DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
APRIL 17, 2017
7:30 P.M.

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk’s Office and on the City’s website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:
The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:
The Clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

I. Pledge of Allegiance
II. Moment of Silence
III. Roll Call

Reading and disposal of the minutes of the Regular Meeting of Council held April 3, 2017.

Reports, legislation and communications from Members of Council, the Mayor and other City Officials.
1. Committee of the Whole Report regarding April 3, 2017 Committee of the Whole Meeting (Pg. 4) and April 17 Committee of the Whole meeting regarding Public Arts Task Force. (To Be Provided) Mr. O’Leary; Chair.

2. Public Works Committee Report regarding Ordinances 18-17 & 20-17. Mr. Nowlin; Chair (Pg. 5)

3. **ORDINANCE NO. 20-17** - 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 a concession lease agreement with Cornucopia, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances. (1\textsuperscript{st} READING & REFERRED TO THE PUBLIC WORKS COMMITTEE 4/3/17) (Pg. 6)

4. Public Safety Committee Report regarding Ordinance 19-17. Mr. O’Malley; Chair. (Pg. 17)

5. **ORDINANCE NO. 19-17** – AN ORDINANCE amending Section 146.04, Advisory; Reports, of the Codified Ordinances of the City of Lakewood to further clarify the role and duties of the Lakewood Animal Safety and Welfare Advisory Board. (1\textsuperscript{st} READING & REFERRED TO PUBLIC SAFETY COMMITTEE 4/3/17) (Pg. 18)

6. Communication from Mayor Summers, Councilmembers Bullock, Marx and O’Malley regarding Wind Project in Lake Erie. (Pg. 20)

7. **RESOLUTION NO. 8929-17** – A RESOLUTION 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, expressing the City of Lakewood’s support for the Icebreaker Wind Project in Lake Erie. (Pg. 21)

8. Communication from Councilmember Marx regarding Bike Share in Lakewood. (Pg. 24)
9. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Citizens Advisory Committee. (Pg. 25)

10. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Audit Committee. (Pg. 26)

11. Keep Lakewood Beautiful Awards Presentation. (To Be Provided)


13. **ORDINANCE NO. 21-17** – AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $6,050,000 OF BONDS FOR THE PURPOSE OF CURRENTLY REFUNDING THE CITY'S VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 2007 (LIMITED TAX), DATED MAY 30, 2007; APPROVING RELATED MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND Declaring an Emergency. (Pg. 29)

14. **ORDINANCE 22-17** – AN ORDINANCE AUTHORIZING THE APPROPRIATION OF MONEY FROM THE GENERAL FUND OF THE CITY OF LAKEWOOD, OHIO FOR THE PURPOSE OF DEFEASING $670,000 WATER SYSTEM MORTGAGE REVENUE BONDS, DATED APRIL 15, 1995 ISSUED BY THE CITY, ESTABLISHING AND CREATING AN ESCROW FUND FOR SAID DEFEASANCE, AUTHORIZING THE APPOINTMENT OF AN ESCROW TRUSTEE, AUTHORIZING AND APPROVING THE FORM OF AN ESCROW AGREEMENT IN CONNECTION WITH SUCH DEFEASANCE. (Pg. 38)
Re: Committee of the Whole Report; April 3, 2017

Dear Members of Council:

The Committee of the Whole met April 3, 2017 to discuss Mayor Summer’s letter regarding the interest representatives from Cornucopia expressed in running concessions at Lakewood Park. Present were Councilmembers Anderson, Litten, Marks, Nowlin, O’Malley, Law Director Butler, Public Works Director Beno, Cornucopia’s Executive Director Nancy Peppler, Food Service Operations Manager Becky Hetrick and myself.

The Committee learned that Cornucopia, Inc. hoped to expand the selection and scope of concessions historically provided at Foster Pool to include healthier selections, additional hours, online ordering options and additional locations via a food cart to service expanded areas within the park.

Committee members discussed past operations of the stand, if additional expenditures were required, sensitivity to costs of food items, and the obligations of the non-profit organization.

The Committee learned the Administration was in talks with the Schools, that new equipment and facility changes were not anticipated and that standard pool items would still be offered.

Law Director Butler indicated a contract addressing the specific issues would be submitted at a later date. The Chair indicated Councilmembers were in general support and eager to review the proposed contract when it is made available.

Respectfully submitted,

Sam O’Leary, Chair

COMMITTEE OF THE WHOLE
April 17, 2017

Lakewood City Council
Lakewood, Ohio 44107

Dear Colleagues,

The Public Works Committee met on April 10, 2017 to discuss Ordinances 18-17 and 20-17. All members of the Committee were present as were Councilmembers Litten and Marx, Director Beno, Assistant Law Director Swallow, representatives from AT&T, and representatives from Cornucopia, Inc.

Ordinance 18-17 proposes to grant three easements on City property to AT&T for the placement of equipment used to provide internet and telecommunications services to its customers. Director Beno used an interactive map to show the three proposed locations – 14740 Lakewood Heights Boulevard, 13029 Madison Ave. and 14601 Detroit Ave. Director Beno has been working with AT&T to identify the least conspicuous locations for these sizeable pieces of equipment.

Councilmembers expressed hesitation about the placement of new equipment in areas where existing equipment is already highly visible, particularly the Detroit Ave. location. AT&T has long term plans to add 50 new pieces of equipment to the public right of way over the next several years. Councilmembers voiced interest in working to minimize the impact of this new equipment before it is installed, including using the equipment as a canvas for public art and establishing design and siting standards applicable to all utility equipment. The Committee moved to defer ordinance 18-17 so that these ideas can be further explored.

Next, the Committee discussed Ordinance 20-17 which proposes to authorize a lease between the City and Cornucopia, Inc. for the provision of summer concessions in Lakewood Park. The Law Department provided a draft lease agreement and a brief overview of its key points. Councilmembers and representatives of Cornucopia discussed details of the agreement such as potential hours of operation, removal of refuse, advertising, and employees. The Committee moved to recommend adoption of Ordinance 20-17 and everyone expressed optimism about this addition to Lakewood Park.

