

**THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, DECEMBER 5, 2022 BY MAYOR TERBRACK**

ROLL CALL:

Councilmember Steve Baker
Councilmember Ross Gavin
Councilmember Natalie Price
Mayor Daniel Terbrack

Mayor Pro Tem Bridget Dean
Councilmember Dennis Hennen
Councilmember Jessica Vilani

OTHER STAFF PRESENT:

City Manager Matthew Baumgarten
City Clerk Victoria Mitchell
City Attorney John Staran
DDA Executive Director Michael McGuinness
Community Development Director Kristen Kapelanski
Finance Director Mark Pollock

APPROVAL OF AMENDED AGENDA:

Councilmember Gavin moved to approve the Agenda, as amended, by removing Item 4 from the Consent Agenda and moving it to Item 4 on the Regular Agenda and subsequently updating the remaining item numbers.

Seconded by Councilmember Baker

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

Nays: None

Motion Approved.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT:

Jeff Tong, a Berkley resident, and member of the Berkley Historical Committee, addressed the Council and stated there are new refrigerator magnets for sale at the Museum. There are six different images and they are only \$1 a piece or you can buy all six for \$5. He discussed the upcoming 100-year anniversary of the City and discussed future plans for celebrating this occasion with a new historical marker to be placed in front of the village hall/fire station entrance. He said it will be placed on the Michigan Historic Register with the unveiling on April 15th. He stated that Angell School and Pattengill School will be 100 years old they will do the same celebration for them next year. He went on to discuss how Berkley has a great inventory of kit homes and how they are working on a kit home tour that will take place in May. He also discussed and showed an example of a home plaque that residents will be able to purchase to show when their homes were built. He discussed the celebrations, banners, history books, and fireworks potential for next year and even burying a time capsule.

Jack Blanchard, a Berkley resident, stated he has been helping with the American Legion and he wanted to take some time to introduce Legion members to speak about things they are doing.

Bill Eisenhower, a Southfield resident, introduced himself and stated he is the commander of the Berkley American Legion, saying that this Friday is the second PSO recognition dinner honoring PSO Michael Bunting. Dinner is being catered by Berkley BBQ. He said he thinks it is important to honor Berkley's Public

Safety Department and all that they do. He said he is privileged to be the commander. Coming up on December 21-22 they will be putting together Christmas baskets for people in need. Families will be referred and it's a complete Christmas dinner. He said they will break into teams and deliver the large containers of food. He said it is a warming opportunity for them to help out families.

Dale Hagland, a Berkley resident, stated he is the Senior Vice Commander of Sons of American Legion that raises money for people – major sponsor for Veterans Returning Home, Berkley Cares Food Pantry, Royal Oak Leprechauns, Judson Center, homeless veterans fund, Folds of Honor, Grace Centers of Hope, Fisher House, Capuchin Food Kitchen, Leader Dogs, Divine Life Ministry, Kentucky American Legion, Berkley Public Safety Lids for Kids and Golf Outing, Rogers Elementary Dads Club, Steelers, Care packages for military, Crusaders for Children, Be the Match Bone Marrow, presents for kids, Sea Cadette, and more He talked about the auxiliary group that is at their post and the Canadian and Southfield post are also at their post.

Sean VanWarmer, a Berkley resident, talked about Berkley BBQ. He said he is lucky to be a part of the group mostly of Berkley residents. He discussed about the Loren Courts memorial fundraiser on October 8th (slain Detroit officer). He said the guys slept in the parking lot that cold night and literally cooked a ton of food feeding 650 guests where they raised \$35,000 for the officer's wife.

Dr. Nat Pernick, a Huntington Woods resident, spoke about his General Election Voter Challenge – Berkley finished in third place with 70.65 percent of voter turnout. He donated two checks made out to The Friends of the Library and Friends of Parks and Recreation for \$125 each. He encourages everyone to vote in all of the communities and said the group generated ways to increase voter participation. He said he is happy to help in any way possible and wants greater voter turnout with the goal for 2024 to reach 90 percent. He would like each community to set up a voter participation committee.

