

THE THIRTEENTH REGULAR MEETING OF THE THIRTY-SEVENTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, JULY 16, 2018 BY MAYOR TERBRACK

PRESENT: Steve Baker Dennis Hennen
 Jack Blanchard Eileen Steadman
 Bridget Dean Daniel Terbrack
 Ross Gavin

APPROVAL OF AGENDA

Councilmember Hennen moved to approve the Agenda.

Seconded by Mayor Pro Tem Baker.

Ayes: Blanchard, Dean, Gavin, Hennen, Steadman, Baker, and Terbrack

Nays: None

Motion Approved.

INVOCATION REV TAL SULLIVAN

CITIZENS COMMENTS

Vivian Carmody, Downtown Development Authority (DDA) Director, gave an update on a project that the DDA partnered with Better Life Bags in Hamtramck and received sponsorship from Citizens Bank. She invites everyone to the Ladies Night Out event on Thursday, July 19, 2018 from 5 p.m. - 9 p.m. along 12 Mile and Coolidge downtown area.

Consent Agenda

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

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 37th City Council meeting on Monday, June 18, 2018.

WARRANT: Matter of approving Warrant No. 1328.

RESOLUTION NO. R-25-18: Matter of recognizing Eagle Scout Eric Moran and the Friends of Berkley Parks & Recreation.

Ayes: Dean, Gavin, Hennen, Steadman, Baker, Blanchard, and Terbrack

Nays: None

Motion Approved.

Regular Agenda

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

Councilmember Bridget Dean read Resolution No. R-25-18 into record.

ORDINANCE NO. O-07-18: Matter of considering the first reading of an ordinance to rezone property described as Lots 52-53 of the Denler Acres Subdivision from Multiple-Family Residential (RM) to Planned Unit Development (PUD) and Lots 13-15 of Denler Acres Subdivision from Office (O-1) to Planned Unit Development (PUD).

Mayor Pro Tem Baker moved to approve Ordinance No. O-07-18.

Seconded by Councilmember Dean.

Ayes: None

Nays: Gavin, Hennen, Steadman, Baker, Blanchard, Dean, and Terbrack

Motion Denied.

MOTION NO. M-52-18: Matter of approving appointments to various Boards and Commissions.

Mayor Pro Tem Baker moved to approve Motion No. M-52-18.

Seconded by Councilmember Hennen.

Ayes: Hennen, Steadman, Baker, Blanchard, Dean, Gavin, and Terbrack

Nays: None

Motion Approved.

PRESENTATION: Matter of receiving a presentation by Hubbell, Roth & Clark, Inc. (HRC) on the Combined Sewer Capacity Study.

Mayor Terbrack advised everyone that a work session will be scheduled at a future council meeting. Tonight Hubbell, Roth, & Clark, Inc. (HRC) will present its findings on the Combined Sewer Capacity Study.

City Manager Baumgarten stated that City Administration has been working with the City Engineers at HRC on the Combined Sewer Capacity Study. The presentation is available for public view on the city website at www.berkleymich.org.

Edward Zmich, Project Manager at HRC, reviewed the presentation with City Council on the Combined Sewer Capacity Study.

James Surhigh, Associate at HRC, was available to answer any questions from City Council.

Councilmember Hennen inquired about any correlation between the 2014 flood event and 2017 storm event.

Roland Alix, Vice President at HRC, spoke briefly about the 2014 flood event and 2017 storm event. The report identifies the areas with capacity issues. It's difficult to draw a correlation between the 2014 flood event and the 2017 rain event because they were two different events. And it's difficult to draw a correlation between those two events and the existing capacity which is the size of the sewer. The study was on the city system, all flows flow from the homes and the streets into sewer pipes. That combined sewer feeds by gravity into the county system via various county drains to their main treatment facility at George W. Kuhn Drain. It discharges from that facility to the Detroit Waste Water Treatment Plant.

Councilmember Dean inquired about any correlation in the areas that were affected by both the regional event in 2014 and the micro burst in 2017.

Mayor Pro Tem Baker inquired about the gravity flow of the system.

Ronald Stannard, Berkley resident at 3875 Cumberland, inquired about the presentation and full report to be posted on the city website.

