

THE SEVENTH REGULAR MEETING OF THE THIRTY-SIXTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, APRIL 4, 2016 BY MAYOR O'DWYER

PRESENT: Steve Baker Eileen Steadman
 Tina Edgar Daniel Terbrack
 Alan Kideckel Phil O'Dwyer

ABSENT: Jack Blanchard

APPROVAL OF AGENDA

Mayor Pro Tem Baker moved to approve the Agenda.

Seconded by Councilmember Kideckel.

Ayes: Edgar, Kideckel, Steadman, Terbrack, Baker, and O'Dwyer

Nays: None

Absent: Blanchard

Motion Approved.

INVOCATION Reverend Hannah Gregory

CITIZENS COMMENTS

John DuLong, Berkley resident at 959 Oxford Road, thanked the Mayor and City Council for the approval of the Collaboration Agreement among the City of Berkley, Vinsetta Garage Holding, LLC and Lugo Properties, LLC concerning creation of Off-Street Parking on Eaton Road Property.

Anthony Joseph, Berkley resident at 799 Cambridge Road, inquired about the tree removal services in the city to include the city administration involvement, the decision making process, any cost benefit analysis, and changes to the character and makeup of the city.

Matt Church, Berkley Public Library Director, invited everyone to the Movie at the Library on Saturday, April 9th at 2 p.m. the movie showing is "Star Wars: The Force Awakens."

Doug Deeds, Berkley resident at 2053 Tyler and member of the Beautification Advisory Committee, gave an update on the next Beautification Advisory Committee meeting scheduled for Wednesday, April 13th at 6:30 p.m. in the Public Safety Conference Room on the second floor. The discussion will include plans to plant and maintain areas in the city. The Berkley School Board has organized 75 to 100 volunteers to help with projects at the Parks and Recreation and community garden on Saturday, April 16th from 9 a.m. to 12 noon.

Consent Agenda

Councilmember Kideckel moved to approve the following Consent Agenda, seconded by Councilmember Edgar:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the regular 36th City Council meeting on Monday, March 21, 2016 and Special Meeting on Monday, March 28, 2016.

PROCLAMATION NO. P-03-16: Matter of celebrating the 144th Anniversary of Arbor Day and designating the week of Sunday, April 10 – Saturday, April 16, 2016 as Arbor Week.

Ayes: Kideckel, Steadman, Terbrack, Baker, Edgar, and O'Dwyer

Nays: None

Absent: Blanchard
Motion Approved.

Regular Agenda

RECOGNITIONS/PRESENTATIONS:

MOTION NO. M-15-16: Matter of extending the Sewer Maintenance Services Contract to LiquiForce Services, Inc. located at 28529 Goddard Road, Romulus, Michigan for a three (3) year term expiring in 2019.

Councilmember Kideckel moved to approve Motion No. M-15-16.

Seconded by Councilmember Steadman.

Ayes: Steadman, Terbrack, Baker, Edgar, Kideckel, and O'Dwyer

Nays: None

Absent: Blanchard

Motion Approved.

MOTION NO. M-16-16: Matter of approving Special Use Approval (SU-01-16), permitting an office use for Andrew Gilbert at 2782 Coolidge.

Councilmember Steadman moved to approve Motion No. M-16-16.

Seconded by Councilmember Terbrack.

Ayes: Terbrack, Edgar, Kideckel, Steadman, and O'Dwyer

Nays: Baker

Absent: Blanchard

Motion Approved.

City Planner Amy Vansen informed council that for a special land use the state law and city ordinance allow cities to determine which uses will be permitted in zoning districts. There are principle permitted uses, prohibited permitted uses, and special land use; principle permitted uses can be approved by city administration. A special land use goes before the Planning Commission for a public hearing for review than to City Council for approval. Prior to 2000, Twelve Mile and Coolidge were zoned as local business; and Woodward was zoned as Woodward business. In 2000, the Downtown Development Authority (DDA) had a report drafted by a consultant was concerned about the proliferation of office uses within the downtown areas. There were recommendations of ways to encourage retail and the report was reviewed by the Planning Commission. This special land use is for Mr. Andrew Gilbert who has owned the building since 2010 and started a retail eyeglass store which has moved to another location. The office offers 500 square feet and Mr. Gilbert would like to move Van Dyke Mortgage into the space from Farmington Hills. The Planning Commission held a public hearing and there were no comments. The committee's recommendation is to approve the special land use for Van Dyke Mortgage owned and operated by Andrew Gilbert. Should the property be transferred than the special land use would cease at that time; it would require a new review if a new owner or operator would like to continue using the space as an office.

