

THE THIRD REGULAR MEETING OF THE THIRTY-SIXTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, DECEMBER 21, 2015 BY MAYOR O'DWYER

PRESENT: Steve Baker Eileen Steadman
 Jack Blanchard Daniel Terbrack
 Tina Edgar Phil O'Dwyer
 Alan Kideckel

APPROVAL OF AGENDA

Mayor Pro Tem Baker moved to approve the Agenda with amendment to add Resolution No. R-41-15 as item #7 for the Regular Agenda, to be inserted after R-40-15 and before Work Session for Chapter 78.

Seconded by Councilmember Kideckel.

Ayes: Blanchard, Edgar, Kideckel, Steadman, Terbrack, Baker, and O'Dwyer

Nays: None

Motion Approved.

INVOCATION Brother Al Mascia and Maggid Steve Klaper from Song and Spirit Institute for Peace

CITIZENS COMMENTS

Dan Mihaescu, Chairman and Anela Mihaescu, Secretary of the Beautification Advisory Committee gave a PowerPoint presentation of the homes nominated for the Fourth Annual Holiday Spirit Award. The winners were in the areas of Harvard, Buckingham, Gardner, Phillips, and Prairie.

Matt Church, Library Director, announced that the Berkley Public Library is doing the annual Giving Tree fundraiser. Last year they received over \$1,000 to purchase new material for the library. They have already raised \$1,200 for this year's campaign and they are taking donations until Wednesday, December 30, 2015.

Mary Gilhuly, Oak Park resident and co-founder of Song and Spirit Institute for Peace in Berkley, spoke about the mission statement of their organization which promotes greater understanding among people of diverse religious, cultural and ethnic backgrounds through music, art, cultural programs, dialogue, study, organic farming, and compassionate acts of community service. Their community outreach program, the Song and Spirit Careavan, has passed out over 12,000 healthy SnackPax to kids experiencing food insecurity in Berkley and Brightmoor District in Detroit; with the assistance of thirty plus schools, churches, and civic organizations. Song and Spirit have provided over twenty tons of fresh produce and other food from Gleaners Community Food Bank. They've also provided over a hundred gallons of homemade soup donated by area Jewish congregations; which was distributed to over 8,000 people in Oakland and Wayne counties. Over 1,000 care packs have been distributed to area homeless through outlets in churches, synagogues, mosque, Hindu and Buddhist temples. Song and Spirit have supplied fresh produce and nonperishable food to pantries at Crescent Academy and Yad Ezra in Berkley. They have distributed warm items to over ten thousand people directly and through service organizations. Song and Spirit have logged more than 1,000 volunteers hours this year. Over 5,000 hours of effort have been put into their art program; they have done shows at area art events and at the Berkley Art Bash. They coordinate community art projects throughout Wayne, Oakland, and Macomb counties. Everyone's Garden is run by the Neighborhood Garden Coalition; they grow organic produce that are sold to area farm to table restaurants. Young adults' ages 18 to 26 from the Berkley district post high school program work in the garden each summer; as well as volunteers from Kadima and JARC. Berkley Stage Youth Group works with the Song and Spirit two to three times a year. Song and Spirit has put on dozens of performances and held classes in the community; they have received numerous civic and interfaith awards for their work. They share a building with the Franciscan Friars of St. John the

Baptist Province; they also provide space for the Birmingham Quaker Friends meetings and the Jewish Sabbath services each month. Song and Spirit invite the members of City Council to visit their location and participate in their events; a calendar of events is available on their website at www.songandspirit.org. Mary Gilhuly thanked the City Council for the opportunity to speak at the council meeting. Song and Spirit wished their Berkley friends, neighbors, and council members a peace filled 2016.

Consent Agenda

Councilmember Kideckel moved to approve the following Consent Agenda, seconded by Councilmember Blanchard:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the regular 36th City Council meeting on Monday, December 7, 2015.

WARRANT: Matter of approving Warrant No. 1297.

Ayes: Edgar, Kideckel, Steadman, Terbrack, Baker, Blanchard, and O'Dwyer
Nays: None
Motion Approved.

Regular Agenda

RECOGNITIONS/PRESENTATIONS

MOTION NO. M-82-15: Matter of appointing Martha Shea to serve the remaining unexpired term of John P. DuLong on the Library Board, with the term expiring July, 2017.