CONSENT AGENDA:

Mayor Pro-Tem Dean moved to approve the following amended Consent Agenda
Seconded by Councilmember Vilani:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 39th Regular City Council meeting on Monday, November 21, 2022.

ORDINANCE NO. O-06-22: Matter of considering the Second Reading and Adoption of an Ordinance to amend Section 94-5, Exempt Signs (signs permitting in nonresidential districts), in Chapter 94 Signs of the City of Berkley Code of Ordinances and Sections 138-32, 138-143, 138-222, 138-526, 138-527, 138-679 and 138-680 of Chapter 138 Zoning to implement the Downtown Design Guidelines.

ORDINANCE NO. O-07-22: Matter of considering the Second Reading and Adoption of an Ordinance to amend Article VII, Residential Grading & Drainage Standards, to Chapter 26, Buildings and Building Regulations of the City of Berkley Code of Ordinances to modify standards for residential grading and drainage and to prescribe a penalty for violations.

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.

Mayor Terbrack stated there were none.

PRESENTATION: Matter of receiving a presentation from the Tree Board.

Kathy Karlis, Tree Board Chair, presented the Urban Tree Canopy Study's main points:

- An Urban Tree Canopy (UTC) assesses how much of a defined geographic area is covered by trees' crowns.
- The objective of a UTC assessment is to help decision makers understand their urban forest resources to establish canopy goals and to strategically focus tree planting efforts and resources.
- The UTC Study utilizing satellite data assesses the entire urban forest within a geographic area and includes all private and public trees.
- Considering the cost and benefits, the Tree Board recommended that the City contract for this type of study. The cost was estimated to be about \$15,000-\$20,000.
- The City approved adding \$10,000 to the 2022-23 Budget, with the assumption that the City receives matching funds from the State of Michigan Community Forest Grant.
- Then this summer, the Tree Board became aware of no cost tools (The Tree Equity and i-Tree Landscape) publicly available to assess Berkley's tree canopy. Therefore, this study was completed by Tree Board volunteers and without cost to the City.
- The Tree Equity provides the basis for assessing the canopy cover.
- i-Tree Landscape provides additional detail to support tree benefits.
- Greater Detroit including the City of Berkley is a "Featured Place" in The Tree Equity Score.
- The Greater Detroit Tree Canopy data was provided to The Tree Equity by the University of Vermont Spatial Analysis Lab utilizing 2016 data. This data is provided with 1-foot resolution, allowing individual trees to be mapped.
- The UVM Spatial Analysis Lab is currently working with American Forests to update their study utilizing 2022 data.
- Census Blocks are used to define the neighborhoods of Berkley.
- These Census blocks can be aligned with the City's Section designation except for Section 3, where St. Johns Woods is combines with Roseland Park Cemetery in Census Block "0001."
- Ms. Karlis was able to see how Berkley is doing compared to others and said that Ferndale is at ~~37 percent~~, etc. while Berkley is at 33 percent. The minutes should reflect that Ferndale is at 30 percent.
- Ms. Karlis discussed the many benefits of trees in the city from reduced carbon, reduced stormwater runoff, improve air quality and human health, reduce energy cost, improve property value and beautify community, and protecting biodiversity.

Also, Ms. Karlis discussed the recommendations from the Urban Tree Canopy Study:

- A minimum 40% Tree Canopy Target be established for the City of Berkley and all its neighborhoods.
- The Urban Tree Canopy percentage can be used as a guide to focus tree planting efforts and resources.
- Efforts should be made to communicate to our community the benefits of trees and achieving greater urban tree canopy.

Ms. Karlis stated more information may be found on the Tree Board City page, and free trees for street easements on the DPW forest subpage on the city's website. She asked that the presentation is added to one of those sites. They also have a Berkley Tree Board website where residents can find more information.

PRESENTATION: Matter of receiving candidate presentations for the City Council vacancy.

