

**THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
WAS CALLED TO ORDER AT 7:00 PM ON TUESDAY, JANUARY 18, 2022 BY MAYOR TERBRACK**

PRESENT: Steve Baker Bridget Dean
 Ross Gavin Dennis Hennen
 Natalie Price Jessica Vilani
 Daniel Terbrack

APPROVAL OF AGENDA

Mayor Pro Tem Dean moved to approve the Agenda
Seconded by Councilmember Baker
Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker, and Terbrack
Nays: None
Motion Approved.

INVOCATION: Pastor Adam Groh

PUBLIC COMMENT

David Lupien-Parish, Berkley, voiced his concern regarding Council's Rules and Order of Procedure (R-39-21), specifically regarding the public not being able to address or attack a specific member of City Council or a City Employee. He said that is a violation of constitutional rights and should therefore be changed to allow the public their freedom of speech. He also stated two court cases he believes support his assertions. He asked that the City's Code of Ordinances is amended.

Consent Agenda

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

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 39th Regular City Council meeting on Monday, December 20, 2021 and the Special City Council Meeting on January 10, 2022.

WARRANT: Matter of approving Warrant No. 1370.

Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean, and Terbrack
Nays: None
Motion Approved.

Regular Agenda

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

There were no recognitions or presentations.

MOTION NO. M-01-22: Matter of approving a Downtown Development Authority (DDA) event "Frozen February Block Party" on Robina between Twelve Mile Road and the alley on Saturday, February 12,

2022 from 12 PM to 4 PM. Approval is conditional upon the submission of required items and documents prior to the event dates.

Councilmember Price moved to approve Motion No. M-01-22

Seconded by Councilmember Hennen

Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-02-22: Matter of temporarily postponing this agenda item until later in the meeting to allow for correction of technical difficulties and to subsequently authorize the purchase and install of new toddler play equipment, shades, and picnic tables at Oxford Park at a cost not to exceed \$139,813.04 from MidStates Recreation, 1279 Hazelton-Etna Road SW, Pataskala, OH 43062. Funds for this expenditure will come from account 615-950-974-000.

Mayor Pro Tem Dean moved to approve Motion No. M-02-22

Seconded by Councilmember Price

Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-03-22: Matter of authorizing the City Manager to sign the Application for Additional Service Credit Purchase for seven MAPE employees approving the purchases of two years of generic additional service credit through the MERS Retirement System. The employees will be responsible for paying their portion of the service purchase cost which totals \$34,987. This purchase is allowed by the MERS Plan Document and the MAPE Contract Agreement dated 7/1/2021 through 6/30/2024 and the MERS Plan Document for active members. The total City of Berkley portion of the cost is \$160,760.

Councilmember Vilani moved to approve Motion No. M-03-22

Seconded by Councilmember Baker

Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price and Terbrack

Nays: None

Motion Approved.

RESOLUTION NO. R-01-22: Matter of approving the Resolution for the Deficit Elimination Plan for the Sidewalk Fund as of 6-30-2021 and to authorize the Finance Director to sign the Certified Resolution and include it with the other required documents to submit to the Michigan Department of Treasury for review and approval.

Councilmember Price moved to approve Resolution No. R-01-22

Seconded by Councilmember Gavin

Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani, and Terbrack

Motion Approved.

PUBLIC COMMENT FOR MOTIONS NO. M-04-22 THROUGH M-23-22

Attorney David Schlackman, Carson Fischer Law Firm in Bloomfield Hills, stated he represents marihuana applicant BDE Warren and its application was underscored. He said there are four areas where BDE Warren was improperly scored. He mentioned a couple of those areas where he believes they did not receive points when they should have.

Attorney Ari Goldstein, representing marihuana applicant FPAW Michigan, LLC, brought to City Council's attention some of the recommendations Hearing Officer Need made. He mentioned various areas that they were scored and how it didn't seem to make sense to him.

Attorney Rob Nederhood, representing marihuana applicant Oak Flint, LLC, commented that his client's final score was 279 points and that they were exactly 22 points short of receiving a more beneficial placement for the marihuana business license. He argued the 22 points should have been given to his client because they provided an affidavit they were supposed to and that he believes it

was never even published by the City in its ordinance or the application that the affidavit was supposed to be provided in the first place.