Ryan P. Nowlin, Councilmember at-Large
Chair, Public Works Committee
ORDINANCE NO. 20-17

BY:

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 a concession lease agreement with Cornucopia, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances.

WHEREAS, the City is the owner of real property located in Lakewood, Ohio, known as Lakewood Park; and

WHEREAS, Cornucopia, Inc., which previously operated Nature’s Bin and continues to operate a prepared food commissary and training center on Sloane Avenue, is a 42-year-old Lakewood-based nonprofit organization with the special mission of providing work adjustment training for people with disabilities including developmental disabilities, mental illness, autism, visual and hearing impairment, and injuries resulting from accident or illness; and

WHEREAS, the City has determined that making available food concessions at Lakewood Park offered by this local, longstanding non-profit corporation is in the best interests of the City and will further the interests of the City and its residents; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal department in that the beginning of the 2017 park season is upon us; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor is hereby authorized and directed, on behalf of the City, to enter into a concession lease agreement with Cornucopia, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances, the agreement to be on terms approved by the Director of Law and in substantially the same form as the document attached as Exhibit A.

Section 2. To the extent Cornucopia, Inc.’s provision of services or other operation under the concession lease agreement conflicts with other established municipal rules and ordinances related to the presence of persons or the operation of food service in Lakewood Park, the concession lease agreement shall control over those rules and ordinances.
Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: __________________________

President

Clerk

Approved: __________________________

Mayor
Exhibit A
Concession Lease Agreement

(To be provided)
CONCESSION LEASE

THIS LEASE is made between the City of Lakewood, Ohio, lessor, and Cornucopia, Inc., an Ohio non-profit corporation, lessee.

1. LEASED PREMISES. The premises subject to this lease consist of a commercial space or storeroom in the [identify building], known as Unit No. __________, and containing _______ square feet, as shown on attached Exhibit No. __________.

2. TERM. The term of this lease is for _______ years, beginning [date] and ending [date], renewable for _______ successive terms of _______ year(s) each as provided in this lease. The option to renew shall be exercised by notice in writing, given to the City at least ninety days prior to termination of the current term.

3. RENT.

(A) Base rent. The base rent to be paid by lessee is $_________ per year of the original term, payable in monthly installments in advance on or before the _______ day of each month.

(B) Percentage rent. In addition to the base rent, lessee shall pay as additional rent a percentage of the gross revenue from operations on the leased premises, according to the following schedule: [insert schedule]

(1) During the first year of the original term, lessee shall file monthly financial statements with [authorized officer], not later than the twentieth day of the month following the month to which each statement applies. The statements shall show lessee's gross revenue from use of the leased premises for the preceding month, and shall be accompanied by the proper percentage rent installment for such month.

(2) Within twenty days after the end of each year of the term, lessee shall deliver to [authorized officer] financial statements for the preceding year, prepared according to generally accepted accounting principles, certified by a certified public accountant, and showing the operations and gross revenue from operations on the leased premises for the preceding year. Any additional percentage rent due for the preceding year shall be computed based on the certified annual statements and paid at the time such statements are delivered to [authorized officer].

(3) Percentage rent for the second and succeeding years of the term shall be paid in monthly installments at the same time as the base rent, with each payment calculated as one-twelfth of the gross revenue for the preceding year, as shown on the certified annual financial statements, with adjustments computed and paid at the end of the year as provided in section 3(B)(2) to reflect the actual gross revenue for the year.
(C) **Penalty for late payment.** If any monthly payment of base rent or percentage rent is not paid within _____ days after its due date, lessee shall pay a penalty equal to _____ % of the past due amount.

(D) **Records; audit.** Purchase records showing costs and sources of supply, inventory records, sales slips, register tapes, tax returns and other financial records, shall be retained by lessee and available for audit by the City or its representatives for not less than two years after their date. Records pertaining to operations on the leased premises shall be kept separately from other records of lessee.

4. **UTILITIES AND MAINTENANCE.**

(A) **Utilities.** Lessor shall provide and pay for heat to the premises. Lessee shall pay for all other utility service to the premises, including connection charges and meter costs.

(B) **Maintenance and repair.** Lessee, at his own expense, shall keep the premises and appurtenant installations in good repair and working order.

(C) **Health, sanitation and safety.** Lessee, at his own expense, shall keep the premises clean, neat, orderly, safe and sanitary at all times, and provide for the proper handling and disposal of garbage, trash, and other refuse.

5. **ADDITIONAL PAYMENTS BY LESSEE.** In the event lessee fails to keep the premises and appurtenances in good condition and repair, or in a clean and orderly condition, or fails to pay any taxes or discharge any lien required by this lease to be paid or discharged by lessee, or fails to purchase and maintain insurance as required by the lease, or otherwise fails to perform any condition of the lease, the City may cure any such default by lessee in the manner and to the extent the City considers necessary or advisable in order to protect its interests or the interests of the public. In any such case, the City shall be reimbursed by lessee for the cost of curing the default. In addition, in the event the City incurs any expense by reason of any default by lessee under this lease, regardless of whether the City elects to cure the same, the City shall be reimbursed by lessee for such expense. At the City's option, any such cost or expense, together with interest and penalties, if any, may be added to one or more monthly rental payments, and shall thereby become part of, and be payable the same as other rent.

6. **CONDITION OF PREMISES; IMPROVEMENTS AND INSTALLATIONS.**

(A) **Condition of premises.** At the commencement of the original term, the leased premises are constructed, finished, and equipped as shown on the specifications contained in attached Exhibit B. Lessee has inspected the premises and acknowledges that they are in good and usable condition.