Councilmember Steadman moved to approve Motion No. M-82-15

Seconded by Councilmember Edgar.

Ayes: Kideckel, Steadman, Terbrack, Baker, Blanchard, Edgar, and O'Dwyer

Nays: None

Motion Approved.

Library Director Matt Church introduced Martha Shea to the City Council and informed them of the Library Board recommendation.

Martha Shea, resident at 4135 Cornwall, thanked the City Council for the opportunity and spoke about her previous term as a member of the Library Board. She commented that the library is a great place, Matt Church does a wonderful job, and she is excited to serve on the Library Board again.

ORDINANCE NO. O-07-15: Matter of considering the first reading of an ordinance to amend Section 58-40 of Chapter 58 Garbage, Rubbish and Refuse, Article II Collection and Disposal of the Berkley City Code to Modify Regulations that Prohibit Scavenging of Garbage, Rubbish and Discarded Items, and to Designate Violations as Municipal Civil Infractions. (Set Date Certain, Monday, January 4, 2016)

Councilmember Blanchard moved to approve Ordinance No. O-07-15

Seconded by Councilmember Kideckel.

Ayes: Steadman, Terbrack, Baker, Blanchard, Edgar, Kideckel, and O'Dwyer

Nays: None

Motion Approved.

City Attorney John Staran reminded City Council of the work session at the previous council meeting regarding Chapter 58 Garbage, Rubbish and Refuse. The revisions to the draft ordinance include making the general language more specific, eliminate the vagueness of the language, and make the terms scavenging and prohibition more clearly. Any items left out for collection is not to be scavenged by any other persons but picked up by the official disposal company. A sentence was added to designate violations as a Municipal Civil Infraction which would be consistent with the practice at Royal Oak court administration; it lowers burden of proof and eliminates a jury trial.

MOTION NO. M-83-15: Matter of authorizing a contract with D/A Central (13155 Cloverdale Ave., Oak Park, MI 48237) for the purchase and installation of a Flir security camera system with 16 cameras and an Uninterruptible Power Supply at the Library for a cost not to exceed \$10,575 to be paid from Office Equipment (101-738-983-000).

Councilmember Steadman moved to approve Motion No. M-83-15

Seconded by Councilmember Terbrack.

Ayes: Terbrack, Baker, Blanchard, Edgar, Kideckel, Steadman, and O'Dwyer

Nays: None

Motion Approved.

Library Director Matt Church informed City Council of the bid process for the security camera system, the Request for Proposal (RFP) was issued on November 3rd, and the project has been budgeted for the current fiscal year. The bid was posted on Michigan Inter-governmental Trade Network (MITN) and sent to two hundred and five companies; a mandatory pre-bid meeting was scheduled for November 19th with attendees from twenty one companies. The RFP request for a base product and accepts alternate products; twelve bid proposals were received and opened on December 3rd. The three lowest firms were given the most consideration which was JMC Technology Group of Clinton Township, Vanguard Fire and Security Systems of Grand Rapids, and D/A Central of Oak Park. JMC Technology Group is a new division of an electrical contractor company and has mainly done subcontracting work; Vanguard's bid submission was incomplete; and the recommendation is for D/A Central who has great references and has been in business for close to 60 years. Library Director Church advised council there will be two cameras installed outside by the entrance and exit and the remaining fourteen will be distributed inside throughout the building. The cameras are controlled through the online interface which is software that manages the cameras. It can be manipulated to view the ones that are motorized, no separate controller or monitor is needed, and it only requires a user to log in with the proper credentials at any computer system. Library Director Church advised council that the project will not cause any interruptions or down time; business will be conducted as normal. The contractor will be given access to the building prior to regular office hours to run cabling to certain areas, the duration of the project is expected to be a few weeks, and the project will began shortly.

Councilmember Jack Blanchard inquired if the security cameras are to be installed inside, outside, or both. He also asked if there is a controller for the cameras which was not indicated on the bid quote.

Councilmember Steve Baker inquired when the project will begin, the duration of the project, and if the library patrons will expect any interruptions or down time.

MOTION NO. M-84-15: Matter of approving the purchase of ArcGIS Desktop Software from ESRI, Inc. for the Public Works Department at a cost of \$8,910 through the State of Michigan Master Contract #071B1300270.

Councilmember Kideckel moved to approve Motion No. M-84-15

Seconded by Mayor Pro Tem Baker.

