

THE TWENTY-THIRD REGULAR MEETING OF THE THIRTY-SIXTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, MARCH 6, 2017 BY MAYOR O'DWYER

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

ABSENT: Jack Blanchard

APPROVAL OF AGENDA

Councilmember Steadman moved to approve the Agenda.
Seconded by Councilmember Graveline.
Ayes: Graveline, Kideckel, Steadman, Terbrack, Baker, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

INVOCATION PASTOR ZACK DUNLAP

CITIZENS COMMENTS

Public Safety Director Rick Eshman introduced Public Safety Sergeant Corey Miller who spoke about a fire emergency incident on December 25, 2016 at 2269 Sunnyknoll Avenue, Berkley, MI 48072.

Public Safety Sergeant Corey Miller introduced and presented a Civilian Citation to the Berkley residents at 2269 Sunnyknoll Ms. Bernadette Keath, Ms. Jennifer Kirby and Daniel Dzikowski.

Public Safety Sergeant Corey Miller introduced and presented a Life Saving Award to Berkley Public Safety Officer Brian Smith, Berkley Public Safety Officer Justin Childrey, and Huntington Woods Public Safety Officer Jon Lences.

Public Safety Sergeant Corey Miller introduced and presented a Department Honor Award to Huntington Woods Public Safety Sergeant Jason Jordan.

Consent Agenda

Councilmember Steadman moved to approve the following Consent Agenda, seconded by Councilmember Graveline:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the regular 36th City Council meeting on Monday, February 6, 2017.

WARRANT: Matter of approving Warrant No.1311.

Ayes: Kideckel, Steadman, Terbrack, Baker, Graveline, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

Regular Agenda

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

RESOLUTION NO. R-06-17: Matter of recognizing Care Net Pregnancy Center Berkley/Detroit as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming license.
Councilmember Graveline moved to approve Resolution No. R-06-17.
Seconded by Councilmember Steadman.

Ayes: Steadman, Terbrack, Baker, Graveline, Kideckel, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

MOTION NO. M-12-17: Matter of appointing Tricia Losey to the Tree Board with a term to expire July 1, 2020. Councilmember Graveline moved to approve Motion No. M-12-17.
Seconded by Mayor Pro Tem Baker.
Ayes: Terbrack, Baker, Graveline, Kideckel, Steadman, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

MOTION NO. M-13-17: Matter of authorizing the City Manager to execute an agreement with Hubbell, Roth & Clark, Inc. to provide topographical survey services for the city hall property for an amount not to exceed \$3,200 as stipulated in its proposal. Monies to come from Account Number 101-265-818-000.
Mayor Pro Tem Baker moved to approve Motion No. M-13-17.
Seconded by Councilmember Terbrack.
Ayes: Baker, Graveline, Kideckel, Steadman, Terbrack, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

MOTION NO. M-14-17: Matter of authorizing the City Manager to execute an agreement with SME to provide geotechnical evaluation services for the city hall property for an amount not to exceed \$4,000 as stipulated in its proposal. Monies to come from Account Number 101-265-818-000.
Mayor Pro Tem Baker moved to approve Motion No. M-14-17.
Seconded by Councilmember Terbrack.
Ayes: Graveline, Kideckel, Steadman, Terbrack, Baker, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

ORDINANCE NO. O-01-17: Matter of considering the first reading of an ordinance to amend Chapter 106 Streets, Sidewalks and Other Public Places, Article II Obstructions, Section 106-37 Pedestrian Passage of the Berkley City Code to provide for pedestrian passage during construction. (Set Date Certain: March 20, 2017)
Councilmember Steadman moved to discuss, table, and return Ordinance No. O-01-17 as a Work Session at a future council meeting.
Seconded by Councilmember Terbrack.
Ayes: Kideckel, Steadman, Terbrack, Baker, Graveline, and O'Dwyer
Absent: Blanchard
Nays: None
Motion Approved.

City Manager Baumgarten reviewed with council an Ordinance Proposal PowerPoint presentation. He explained that the right of way permits are approved by the Public Works Department for utility companies working in the city. City Manager Baumgarten will work with the Building Department regarding work orders and ordinance violations. He plans to work on a budget proposal to improve code enforcement.