WORK SESSION: Matter of discussing an ordinance amendment to Chapter 130 - Vegetation, Article II – Trees, Bushes, and Shrubs, Sec 130-31 to Sec 130-44 and Sec 130-76 to 130-79, Article III – Noxious Weeds, Sec 118-26 to 118-29, of the City of Berkley Code of Ordinances.

Mayor Terbrack declared the work session to start at 8:09 p.m.

Mayor Terbrack advised council that the work session is to get the ordinance in proper condition and have it return for a first reading at a future council meeting. He agrees with City Attorney Staran that it will be difficult where to draw the line to protect our urban forest. The questions from the Tree Board has been answered by the City Attorney, the council will be given an opportunity to review the updated ordinance, and the Mayor is recommending the tree ordinance for a first reading at the next council meeting in August.

Kathleen Karlis, Berkley resident at 3731 Royal and a member of the Tree Board, reviewed the draft tree ordinance with City Council. She informed council that in the previous language a number of the title Staff Arborist was replaced with the City Manager or City Manager designee.

Councilmember Blanchard inquired about the mention of a Staff Arborist in the draft tree ordinance and suggests the city consider a consortium deal with City of Birmingham who has a Staff Arborist. He recommends that the council not get too extensive or go beyond the current ordinance. It is not necessary to invade the privacy of property owners. Councilmember Blanchard informed everyone that trees are no longer allowed to be planted in the greenbelt where it is within 10 feet of a gas line that is located under the sidewalk.

City Manager Baumgarten assured council that the Tree Board, the Public Works Department, and City Attorney have worked on the revisions to the draft tree ordinance. He informed council that the city has retained a Certified Arborist through a current agreement with J.H. Hart Urban Forestry. City Manager Baumgarten recognized Public Works Director Derrick Schueller for his hard work to ensure that the cost is budgeted. He clarified that the Code Enforcement Officer's in the Building and Planning Department does write code citations and if need be go to court over disease or dying trees. Privately owned trees that is outwardly obvious in poor condition or does cause a health and safety welfare concern; the city does utilize the Staff Arborist. With permission by the property owner; the Staff Arborist does diagnose the tree and in some instances code enforcement must give a written violation to the home owner who is not willing to do any necessary recommendations. City Manager Baumgarten advised council the intent is meant for residential and commercial to require a tree survey.

Lisa Fritsch, Berkley resident 4144 Wakefield and a member of the Tree Board, confirmed that the Certified Arborist worked with the Tree Board on the revised tree ordinance. She continued the review of the draft tree ordinance with City Council. Ms. Fristch shared that the ordinance reads, "Only in cases of public safety or to prevent the spread of disease." She inquired about the violation of the ordinance as a misdemeanor and the site plane approval. Ms. Fritsch requests to remove sections 130-76 to 130-79 and article III – noxious weeds.

City Attorney advised council that the decision is ultimately up to them. But going onto someone's property or passing judgement as to the health of the trees in terms of age, disease, insect infestation or storm damage. He asked if council has the will to embark on a level of regulation that the city historically has not done. And bring that question to mind; do you want to go the next step? Can you go the next step? Is there a good reason to go the next step? City Attorney Staran reiterated that it is a council policy call. Council may want to take inconsideration of resources,

funding, and the push back from property owners. It may put the city in a difficult position if it looks to expand their purview over private trees more than what the current ordinance allows. He explained that all ordinance violations in the city with the exception of common traffic violations are misdemeanors. We are limited by our City Charter the charges for a misdemeanor are up to \$500 fine and or 90 days in jail. As for the site plan, it refers to a requirement for more information through a tree survey. Currently the ordinance does not state when a tree survey is required and a suggestion is to require a tree survey in connection with any project that must have a site plan approval. Therefore, an amendment to the zoning ordinance to add a tree survey in conjunction with a site plan requirement. Also, clarify if the amendment will apply to commercial only or residential too. City Attorney Staran advised council if we are referring to or use the standards of the International Association of Agricultural Economists (IAAE); a copy of the documents and reference guides should be available for public access.

Mayor Pro Tem Baker reminds everyone to recognize the overall intent of the program and work through the details.

