

**THE TWENTY-FOURTH REGULAR MEETING OF THE THIRTY-SIXTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN  
WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, MARCH 20, 2017 BY MAYOR O'DWYER**

**PRESENT:** Steve Baker Alan Kideckel  
Jack Blanchard Daniel Terbrack  
Colleen Graveline Phil O'Dwyer

**ABSENT:** Eileen Steadman

**APPROVAL OF AGENDA**

Councilmember Terbrack moved to approve the Agenda with amendment to move Communication before item #11 Closed Session.

Seconded by Mayor Pro Tem Baker.

Ayes: Blanchard, Graveline, Kideckel, Terbrack, Baker, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

**INVOCATION** PASTOR ADAM GROH

**CITIZENS COMMENTS**

Dan Mihaescu, Berkley resident at 1440 Harvard and Beautification Advisory Committee Chairmen, invites everyone to the 2nd Annual Tree walk on Saturday, April 22nd at 9 a.m. Volunteers are meeting at the parking lot across from Berkley High School. They will be distributing flyers to homes in the city that do not have trees in their easements. For more information, anyone can visit the Berkley Beautification Advisory Committee Facebook page or send an email to [BerkleyBAC@gmail.com](mailto:BerkleyBAC@gmail.com).

Dennis Hennen, Berkley resident at 2411 Earlmont, expressed his concerns with the Building and Planning contractors pay, lack of enforcement for sidewalk ordinance violations, and he provided a report titled "Berkley Citizens United: Questionable Contracting Practices in the Berkley Building Department."

Wendi Zabramski, Berkley resident at 3340 Gardner, expressed her concerns with closed sidewalks and code violations. She shared photos of properties with closed sidewalks and inquired about the work session for the sidewalk ordinance.

Ross Gavin, Berkley resident at 1876 Larkmoor and Deputy Treasurer at Oakland County Treasurer's Office, reminded everyone that each year on March 31st is the annual tax foreclosure deadline. He encourages property owners that have delinquent taxes and may face tax foreclosure to contact the Oakland County Treasurer's Office. The office can help schedule payment plans to eligible property owners and the tax foreclosures are for properties with delinquent taxes from 2014 to prior years.

***Consent Agenda***

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

**APPROVAL OF THE MINUTES:** Matter of approving the minutes of the regular 36<sup>th</sup> City Council meeting on Monday, March 6, 2017.

**WARRANT:** Matter of approving Warrant No.1312.

**PROCLAMATION NO. P-01-17:** Matter of celebrating the 145<sup>th</sup> Anniversary of Arbor Day and designating the week of Sunday, April 9 – Saturday, April 15, 2017 as Arbor Week.

**PROCLAMATION NO. P-02-17:** Matter of proclaiming the month of April as Child Abuse Prevention and Awareness Month.

Ayes: Graveline, Kideckel, Terbrack, Baker, Blanchard, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

***Regular Agenda***

**RECOGNITIONS/PRESENTATIONS:** Matter of any recognitions or presentations from the Consent Agenda.

Councilmember Graveline read Proclamation No. P-01-17 into record.

Councilmember Kideckel read Proclamation No. P-02-17 into record.

**PRESENTATIONS:** Matter of receiving a status update from the Citizen's Advisory Committee for Infrastructure Improvements. Mayor Pro Tem Baker moved to receive a presentation from the Citizen's Advisory Committee for Infrastructure Improvements and Seconded by Councilmember Kideckel.

City Manager Baumgarten thanked the Citizen's Advisory Committee for all their hard work and recognized the members that attended the council meeting tonight. He introduced the Vice Chairman of the Citizen's Advisory Committee Melanie Stephens. City Manager Baumgarten advised council that the recommendation report will be made available on the city website in a timely manner. City Administration will continue to work with Stantec to do a study on location and layout of the community center. Both parties will be reviewing the four options for the Parks and Recreation Department. This information will then be provided to the Citizen's Advisory Committee for their input. City Manager Baumgarten thanked the council for approving the 90 day extension. He informed council that the Stantec study will take five to six weeks. City Manager Baumgarten agreed with Mayor Pro Tem Baker to bring City Council and the Citizen's Advisory Committee together for future discussions.