Councilmember Terbrack emphasized that safety for the residents is most important. His concerns include what is causing these sidewalk closures and what can we do to fix it. Councilmember Terbrack questioned the duration period for sidewalk closures and the process to notify residents of these closures. He would like to see a clear delineation of the ordinance and foster responsible development in our city.

Mayor Pro Tem Baker agreed with his colleague in regards to the safety of the residents, complete streets, and sidewalk closures. He suggests bringing this ordinance back for discussion as a work session, and enforcement of an ordinance would need to be a conversation at the next budget meeting. Mayor Pro Tem

Baker recalls seeing a visible on-site sign that had the permit, a schedule, and contact information posted. The lack of such a sign would clearly indicate that the proper process was not followed. He asked that violations continue to be addressed while council discusses their concerns at a future work session.

Councilmember Kideckel agreed with his colleagues that safety is the number one priority. He took the time to visit the construction sites around the city and had many concerns. Councilmember Kideckel asked if there are any written procedures for building contractors or utility companies in violation of our ordinances. He agreed with his colleagues to bring this agenda item back as a work session. Councilmember Kideckel spoke briefly about posting notices at the construction sites. He inquired about issuing a stop work order when there are violations.

City Attorney Staran clarified that the right of way permits do not set the guidelines for the utility companies to maintain or install their infrastructure. These companies are subject to the same codes that apply to individuals or companies that pull permits from the city.

Councilmember Graveline supports the idea of a work session to further discuss council's concerns. She agreed with her colleague in regards to on-site signage.

Councilmember Steadman agreed with her colleagues to further discuss these concerns in a work session and bring all the ideas together.

Mayor O'Dwyer suggests that no parking rules should be enforced where there are sidewalk closures or reroute. He spoke briefly about issuing sidewalk closure permits to encourage builders to remove any obstruction on the sidewalks in a timely manner. Mayor O'Dwyer talked about clarification of the rules and enforcement of these rules.

Dennis Hennen, Berkley resident at 2411 Earlmont, expressed his concerns of internal staff recommendations and encourages getting outside perspective.

Rachel Piacentini, Berkley resident at 1726 Oxford, expressed her concerns of streets with blocked sidewalks across the road from one another and accessibility of the sidewalks.

Patty Curtis, Berkley resident at 2847 Kenmore, expressed her concerns of existing sidewalks that can be made passable and that the Building Inspector insist on closed sidewalks. She supports the idea to bring consultants from other areas and suggest enforcement of the current ordinance.

Candy Trumble, Berkley resident at 3660 Ellwood, expressed her concerns of parking around the construction site and requiring reflectors to be put on dumpsters.

Lisa Kempner, Berkley resident at 2660 Columbia, thanked council for their recommendation for a work session.

Ric Ricci, Berkley resident at 4152 Cumberland, expressed his concerns of ordinance violations and lack of enforcement.

Paul Jordan, Berkley resident at 3990 Tyler, supports the idea of bringing in a third party to review the ordinance. He expressed his concerns of the loose interpretation of the code and lack of enforcement.

MOTION NO. M-15-17: Matter of authorizing the City Manager to enter into an agreement with Stantec Architectural, Inc. of Berkley, Michigan to conduct a feasibility study and provide cost estimates for the Parks & Recreation complex, for an amount not to exceed \$33,500. A budget amendment is required.

Councilmember Terbrack moved to approve Motion No. M-15-17.

Seconded by Councilmember Kideckel.

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

Absent: Blanchard

Nays: None

Motion Approved.

City Manager Baumgarten gave a brief summary of the agreement with Stantec, the scope of work, and the four scenarios to be considered. He informed the council of the recommendations made by the Citizen's Advisory Committee (CAC), City Manager Baumgarten clarified that March 20th was the intended date to make a final decision but the committee wouldn't have adequate information. He confirmed that Stantec is familiar with the existing site and conditions which allows them to continue with the work.

Councilmember Steadman asked City Manager Baumgarten to explain why the committee has requested for additional time.

