

THE TENTH REGULAR MEETING OF THE THIRTY-SIXTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, MAY 16, 2016 BY MAYOR O'DWYER

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

ABSENT: Daniel Terbrack

APPROVAL OF AGENDA

Mayor Pro Tem Baker moved to approve the Agenda.
Seconded by Councilmember Kideckel.
Ayes: Blanchard, Graveline, Kideckel, Steadman, Baker, and O'Dwyer
Nays: None
Absent: Terbrack
Motion Approved.

INVOCATION Pastor Adam Groh

CITIZENS COMMENTS None

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, May 2, 2016.

WARRANT: Matter of approving Warrant No. 1302.

RESOLUTION NO. R-16-16: Matter of recognizing Tina Edgar for her service as City Councilmember for the City of Berkley from 2013-2016.

RESOLUTION NO. R-17-16: Matter of considering A Coalition for Transit (ACT).

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

Regular Agenda

RECOGNITIONS/PRESENTATIONS:

Councilmember Graveline read Resolution No. R-17-16 into record.

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

Mayor Pro Tem Baker thanked Tina Edgar for her services; he learned a lot from her, he has been inspired by her, and he is very appreciative for all that she has brought to the community. He wrote and shared a Haiku poem, "Gratitude abounds, Tina leads from heart and mind, yes the river knows."

David Barnett, Chairman of the Planning Commission, thanked Tina Edgar for her services to the Planning Commission, for informing the City Council of the updates from the Planning Commission, and during the committee meetings brought forth ideas while engaging each commissioner at one time or another. On behalf of the Planning Commission, Mr. Barnett thanked Ms. Edgar for her devotion and services to the board.

Deputy Chief Crum thanked Tina Edgar for her services on behalf of the Public Safety Department; he added that the city employees have appreciated her leadership, her time here, and she has done a wonderful job as a councilmember. He concluded by saying, "We will miss you and thank you for being part of our city."

Shirley Hansen, Berkley resident at 2050 Edgewood, spoke as a past President of Oakland Manor Subdivision thanked Tina Edgar for always keeping her home a star place for the manor. She commented that Ms. Edgar has been wonderful on the council, she has been very dedicated, and Ms. Hansen is proud to say that she is also a friend.

Councilmember Blanchard reminded everyone that Tina Edgar and Dan Terbrack served on the Road and Water Ad Hoc Committee with him. He thanked Ms. Edgar for providing a lot of insight and has been a real asset to the committee. Councilmember Blanchard thanked Tina Edgar for her services and it has been a pleasure working with her.

Councilmember Steadman commented that Tina Edgar is great in her leadership abilities, she has done a wonderful job on city council, and she has a great sense of humor. She is also proud to call Ms. Edgar her friend and she hopes to keep in touch.

Councilmember Graveline thanked Tina Edgar personally for the transition, she has been insightful, and appreciates her willingness to help.

Councilmember Kideckel commented that Tina Edgar is compassionate with council, the residents, and the City of Berkley. He thanked Ms. Edgar for being a true example of a resident and a leader in the city; and is glad to have the honor to serve with her.

Interim City Manager Eshman commented that it has been a pleasure working with Tina Edgar and thanked her for her services.

State Representative Robert Wittenberg read and presented a tribute on behalf of the State of Michigan for Tina Edgar. He briefly spoke about her dedication as a teacher; he thanked her for her services to the City of Berkley, and let her know she will be missed.

ORDINANCE NO. O-04-16: Matter of considering the first reading of an ordinance to rezone property described as Lot 335 of the Larkmoor Boulevard Subdivision from Single Family Residential District (R-1D) to Parking District (P-1). (Set Date Certain, Monday, June 6, 2016)

Councilmember Steadman moved to approve Ordinance No. O-04-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Absent: Terbrack

Motion Approved.

City Planner Vansen gave a brief summary about the collaboration agreement for the Eaton properties, the three properties on Eaton Road that is owned by two different businesses, and that the City Attorney has worked for many months with the business owners to make arrangements to divide the properties to help alleviate the parking problems. She advised council to refer to her report which includes the updates from the public hearing held by the Planning Commission last month in regards to rezoning. The concerns were on how the properties were going to be developed, the amount of parking in the area, and how to ensure the parking lot was to be used by self-parking. City Planner Vansen spoke briefly about the property at 1010 Eaton and city administration coming to a decision. City Planner Vansen responded to Mr. Polk's inquiry by stating that the site plan been approved by the Planning Commission and in the interim when it was an unimproved lot, the city administration were facing some choices to allow parking. All the properties on Eaton were registered vacant; the properties were inspected and the Building Department required a list of improvements to be done should the house be reoccupied. The Code Enforcement Officer and building officials reviewed the vacant properties on a regular basis to ensure property maintenance compliance.