Melanie Stephens, Citizen's Advisory Committee Vice-chairman, reviewed with council the recommendation report from the 2017 Citizen's Advisory Committee for Infrastructure Improvements.

Mayor O'Dwyer complimented the committee for doing such an impressive work. On behalf of council, he gladly approved the request from the Citizen's Advisory Committee to extend their term for an additional 90 days. Mayor O'Dwyer thanked the committee for their work, their recommendations, and their volunteer hours. He asked City Manager Baumgarten to explain the next steps.

Councilmember Kideckel inquired about the timeline of when Stantec plans to have the report completed.

Mayor Pro Tem Baker expressed his gratitude to the Citizen's Advisory Committee, City Administration, and Stantec for all their hard work. He suggests that council is given an opportunity to ask more specific questions and understand the thought process of the committee with a follow up session.

Kurt Hite, Berkley resident at 3525 Robina, expressed his concerns with the recommendations made by the Citizen's Advisory Committee.

**MOTION NO. M-17-17:** Matter of appointing Brandon Alger to the Environmental Advisory Committee with a term expiring on June 2018 and David Milner to the Historical Committee with a term expiring on July 2020.

Mayor Pro Tem Baker moved to approve Motion No. M-17-17.

Seconded by Councilmember Blanchard.

Ayes: Kideckel, Terbrack, Baker, Blanchard, Graveline, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

**RESOLUTION NO. R-07-17:** Matter of authorizing the Parks & Recreation Department to apply for the 2017 Michigan Natural Resource Trust Fund Grant to provide park improvements at Oxford/Merchants Park.

Councilmember Terbrack moved to approve Resolution No. R-07-17.

Seconded by Councilmember Kideckel.

Ayes: Terbrack, Baker, Blanchard, Graveline, Kideckel, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

**RESOLUTION NO. R-08-17:** Matter of approving applicant for issuance of an on premise liquor license under Section 521a(1)(b) of 2006 PA 501 (MCL 436.1521a(1)(b)). Applicant: Joel Bacow of Atomic Dog, LLC, 2705 Coolidge Hwy, Berkley, MI.

Councilmember Kideckel moved to approve Resolution No. R-08-17.

Seconded by Councilmember Graveline.

Ayes: Baker, Blanchard, Graveline, Kideckel, Terbrack, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

City Manager Baumgarten advised council that as part of the state application process to obtain a Class C or SDM liquor license it requires a resolution approved by the local governing body. The State of Michigan has taken the processing of the liquor licenses from the cities but still require said resolution on occasion.

City Attorney Staran informed council that this a non-premise license but is not from the quota Class C liquor license based on the city's population. It is the function of the premises being located in the Downtown Development Authority (DDA). For eligibility it requires certain commitments from the applicant to make towards investment of the property. This license is tied to a certain property and cannot be transferred or sold to another community. It is issued by the State of Michigan and like most on-premise liquor licenses a prerequisite to the states issuance is the local approval.

Linda S. Mayer, representative of Atomic Dog, LLC, confirmed that the resolution is to approve a Redevelopment Liquor License under section 521(a). This is a new license and the Liquor Commission does require local council approval in order for the application to move forward. The Atomic Dog has been in business since 2012; it seats 46 patrons and is only open for lunch. The addition of the liquor license is to allow the business to serve beer and wine and to begin serving dinner. Ms. Mayer reviewed the plans with council to confirm seating and advised them that will be no bar service. She informed council that once the resolution is approved it will be sent with their application packet to the state and it will take at least 120 days for final approval. Ms. Mayer explained that this is a full Class C License which allows the business to serve beer, wine, and liquor.

Councilmember Blanchard asked Ms. Mayer to verify the 45 seats on the provided plan.

Mayor Pro Tem Baker inquired about the time frame for the liquor license to include the resolution approval, the application process with the state, and the implementation or service made available to the patrons.

