda procedural review, which we accomplished as well.

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

Motion adopted. All members voting yea.

2. **RESOLUTION NO. 8657-13** – A RESOLUTION to take effect immediately provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Director of Planning and Development to enter into one or more agreements with a consultant, following the receipt of proposals, for services related to designing improvements to the area within Lakewood Park near the waterfront, in an amount not to exceed \$25,000.00. (REFERRED TO THE COMMITTEE OF THE WHOLE 5/20/13) (Pg. 5)

Motion by Mr. Powers, seconded by Ms. Madigan, to adopt Resolution No. 8657-13.

Motion adopted. All members voting yea.

3. Finance Committee Report regarding Ordinances 13-13, 14-13 & 65-12A - Chair Madigan (To Be Provided))

The Finance Committee met tonight along with directors of the City and a couple members of the public to review Ordinances 13-13, 14-13 & 65 (12A) –

On Ordinance 13-13 the Transfer of our funds, this is a regular quarterly transfer for the city's regular business. This is all part of the 2013 Appropriation. The committee voted to suspend the rules and recommend passing on 2nd reading tonight.

Proposed Ordinance 14-13, we took no action and recommend it be placed on 2nd reading. on 65-12A, the third item that we visited tonight which is adding a City Architect to the salary ordinance. We heard from Director Siley and after having done our own, each individual bit of research on it, we heard more from Director Siley in addition to his May 20th correspondence - this is going to result in the same amount of staff. This is essentially a restructuring which will add a professional in architectural design as well as the building official that we need and who needs to be licensed by the State. This is all due to the expected retirement of Mr. Apanasewicz to whom we wish good luck and give our thanks. The Finance Committee agreed unanimously to recommend suspension of the rules and pass that on second reading tonight as well.

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

Motion adopted. All members voting yea.

4. **ORDINANCE NO. 13-13** - 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, authorizing the transfer and advance of certain funds. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 5/20/13) (Pg. 22)

Motion by Mr. Powers, seconded by Ms. Madigan, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 13-13 on final reading.

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

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Powers, seconded by Ms. Madigan, to adopt Ordinance No. 13-13 .

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

Nays: None

Motion adopted. Ordinance No. 13-13 adopted.

5. **ORDINANCE NO. 14-13** - AN ORDINANCE to take effect immediately provided it received 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, approving the Tax Budget of the City of Lakewood, Ohio for the year 2014, and authorizing the filing of same with the Cuyahoga County Fiscal Officer. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 5/20/13) (Pg. 24)

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

Motion adopted. All members voting yea.

6. **ORDINANCE NO. 65-12A** - 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 FINANCE COMMITTEE 5/20/13) (Pg. 25)

Motion by Mr. Powers, seconded by Ms. Madigan, to suspend the rules requiring this Ordinance to be read on three separate days and placing Ordinance No. 65-12A on final reading.

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

Nays: None

Motion adopted. Rules suspended.

Motion by Mr. Powers, seconded by Ms. Madigan, to adopt Ordinance No. 65-12A .

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

Nays: None

Motion adopted. Ordinance No. 65-12A adopted.

7. Public Works Committee Report regarding renaming portion of Athens Avenue Templar Motors Way. Chair Juris (To Be Provided)

Dear Members of Council,

The Public Works Committee met on May 20th to continue the discussion regarding Athens Ave. and a recognitions of Templar Motor Company. Present were all members of the Committee as well as Councilmember Anderson, and Directors Butler, Beno, and Siley.

After some discussion, the Committee unanimously decided that the appropriate approach was a Resolution to recognize Templar Motor Way with a marker as opposed to an Ordinance to rename Athens between Halstead and Clarence.

I thank the Committee for their work and Councilmember Madigan for bringing this forward. I look forward to the Resolution at an upcoming Council meeting.

Motion by Mr. Juris, seconded by Mr. Powers, to receive and file the oral report.

Motion adopted. All members voting yea.

8. Rules & Ordinances Committee Report regarding Ordinance 10-13 – Chair Bullock (To Be Provided)

The Rules & Ordinances Committee met tonight regarding routine periodic legislation to incorporate into our law book, known as Lakewood Codified Ordinances, all recently passed laws of a continuing nature. Given that tonight’s ordinance is administrative in nature, the Committee recommended the ordinance for adoption tonight.

The Committee also held a discussion evaluating the effectiveness of hiring an outside contractor to conduct codification and publication in both electronic and print forms, versus potentially conducting these tasks in-house, and the pros and cons of each. We came to no conclusion but rather agreed to continue evaluating the issue. I’ll not personally that I agree strongly with comments by Law Director Butler, Councilman Nowlin, and Council Clerk Hagan that our current electronic format could be improved upon, updated with a more modern format, and made significantly more user friendly. I thank the Law Director for framing this discussion and look forward to a forthcoming recommendation.

Motion by Mr. Bullock, seconded by Mr. Powers, to receive and file the oral report.

Motion adopted. All members voting yea.