Mayor O'Dwyer commented on the public hearing conducted by the Planning Commission, the residents that attended, and the citizens that expressed their concerns at the meeting. He responded to Mr. Sweda's concern that the process is a requirement by state law, the Planning Commission will be involved in the site plan, and if the property owner doesn't comply they will be in direct violation of the ordinance.

Mayor Pro Tem Baker expressed his appreciation for all the work that has gone into this thus far, the degree of civility that has been brought through this process has been quite impressive, and he hopes that the way of framing the conversation to help ensure the best outcome for everyone will be continued.

Gabriella Sweda, Berkley resident at 1047 Eaton, felt it is reckless for the city to rezone in order to preserve the collaborative agreement when there has been no past compliance with Vinsetta Garage and nothing in the agreement to penalize them to hold up their end. The residents on Eaton Road are relying on the elected City Council to represent them as part of the process and she asked that the council oppose Ordinance O-04-16 for now. Mrs. Sweda reiterated Commissioner Popp's comments, "Past behavior is the best indicator for future behavior, there is no down side to waiting, and taking steps to ensure we don't have more problems." Ms. Sweda inquired about the clause in the collaboration agreement requiring Vinsetta Garage to as soon as possible bring forward their site plan with no time frame.

Sean Sweda, Berkley resident at 1047 Eaton, is one of the residents that are mostly impacted and they are not opposed to having more parking spaces. Through the work of Tara Hayes, a Berkley resident at Oxford, they have proposed a comprehensive plan that will address parking issues and require a rezoning of 1046 Eaton. Mr. Sweda expressed his concerns that the process is unlikely going to end in a good result for the community. There is nothing in the agreement that prevents the homes from being raised before the site plan is approved and there are no provisions in the agreement between the city and the property owners guarding any aesthetic requirements for the site plan. Mr. Sweda asked, "What happens if the Planning Commission is at an impasse with the property owners regarding the aesthetics of the site plan? What if the owners decide it's not in their financial interest to develop the property to comply with the Planning Commissions requirements?" In his prospective, rezoning is the main leverage the city has to influence the outcome of Eaton. Mr. Sweda is afraid that instead of vacant homes on these properties there will be two empty lots while more negotiations continue. The property owners will wait you out while making the status quo so unbearable. He concluded by saying, "If you are going to say yes, I believe you owe it to the community that you serve that you to publicly state what your expectations are for the development of the property so that the residents can feel a little more secure about your vision." Mr. Sweda reiterated his concerns that the city will lose any leverage to influence the outcome if the rezoning happens first and the property owner's become uncooperative when they don't want to make the financial commitment.

City Attorney Staran addressed the questions that were proposed about the process; the city is required to follow a process under several state laws throughout the State of Michigan. If the conditional rezoning is approved it would allow the use of 1046 Eaton as off street parking for Vinsetta Garage. At the rezoning stage; we are looking at the use of the land, how it fits in with the proposed Cities Master Plan, and the compatibility with surrounding neighborhoods. The zoning standpoint is to look at the appropriateness of the existing land use and the proposed land use. When we look at the details of how this parking lot is going to look, what the configuration is going to be, the traffic circulation, the aesthetics, and the landscaping; those go well beyond the rezoning. These are site details which by law and by ordinance will be determined by the Planning Commission. The collaboration agreement was intended to create a means to reconfigure and recombine the lots to allow the rest of the process to rezone and ultimately the implementation of the site plan. Vinsetta Garage will have to propose a site plan that will be satisfactory to the Planning Commission, the commission will come up with appropriate modifications, and once the site plan is approved the property owner will be obliged to implement or be in violation of the zoning ordinance. This is to help the city alleviate the on street parking in the neighborhood as well as to help our business community along the Woodward corridor to continue to thrive. City Attorney Staran responded to Mr. Polk's inquiry by confirming that the property owners are subject to all the applicable ordinances of the city and will be required on an ongoing basis to maintain their property. City Attorney Staran responded to Councilmember Graveline's inquiry by confirming that this is a conditional rezoning. If it is proposed that the lot is to be used exclusively for off street parking for the Vinsetta Garage and the conditions aren't met than it reverts back to residential. City Attorney Staran added to Mayor O'Dwyer's closing comments that if the property owner fails to move forward with the site plan to implement and construct the proper parking lot as approved by the city than the property is rezoned back to residential.

