

**THE THIRTEENTH REGULAR MEETING OF THE THIRTY-SIXTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, JULY 18, 2016 BY MAYOR O'DWYER**

**PRESENT:** Steve Baker Eileen Steadman  
Jack Blanchard Daniel Terbrack  
Colleen Graveline Phil O'Dwyer  
Alan Kideckel

**APPROVAL OF AGENDA**

Councilmember Terbrack moved to approve the Agenda with an amendment to add Discussion as item #3 to the regular agenda to discuss the August 18, 2015 City of Berkley Master Plan Amendment.

Seconded by Councilmember Kideckel.

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

Nays: None

Motion Approved.

**INVOCATION** REVEREND TAL SULLIVAN

**CITIZENS COMMENTS**

Rachel Piacentini, Berkley resident at 1726 Oxford, represents the Berkley Citizens United and request information regarding the Oakland County Sheriff's Department investigation. She submitted into record her contact information.

***Consent Agenda***

Mayor Pro Tem Baker moved to approve the following Consent Agenda, seconded by Councilmember Graveline:

**APPROVAL OF THE MINUTES:** Matter of approving the minutes of the regular 36<sup>th</sup> City Council meeting on Monday, June 20, 2016 and Work Session on Thursday, April 21, 2016.

**WARRANT:** Matter of approving Warrant No. 1304.

**RESOLUTION NO. R-29-16:** Matter of declaring the month of July as Leiomyosarcoma Awareness Month.

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

Nays: None

Motion Approved.

***Regular Agenda***

**RECOGNITIONS/PRESENTATIONS:**

Mayor Pro Tem Baker read Resolution No. R-29-16 into record.

State Senator Marty Knollenberg partnered with State Representative Robert Wittenberg to present a resolution on behalf of the State of Michigan to the City of Berkley recognizing Leiomyosarcoma Awareness (LMS).

Barbara Winter, Legislative Director for State Representative Robert Wittenberg, presented a resolution that was passed by the House of Representatives recognizing Leiomyosarcoma Awareness (LMS).

**OATH OF OFFICE:** Oath of Office to the newly appointed Public Safety Officer Frederick R. Bismack.

Councilmember Blanchard moved to approve the Oath of Office.  
Seconded by Councilmember Kideckel.

Public Safety Director Richard Eshman shared that Fred Bismack was hired as a Dispatcher for the Berkley Public Safety Department in December 2013. His qualifications included being a certified Fire Fighter and Emergency Medical Technician. His experience included 2 years as an on call Fire Fighter and Emergency Medical Technician for the City of Rochester Hills. Fred Bismack applied for the Public Safety Officer position in Fall 2015. He is described to be intelligent, friendly, motivated, has good character and he possess great people skills. Fred Bismack entered the Oakland Police Academy in February 2016 where he recently graduated.

Public Safety Officer Fred Bismack is honored to serve the City of Berkley and shared that this has been a lifelong goal for him. To achieve this goal in a special city like Berkley will make it even better for his career. He commented that the residents of Berkley have an immense passion for the city and he looks forward to the opportunity to interact with community members at a closer level. Officer Bismack concluded by thanking his coworkers, Public Safety Director Eshman, Deputy Chief Crum, his wife Laura Bismack, and the City Council.

**DISCUSSION:** Matter of discussing the August 18, 2015 City of Berkley Master Plan Amendment.  
Councilmember Terbrack moved to discuss the Master Plan Amendment.  
Seconded by Mayor Pro Tem Baker.

Discussion began at 7:19 p.m.

Mayor O'Dwyer opened up the discussion beginning with comments from his fellow council members. He confirmed with the Planning Commission Chair David Barnett to add the Master Plan Amendment as an agenda item on their July 25, 2016 meeting. Mayor O'Dwyer informed everyone that Oakland Manor and St. Johns Woods subdivisions were excluded from the Residential Form Based Code due to deed restrictions that were established by the developers. Mayor O'Dwyer thanked everyone for making a decision together and show respect to one another.

Councilmember Terbrack welcomed and thanked everyone for attending the meeting tonight to discuss the Master Plan Amendment. He spoke about listening to residents' concerns, educating everyone, and opening up the lines of communication in order to move forward as a community.