Mayor Pro Tem Baker thanked Andrew Gilbert for choosing Berkley for both the retail eyeglass store and the mortgage business. He will strenuously be opposing the motion because of the particular location and its impact on the downtown area. The timing for the discussion of this special use was between the Downtown Development Authority (DDA) meetings and was not reviewed by the committee. Mayor Pro Tem Baker informed council that this approval will increase the office business to thirty-one percent. Of the fourteen special land use requests, there has been an approval rate of fifty-seven percent.

Jeri Brand and Sally Crosthwaite, owners of Tootie and Tallulah's at 2816 Coolidge Highway, expressed their concern that the area has been primarily zoned for retail space. Since the opening of their business in 2010, they have understood that the city wanted to promote the area as a downtown district offering walkability and encouraging retail traffic. Ms. Brand stated that they are opposed to permit 2782 Coolidge as an office space because the location is ideal for retail space.

Andrew Gilbert, building owner of 2782 Coolidge Highway, informed council that Van Dyke Mortgage brings in 15 to 30 customers a month. Aside from using the services provided by his mortgage company, these customers shop at the retail stores and eat at the restaurants in the city during their visit. There are not a lot of options for an office space of only 500 square feet. The previous occupant was a production company that was declined by council because they weren't in the retail business and prior to them was an accounting firm. Mr. Gilbert does not understand the differences of the customers who come to his office for services and those who shop at the retail stores.

Dave Barnett, Chairman of the Planning Commission, informed the council that there weren't any input from the Downtown Development Authority (DDA). He looked at it from the standpoint of having an empty building or an occupied space with a business to attract customers. With no input from the DDA and listening to the argument from Mr. Gilbert; the best use at this time is to recommend a special land use permit which stays with the current occupant.

Councilmember Kideckel remembered that Coolidge struggles to get more retail business to attract more customers similar to Twelve Mile.

Councilmember Edgar agreed that there should be less than twenty-eight percent of office business along Coolidge but she is unsure what type of business would operate in a 500 square foot space.

Councilmember Terbrack agreed that he does not want to see a vacant building on Coolidge and understands the importance of promoting retail businesses. The mortgage business may bring other opportunities; it is important that the special land use permit stays with the individual building and business owner.

Councilmember Steadman will vote for the special land use and felt it would be different if Mr. Gilbert was a renter of the property and not the owner. She expressed her concern that the 500 square foot space may be too small for a retail business.

Mayor O'Dwyer agreed with the larger context of the discussion but is persuaded by the fact that the individual owns the business and building. He would like to see more of an effort as a city to increase retail along Coolidge Highway.

MOTION NO. M-17-16: Matter of amending the City of Berkley's Fee Schedule to allow the assessment of a 5% administrative fee to be added to the total amount charged when a person uses a credit card as form of payment, effective April 3, 2016.

Councilmember Edgar moved to approve Motion No. M-17-16.

Seconded by Councilmember Kideckel.

Ayes: Baker, Edgar, Kideckel, Steadman, Terbrack, and O'Dwyer

Nays: None

Absent: Blanchard

Motion Approved.

MOTION NO. M-18-16: Matter of authorizing the Interim City Manager to accept the calendar year 2016 Community Foundation for Southeastern Michigan library grant in the amount of \$5,769.00 and to accept the conditions of that grant.

Councilmember Steadman moved to approve Motion No. M-18-16.

Seconded by Councilmember Edgar.

Ayes: Edgar, Kideckel, Steadman, Terbrack, Baker, and O'Dwyer

Nays: None

Absent: Blanchard

Motion Approved.