(B) **Work to be done by lessee.** Lessee, at his own expense, will install partitions, lighting, trade fixtures and equipment, furniture and furnishings, and otherwise construct, remodel, decorate and equip the leased premises as necessary for the efficient and successful operation of a [identify type of concession].
(C) Approval of plans and specifications; inspection. Before commencing any construction, remodeling, alteration, decoration or installation, whether at the commencement of the term or thereafter, Lessee shall submit detailed plans and specifications to the [appropriate official] for approval. The City reserves the right to reject any design proposals which the [appropriate official] determines to be unsuitable. Lessee shall obtain all necessary permits required under federal or state law or regulations, or under ordinances and regulations of the City. During construction, all materials, installations and workmanship are subject to inspection and approval by [appropriate officials] or their authorized representatives. Lessee and his contractors and subcontractors shall give ________ days' advance notice to [appropriate official] before commencing any new work, and shall afford the City's representatives all reasonable and necessary facilities for inspection. All work shall be according to the approved plans and specifications.

(D) Ownership of improvements and fixtures. Title to all leasehold improvements constructed as an integral part of the building, including without limitation lighting, plumbing, heating and air conditioning, vests in the City upon installation. Lessee shall retain title to trade fixtures and equipment, furniture and furnishings installed by lessee, and shall remove the same at his expense on termination of the lease.

7. USE OF PREMISES. Lessee is entitled to the exclusive use of the leased premises for the purpose of operating a [describe type of concession], and for such other lawful purposes as may be authorized by [appropriate official] upon written request by lessee, subject to the following conditions: [list conditions and limitations, such as goods or services to be offered, goods or services which are prohibited, etc.]

8. HOURS AND STANDARDS OF OPERATION.

(A) Hours of operation. Lessee shall operate the concession and offer to the public goods or services commensurate with the purposes for which the premises are to be used under this lease, for twenty-four hours a day, seven days a week. Upon lessee's written request, the [authorized officer] may permit reduced hours of operation on such conditions as he may impose in the interests of serving the public convenience and needs.

(B) Operations; merchandise and services. Lessee's operations shall meet or exceed the standards usual in the trade for first class operations of a similar type. Lessee shall not provide, sell or offer for sale merchandise or services of inferior quality. Lessee shall not offer services or merchandise which are, or are offered in a way which is, in bad taste or offensive to the public.

(C) Personnel. Lessee shall provide sufficient personnel and give them adequate training and supervision to operate the concession to a standard comparable to similar first class [type of operation] in the City. Lessee shall at all times exercise proper control over the conduct of his employees. He shall require them to be clean and neat in appearance, and to be courteous and helpful in dealing with the public. Upon written notice from lessor, lessee shall discipline or terminate any employee whose conduct is detrimental to the best interests of the airport or the public.
9. Compliance with Laws and Regulations. Lessee shall comply at all times with applicable federal and state laws and regulations, and with ordinances and regulations of the City, including without limitation statutes, ordinances and regulations applying to the premises or their use, or to lessee's operation of the concession.

10. Payment of Taxes.

(A) In general. Lessee shall pay promptly when due all real property taxes and assessments levied on the leased premises, and personal property taxes, state, federal and municipal income taxes, and social security, workers' compensation and unemployment compensation taxes, and all other taxes and assessments due from lessee and for which a lien is or may be attached to the property or leasehold interest.

(B) Proportionate share of real property taxes and assessments. Upon receipt of a bill for taxes or assessments attributable to the leased premises, the [appropriate official] shall in turn bill lessee therefor. If the tax billing is for an area greater than the leased premises, lessee shall pay the same proportion of the total tax bill as the area of the leased premises bears to the total area of the premises being taxed. Lessee is entitled to contest the amount or validity of such taxes or assessments in his own name or the name of the City, or both. Lessee shall have control of the proceedings, and shall pay all costs and expenses of the same.

11. Discharge of Liens. Lessee shall promptly pay and discharge or cause to be cancelled any lien attaching to the leased premises or the leasehold interest, and arising from an act or omission by lessee or his agents or employees, or arising from lessee's use and occupancy of the leased premises, or his operations of the concession, including without limitation judgment liens, mechanics' and materialmen's liens, workers' compensation and unemployment compensation liens, federal tax liens, and other liens.

12. Insurance.

(A) In general. Lessee at his sole expense shall purchase and maintain in force, during the life of the lease, policies of insurance as provided in this section. Lessee shall furnish to lessor binders or policies showing the insurance in force as of commencement of the term.

(B) Liability Insurance. Lessee shall purchase and maintain in force liability insurance covering personal injury or death in a minimum face amount of $________ for one person and $________ for two or more persons for each occurrence, and covering loss or damage to property in a minimum face amount of $________. The policy shall name the City as an additional insured.
(C) Fire and extended insurance. Lessee shall purchase and maintain in force the maximum amount of fire and extended coverage insurance obtainable on the leased premises and improvements.

(D) Product liability insurance. Lessee shall purchase and maintain in force product liability insurance in a minimum face amount of $_______ for one person and $_______ for one occurrence. Each policy shall be endorsed, "The insurer agrees that _______ days prior to cancellation or reduction of amount or coverage of this policy, written notice will be mailed to the City of _______." A copy of each insurance policy shall be submitted to the Director of Law for review and approval as to form and sufficiency, and deposited with the [appropriate official].

13. LOSS OR DAMAGE TO LEASED PREMISES.

(A) Assessment of damage. In the event the leased premises are damaged through fire or other casualty, the lessee without delay shall contact claims adjusters, architects, contractors, damage repair specialists or other competent persons to make estimates of needed repairs, including estimates of the time such repairs will reasonably require to effect.

(B) Damage repairable within ninety days. In the event repairs can reasonably be effected and the property restored to usable condition within ninety days from the date of the fire or other casualty, lessee shall proceed promptly to make such repairs. Provided the repairs are prosecuted with diligence, and any delay is not occasioned by lessee's fault, the duty to make rent payments shall be abated until the premises are restored to operating condition.

(C) Damage not repairable within ninety days. In the event repairs cannot reasonably be effected and the property restored to usable condition within ninety days from the date of the fire or other casualty, lessee at his option may terminate the lease by giving written notice of termination, in which case all insurance proceeds covering the loss shall be paid to the City.