Mayor Pro Tem Baker appreciates the opportunity to engage the residents in a continued dialogue and to communicate clearly with reason and facts. He asked City Attorney Staran to give a brief overview of the process to amend the city Master Plan. Mayor Pro Tem Baker reiterated that the districts are legally zoned and have the proper codes in place to enforce the zoning. Mayor Pro Tem Baker suggest that the city takes advantage of the internet to create a community forum, create a survey for community input, and utilize social media as a form of communication.

City Attorney Staran explained that a Master Plan is a comprehensive land use plan for the community's future created by the Planning Commission. Every municipality is required to revisit, reexamine, and readopts the plan at least every five years. Aside from the residential land use, the plan consists of multiple components to include transportation, infrastructure, Parks and Recreation, capital improvement, etc. The Master Plan is developed and adopted by the Planning Commission; it is used as a guide and a vision of the Planning Commission for the future. This plan is not the law and it is not the zoning ordinance; the zoning ordinance is the jurisdiction and authority of the council to adopt. If the Master Plan does not suit the future need or does not reflect the common vision for the future of the community then it can be changed. It would require multiple meetings of the Planning Commission, it involves publishing notices in the newspaper and/or online, the information is shared with surrounding communities and their Planning Commissions, and the information is sent to City Council, Historical Committee, the Downtown Development Authority (DDA), and Oakland County Planning Commission. The process takes at least 90

days to complete, there are procedures that need to be followed and strictly adhered to, it involves multiple meetings, and at least one public hearing to include the residents. City Attorney Staran explained that every community has a multi-family residential district regulation since the beginning of their zoning ordinance. The restriction applies only to the areas that are zoned multi-family residential district and has nothing to do with single family residential districts. City Attorney Staran confirmed that any resolutions approved supersedes the prior resolutions pertaining to the Master Plan Amendment. He further explained that the Master Plan and the zoning ordinances do not follow one another word or word but generally provide consistency. City Attorney Staran confirmed that single family residential districts do not permit multi-family residential homes. It would require a rezoning ordinance amendment and it is not permitted in the existing code.

Councilmember Kideckel thanked everyone for attending tonight's meeting, for emailing their concerns, and for those that called about their concerns. He recommends that a public hearing be scheduled to educate the residents and give them an opportunity to engage in conversation with the Planning Commission. Councilmember Kideckel encourages communication and working together to maintain the ranking of #28 of Money Magazine's Best Places to Live.

Councilmember Steadman invites and encourages everyone to join the council at future Budget Work Sessions scheduled in the month of May.

City Manager Matt Baumgarten explained that in the event that there are special permissions required than there would be an opportunity for the neighbors to weigh in on the issue. If the homes are being built in accordance of current codes there is no requirement for the neighbors to be notified.

Kurt Hite, Berkley resident at 3535 Robina, expressed his concerns of repealing the August 18, 2015 Master Plan Amendment.

Rachel Piacentini, Berkley resident at 1726 Oxford, expressed her concerns of Section 138-356 in the City Code Book.

James Phillips, Berkley resident at 1936 Beverly, asked for clarification of repealing the August 18, 2015 Master Plan Amendment.

Dennis Hennen, Berkley resident at 2411 Earlmont, expressed his concerns of educating the community about Residential Form Based Code.

Kaylyn Milan, Berkley resident at 2359 Bacon, expressed her concerns of the similarities between the Master Plan and City Code Book.

Lori Robertson, Berkley resident at 1964 Dorothea, expressed her concerns regarding the August 18, 2015 Master Plan Amendment.

Joshua Hunter, Berkley resident at 2240 Thomas, is opposed to the August 18, 2015 Master Plan Amendment; he asked for clarification on the differences between the Master Plan and zoning ordinance.

Lisa Kempner, Berkley resident at 2660 Columbia, wanted to ensure there will be focus on community involvement and input for the Master Plan Amendment discussion.

Wendy Zabramski, Berkley resident at 3340 Gardner, expressed her concerns of any amendments already in works without the knowledge of the public.

Mariada Bishop, Berkley resident at 1404 Eaton, collected 250 to 300 signatures to repeal the August 18, 2015 Residential Future Land Use Amendment to the Berkley Master Plan.

Donny Dykes, Berkley resident at 3715 Gardner, expressed his concerns about infrastructure of the sewer, senior housing, and HUD homes.

Danny Prieur, Berkley resident at 3579 Tyler, expressed his concerns of his neighbor's home that was demolished in February and there are now two separate homes being built on the property.