Ayes: Baker, Blanchard, Edgar, Kideckel, Steadman, Terbrack, and O'Dwyer
Nays: None
Motion Approved.

Public Works Director Derrick Schueller informed City Council of the software purchase that is part of the Stormwater, Asset Management, and Wastewater (SAW) Grant that was obtained; this was an initial project scope to purchase GIS software. It is a computerized tool used to view the sewer system and utilities in the future. Our consulting engineer Hubbell, Roth, and Clark (HRC) completed the initial inventory related to the SAW Grant; Public Works is planning on videoing many of the pipes. The data will be housed at Public Works. The software may also be used to view the infrastructure with aerial maps and parcel maps. ArcGIS Software is manufactured by ESRI who is the predominant GIS carrier in the United States. Neighboring communities such as Southfield, Farmington Hills, and Oakland County are currently using the GIS software. Oakland County will be able to provide the city with free aerial and contour information. This electronic component will give the Public Works the ability to access updated information in the field. The purchase will include a single license but allow multiple employees access, and free training is available through Oakland County, additional licenses may be purchased in the future. Public Works Director Schueller recommends purchasing the desktop software and expects to pay the yearly operations fee of \$2,000 to \$3,000 per year after the first year. He looks forward to having visual access to the sewer system and seeing the conditions of the sewer lining in the past twenty years. The software allows the department to view the latest video of the sewer line immediately via sewer camera instead of searching through DVDs and thumb drives. Public Works Director Schueller stated that once the software is installed then HRC will transfer the data they are holding for the city from their GIS system. He reminded council that the SAW Grant is ninety percent reimbursable and the purchase of the software falls within that category. Public Works Director Schueller confirmed that Oakland County and the Water Resource Commission has sewer lines in the limits of Berkley allowing the city to receive data regarding those lines; it give us that kind of connectivity to see their lines in relation to our own. He has discussed the implementation of the software with the county and will continue to keep open communication.

Councilmember Jack Blanchard inquired about the packages and modules that ESRI has to offer along with the estimated cost and yearly maintenance. The software will allow the city to do a thorough analysis of the sewer system and pin points any defects.

Mayor Pro Tem Steve Baker informed council that the energy and utility companies utilize the same software as a platform to manage all their assets. They continue to find additional value in tracking the health and status of their assets but also have the visual layer and aspects of the infrastructure; it is the most effective use of resources out in the field. Mayor Pro Tem Baker inquired about the integration period and timing of the project.

Councilmember Alan H. Kideckel inquired about the communication capability with Oakland County and if any glitches in the system can be relayed to them.

RESOLUTION NO. R-40-15: Matter of approving a resolution regarding Public Act 152 of 2011 to exercise the City's right to exempt itself from the requirements of the Act for Calendar Year 2016.

Councilmember Blanchard moved to approve Resolution No. R-40-15

Seconded by Councilmember Terbrack.

Ayes: Blanchard, Edgar, Kideckel, Steadman, Terbrack, Baker, and O'Dwyer

Nays: None

Motion Approved.

Finance Director/Treasurer David Sabuda advised council that Public Act 152 of 2011 was approved by the State Legislature in September 2011. This commonly known as the Health Insurance Contribution Act and the city must declare how they want to fund the monthly premiums that are paid for the healthcare of the employees. All municipalities and governmental units across the State of Michigan must declare on an annual basis with no exceptions. There are multiple options of funding, sharing the cost, and proceed going into the future with the employees. Based upon the labor negotiations and various situations regarding the healthcare federal acts; it is recommended to opt out of Public Act 152 of 2011 as indicated on the resolution and as the city has done in the past four years. Finance Director/Treasurer Sabuda confirmed a whereas paragraph was removed from the original resolution for the revised version.

City Attorney John Staran made sure that the council is intending to vote on the revised resolution that has been provided by Finance Director/ Treasurer Sabuda aside from the original resolution provided in the council packet. The revised resolution excludes one recital paragraph as confirmed by the Finance Director/ Treasurer David Sabuda.

RESOLUTION NO. R-41-15: Matter of approving a resolution ratifying a Three-Year Tentative Labor Agreement between the City of Berkley and the POLC Berkley Public Safety Officer's Association.

Councilmember Blanchard moved to approve Resolution No. R-41-15

Seconded by Mayor Pro Tem Baker.

