

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

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

APPROVAL OF AGENDA

Mayor Pro Tem Baker moved to approve the Agenda with amendment to change Motion No. M-85-16 to M-01-16

Seconded by Councilmember Kideckel.

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

Nays: None

Motion Approved.

INVOCATION None

CITIZENS COMMENTS

Doug Deeds, Berkley resident at 2053 Tyler and member of the Beautification Committee, informed the council that the Beautification Committee is looking for gardeners. Anyone interested, please contact Mr. Deeds at (248) 217-5828. They need people to help plan, plant, and maintain around the community.

Consent Agenda

Councilmember Steadman 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, December 21, 2015.

ORDINANCE NO. O-07-15: Matter of adopting the second reading of an ordinance to amend Section 58-40 of Chapter 58 Garbage, Rubbish and Refuse, Article II Collection and Disposal of the Berkley City Code to Modify Regulations that Prohibit Scavenging of Garbage, Rubbish and Discarded Items, and to Designate Violations as Municipal Civil Infractions. (Full copy of this ordinance is posted for ten days at the Berkley City Hall, Library, and Community Center)

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

Nays: None

Motion Approved.

Regular Agenda

RECOGNITIONS/PRESENTATIONS

DISCUSSION: Matter of discussing the impact of Senate Bill 13 and Senate Bill 571 and a proposed resolution from City Council on the matter.

Councilmember Kideckel moved to discuss Senate Bill 13 and Senate Bill 571.

Seconded by Mayor Pro Tem Baker.

Mayor Pro Tem Baker moved to adopt Resolution No. R-01-16 with amendments to add the Berkley School District Board of Education as a recipient.

Seconded by Councilmember Terbrack.

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

Nays: None

Motion Approved.

Start of discussion at 7:04 p.m.

City Attorney John Staran explained to council that both bills were enacted by the legislature, Senate Bill 13 (SB 13) would eliminate the ability to vote a straight party in Michigan, and Senate Bill 571 (SB 571) effects elections by prohibiting public official for a period of 60 days prior to the election to provide public education any proposals on the ballot. SB 571 enables the ability to explain ballot questions whether to vote on a charter amendment, a millage, or any other proposals. It prohibits the public office to present information to the public in a fair, partial, objective, and factual way. Michigan Campaign Finance Act for many years has prohibited the use of public resources to advocate for or against any particular candidate or issue. It has been a long standing tradition in Berkley and throughout the state to be able to put out and use forms like the council meetings. Explaining to the public in an objective, fair, and balance way. Of what the facts are, what it is all about, and why this question is being presented to the voters. If SB 571 passes, any public official will not be able to provide information at least 60 days prior to an election. The proposed resolution is for council's consideration and if it is adopted in the form it is presented; it would be passed and directed to the governor and state legislatures expressing the Berkley City Council's opposition to both bills and urging the governor to veto them. City Attorney Staran responded to Mayor Pro Tem Baker's inquiry by stated that SB 571 was intended to revise the Michigan Campaign Finance Act but more a technical type of amendment. Very late in the deliberations this additional provision was introduced and presented; there were no discussions and it was tacked on to the Senate Bill that was ultimately adopted. It was flying under the radar and completely unanticipated; it gave no opportunity for the Michigan Municipal League or any representatives to provide any testimony and input.

Councilmember Dan Terbrack read Resolution No. R-01-16 into record.

Mayor Phil O'Dwyer advised the residents that this is an important issue for the community and the Berkley School District bounded by the same constraints. Senate Bill 13 (SB 13) and Senate Bill 571 (SB 571) comes from Lansing; the same people who can't find time or a way to fix the roads but they can create these kinds of constraints. They come from a long line of efforts to repress the vote. Our constitution was established by the people and not the states. Mayor O'Dwyer quoted former President Abraham Lincoln, "We are the government of the people, by the people, and for the people." Efforts to repress the peoples vote by manipulation will have an adverse effect on the voice of the people. In the 2014 election, there were 38 Senate seats open; one party secured 50.4% of the vote which is 27 seats and the other party only received 11 seats. One vote of a particular candidate is equal to 1.41 votes of one party or equal to .59 votes of the other party. We as a community advocate for equality, that our voice matters and this effort are to protect a piece of that. We are able to talk about the issues that come before us as a community; educate and make available to the community the facts of the proposals.

Councilmember Jack Blanchard has worked on a number of school and city elections; he has seen bond issues and millage passed. Residents have approached him and stated, "You snuck another one by us and we didn't know what you were doing"; there had been many forums to educate people. If Senate Bill 571 passes, their statement would be absolutely true because we have no way of talking to them. Sixty days prior to the election is when voters care; we would not be able to say

anything to them and discuss elections because we are on television. In theory, the League of Women Voters could not have their forum here and have it broadcasted. The words in the legislation are not well defined in Senate Bill 571 and it is very confusing. We don't know what the ramifications will be, it is going to be very serious and we should be concern. Councilmember Blanchard informed council that SB 571 is fifty three page bills with the last forty pages are amendments. He concluded by suggesting to send a copy of the resolution the Berkley School District Board of Education. They should be aware of what the city is doing and has the same concerns.