Tammy Polk, Berkley resident at 1440 Eaton, asked for further explanation of deed restriction and variances.

Joni McKay, Berkley resident at 1850 Larkmoor, expressed her concerns regarding retiree healthcare tier changes effective as of July 1, 2016.

Andrew Assenmacher, Berkley resident at 2163 Gardner, expressed his appreciation for city administration in their response to the August 11<sup>th</sup> flood event and the pavement of Coolidge Highway north of 12 Mile Road.

Scott Fisher, Berkley resident at 1940 Cass, suggest for the open house and public forum to include a train the trainer option for residents that are unable to participate in any of the discussions.

Georgia Dixon, Berkley resident at 2615 Kenmore, suggests that it is key to include the residents in the discussions.

Discussion ended at 8:50 p.m.

**MOTION NO. M-43-16:** Matter of approving the appointments to various Boards and Commissions.

Councilmember Kideckel moved to approve Motion No. M-43-16.

Seconded by Councilmember Blanchard.

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

Nays: None

Motion Approved.

**MOTION NO. M-44-16:** Matter of authorizing the Mayor to execute a contract between SMART and the City of Berkley for Fiscal Year 2017 Municipal Credit and Community Credit funds in order to provide public transportation services for the period of July 1, 2016 to June 30, 2017.

Councilmember Steadman moved to approve Motion No. M-44-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Motion Approved.

**MOTION NO. M-45-16:** Matter of authorizing a contract to add additional support to existing light fixture mounts at Community Fields at a cost not to exceed \$9,488.80 from MNC ANC Professional Services LLC at 72 Pinewood Dr., White Lake, MI, based upon their quotes price dated May 18, 2016. Funds for this expenditure are allocated to account number 101-691-933-000.

Councilmember Terbrack moved to approve Motion No. M-45-16.

Seconded by Councilmember Graveline.

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

Nays: None

Motion Approved.

**MOTION NO. M-46-16:** Matter of authorizing the City Manager to execute an agreement with Hubbell, Roth & Clark, Inc. to provide engineering design services for the Twelve Mile sidewalk replacement for an amount not to exceed \$52,000 as stipulated in its proposal. Monies to come from Account Number 470-938-821-000.

Mayor Pro Temp Baker moved to approve Motion No. M-46-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Motion Approved.

**MOTION NO. M-47-16:** Matter of authorizing the City Manager to execute an agreement with DataBankIMX. to provide image-silo storage services to the City for a monthly fee of \$225 as stipulated in its proposal. Monies to come from Account Number 101-371-986-000.

Councilmember Kideckel moved to approve Motion No. M-47-16.

Seconded by Mayor Pro Tem Baker.

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

Nays: None

Motion Approved.

**MOTION NO. M-48-16:** Matter of authorizing the City Manager to execute an agreement with Hubbell, Roth & Clark, Inc. to provide engineering services on an as-needed basis for development reviews as stipulated in the attachment. All fees are paid by applicants requesting development approval.

Councilmember Blanchard moved to approve Motion No. M-48-16.

Seconded by Councilmember Graveline.

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

Nays: None

Motion Approved.

**MOTION NO. M-49-16:** Matter of amending the City's Fee Schedule effective September 1, 2016, outlined on the attachment.

Councilmember Graveline moved to approve Motion No. M-49-16.

Seconded by Councilmember Terbrack.

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

Nays: None

Motion Approved.

**ORDINANCE NO. O-05-16:** Matter of considering the first reading of an ordinance to repeal Section 14-35, Chapter 14 Alcoholic Liquors and to amend Chapter 30 Businesses, Article III Business Licenses of the Berkley City Code. (Set Date Certain, Monday, August 15, 2016)

Councilmember Kideckel moved to approve Ordinance No. O-05-16.

Seconded by Councilmember Steadman.

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

Nays: None

Motion Approved.

**MOTION NO. M-50-16:** Matter of authorizing Hubbell, Roth & Clark (HRC) to complete design services for the Harvard Road Reconstruction and Water Main Project (Woodward to Cass) in an amount not to exceed \$129,000.

Councilmember Blanchard moved to approve Motion No. M-50-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Motion Approved.

