

**THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, AUGUST 14, 2023 BY MAYOR DEAN**

PRESENT: Councilmember Mike Dooley Councilmember Gregory Patterson
 Councilmember Ross Gavin Councilmember Jessica Vilani
 Councilmember Dennis Hennen Mayor Bridget Dean
ABSENT: Councilmember Steve Baker

OTHER STAFF PRESENT:

City Manager Matt Baumgarten
City Attorney John Staran
City Clerk Victoria Mitchell
Community Development Director Kristen Kapelanski
Chief Innovation Officer Stan Lisica
Facilities Manager Alex Brown
Emergency Management Liaison Jack Blanchard

APPROVAL OF AGENDA

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

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Jeffery Tong, Berkley Historical Committee, said there is so much going on in the museum, including:

1. To commemorate the 100th anniversary of Berkley as a village, the Berkley Historical Museum is now selling house plaques with the year the house was constructed. Strong and long-lasting, they're only \$40 each and sold at the Berkley Historical Museum. Mayor Dean added if you don't know the year your house was built, the Historical Committee can help you determine that.
2. We are still looking for suggestions of what to put into the time capsule. The time capsule will be buried and opened in 100 years. Looking for suggestions from residents, city agencies and all of you. Public Safety donated the arm bands they are wearing this year in honor of the anniversary. He borrowed some menus from local restaurants to put inside. The idea is to show people 100 years from now what life in Berkley was like in this period.
3. Sept. 29th this year marks, sadly, the 30th year since Berkley Theatre sold. They want to commemorate this event. With the Palmer family and Redford Theatre, there will be a special program on September 29th at the Redford Theatre. The family that owned the theater will discuss being the last owners and there will be displays in the lobby. A movie will be shown, selected by the Palmers. They picked, "Butch Cassidy and the Sundance Kid", which ran for 104 straight nights at the Berkley Theatre. Let's celebrate the Berkley Theatre. Buy tickets online at redfordtheatre.com/events or at the box office for \$8.

Dale Carlson, Berkley Historical Committee Secretary, said there are several events upcoming:

- Berkley Kit Home Tour Saturday, September 30th from 11-5 p.m. Sponsored by BHC and Berkley Area Chamber of Commerce. It will include walkthroughs of 6-10 kit homes within the city limits, constructed between the years of 1915 and 1930. Tickets are \$30 and available for purchase at the Museum. If interested, residents who would like to contribute are encouraged to reach out to Dale Carlson or Tim Murad.
- The Museum will be hosting an unveiling of a Michigan State historical marker at the old Berkley Village & Fire Hall on the afternoon of October 14th. The official historical marker is expected to arrive at city hall this month or next. The event date is tentative, but hope that delivery of the plaque is taken on time. Track developments on the Museum website and Facebook page.
- There will be an upcoming unveiling of a historical marker at Pattengill School coming up later this year, financed solely by the Historical Committee. Constructed in 1921, Pattengill will turn 100 in 2025. He acknowledge the work of Don Callihan on both the Pattengill marker and the recently unveiled Angell School historical marker.

Laura Buus, 1820 Beverly, said she sent an email to Council regarding chipper service and asked who read it. She asked if there were any flaws in her calculations. She said this is something that needs to be on a formal agenda to discuss. She said the chipper service costs \$10 per household every year. She said she called companies and the only one who returned her call said they wouldn't come out for less than \$350. She said this is an inherently governmental function like snow

plowing streets or collecting garbage. She said some people will stack yard waste in their yard and it will attract vermin. She said how can we get it back. She asked if it was vindictive. She said she wants to get on the agenda and wants to get the service back.

Chuck Tyrrell, Berkley, said last meeting he talked about the waste fee and asked how a tax could be added to the water bill without a Headlee vote. He said he hasn't heard back. He said since then he learned it was also applied to houses of worship, the VFW, and the American Legion. He said the DPW is saying the charge is \$41.05 per month, but the resolution says the charge is \$41.05 per week. He said that's disinformation. He discussed the cost of yard collection and said it will attract rats. He said it is wrong from inception and wrong in its implementation. He said it is an illegal tax, and most of these places already have agreements with private companies. He implores them to look back at R-12-23 and anyone who has been taxed, reimburse. He said it is not just hitting commercial, industrial and business sites but also hitting churches and social organizations.

Mike Wiacek, Berkley, clarified that the chipper service is in the current operating budget but the service has been cut. Said he wanted to clarify for anyone not in the room or for anyone in the room who didn't know all that it is currently in the operating budget. Said Council is just choosing not to provide the service.

Greg Duross, Berkley, said he didn't see any financial reports in the council meeting packet. He asked if Council receives periodic financial reports and why they are not included in materials with the agenda. He said he looked back for two years. He asked about a variance report. He said that report compares actual spending to the original budget document. He said it is a summary report. He passed out a copy. He said the question is: is the software of our computer system able to produce a variance report and if yes, how often is that given to Council. And if it is not given to Council then why not and what is Council using for oversight.

Clerk Mitchell read the following Emails into the record:

Lois Henry, Berkley, would like to use the crossing light near the library. She states there has been black tape on the button since it was installed. She described the medical reasons using the button is necessary along with her love for Berkley and need for accessible access for those in need of help to cross the street safely in order to utilize city services.

Miles Handy, CEO of Puppygram, stated he reached out to city officials back in September about Puppygram coming to Berkley. He said after looking at two locations, he chose the Woodward spot to breathe life back into the building. He stated he met all zoning requirements. He hired an engineer in December and began demo and remodeling in January. He said they redid the interior with no concerns from the City. He said after the full renovation and passing the final inspection, he was notified that 3 Berkley officials were meeting to shut him down. He said after that point, they opened in February and then were shut down due to not having a business license after he was told it would come in the mail. He stated he was closed down to obtain a rental license and lost his trained staff. He said he reopened on March 2 to then learn about the ordinance that would put regulations in place above what the state requires and ultimately shut him down. He wants to know why the City didn't tell him last year he wasn't welcome. He wants to know why we are letting outside special interest groups help draft the city's ordinance and said people should have their rights to choose where they get their puppies.

