

**MINUTES  
REGULAR MEETING OF THE CITY COUNCIL  
CITY OF LAKEWOOD**

**7:00 P.M**

**August 10, 2009**

*Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.*

**ITEM 1 – CALL TO ORDER**

Mayor Murphy called the meeting to order at 7:00 p.m. in the Council Chambers, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado.

**ITEM 2 – ROLL CALL**

Those present were: Mayor Bob Murphy, Presiding

Diana Allen  
Doug Anderson  
Cindy Baroway  
Karen Kellen  
Sue King  
Debbie Koop (arrived at 8:16 p.m.)  
Adam Paul  
Ed Peterson  
Tom Quinn  
Vicki Stack

Others in attendance: Mike Rock, City Manager  
Tim Cox, City Attorney

Full and timely notice of this City Council meeting had been given and a quorum was present.

**ITEM 3 – PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited and a moment of silent prayer was observed.

Kevin Paletta, Police Chief, Lakewood, CO, commented on community concerns regarding the decision to send John Camper to Grand Junction to act as interim police chief. He noted that this temporary transfer will in no way impact operations of deployment of Lakewood Police personnel. He added that, during this time, there will be temporary administrative reorganization. This arrangement is a great opportunity and shall provide value to Grand Junction and the City of Lakewood.

Discussion ensued and some Councilors feel that this is a poor choice and they do not appreciate the decision made. Others feel that this is a great tribute to the Lakewood Police Department and it is a great training program for John Camper.

#### **ITEM 4 – PUBLIC COMMENT**

Thomas Randle, 13849 W. Dakota Place, Lakewood, CO, agrees that transparency in government is important and he suggested that an ordinance/amendment be done to require City Council Candidates to submit reports of donations earlier than required, if only by a few weeks, in order to better serve the citizens of Lakewood on the issue of transparency.

Gerald Lopez, 1257 Allison Street, Lakewood, CO, spoke about cleanup on 12<sup>th</sup> and Allison Street and he extended “thanks” to businesses for their donation to the Lakewood High School Class of 1969 40<sup>th</sup> Year Reunion.

Mike Mueller, Ward 4, Lakewood, CO, feels that Grand Junction should pay for services John Camper will provide to their city.

Brian Wareing, Applewood, CO, spoke about security, people’s unalienable rights and the actions taken again Carole Tarpley by the City of Lakewood’s Code Enforcement Department.

Joe Sanchez, Ward 4, Lakewood, CO, feels he is being harassed by the City of Lakewood’s Code Enforcement Department because of his garden.

Randy Little, 10590 W. Dakota Avenue, Lakewood, CO, spoke about the need for a traffic study to be done near St. Anthony’s Hospital. There should be neighborhood participation and the study should be done before the start of construction. Also, he asked that additional agendas be available for City Council meetings.

Public comments were closed.

After a brief discussion regarding concern voiced by Mr. Sanchez, it was determined that having a garden in the City’s open space is an encroachment into the City’s parkland. Also, no approvals were issued to the homeowner for a garden.

**ITEM 5 – CITIZEN-INITIATED ORDINANCE – AMENDING THE LAKEWOOD MUNICIPAL CODE TO REQUIRE IMPOUNDING OF MOTOR VEHICLES DRIVEN BY UNLICENSED DRIVERS; REQUIRE BONDS TO BE POSTED; AND FURTHER REQUIRE THAT IMPOUNDMENT LAND ACQUISITION FEES BE PAID**

Margy Greer, City Clerk, briefed Council on the memo they received regarding sufficiency determination on the citizen initiated petition. The City Clerk received a written protest in this regard, thus, a protest hearing is scheduled for 9:00 a.m., Friday, August 21, 2009 in Council Chambers. She noted that Section 2.52 of the Lakewood Municipal Codes states that Council cannot act on a pending initiative petition if there is a protest. Therefore, the citizen-initiated ordinance should be pulled from tonight's agenda.

Tim Cox, City Attorney, gave background information on the protest hearing and the steps that must be taken after said hearing. City Council action will be needed only after the decision regarding the protest has been made. If there is a Special Meeting on August 31, 2009, it would be because September 4, 2009 is the deadline to receive items that are to be on the ballot for the November 3, 2009 election.

**CONSENT AGENDA**

Consent Agenda Items 6-10 were read into the Record by the City Clerk.

Mayor Murphy asked for comments.

There were no public comments.