Ayes: Edgar, Kideckel, Steadman, Terbrack, Baker, Blanchard, and O'Dwyer

Nays: None

Motion Approved.

Interim City Manager Richard Eshman reminded council that the resolution has been generated from the closed session discussion with Labor Attorney Howard Shifman through the Berkley Public Safety Officer's Association negotiations and arrived at a tentative agreement.

WORK SESSION: Matter of amending Chapter 78 Nuisances, of the Berkley City Code to Modify and Adopt Regulations Relating to Birdfeeders in the City, and to Prescribe a Penalty for Violations.

Councilmember Edgar moved to discuss Work Session.

Seconded by Councilmember Kideckel.

Start of discussion at 7:37 p.m.

City Attorney John Staran informed the general public that City Council had a work session at the previous council meeting on December 7, 2015 regarding birdfeeders. This is a proposed ordinance amending the nuisance ordinance relating to birdfeeders. It would amend the definition of nuisance to include conditions that tend to attract rodents or the overcrowding of birds. It increases the current restrictions by prescribing distance requirements, providing that birdfeeders be designed to be rodent proof, it minimizes and prevents spillage onto the ground, and limits the number of birdfeeders on each property from the discussion at the work session, council was gravitating toward limiting of birdfeeders to three per property. The determination tonight would be the violations to be designated as either a misdemeanor or civil infraction; the recommendation is a municipal civil infraction similar to Chapter 58 Garbage, Rubbish and Refuse. The ordinance is to find a balance for residents that live in a semi-urban community; while we enjoy the wildlife but we also live in neighborhoods with neighbors only forty to sixty feet away; to find the balance of desires of those who wish to attract wildlife and rights of those who do not want overcrowding of birds and nuisances. It's another method of rodent control not just from birdfeeders; it's one of those measures in the city code that help protect the residents, promote their health and safety, and control rodents. There are

city codes that address cleaning up blight, stacking of wood, removal of debris, picking up droppings from pets, and building code requirements for construction of buildings that inadvertently create harborage for rodents. City Attorney Staran advised council that enforcement of an ordinance is complaint driven and will be investigated to the best of the city's ability. The Code Enforcement Officer would take the complaint, visit the property, and seek permission to enter into the alleged violator's property. If the officer is unable to get access than they would make whatever observations they can from the public area. If they cannot see or detect the problem than they cannot act upon it; if there is sufficient evidence that someone is in violation of the ordinance and is not willingly to comply than the city can proceed with enforcement. City Attorney Staran advised that under the Civil Infraction Legislation it gives the local district court judges injunctive relief; it allows the judge to issue orders to abate nuisance and violations. There are ways to issue tickets for the individual in violation who will be required to appear in court for an informal hearing before the judge or with the city attorney, and there is the ability to issue multiple tickets everyday as a new violation. There would be a reasonable effort to try to work with the alleged violator to bring them into compliance; issuing a ticket would be the last step. City Attorney Staran advised council that the only limitation for birdfeeders in the existing ordinance is that it must be elevated at least 48 inches above the ground surface. It does not include the numbers of birdfeeders allowed, the design of birdfeeders, the baffling, and the rodent proofing. The proposed ordinance is to enhance and bolster the regulations to deal with or prevent problems with rodent control; it does not have to be in lieu of an education process. We are trying to craft an ordinance that is going to apply city wide and take into account all circumstances; it is designed for the council to revise at their discretion. City Attorney Staran noted there does not appear to be much support for the proposed requirement to place birdfeeders eight feet away fences and structures. There is a majority consensus on the regulation requiring the design to be rodent proof with the tray and the baffle and the limitation of a maximum of five birdfeeders. The ordinance may come back for another work session or first reading with the modifications. City Attorney Staran suggest eliminating vagueness and be precise as possible to say what the birdfeeder must accomplish.

Councilmember Jack Blanchard agreed with the city attorney for the violation designation to be a municipal civil infraction. He advised the audience of the vermin control policy that has been in place in the city for years and the "Bird Feeders and Rats, What You Need to Know" pamphlet. Councilmember Blanchard read some information found on Wild Birds Unlimited that suggests no ground feeding, select the proper food, and use "squirrel free" birdfeeders. Councilmember Blanchard inquired on what can be done about residents with six bird feeders directly attached to the privacy fence. The rat burrows are not found in the violator's yard but are found in the neighbors flower bed. Councilmember Blanchard inquired if there is an agreement that the birdfeeders must be designed to be rodent proof to include a tray and baffle to prevent spillage.