Councilmember Kideckel asked Ms. Mayer to clarify that business plans to only serve beer and wine.

Joel Bacow, owner of Atomic Dog, LLC, advised council that there will be no tap but only cans and bottles sold. He explained that although they were open until 7 p.m., they noticed a decline in business after 2:30 p.m. The Atomic Dawg faced a lot of competition with restaurants that offer beer and in return they could not sustain until 7 p.m. Their plan is to close at 2:30 p.m. and reopen at 5 p.m. to offer a full service dinner.

Mayor O'Dwyer stated that the liquor license will enhance the Atomic Dog's, LLC business.

**MOTION NO. M-18-17:** Matter of approving the purchase of a 2017 Vactor Sewer Machine at a total cost of \$317,188 from Jack Doheny Companies. Pricing includes a \$90,000 credit for the trade-in of a 2007 Vactor.

Councilmember Blanchard moved to approve Motion No. M-18-17.

Seconded by Councilmember Kideckel.

Ayes: Blanchard, Graveline, Kideckel, Terbrack, Baker, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

**MOTION NO. M-19-17:** Matter of awarding the contract for the Harvard Road Reconstruction and Water Main Replacement Project to the lowest qualified bidder, FDM Contracting, Inc. of Shelby Township, Michigan, in an amount of \$1,562,077.16. In addition, allocate \$231,500 for construction engineering services to Hubbell, Roth & Clark and \$156,000 for construction contingencies.

Councilmember Blanchard moved to approve Motion No. M-19-17.

Seconded by Councilmember Kideckel.

Ayes: Graveline, Kideckel, Terbrack, Baker, Blanchard, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

City Manager Baumgarten gave brief summary of the Harvard Road Reconstruction and Water Main Replacement Project. He asked Public Works Director Schueller to go into further detail.

Public Works Director Schueller gave council a summary of the project to include the reconstruction of Harvard Road is from Woodward Avenue to Cass Boulevard for new water main. There will be a preconstruction meeting; the contractor will be required to submit a schedule and a milestone completion date is November. A frequently asked question flyer will be distributed to directly impacted residents and made available on the city website at [www.berkleymich.org](http://www.berkleymich.org). Public Works Director Schueller

explained that the base bid is for the ductile iron water main and the alternate bid is for HDPE plastic water main. He responded to Mayor Pro Tem Baker's inquiry to confirm that this is a 2017 project and sidewalks will be left open when possible. It is a full reconstruction with full right of way excavation and the project will be phased with the contractor. The project only connects to Berkley's main located on Woodward Avenue. Public Works Director will obtain the necessary permits through Michigan Department of Transportation (MDOT) and the State of Michigan. He plans to provide the residents with the HRC Inspector's contact information and encourages residents to interact with them. Public Works Director Schueller confirmed that the cost associated is based on what is affordable and the extensiveness of the reconstruction project. A project of this magnitude can help the Citizen's Advisory Committee for Infrastructure Improvements with their deliberations.

Eddie Zmich, Project Manager at Hubbell, Roth & Clark, Inc (HRC), gave a brief background of FDM Contracting, Inc. of Shelby Township.

Roland Alix, Vice President at Hubble, Roth, and Clark, Inc. (HRC), was available to answer any specific engineering questions from council.

Councilmember Blanchard asked Public Works Director Schueller to further explain the base bid and alternate bid comparison.

Mayor Pro Tem Baker asked Public Works Director Schueller if the project will begin in 2017 and provide any construction details. He inquired if there will be any communications with the neighboring municipalities during the reconstruction with sewer line and water line concerns. Mayor Pro Tem Baker questioned if the residents will continue to receive FAQs and construction updates. He asked if this is a typical cost for a reconstruction project.

Councilmember Terbrack reiterated that this is a full reconstruction with water main replacement. He expressed that the timing of this project works well with the Citizen's Advisory Committee for Infrastructure Improvements discussions. He spoke about their recommendation to systematically maintain roads and not have to wait years at a time while funds are being saved.