Councilmember Terbrack thanked the Citizen's Advisory Committee (CAC) for their hard work and felt that they need the study to make a real determination as it relates to the Community Center.

Mayor O'Dwyer is in support of the study because it is critical information the committee needs before making any final determinations.

Dennis Hennen, Berkley resident at 2411 Earlmont observed that the Citizen's Advisory Committee (CAC) will request for an additional 60 to 90 days and supports the study. He expressed his concerns with the price, a competitive bid, and Stantec's qualifications.

MOTION NO. M-16-17: Matter of adopting a Charitable Gaming License Policy for the City of Berkley.

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

Seconded by Councilmember Terbrack.

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

Absent: Blanchard

Nays: None

Motion Approved.

ORDINANCE NO. O-02-17: Matter of considering the first reading of an ordinance to amend Article I and adding new Article IV to Chapter 22, Animals, of the City of Berkley Code of Ordinances to permit, regulate, and establish requirements relating to the keeping of chickens. (Set Date Certain: March 20, 2017)

Councilmember Terbrack move to discuss, table, and return Ordinance No. O-02-17 as a Work Session at a future council meeting. Seconded by Mayor Pro Tem Baker.

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

Absent: Blanchard

Nays: None

Motion Approved.

Mayor O'Dwyer is not able to support an ordinance allowing chickens in an urban setting based on his experience working on a farm. Although, he has spoken with a local mayor in another community that said there have not been too many objections from neighbors. Mayor O'Dwyer shared an article in the Detroit Free Press titled "Coyotes make pest of themselves during March breeding season."

Councilmember Terbrack expressed his concerns about the proximity of our houses and yards in the city that could accommodate a chicken coop without any disturbances. He is not entirely convinced that allowing chickens in the city will not attract rodents. Councilmember Terbrack is not supportive of an ordinance to allow chickens because of the timing with the city having to address the current rodent issues. He recommends that more education on the topic will benefit council and residents alike.

Mayor Pro Tem Baker is unsure of supporting an ordinance to allow chickens without the input from City Manager Matt Baumgarten and from residents that operate a chicken coop in the neighboring communities. He asked the City Manager to clarify the licensing and inspection section in the proposed ordinance. Mayor Pro Tem Baker reiterates that the proposed ordinance does state that "chickens may be kept as family pets or to lay eggs for personal consumption only." He agreed with his colleague to bring this proposed ordinance back as a work session in a future council meeting.

City Manager Baumgarten spoke about his experience with a community that allowed chickens and noted that the average property had larger yards and few residents took advantage of this option. He did not notice an increase in rodent issues nor ordinance violations. The proposed ordinance restrictions are to keep up to 3 hens, it focuses on conditions of the animal, and the building structure of the coops. City Manager Baumgarten explained that having the permits expire on March 31st of each year during the spring season is appropriate for completing inspections. He reiterates that the proposed ordinance does state that "A violation of any provision of this article shall be a civil infraction and shall be punishable by a fine of not less than \$220 for the first offense."

Councilmember Kideckel spoke with another public official that stated their community did not have many problems with chickens. He wanted to ensure that the residents understand that chickens will be considered as domesticated animals with a limit of 3 per household. Councilmember Kideckel is unsure of supporting an ordinance to allow chickens without input from residents in the neighboring communities that have chickens. He recommends that the proposed ordinance be brought back in a future council meeting to

Courtney O'Shea, Lathrup Village resident at 27411 Lathrup Blvd, is a perspective home buyer and actively seeking a home in Berkley. She is in support of allowing chickens in the community and invites council to visit her chicken coop in Lathrup Village. Ms. O'Shea suggests that chicken coop construction include using hardware mesh.

Glen Perye, Berkley resident at 2647 Tyler, is in support of allowing chickens in the community and has worked with the City Manager Matt Baumgarten to update the current animal ordinance.

Jon Courtney, Berkley resident at 1120 Oxford, expressed his concerns with rodent issues, the construction of the chicken coop, and chicken owners selling eggs out of their homes. He suggests that potential chicken owners be required to inform their neighbors. Mr. Courtney inquired about the recourse of any violations to the proposed ordinance.