LuAnn Linker, Berkley resident at 2206 Dorothea and owner of Wild Birds Unlimited in Royal Oak, educated the council about various factors that contribute to Norway rat population in urban communities; such as garbage, dog waste, barbeque grill, ponds, compost, gardens, fruit and nut trees and shrubs, dense ground covers, sheds, decks, and improper bird feeding techniques. The amendment is well intended but will not resolve the issue because it only targets birdfeeder which is a small portion of what is attracting rats to the city. The ordinance does not involve community participation or education, it is just legislation. Limiting numbers of birdfeeders will not resolve the problem; people who are creating a nuisance are doing it out of ignorance and they are not aware of the products and techniques that are available. An ordinance that restricts the use of birdfeeders as a blanket solution to rat control; unfairly target and punish wildlife stewards that practice responsible bird feeding. A concern of the proposed ordinance is the rule of placing birdfeeders eight feet away from branches, trees, fences, and other structures; it is part of a formula that states you must prevent rodents from being able to go five feet up and ten feet down. Many property owners that

have forty foot lots may not legally feed birds in Berkley and there should be more research done before creating an amendment. Bird feeding is the second most popular hobby in the United States, it introduces children to wildlife, it benefits the species that migrate through this area that are coping with diminishing and fragmented habitat, and it attracts insect eating species which reduces the need for pesticides. Citizen scientist contributes valuable wild bird research data to the Cornell Laboratory of Ornithology several times a year. Ms. Linker asks council to leave the ordinance as is in favor of pursuing a more comprehensive approach to solving the issue. She suggests establishing a citizen committee to research and designing a long term multifaceted approach to rat control and work with the city to implement it. Also, to use public access television, the community center, the library, the Mayor's monthly letter, and city website to broadcast information to residents on the variety of topics that contributes to rat control. Ms. Linker believes with education and cooperation we can resolve the rat problem and bird feeding problem in a way that does not restrict the freedom of the individual to enjoy the activities in their yard. Ms. Linker thanked council for their time and consideration; she wished everyone a safe and happy holiday season. Ms. Linker addressed that some birdfeeders are designed based on adjustable weights that do not require trays; the average weight of a rat is between nine to twelve ounces and the average weight of a small bird is in grams. She mentioned that ninety six percent of the birdseed from inexpensive blends found at hardware stores is not eaten by birds, so it is important to educate people on the foods that wild birds will eat. Ms. Linker informed council that an excessive amount of birdfeeders may attract unwanted birds if the feeders are not properly maintained, education and being considerate is important. Ms. Linker suggests that the six birdfeeders attached to the privacy fence should be paid a visit by code enforcement and they should see that their creating a public health hazard and nuisance. Rats tend to circulate between 150 to 200 feet from where they live; they usually don't poop where they live. Three bird feeders may not be a reasonable limit as there are seed feeders, thistle feeders, and suet feeders. Ms. Linker agreed that the limit of five birdfeeders is reasonable and does not feel the council should over legislate. Ms. Linker advised council there are many different ways to keep rodents off of birdfeeders and it depends on the kinds of feeders and feeding system that is being used. Ms. Linker does not agree with over regulating and offered to provide council with additional information in the near future regarding birdfeeders.

Susan McEwin, Berkley resident at 4192 Griffith, has four birdfeeders on her property and agrees that rats are a public health issue. She looks forward to having birdfeeders near her window and hopes to continue watching the birds from her window. Ms. McEwin has bird feeders that attract several species of song birds and have seen a drastic reduction of pigeons by using a different type of bird seed. She has submitted for the proper permits for her shed that stores her supplies and is concern that she may be in violation of the proposed ordinance due to the location of her birdfeeders having to be eight feet away from branches, trees, fences, and other structures. Ms. McEwin is in favor of the education option and is concern about bird food that is harmful to pets. Knowing more about some of the preventions with bird feeding and rats; this not just a health issue but also a community image issue. Ms. McEwin is in favor of looking into this issue further; she addressed the safety concerns of getting to the birdfeeders during the winter and to add to the proposal of having some kind of transition period because of the cost. Ms. McEwin thanked the council and wished everyone a good holiday.