9. **ORDINANCE NO. 10-13** - 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 approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter. (PLACED ON 1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 5/6/13, 2ND READINDG 5/20/13) (Pg. 31)

Motion by Mr. Powers, seconded by Mr. Bullock, to adopt Ordinance No. 10-13.
Motion adopted. All members voting yea.

10. **ORDINANCE NO. 11-13** - 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, authorizing and directing the Director of Planning and Development to enter into an agreement with a licensed real estate broker to market for sale the real property located at 1436 Grace Avenue and 1446 Mars Avenue for a period of 120 days, pursuant to Section 155.07 of the Codified Ordinances. (PLACED ON 1ST READING & REFERRED TO THE HOUSING COMMITTEE 5/6/13, REPORTED OUT ON, PLACED ON 2ND READING & RECOMMENDED FOR ADOPTION 5/20/13) (Pg. 33)

Motion by Mr. Powers, seconded by Ms. Madigan, to adopt Ordinance No. 11-13.
Motion adopted. All members voting yea.

11. **ORDINANCE NO. 12-13** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, determining to proceed with the improvement of Arthur Avenue (Detroit Avenue to Hilliard Road) in the City of Lakewood by the installation of decorative lighting fixtures and associated infrastructure including the necessary removal of existing utility poles and overhead wires and associated appurtenances and the installation of underground conduits, lampposts, lighting fixtures, electrical transmission devices and controls, together with the performance of any necessary tree lawn repair, and including all necessary appurtenances thereto. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 5/20/13) (Pg. 35)

Motion by Mr. Powers, seconded by Ms. Madigan, to place Ordinance No. 12-13 on 2nd Reading.

Motion adopted. All members voting yea.

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

12. Communication from Council President Powers and Mayor Summers regarding Hours of operation for parks in Lakewood. (Pg. 38)

Motion by Mr. Powers, seconded by Ms. Madigan, to receive, file and refer the communication to the Public Safety Committee.

Motion adopted. All members voting yea.

13. Communication from Mayor Summers regarding Mayoral appointment to the Citizens Advisory Committee. (Pg. 39)

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

14. Communication from Law Director Butler regarding Ordinance authorizing Mayor to renew lease with IceLand USA-Lakewood, LLC for Winterhurst. (Pg.40)

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

15. **ORDINANCE NO. 15-13**- AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor to enter into an amended and restated lease agreement with IceLand USA-Lakewood, LLC for the lease of the real property located at 14740 Lakewood Heights Boulevard, known as Serpentine Arena at Winterhurst, pursuant to Section 155.08 of the Codified Ordinances. (Pg.41)

Motion by Mr. Powers, seconded by Ms. Madigan, to place Ordinance No. 15-13 on 1st Reading and refer it to the Fiancé Committee.

Motion adopted. All members voting yea.

16. Communication from Law Director Butler regarding ordinance clarifying certain rules and regulations in the parks. (Pg. 43)

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

17. **ORDINANCE NO. 16-13** - AN ORDINANCE amending Section 905.07, Animals, and Section 905.98, Authority of the Director of Public Works, of the Lakewood Codified Ordinances, to clarify certain rules governing use of the parks within the Code. (Pg. 44)

Motion by Mr. Powers, seconded by Ms. Madigan, to place Ordinance No. 16-13 on 1st Reading and refer it to the Public Works Committee.

Motion adopted. All members voting yea.

18. Communication from Fire Chief Gilman regarding Authorization to accept funds from FEMA for expenses incurred during the storm Sandy. (Pg. 48)

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

19. Communication from Public Works Director Beno regarding Trade-in value of a John Deere loader. (Pg. 49)

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

20. **RESOLUTION NO. 8660-13** - A RESOLUTION 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, authorizing and directing the Director of Finance to sell, through trade-in, a 1986 John Deere 544D Wheel Loader in conjunction with the purchase of a new model John Deere Wheel Loader. (Pg. 50)

Motion by Mr. Powers, seconded by Ms. Madigan, to adopt Resolution No. 8660-13.
Motion adopted. All members voting yea.

21. Communication from Planning & Development Director Siley regarding Zoning Code Chapter 1135 – Mixed Use Overlay, proposed modifications. (Pg. 52)

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

22. **ORDINANCE NO. 17-13** - AN ORDINANCE to amend Chapter 1135, Mixed Use Overlay District, of the Codified Ordinances of the City of Lakewood to allow the application of Chapter 1135 to residentially zoned properties and to establish hours of operation for properties to which Chapter 1135 is applied. (Pg. 53)

Motion by Mr. Powers, seconded by Ms. Madigan, to place Ordinance No. 17-13 on 1st Reading and refer it to the Planning Commission.
Motion adopted. All members voting yea.