Christine Germaine, Berkley resident at 1186 Harvard, expressed her concerns with Harvard Road and hopes that the council supports the motion for Harvard Road Reconstruction and Water Main Replacement project.

Mayor O'Dwyer added that these projects are made possible by careful management of money. He recognized City Administration, Finance Department, and staff for making this project possible.

**MOTION NO. M-20-17:** Matter of approving the purchase of twenty-four (24) "X2" tasers from TASER International, Inc. for the total cost of \$45,058. Funds are available in Equipment account 101-310-982-000.

Councilmember Blanchard moved to approve Motion No. M-20-17.

Seconded by Councilmember Kideckel.

Ayes: Kideckel, Terbrack, Baker, Blanchard, Graveline, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

**MOTION NO. M-21-17:** Matter of authorizing Stephen Siller Tunnel to Towers to conduct a 5K run on Saturday, September 16, 2017 beginning on Hurley Field at Anderson Middle School.

Councilmember Kideckel moved to approve Motion No. M-21-17.

Seconded by Councilmember Graveline.

Ayes: Terbrack, Baker, Blanchard, Graveline, Kideckel, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

City Manager Baumgarten gave a brief summary of the event and asked Public Safety Director Rick Eshman to provide further detail.

Public Safety Director Eshman introduced Tim Aten, Amaya Aten, Lilly Butler, and Lilith Fleischauer from the Stephen Siller Tunnel to Towers foundation. Last year the event financed the build of a new custom home for an American soldier wounded in Afghanistan. The 5K run will begin at Hurley Field, it will go West on Oxford, South on Ellwood, East on Cambridge, to Gardner, and reverse back. The Public Works Department will provide barricades and the Public Safety Department will provide Officers to monitor the event, and the volunteers will serve as staff along the route.

Tim Aten, representative of Stephen Siller Tunnel to Towers foundation, thanked council for the opportunity to bring this event back to Berkley and recognized Public Safety for their support. In the previous year, proceeds have help build smart homes for wounded veterans like Army Staff Sergeant Ben Eberle. Last year during the Dallas, TX incident, the organization raised \$300,000 to support the families of the victims. The 5K run is to build awareness about the organization and the funds go to a much broader spectrum. Mr. Aten hopes to make the event bigger and their goal is to increase participation to 500 runners that would be an increase from 200 runners last year. The highlight of last year's event was an elderly woman crossing the finish line with her cane and was accommodated by a Berkley Public Safety Officer and that is the spirit that the organization would like to continue. He recognized Amaya, Lilly, and Lilith for canvassing the neighborhoods with flyers to promote last year's event.

Mayor O'Dwyer remembered that the young ladies did a fantastic job last year and noticed how hard they work.

Councilmember Kideckel thanked the Stephen Siller Tunnel to Towers organization for coming back to Berkley and stated that it is easy to work with good people who do good things for a great cause.

Mayor Pro Tem Baker echoed his colleague's compliments and asked Mr. Aten to provide information to the public on where to register for the event, to make donations, and raise awareness for the cause.

Lilly Butler, 8<sup>th</sup> Grader at Anderson Middle School, advised council that anyone can visit the Stephen Siller Tunnel to Towers website and there is a link to donate to a team or to the cause.

Amaya Aten, 8<sup>th</sup> Grader at Anderson Middle School, spoke about the organization honoring Border Patrol Officer Jason Gallagher who passed away early 2016. She provided the website for Stephen Siller Tunnel to Towers foundation at [www.tunnel2towers.org](http://www.tunnel2towers.org).

Lilith Fleischauer, 8<sup>th</sup> Grader at Anderson Middle School, was available to answer any questions from council.

**MOTION NO. M-22-17:** Matter of approving "Berkley Days 2017" event beginning Wednesday, May 17, 2017 at 7 p.m. and ends Sunday, May 21<sup>st</sup> at 4:30 p.m. located at the Berkley Community Center, 2400 Robina.  
Councilmember Kideckel moved to approve Motion No. M-22-17.

Seconded by Councilmember Blanchard.