Councilmember Alan H. Kideckel shared emails from residents that are concerned about neighbors with birdfeeders. One resident has a neighbor with an excess of ten birdfeeders with six directly attached to their privacy fence. An exterminator has been contacted but will not guarantee the work because of the situation in the neighborhood. The resident has spent \$15,000 four years ago on plants and garden that the rats have eaten and he has spent over \$300 worth of supplies to attempt to get rid of the rats. A second resident has kids that cannot go play in their yard, the family is unable to enjoy their dinner outside, and the kids do not want to camp in the backyard in fear of rats.

Councilmember Kideckel stated that the amendment is an addition to a nuisance ordinance that already exists and is in favor of doing some type of control so neighbors can live in harmony. Councilmember Kideckel inquired if ten to fifteen birdfeeders on a property would contribute to the abundance of pigeons. Councilmember Kideckel felt that if there are no limitations of the amount of birdfeeders that will give residents free reign and suggest the maximum amount of five birdfeeders.

Councilmember Dan Terbrack inquired about how enforceable is an ordinance and what type of actions can be done.

City Planner Amy Vansen informed council that a civil infraction is similar to a parking ticket and if the violation is paid than it is done. It is not involved with getting arraigned and having a pretrial but there is no discussion with the city attorney on reaching compliance. That is why most nuisances are misdemeanors because by the time code enforcement has written a ticket it's a nuisance and not a matter of generating funds; it is getting the nuisance abated. Once the ticket is written it becomes a civil infraction and code enforcement is not notified whether or not it is paid; they would just keep tabs on it and wait for a neighbor to complain to seek a resolution or compliance. City Planner Vansen informed council that when the city has had hot spots of infestation, the code enforcement officers have gone door to door to speak with the neighbors. Rats are survivors, they are omnivores, and they will eat what is available. Educational information is available on the city website and there are handouts provided by code enforcement.

Councilmember Tina Edgar gave a scenario of a resident having twelve bird feeders and receiving a ticket for each violation. She commented on how birdfeeders are not the major contributor to the rat issue; however it does fortify or sustain the population that is there. There are twenty items addressing this issue in the ordinance and education has to be included. It is important to have talks at the library or create a volunteer committee to speak to neighbors who are suffering from a rat infestation and have notified the city. Councilmember Edgar agreed with the limitation of five birdfeeders and suggests there should be restrictions of birdfeeders on fences. Councilmember Edgar suggests the birdfeeders must be designed to be rodent proof or with tray and baffle to prevent spillage.

Councilmember Eileen Steadman agreed with Ms. McEwin that the cost of changing birdfeeders would be expensive. The ordinance gives the city the ability to give tickets to someone who is creating a severe nuisance no matter the amount of birdfeeders they have on their property. Councilmember Steadman is concern about limiting the number of birdfeeders to three and may make it too restrictive for bird lovers. Councilmember Steadman is willing to move forward without the arbitrary number of birdfeeders; she agrees with providing education to the residents and giving people a certain amount time to replace their noncompliant bird feeders. Councilmember Steadman suggests the birdfeeders must be designed to be rodent proof but not require a tray and baffle and be properly installed.

Mayor Pro Tem Steve Baker is concerned that additional constraints would only inhibit the residents that are trying to do the right thing. To ensure the residents have the proper education and awareness; for those who are noncompliant to use the existing ordinance to bring them into alignment. Mayor Pro Tem agreed with the notion of ensuring the right kind of equipment to be responsible but is not comfortable with the limiting the quantity and the placement restrictions. If council is to move forward with a partial revision with the additional guidance and find excessive abuses, they can revisit the ordinance in the future. Mayor Pro Tem Baker is not opposed to the limit of five birdfeeders and would like to include the words properly installed based on the different types of feeders.

Councilmember Dan Terbrack would not be comfortable on voting on an arbitrary number of birdfeeders and agreed that the council does need to continue to control or eradicate the rodent issue. Councilmember Terbrack is not convinced with restricting the placement of the birdfeeders and agreed with the requirement of the design of the feeders to be rodent proof. The ordinance is to encourage responsible bird feeding and provide education. Councilmember Terbrack agreed with the limit of five birdfeeders because of the types of feeders available.

