

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

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

ABSENT: Ross Gavin

APPROVAL OF AGENDA

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

INVOCATION: Reverend Mandy Beal

PUBLIC COMMENT

Rachel Piacentini, Berkley, voiced concerns regarding what she believes is a violation with the City's Ethics Policy. She said she believes Councilmember Hennen is slandering and bullying people online. She requested the Oath and Ethics Policy is reviewed with him.

Jack Blanchard, Berkley, recognized Berkley American Legion Post 374 for supporting families during the holiday time. He said full meal baskets were given to 35 veteran families in the Detroit area as well as extra food donated to the Berkley Cares Food Pantry. He thanked the American Legion members, Berkley Area Schools PTSA, and Berkley Public Safety. He discussed other areas the American Legion is lending help. He said they are running a 50/50 raffle to benefit the American Legions in Kentucky to help support areas that have been damaged by the recent tornadoes.

Mike McGuinness, Downtown Development Authority Executive Director, invited the community to the Frozen February Block Party. He said it would take place this Saturday, February 12th from Noon to 4 p.m. He talked about all the different activities that would take place at 12 Mile and Robina. He said the Berkley High School Drama Department would be raising money for its spring musical this Saturday and in the weeks to come by partnering with downtown businesses. He said he hopes to see everyone this Saturday at 12 Mile and Robina.

Consent Agenda

Councilmember Vilani moved to approve the following Consent Agenda, seconded by Mayor Pro Tem Dean:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 39th Regular City Council meeting on Tuesday, January 18, 2022.

WARRANT: Matter of approving Warrant No. 1371.

PROCLAMATION NO. P-01-22: Matter of approving a proclamation declaring February 2022 as "Black History Month" in the City of Berkley.

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

Regular Agenda

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

Mayor Terbrack read Proclamation No. P-01-22 into the record.

OATHS OF OFFICE: Oaths of Office to appoint Public Safety Officers Andrew Boring, Evan Beauchamp, and K-9 Bear along with recently promoted Sgt. Steve Mueller.

City Clerk Victoria Mitchell administered the oath of office to Public Safety K-9, Bear.

City Clerk Victoria Mitchell administered the oath of office to newly appointed Public Safety Officer, Andrew Boring.

Officer Andrew Boring thanked his wife for her years of support as well as his dad.

City Clerk Victoria Mitchell administered the oath of office to newly appointed Public Safety Officer, Evan Beauchamp.

Officer Evan Beauchamp thanked his family for supporting him as well as one of the Sergeants for teaching him how to be a cop.

City Clerk Victoria Mitchell administered the oath of officer to newly appointed Public Safety Sergeant, Steve Mueller.

Sergeant Steve Mueller thanked his wife for all her support as well as the support of his coworkers and City Council. He said he wants to keep Berkley one of the safest cities in Michigan.

Public Safety Chief Matt Koehn spoke and mentioned that Public Safety Officers Beauchamp and Boring are Berkley High School graduates. He said he is happy to have them and they will do everything they can to keep the city safe.

Mayor Terbrack recognized everyone and thanked them for being there.

MOTION NO. M-24-22: Matter of approving a Friends of Berkley Parks and Recreation event "Bacon Walk" on Oxford Park, Bacon Avenue, and Jaycee Park on Saturday, April 9, 2022 from 8-11 a.m. Approval is conditional upon the submission of required items and documents prior to the event dates. Mayor Pro Tem Dean moved to approve Motion No. M-24-22

Seconded by Councilmember Vilani

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

ORDINANCE NO. O-01-22: Matter of considering the First Reading of an Ordinance of the Council of the City of Berkley, Michigan to rezone properties described as 2465 and 2475 Cambridge Road, Lots 123 and 124, except that portion now included in Coolidge Highway, of Hannan's West Royal Oak Subdivision; and 2466 and 2476 Columbia Road, Lots 125 and 126, except west 10.25 feet of Lot 125

and west 10.23 feet of Lot 126, of Hannan's West Royal Oak Subdivision from Coolidge District to Gateway District.