Ayes: Baker, Blanchard, Graveline, Kideckel, Terbrack, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

City Manager Baumgarten gave a brief summary to council of the Berkley Days event. He introduced Public Safety Director Rick Eshman and Berkley Days Event Coordinator Ms. Denise Brainard.

Public Safety Director Eshman stated that the Berkley Days Committee is requesting to add Tuesday, May 16<sup>th</sup> to the event. The liability insurance statement will be updated with the required additional insured language from the committee and vendors.

Denise Brainard assured council that the liability insurance statements and the hold harmless agreements will be provided by all parties involved. She reviewed the scheduled events with council and encouraged everyone to contact the committee by email to [berkleydays@yahoo.com](mailto:berkleydays@yahoo.com) or visit the website at [berkleydays.com](http://berkleydays.com). The event can be found on social media outlets such as Facebook and Twitter. The funds raised goes back to the various community groups and minimal funds go towards the following year's expense.

Councilmember Kideckel confirmed that in order for the public to participate in the silent auction, they must purchase tickets for the Taste of Berkley event.

Councilmember Blanchard has worked with Ms. Brainard on this event for several years and commends the committee for doing a fantastic job.

Mayor O'Dwyer commented that this is a wonderful event and he hopes the weather will cooperate as well.

#### **COMMUNICATIONS:**

**COUNCILMEMBER BLANCHARD:** invites everyone to participate in the following Berkley Chamber of Commerce events: Ladies' Night Out: Sip into the Season on Thursday, March 30<sup>th</sup> with retail times from 6 p.m. to 9 p.m. and restaurant/bar times

from 8:30 p.m. to 11 p.m.; Berkley Art Bash on Saturday, June 10<sup>th</sup> on Twelve Mile Road; the Berkley Community Garage Sale on Friday, June 23<sup>rd</sup> and Saturday, June 24<sup>th</sup>; the new Berkley Street Art Fest on Saturday, July 15<sup>th</sup>. Councilmember Blanchard is the Chairman of the Coolidge Traffic Committee that consist of two members of Council, two members of the Planning Commission, two members of the Downtown Development Authority (DDA), a member of the Chamber of Commerce, a member of the Environmental Advisory Committee, and Public Safety Director Richard Eshman. He reviewed with council the responsibilities of the committee. And they have added a number of speed limit signs, they are seeking funds for the wayfinding study, they are adding parking signs, and looking to create more crosswalks on Coolidge.

**MAYOR PRO TEM BAKER:** thanked the Citizen's Advisory Committee for their great work and their thoughtful recommendations. He recognized City Administration for their cooperation with the committee. He encourages everyone to visit the Downtown Berkley social media and website campaign at [www.downtownberkleymi.com](http://www.downtownberkleymi.com). Mayor Pro Tem Baker spoke about the upcoming Michigan Municipal League conference and the topics of discussion. He concluded with a quote from an English Poet Letitia Elizabeth Landon, "An Apt quotation is like a lamp which flings its light over the whole sentence." This reminds him of his missed opportunity to share a quote at the last council meeting.

**COUNCILMEMBER TERBRACK:** invites everyone to the following Parks and Recreation programs: Breakfast with the Bunny on Saturday, April 8<sup>th</sup> and tickets are available at the community center; Acting Out Kids Community Theater is offering Acting/Musical Theatre Class from Monday, April 10<sup>th</sup> to Monday, May 22<sup>nd</sup> for 1<sup>st</sup> to 5<sup>th</sup> grade between 3:45 p.m. – 4:40 p.m. and for 6<sup>th</sup> grade and higher are between 4:45 p.m. – 5:45 p.m. Acting Out Kids Community Theater is offering Drop-In Acting Events on Fridays on March 24<sup>th</sup>, April 28<sup>th</sup> and May 12<sup>th</sup>; And the Acting/Musical Theater Camp from Monday to Thursday, August 28<sup>th</sup> to August 31<sup>st</sup> for ages 8 to 18.