City Manager Baumgarten said there is a vacancy due to Councilmember Price recent election to the State House. He summarized where we are in the process including the ad hoc subcommittee. He stated categories the applications were measured by. He said in the sub-committee meeting, resumes were looked at without deliberations. He said members' forms were passed to him and he compiled the scores. He went over the names and said Mr. Robinson pulled himself out of contention. He said there will be follow-up by Council before December 19th.

Mayor Terbrack reminded everyone this is not an interview but an opportunity to allow for the following candidates to provide presentations and introductions to council in person and via zoom:

- Stacey Stevens – in person
- Erick McDonald – in person
- Michael Dooley – in person
- Maria Ward – in person
- Clarence Black – via zoom

Mayor Terbrack thanked the candidates for their presentations and said Council will have a difficult decision ahead. He said Council members will probably reach out to have conversations with the potential candidates to get a sense of their perspective. The goal is to have an appointment on the Dec. 19th City Council meeting agenda.

ORDINANCE NO. O-08-22: Matter of considering the Second Reading and Adoption of an Ordinance to amend Section 30-187, General Provisions and Section 30-188, Registration of Rental Properties in Chapter 30, Businesses of the City of Berkley Code of Ordinances to require registration and inspection of short-term rentals of an entire structure.

Councilmember Vilani moved to approve Ordinance No. O-08-22

Seconded by Councilmember Hennen

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

Nays: None

Motion Approved.

MOTION NO. M-107-22: Matter of approving the partnership with DG Energy Company LLC, 42690 Woodward Ave Suite 360, Bloomfield Hills, MI 48304 to provide and install two (2) Level 2 EV chargers at the Public Library at a cost not to exceed \$49,169.00. In addition, allocate \$5,000 for contingencies. Funds for this expenditure will come from account 101-265-974-000.

Councilmember Baker moved to approve Motion No. M-107-22

Seconded by Councilmember Gavin

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

Nays: None

Motion Approved.

PUBLIC HEARING: Matter of holding a Public Hearing regarding the Community Development Block Grant Program Year 2023 application in the approximate amount of \$35,012.

Mayor Terbrack declared the Public Hearing Open: 8:15 p.m.

No one present wishing to speak.

Mayor Terbrack declared the Public Hearing Closed: 8:16 p.m.

RESOLUTION NO. R-26-22: Matter of adopting the Resolution for the Community Development Block Grant Program Year 2023 application in the approximate amount of \$35,012 and requesting the Mayor and City Manager to sign the application and submit it to the Oakland County CDBG Division.

Councilmember Price moved to approve Resolution No. R-26-22

Seconded by Mayor Pro-Tem Dean

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

MOTION NO. M-108-22: Matter of considering an update to the City of Berkley's Fund Balance Policy.
Councilmember Hennen moved to approve Motion No. M-108-22
Seconded by Councilmember Gavin
Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani, and Terbrack
Nays: None
Motion Approved.

RESOLUTION NO. R-27-22: Matter of considering a resolution for temporary outdoor dining/seating and outdoor sales and service areas and to allow temporary enclosures in the outdoor areas.
Mayor Pro-Tem Dean moved to approve Resolution No. R-27-22
Seconded by Councilmember Baker

PUBLIC COMMENT FOR RESOLUTION NO. R-27-22:

Katie Kutscher, former owner of Berkley Common, current owner of 3087 12 Mile, thinks it is important for the vibrancy of the city and helps the difficult task of running a restaurant in this environment. She said it has helped our business and other businesses keep going and there is full support. She said the current owner is here too.

Ron Martella, owns the building across from Griffith street closure. He would like this open to all of the business in the area. He said it was very nice to have that venue. He wants all of the businesses to have this opportunity. He also wants to know how long this will extend. Griffith to the south is closed now. Could we close Griffith to the north. We need to come up with an equitable solution if all the streets start closing.

Considerable discussion followed from Council and administration.

Katie Kutscher, former owner of Berkley Common, said she tried to communicate with the city to see what would be happening as she said it is very expensive to have a cold-weather seating situation. She said they had to have this answer tonight to move forward with winter plans.