Kate McAllister, Berkley resident and Puppygram employee, stated she loves animals and wants to be a veterinarian one day. She loves being at Puppygram learning about all of the breeds. She said the store is clean, well-organized and welcoming. She said the staff takes great care of the dogs and always puts their health first. She said people have been judgmental based on what they hear before having a full understanding of the store.

Rumiana Georgiev, DVM, Southfield, said they have been servicing Puppygram since March 2023. The entire staff is impressed with the Puppygram owner and his staff regarding their affection and concern for the puppies. The email states Rumiana was skeptical at first, but puppies seen at 9/Tel Animal Hospital have been well-selected with no congenital defects. Puppies presented clean, in good health and good spirits. Rumiana is proud to serve this shop.

Linda Carroll, mother of Puppygram volunteer, stated her daughter has learned so much about taking care of puppies from her opportunity at Puppygram. She stated her interaction with the puppies and also the customers has taught her young daughter so much about life. She said she would never let her daughter work somewhere that mistreats animals. She asks you don't take away this opportunity from her daughter. She said we should be honored to have Puppygram in our community.

Ally Bertling, Berkley resident and Puppygram employee, states that they take very well care of their puppies in a clean environment and treat them as their own. She states all puppies are up-to-date on vaccines and vet-checked twice. She said she provides transportation to the vets herself. She said she has a passion for animals and would never work anywhere where animals are mistreated.

Don Drier, Berkley resident, stated he is against the proposed legislation aimed at Puppygram. He would like to know if Council ran the proposed ordinance through a legal professional. He states his biggest issue with the ordinance is that it opens the City up to being involved in a preventable lawsuit. He would like a response of what the liability will be to the City and taxpayers.

CONSENT AGENDA:

Councilmember Hennen moved to approve the following Consent Agenda including two changes to the July 17, 2023 minutes:

Seconded by Councilmember Dooley:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 39th Regular City Council meeting on Monday, July 17, 2023 and Special City Council meetings on Monday, June 19, 2023 and Tuesday, July 27, 2023. Changes included properly recording Councilmember Baker's Aye votes to Nay votes on O-09-23 and tabling M-56-23 instead of approving it.

WARRANT: Matter of approving Warrant No. 1389.

RESOLUTION NO. R-18-23: Matter of approving participation in the "Tie Michigan Teal" campaign to promote awareness of ovarian cancer and its symptoms.

PROCLAMATION NO. P-23-23: Matter of proclaiming September 2023 as National Suicide Prevention Month.

PROCLAMATION NO. P-24-23: Matter of proclaiming September 2023 as National Recovery Month.

PROCLAMATION NO. P-25-23: Matter of proclaiming September 2023 as Childhood Cancer Awareness Month.

PROCLAMATION NO. P-26-23: Matter of proclaiming September 2023 as National Preparedness Month.

Ayes: Gavin, Hennen, Patterson, Vilani, Dooley and Dean

Nays: None.

Absent: Baker

Motion Approved.

Regular Agenda

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

Councilmember Vilani read R-18-23 in its entirety.

Councilmember Hennen read P-23-23 in its entirety.

Councilmember Patterson P-24-23 in its entirety.

Mayor Pro Tem Gavin read P-25-23 in its entirety.

MOTION NO. M-53-23: Matter of accepting and receiving a presentation from Fishbeck on the recommendations of the City of Berkley Parking Study.

Councilmember Patterson moved to approve Motion No. M-53-23

Seconded by Councilmember Vilani

Ayes: Hennen, Patterson, Vilani, Dooley, Gavin and Dean

Nays: None

Absent: Baker

Motion No. M-53-23 Approved.

John Forrester from Fishbeck presented; he said they have a few slides and forwarded a great deal of information to Community Development Director Kristen Kapelanski.

Mr. Forrester's presentation included details regarding:

- Goals of the study at the beginning of the process:
 - A parking system that supports livability in the neighborhoods and development in downtown and along the commercial corridors;
 - A realistic plan for effective use and management of Downtown parking; and
 - Provide recommendations for updating the zoning ordinance regarding parking requirements.
- Multi-day site visit including a public open house at Berkley High School, 50% workshop with steering committee and a 95% review with the Steering Committee as well as recommendations.
- Context: Berkley is a driving city; much of the public parking supply is privately-owned. Corridor health is vital for business attraction and retention. Corridors create difficulty in creating shared parking assets.
- Issues Identified:
 - Residents: Overnight parking prohibition; encroachment of parkers from corridors into residential areas; consistency of enforcement; drivers finding available parking behind buildings; improve pedestrian movement across corridors

- Property Owners: Easier site plan approval process; Shared spots and parking requirements
- Zoning and Policy
 - Effective zoning is a great tool, however, there is not a “set it and forget it” policy or platform when it comes to parking
 - Growing activity along the corridors will cause more parking issues
 - Parking problems are a sign of success, means more people are coming.
 - Rules and policies are irrelevant if they cannot be easily understood, adhered to, and enforced
 - Berkley is an urban environment
- The Cost of Free Parking
 - No such thing as free parking – someone is paying for: Construction costs; Maintenance (lights, snow plowing, asphalt repair/stripping); Insurance, liability; Traffic, congestion, reduced walkability
 - Berkley City Budget: \$14 Million - \$9 Million from taxes
 - New lot (\$900,000) – 10% of Annual Tax Budget
- Parking Paradigm
 - What are the highest priorities or harshest realities? Plentiful; close proximity; low cost, etc.
- Parking Supply
 - Anything more than plentiful, free, lightly regulated parking requires planning and operational attention
 - Parking supply is most efficient at 80% - 90% occupancy of ALL parking supply
 - Below 80% undervalues the land use
 - Too little parking availability(<95% occupancy) may diminish economic activity
 - It takes diligence to maintain 80% - 90%
- There are no Easy Solutions: Building enough parking so that it is not a concern; Convince private parking owners to share their parking; Keep things the way they are; Regardless of policies, not everyone will be happy.
- Recommendations - Purposeful Action
 - Things are going to change, manage the change
 - Strong policy focused on meeting stated objectives can shape Berkley in the direction desired
 - Being true to Berkley and the goals established in the Master Plan
 - Operational consistency assures residents and visitors the City has a plan
 - MONEY ALWAYS MATTERS – PRIORITIES AND BUDGETS WILL DETERMINE OUTCOMES
- Zoning Code: Overall Recommendations
 - Rework the purpose (intent) section to clearly express Berkley’s goals
 - Create more administrative/Planning Commission flexibility: Count on-street parking; increase waiver thresholds
 - Modernize parking requirements to reflect Berkley today: Driving habits change; Berkley changes
- Zoning Code: Parking Use Table
 - Adjustments needed for many uses to update for current conditions