Councilmember Hennen suggests council further discuss trees on private property, nuisance trees, invasive species, and diseased trees. He recommends that there be probable cause and no random surprise inspections.

Councilmember Steadman agreed with the mayor's recommendation for a first reading of a tree ordinance.

Councilmember Gavin inquired about providing a timeline for a tree removal, to allow the Tree Board to do a review and make a recommendation for the removal, and ultimately a final decision made by the City Manager or designee with consultation by the Certified Arborist.

Mayor Terbrack declared the work session to end at 8:41 p.m.

MOTION NO. M-53-18: Matter of authorizing the Mayor to approve a Sponsorship Agreement between VIBE CREDIT UNION and the City of Berkley during the contract period of July 1, 2018 to June 30, 2019.

Councilmember Dean moved to approve Motion No. M-53-18.

Seconded by Mayor Pro Tem Baker.

Ayes: Steadman, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-54-18: Matter of considering an application to hold the "County Oakland Irish Fest" event from Friday, September 7, 2018 from 10 a.m. – 11 p.m. and Saturday, September 8, 2018 from 10 a.m. – 12 a.m. The event will be held on 12 Mile Road between Tyler Avenue and Kipling Avenue hosted by the County Oakland Irish Fest, 2886 12 Mile Road, Berkley.

Councilmember Steadman moved to approve Motion No. M-54-18.

Seconded by Councilmember Gavin.

Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Steadman, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-55-18: Matter of considering an application to hold the "Celtic Warrior Run" on Saturday, September 8, 2018 from 10 a.m. – 11:30 a.m. The route will begin on 12 Mile Road

for the Social Connections, LLC dba Ultimate Fun Runs and County Oakland Irish Fest, 23315 Woodward Avenue, Ferndale.

Councilmember Gavin moved to approve Motion No. M-55-18.

Seconded by Councilmember Dean.

Ayes: Blanchard, Dean, Gavin, Hennen, Steadman, Baker, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-56-18: Matter of considering an application to hold the “Made in the Mitten Festival” event on Saturday, August 11, 2018 from 10 a.m. – 6 p.m. The event will be held at the Berkley Community Center and the Ice Arena parking lot for the Made in the Mitten Store, LLC, 706 S. Washington Avenue, Royal Oak.

Mayor Pro Tem Baker moved to approve Motion No. M-56-18.

Seconded by Councilmember Councilmember Dean.

Ayes: Gavin, Steadman, Baker, and Terbrack

Nays: Dean, Hennen, and Blanchard

Motion Approved.

ORDINANCE NO. O-08-18: Matter of considering the first reading of an ordinance to amend Chapter 138 Zoning, Article V, Division 14, Eleven Mile District of the Berkley City Code Ordinances regarding outdoors automobile sales.

Councilmember Gavin moved to approve Ordinance No. O-08-18.

Seconded by Councilmember Blanchard.

Ayes: Gavin, Hennen, Steadman, Baker, Blanchard, Dean, and Terbrack

Nays: None

Motion Approved.

ORDINANCE NO. O-09-18: Matter of considering the first reading of an ordinance to amend Chapter 22, Animals, Article IV of the City of Berkley Code of Ordinances related to the keeping of chickens.

Councilmember Dean moved to approve Ordinance No. O-09-18.

Seconded by Councilmember Steadman.

Ayes: Hennen, Steadman, Baker, Blanchard, Dean, Gavin, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-57-18: Matter of casting Berkley’s official vote for the Board of Trustees for the MML Worker’s Compensation Fund, directing the City Clerk to send in the marked ballot. (Vote for three incumbent Trustees – for four year terms beginning October 1, 2018).

Councilmember Steadman moved to approve Motion No. M-57-18.

Seconded by Councilmember Blanchard.

Ayes: Steadman, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack

Nays: None

Motion Approved.

