

REGULAR MEETING

The meeting was called to order at 8:00 p.m., Mayor Steven M. Brown presiding

Pledge of Allegiance to the Flag

Invocation by Reverend Dan Russell of First Baptist Church

PRESENT: Councilpersons Mario DiSanto, Mark Kandes, Thomas McPartlin,
Thomas Murphy and Frank Vaslo

ABSENT: Council President Michael Higgins

ALSO PRESENT: City Attorney Ed Zelenak and City Clerk Donna Breeding

Mayor's Remarks

RESOLUTION 07-259 Minutes

By Councilman McPartlin, supported by Councilman DiSanto
RESOLVED, that the minutes of the Regular Meeting held under the date of July 23, 2007 be
approved as recorded.

Motion unanimously carried.

(Note: Study Session held July 23, 2007 at 8:45 p.m.)

Certificate of Recognition to Calder's Dairy, 1020 Southfield Rd.

RESOLUTION 07-260 Appointment/P & F Retirement Comm.

By Councilman Kandes, supported by Councilman McPartlin
RESOLVED, that Thomas Jankowski, 1724 Emmons, be appointed as a Trustee to the Police
and Fire Retirement Commission. Term to expire July 1, 2010.

Motion unanimously carried.

RESOLUTION 07-261 Open Bids/574 Pagel Renovations

By Councilman DiSanto, supported by Councilman Kandes
RESOLVED, that the City Clerk is authorized to open bid proposals marked "574 Pagel
Renovation".

Motion unanimously carried.

RESOLUTION 07-262 Refer Above Bids

By Councilman DiSanto, supported by Councilman McPartlin
RESOLVED, that the bid proposals marked "574 Pagel Renovation" be referred to the CDBG
Director, Finance Director, and Purchasing Specialist for tabulation and recommendation.

Motion unanimously carried.

RESOLUTION 07-263 Approve Contract/Verizon Wireless

By Councilman Vaslo, supported by Councilman Kandes
RESOLVED, that the Mayor and City Clerk be authorized to execute a LAND LEASE
AGREEMENT between the City of Lincoln Park and VERIZON WIRELESS VAW (LLC) for
use of City property at 3525 Dix.

Motion carried.

NAY: Councilman DiSanto

RESOLUTION 07-264 Approve Block Party/Riopelle

By Councilman Murphy, supported by Councilman McPartlin
RESOLVED, that the residents of along Riopelle (between White & Philomene) be granted
permission to have a block party on **Saturday, August 4th, 2007** from 9 a.m. until 9 p.m. under
the following conditions:

1. That the street be barricaded at each end and closed to vehicular traffic.
2. That the party be over by 9:00 P.M. or dusk, whichever comes first, and the street be
reopened to traffic.

Per the recommendation of the Police Department.

Motion unanimously carried.

RESOLUTION 07-249A Adopt Ord. Amend./606.02/Minors

By Councilman Murphy, supported by Councilman McPartlin

RESOLVED, that "AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF LINCOLN PARK BE REPEALING THE EXISTING CHAPTER 606.02 IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 606.02 , be given its third reading and be ADOPTED.

THE CITY OF LINCOLN PARK ORDAINS:

That Chapter 606.02 of the Codified Ordinances of the City of Lincoln Park be repealed in its entirety, and replaced as follows:

606.02 Purchase, consumption or possession of alcoholic liquor by minor; attempt; violations; fines; sanctions; furnishing fraudulent identification to minor; chemical breath analysis; notice to parent, custodian, or guardian; construction of section; exceptions.

A. A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions, subject to the penalties prescribed in section 909:

1. For the first violation a fine of not more than \$100.00 and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense.

2. For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection, by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$200.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense

3. For a violation of this subsection following 2 or more prior convictions or juvenile adjudications for a violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense.

B. A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (a) a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

C. When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (1) pleads guilty to a violation of subsection 91), the court, without entering a judgment of guilt in a criminal proceeding with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in this chapter. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilty, that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings.

continued

Discharge and dismissal under this section shall be without adjudication of guilt that the individual has committed the offense and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. There may be only 1 discharge or dismissal under this subsection as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation under his subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. This record shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.

(2) To the department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

(a) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

(b) The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

D. The court may order the person convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

E. A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content, may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

F. A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (A) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection A, his or her parents or legal guardian shall be notified immediately as provided in this subsection.

G. This section does not prohibit a minor from possessing alcohol liquor During regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

H. This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

I. The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

continued

J. The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

K. Subsection (A) does not apply to a minor who participates in either or both of the following:

(1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person’s employer and with the prior approval of the local prosecutor’s office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

L. In a criminal prosecution for the violation of subsection (A) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

M. As used in this Chapter “any bodily alcohol content” means either of the following:

(a) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person’s body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

Motion unanimously carried.

ADOPTED: July 30, 2007
PUBLISHED: August 8, 2007
EFFECTIVE: August 8, 2007

CITIZENS COMMUNICATIONS

ORAL REPORTS OF THE MAYOR AND COUNCIL

There being no further business, the meeting adjourned at 9:20 p.m.

STEVEN M. BROWN, MAYOR

DONNA BREEDING, CITY CLERK