	Current	Proposed
Multiple Family	2 per unit	.85 per bedroom
Restaurant (sit down)	1 per 60 UFA	2 per 100 UFA, plus 1 per employee
Retail sales	1 per 225 UFA	1 per 500 UFA, plus 1 per employee
Professional office	1 per 225 UFA	1 per 300 UFA
Manufacturing facility	1 per 250 UFA+ company vehicles	1 per 750 UFA
Nursery/Garden Center	1 per 300 UFA+ 1 per 300 outdoor	1 per 800 UFA + 1 per employee

- Overnight Parking Prohibition Recommendations
 - Continue with prohibition
 - Enforce regularly – not every vehicle, every night but often enough that the rule is respected
 - Make getting an overnight permit significantly easier
 - Online application approved immediately (someone decides to stay that day)
 - Individual properties or vehicles allowed 20 nights per year (assess over time to determine an amount that best supports the residents)
 - No commercial properties
 - Have discussion again in 2026 to see if conditions have changed
 - Allow overnight parking in municipal lots
- Corridor Parking on Neighborhood Street Recommendations
 - Continue to allow parking on public streets
 - Encourage organizations to park employees on-site to reduce 8+ hour parking on-street
 - No valet storage on-street
 - Clearly explain benefits and urge dialogue among City staff, resident and corridor business/organizations
 - Measure on-street occupancy quarterly to measure impact on neighborhoods
 - No need for daytime or evening residential permit program (not including overnight permits for residents)
 - Review every three years to see if policy is still meeting goals
- Free Parking Recommendations
 - Maintain free parking in municipal lots and on-street
 - Review policy over time to determine if/when it is time to change – every three years
 - Encourage owners of private parking to rent spaces to other businesses/organizations at reasonable costs
 - Add EV charging stations (patron paid) in Municipal lots
- Who Owns Parking?

- Complaints – City Manager
- Supply – Community Development
- Enforcement – Police
- Maintenance – DPW
- Economic Development – DDA
- Policy – City Council
- Leadership Recommendations
 - One department leads parking administration effort
 - City Council provides direction on goals and guiding principles
 - Chosen department has staff to support effort
 - Assign contact points in other departments
 - Develop metrics to measure success
 - Communicate with residents and businesses
 - Test new opportunities: Parklets; Shared parking arrangements; New technology; Adding parking supply
- Funding Recommendation
 - Start a parking fund for future needs and maintenance
 - Sources: TIF, special assessments, general fund budgeting, grants from state or federal sources, all of the above
- Recommendations Summary:
 - Update zoning code
 - Define responsibility for parking and mobility planning, policy and operations
 - Conduct parking occupancy counts to understand use and demand patterns
 - Add public parking supply where needed
 - Implement operation changes
 - Review policies regularly to determine if/when changes are necessary
 - Communicate with the community regularly through a Parking Committee and updated webpage
 - Update alternative transportation plan
- Keep It Going
 - Administrating parking is an ongoing process. The city will need to regularly assess the results and adjust as needed.
 - Travel modes
 - Mix of businesses along corridors
 - Patron desires
 - City leadership and direction
 - Business environment
 - Resident satisfaction
 - Only plentiful parking (<80% occupancy everywhere) avoids the need to actively manage the parking supply.

Councilmember Vilani said she attended the public session at the high school. She thought it was very well run, very interactive, and a good opportunity for residents to share their two cents, and she appreciated it. She said she liked the online features too.

Mayor Dean asked if BS&A has a module that could handle overnight parking applications. Fishbeck said there are several programs that would be beneficial, such as GIS. He said that through the Public Safety programs there should be a way to add that module.

Community Development Director Kristen Kapelanski said she already discussed this with Chief Koehn. City Manager Matt Baumgarten said Lt. Kobernick is already working on researching what our peer communities are doing as well as platforms that would make it easier for officers on the ground to be able to determine who is in or out of compliance quickly.

Councilmember Hennen thanked the consultants, staff, and everyone who volunteered their time to help put these recommendations together. He said these are recommendations. He said the vast majority he approves of but one that gives him heartburn is moving the multifamily residential requirement as low as recommended. As usual, the normal zoning process includes an opportunity for the community to provide input. He said this is not a done deal but a direction to start aiming in.

Public Comment:

Laura Buus, Berkley, said she would like to suggest that residents could phone in rather than using exclusively an app for applying for a parking permit.

Charlene Condrat, Berkley, said one of the reasons she and her husband moved to Berkley from Royal Oak was the prohibition of overnight parking. Said she is strongly in favor of maintaining the current overnight parking limits.

MOTION NO. M-54-23: Matter of approving the special land use for the occupation of 2790 Coolidge Highway to be used as a law office in the Downtown District, on the east side of Coolidge Highway, south of Franklin Road requested by applicant Bradley Devries on behalf of Pinch Law. Councilmember Patterson moved to approve Motion No. M-54-23 Seconded by Councilmember Dooley.

Ayes: Patterson, Vilani, Dooley, Gavin, Hennen and Dean
Nays: None
Absent: Baker
Motion M-54-23 Approved.

Bradley Devries and Rachel Pinch were in attendance.

Rachel Pinch, applicant, said she is an attorney specializing in social security. Said she hopes to be a good steward of the building as well as a good neighbor.