Attorney Kevin Blair, representing marijuana applicant Lume, said his client is very excited to have its business in Berkley. He said Lume submitted its site plan. He said while he recognizes the pending litigation is why things have not moved forward, he requests to allow the applicants that have scored high enough to move forward with site plan review and let the applicants that are tied to move forward at their own risk. He said by not moving forward, the City could miss out on the excise tax for this year. He presented visuals to indicate how the alleyway for their potential business looked compared to another applicant. He said he believes the other applicant's potential business site does not qualify for the appropriate points in regards to having a full functioning alleyway.

Patricia Myers spoke on behalf of marijuana applicant Berkley Corners. She said it is important that this process is fair and transparent. She voiced her concern regarding a Freedom of Information Act request she submitted and received a voice recording that did not contain her public comment made during a hearing for marijuana applicant Operation Grow. She said there were two applicants – Bud McCool and Operation Grow – that were not prequalified. She said Operation Grow was allowed to move forward in the process and Bud McCool was not allowed to move forward as of September 2021. She went on to say this is an example of how the process was not consistent and transparent. She also mentioned she submitted various Freedom of Information Act requests to the Marijuana Regulatory Agency (MRA) for some documents and the response to her request was that these documents did not exist to the extent of her request.

An attorney representing marijuana applicant Operation Grow spoke about some of the comments that were previously made about his client. He stated Operation Grow's application was prequalified as well as their application for renewal was timely submitted. He referenced some of the comments that were made by Hearing Officer Need to indicate that Operation Grow was compliant with what the City was asking from them and said there is no evidence to suggest that Officer Need was incorrect about the comments for Operation Grow. He continued to say that Officer Need made comments based on evidence of record and there is no reason to disagree with his conclusions.

MOTION NO. M-04-22: Regarding file no. PMA20-0002 Bud McCool, Inc. (9/16/21 and 12/10/21) appeals, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Vilani moved to approve Motion No. M-04-22

Seconded by Mayor Pro Tem Dean

Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker and Terbrack

Motion Approved.

MOTION NO. M-05-22: Regarding file no. PMA20-0003 Operation Grow, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Gavin moved to approve Motion No. M-05-22

Seconded by Councilmember Baker

Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean and Terbrack

Motion Approved.

MOTION NO. M-06-22: Regarding file no. PMA20-0005 BDE Warren, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Mayor Pro Tem Dean moved to approve Motion No. M-06-22
Seconded by Councilmember Gavin
Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin and Terbrack
Motion Approved.

MOTION NO. M-07-22: Regarding file no. PMA20-0006 PGB Enterprises, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Baker moved to approve Motion No. M-07-22
Seconded by Councilmember Vilani
Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen and Terbrack
Motion Approved.

MOTION NO. M-08-22: Regarding file no. PMA20-0007 Yellow Tail Ventures (11 Mile), I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Price moved to approve Motion No. M-08-22
Seconded by Mayor Pro Tem Dean
Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price and Terbrack
Motion Approved.

MOTION NO. M-09-22: Regarding file no. PMA20-0009 Yellow Tail Ventures (Woodward), I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Hennen moved to approve Motion No. M-09-22
Seconded by Councilmember Price
Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani and Terbrack
Motion Approved.

MOTION NO. M-10-22: Regarding file no. PMA20-0010 Attitude Wellness, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Vilani moved to approve Motion No. M-10-22
Seconded by Councilmember Baker
Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker and Terbrack
Motion Approved.

MOTION NO. M-11-22: Regarding file no. PMA20-0011 Green Bronco III, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Gavin moved to approve Motion No. M-11-22
Seconded by Councilmember Vilani
Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean and Terbrack
Motion Approved.

MOTION NO. M-12-22: Regarding file no. PMA20-0013 FPAW Michigan, LLC dba Michigan Supply and Provisions, I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Mayor Pro Tem Dean moved to approve Motion No. M-12-22

Seconded by Councilmember Gavin

Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin and Terbrack

Motion Approved.

MOTION NO. M-13-22: Regarding file no. PMA20-0014 Berkley Herbal Center, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Baker moved to approve Motion No. M-13-22

Seconded by Mayor Pro Tem Dean

Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen and Terbrack

Motion Approved.

MOTION NO. M-14-22: Regarding file no. PMA20-0017 123 Ventures, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Price moved to approve Motion No. M-14-22

Seconded by Councilmember Baker

Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price and Terbrack

Motion Approved.