City Attorney Staran responded to Ms. Sweda's inquiry stating that Vinsetta Garage will be required to bring forward a site plan after the rezoning ordinance has been approved from the first reading today and the second reading scheduled for June 6, 2016. Vinsetta Garage is aware that it is in their business interest to provide more parking for their customers and comply with city administration.

Gary Polk, Berkley resident at Eaton, expressed his concerns about Vinsetta Garage owners lacking any regard for the neighborhood and he inquired about any provisions prior to the site plan approval to require the property owners to maintain their property.

Councilmember Graveline asked the City Attorney to explain a conditional rezoning and if the conditions are not met than the property reverts back to residential.

Councilmember Kideckel thanked everyone involved and felt that it is important to hear all the concerns. If the rezoning is approved, he is certain that Vinsetta Garage and Lugo will follow through with their responsibilities. With the two entities coming together in a collaborative agreement will bring positive results in the future.

MOTION NO. M-29-16: Matter of considering a special event permit request allowing the Ancient Order of Hibernians in America conduct a County of Oakland-Irish Fest on Saturday, September 10, 2016 from 12 noon to 8 PM. The nonprofit has requested that 12 Mile Road, between Wakefield Road and Tyler, be closed for the event. Approval is contingent upon the city's receipt of all required documents before the event date.

Councilmember Kideckel moved to approve Motion No. M-29-16.

Seconded by Mayor Pro Tem Baker.

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

Nays: None

Absent: Terbrack

Motion Approved.

Deputy Chief Crum informed council that the organization has collected the required signatures from businesses on 12 Mile Road as requested by city administration, they will provide at a later date the updated tax exempt status letter from the IRS, and the certificate of liability insurance will be obtained in August closer to the event date. The goal is provide a family friendly event celebrating the Irish culture through music, dance, and food while bringing people from all over Metro Detroit to Berkley's downtown. The Public Safety Department will provide extra staffing and recommend this approval is contingent on the required documents to the Clerk's Office and final approval by the City Manager's Office. Deputy Chief Crum added that the Public Safety will provide two officers for the day of the event and the estimated cost is for their total hourly rate. Deputy Chief Crum responded to Mayor Pro Tem Baker's inquiry stating that the insurance policy carrier prefers to have the certificate of liability insurance 30 days prior the event.

Stephen Zannetti, President of the Ancient Order of Hibernians in America, informed council his involvement in the Royal Oak St. Patrick's Day Parade which began 16 years ago. They will not allow drinking on the streets and will provide staffing to maintain order. There will be a kid's zone, tea room, and fairy door scavenger hunt throughout the city. The entertainment will include Irish bands and dancers; they are expecting to attract close to 5,000 attendees to the event. The Ancient Order of Hibernians in America has celebrated their 188th year anniversary and celebrating 60 years in Oakland County. The Ancient Order of Hibernians began in Ireland in 1600 to protect the clergy and they came to America to simulate the Irish culture into the community. Mr. Zannetti commented that the Royal Oak St. Patrick's Day Parade started with 13 participates and now have 900 marchers with 10,000 people watching the parade. Mr. Zannetti responded to Councilmember Graveline's inquiry stating that after the parade the attendees are encouraged to visit the businesses in Royal Oak's downtown area. The Ancient Order of Hibernians in America has partnered with the American Legion to collect winter apparel during the County of Oakland-Irish Fest event.

Councilmember Steadman inquired about the hours of operation of 12 noon to 8 p.m. and the requirements of setting up and tearing down of equipment which will impact the 12 Mile Road closure.

Councilmember Blanchard commented that the setup would begin at 10 a.m. and the teardown would begin at 9 p.m. He directed the question to the Public Works Director Derrick Schueller of the time frame to setup and

shutdown. Councilmember Blanchard commented that the Emergency Operations Plan has already completed the first draft of the event planning documents.

Public Works Director Schueller anticipates the setup would require one hour before the event and the overtime cost is estimated at approximately \$3,000 for the event.

Mayor Pro Tem Baker inquired about the required documents being submitted in a timely manner prior to the event date.

RoseAnn Nicoli, representative of Chamber of Commerce, confirmed to council that the Chamber is in support of bringing another big event in downtown City of Berkley. The Berkley businesses that are members of the Chamber have inquired about events such as Berkley Art Bash which attracts at least 10,000 attendees. They encourage walking traffic to the downtown area, encourage the Berkley community participation, and attract people from all over Metro Detroit. The Chamber encourages full support of the event and is willing to provide guidance.

Mayor O'Dwyer complimented Mr. Zannetti of the superb event that the Royal Oak St. Patrick's Day Parade has become.