Councilmember Hennen said these requests come before Council as the City wants to avoid becoming all offices. He said that he thinks in this case this is a reasonable use for a building that is currently vacant, meets all criteria necessary, and has a Planning Commission recommendation.

Councilmember Patterson said as Planning Commission liaison, he said they were excited to make this recommendation and welcome a new business to Berkley.

MOTION NO. M-55-23: Matter of awarding a (1) one-year contract for janitorial services to LGC Global Energy FM LLC, 7310 Woodward Ave, Detroit, MI in the amount of \$79,440.

Councilmember Vilani moved to approve Motion No. M-55-23

Seconded by Mayor Pro Tem Gavin

Ayes: Vilani, Dooley, Gavin, Hennen, Patterson and Dean

Nays: None

Absent: Baker

Motion M-55-23 Approved.

MOTION NO. M-56-23: Matter of approving the continuing partnership with DG Energy Company LLC, 42690 Woodward Ave., Suite 360, Bloomfield Hills, MI 48304 to provide and install one (1) EV charger at Oxford Park, at a cost not to exceed \$33,335. Funds for this expenditure will come from account 101-265-971-150.

Mayor Pro Tem Gavin moved to approve Motion No. M-56-23

Seconded by Councilmember Vilani

Ayes: Dooley, Gavin, Hennen, Patterson, Vilani and Dean

Nays: None

Absent: Baker

Motion M-56-23 Approved.

Joshua Hunter, Berkley, stated he saw the cords over the sidewalk and wanted to make sure that with the correct placement, the sidewalk would not be obstructed.

Councilmember Hennen said looking at the handicapped spot and the obstructions, he's comfortable it would be ok in the correct location. He said we are at the point where it is a sunk cost and the most prudent thing to do at this point is to approve and start generating revenue to begin recouping those costs.

Councilmember Patterson asked about estimated produced revenue. Facilities Director Alex Brown said the Library is north of the \$650 mark since May and is optimistic it would generate a decent amount of revenue. City Manager Matt Baumgarten said they forecast this station would generate about \$2,500.

MOTION NO. M-57-23: Motion to approve the purchase of Google Workspace in the amount of \$25,560.60 from account 101-228-760-000.

Councilmember Hennen moved to approve Motion No. M-57-23

Seconded by Councilmember Dooley

Ayes: Gavin, Hennen, Patterson, Vilani, Dooley and Dean

Nays: None

Absent: Baker

Motion M-57-23 Approved.

Chuck Tyrrell, Berkley, said in terms of wording, the City is not purchasing Google Workspace, you are obtaining a license. He said we need to change the language in the resolution to make it accurate to what the City actually plans to do.

Councilmember Vilani thanked Chief Innovation Officer Stan Lisica for finding the cost savings. She asked what would happen in year two regarding the rate charged. Mr. Lisica said the City was offered an introductory rate, reduced by about 15%. He said this was the most cost-effective. He explained the department applications and users and then described the evaluation process.

Councilmember Hennen said another avenue regarding cost-savings has been discussed, in which some of the accounts are archival in nature and charged at a lesser rate but will still enable the City to meet FOIA obligations.

ORDINANCE NO. O-09-23: Matter of postponing to the September 11, 2023 Regular City Council meeting the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley,

Michigan to Add Article V, Retail Pet Store Sales, in Chapter 2, Animals, of the Berkley City Code to Prohibit Retail Pet Stores in the City from Selling Dogs, Cats, or Rabbits.

Mayor Pro Tem Gavin motioned to approve as amended Ordinance O-09-23

Seconded by Councilmember Patterson

Ayes: Patterson, Vilani, Dooley, Gavin, and Dean

Nays: Hennen

Absent: Baker

Motion Approved.

City Attorney John Staran said there have been multiple conversations last week and the past several days up to two hours ago regarding the pet store ordinance.

John shared with Council the nature of those conversations and what the takeaway was:

- Several changes and tweaks have been made to the ordinance since Council last saw it, most notable of which is that we changed the existing retail pet store section; the change was editing one year to two years.
- They also talked about input and feedback and opposition received from the pet store operator and his attorney. He said it was a long process and it would have been preferable to have that feedback earlier, but we have it and need to take everything into consideration.
- He spoke with the Mayor regarding liabilities, insurance, and the potential for legal challenge. He said based on the feedback he just referred to, legal action went from possible to highly probable.
- City Attorney Staran said we started out with an ordinance where our purpose and goals were laudable. He said no one in this room favors inhumane treatment. He said this Council decided they weren't going to wait for Feds, or the state, but will do what they can to combat puppy mills and an overabundance of strays and improperly bred animals.
- He said the response was the ordinance, which has two parts. He said the first part goes a long way to accomplishing that purpose and goal, but the second part is more troublesome. The first part will prevent and prohibit any future dog and cat retail sellers from locating in the city, the second part is what do we do with the existing business, Puppygram. He said they bounced all over the place with options ranging from immediately banning them, six months, two years, etc.
- He said that what we were trying to do is find a proper balance between achieving laudable objectives with the balance of the legal rights and civil rights of the business and recognition of the investments and commitments they may have made. He said they are trying to get there, but have not gotten there yet. He said that be as it may, it is before Council tonight for a second reading. He said they could vote it up, vote it down, or tap the brakes on it.
- He said he knows they have been at it a long time. He said the urgency is self-imposed. He suggested to tap the brakes to review the information received in the past two days. He asked is there another way to do this where we can see the finish line and eliminate the existing sale of dogs and cats, but do it in a way that we are respecting the property rights and avoiding legal challenge. Not because we are afraid, but we have a responsibility to minimize our risk; litigation is expensive.
- He said they could tap the brakes to see if there is another way to do this. He said they could consider throwing out setting a date certain to amortize the sale of dogs and cats out of business and instead tie it to the business owners current lease term of five years. He said he is throwing it out as an option. He said they have admirable goals but he wants to make sure Council understands it is important to avoid illegal challenges.