The former owner of Berkley common said they were asked to be on the agenda since August. They had to sell the igloos, liquidate and reinvest and theirs are gone. He explained the investment and that it's taken so long and now they have lost the benefit of having structures. He commented on a \$300 application fee and said it takes a lot to operate a business outside. He said they are trying to add vibrancy to the city.

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

MOTION NO. M-109-22: Matter of authorizing the Mayor and City Manager to Enter into an Updated Interlocal Agreement for Oakland County Designated Assessor.
Councilmember Gavin moved to approve Motion No. M-109-22
Seconded by Councilmember Baker
Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean, and Terbrack
Nays: None
Motion Approved.

COMMUNICATIONS:

COUNCILMEMBER HENNEN:

- Thanked the Tree Board for the presentation and stated the data that they used is the same that an expensive consultant would have used.
- Public tree orders have all been planted and the flyer will be circulated on tree care – 24 trees from previous plantings that have failed but the DPW will be coming back around to replace them.
- Tribute Tree program has been revamped and citizens can make contributions of any amount and will receive a certificate. Please contact the City Manager's Office for more details.
- Next Tree Board Meeting is Monday, January 23rd at 7 p.m.
- Zoning Board of Appeals Meeting is Monday, December 12th at 7 p.m. in the Council Chambers. There is only one case on the agenda regarding adding a porch where it makes the existing non-conformity on their property worse than what it already is.

COUNCILMEMBER PRICE:

- This meeting has been bittersweet as this will serve as her last meeting. She said she will miss serving Berkley in this role, working so closely with Council, staff, and volunteers, and will miss advocating on behalf of all of the residents.
- She is grateful for the mentors that encouraged her to step up and serve and residents that stayed in touch. She is grateful to all of the staff and volunteers who go above and beyond, and will miss being a part of the team who is always working toward a more welcoming and caring community.
- She looks forward to continuing her advocacy on the state level in her new role as State Representative. She said lets show the rest of the state on what being a caring community means and how all Michigan residents can thrive together.

COUNCILMEMBER BAKER:

- Happy December and he congratulated Councilmember Price and wished her well in Lansing.
- He thanked Vice Chair Jeff Tong of the Historical Committee for the update he provided covering the upcoming 100th anniversary. He also discussed the new displays that are located in the Museum including new pictures, Christmas ads, and vintage toys, and thanked everyone that came into the museum before, during, or after the Holiday Lights Parade. He said this is a perfect time to stock up on presents including two Christmas mugs and magnets. Visitors are always welcome and the Museum is open Wednesdays from 10 a.m.-1 p.m. and Sundays from 2-4 p.m. – for more information check out berkeleyhistory.com
- DDA will have its next meeting Wednesday, December 14th.
- He thanked everyone that came out to the Rockin Robina event before the parade and thanked all of the volunteers, city employees, and Santa for making the lights parade a success.
- Merry month continues to close out this year with Merry and Bright Shopping on Thursdays – December 8th, 15th, and 22nd from 5-9 p.m. throughout the downtown.
- He encouraged everyone to visit Santa Claus at the Library on Sunday, December 11th from 10 a.m.-noon. More information is available by visiting downtownberkeley.com/merrimonth.
- He thanked all of the applicants who applied to the vacancy to fill the Council seat and encouraged everyone to volunteer to continue to make Berkley better.
- He said to please stay safe and hug someone you love because they need it more than you think they do.

MAYOR PRO TEM DEAN:

- She said HAVEN provides no cost medical examinations to those who have been a victim of intimate partner violence. They also have equipment that shows evidence of any abuse. She said having a no-cost clinic is important because you may not want to receive an EOB at your home.
- She attended the MML Convention in Muskegon in October and was invited to moderate a session on Cyber Security Preparedness for Locals. The focus was on the Village of Clarkston. She said it drove home that no municipality is so small that cyber criminals won't target you and she is thankful and we are fortunate that the City has Stan Lisica as our chief innovation officer for all that he does for security for the City.