Laura Mikulski, Ferndale resident at 1015 W. Hazelhurst, is in support of allowing chickens in the community and invites council to visit her chicken coop in Ferndale.

Marissa H. Weber, Berkley at 2220 Columbia, is in support of allowing chickens in the community.

Dennis Hennen, Berkley resident at 2411 Earlmont, suggests a pilot program and for council to continue to educate the residents on the subject.

Candy Trumble, Berkley resident at 3660 Ellwood, is in support of allowing chickens in the community and inquired about keeping chickens temporarily for a 4-H program.

COMMUNICATIONS:

COUNCILMEMBER GRAVELINE: reminded everyone that the next Tree Board meeting is on Monday, March 13, 2017 at the Library at 7 p.m. with special guest Judd Hart. The committee will discuss Arbor Day activities and is necessary for the city to maintain our status as a Tree City USA. The Planning Commission met on Tuesday, February 28, 2017 and held a Public Hearing on the amendment to the Master Plan. Their upcoming meetings will be a Work Session on Tuesday, March 14, 2017 and regular meeting on Tuesday, March 28, 2017 in the Council Chambers at 7:30 p.m.

COUNCILMEMBER KIDECKEL: thanked everyone for their input regarding the sidewalk ordinance and chicken ordinance. He congratulated the Berkley High School Swim and Dive Team who won the OAA Blue Division Boys Title. Councilmember Kideckel thanked all the participants for the success of the Friends of Berkley Parks and Recreation Euchre Tournament held at the American Legion. He recognized the owners of Kam's Express for their 23 years of community support and great food. Councilmember Kideckel wished everyone a Happy St. Patrick's Day

COUNCILMEMBER TERBRACK: informed everyone on Thursday, March 9, 2017 at 7 p.m. is the community meeting with the Parks and Recreation Advisory Committee to hold a Public Hearing to discuss Oxford Merchants Park.

MAYOR PRO TEM BAKER: invites everyone to visit the Historical Museum displaying Berkley Then and Now, Remembering Twelve Mile, and Cruising Woodward. He recognized Historical Committee member Tobi Voigt who met with U.S. Senator Debbie Stabenow to advocate awareness and funding to local museums. He praised Team 247 Da Bears a FIRST robotics team in Berkley that helps students learn about science, math, and engineer and thanked their parents, volunteers, and supporters. Go Bears!

COUNCILMEMBER STEADMAN: encourages everyone to attend the Friends of Berkley Public Library fundraiser on Wednesday, March 22, 2017 from 5 p.m. - 9 p.m. at Patrick J's. She invites everyone to participate in the following library programs: Animal Communication 101 with Leslie Cirinesi on Wednesday, March 8th at 6:30 p.m.; Plant D Nonet KC Swing Workshop Concert on Monday, March 20th at 6:30 p.m. at the Berkley First United Methodist Church; Jack Lessenberry on Michigan Politics – How did it get this way? Is on Thursday, March 23rd at 6:30 p.m. at Berkley Frist United Methodist Church; Cocktail and Coloring at Amici's on Monday, March 27th at 7 p.m.; Origami Club on Monday, March 6th at 5:30 p.m; Afternoon Book Club on Tuesday, March 14th at 12:30 p.m.; and Berkley Reading Society on Thursday, March 16th at 6:30 p.m. More programs may be found on the library website at <http://www.berkley.lib.mi.us>. The Beautification Committee are scheduled for the second Wednesday of each month at 6:30 p.m. in the Public Safety 2nd Floor conference room.

CITY MANAGER BAUMGARTEN: thanked Parks and Recreation Director Theresa McArleton for being the special guest at the Wednesday, March 1st Chat with Matt. He welcomes everyone to attend this program and meet City Administration.

CITY ATTORNEY STARAN: had no comments this evening.

MAYOR O'DWYER: wished everyone, ""Lá fhéile Pádraig sona dhuit!" in Gaelic meaning "Happy St. Patrick's Day."

COUNCIL MEETING ADJOURNMENT:

Motion by Councilmember Steadman to adjourn the regular meeting at 9:21 PM.

Seconded by Councilmember Graveline.

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

Absent: Blanchard

Nays: None

Motion Approved.