23. Communication from Planning & Development Director Siley regarding Sale Ordinance. (Pg.60)

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

24. **ORDINANCE NO. 18-13** - 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, authorizing and directing the Director of Planning and Development to enter into an agreement with a licensed real estate broker to market for sale the real property located at 1337 Hall Avenue for a period of 120 days, pursuant to Section 155.07 of the Codified Ordinances. (Pg. 61)

Motion by Mr. Powers, seconded by Ms. Madigan, to place Ordinance No. 18-13 on 1st Reading and refer it to the Housing Committee.
Motion adopted. All members voting yea.

25. Liquor Permit Application for D5 & D6 transfers to EL Carnicero; 16918-24 Detroit Avenue from Local Bar & Grill same address. (Pg. 63)

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

Motion adopted. All members voting yea.

26. Liquor Permit Application for a D5 transfer to Brutella; 11729 Detroit Road from Moon Pie same address. (Pg. 64)

Motion by Mr. Nowlin, seconded by Mr. Powers, to defer action on this liquor permit.

Motion adopted. All members voting yea.

27. Liquor Permit Application from D1 Stock to Jay Lor IV, 16300-02 Detroit Avenue. (Pg.65)

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

Motion adopted. All members voting yea.

PUBLIC COMMENT

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Donita Campion – 1281 Arlington Rd

Ms. Campion lives behind Nature's Bin. She hears disruptive noise from delivery trucks and trash collection before 8:00 a.m. She says that she has called the police and that they do not cite Nature's Bin – rather they just “advise” them. She says the issue has been ongoing since 2005. Ms. Campion had police records of noise complaints which she stated refute Nature's Bin's comments that they are ignorant to the problem. She complained that Nature's Bin's air conditioning unit is too noisy and exceeds the acceptable decibel level. She stated that the problems occur during the day and the evening. She complained that noise abatement attempts were unsuccessful.

Mayor Summers responded.

Colleen Cotter – 1437 Grace Ave

Ms. Cotter spoke about the approval process for the new Discount Drug Mart (DDM) on the corner of Grace Ave and Detroit and the enforcement of the rules regarding the store. She stated that she and her neighbors felt disenfranchised and betrayed. She spoke about the perceived barriers she faced in her attempts to freely participate in the DDM approval process, including late receipt of information. She said that neighbors were outsiders and DDM was the insider in the process. She expressed ongoing concerns about lights from the store, truck traffic, and the management of the white house adjacent to DDM. Despite assurances from the City that trucks would not use Grace, it has been happening. She talked about the sconces shining into the windows of neighbors. She spoke about the agreement over the white house and complained that no work has been done on the house. She identified a conflict of interest in the process in which

businesses are favored and residents are not. She asked Council to re-examine the City's procedures for approval of new projects and to ensure that they are fair

Barbara Marburger – 1475 Grace

Ms. Marburger complained that a memo she wrote was not delivered to the Planning Commission with enough time for them to consider carefully. She noted that DDM is creating excess light, truck traffic, and trash on Grace Ave. She stated that the Planning Commission is on the side of the developer and not the residents. Ms. Marburger read a statement by Annie Caswell of 1431 Grace Ave. Ms. Caswell's statement stated that her family has been affected nearly every day for the past 14 months by DDM including noise, lights, and traffic. Ms. Caswell's statement complained about the slow progress on rehabilitation of the white house. Her statement referenced conflicts of interest between the residents and the Planning Department. The statement expressed concern that residents do not have an advocate to guide them through the process and keep them informed. She criticized the response from the City. She asked for fairness and honesty in the process.

Joan Groth – 1504 Grace

Ms. Groth aligned herself with the views expressed by previous speakers. She stated that she was disappointed in the City and expressed hope that the City can take action to make residents happy with the city again.

Mark Beckett – 1437 Grace

Mr. Beckett spoke about concerns related to DDM He stated that the City and DDM have not acted in compliance or with decency. He stated that the City assured residents that DDM would work with residents to resolve concerns but that a cooperative working relationship has not been the reality. He remarked about persistent truck traffic on Grace from November 2012 onward and attempts by residents to engage City officials to make it stop. He complained that trucks were never cited. He remarked about the white house and the delays on renovation and remodeling. He expressed concern about DDM lights shining into his home. He complained that communication between the City and residents was not open. He asked for help from Council to ensure DDM compliance.

Mayor Summers and Director Siley responded.

David Heller – 1371 Lakeland

Mr. Heller complained about the noise from the Kauffman Park basketball courts. He complained that the Administration and the Parks Division were not locking the courts. He requested that the courts be relocated.

Council President Powers replied that a Committee of the Whole meeting will be scheduled to discuss basketball issues.

Councilmember Bullock responded on the topic of noise issues in a broad sense. He stated that the City cannot guarantee 100% noise-free neighborhoods.

ANNOUNCEMENTS

Director Pae announced that city residents are now able to pay water and sewer bills online.

Councilmember Juris expressed appreciation for his colleagues and the administration and the dedicated work they perform.

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

Motion adopted. All members present voting yea.

Meeting adjourned at 8:58 PM.

Approved: _____

CLERK

PRESIDENT