14. INDEMNIFICATION. Lessee agrees to indemnify and hold the City harmless from any liability for injuries or death to persons or loss or damage to property arising from any act or omission of lessee, or his agents or employees, with respect to his use or occupancy of the leased premises or operations at _______ Airport. Lessee agrees to give the City prompt notice of any claim or suit which may result in a judgment against the City. Lessee is entitled to compromise, defend or participate in the defense of any such claim or suit to the extent of his interest.

15. PERFORMANCE BOND. Lessee shall furnish a surety bond in amount of $_______, as security for his compliance with this lease, which shall be incorporated in the bond. The bond shall be approved by the City Director of Law as to form, sufficiency, and justification of sureties. The bond shall remain in effect during the original and any renewal term of this lease.

16. ASSIGNMENT AND SUBLETTING. Lessee shall not assign this lease or any interest in the lease, or sublet any part of the leased premises, without the written consent of [authorized official].
17. **TAKING OF PREMISES FOR EXPANSION OR DEVELOPMENT.** The City may recover possession of all or part of the leased premises for purposes of expansion or development of the Airport Terminal Building, on ninety days' written notice to lessee. In the event of a taking or partial taking by the City under this section, the lessee may:

(A) Accept other premises offered by the City to replace the leased premises, and continue operations under this lease in the replacement premises. In such case, the base rent shall be computed on the area of the replacement premises, and the rate per square foot shall be the lesser of the rate paid by lessee for the original leased premises, or the rate charged the previous lessee of the replacement premises or, if the replacement premises have never been let or have been vacant for six months or more, the rate at which the replacement premises are offered in good faith by the City to prospective lessees;

(B) Accept other premises offered by the City to replace the part of the leased premises taken, and continue operations under this lease in the leased premises remaining after the taking, augmented by the replacement premises. In such case the base rent shall be the total of base rent for the replacement premises computed as provided in division (A) and the base rent for the leased premises reduced as provided in division (C) of this section;

(C) Elect to continue operations under this lease in the leased premises remaining after the taking. In such case the base rent shall be reduced in proportion to the area of the leased premises taken; or

(D) Terminate the lease as of the date of taking, by giving written notice at least thirty days prior to termination.

18. **CANCELLATION.**

(A) **Termination by the City.** In addition to any other right of cancellation under this lease, the City may terminate this lease if any of the following occur:

1. Lessee fails to pay rent or other charges under this lease within thirty days after the due date;

2. Lessee assigns the lease or any part of his interest in the lease, or sublets any part of the leased premises, in violation of section 16 of this lease;

3. Lessee voluntarily abandons operations at the leased premises for a continuous period of thirty days;

4. Lessee is compelled to cease operations at the leased premises for a continuous period of ninety days, by reason of fire or other casualty, a strike, or other calamity beyond lessee's control. This provision does not apply when lessee elects to make repairs under section 13(B) of the lease, even though the work requires longer than ninety days to complete, provided lessee begins repairs without undue delay, diligently prosecutes the work, and renews operations on completion of repairs;
(5) Lessee defaults under any condition of this lease, and the default is not cured within thirty days after written notice of default. If the default is such that it cannot reasonably be corrected within thirty days, it will be considered timely cured if lessee begins corrective measures promptly after notice and diligently prosecutes them to completion, provided the default is fully corrected within a reasonable time;

(6) Lessee makes a general assignment for the benefit of his creditors or consents to the appointment of a receiver or trustee for substantially all of his property for the benefit of creditors, or files, under the federal bankruptcy laws, a voluntary petition for bankruptcy, reorganization or financial rehabilitation; or

(7) Lessee is adjudged bankrupt or an order is made for his reorganization or financial rehabilitation under the federal bankruptcy laws, or pursuant to court order a receiver or trustee takes possession of substantially all of lessee's property for the benefit of creditors. The right to cancel under this provision shall be held in abeyance during any period the judgment or order is stayed pending proceedings to contest or appeal the judgment or order.

(B) Termination by lessee. In addition to any other right of cancellation under this lease, lessee may terminate this lease if any of the following occur:

(1) The City defaults under any condition of this lease, and the default is not cured within thirty days after written notice of default. If the default is such that it cannot reasonably be corrected within thirty days after notice, it will be considered timely cured if the City begins corrective measures promptly after notice and diligently prosecutes them to completion, provided the default is fully corrected within a reasonable time;

(2) Lessee is prevented by court order from using a substantial part of the leased premises for a continuous period of ninety days; or

(3) Lessee's ability to conduct operations at the leased premises in the same manner and to the same extent as previously is substantially curtailed for a continuous period of ninety days, by reason of a court order, a change in laws or regulations subsequent to execution of this lease, any governmental action or inaction other than revocation or suspension of a liquor license, a fire or other casualty, or any other cause not due to lessee's fault.

(C) Notice of cancellation; effective date. In order to exercise a right of termination under this section, the party entitled to terminate the lease shall give the other party written notice of cancellation, specifying the reason under division (A) or (B) of this section, and specifying the date termination becomes effective, which shall be not less than thirty nor more than ninety days from the date of the notice. At any time before the effective date of termination specified in the notice, the notice of cancellation may be rescinded in writing by the party giving it, in which case the parties shall be in the same position as if notice of cancellation had not been given.

(D) Waiver of right to terminate. A party waives the right to terminate this lease based on a particular occurrence or default of the other party, by written waiver given at any time, or by failing to give written notice of cancellation within ninety days after the right to cancel accrues.
The City waives a default for nonpayment of rent or other charges by accepting full payment for the past due amounts made within sixty days after the due date of the last such past due rent payment or other charge. Waiver of the right to cancel based on a particular occurrence or default does not constitute a waiver of the right to cancel for subsequent occurrences or defaults of the same kind.