Councilmember Dan Terbrack stated that the scariest part of Senate Bill 571 is the ambiguity of it. We have seen in recent past a number of legislation being approved in Lansing and passed down to the local municipality; it is incumbent on the council how to legislate these changes. Senate Bill 571 is going to hurt the voters and residents of Berkley. The League of Women Voters hosts a candidate forum which allows the residents to ask questions and get answers. The legislation would limit the residents from asking the important questions that really matter on the ballot. The last election had a ballot issue and it would not have been able to be discussed at least two months before the election; there were already enough confusion Councilmember Terbrack voiced his concern that the consequences are very intentional and it does not make any sense why they would suppress what you can tell the residents sixty days before an election.

Mayor Pro Tem Steve Baker asked the City Attorney to describe the process in which some of the language was interjected. The pattern of establishing the last minute and sneaking in kind of thing is troublesome. Specifically with the particular items that affect us principally at the local level having to do with budget. The Center for Public Integrity is one of the most nationally recognized, appreciated and partial organization that study the integrity nature of government operations. They released a report this past November stating, "Michigan gets an F grade in 2015 state integrity investigation. Out of thirteen different attributes it received an F grade on almost all. Michigan is the fiftieth state in the nation in terms of integrity operating at the state level. The shadowy aspects of Michigan's money driven politics serve as a key reason why the state rates last among the fifty states with the grade of F." Mayor Pro Tem Baker expressed his appreciation for Michigan Municipal League, MLive, and others who are looking to help shed the light on this kind of activity taken place by our representatives across the state.

End of discussion at 7:25 p.m.

MOTION NO. M-01-16: Matter of appointing Matteo Passalacqua to serve on the Downtown Development Authority Board of Trustees as an At-Large member, with the term expiring July, 2020.

Mayor Pro Tem Baker moved to approve Motion No. M-01-16.

Seconded by Councilmember Edgar.

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

Nays: None

Motion Approved.

Assistant City Manager Darchelle Strickland Love informed the council that Michael Levey was a business member on Coolidge and a board member for the Downtown Development Authority who recently resigned. Per her conversation with the chairperson of the Downtown Development Authority Alan Semonian, he had recommended Matteo Passalacqua as an At-Large member.

Mayor Pro Tem Baker explained that there is a formula for the seat delegation for the Coolidge, Twelve Mile, and At-Large representation. He clarified that the board has the proper balance and harmony across the various interest in the downtown community.

ORDINANCE NO. O-01-16: Matter of considering the first reading of an ordinance to amend Chapter 78 Nuisances, of the Berkley City Code to Modify and Adopt Regulations Relating to Birdfeeders in the City, and to Prescribe a Penalty for Violations. (Set Date Certain, Monday, February 1, 2016)

Councilmember Kideckel moved to approve Ordinance No. O-01-16 with amendments.

Seconded by Councilmember Blanchard.

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

Nays: None

Motion Approved.

Assistant City Manager Darchelle Strickland Love reminded council at the last meeting there was a discussion to include the limited number of bird feeders and the characteristics of the bird feeder. City Attorney John Staran revised the ordinance based on the reviews from the previous council meeting.

City Attorney John Staran made revisions to include the following: eliminating the language for placement of bird feeders at least eight feet away from branches, trees, fences and other structures; adding a limitation of no more than five birdfeeders may be placed on a lot or property; and retained the language of bird feeders be elevated at least forty eight inches above the ground level and birdfeeders be designed to be rodent proof and properly installed with a tray and baffle. City Attorney Staran stated that the proposal is not a complete solution but another measure of rodent control. It addresses issues on garbage and cleaning up property to eliminate blight. If council is inclined to put the ordinance in place it may be revisited, modified, and repealed altogether. The amendments are accomplishing to promote public health, safety, and welfare. City Attorney Staran agreed with using the word or because it is appropriate and it works.

Mayor Pro Tem Steve Baker is not opposed to the limitation of five birdfeeders but would like continued conversation on education, awareness, and proper usage of the equipment.

LuAnn Linker, Berkley resident at 2206 Dorothea and owner of Wild Birds Unlimited in Royal Oak, suggest that council change the words and to or in the sentence, "Bird feeders shall be designed to be rodent proof with tray and baffle to prevent spillage onto the ground." It is ruling out weighted rodent proof feeders that are highly effective based on weight. This gives the resident the option to make use of existing and future rodent proof opportunities; and instructs them on having to properly install a tray on a feeder that requires one and a baffle.

Councilmember Jack Blanchard suggested that the sentence, "Bird feeders shall be designed to be rodent proof with tray and baffle to prevent spillage onto the ground", changing the word and to and/or.

Councilmember Eileen Steadman thanked the council, Ms. Linker, and the community for the lengthy discussion on bird feeders.