Councilmember Graveline asked if the Royal Oak St. Patrick's Day Parade is not an all-day event such as this County of Oakland-Irish Fest.

PUBLIC HEARING: Matter of holding a Public Hearing to receive written and verbal comments regarding the reprogramming of Community Development Block Grant (CDBG) money.

Councilmember Blanchard moved to a Public Hearing.

Seconded by Councilmember Kideckel.

Public hearing opened at 8:01 p.m.

Public hearing closed at 8:03 p.m.

MOTION NO. M-30-16: Matter of directing the City Planner to prepare a reprogramming request for 2014 Community Development Block Grant funds in an amount of \$28,469 to provide for the installation of automatic door openers in the men's and women's restrooms at the library.

Councilmember Steadman moved to approve Motion No. M-30-16.

Seconded by Councilmember Graveline.

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

Nays: None

Absent: Terbrack

Motion Approved.

MOTION NO. M-31-16: Matter of approving the purchase of Sensus Radio Water Meter Equipment for commercial accounts at a total cost of \$54,660 from the sole source vendor, ETNA Supply Company of Grand Rapids, Michigan.

Mayor Pro Tem Baker moved to approve Motion No. M-31-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Absent: Terbrack

Motion Approved.

MOTION NO. M-32-16: Matter of approving the rental of a Catch Basin Cleaning Machine from Jack Doheny Companies at a cost not to exceed \$18,700 in accordance with the MITN public bid held on May 6, 2016.

Councilmember Blanchard moved to approve Motion No. M-32-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Absent: Terbrack

Motion Approved.

RESOLUTION NO. R-18-16: Matter of approving wage and benefit changes to full, part-time and seasonal staff.

Councilmember Kideckel moved to approve Resolution No. R-18-16.

Seconded by Councilmember Steadman.

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

Nays: None

Absent: Terbrack

Motion Approved.

PUBLIC HEARING: Matter of holding a Public Hearing to consider the proposed 2016/17 Annual Operating Budget and Supporting Tax Rates for the City of Berkley, Michigan.

Councilmember Blanchard moved to a Public Hearing.

Seconded by Councilmember Graveline.

Public hearing opened at 8:20 p.m.

Public hearing closed at 8:21p.m.

RESOLUTION NO. R-19-16: Matter of approving a resolution of the Council of the City of Berkley, Michigan approving the 2016/17 through 2022/23 Capital Improvements Plan of the City of Berkley, Michigan.

Councilmember Kideckel moved to approve Resolution No. R-19-16.

Seconded by Councilmember Blanchard.

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

Nays: None

Absent: Terbrack

Motion Approved.

RESOLUTION NO. R-20-16: Matter of approving a resolution of the Council of the City of Berkley, Michigan establishing a Residential and Commercial Service Fee for the Collection and Disposal of Solid Waste, effective July 1, 2016.

Councilmember Steadman moved to approve Resolution No. R-20-16.

Seconded by Councilmember Graveline.

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

Nays: None

Absent: Terbrack

Motion Approved.

RESOLUTION NO. R-21-16: Matter of approving a resolution of the Council of the City of Berkley, Michigan setting the charges for Water and Sewer Services, effective July 1, 2016.

Councilmember Kideckel moved to approve Resolution No. R-21-16.

Seconded by Councilmember Blanchard.

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

Nays: None

Absent: Terbrack, Blanchard (left meeting for fire emergency at 8:31 p.m.)

Motion Approved.

RESOLUTION NO. R-22-16: Matter of approving a resolution of the Council of the City of Berkley, Michigan adopting a budget for the Fiscal Year beginning July 1, 2016 and ending June 30, 2017.

Councilmember moved to approve Resolution No. R-22-16.

Seconded by Councilmember

Ayes: Kideckel, Steadman, Baker, Blanchard (returned to meeting at 8:35 p.m.), Graveline, and O'Dwyer

Nays: None

Absent: Terbrack

Motion Approved.

RESOLUTION NO. R-23-16: Matter of authorizing amendments to the Fiscal Year 2015/2016 Operating Budget – those operating funds as presented.

Mayor Pro Tem Baker moved to approve Resolution No. R-23-16.

Seconded by Councilmember Kideckel.

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

Nays: None

Absent: Terbrack

Motion Approved.