MOTION NO. M-15-22: Regarding file no. PMA20-0018 GS Bay City, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Hennen moved to approve Motion No. M-15-22

Seconded by Councilmember Price

Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani and Terbrack

Motion Approved.

MOTION NO. M-16-22: Regarding file no. PMA20-0019 Pure Roots, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Vilani moved to approve Motion No. M-16-22

Seconded by Mayor Pro Tem Dean

Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker and Terbrack

Motion Approved.

MOTION NO. M-17-22: Regarding file no. PMA20-0020 Pure Life Berkley, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Gavin moved to approve Motion No. M-17-22

Seconded by Councilmember Vilani
Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean and Terbrack
Motion Approved.

MOTION NO. M-18-22: Regarding file no. PMA20-0022 Pure Life Berkley II, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Mayor Pro Tem Dean moved to approve Motion No. M-18-22
Seconded by Councilmember Gavin
Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin and Terbrack
Motion Approved.

MOTION NO. M-19-22: Regarding file no. PMA20-0024 3895 Euclid, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Baker moved to approve Motion No. M-19-22
Seconded by Mayor Pro Tem Dean
Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen and Terbrack
Motion Approved.

MOTION NO. M-20-22: Regarding file no. PMA20-0025 Berkley Corners PRV, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Price moved to approve Motion No. M-20-22
Seconded by Councilmember Hennen
Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price and Terbrack
Motion Approved.

MOTION NO. M-21-22: Regarding file no. PMA20-0028 Warren Capital Holdings, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Hennen moved to approve Motion No. M-21-22
Seconded by Mayor Pro Tem Dean
Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani and Terbrack
Motion Approved.

MOTION NO. M-22-22: Regarding file no. PMA20-0029 Seven Point Dispensing of Michigan, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to modify the City Manager's scoring of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Vilani moved to approve Motion No. M-22-22
Seconded by Councilmember Price
Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker and Terbrack
Motion Approved.

MOTION NO. M-23-22: Regarding file no. PMA20-0031 Oak Flint, LLC, I move that City Council accepts and adopts the appeal hearing officer's recommendation to affirm the City Manager's scoring

of the application, based on and incorporating the findings, reasons, and conclusions set forth in the written Recommendation of Hearing Officer; and the City shall notify the appellant in writing of Council's decision.

Councilmember Gavin moved to approve Motion No. M-23-22

Seconded by Councilmember Vilani

Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean and Terbrack

Motion Approved.

COMMUNICATIONS

COUNCILMEMBER HENNEN: stated the Tree Board will meet on Monday, February 28th. He stated the Zoning Board of Appeals met last week and heard two cases that both ended up being tabled. He gave the latest vaccination data for the City from the State. He said that over the past 71 days since last providing data, children saw a 21 percent increase in second shot vaccination rates. He mentioned that all other categories are stagnant and with children there is only a 56 percent completion rate with vaccination. Councilmember Hennen said he requested booster data which he did not receive. He said he is not sure whether it is because they simply are not collecting the data at a City level or because it is not ready at this point in time. He emphasized the importance of COVID-19 testing and said the federal government is providing free at home COVID-19 test kits that may be requested starting today. He said to visit [covidtests.gov](https://www.covidtests.gov) to obtain a test. He said on a positive note, spring will be approaching and there are therapeutic pills for COVID-19 that have been approved as well.

COUNCILMEMBER PRICE: provided a few updates from her boards and commissions. She said the Beautification Advisory Committee (BAC) gave its Holiday Spirit Awards to 10 city blocks this year. She said the photos of the decorated city blocks may be viewed under the BAC webpage on the City's website. She thanked everyone in Berkley who decorated their homes this past holiday season. She stated that the Community Engagement Advisory Committee continues to share free or low-cost resources on the Berkley Community Resources Facebook group. She said the Library Board will meet 7 p.m. Wednesday, January 19th at the Berkley Public Library. She said items on the meeting's agenda include: Considering updates to the code of conduct, reviewing the Board's establishing ordinance, and considering upcoming plans for programming. Councilmember Price mentioned two upcoming events at the library. The first one is a Zoom presentation about how to improve health by reducing inflammation. She said the event will take place on Wednesday, January 26th at 6:30 pm. The second event is an online introduction to mindfulness meditation on Wednesday, February 2nd at 6:30 pm. She said those interested may register for these programs by either going to the library's website or calling the library.