- This past Friday, she attended the Oakland County Youth Assistance annual meeting and sponsor breakfast along with Councilmember Vilani. She is appreciative for all the work that Youth Assistance does and gave a special shout out to Berkley residents Kelly Smith and Jessie Wallace for all they do for families in Berkley.
- She said they had another successful holiday lights parade. She thanked the Parade Committee, Berkley Junior Women's Club, DPW, Public Safety, Stan Lisica, and Torri Mathes for all that they do to make this event successful.
- Senior Holiday Jingle and Mingle is on Wednesday, December 7th at noon – call Parks and Recreation to register at 248-658-3470.
- Vacation camp is running the week of January 3rd. Those interested may register online or call 248-658-3470.
- She thanked everyone who came to the PJs and Polar Express this past Friday.
- She offered special thank you to the Friends of the Parks and Recreation and everyone that offers support. She looks forward to seeing everyone in 2023.

COUNCILMEMBER GAVIN:

- No meetings have occurred for Planning Commission or Environmental Advisory Committee (EAC), since the last Council meeting. No EAC meeting in December and the next Planning Commission meeting will be December 20th at 7 p.m.
- He congratulated Natalie and wished her well in Lansing.
- He thanked everyone that made the Holiday Lights parade possible - a great way to start the season.

COUNCILMEMBER VILANI:

- Technology Advisory Committee – no update as they have not met since the last Council meeting and same for the Berkley Area Chamber.
- Berkley Cares Food Pantry is accepting donations and you can sign up to donate an actual ham for the holidays. At the start of the meeting, the group only had 23 of the 60 hams they are looking to donate.
- She thanked the DDA elf Mr. McGuinness for turning the City Chambers festive.
- She said she looks forward to having conversations with all of the applicants for the vacancy and thanked everyone who applied. She said filling Natalie's seat will be hard.
- She thanked everyone who made the parade a delight.

CITY MANAGER BAUMGARTEN:

- Berkley Buzz is at the print shop now and is chalked full of information to get through the winter season. He thanked all of the contributors for that and especially to Community Engagement Officer Torri Mathes who shuts herself in her office for a week and creates a fantastic community asset.
- City employment opportunities are out there –check out the employment section of the city's website.
- He thanked everyone that was involved in getting Santa down the street and to the Parade Committee and volunteers who did a great job lining everyone up for a fantastic event.

CITY ATTORNEY STARAN:

- Council passed an Ordinance this evening – a rental ordinance that clarified that short-term rentals were covered by the ordinance – that doesn't regulate them specifically other than they are required to register. The State Legislature has annually taken up legislation to regulate short term rentals including HB4722 this year which looked like it had momentum but the Senate has declined to take up the bill. Stay tuned for 2023 version.
- He offered well-wishes to Natalie in her next role in Lansing.

MAYOR TERBRACK:

- It is so important to have prior local elected officials serving in Lansing who know what it's like to serve in local government and how decisions and mandates from the state impact local governments.
- He offered congrats to Natalie on her new role and said we will miss your advocacy here but know you will be able to help us while up in Lansing.
- He thanked everyone involved in the Holiday Lights Parade. He almost forgot to light the tree and apologized to the Junior Women's Club. Thanked everyone involved for that day and the events and the staff who put in long days and the rain didn't matter from the DPW, to Public Safety, and the staff. These are the things the kids will always remember.
- He wanted to end on where they began this evening by talking about the American Legion recognition dinner for PSO Mike Bunting. He doesn't know if it is a recognition dinner or a roast, but he knows Mike is ready and having a dinner for Mike is well deserved and a night of laughter is sure to happen on December 9th at the Legion.

ADJOURNMENT:

Councilmember Price moved to adjourn the Regular Meeting at 9:30 p.m.

Seconded by Councilmember Vilani

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

Nays: None

Motion Approved.

Daniel J. Terbrack, Mayor

ATTEST:

Victoria Mitchell, City Clerk