RESOLUTION NO. R-11-16: Matter of approving an agreement with Oakland County to provide equalization division assistance services to the City of Berkley from July 1, 2016 through June 30, 2019.

Councilmember Kideckel moved to approve Resolution No. R-11-16.

Seconded by Councilmember Edgar.

Ayes: Kideckel, Steadman, Terbrack, Baker, Edgar, and O'Dwyer

Nays: None

Absent: Blanchard

Motion Approved.

WORK SESSION: Matter of discussing a proposed Special Events approval process.

Moved by Councilmember Terbrack to move to a Work Session.

Seconded by Mayor Pro Tem Baker.

Start time of 7:58 p.m.

Rick Eshman, Interim City Manager/Public Safety Director, advised council that city administration is seeking to be consistent, fair, and effective with the process.

Amy Vansen, City Planner, informed council that it was apparent that a lot of the events were handled differently. City administration has reviewed and discussed the current special events process; these events cost more than the suggested process fee. Any event that will involve public property or commercial streets would be required to complete the special events forms and may need approval by City Council. Ms. Vansen confirmed that the special events process will not apply to block parties and their requests are handled directly through the Public Safety Department. Only some organizations are paying the current special event fees.

Councilmember Edgar inquired if the processing fee and application packet would apply to block parties.

Mayor O'Dwyer questioned the fees being charged and possibly being waived at a later date. He would like to see an approval process that excludes the fee if it will eventually be waived. Mayor O'Dwyer received confirmation from the City Attorney of his concerns with the Hold Harmless Indemnity form.

Darchelle Strickland Love, Assistant City Manager, gave an example of a film permit when the fee is waived because a student is doing a small project that only requires a short scene in the street. She further explained that each event must provide supporting documents to determine if they qualify for any fees to be waived. Ms. Love advised City Council that the city will never recover the total amount necessary to clean up after a special event. The fee is not meant to be prohibitive and would help the administrative side to make necessary arrangements.

Mayor Pro Tem Baker request further explanation regarding the cleanup bond to be charged for special events.

Councilmember Terbrack inquired whether the fees being presented for the special events are being paid by each organization conducting the events.

Councilmember Kideckel commented that this process will give a good checks and balance for City Administration.

End time of 8:14 p.m.

COMMUNICATIONS:

COUNCILMEMBER KIDECKEL: announced that the Berkley Rabies Vaccination Clinic will be on Saturday, April 16th from 9 a.m. to 1 p.m. at the Public Safety Fire Hall. He reminded everyone of the First Annual Tree Walk hosted by the Beautification Advisory Committee on Saturday, April 16th at 10 a.m. Councilmember Kideckel recently attended the Michigan Municipal League (MML) Conference and spoke about the Fact or Advocacy: Communicating with Your Residents about a Local Ballot Question.

COUNCILMEMBER TERBRACK: gave a brief update on the new City Manager Matt Baumgarten who is expected to start at the end of May or early June. He thanked City Administration, Interim City Manager Richard Eshman, and Assistant City Manager Darchelle Strickland Love for the continued progress. Councilmember Terbrack recognized Mayor Pro Tem Baker and Councilmember Blanchard for being part of the selection committee. He concluded by thanking the Berkley residents for their involvement in the process.

MAYOR PRO TEM BAKER: thanked Finance Director/Treasurer David Sabuda for his continued engagement at the MML Conference. He congratulated Mayor O'Dwyer for his appointment to the Board of Directors for the Michigan Association of Mayors. Mayor Pro Temp Baker shared that the local municipalities have lost over \$7.5 billion since 2002 in revenue sharing and Michigan is the only state that has not seen revenue grow in the municipalities. For more information, everyone is encouraged to visit the website savemicity.org. Mayor Pro Tem Baker read a quote from an American author, Carol B. Hilman, "One of the most important things we adults can do for our kids is to be the kind of person we would like them to be." He reminded everyone that April is "Distracted Driver Awareness Month", more information is available at distraction.gov and itcanwait.com.