Mayor Phil O'Dwyer advised that the people who do not want to hear about the education piece, should visit the city website and the neighbors who have written letters deserve to be able to enjoy their property. We should not allow another resident to destroy the quality of their life and it is the responsibility of the council to introduce such ordinance that protects people. Mayor O'Dwyer believes there should be a limitation of birdfeeders as there are limits to the number of pets per household. Mayor O'Dwyer has casually asked residents what is a fair amount of birdfeeders for each property and the majority of the responses has suggested no more than three. He agreed with Mayor Pro Tem Baker suggestion to move forward with an ordinance for a year and see what kind of impact it has on the issue. Mayor O'Dwyer confirmed that the nuisance ordinance will be brought to the next council meeting for a first reading in January and make any modifications necessary.

End of discussion at 8:39 p.m.

WORK SESSION: Matter of amending Sections 138-32, Definitions and 138-297, Special Uses of Chapter 138 Zoning, of the Berkley City Code to Define "Tourist Home", Designate Tourist Homes as a Special Use in Single-Family Residential Zoning Districts, and to Prescribe Requirements for Tourist Homes.

Mayor Pro Tem Baker moved to discuss Work Session.
Seconded by Councilmember

Start of discussion at 8:40 p.m.

Interim City Manager Richard Eshman gave a brief summary of the previous work session discussion to include the parking issues, the number of occupants allowed, and the number of rooms for rent.

City Attorney John Staran reviewed the issues of parking, the amount of rooms for rent, and the number of boarders. The purpose of this ordinance is to accommodate some residents desire to provide a tourist home; the city does not seek to change the character of residential neighborhoods nor create or authorize any imposition on neighbors rights. City Attorney Staran anticipates that a family would consist of two people and a child. He suggest that council refer the ordinance to the Planning Commission to review the ordinance, hold a public hearing to discuss the ordinance, and make the necessary changes to the ordinance; ultimately the ordinance would come back to council with a recommendation.

Mayor Pro Tem Steve Baker spoke about preserving and promoting the fantastic neighborhoods in the city and creating responsible framework that helps to promote the best qualities of the neighborhood. Allow the Public Safety and Public Works have access to the streets year-round and enable residents to choose to open up their homes for short term visitors in a safe and responsible way. The resident would submit an application, there would be a hearing process, and neighbors would have an opportunity to speak and ask questions. This is not intended to be a bed and breakfast; this is a different kind of business model and provides access to parts of the community. Mayor Pro Tem Baker suggests that there would be an annual license, for the tourist homes to be registered with the city, and require an annual inspection of the home.

Bernadette Thebolt, Berkley resident at 1440 Franklin, agreed with the suggestion that the homeowner would be home while hosting visitors. She shared that her neighbor who operated a tourist home allowed their guests access to their home while they were not at home. Ms. Thebolt has experience staying at a bed and breakfast; located in a downtown business district and staffed 24/7. Ms. Thebolt hopes that the property owners that host tourist homes would conduct a thorough background check before allowing visitors in their home; these visitors are strangers to them as well. Ms. Thebolt urges the Mayor, City Council, and the Planning Commission in their decision to not make any amendments to Chapter 138 Zoning and Special Land Use ordinance. She recommends that they maintain the current ordinance that prohibits a bed and breakfast and the street parking ordinance. Ms. Thebolt thanked the council for their time and wished everyone a happy holiday.

City Planner Amy Vansen suggests that there be a license ordinance to accompany the tourist homes ordinance and the home should be inspected. She expressed her concerns with the clerical staff availability, the amount of time needed to process the application, and to complete a special land use license legally. City Planner Vansen can draft an ordinance for licensing and special land use. She recommends prohibiting overnight parking, changing the rooms for rent to two, limiting the occupants of each room to two people, and requiring liability insurance. She mentioned that Mayor Pro Tem Baker had provided research on tourist homes from Berkeley (California) and Royal Oak (Michigan). City Planner Vansen has spoken with the Royal Oak Planning Director; they have not received any issues or complaints.

Councilmember Alan H. Kideckel agreed with limiting the occupants to two people and the rentals to two rooms; it seems more realistic.

Councilmember Eileen Steadman agreed with limiting the occupants to two people and the rentals to two rooms; three is too much. She suggests the length of stay not to exceed seven days out of a thirty day period is not enough.

Councilmember Tina Edgar concurred with the length of stay to be more than seven days, to have an open forum for the licensing process, and to charge a licensing fee. She suggests limiting the occupants to two people and one child for a family.

Councilmember Dan Terbrack agreed that the ordinance should go through the Planning Commission for recommendations and come back to council for an educated discussion.