**ITEM 6 – RESOLUTION 2009-37 – AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF GRANT MANAGEMENT AND FINANCIAL ALLOCATION UNDER THE REQUIREMENTS OF THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT 2009, WITH THE COUNTY OF JEFFERSON, THE CITY OF ARVADA, AND THE CITY OF WHEAT RIDGE**

**ITEM 7 – RESOLUTION 2009-38 – SUPPORTING GRANT APPLICATIONS TO GREAT OUTDOORS COLORADO AND JEFFERSON COUNTY OPEN SPACE JOINT VENTURE GRANT PROGRAM REQUESTING FUNDING FOR PARK IMPROVEMENTS AT SURFSIDE PARK AND AUTHORIZING THE EXECUTION OF THE GRANT AGREEMENTS IF APPROVED**

**ITEM 8 – RESOLUTION 2009-39 – APPROVING THE CITY OF LAKEWOOD TO ACT AS A PASS-THROUGH ORGANIZATION FOR ICAST, (INTERNATIONAL CENTER FOR APPROPRIATE AND SUSTAINABLE TECHNOLOGY), IN ORDER TO APPLY FOR FEDERAL AND OTHER GRANTS GEARED TOWARD ECONOMIC DEVELOPMENT AND CLEAN TECHNOLOGY AND AUTHORIZING THE EXECUTION OF THE GRANT AGREEMENTS IF APPROVED.**

**ITEM 9 – ORDINANCE O-2009-39 – TO ENTER INTO A COVENANT WITH THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND REGARDING THE CONTINUED OPERATION AND MAINTENANCE OF RAY ROSS PARK FOR PARK AND RECREATIONAL PURPOSES**

**ITEM 10 – ACCEPTING MINUTES OF THE BOARDS AND COMMISSIONS**

Lakewood Liquor and Fermented Malt Beverage Authority	June 25, 2009
Lakewood Liquor and Fermented Malt Beverage Authority	July 9, 2009

Councilman Anderson asked that Item 8 be removed from the Consent Agenda for separate vote.

A motion was made by Councilwoman Kellen, and seconded by Councilman Quinn, to approve Council Minutes, accept all minutes for Boards and Committees, order all ordinances introduced on first reading to be published into the Denver Post Newspaper for public hearing set for dates included in the ordinances, and to adopt resolutions, *excluding* Item 8 – Resolution R-2009-39, all of which are included in the Consent Agenda Items, for the record and introduced by the City Clerk.

Vote: Ayes: 10 Nays: 0 Not present for the vote: 1 (Koop)  
The motion passed unanimously.

**END OF CONSENT AGENDA**

**ORDINANCES ON SECOND READING AND PUBLIC HEARINGS**

**ITEM 11 – ORDINANCE O-2009-36 – REPEALING AND REENACTING CHAPTER 9.38 OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO SMOKING IN PUBLIC PLACES**

Mayor Murphy stated that this proposal brings the City of Lakewood's smoking ordinance into compliance with that of the State of Colorado. Passage will allow for the Lakewood Police Department to more effectively enforce the ordinance.

Janet Young, Deputy City Attorney/Police Advisor, said the proposed ordinance before Council tonight would repeal and re-enact Chapter 9.38 of the Lakewood Municipal Code that pertains to smoking in public places. The current ordinance is unenforceable because it seriously conflicts with the State Statute. This proposal mirrors the Colorado Clean Indoor Air Act. The key provisions are to prohibit smoking in all restaurants and in all bars. Also, there is no smoking in pool halls, bowling alleys, grocery stores, malls, all kinds of food establishments, schools and other education institutions, indoor sports arenas, gymnasiums, auditoriums, health care facilities, hospitals, and in no less than 75% of the

area for hotels/motels. No smoking allowed on all modes of public transportation, common use areas in buildings (lobbies, elevators, restrooms). Smoking is not permitted within 15 ft of the main entranceway of buildings. However, it is allowed within 15 feet of a side entranceway into a building and on patios of restaurants and bars if they are more than 15 feet from the main entranceway.

Cigar and tobacco bars that were in existence as of December 31, 2005 can qualify for exemption to this prohibition. Retail tobacco businesses, i.e., smoker friendly stores where products other than tobacco are incidental to the business, may also qualify for exemption.

Penalties for violation of this ordinance would be the same as for the State: \$200 for first violation in a calendar year; \$300 for second; \$500 for the third.

Public Comments:

The following persons spoke regarding the proposed smoking ordinance:

Ashley Wheeland, representing the American Lung Association, American Cancer Association, and the American Heart Association said she supports providing a smoke-free place/work environment for all citizens of Lakewood. She wants the distance from the main entranceway to be more than 15 feet, i.e. 25 feet as it currently is in the City of Lakewood. Also, she feels that Hooka Bars nor tobacco retailers should not be exempted from the prohibition.