Public Comment:

Molly Handy, Indiana, wife of Miles Handy, said she really wanted to come tonight to say thank you that there is still a lot of discussion to have. She said her family has a long history here and her grandfather was the head custodian of Berkley schools. She said when they opened in Berkley she felt things were coming full circle. She said she didn't feel welcomed, she said they've been waiting for people to reach out to them to find out who they are and what they want to do and it's disappointing because she doesn't feel that has been the case. She said they are ready and willing to have an open discussion. She said not one of us wants to see animals coming from inhumane conditions. She said she is a huge dog lover and their business is a pride thing. She said it's a warm feeling when a dog goes home with a family; she said her mother came and bought a puppy recently. She said she knows there's a lot of opinions on the matter but she wants theirs heard as well.

Tom Callus, attorney for Puppygram, said letters from employees of Puppygram were read regarding the health of the puppies. They did submit a letter stating their legal position. He said he would like to open up the dialogue and perhaps have some reconsideration regarding the sunset date of July 2025. He said they are a pet service store and 85-90 percent of the business is related to selling puppies. He said there was a significant monetary investment in the store. He said the puppies are fed well, they have areas to exercise, he said the store does provide a service to the local community for those who want to buy a puppy. He said it serves a purpose, a community and is a legitimate and good business. He said his client came to town, they wanted to be in Berkley, and have invested more than \$400,000 into the building; they came in with a permitted use and did everything right and everything was approved and inspected and ready to go. He said they do have a lease in place with an initial term of 5 years. He said if they are prevented from selling puppies or given a sunset date that will lead to the demise of his business. He said come July 1st, 2025 without the ability to sell puppies, there will be no revenue, his client will be unable to meet expenses including financing for improvements, lease agreement and contractual agreements as well as unable to pay the rent and will be sued by their financier. He said his client would be in litigation through no choice of his own. He said he knows Mr. Staran. He said both of them are reasonable and there is a happy medium that can be met. He said his client's business is very highly regulated by the

state. He said they must be allowed to operate as long as the lease allows them to. He asked to tap the brakes and sit down with them to come to a reasonable provision to avoid litigation. He said his client would be involved in lawsuits that aren't under their control. He said his client deserves to run his business. He mentioned a letter sent by Mr. Baumgarten that was given to Council. He said they would never entertain a puppy mill or misuse of animals. He said the city's animal control officer found the dogs appeared well-cared for by good staff. He said it is a great location, a beautiful site, and provides the opportunity for people to come and buy a puppy. He asked to table the ordinance and work out a provision for a sunset date.

Carla Osborne, Berkley, said as far as outside influencers coming in, these concerns were brought forward from those that elected Council and direct them what to do. She said Council did not go out of its way to push a business out, but rather is doing what members were elected to do. She said the ordinance is a ban and lists states that have adopted the state-wide ban. She discussed a new ban that is being voted on in Louisville where the other Puppygram is located. She said we, the constituents, are advising Council. She said this ordinance mimics Bill 4838 that is being presented in the State House and has the same sunset date of when the sales of pets has to stop. She said no one is saying the business has to completely shut down, just stop the sale of puppies. She said no one is telling him he has to completely go out of business.

Courtney Wooten, Berkley, said she is shocked by what she is hearing. She said she wanted to talk about sense of urgency – she said Councilmember Baker said every day matters. She said they having been working on this for eight months. She said citizens have been contacting Council and dedicating hours to research legality, enforcement, etc. She said they have asked the existing business on multiple occasions to be transparent; she said transparency in this business is all we are asking for. She said that transparency would enable the business to build trust in the community and trust in their business. She said if they are operating legal and humanely, they should have no qualms. She said there is a little bit of a red herring happening here. She said this is nothing about closing down a business. She said the Michigan Director of the Humane Society of the United States brought to the last meeting statistics of businesses that are successful without the sale of puppies but rather supplies. She said they could sell supplies. She looked at the cities that have banned the retail sale of pets and only two had a two-year transition process.

Don Drier, Berkley, said he is part of the “no” group. He asked if anyone on Council has been to the store or talked with the owner. He wants them to look into the store; he said he read in the Woodward Talk that no one had visited from Council. He thinks they should have done that first. He said they are opening the city to another needless lawsuit.

Lilly Osborne, Berkley, said she is someone who has always been interested in the care of animals. She said she has taken the time to protest and do the research and she thanked members of Council who did research. She said maybe the store looks nice, but look at the physical and mental effects on the animals. She said she knows they have heard the research. She said the urgency is every day counts, especially when it comes to those who need to be advocated for.

Lauren Delega, Franklin, thanked Council for its months of research and consideration. She said community advocates in the area have supplied Council with as much research and documentation as possible. She said this ordinance is supported by the residents. She said a ‘yes’ vote is not only a step to protect these animals but also a protection of the health and financial safety of Berkley residents as well as residents of surrounding communities. She said she hopes that we don't waste anymore time and she hopes they can pass this today.

Thad Dickinson, Berkley, said he is a volunteer for Humane Society of United States. He said every morning Monday through Sunday he feeds a feral cat. He said he is a distance runner and runs around Berkley 5/7 days a week; he eats at the local restaurants and shops at the local stores and is a regular election inspector. He said he is a part of the community. He said he lives and breathes the motto “Adopt, Don't Shop”; he has been an animal shelter volunteer for the past 13 years. He said the cruelties of puppy mills and the welfare issues those puppies face getting to and living in retail pet stores are real and well-documented. He said he doesn't think Berkley should be a part of that; he said he'd rather our local pet stores continue supporting the adoption of homeless cats and dogs and he hopes that Council will approve the ordinance prohibiting pet stores from selling dogs, cats and rabbits in Berkley.

