THE ELECTRONIC REGULAR MEETING OF THE THIRTY-EIGHTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, SEPTEMBER 21, 2020 BY MAYOR TERBRACK

PRESENT:  Steve Baker  Jack Blanchard
           Dennis Hennen  Bridget Dean
           Natalie Price  Ross Gavin
           Daniel Terbrack

APPROVAL OF AGENDA
Councilmember Price moved to approve the Agenda
Seconded by Councilmember Baker
Ayes:  Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

INVOCATION: Pastor Adam Groh

PUBLIC COMMENT – ITEMS ON THE AGENDA

Erich Lines, speaking on behalf of Vinsetta Garage, said he supports extending the expansion of outdoor food and drink. He stated that is what needs to be done during a pandemic – helping businesses as much as you can – and he commends the City for doing so.

Katie Kutscher, speaking on behalf of Berkley Common, said she supports extending the expansion of outdoor seating. She stated she wants to make sure this can exist for restaurants to continue to operate during the pandemic and beyond. She stated the need for outdoor space is essential as is the ability to plan.

Chris Gross, speaking on behalf of Berkley Common, said even if restrictions on dining are lifted at the State level, that won’t take away the desire of customers to be outdoors as much as possible. She said supporting expansion of outdoor seating is an investment and will help them with planning into the spring.

Consent Agenda

Councilmember Gavin moved to approve the following Consent Agenda, seconded by Mayor Pro Tem Dean:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 38th Regular City Council Meeting on Monday, August 10, 2020.

WARRANT: Matter of approving Warrant No. 1354.

RESOLUTION NO. R-28-20: Matter of recognizing and celebrating Mr. and Mrs. Flynn for their 69th wedding anniversary.

RESOLUTION NO. R-29-20: Matter of recognizing the Outgoing Zoning Board of Appeals Member Greg Butts.

RESOLUTION NO. R-30-20: Matter of recognizing the Outgoing Planning Commissioner Michele Buckler.
RESOLUTION NO. R-31-20: Matter of recognizing the Outgoing Planning Commissioner Tim Murad.

RESOLUTION NO. R-32-20: Matter of approving a resolution to accept donations from the Friends of the Berkley Public Library and Vibe Credit Union in support of the Summer Reading program to the Berkley Public Library.

ORDINANCE NO. O-13-20: Matter of considering the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley, Michigan to Amend Section 138-298 of Article V, Division 2 of Chapter 138, Zoning, to Update the Citation to the City’s Adopted Building Codes, and to Prescribe a Penalty for Violations.

ORDINANCE NO. O-14-20: Matter of considering the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley, Michigan to Amend Section 138-526 of Article V, Division 17 of Chapter 138, Zoning, to Add Local Business to the Schedule of Regulations.

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

Regular Agenda

MOTION NO. M-48-20: Matter of approving the sale of the 1995 Darley Ladder Truck to the Essexville Department of Public Safety for $30,000 and to purchase a 2006 Rosenbauer Fire Engine from the Essexville Department of Public Safety, 1107 Woodside Ave, Essexville, MI 48732 for $60,000. The sale of the 1995 Darley ladder truck would be applied to the purchase of the 2006 Rosenbauer fire engine leaving a remining balance to be paid by insurance funds received for previous damage to the 1995 Darley ladder truck at a total cost of $30,000 from the Vehicles Account number 101-310-985-000.
Councilmember Blanchard moved to approve Motion No. M-48-20
Seconded by Councilmember Baker
Ayes: Gavin, Hennen, Price, Baker, Blanchard, Dean, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-49-20: Matter of authorizing Schena Roofing & Sheet Metal, the lowest qualified bidder, for professional services to repair the roof of the Berkley Department of Public Safety Building at a cost not to exceed $24,399 from the Building Maintenance Account number 101-310-931-000.
Mayor Pro Tem Dean moved to approve Motion No. M-49-20
Seconded by Councilmember Blanchard
Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-50-20: Matter of authorizing the Mayor and City Manager to enter into an Intergovernmental Agreement for Lockup Services, Animal Control Services, use of the Berkley DPS Range, and Dispatch Services between the City of Berkley and the City of Huntington Woods.
Councilmember Baker moved to approve Motion No. M-50-20
Seconded by Councilmember Blanchard
Ayes: Price, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-51-20: Matter of approving the appointments to various boards and commissions.
Councilmember Price moved to approve Motion No. M-51-20
Seconded by Councilmember Hennen
Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

**MOTION NO. M-52-20**: Matter of authorizing the Mayor and City Manager to enter into an Intergovernmental Agreement for Cares Act distribution between Oakland County and City of Berkley.
Councilmember Gavin moved to approve Motion No. M-52-20
Seconded by Councilmember Blanchard
Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

**MOTION NO. M-53-20**: Matter of approving the purchase of a 2020 Ford F550 Hook Truck with Bodies at a total cost of $150,827 from Signature Ford and Truck & Trailer Specialties utilizing the Macomb County and MITN Cooperative Bids. The expenditure will come from account number 592-536-985-000.
Councilmember Blanchard moved to approve Motion No. M-53-20
Seconded by Councilmember Price
Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Nays: None
Motion Approved.

**MOTION NO. M-54-20**: Matter of authorizing Hubbell, Roth & Clark (HRC) for architectural and engineering services related to the DPW Office Renovation at a cost not to exceed $46,947.46 from the Water Fund-Building Improvements, account number 592-536-976-000.
Councilmember Gavin moved to approve Motion No. M-54-20
Seconded by Mayor Pro Tem Dean
Ayes: Gavin, Hennen, Price, Baker, Blanchard, Dean, and Terbrack
Nays: None
Motion Approved.