COMMUNICATIONS:

MAYOR PRO TEM BAKER: gave an update on the next Downtown Development Authority (DDA) meeting on Wednesday, January 13, 2016. They are making preparations for the upcoming budget cycle and continue efforts to help the progress of our downtown community. He welcomed Matteo Passalacqua and any new members of our Boards and Commissions. Mayor Pro Tem Baker thanked the Historical Committee for their continued work and invites everyone to visit the Berkley Historical Museum. The museum is open on most Sundays from 2 p.m. to 4 p.m. and by

appointment. Mayor Pro Tem Baker concluded with a quote from author Mike Dooley, "The secret to living the life of your dreams is to start living the life of your dreams today, in every little way that you possibly can." The little changes that you can do help the incremental progress in your professional life, personal life, and in the community. The discussion with bird feeding is a very rich and insightful conversation; it is an important step forward.

COUNCILMEMBER STEADMAN: invites everyone to participate in the following Library programs: eBooks and More at the Library on Tuesday, January 5th at 6:30 p.m., attend this free class to learn how to download eBooks, audiobooks, and magazines from the library's online collection; Adult Book Club on Wednesday, January 6th from 6:30 p.m. to 8 p.m., *Long Lost by Harlan Coben*; Adult Book Club on Tuesday, January 12th from 12:30 p.m. to 2 p.m., *Stations Eleven by Emily St. John Mandel*; Healthy Oils and Fats on Tuesday, January 19th at 6:30 p.m., learn about oils and fats, from choosing them to cooking with them; the Whiskey Charmers: Live Concert on Tuesday, January 26th at 7 p.m., they are a Detroit-based roots band; Family Movie at the Library on Saturday, January 16th showing the movie "Cinderella"; and Pet First Aid on Monday, January 25th from 6 p.m. to 9 p.m., Life Safe Academy, LLC instructor will teach Pet First Aid and CPR to ensure the future safety of our furry family members. Councilmember Steadman announced that the Library has sent out a press release about a survey for residents and library users to get feedback about the library services, hours, and more. Residents and library patrons may pick up a hard copy survey at the library or visit www.berkley.lib.mi.us to complete the survey online.

COUNCILMEMBER BLANCHARD: talked about safety for the winter months and focused on preventing carbon monoxide poisoning. Less than one third of American homes have a carbon monoxide detector installed. Replace the batteries on your smoke and carbon monoxide detectors each spring and fall. Do not heat your home with a gas range or oven. And never run your car or truck inside an attached garage. Carbon monoxide detectors are reasonably priced, they may be purchased at most hardware stores, and they save lives. Councilmember Blanchard urges the residents to get a carbon monoxide detector to protect their family and hopes we do not have any carbon monoxide problems this winter.

COUNCILMEMBER TERBRACK: congratulated and thanked the members of the Berkley Dad's Club for putting in Astro Turf in the studio space on Sunday, January 3, 2016. This will be beneficial for the Berkley Dad's Club programs, the travel teams and the Berkley High School. Councilmember Terbrack shared that roughly 50% of Americans make a new year's resolution; between 8% and 12% make it through the year. He advised when making a resolution to try to make them small and as realistic as possible; he wished everyone luck. Councilmember Terbrack reminded everyone that today; Monday, January 4, 2016 is the deadline to receive applications for the City Manager's position. He expects in the next few weeks, members of council on the recruitment committee in conjunction with Michigan Municipal League (MML) will be reviewing and trying to make decisions on a number of candidates.

COUNCILMEMBER EDGAR: wished everyone a very Happy New Year and to be kinder to one another.

COUNCILMEMBER KIDECKEL: thanked LuAnn Linker for her helpful input on the nuisance ordinance at the council meetings. He announced that the Zoning Board of Appeals (ZBA) has two alternate positions available and to contact the Clerk's Office for further information. Councilmember Kideckel invites everyone to join in on the 7th Annual Off to the Races on Saturday, February 6, 2016, hosted by the Berkley Education Foundation. It will held at the Great Lakes Culinary Center in Southfield, February 6, 2016. Doors open at 6:30 pm, racing begins at 7:15 p.m. He concluded by wishing Mayor Pro Tem Baker a Happy Birthday.

ASSISTANT CITY MANAGER STRICKLAND LOVE: thanked the Mayor and City Council for the opportunity to serve the residents of Berkley and wished everyone a Happy New Year.

FINANCE DIRECTOR SABUDA: wished everyone a Happy New Year.

CITY ATTORNEY STARAN: wished everyone a Happy New Year.

MAYOR O'DWYER: thanked Mayor Pro Tem Baker for sharing the information regarding Michigan ranking last amongst the 50 states in integrity; it is a horrendous indictment of how we have moved over the period in the last number of years. He is encouraged by the passion to push back from all of the communities across the state to say, "Enough is enough." We need the state to fix the roads and do the right thing; and to quit disenfranchising the people. He hopes that the governor will veto the bills that diminish the voice of the people and receives much needed sufficient support. Mayor O'Dwyer wished everyone a Happy New Year and keeping integrity as a fundamental measure of who we are as people.

ADJOURNMENT:

Councilmember Kideckel moved to adjourn at 7:53 PM.

Seconded by Councilmember Steadman.

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

Nays: None

Motion Approved.