Merry Hansen, 1385 Holland Street, Lakewood, CO, suggested that Council adopt/maintain the 25 feet distance rule for no smoking near the entranceway to buildings.

She also submitted a letter from Richard Diaz, Owner, Mercedes Mexican Restaurant West Colfax, Lakewood, CO, indicating his desire for Council to make all businesses smoke-free.

Stacey Shirley, 1710 Jay Street, Lakewood, CO, said the Colorado Clean Indoor Air Act has loopholes and exemptions that have caused enforcement issues. The City of Lakewood can correct this so that patrons to Lakewood businesses don't have to suffer from second hand smoke. She wants the 15 feet distance (regarding the entrance way) in the State law increased to 25 feet as it currently is in the Lakewood Municipal Code.

Nikayla Strauss, 9566 W. Kentucky Dr. Lakewood, CO, said youths are still at risk regarding smoking. She suggested that an increase in tobacco prices and the passage of more smoke free laws would help to curtail usage by young people.

Catrina Daughy, 448 S. Carr St., Lakewood, CO, stated that she would like for Council to strengthen the law.

Joe McGowan, Jr., 698 S. Yarrow St., Lakewood, CO, said he wants the current ordinance to be stricter.

Snip Young, 14945 Foothill Road, Golden, CO, Co-Chair-Tobacco Free Jefferson County, urged City Council to refine this ordinance and to not adopt the Colorado Clean Indoor Air Act "carte blanche". He invited Council members to participate in a county-wide initiative regarding strengthening laws across Jefferson County municipalities.

Frederick Zastrow, 6305 W. 6<sup>th</sup> Avenue, #A5, Lakewood, CO, asked Council to protect the future generations of Lakewood and make stronger smoking laws.

Randy Little, 10590 W. Dakota, Lakewood, CO, said he believes in this law. However, if patrons are not allowed to smoke within three feet of the entranceway, it will adversely affect many businesses. He feels it's the decision of Council to decide 15 or 25 feet, but customers who are on restaurant patios have the right to smoke.

The following persons signed the Public Hearing Roster and indicated that they are not in favor of the proposed amendment:

Lorella Farmer, 6822 W. El Dorado Place, Lakewood, CO

Nick Occardi, 6822 W. El Dorado Place, Lakewood, CO

Alma Sandoval, 11191 W. 17<sup>th</sup> Ave, #3-306, Lakewood, CO

Jenny Merriman, 9613 W. Virginia Drive, Lakewood, CO

Season Sobkoviak, 10344 Alcott Dr., Lakewood, CO

Maribel Arteaga, 11319 Robb St, #1-106, Lakewood, CO

Police Chief Kevin Paletta noted that the current law is not enforceable and it conflicts with State law. The City can be more restrictive than what the State requires, but not less restrictive.

Council engaged in discussion with some members noting that an individual business owner should be allowed to choose whether or not his/her business should be smoking or non-smoking. Some members feel this should go forward for more discussion with more input from area businesses.

Mayor Murphy appointed an ad hoc committee, with Councilman Quinn as the chair. He asked that persons interested in receiving more information and serving on the committee to contact his office at 303-987-7050.

A motion was made by Councilwoman Kellen, and seconded by Councilman Quinn, to adopt Ordinance O-2009-36 on second and final reading.

Vote: Ayes: 8 Nays: 3 (Allen, Anderson, Stack) The motion passed.

**ITEM 12 – ORDINANCE O-2009-37 – ADDING SECTIONS 9.32.075, 9.32.085, 9.32.265, 9.32.266, 9.32.325, 9.32.390, AND 9.32.400 AND AMENDING SECTIONS 9.32.010, 9.32.020, 9.32.030, 9.32.050, 9.32.070, 9.32.080, 9.32.090, 9.32.100, 9.32.170, 9.32.260, 9.32.270, 9.32.280, 9.32.320 OF CHAPTER 9.32 TO TITLE 9 OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO PARKS AND RECREATION**

Janet Young, Deputy City Attorney/Police Advisor said this ordinance updates numerous provisions of Chapter 9.32 that deals with parks and recreation, alcohol and firearms. It's been ten years since the last update on Chapter 9. Some of the provisions are being updated because of conflicts with the State law; some are requests from Community Resources, and some are from the Police Department. She explained each proposed update.

Mayor Murphy asked for public comments.