Councilmember Jack Blanchard suggests that the ordinance be revised with a stricter off street parking rule. He stated that Royal Oak has twenty six registered tourist homes and over half are not primary residences.

Mayor Phil O'Dwyer suggest that council must have a consensus to establish an ordinance, refer the ordinance to the Planning Commission for review, and have it sent back with guidance and direction.

Kevin Sack, Berkely resident at 1439 Franklin, agreed with the proposed ordinance besides the length of stay which has been assessed. It is reasonable to have three people in a room; two parents and a child. Mr. Sack and his wife as host require their guest to provide a \$1 million liability insurance in addition to their personal liability coverage. Mr. Sack expressed his discomfort in feeling watched in his home; he is a good citizen. He was concern about his guest being referred to as the United Nations; does the city want to suggest that he must ask his neighbors before welcoming any minority into his home. Mr. Sack is willing to accommodate his guest with parking in his driveway instead of off street parking.

End of discussion at 9:00 p.m.

COMMUNICATIONS:

COUNCILMEMBER KIDECKEL: thanked everyone who participated in the work session discussion for the birdfeeders and tourist homes. He recognized Karen Koerber, Farina's Banquet Center staff, and the Parks and Recreation for hosting a Senior Citizens Luncheon on Thursday, December 10th. Councilmember Kideckel gave an update on the Berkley Rotary Club Annual Holiday Concert on Tuesday, December 15th. It was co-sponsored by the Berkley Lions Club and the Chamber of Commerce. To former councilmember Dale Goodcourage, he wished him a speedy recovery and hopes to see him walking around soon. Councilmember Kideckel wished everyone "Chag Molad Sameach" (Merry Christmas in Hebrew). He wished everyone a happy, healthy, safe, and prosperous 2016.

COUNCILMEMBER EDGAR: wished everyone a Happy Holiday; may everyone be surrounded by joy, laughter, family, and good food. She gave a few highlights of 2015 to include the residents that participated in the Holiday Spirit Award, the Song and Spirit Institute for their community service, and the Planning Commission meeting with a wonderful presentation given by Mark Adler. Councilmember Edgar encourages everyone to embrace 2015 with comfort and care; moving into 2016 with joy.

COUNCILMEMBER TERBRACK: wished everyone Happy Holiday season, a very Merry Christmas, and Prosperous 2016.

MAYOR PRO TEM BAKER: thanked the city employees, volunteers, administration, Mayor and his colleagues. He gave an update on the Regional Transit Authority (RTA) outreach sessions and encourages everyone to visit RTA.org to view the Building Equitable Sustainable Transit (BEST) proposals. Mayor Pro Tem Baker closed with a quote from Educator Steven Anderson, "Alone we are smart but together we are brilliant." He wished everyone a safe and Happy Holiday season, Merry Christmas, and a Happy New Year.

COUNCILMEMBER STEADMAN: thank everyone who participated in the dialogue and discussion for the work sessions. She wished everyone a Happy Holiday season, Merry Christmas, and a Happy New Year.

COUNCILMEMBER BLANCHARD: informed the council that the Chamber of Commerce is preparing a batch of welcome packet for new home owners. He advised everyone to be aware of fire safety and shared some facts during the holidays. Councilmember Blanchard wished everyone a safe and Happy Holiday season.

INTERIM CITY MANAGER ESHMAN: had no comments this evening.

FINANCE DIRECTOR SABUDA: wished everyone a very safe and Happy Holiday season.

CITY ATTORNEY STARAN: gave an update on the Medical Marijuana regulation and provisions to Senate Bill 571. He wished everyone a Happy Holiday and Merry Christmas; best wishes for a peaceful and healthy prosperous New Year.

MAYOR O'DWYER: thanked everyone for their participation in the work session discussion and throughout the year. City of Berkley has had a remarkable year and received many accolades, "The

28th Best Places to Live” according to Money Magazine. He thanked the residents, employees, council, and commissioners for making this a great city. Mayor O’Dwyer wished everyone a Merry Christmas, Happy New Year, and “Nollaig Shona Dhuit” (Merry and Happy Christmas in Gaelic).

ADJOURNMENT:

Councilmember Kideckel moved to adjourn at 9:19 PM.

Seconded by Councilmember Steadman.

Ayes: Kideckel, Steadman, Terbrack, Baker, Blanchard, Edgar, and O’Dwyer

Nays: None

Motion Approved.