COUNCILMEMBER BAKER: stated the Historical Committee met last Tuesday, January 11th. He said there were discussions about additional display items being put in the museum and about celebrating the 100th anniversary of Berkley becoming a village to take place in 2023. He said the historical museum's hours are Wednesdays from 10 a.m.-1 p.m. and Sundays from 2-4 p.m. He said anyone interested may also visit the museum's website at berkeleyhistory.com. Councilmember Baker said that the Downtown Development Authority (DDA) met on Wednesday, January 12th. He mentioned some of the projects that will be happening downtown such as the progress with Berkley Plaza on Coolidge Highway and new bench installation. He said Authority members reviewed the DDA events calendar. He discussed upcoming downtown events such as the Frozen February Block Party on Saturday, February 12th. He said March highlights will include Downtown Story Walk for reading month, Downtown Leprechaun Scavenger Hunt, and Leprechaun Nights Out on March 17th. He said additional information for these events will be coming soon and may be found at downtownberkeley.com. He quoted Rick Patino, "Make incremental progress. Change comes not by the yard, but by the inch." He emphasized to recognize small changes being made and that we do not need to always strive for perfection. He wished for everyone to stay safe and to hug someone they love.

MAYOR PRO TEM DEAN: said that after having to pause in 2021, the Annual Winter Fest will be back on Saturday, February 5th from noon-2 p.m. She added Winter Fest will be exclusively outdoors with the exception that the Community Center will be open for restrooms, grab-and-go hot chocolate, and doughnuts. She said outdoor activities will include ice carving demonstrations, unicorn rides, fowling, a petting zoo, and ice skating. She said Winter Fest is free for anyone to attend. Mayor Pro Tem Dean said AARP tax assistance is available for seniors at the Community Center and appointments are required. She said please call the Community Center at (248) 658-3470 to make an appointment. She said anyone may view all of the Parks and Recreation programs currently being offered by visiting recreation.berkleymich.org.

COUNCILMEMBER GAVIN: stated the next Planning Commission meeting will be on Tuesday, January 25th at 7 p.m. He stated the Environmental Advisory Committee meeting for Thursday, January 20th has been canceled and the next meeting will be Thursday, February 17th at 6:30 p.m. in the second-floor conference room in the Public Safety building.

COUNCILMEMBER VILANI: stated the Technology Advisory Committee has not met since the last City Council meeting so there are no updates. She said the Berkley Area Chamber of Commerce had an event for Martin Luther King Jr. titled, "A Day On, Not a Day Off." She said participants were from Berkley and Royal Oak and events included marching, donations, and an address from the governor. She added it was a very positive and well attended event.

CITY MANAGER BAUMGARTEN: stated the City had a big year last year, and a big part of that was spent bringing this process (marihuana Merit Scoring) to this point this evening. He said that City staff worked very hard and continues to work diligently through the entire process. He thanked Council for its roles that evening. He said that while the City Council meetings are no longer presented in the Zoom hybrid format, there are still ways to watch and participate. He stated meetings may be viewed via live stream and if anyone has comments to be addressed by Council, they can email the Clerk's Office or the councilmembers.

ATTORNEY STARAN: commended City Council for working its way through difficult and tedious material and making the difficult decisions that members did. He said city administration has been living with and working through marihuana business licensing issues almost daily for about two years. He said City Council was involved at the front end with the deliberation and adoption of the marihuana ordinance as well as the scoring criteria. He said now City Council had to make the hard decisions again. He further summarized some additional points. He said that as a result of City Council's actions tonight, they have final scores and he presumes the City Manager will post the scores on the City's website as soon as possible. He said in terms of ranking, there is a clear No. 1 and No. 2; however, there is a three-way tie for No. 3. He continued to say that Mayor Terbrack mentioned they were going to come back at a future meeting to weigh the options on how the three-way tie would be handled. He referenced a comment that was made earlier in the evening stating perhaps Council would want to give direction to the City Manager to send the top five applicants on to the Planning Commission so they could start the process. He asked if City Council wants to hold off on sending the top five applicants to the Planning Commission until they resolve how they are going to deal with the tie.