COMMUNICATIONS:

MAYOR PRO TEM BAKER: expressed his gratitude to the many volunteers and participants for the Berkley Days event. He recognized the Historical Committee for their dedication and focus on the exhibits celebrating the history of the city. Mayor Pro Tem Baker thanked everyone for their continued support by purchasing merchandise at the exhibits which provided \$300 to directly benefit the museum. He gave an update from the comprehensive facility study of the municipal buildings throughout the city. The subcommittee received bids from ten different companies and will be meeting to review the results. Mayor Pro Tem Baker shared a quote from an American businessman and philanthropist Raymond Kroc, "You're only as good as the people you hire." The Downtown Development Authority (DDA) will be hiring a DDA Manager to market the city, support the businesses in the downtown area, and recruit other businesses to be part of our downtown district. He thanked the DDA Chairman Alan Semonian for his leadership, for forming a committee to focus on the Robina Plaza Project, and for nominating committee members to the Coolidge Action Task Force. Mayor Pro Tem Baker expressed his appreciation for everyone involved in the Budget Work Session.

COUNCILMEMBER STEADMAN: thanked everyone for their involvement in Berkley Days event. She thoroughly enjoyed the Taste of Berkley event on Thursday, May 12th; it was a success.

COUNCILMEMBER BLANCHARD: mentioned that the Berkley Days committee hosted a horse shoe competition on Friday, May 13th and the council was triumphant. He acknowledged the Berkley Days Citizen of the Year was awarded to Shirley Hansen and the Humanitarian of the Year was awarded to Linda Gusway. Councilmember Blanchard announced the Berkley Art Bash is scheduled for Saturday, June 11th and hosted by the Chamber of Commerce. And, the Public Safety is hosting the Lids for Kids event on the same day.

COUCILMEMBER GRAVELINE: commended the Berkely Days committee for an excellent job and she had the pleasure of participating in the horseshoe event this past Friday night. She thanked Finance Director/Treasurer David Sabuda for his assistance in reviewing the budget.

COUNCILMEMBER KIDECKEL: said hello to Josephine Brewer who is feeling under the weather and hopes she feels better soon. He proudly announced that the Taste of Berkley raise over \$5,000 and thanked everyone who participated. Councilmember Kideckel took a moment to remember Helen Vanheusen for her involvement in the Berkley Days and his thoughts are with Ron Vanheusen. He announced that the Dad's Club Opening Day is Saturday, June 4th and the parade will start at the Berkley High School to the Community Center. Councilmember Kideckel reminded everyone on Wednesday, May 25th will be the Oxford Park Plan meeting from 9 a.m. to 11 am. and 6 p.m. to 8 p.m. He wished everyone a happy and safe Memorial Day; there will be a ceremony at Berkley City Hall beginning at 11 a.m. and followed by a ceremony at American Legion at 12 noon. Councilmember Kideckel congratulated State Representative Robert Wittenberg on the occasion of his wedding this Sunday, May 22nd.

ASSISTANT CITY MANAGER STRICKLAND LOVE: thanked Interm City Manager Eshman for his leadership and appreciates the efforts they have made to overcome many obstacles together.

FINANCE DIRECTOR/TREASURER SABUDA: thoroughly enjoyed the Taste of Berkley and the opportunity to participate in the softball game with the Dad's Club and the City Council. He thanked Interm City Manager Eshman and Assistant City Manager Strickland Love for their continued support. Finance Director/Treasurer expressed his gratitude for the team effort, cooperation, and dedication of all those involved in budget.

INTERIM CITY MANAGER ESHMAN: thanked Assistant City Manager Strickland Love, Finance Director/Treasurer Sabuda, City Clerk Boucher, and City Attorney Staran for all their hard work. He expressed his appreciation to the City Council for allowing the opportunity to work in the City Manager's Office.

CITY ATTORNEY STARAN: informed council of new legal developments involving other communities; the City of Royal Oak and City of Clawson have been sued for the August Flood event. And, Orion Township did take ordinance enforcement action against Detroit Free Press regarding their free newspaper advertisement.

MAYOR O'DWYER: thanked Denise Brainard and volunteers of the Berkley Days committee for all their hard work. He recognized Councilmember Kideckel and volunteers for Taste of Berkley for another successful event. Mayor O'Dwyer spoke about the softball game against the Dad's Club and the horseshoe event hosted by the Berkley Days committee. This marks the ending of Tina Edgar's service on the City Council. On behalf of the Berkley residents, he thanked her for her enduing commitment and for keeping the promise alive in our democracy. Mayor O'Dwyer wished Ms. Edgar continued success and welcomes Councilmember Graveline to fill her shoes; who has done superbly well.

ADJOURNMENT:

Councilmember Kideckel moved to adjourn at 9:05 PM.

Seconded by Councilmember Steadman.

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

Nays: None

Absent: Terbrack

Motion Approved.