Councilmember Baker moved to approve Ordinance No. O-01-22

Seconded by Mayor Pro Tem Dean

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

Nays: None

Absent: Gavin

Motion Approved.

MOTION NO. M-25-22: Matter of awarding the Forestry Services Contract to Hart Urban Forestry located in Sterling Heights, Michigan for a three-(3)-year term.

Councilmember Hennen moved to approve Motion No. M-25-22

Seconded by Councilmember Vilani

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

Nays: None

Absent: Gavin

Motion Approved.

MOTION NO. M-26-22: Motion to approve the appointments to various boards and commissions.

Councilmember Baker moved to approve Motion No. M-26-22

Seconded by Councilmember Price

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

Nays: None.

Abstain: Vilani

Absent: Gavin

Motion Approved.

MOTION NO. M-27-22: Matter of adopting the Berkley Support Debris Management Plan.

Mayor Pro Tem Dean moved to approve Motion No. M-27-22

Seconded by Councilmember Baker

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

Nays: None

Absent: Gavin

Motion Approved.

RESOLUTION NO. R-02-22: Matter of approving a Resolution of the Thirty-ninth Council of the City of Berkley, Michigan amending its Rules and Order of Procedure.

Councilmember Hennen moved to approve Resolution No. R-02-22

Seconded by Councilmember Vilani

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

Nays: None

Absent: Gavin

Motion Approved.

Discussion: Matter of discussing a third-place tie in marihuana business license score ranking.

Mayor Terbrack outlined the discussion before Council this evening. He said it would be a discussion with Council members regarding the tie and there would be public comment.

City Attorney Dan Christ said as Council knows, during the last City Council meeting in January, it affirmed and accepted the recommendations of the hearing officer with respect to City Manager Baumgarten's scoring as modified and adjusted. He said in light of that meeting, there are three general options for Council to consider:

1. Awarding the top two scores only. The City is not required to award all three licenses. He mentioned the three applicants that are tied for third could or may have started the process submitting their site plans for consideration at their own risk.

2. Do what was set forth in the ordinance, a lottery, and he said it would have to be determined to identify and break that tie.

3. Direct city staff to develop a proposed ordinance amendment that would allow for changes to what is stated currently in the existing ordinance that is limiting it to three businesses.

Public Comment:

Scott Roberts, attorney representing Seven Point Dispensary of Michigan, advocated for the third option mentioned by Attorney Christ to increase licenses from three to five. He explained the benefits of having more dispensaries, including increases in property values and jobs. He said Seven Point would donate 2 percent of profits to charities including youth assistance programs. He broke down the other profits that would be donated to Berkley organizations and public safety initiatives. He stated other communities in the area that are similar geographically currently have six marihuana businesses.

Kevin Blair, attorney representing Lume, advocated for option three to expand the number of licenses. He said he believes that five businesses are better. He discussed the cons regarding the other two options. He said if you pick five, there is a clear delineation between the top five and the rest of the pack. He said by going to five, the City would make up the lost excise tax as a result of the delay from litigation. He said the City has great candidates that want to be here and anything short of five would produce more delays from the other businesses opening.

Tony Moreno, Berkley, said it only makes sense to go with five licenses. He said you have five businesses that are well qualified when looking at the MERIT scoring system. He listed out the reasons why five would be better.

David King, Berkley, said he is a proponent of option three. He said he would like to see some revenue come into the City and is tired of looking at empty buildings.

Josh Rubin, Berkley, said he is in full support of the City of Berkley issuing five licenses. He said the other plans will lead to more lawsuits thus postponing the businesses opening. He also said the city would have fewer empty buildings and would look better.

Jack Blanchard, Berkley, said he was in favor of three, but after looking at geographic locations, he supports five businesses.

Mayor Terbrack said Council will now discuss the three options. He said he would do a straw poll with Council to see if there is something to offer as a directive to city staff regarding the next steps to take. He said he would like to go around and ask Council their preferred option. He outlined the process of how the straw poll process would take place and asked Council if they understand that process.