**COUNCILMEMBER GRAVELINE:** gave a brief update on the Tree Board meeting held on Monday, March 13<sup>th</sup> and they designated Sunday, April 9th to Saturday, April 15<sup>th</sup> as Arbor Week in Berkley. There will be a Tree Planting on Wednesday, April 12th and Tree Walk on Saturday, April 22<sup>nd</sup>. Judd Hart was available and shared the ordinance for mature tree on building sites. She encourages everyone to visit the Berkley Public Library website at [www.berkely.lib.mi.us](http://www.berkely.lib.mi.us) for upcoming community activities. The Planning Commission had their Work Session on Tuesday, March 14<sup>th</sup> and they reviewed the La Salette plans. Councilmember Graveline announced that the Downtown Development Authority (DDA) Director Vivian Carmody will be submitting a proposal for design guidelines for the DDA District. She reminded everyone that the next Planning Commission meeting is on Tuesday, March 28<sup>th</sup> at 7:30 p.m.

**COUNCILMEMBER KIDECKEL:** explained how he served on the Michigan Municipal League (MML) Services Committee and they review proposed bills that the House and Senate would like to see passed. He said hello to Councilmember Eileen Steadman and wished her a speedy recovery from her recent surgery. Councilmember Kideckel has teamed up with Huntington Woods Commissioner Jules Olsman to hopefully offer residents permanent or portable generators for their homes at a discount. He sends his condolences to Laurie and the Anger family for the passing of Former Public Safety Sergeant Ray Anger.

**CITY MANAGER BAUMGARTEN:** thanked the Berkley Public Library and the Parks and Recreation Department for maintaining heating locations during the recent power outage. He encourage the residents to attend the Rodent Prevention open conversation with special guest Joe Gianonosa from Great Lakes Pest Control on Monday, March 27<sup>th</sup> at 6 p.m., this information is posted on the city website at [www.berkelymich.org](http://www.berkelymich.org) and a copy of the flyers are available at the City Hall. The Work Session for the sidewalk ordinance will be on Monday, April 3<sup>rd</sup> council meeting and the Work Session for the chicken ordinance will be on the Monday, April 17<sup>th</sup>. City Manager Baumgarten shared that the Berkley High School students are putting blue ribbons along Coolidge Highway and Twelve Mile Road to honor the memory of their classmate Dominic Geskey.

**CITY ATTORNEY STARAN:** informed council that there will be ordinance amendments from the Public Safety Department to be presented at a future council meeting. He spoke briefly about the communications companies to install equipment in the public rights of way. City Attorney Staran gave a brief update on medical marijuana.

**MAYOR O'DWYER:** offered a quote from one of the Founding Fathers of the United States Benjamin Franklin, "Don't put off until tomorrow what you can do today" to encourage Mayor Pro Tem Baker to share his quotes. And on behalf of the Berkley residents, he thanks the Citizen's Advisory Committee (CAC) for all their hard work.

**COUNCIL MEETING ADJOURNMENT:**

Motion by Councilmember Terbrack to adjourn the regular meeting at 9:16 p.m.

Seconded by Mayor Pro Tem Baker.

Ayes: Blanchard, Graveline, Kideckel, Terbrack, Baker, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

**CLOSED SESSION:** Matter of considering whether to meet in closed session to discuss a written attorney/client privileged communication.

Adjourned to Closed Session at 9:16 PM:

Moved by Councilmember Terbrack and seconded by Mayor Pro Tem Baker.

Ayes: Graveline, Kideckel, Terbrack, Baker, Blanchard, and O'Dwyer

Absent: Steadman

Nays: None

Motion Approved.

Mayor O'Dwyer reconvened the Closed Session at 9:21 PM:

Moved by Councilmember Terbrack and seconded by Mayor Pro Tem Baker.

Ayes: Kideckel, Terbrack, Baker, Blanchard, Graveline, and O'Dwyer

Absent: Steadman

Nays: None

**CLOSED SESSION ADJOURNMENT:**

Motion by Councilmember Terbrack to adjourn the closed session at 10:22 p.m.

Seconded by Mayor Pro Tem Baker.

Absent: Steadman

Nays: None

Unanimously approved.