## **COMMUNICATIONS:**

**MAYOR PRO TEM BAKER:** spoke about state law regarding fireworks and asked residents to be mindful of others and be safe. He explained to everyone about the game Pokeman Go and the difference

between augmented reality verses virtual reality; please be careful when playing Pokeman Go. Mayor Pro Tem Baker concluded with a quote from former President Woodrow Wilson, "You are not here merely to make a living. You are here in order to enable the world to live more amply, with greater vision, with a finer spirit of hope and achievement. You are here to enrich the world, and you impoverish yourself if you forget the errand". He gave updates on the Downtown Development Authority meeting to include the DDA Manager job description, streetscape along Coolidge Highway, make the downtown a destination place, and catalytic projects such as the Robina Plaza.

**COUNCILMEMBER STEADMAN:** invites everyone to register for the following Library programs in July: Teens Make Toys for Animals on Wednesday, July 20<sup>th</sup> at 2 p.m.; Story Time in the Park at Jaycee Park on Tuesday, July 26<sup>th</sup> from 10 a.m. to 11 a.m.; Family Game Night on Tuesday, July 26<sup>th</sup> from 6 p.m. to 8 p.m.; and Henna Art for Adults on Thursday, July 28<sup>th</sup> at 6:30 p.m. She thanked everyone who participated in tonight's discussion.

**COUNCILMEMBER BLANCHARD:** thanked everyone who participated in tonight's discussion. He reminded everyone of the CruiseFest on Friday, August 19<sup>th</sup> and the Woodward Dream Cruise on Saturday, August 20<sup>th</sup>.

**COUNCILMEMBER TERBRACK:** thanked everyone who participated in tonight's discussion. He invites everyone to participate in the following Parks and Recreation programs: Jaycee Jamboree on Thursday, July 28<sup>th</sup> from 6 p.m. to 8 p.m.; Family Movie in the Park on Saturday, August 27<sup>th</sup> at 6 p.m.; and an Ice Cream Social on Tuesday, August 30<sup>th</sup> at 8 p.m.

**COUCILMEMBER GRAVELINE:** thanked everyone who participated in tonight's discussion. She invites everyone to the next Planning Commission on Tuesday, July 26<sup>th</sup> at 7:30 p.m.

**COUNCILMEMBER KIDECKEL:** thanked everyone who participated in tonight's discussion. He acknowledged the volunteers who were appointed and reappointed to the various Boards and Commissions. They will be required to be sworn in at the Clerk' Office after their appointment. The City Hall hours are Monday through Friday, 8:30 a.m. to 5 p.m.; and closed between 1 p.m. to 2 p.m. for lunch. Councilmember Kideckel extends his regards and sympathy to the victims and families at recent events in Dallas, Texas. He sends his condolences to the Wishon family for the passing of Paul Wishon, a long time Berkley resident. Councilmember Kideckel recognized and thanked DTE Energy for their sponsorship of the Berkley CruiseFest. He spoke about the Little League teams from the Mom and Dad's Club and encourages everyone to get involved. Councilmember Kideckel reminded everyone of the Tuesday, August 2nd State Primary election, don't forget to vote.

**CITY MANAGER BAUMGARTEN:** welcomed Public Safety Officer Fred Bismack and thanked the audience for their support. He recognized Cinda Coon, Mark Coon, Theresa McArleton, and Darchelle Strickland Love for their hard work with the Berkley CruiseFest. City Manager Baumgarten thanked Planning Commission Chair Dave Barnett for attending the Council Meeting and being a great representation of the city.

**CITY ATTORNEY STARAN:** continued the conversation regarding the fireworks regulation and the limitations the state has set for the local municipalities. He gave a brief update on medical marijuana, citizen initiatives, and court decisions. The state legislature has yet to clarify the law to regulate the cultivation and distribution of marijuana. City Attorney Staran spoke about the oil and gas exploration and development amidst a proposed oil well in the City of Southfield. Oakland County Circuit Court issued an opinion that oil and gas drilling is exclusively regulated by the State of Michigan DEQ (Department of Environmental Quality). City Attorney Staran gave an update on e-Cigarettes and the administrative regulations will take effect beginning next month; there will be constraints pertaining to use by minors and to not violate the current smoking law.

**MAYOR O'DWYER:** thanked everyone who participated in tonight's discussion. He recognized the Planning Commission and Commissioner Barnett for revisiting the Master Plan Amendment at their next meeting.

**ADJOURNMENT:**

Councilmember Kideckel moved to adjourn at 10:00 PM.

Seconded by Mayor Pro Tem Baker.

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

Nays: None

Motion Approved.