19. SURRENDER OF PREMISES. At the end of the term or any renewal term of this lease, or upon termination of this lease by either party or for any cause, lessee shall remove his trade fixtures and equipment, furniture and furnishings, and surrender possession of the premises to the City in as good order and condition as at the commencement of the original lease term, reasonable use and fair wear and tear excepted.

WITNESS the signatures of the parties this _______ day of ______________, 2017.

Attest:

[Signatures of witnesses]  [Authorized signatures and titles for City as lessor]

[Signature of lessee]

Approved as to legal form and correctness:

_________________________
Director of Law

This instrument prepared by:

Kevin M. Butler, Law Director
City of Lakewood
12650 Detroit Avenue
Lakewood, Ohio 44107
April 17, 2017

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Public Safety Committee Report Re: Ordinance 19-17

Dear Colleagues,

The Public Safety Committee met on April 10, 2017. All members of the Committee were present as were Councilwoman Marx, Assistant Law Director Swallow, and Missy Limkemann and Kara Vlach-Lasher from the Animal Safety and Welfare Advisory Board.

At the request of Mayor Summers, discussion of Councilman Anderson’s communication regarding parking on Madison Ave. was postponed until the administration develops a better understanding of the issues and options available to the City.

The Committee discussed Ordinance 19-17 which proposes to amend the Code to provide greater freedom to the Animal Safety and Welfare Advisory Board (LASWAB) to deliberate on animal-related topics. In 2013, the Code was amended to prevent LASWAB from deliberating on topics that were not explicitly referred to it through the Council docket. Members of LASWAB stated that since that time LASWAB has felt frustrated by its inability to engage with the pertinent animal-related issues concerning the City in a timely manner. The proposed Ordinance re-instates the original language in the Code prior to a change made in 2013. Councilmembers discussed the many animal issues facing the City and voiced support for empowering LASWAB to proactively bring them to Council’s attention.

The Committee moved to recommend adoption of Ordinance 19-17.

Sincerely,

Daniel J. O’Malley
Councilmember, Ward 4
ORDINANCE NO. 19-17

BY:

AN ORDINANCE amending Section 146.04, Advisory; Reports, of the Codified Ordinances of the City of Lakewood to further clarify the role and duties of the Lakewood Animal Safety and Welfare Advisory Board.

WHEREAS, the Lakewood Animal Safety and Welfare Advisory Board was established for the purpose of protecting the welfare and interests of animals through public outreach and education and by providing advice to City officials on these matters; and

WHEREAS, since its establishment, the Board has made positive contributions to City life through the efforts of hard-working and passionate volunteers; and

WHEREAS, clarifying the Board's official charge and its means for carrying out this charge will further enhance the Board's positive impact on Lakewood; and

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 146.04, Advisory; Reports, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

146.04 ADVISORY; REPORTS

The Lakewood Animal Safety and Welfare Advisory Board shall advise Council, the Mayor, and the Mayor's administration on issues formally referred to the Board by Council.

shall be and is hereby amended to read as follows:

146.04 ADVISORY; REPORTS

The Lakewood Animal Safety and Welfare Advisory Board shall advise Council, the Mayor, and the Mayor's administration on issues formally referred to the Board by Council be advisory and shall coordinate its activities with the Administration and Council. The board shall report to Council and the Mayor at the request of either or at its own discretion.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council,
and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted:____________________

President

____________________

Clerk

Approved:____________________

Mayor
April 12, 2017

Dear Members of City Council,

Lakewood is inextricably linked to Mother Nature, particularly Lake Erie. We acknowledge and celebrate our relationship with this lake in so many ways. The fact that it can be a source of electrical power is an additional wonder. Lake Erie Energy Development Corporation (LEEDCo) has worked for over a decade to pioneer fresh water windfarm technology. The proposed pilot program, which is fully funded, will be located seven miles off our lakefront. The turbines will be visible from Lakewood on clear days.

For over a century, we have seen the smog line created from many sources, including coal fired power plants along our shoreline to the East and West of us.

Wind power has its advantages and disadvantages, as do all power generation sources. On balance, we owe it to our community both current and future, to support alternative sources of power generation to both diversify our supply and improve our environment.

We ask city council to learn more about this project and ultimately support the attached resolution of to further the implementation of this pilot study.

Mike Summers
Mayor

Tom Bullock
Council-at-Large

Cindy Marx
Council-at-Large

Dan O’Malley
Council, Ward 4
RESOLUTION NO.  

BY:

A RESOLUTION 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, expressing the City of Lakewood’s support for the Icebreaker Wind Project in Lake Erie.

WHEREAS, the Icebreaker wind farm will be the first freshwater offshore wind project in North America and only the second offshore wind project in the United States; and

WHEREAS, Icebreaker Wind is a 20.7-megawatt, six-turbine project that will be located eight to 10 miles off the shore of Cleveland, Ohio, and seven miles off the shore of Lakewood; and

WHEREAS, the owners and developers of Icebreaker Wind are headquartered in Cleveland, Ohio; and

WHEREAS, there is a critical need to develop more domestic clean energy to protect our environment and create new industries in the region; and

WHEREAS, the Great Lakes region has the technical potential to provide over 700 gigawatts of offshore wind generation; and

WHEREAS, Icebreaker will be a small demonstration project that will allow us to advance the development of this huge clean energy resource in Lake Erie and the other Great Lakes; and

WHEREAS, the Icebreaker Wind project alone will create over 500 jobs and provide $168 million in local economic impact over the project life; and

WHEREAS, Icebreaker is committed to hiring workers from the local labor force and sourcing materials from the region, including from the City of Lakewood, to the greatest extent possible; and

WHEREAS, the vast offshore wind industry potential in Northeast Ohio would provide thousands of jobs and significantly boost the local economy, including that of Lakewood; and

WHEREAS, Cleveland’s air quality is among the worst in the nation, which air pollution leads to increases in respiratory disease including asthma, heart attacks, and premature death; and clean energy will help improve the region’s air quality; and