COMMUNICATIONS:

MAYOR PRO TEM BAKER: gave an update from the Downtown Development Authority (DDA) to include the Art and About event on Fridays, upcoming event on Thursday, July 19th is “Ladies Night Out” from 5 p.m. – 9 p.m., and a Public Input Session is scheduled for Wednesday, July 25th 11 a.m. - 2 p.m. and 5 p.m. - 8 p.m. held at the Social Hall of Berkley First Methodist on 12 Mile Road. More

information on the traffic study and proposals to transform Coolidge can be found on the DDA website at www.DowntownBerkley.com. Mayor Pro Tem Baker concluded with a quote from French Poet Victor Hugo, "The sewer is the conscience of the City." He wants to celebrate the progress being made and information that is shared about our sewer system. To ensure the city continues to have the most resilient infrastructure but with the right information, plan and investment we will make a difference.

COUNCILMEMBER STEADMAN: encourages everyone to visit the Berkley Public Library website at www.berkley.lib.mu.us or the city website at www.berklemich.org for more information and to register for their programs. She gave an update from the Beautification Advisory Committee; they have plans to beautify the bus stop at Webster and Woodward on Sunday, August 12th 10 a.m. and their next meeting is on Wednesday, August 8th at 6:30 at the Public Safety Building, 2nd floor conference room. Councilmember Steadman gave an update on the Citizens Engagement Advisory Committee to include information in regards to the two ballot issues and the committee appreciates any suggestions to provide better communication to the residents. Feel free to contact Staff Liaison and Communications Coordinator Jay Grossman, committee chairperson Natalie Price, and Council Liaison Eileen Steadman. Councilmember Steadman thoroughly enjoyed the Street Art Fest held this past Saturday on Coolidge Highway.

COUNCILMEMBER BLANCHARD: thanked all the vendors, the musicians, the chalk artists, and all the volunteers that made the Street Art Fest a successful event.

COUNCILMEMBER DEAN: congratulated Eric Moran from the Eagle Scout and Jessica Alger from the Friends of the Berkley Parks and Recreation on their recognition. She invites everyone to participate in the following Parks and Recreation events: Jaycee Jamboree on Thursday, July 19th from 6 p.m. – 9 p.m.; Storytime on Thursday, August 2nd 10 a.m. at Oxford Merchants Park; Movie Night on Saturday, August 11th at Oxford Merchants Park at 6:30 p.m.; and the Berkley Cruisefest on Friday, August 17th on 12 Mile Road in the Berkley downtown area.

COUNCILMEMBER HENNEN: gave an update from the Environmental Committee to include discussions about future community event such as hazardous waste recycling day and their next meeting is on Thursday, August 23rd at the Public Safety Building, 2nd floor conference room. He gave an update from the Tree Board the tree ordinance revision, tree program deadline is Friday, August 17th, and their next meeting is on Monday, August 13th at 7 p.m. at the Berkley Library. Councilmember Hennen invites everyone to his next "Talk with Dennis" on Thursday, August 9th from 6 p.m. - 8 p.m. at the Berkley Library.

COUNCILMEMBER GAVIN: gave a brief update from the Planning Commission and the Coolidge Traffic Committee. He congratulated everyone who helps make the Street Art Fest another fantastic event.

CITY MANAGER BAUMGARTEN: thanked RoseAnn Nicolai and everyone involved with the Street Art Fest; his family thoroughly enjoyed the event. He recognized Natalie Price, Elizabeth Petry, and members of the Community Engagement Advisory Committee for all their hard work so far. City Manager Baumgarten thanked everyone who attended the Senior Chat with Matt this afternoon.

CITY CLERK BOUCHER: provided everyone with all the precinct locations, the polling hours of 7 a.m. – 8 p.m., the Absent Voter Counting Board, due date of Saturday, August 4th for the Absent Voter Ballots to be mailed to voters by 2 p.m., and more information may be found on the city website at www.berklemich.org.

CITY ATTORNEY STARAN: had nothing to report this evening.

MAYOR TERBRACK: spoke about the success of the Street Art Fest on Coolidge Highway and he recognized all the volunteers. He congratulated the Berkley Dad's Club and the Berkley Mom's Club for all they do in the community.

COUNCIL MEETING ADJOURNMENT:

Motion by Councilmember Steadman to adjourn the regular meeting at 9:45 PM

Seconded by Councilmember Dean.

Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Steadman, and Terbrack

Nays: None

Motion Approved.

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