Mayor Terbrack recognized this has been a very lengthy process with all the litigation.

Mayor Terbrack asked who preferred the option of three licenses with a lottery breaking the tie.

Councilmembers Hennen and Baker raised their hands.

Mayor Terbrack asked Council who preferred the option to only recommend the top two applicants instead of a larger number opening in the community.

No one present raised their hand.

Mayor Terbrack recognized that even though Councilmember Gavin was not present, this would have been his preferred option. He stated that he is not present so that is not being officially counted.

Mayor Terbrack asked Council who preferred the option to recommend all of the top scoring applications, including all three applicants that tied for third place, therefore allowing a total of five applications to move forward.

Councilmember Price, Mayor Pro Tem Dean, Councilmember Vilani, and Mayor Terbrack raised their hands.

Mayor Terbrack stated they did have an option that received a majority vote of Council. He instructed City Manager Baumgarten and City Attorney Christ to do what is necessary to amend the ordinance in order to allow five applications to move forward instead of no more than three as the ordinance currently states.

City Manager Baumgarten recognized and understood the directive from Council.

Attorney Christ recognized and understood the directive from Council.

Mayor Terbrack said the City would move forward with its normal procedure to amend the current city ordinance as necessary in regards to the number of marijuana licenses to be issued.

COMMUNICATIONS

COUNCILMEMBER HENNEN: stated the Zoning Board of Appeals (ZBA) would meet on Monday, February 14th. He said the ZBA will be looking at a dimensional variance for a home on Gardner. Also, they will be continuing their consideration for a request for zoning interpretation concerning a home-based business. He mentioned he has been reviewing the home-based business ordinance and said it looks like it needs to be updated. Councilmember Hennen stated the Tree Board will meet next on Monday, February 28th. He gave the latest vaccination booster data for Berkley provided by the State as of January 28th. He said that 85 percent of adults have received one shot but only 45 percent of adults have received a booster. As for children ages 5 to 17, he said 68 percent have received one shot but only 11 percent have received a booster. He urged people to receive their COVID-19 booster shots.

COUNCILMEMBER PRICE: said she is proud to live in a city that cares. She talked about how during the snowstorm last week she witnessed many residents pitching in to help each other in more ways than one. She said she is also proud to live in a community that recognizes the many achievements and contributions made by Black Americans to our economic, cultural, spiritual, and political development. She said that during Black History Month and always, Berkley recognizes the historical and systemic racism in our community and actively strives to be more welcoming and inclusive to all. Councilmember Price thanked Berkley Parks and Recreation for hosting a wonderful WinterFest this past Saturday. She said she and her kids, as well as other community members, had a wonderful time. She said she looks forward to returning to the outdoor ice rink all winter.

COUNCILMEMBER BAKER: said the Historical Committee was scheduled to meet tomorrow on February 8th but canceled that meeting. He said members are working on refining the Committee's mission and purpose statement. He mentioned that the Historical Museum is open on Wednesdays from 10 a.m. to 1 p.m. and Sundays from 2 to 4 p.m. He encouraged everyone to visit their website, berkeleyhistory.com. Councilmember Baker stated that the Downtown Development Authority (DDA) will be meeting next Wednesday, February 9th. He said the next DDA event, Frozen February Block Party, would be happening on Saturday, February 12th from noon to 4 p.m. He noted progress in the downtown including that Downtown Berkley received once again its National Accreditation from Main Street

America. He mentioned that Downtown Executive Director Mike McGuinness was accepted into the Michigan Downtown Association Professional Development Certificate Program and was only one out of five in the state to do so. He encouraged everyone to visit downtownberkley.com. He quoted Robert Louis Stevenson, "Don't judge each day by the harvest you reap but by the seeds that you plant." He said we have planted a lot of really good seeds. He said we are at the beginning of the budget season, which is time for seeds to be planted as they start to move forward with the FY 2022-2023 budget process. He said the City's budget is our document and it reflects the community's values and priorities. He said to please reach out by either emailing them at council@berklemich.net or through the City Manager's Office, if there are items of value to have a home in our budget cycle. He said for everyone to stay safe and to hug someone they love.