Mayor Terbrack said that would be a directive and not something City Council would have to formally act on. He asked Attorney Staran for clarification to make sure he was understanding that correctly.

Attorney Staran said that is correct but he reiterated a previous comment that time is running out and the city manager has been waiting for the scores to be finalized before anything would go before the Planning Commission. He said now that the scores are finalized, the question now is how many applicants is the City Manager going to be referring to the Planning Commission. He added the ordinance states he cannot refer more applicants than licenses that are available. He said he ultimately wanted to bring that up and said Council could give direction on that or hold off until the next meeting and make the decision then.

Mayor Terbrack provided his thoughts and asked for feedback from other members of Council.

Councilmember Vilani asked Attorney Staran if they let the applicants move forward, would that create any sort of risk or liability for the City.

Attorney Staran said there is always some sort of risk moving forward, but the greater risk is having two applicants who are spending time and money that ultimately find out they would not be able to obtain one of the licenses. He said he is bringing the question up and is not trying to steer Council one way or the other. He said Council may be more comfortable with determining what they are going to do.

Mayor Terbrack said that he is not for slowing this process down. He continued to say he would not have an issue if the applicants wanted to start the process with the Planning Commission while knowing the full reality is they may not end up obtaining a license to operate their marijuana business in the City.

Councilmember Vilani asked City Manager Baumgarten, from a capacity standpoint, would it create any undue burden for staff to allow the final five applicants to go through the planning process to get started?

City Manager Baumgarten said, "no."

Attorney Staran said if this comes back to Council in a couple of weeks for council members to decide what direction they are going to go; the five applicants would not have gotten too far in the Planning Commission process.

Mayor Terbrack said whatever they decide to do, he emphasizes having something legally airtight so they do not have a liability if they are able to.

Attorney Staran said they will work on that. He continued to say that time is money and that the applicants still have plenty of things to do before they would be in the position to open their business.

Mayor Terbrack said he understands and would be open to doing that as long as it doesn't put them in a precarious position.

Attorney Staran said he understood.

Mayor Terbrack asked the other Councilmembers if they wanted to allow the five applicants to move forward.

Councilmember Vilani said, "yes."

Councilmember Gavin said he did not have a problem with moving forward; however, he wanted to repeat that it is completely at the applicant's risk and that Council still has decisions to make moving forward.

Mayor Pro Tem Dean said she has no problem with letting the applicants move forward. She said in light of what has been stated already that it is extremely important for the applicants to know this is at their own risk and there is no guarantee for the three tied applicants.

Councilmember Baker said at this point some folks are at potential risk of spending some money. He said it is made very clear that the applicants moving forward are doing it at their own risk. He added that they do not have to move forward and have the choice to wait. He said considering these points, he would not be opposed to stopping them.

Councilmember Price said she is the most comfortable with directing the City Manager to allow applicants No.1 and No. 2 to move forward. She said she is not as comfortable letting the three applicants that are tied to move forward until it is resolved at the next meeting.

Councilmember Hennen said his concern was capacity of staff and also with the Planning Commission volunteers having to hold hearings for the "back three" as he referenced the three applicants that are tied

for the No.3 score. He said he did not have a problem letting the No.1 and No. 2 scoring applicants move forward, but he said that the other three applicants that are tied should only move forward with city staff and not move forward with the Planning Commission until Council has decided.

Mayor Terbrack said based on City Council's timeline and the Planning Commission's timeline, it is likely that they will have an item on the agenda along with a resolution at the time the official number referred to the Planning Commission is determined. He said he does not have an issue with the applicants that are currently in the top five group to begin preparations while knowing it is purely at their own risk.

Attorney Staran said he would work with the City Manager to give official communication regarding the applicants' option to move forward.

Mayor Terbrack said he does not want the applicants to move forward until there is something in writing from the City Manager and City Attorney.

MAYOR TERBRACK: said that today, January 18th, is a special day and that roughly some 43 years ago, his eldest sister was born. He said even though she has made the decision to move to Chicago and move out of Berkley, he still wanted to wish her a Happy Birthday.

ADJOURNMENT

Mayor Pro Tem Dean moved to adjourn the Regular Meeting at 8:50 p.m.

Seconded by Councilmember Hennen

Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen and Terbrack

Nays: None

Motion Approved.