Blake Goodman, Lansing, said he is the Michigan State Director for the Humane Society of the United States; he said he doesn't know he will say anything better or more than residents have already said over the last eight months and tonight. He said this is an evening of choices. He said he unequivocally urges Council to pass this ordinance this evening in it's current format. He said he feels this ordinance is hugely defensible because not one single lawsuit brought against a single city ordinance has been overturned at any level. Not a single one. He said the City has the case law on their side across this country. He said this ordinance will not stop this business from continuing to function and serve residents for food, toys, grooming, etc. He said it is about business models and not businesses. He said it's also about the choice by this business to threaten Council with litigation. He said their lawyer is telling Council that they're forced into closing by their actions but they're not because Council is not closing them but rather telling them that this part of their business does not belong in the city because that's what residents are asking Council to do. He said that Berkley would be joining many other cities in doing this and hopefully the whole state. He said that the proposed two-year phase in is much more generous than other municipalities have done. He said their threats to Council should not influence whether or not the

ordinance is passed. He said the Humane Society urges them to pass this ordinance to protect animals for them and for residents. He said if they sue, it will not matter as the ordinance is sound.

Chuck Tyrell, Berkley, said he comes down on the "no" part of this issue on the part of the ordinance that does not grant unlimited grandfathering to the business in question. He said at this time we don't have that money; we can't afford to spend money on litigation. He said to go with the first part of ordinance. He said we don't have the jurisdiction to regulate and check his papers. He said that is the job of the Department of Agriculture. He said it is not city staff's responsibility. He said please don't encourage another lawsuit. He said Mr. Staran has brought up some great points as to why we should back down. He said there is no complaints as far as he can see by the Department of Agriculture. He said we are part and parcel on why he is here. He said it is not a universal feeling that he has to go, but the opinion of a vocal minority.

Tiffany Perkins, Royal Oak, said she is here to support Berkley's ordinance. She said she's been at every meeting on this issue. She said Mr. Handy has still not answered the question of how many puppies have been sold in the past eight months. She said there is the USDA label attached to what they're doing but that factory farming also has that label attached to what they're doing and that's not ethical. She said she has a nonprofit for disabled pets; she has to be completely transparent regarding her process, mortality rates, success rates, etc. She said she is on the board of many animal-related organizations and all maintain this transparency and satisfy very thorough checks and balances. She said it is not unheard of to have this level of transparency, it's encouraged.

Miranda, Hazel Park, said she has some questions for the puppy mill or Puppygram. She asked if inspectors inspect the building or the mills. She said you have to think about how these people are thinking, do they care about money or the mental well-being of the puppies.

Gavin Taylor, Michigan, said he is supporting friends who live in Berkley. He said there is a lot of talk and back-and-forth about the terminology of selling puppies and rehoming puppies. He said they want to make it seem like they are the same but that rehoming is not in it for the money or profit. He said their attorney already said they wouldn't make a profit if closed. He said it comes down to transparency and word choice.

Tim Dillon, Farmington Hills, longtime friend and supporter of Miles and Molly, said he would never support someone who got puppies from puppy mills. He said earlier tonight Council reviewed a proposal for a building to be used for a disability law practice; some would say that they are bad lawyers and therefore that business shouldn't be allowed in Berkley. He said it was a loose analogy but that it fits. He said he thinks the pause is a prudent step and grandfathering is as well.

Rachel Shuler, Royal Oak, pointed out that for the second time Jim Dillon has not properly identified himself as the CFO of Puppygram, as per the Puppygram website. She thanked Council for its time and emails back and forth and said that she appreciates all of the time spent by concerned community members and those outside the community. She said they are now having to navigate last minute feedback on the ordinance from the store in question. She said brakes have been tapped for months and now in the 11th hour they show up to Council meetings and engage. She said she wanted to reiterate that inhumane treatment is a big part of this but what also is a big part of this is misleading the consumer with information and exploitative prices. She said the narrative Puppygram has that we, the concerned community members, are against giving people free choice of where to purchase a dog from is unsubstantiated if where consumers are purchasing a dog from are not being accurately transparent about the following: the parents of the dog, especially the mother; the breeder in the context of that breeder; how many puppies they are breeding at one time; what volume; inconsistent and blatant lies about vaccination records; an example of over vaccinating dogs at Puppygram locations so they appear healthy in store and are sick seven days later when people take them home.

Councilmember Hennen said this is just a stalling tactic from Puppygram. He said the claim that no one's reached out to Puppygram is false. He said he reached out to Miles Handy before any ordinance was introduced and asked for information to support the claims on humane treatment along the entire chain of the process. He said his concern is not just animals here in Berkley, but all animals including the ones that don't make it here. He said Miles Handy was evasive. He said he reached out again after the first draft of the ordinance was introduced and asked for feedback. He said there were ample opportunities to participate and they chose not to. He said this is just an 11th hour attempt to stall further. He said if they are going to sue us, they will sue us. He said they have talked endlessly and it's time to make a decision.

Mayor Pro Tem Gavin said Councilmember Hennen and Ms. Shuler accurately expressed his frustration with the 11th hour aspect of this issue. He said given what the City Attorney talked about he is irritated, but is also of the mind that Council has a responsibility to let the City Attorney talk about this a bit more. He said he thinks it needs a date certain. He said he is willing to give time until the next council meeting and that is it. He said a decision does need to be made on this; he said he will give the attorney that window to hear more about it next month.

Mayor Pro Tem Gavin moved to postpone to allow City Attorney Staran more time to discuss with Council the things that he mentioned during the meeting but have a date certain of the next meeting to make a final decision. Councilmember Patterson said the reason he will support is the date certain. He said that the decision needs to be made but considering the 11th hour and emails coming in all weekend even up to three hours ago they need a chance to review everything.

Councilmember Hennen said he doesn't know what will change between now and then and two years is an exceptionally long time to give them. He said if they are going to sue us, they are going to find a reason to sue us. He said the letter from their attorney spoke about the requirements being onerous, will those be on the table too? He said this is opening the barn door, he said he thinks they are afraid of transparency because they are afraid of what people will find. He said they are trying to water this down to give themselves a long runway to continue to hide behind opaque practices. He said maybe we will all be surprised and they are operating completely ethically, but the fact that they have refused every step along the way to do or show anything in any good faith leads him to believe that outcome is extraordinarily unlikely and he doesn't see what any delay on this is going to change.

Councilmember Vilani asked City Attorney Staran about ordinances in other cities that are trying to do something similar that were not overturned. She asked if he would comment on that and additionally even if they were successful in defending, is there a cost to the city to defend.