MAYOR PRO TEM DEAN: said she has a few updates from the Parks and Recreation Department. She mentioned there are still some senior tax appointments available. She said seniors may call the Parks and Recreation Department at (248) 658-3470 to make an appointment for AARP representatives to help with income taxes. She discussed senior fitness availabilities at the Community Center. She said this program is offered two days a week from 10 to 11 a.m. and Fridays from 9:30 – 10:30 a.m. She said there is a drop-in fee for \$2. She said the complete list of classes offered is posted at recreation.berklemich.org. Mayor Pro Tem Dean thanked Parks and Recreation Director Theresa McArleton and her staff for a great Winterfest this past Saturday. She said attendance was around 800. She thanked everyone who came and participated in the WinterFest activities that afternoon as well.

COUNCILMEMBER VILANI: offered her congratulations to all of the officers and K-9 bear on their oaths of office. She thanked Berkley Public Safety for all that they do for the community. She gave a couple of updates from the Berkley Area Chamber of Commerce including that there is going to be a Chamber Chat on Friday, February 18th at Pinspiration from 8:30 to 9:30 a.m. She said the next Chamber meeting is Tuesday, February 15th. She said on March 18th, Berkley's University Series will return and the first topic will be how to avoid ID theft and bank fraud. She said the event will be held at the Berkley Public Library and to register online by going to berkleychamber.com. She said this Thursday, February 10th in the evening is the Second Annual Galentine's Day Soiree from 5 to 8 p.m. at Sum Girls Boutique, The Artsy Umbrella, and Nada & Company. All of these businesses are at 12 Mile and Robina. Councilmember Vilani provided an update from the Berkley Cares Food Pantry. She said they are located in the basement of the Berkley First Methodist Church at 12 Mile and Kipling. She said they are accepting food donations on the first and third Fridays of each month from 6 to 7 p.m. and also during their normal hours on Saturdays from 10 a.m. to noon. She said they also accept monetary donations through PayPal. She said more information is available on their website, berkleycaresfoodpantry.com.

CITY MANAGER BAUMGARTEN: talked about how the City is putting the infrastructure millage into good use this year. He said there will be another large project at Kenmore and Cornwall, just north of 12 Mile Road. He said there will be a virtual town hall on Wednesday, February 9th at 6:30 p.m. for the residents who live in that area. He reminded everyone that on Monday, February 21st city offices will be closed in observance of Presidents' Day. He said anyone who has questions or is interested in potential lead lines across the city, may visit a new section of the City's website addressing this topic. He said it may be found by going to the Public Works Department on the City's website and then selecting "Lead Service Line Replacement Project." He said the site will provide information about new State rules, how to help identify pipe materials inside your home, and how to initiate getting a lead service line replaced through the City's third-party program. He said that so far this program has received positive feedback. He recognized that his wife and two sons will be having birthdays at the end of the week and wished them all a Happy Birthday.

ATTORNEY CHRIST: had nothing to report this evening.

MAYOR TERBRACK: talked about gratitude. He said this is a topic discussed at his office. He continued to say that when someone is experiencing frustration, anxiety, or despair, thinking about gratitude will psychologically help change your mood. He wanted to show gratitude and thank the Parks and Recreation Department for putting on a wonderful WinterFest for the first time in a couple of years. He recognized Director Theresa McArleton and her staff. He expressed gratitude to the Department of Public Works and Department of Public Safety for all that they did during the recent snowstorm. He expressed gratitude for the officers sworn in earlier during the meeting. Mayor Terbrack wished his daughter, Olive, a Happy Birthday and will be turning 2 on Saturday. He encouraged everyone to be safe even though the number of COVID-19 cases has been going down.

ADJOURNMENT

Mayor Pro Tem Dean moved to adjourn the Regular Meeting at 8:34 p.m.

Seconded by Councilmember Vilani

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

Nays: None

Absent: Gavin

Motion Approved.