WHEREAS, Ohio depends on fossil fuels for over 80 percent of its electric energy mix, which over-dependence is fueling catastrophic climate change, whereas clean renewable energy accounts for less than three percent of Ohio’s electric energy mix; and
WHEREAS, the City of Lakewood is committed to development of clean energy resources to power the electric grid of the future; and

WHEREAS, Icebreaker Windpower has received strong community support from residents, businesses and local governments; and

WHEREAS, Icebreaker Windpower has secured $10 million from the U.S. Department of Energy to date, with a commitment to provide an additional $40 million in funding if certain milestones are met; and

WHEREAS, the Lake Erie Energy Development Corporation (LEEDCo) has attracted a private investor in Fred. Olsen Renewables, a leader in the European wind industry, to own, construct, and operate the project; and

WHEREAS, Icebreaker Windpower Inc. submitted an application for a certificate of environmental compatibility and public need to the Ohio Power Siting Board on February 1, 2017; and

WHEREAS, the Ohio Power Siting Board will be considering this application in the coming months; and

WHEREAS, this application shows that Icebreaker Wind will have minimal adverse impact on fish, wildlife, or the Lake Erie shore viewshed, including from the Lakewood shoreline; now, therefore

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is imperative that this support of the project be communicated immediately; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City of Lakewood hereby supports the Icebreaker Windpower application for a certificate of environmental compatibility and public need to the Ohio Power Siting Board; and the City urges the Ohio Power Siting Board to act favorably and expeditiously on the application.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City
and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: ____________________________  President of Council

______________________________  Clerk of Council

Approved: ____________________________  Mayor
April 17, 2017

Dear Colleagues,

Spring is here, and bicycles are on the streets. Lakewood strives to be the healthiest city in America, and it all starts here! Active living!

Last year I coordinated a meeting with Bike Lakewood, Beat Cycles and Spin to learn from Alex Baca the general manager of UHBikes, the bike share in Cleveland. The purpose of the meeting was to learn what would be involved with integrating a bike share in Lakewood. The meeting was thoughtful and informative.

Alex Baca invited Lakewood City Council and those in Administration who are interested in taking advantage of a courtesy tour on the UHBikes to experience downtown, Cleveland. Alex from UHBikes and others from Bike Lakewood and Bike Cleveland will help lead the tour.

Tonight I invite you to share your enthusiasm to “mount the saddle” and peddle for a fun one hour ride through Cleveland’s Public Square on UHBikes on a date that works for all. I am happy to coordinate this event for those interested.

Sincerely,

Cindy Marx
Councilmember At-Large
April 17, 2017

Lakewood City Council
Lakewood, Ohio 44107

Re: **Mayoral appointment to the Lakewood Citizens Advisory Committee**

Dear Members of Council:

It is with great pleasure that I announce my appointment of Joshua Gonzalez to the Lakewood Citizens Advisory Committee. His term will begin immediately and expire on December 31, 2018.

I am grateful that this fine Lakewood citizen is willing to volunteer his time, energy and knowledge to improve the quality of our community. I am confident that he will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers
April 17, 2017

Lakewood City Council
Lakewood, Ohio 44107

Re: Mayoral appointment to the Lakewood Audit Committee

Dear Members of Council:

It is with great pleasure that I announce my appointment of Adam Wills to the Lakewood Audit Committee. His term will begin immediately and expire on December 31, 2018.

I am grateful that this fine Lakewood citizen is willing to volunteer his time, energy and knowledge to improve the quality of our community. I am confident that he will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers
April 17, 2017

Lakewood City Council
Lakewood, OH 44107


Dear Members of Council,

Attached please find the Ordinance and Fiscal Officer’s Certificate to refund $6.05 million of the outstanding 2007 General Obligation Bonds via a private placement arrangement with Capital One in order to reduce interest costs.

Also attached is an ordinance authorizing City Council to defease, or payoff, $670,000 outstanding of the 1995 Water Revenue Bonds via the establishment of an escrow account with Huntington Bank.

I respectfully request that this legislation be placed on first reading and referred to the Finance Committee for further review and discussion.

Sincerely,

Jennifer R. Pae
Director of Finance
CERTIFICATE OF MAXIMUM MATURITY

To: The City Council of the  
City of Lakewood, Ohio

The undersigned Director of Finance of the City of Lakewood, Ohio (the “City”) as the fiscal officer of the City, hereby certifies as follows with respect to the Refunding Bonds, Series 2017, of the City, in the principal sum of not to exceed $6,050,000 (the “Bonds”), that are to be used to currently refund all or a portion of the City’s Various Purpose General Obligation Bonds, Series 2007 (Limited Tax), dated May 30, 2007, originally issued in the aggregate principal amount of $10,875,000 (a) to finance certain capital assets of the City, including improving buildings and sites, streets and sidewalks, municipal recreation facilities, parking facilities, sanitary sewers, and the wastewater treatment plant; reforestation; and acquiring equipment for the police and fire departments; and (b) to advance refund a portion of the City’s $8,225,000 Various Purpose General Obligation Bonds, Series 2001 (Limited Tax Obligations), dated May 3, 2001; and the last maturity permitted by law is December 1, 2026 (the “Outstanding Bonds”), and the maximum maturity of the Bonds cannot exceed the last maturity permitted by law for the bonds to be refunded, in accordance with Section 133.34, Ohio Revised Code.

Therefore, the maximum maturity of the Bonds cannot be later than December 1, 2026.