City Attorney John Staran said there definitely would be a cost. He said suffice it to say that he has been practicing for 40 years, and he has yet to see a bullet-proof case. He said to go into this case thinking that some lower-court cases make this a completely defensible bullet-proof case in Michigan, he's not going to say that because it is not responsible. He said the best path is to avoid it if it can be avoided in a way where Council can achieve its goals and objectives. He said further discussion would be for a closed session. He said there have been no cases in Michigan and no Michigan ordinances have been challenged.

MOTION NO. M-58-23: Matter of approving the appointments to various boards and commissions.

Councilmember Hennen motioned to approve M-58-23.

Seconded by Mayor Pro Tem Gavin.

Ayes: Patterson, Vilani, Dooley, Gavin, Hennen, and Dean

Nays: None

Absent: Baker

Motion M-58-23 Approved.

MOTION NO. M-59-23: Matter of approval to join the Michigan Emergency Management Assistance Compact (MEMAC).

Councilmember Patterson motioned to approve M-59-23.

Seconded by Councilmember Vilani.

Ayes: Vilani, Dooley, Gavin, Hennen, Patterson, and Dean

Nays: None

Absent: Baker

Motion M-59-23 Approved.

RESOLUTION NO. R-19-23: Matter of adopting a resolution of the Council of the City of Berkley, Michigan establishing a Mayor's Academy on Services and Budget.

Mayor Pro Tem Gavin motioned to approve Resolution No. R-19-23

Seconded by Councilmember Patterson.

Ayes: Dooley, Gavin, Hennen, Patterson, Vilani, and Dean

Nays: None

Absent: Baker

Resolution R-19-23 Approved.

Mike Wiacek, Berkley, said it is a great idea although he thinks it has morphed into something else from an interactive budget determination, and now it's more of a schooling. He is perplexed by that. He said it was supposed to be a diverse group, but half of the committee is current or former Planning Commission members; he said that to him that is not a balanced committee. He hopes they keep an open mind and are open to suggestions and recommendations. He said that his concern has always been that the committee is stacked and that they would then disregard sound financial and operational recommendations. He said he thinks he knows a thing or two and he hopes any sound recommendation is not shot down as it is half Planning Commission members.

Joshua Hunter, Berkley, said he wanted a Citizen's Finance Committee to be formed since January and is looking forward to participating but he says he is surprised that there isn't a mandate for recommendation or deliverable in the resolution. He said it seems now to be purely educational. He said the way he reads the resolution the committee could meet for 10 weeks and not be required to produce an end deliverable. He said he will be present.

Greg Duross, Berkley, thanked Council for the opportunity to serve on the committee, he said he won't repeat what was said although he is a bit surprised by what he saw in the resolution. He asked if the Council has expectations that this committee after 10 weeks will go on to make specific recommendations for improvements in financial reporting, service priorities, cuts or changes to operations, millage proposals, etc. He asked what happens at the end of 16 weeks to tackle the spending and revenue problems we have in the city.

Councilmember Vilani said she saw some questions online about if there are people not members of the group to watch and learn. The Mayor said that they are open meetings and the public is allowed to attend.

Councilmember Hennen said he would like to clarify if they are seeking recommendations; the Mayor said they are looking for recommendations and that this is not a policy-setting academy. She said the conversations that they, as a Council were having with residents, showed that there was a need for education about not only the services the city provides but specifically within the context of the city budget. She said this academy did not come about due to any agitator or agitation. She thanked Council and City Manager Baumgarten for taking this opportunity to educate residents. She acknowledged department heads and staff who are putting forth time and effort in developing a curriculum. She said she is surprised to get such pushback from these educated people. She said in order to understand fund-based budgeting, they need to understand every department in the city, what services they provide within the context of the budget, any unfunded mandates that each department is responsible for, and then a conversation about revenue-sharing is possible.

MOTION NO. M-60-23: Matter of approving a Cost-Sharing Agreement regarding 2022 Safe Streets and Roads For All (“SA4A”) Grant Program.

Mayor Pro Tem Gavin motioned to approve Motion No. M-60-23

Seconded by Councilmember Vilani

Ayes: Gavin, Hennen, Patterson, Vilani, Dooley, and Dean

Nays: None

Absent: Baker

Motion M-60-23 Approved.

MOTION NO. M-61-23: Matter of considering participation in the Teva, Allergan, CVS, Walgreens, and Walmart National Opioid Settlements and Authorize the City Manager to sign the Participation Agreements on the City’s behalf.

Councilmember Vilani motioned to approve Motion No. M-61-23

Seconded by Councilmember Dooley.

Ayes: Hennen, Patterson, Vilani, Dooley, Gavin, and Dean

Nays: None

Absent: Baker

Motion M-61-23 Approved.

COMMUNICATIONS

COUNCILMEMBER PATTERSON

- Planning Commission met last month. A member resigned for an unsubstantiated conflict. Now seeking another member of the Planning Commission. No meeting for August as that was cancelled due to a lack of quorum. The next meeting will be on September 26th at 7 p.m. in Council Chambers.
- Overdose Awareness Day is August 31st; wear purple in remembrance of over 100,000 lives lost due to overdose.
- Thanked the City Clerk and her team for the election she and her team put together.

COUNCILMEMBER HENNEN

- Tree Board is off for the summer, next meeting will be on September 25th.
- Zoning Board of Appeals will meet tomorrow, August 15th, to consider a dimensional variance on a lot split.
- Asked city manager to give an update to the public on downtown crosswalks.