Randy Little, 10590 W. Dakota Avenue, Lakewood, CO, stated that the Parks Department has the right to shut-down activities that include alcohol use in the park. He feels if they do this, patrons will move out into the streets and hopefully, the Police Department can and will handle offenders accordingly as compared to having the rule enforced by staff from the Parks Department.

Joe Sanchez, Ward 4, Lakewood, CO, feels that restricting improvements to the parks without permission of the Parks Director contradicts the entire ordinance and it puts the power into the hands of the Parks Director to do such things as put in solar panels, water tanks, etc. in open space, and feels this will take more and more power from the people and give it to the City Manager. Additionally, he feels that he was "targeted" regarding his garden. Other residents have gardening in open space, but were not targeted.

Public comments were closed.

A motion was made by Councilwoman Kellen, and seconded by Councilman Quinn, to adopt Ordinance O-2009-37 on second and final reading.

A brief discussion ensued.

Tim Cox, City Attorney, noted that the intent of this ordinance is to give the Community Resources Department some enforcement ability when someone places an unauthorized improvement in a park. This is a prohibition – it creates a sanction for someone who does something unauthorized – it does not create a "power". It's a tool to deal with unauthorized bike ramps, trails, fences and other items placed in City parks.

Kathy Hodgson, Community Resources Director, noted that the purpose of this ordinance is to control open space areas, especially where unauthorized improvements are placed in the park that may present safety risks for citizens.

After a lengthy discussion, Councilwoman Kellen suggested that it may be helpful to indicate that City Council, as a body, is not looking at this as something that would allow major changes, i.e., solar panels or other major improvements to the park under the ordinance, and have it as our legislative intent behind this.

Other Councilors agreed.

Janet Young addressed Councilwoman Koop's concern regarding concealed handguns at recreation centers. She noted that a change in the State Statute in 2003 created a uniform system of granting concealed handgun permits and it does not allow municipalities to restrict that in any way. If the City of Lakewood would impose some type of requirement in the ordinance that a person with a permit would have to notify someone at the front desk of a public facility that they had a permit, would be placing a restriction that is not allowed by State law. It would make sense for one who has a permit to notify someone at the front desk, but we cannot require that in our ordinance.

Mike Rock, City Manager, added that we cannot impose any requirement(s) in the City of Lakewood that does not exist in State law for carrying concealed weapons.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

**ITEM 13 – ORDINANCE O-2009-38 – SUBMITTING PROPOSED AMENDMENTS TO THE LAKEWOOD CITY CHARTER TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF LAKEWOOD AT THE REGULAR MUNICIPAL ELECTION ON NOVEMBER 3, 2009; AND FURTHER DECLARING AN EMERGENCY**

Mayor Murphy clarified that this ordinance, if passed, would move initiatives forward for a vote of the people. We cannot change the law without hearing from the citizens. To "move forward" means putting it on the ballot for citizens to vote on. He feels the citizens should decide whether or not they want to save up to \$300,000 by scheduling initiatives and referendums along with coordinated county elections, or if they think the initiatives are important enough to the democratic process that they do not want to see that change. Also, he feels the legal foundation, State Statute case law, is sound in terms of making this an emergency ordinance. However, he does not consider this an emergency, and proposed that this item be tabled and revisited on a date specific in 2010.

A motion was made by Councilwoman Kellen, and seconded by Councilman Quinn, to table Ordinance O-2009-38 until after a Study Session to be held on March 15, 2010.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

**ITEM 14 – GENERAL BUSINESS**

**A -- ITEM 8 – Resolution 2009-39** – Approving the City of Lakewood to act as a pass-through organization for iCast, (International Center for Appropriate and Sustainable Technology), in order to apply for Federal and other grants geared toward Economic Development and clean technology and authorizing the execution of the grant agreements if approved.

There were no public comments.

Councilman Anderson had concerns that there is a disturbing trend of science mixing with politics and he feels there is a need to change the direction of funding for science projects. He will vote “no”.

Councilman Quinn feels that it’s an obligation and part of our responsibility as a society to fund scientific research. Also, he feels government involvement in science has led to some of the greatest advances in our century, i.e., man landing on the moon. It is through public and private partnerships that we will advance the cause of science and build a sustainable future for our city, the country and the world. He will support the resolution.

A motion was made by Councilwoman Kellen, and seconded by Councilman Quinn, to adopt Resolution 2009-39.

Vote: Ayes: 9 Nays: 2 (Anderson, Stack) The motion passed.

**ITEM 15 – REPORTS**

Mayor Murphy and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

**ADJOURNMENT**

There being no further business to come before the Council; Mayor Murphy adjourned the meeting at 9:33 p.m.

Submitted by:

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Margy Greer, City Clerk