Dated: April 17, 2017

[Signature]

Director of Finance  
City of Lakewood, Ohio
ORDINANCE NO. 10

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $6,050,000 OF BONDS FOR THE PURPOSE OF CURRENTLY REFUNDING THE CITY'S VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 2017 (LIMITED TAX), DATED MAY 30, 2017; APPROVING RELATED MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND DECLARING AN EMERGENCY

WHEREAS, the Council of the City (the "Council") issued Various Purpose General Obligation Bonds, Series 2007 (Limited Tax), dated May 30, 2007, in the original principal amount of $10,875,000 (the "Outstanding Bonds") (a) to finance certain capital assets of the City, including improving buildings and sites, streets and sidewalks, municipal recreation facilities, parking facilities, sanitary sewers, and the wastewater treatment plant; reforestation; and acquiring equipment for the police and fire departments; and (b) to advance refund a portion of the City's $8,225,000 Various Purpose General Obligation Bonds, Series 2001 (Limited Tax Obligations), dated May 3, 2001; and

WHEREAS, in view of currently prevailing lower interest rates, the Council has determined that it is advisable and in the best interest of the City to issue refunding bonds of the City to currently refund certain maturities of the Outstanding Bonds (the "Refunded Bonds"); and

WHEREAS, the Director of Finance of the City (the "Director of Finance") has certified to this Council that the maximum maturity and authorized principal amount of the bonds herein authorized cannot exceed the maximum maturity and principal amount of the Refunded Bonds; and

WHEREAS, it is now deemed necessary to issue and sell not to exceed $6,050,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.34 thereof, for the purpose stated in the title of this Ordinance;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth

By:
in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further in order to issue and sell the Bonds to enable the City to take advantage of present interest rates and to refund the Refunded Bonds. Now Therefore

BE IT ORDAINED BY THE CITY OF LAKewood, OHIO:

Section 1. Issuance of the Bonds. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed $6,050,000, or such lesser amount as shall be determined by the Director of Finance and certified to this Council, which bonds shall be shall be designated "City of Lakewood, Ohio Refunding Bonds, Series 2017," or as otherwise determined by the Director of Finance (the "Bonds"), for the purpose described in the title of this Ordinance. The Bonds may be issued in one or more series.

Section 2. Terms of the Bonds. The Bonds shall be issued as fully registered bonds in denominations of $5,000 or any integral multiple thereof; shall be numbered consecutively from R-1 upward, as determined by the Director of Finance; shall be dated the date determined by the Director of Finance and set forth in the Certificate of Fiscal Officer provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the Director of Finance and set forth in the Certificate of Fiscal Officer, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360-day year of 12 30-day months.

Section 3. Certificate of Fiscal Officer Relating to Terms of Bonds. The Director of Finance is hereby authorized and directed to execute on behalf of the City a Certificate of Fiscal Officer Relating to Terms of Bonds (the "Certificate of Fiscal Officer") setting forth the aggregate principal amount and the final terms of the Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this Ordinance, shall be as determined by the Director of Finance. The Certificate of Fiscal Officer shall indicate the date stated for the Bonds, the dates on which interest on the Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Bonds, the interest rates for the Bonds (provided that the true interest cost for all Bonds in the aggregate shall not exceed 5.00% per annum, the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this Ordinance as the Director of Finance shall deem appropriate.

Section 4. Redemption Provisions of the Bonds. The Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Fiscal Officer. If optional redemption of the Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Bonds of the same maturity will take place, the Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar (as defined hereinbelow) prior to the selection of the Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Bond so selected will be in the amount of $5,000 or any integral multiple thereof.

The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be
paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Bonds to be redeemed at the address shown in the Bond Register (as defined hereinbelow) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Bond.

Section 5. Form and Execution of the Bonds. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance; and shall be executed by the Director of Finance and the Mayor of the City (the "Mayor"), in their official capacities, provided that either or both of their signatures may be a facsimile. No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Bond, is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Bonds.

Section 6. Payment of the Bonds. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Bonds shall be payable upon presentation and surrender of the Bonds at the principal office of the Bond Registrar. Each Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the Record Date shall be the preceding business day), on the Bond Register at the address appearing therein.

Any interest on any Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder’s address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 7. Appointment of Bond Registrar. The Director of Finance is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Bonds (the "Bond Registrar") or to execute on behalf of the Council a Bond Registrar Agreement with such bank or
other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as the Bond Registrar for the Bonds. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of hereinabove, the person in whose name any Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Bonds of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Bond during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Bonds, and ending at the close of business on the day of such mailing, or (ii) any Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Bonds. All Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Bonds surrendered upon that transfer or exchange.

Section 8. Debt Service Levy. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same
falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Bonds when and as the same falls due.

Section 9. Sale of the Bonds. The Bonds shall be sold at private sale to Capital One Public Funding, LLC or such purchaser or purchasers (collectively, the “Original Purchaser”), as the Director of Finance shall designate at the purchase price set forth in the Certificate of Fiscal Officer, plus interest accrued to the date of delivery of the Bonds to the Original Purchaser. The Director of Finance and the Mayor of the City, or either of them individually, are authorized and directed to execute on behalf of the City a bond purchase agreement, term sheet, or similar document with the Original Purchaser, setting forth the conditions under which the Bonds are to be sold and delivered, which shall be in such form, not inconsistent with this Ordinance, as the Director of Finance shall determine.

Section 10. Establishment of Escrow Fund; Escrow Trustee. There is hereby created and established, as an account within the Bond Retirement Fund of the City, a trust fund to be designated “City of Lakewood, Ohio – Refunding Bonds, Series 2017 – Escrow Fund” (the “Escrow Fund”) or as otherwise designated by the Director of Finance, which account may be in the custody of a bank or trust company as an escrow trustee, if desired. The proceeds from the sale of the Bonds, except the accrued interest and premium thereon (if any), shall be deposited in the Escrow Fund, along with such funds, if any, as the Director of Finance may transfer from the bond retirement fund. Such moneys deposited in the Escrow Fund may be (i) held as cash or (ii) used to purchase direct obligations of or obligations guaranteed as to payment by the United States of America of such maturities and interest payment dates and bearing interest at such rates as will, as certified by such independent public accounting firm as shall be acceptable to the Director of Finance and the Original Purchaser without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to pay the interest on, and the redemption price (including any redemption premium) of, the Refunded Bonds on the earliest optional redemption date for the Refunded Bonds. The Director of Finance is also authorized, if necessary or desirable to facilitate the refunding of the Refunded Bonds, to engage a consultant to verify the sufficiency of the cash or other obligations held in the Escrow Fund to refund the Refunded Bonds on such redemption date.