MAYOR PRO TEM GAVIN

- Environmental Advisory Committee’s next meeting will be tomorrow, August 15th at 6:30 p.m. in the second-floor conference room in the Public Safety building. There will be no July meeting, the next meeting will be on August 15th.
- Fall programs are out and registration is open for Parks & Recreation programs. Visit recreation.berkleymich.org for more information.
- One concert left in the summer Berkley Beat series, on August 30th at 7 p.m. in Oxford Park. Harmonic Swell and the Bridge of Reverberation will be playing.
- Summer outdoor movies continue on August 24th at Oxford Park with an ice cream social and additional recreation activities from Oakland County. “The Super Mario Bros. Movie” will be shown.
- Make sure to come out on Friday night for Berkley’s Classic CruiseFest Parade on the 18th. The Parade begins at 6:30 p.m. and travels west on 12 Mile Road through downtown. Stay for activities including live music, food vendors, and other activities to take place along 12 Mile in downtown.
- The next meeting of the Parks and Recreation Advisory Board is on October 12th at 7 p.m. at the Community Center.

COUNCILMEMBER VILANI

- Technology Advisory Committee/ Citizen’s Engagement Advisory Committee has not met and has no updates. On pause waiting for the new Communications Director to onboard.
- Berkley Area Chamber Chat is on Friday, August 18th at 8:30 a.m. It will be held at Quality Roots on 11 Mile. No need to register, you can just show up.

- CruiseFest is this Friday; you can buy your limited-edition T-shirt at Vitrine Gallery, Michigan State Federal Credit Union, or Dog & Pony Brewing. They will also be available the day of under the theater marquee.
- Saturday Sept. 30th is the Kit Home Tour; more details to come soon!
- Friendly reminder to buy your Berk Perk card. Available for \$30 at Woodward Corners and other stores as well. One of the featured retailers is The Neighbor's Shoppe where cardholders get a free cookie. Other discounts they offer include 10% off of gift items and 10% off of four bottles of wine. Support local retail with a Berk Perk card.

COUNCILMEMBER DOOLEY

- BAC next meeting is the 23rd, at Coffee & Bark on Coolidge at 6:30 p.m.
- No updates from the library board. Library is starting updated hours on Labor Day: Monday - Wednesday, beginning September 5th, open from 10 a.m.-8 p.m.; Thursday 10 a.m.-6 p.m.; Friday 1-6; Saturday 10 a.m.-3 p.m.

CITY MANAGER MATT BAUMGARTEN

- Said he was informed of a large watermain break during the meeting; the county is working on a transmission line that broke on Webster between Royal and Buckingham. No one should be without water, but there could be some discoloration. Our DPW crew has been on hand assisting with road closures. Our crews stand ready at any point.
- Between now and our next meeting kiddos will be headed back to school so please keep your eyes open for them and stay free of distractions. Let's make sure the little ones can get to and from school safely.
- Jaycee Park work is almost complete. Work is beginning at Oxford park to connect the park and play area to Oxford Road itself. After that, work will begin on the trail project along 12 Mile up to Webster, on the cemetery side. That will be replacing the broken-up asphalt pathway that's there.
- We do have work that is happening on Coolidge in order to facilitate better crossings for both drivers and pedestrians. Said that we did not get favorable bids back on some of the work for the crosswalks and the restriping of the intersection at 12 Mile and Coolidge so what we're going to do is change tactics; instead of having an all-in-one bid package we're going to try to make them more specialized so that the individual elements of the project can be bid on by the individuals doing the work. Pavement work, relocating flashers for crosswalk, and some of the curb line drainage work would be largely under one bid and then the restriping portions at 12 Mile and Coolidge would be under another bid. In total there will be four great projects going on to help people move around our community and visit all the great things it has to offer whether in a car or on foot. It should be noted that these projects are not general-fund projects but out of our Major Local Road Fund, which is an allocation that we get from the state through the gas tax but we are required to spend at least 1% each year or the cumulative of 10% of those revenues in a 10-year period on non-motorized mobility. We continue to invest in every single portion of our road or sidewalk network.
- Last but not least, thanked the City Clerk. We had an election last week and even though it wasn't for the benefit of the city government, it was our city government that stood ready to do a fantastic job in the administration of elections. He said our City Clerk is on the cutting edge. He said our City Clerk is second to no-one and runs a mean election that largely happens on the backs of dedicated poll workers and volunteers. Said that it is a pleasure to watch her in action.

CITY ATTORNEY JOHN STARAN

- As he was racing to get here from another meeting, he heard them talking about a flood watch, he had no idea they were talking about a water main break and not the incoming rain.
- Has been working on a number of things day to day. He said he spent a lot of time on the pet store ordinance and now work is beginning on the zoning rewrite effort. He is looking forward to reading that draft. He looks forward to getting that ready so Planning Commission and City Council will soon have something to review and will hopefully be an effort to advance and move the community forward.

MAYOR DEAN

- Councilmember Patterson teed it up nicely; she had the pleasure to meet Secretary of State Benson during Tuesday's election. It was exciting to meet her. She was doing a mini multi-city tour on that day. She specifically came here because of the great job our City Clerk does. She said Oakland County has a reputation for setting the bar for elections in terms of safety and transparency but even within Oakland County our City Clerk rises to the top.
- Gave a shout-out to Morgan Krasenga from Chemistry Salon, which received the 2023 We Sustain Beauty Award from Davinus Beauty, a world leader in sustainable beauty products. She said they work so hard and are at the forefront of everything. They transformed a former transmission shop and are committed to low-waste services. Good job Morgan!
- Had the pleasure of attending the Michigan Association of Mayor's summer workshop. She spent time with other mayors from across the state. She said every community is different and different sized. They took a bus tour of Northville; their Mayor makes the Energizer bunny look lazy. He spoke about how the town has changed over time; they had wooden pipes not that long ago. They too have a large number of kit homes in Northville. They were updated on news from the legislature by the Michigan Municipal League; she said she didn't want to go through all of the things, because it's already late. They went over Headlee reform; said she

is encouraged by the conversation that there is reform talk going on. She said at the end of the day we really, all the Mayors and our City Council, want our residents to feel proud about where they live.

ADJOURNMENT:

Councilmember Vilani moved to adjourn the Regular Meeting at 9:55 p.m.

Seconded by Councilmember Patterson.

Ayes: Vilani, Dooley, Gavin, Hennen, Patterson, and Dean

Nays: None

Absent: Baker

Motion Approved.

Bridget Dean, Mayor

ATTEST:

Victoria Mitchell, City Clerk