COUNCILMEMBER STEADMAN: gave an update on the next Beautification Advisory Committee meeting scheduled for Wednesday, April 13th at 6:30 p.m. in the Public Safety Conference Room on the second floor. She encouraged everyone to volunteer for the First Annual Tree Walk hosted by the Beautification Advisory Committee on Saturday, April 16th at 10 a.m. Councilmember Steadman invites everyone to the following Library programs: Movie at the Library on Saturday, April 9th at 2 p.m. showing "Star Wars: The Force Awakens"; the Berkley Tree Board Program on Monday, April 11th at 7 p.m.; the History of the Redford Theatre on Saturday, April 19th at 6:30 p.m.; Reading Makes Sense Family Story Time on Thursday, April 28th at 10:30 a.m.; Origami for Beginners on Saturday, April 23rd at 1 p.m.; and Family Movie at the Library on Saturday, April 30th at 3 p.m. showing "Norm of the North." She spoke about "Dark Stores: What Are They and How Do They Impact Your Community?" from the MML Conference.

COUNCILMEMBER EDGAR: reminded everyone on Saturday, April 16th at 10 a.m. the volunteers will be delivering 2000 door hangers throughout the community for the Tree Walk. The goal is to plant more than 100 trees this Fall during the annual tree sale. She gave an update on the Planning Commission and the review of another site plan. Councilmember Edgar welcomed Matt Baumgarten on board as the new City Manager. She announced with a multitude of emotions that she will step down from the Berkley City Council. Ms. Edgar is grateful to have had the opportunity to serve the citizens of Berkley where she has lived and loved for more than 17 years. She is sorry to lose the opportunity to collaborate with the fantastic fellow councilmembers and Mayor. Ms. Edgar has valued and will deeply miss the cooperative spirit and the joy found in creating new possibilities and finding workable solutions to the issues that affect the city. She is continually impressed with the residents, employees, and volunteers who dedicate themselves to help make Berkley one of the best places to live, work, and play in Michigan. Ms. Edgar feels fortunate to have learned so much in the time she has spent serving on council and hopes to utilize these skills as she moves forward into new life experiences. She is confident that her replacement will enjoy his or her time on the council as much as she has, and she is certain the council's choice will be of service to everyone.

INTERIM CITY MANAGER ESHMAN: had no comments this evening.

FINANCE DIRECTOR SABUDA: had no comments this evening.

CITY ATTORNEY STARAN: wished Councilmember Edgar well in her endeavors and commented that she has been a valuable part of the team; she will be sorely missed. There are provisions in the City Charter; the council is required to move forward to appoint a successor who will serve the remaining term which coincides with the November 2017 election. The requirement to serve as a councilmember is they must be a registered voter of the city. The city has had a practice to have an open procedure and invite those interested to complete an application. There would be a published notice in the newspaper and on the city website for interested citizens to provide an application with their resume to the City Clerk. The application packets will be forwarded to the City Council for review and they will be making the appointment to the vacancy.

MAYOR O'DWYER: reminded those interested to complete an application with their resume and forward it to the City Clerk; the forms will be available on the city website. There will be opportunities for members of the City Council to express their gratitude to Tina Edgar in future meetings. On behalf of council and staff, Mayor O'Dwyer thanked and appreciates the contributions Ms. Edgar has provided to the city. He recognized her collegial spirit in working with City Council and employees. It is a serious commitment to devote the time and talent to moving the city forward. Mayor O'Dwyer spoke about the Michigan Municipal League (MML) Conference. He thanked Councilmember Steadman for the insight on where the money is going, which is to big corporations and away from education and local municipalities. He thanked Mayor Pro Tem Baker for his kind comments; it will be an interesting opportunity to contribute and serve on the Board of Directors for the Michigan Association of Mayor's. The future of our state depends on the quality of education provided to the people and under cutting education in every corner is detrimental to the future of the state.

ADJOURNMENT:

Councilmember Kideckel moved to adjourn at 8:41 PM.

Seconded by Councilmember Edgar.

Ayes: Kideckel, Steadman, Terbrack, Baker, Edgar, and O'Dwyer

Nays: None

Absent: Blanchard

Motion Approved.