Any accrued interest received from the sale of the Bonds shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Bonds, or other obligations of the City, as permitted by law. Any premium received from the sale of the Bonds may be used to pay the financing costs of the Bonds within the meaning of Ohio Revised Code Section 133.01(K) or be deposited into the bond retirement fund, including the Escrow Fund contained therein, in the manner provided by law.

The Director of Finance is hereby authorized to execute on behalf of the City an Escrow Agreement (the “Escrow Agreement”) with a bank or trust company to be selected by the Director of Finance (the “Escrow Trustee”), setting forth the terms by which the Escrow Fund shall be held and disbursed, if the
Director of Finance determines that an Escrow Agreement is necessary or beneficial to facilitate the refunding of the Refunded Bonds. Such an Escrow Agreement shall be in such form, not inconsistent with this Resolution, as the Director of Finance shall determine.

Section 11. Federal Tax Law Compliance. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Bonds so that the Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Bonds requires any such reports or rebates.

Section 12. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.
The Director of Finance is hereby authorized and directed to take such action (including, but not limited to, hiring bond counsel and such other professions or consultants as may be needed to facilitate the issuance of the Bonds) and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 13. Placement Agent. The Director of Finance is hereby authorized to appoint KeyBank Capital Markets Inc., to serve as placement agent for the Bonds. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services and shall be paid upon closing of the financing from proceeds of the Bonds.

Section 14. Satisfaction of Conditions for Bond Issuance. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Bonds.

Section 15. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 16. Filing of Bond Ordinance. The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the County Fiscal Officer of Cuyahoga County, Ohio.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds to enable the City to take advantage of present interest rates and to refund the Refunded Bonds and maximize interest costs savings in a fluctuating bond market and obtain savings in the issuance of the Bonds; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: __________ , 2017

Approved: __________ , 2017

President of Council

Clerk of Council

Mayor
CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ___-17 duly adopted by the Council of the City of Lakewood, Ohio on __________, 2017 and that a true copy thereof was certified to the County Fiscal Officer of Cuyahoga County, Ohio.

_________________________
Clerk of Council
City of Lakewood, Ohio
RECEIPT OF COUNTY FISCAL OFFICER
FOR LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION BONDS

I, Dennis G. Kennedy, the duly elected, qualified, and acting County Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of Ordinance No. ___-17 duly adopted by the City Council of the City of Lakewood, Ohio on __________, 2017 providing for the issuance of general obligation bonds designated City of Lakewood, Ohio Refunding Bonds, Series 2017, in the amount of not to exceed $________, was filed in this office on __________, 2017.

WITNESS my hand and official seal at Cleveland, Ohio on __________, 2017.

[SEAL]

County Fiscal Officer
Cuyahoga County, Ohio
ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF MONEY FROM THE GENERAL FUND OF THE CITY OF LAKewood, OHIO FOR THE PURPOSE OF DEFEASING $670,000 WATER SYSTEM MORTGAGE REVENUE BONDS, DATED APRIL 15, 1995 ISSUED BY THE CITY, ESTABLISHING AND CREATING AN ESCROW FUND FOR SAID DEFEASANCE, AUTHORIZING THE APPOINTMENT OF AN ESCROW TRUSTEE, AUTHORIZING AND APPROVING THE FORM OF AN ESCROW AGREEMENT IN CONNECTION WITH SUCH DEFEASANCE

WHEREAS, the City of Lakewood (the "City") has issued special obligation bonds dated April 15, 1995 in the original principal amount of $3,125,000 (the "Outstanding Bonds"), of which $865,000 of such Outstanding Bonds remains outstanding; and;

WHEREAS, the City Council (the "Council") of the City desires to defease $670,000 of the Outstanding Bonds maturing between July 1, 2018 and July 1, 2020 with cash from its Water Fund for the purpose of enhancing the marketing of other obligations to be issued by the City; Now Therefore

BE IT ORDEIANED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. This Council hereby authorizes the transfer of an amount not to exceed $865,000 from the Water Fund of the City to the Escrow Fund, as defined herein below, for the purpose of defeasing the principal and interest of the Outstanding Bonds.

Section 2. There is hereby created and established, a trust fund to be designated "City of Lakewood, Ohio 1995 Bonds Escrow Fund" (the "Escrow Fund"), or as otherwise designated by the Director of Finance, which shall be held in the custody of the Escrow Trustee, as hereinafter defined, and shall be used for the purpose of funding the defeasance of the Outstanding Bonds.

Section 3. The Director of Finance of the City (the "Director of Finance"), or any other appropriate officer of the City, is hereby authorized and directed to execute on behalf of the City an Escrow Agreement (the "Escrow Agreement") with a bank or trust company to be selected by the Director of Finance (the "Escrow Trustee"), setting forth the terms by which the Escrow Fund shall be held and disbursed, which Escrow Agreement shall be in such form, not inconsistent with this ordinance, as the Director of Finance shall determine. Pursuant to the Escrow Agreement, the Escrow Trustee shall apply the moneys deposited in the Escrow Fund to the purchase of direct obligations of the United States of America of such maturities and interest payment dates and earning interest at such rates as will, as certified by such independent public accounting firm as shall be acceptable to the Director Finance, without further investment of reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to pay (i) the principal on the Outstanding Bonds, which is due and payable on each July 1, commencing July 1, 2018, and (ii) the interest on the Outstanding Bonds, which is due and payable on each January 1 and July 1, commencing January 1, 2018, through final maturity of the Outstanding Bonds on July 1, 2020.
Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5. This Ordinance shall take effect and be in force at the earliest date permitted by law.

Passed: ___________, 2017

Approved: ___________, 2017

President of Council

Clerk of Council

Mayor
CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ___-17 duly adopted by the Council of the City of Lakewood, Ohio on __________, 2017.

Clerk of Council
City of Lakewood, Ohio