**MOTION NO. M-55-20**: Motion to approve the reprogramming of 2019 Program Year CDBG Funds to Remove Architectural Barriers in the amount of $25,790 due to a change in project description from ADA Sidewalks to ADA Public Safety Lobby doors and counter top.
Councilmember Price moved to approve Motion No. M-55-20
Seconded by Councilmember Hennen
Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

**MOTION NO. M-56-20**: Matter of Authorizing the amendment of the 2020-2021 Budget as presented.
Councilmember Hennen moved to approve Motion No. M-56-20
Seconded by Councilmember Blanchard
Ayes: Price, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack
Nays: None
Motion Approved.

**RESOLUTION NO. R-33-20**: Matter of extending Resolution R-20-20 for temporary outdoor dining/seating and outdoor sales and service areas and to allow temporary enclosures in the outdoor areas in response to COVID-19 closures and restrictions.
Councilmember Baker moved to approve Resolution No. R-33-20
Seconded by Mayor Pro Tem Dean
Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

**RESOLUTION NO. R-34-20:** Matter of extending Resolution R-21-20 for temporary signage in response to COVID-19 closures and restrictions.
Councilmember Gavin moved to approve Resolution No. R-34-20
Seconded by Councilmember Blanchard
Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

**RESOLUTION NO. R-35-20:** Matter of recognizing that the City’s designated official newspaper, the “Woodward Talk,” has not yet resumed full publication and that, therefore, until further notice, the City hereby designates the “Royal Oak Tribune”/“The Oakland Press” as the City’s official newspaper, effective immediately, for the publication of the City’s notices, ordinances, and other pertinent items.
Councilmember Price moved to approve Resolution No. R-35-20
Seconded by Mayor Pro Tem Dean
Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Nays: None
Motion Approved.

**DISCUSSION:** Matter of discussing public art policies and procedures.
Community Development Director Erin Schlutow provided a summary of what administration is looking for guidance with regarding recent public art requests. Items in need of clarification included the correct person/body to review requests, what guidelines should be in place regarding the installations, and should public art be governed by policies, procedures, ordinances, etc. She stated there has been a lot of interest in murals. She discussed the history of public art interest and recent requests. She also provided history regarding the Zoning Board of Appeals approach in the past regarding if artwork qualifies as a sign. She suggested that requests could be addressed in the form of an adopted resolution or ordinance. She stated the three options regarding the appropriate body for approval could be an existing public body, staff performing an administrative review, or forming a new public body. She discussed the pros and cons of each choice. Mayor Terbrack outlined the goals of the discussion. He stated the intent is not to make a final decision, but to provide feedback to help determine what path makes the most sense. Council members discussed their individual views on developing guidelines to evaluate requests for public art installations throughout the City. They talked about public art policies and procedures. They weighed in on if they preferred an ordinance or resolution and which body would be the most appropriate for the task. Downtown Development Authority Executive Director Jennifer Finney stated her thoughts regarding the topic and also how the DDA could assist in the process as the DDA has a procedure in place for installations in the district. Mayor Terbrack summarized some of the initial feedback stating that it seems as if the majority is leaning toward some form of resolution for flexibility. He stated there were some differing opinions on who should be reviewing and approving requests. He also touched on the what is art discussion. He stated that he does agree with the previous comments that whatever is decided, there should be one consistent approach throughout the community. Mayor Terbrack did state he feels there should be some type of body involved in the process. He said he wants the process to be as efficient as possible. Mayor Terbrack said this is not the end of this conversation.

**PUBLIC COMMENT – ITEMS NOT ON THE AGENDA**
Christopher Copacia, Berkley, stated his support for Oxford/Merchants Park and that he looks forward to the project. He also stated that he is not in support of decals, other than those that define the city department, on municipal vehicles. He stated he has no ill will or lack of respect with the police department, but does not feel the imagery of the American flag blacked out with any kind of additional coloring is offensive. He stated this imagery could be offensive to others and cause anxiety and stress. He stated he
does support the idea of officers being memorialized, but does not think decals on city vehicles is appropriate.

COMMUNICATIONS

COUNCILMEMBER GAVIN: stated at the last Planning Commission (PC) meeting an update was provided on the master plan progress along with further discussion on planning commission flexibility regarding parking requirements during site plan approval as well as extension of site plans. He said public hearings on both of those topics will take place at the next PC meeting 7 p.m. tomorrow. Councilmember Gavin stated during the last Environmental Advisory Committee (EAC) meeting they discussed Energy Plan implementation, green infrastructure opportunities, and the possibility of a new community garden. He said the next EAC meeting is 6:30 p.m. November 19th. Councilmember Gavin said the last couple of Master Plan Steering Committee meetings have been walking tours of the corridors in town. The next Master Plan Steering Committee meeting is 7 p.m. October 20th. He said to look at the City calendar online for links to all of those meetings.

COUNCILMEMBER HENNEN: stated Vibe Credit Union withdrew its application with the Zoning Board of Appeals (ZBA) and the mural for Salon Simply Beautiful was approved. He again offered his thanks to Mr. Butts who was recognized by resolution that evening for his many years of service on the ZBA. Councilmember Hennen offered an update on the Tree Board by stating this was the first year the City offered street trees at no cost to residents. He stated he does not have the final count, but there will be about 100 new trees planted and the waiting list for next year’s program has already started. He stated trees offer a lot of benefits, including reducing stormwater runoff, and he suggests increasing the dollar amount for this program in the next fiscal budget. He said the Tree Board is renewing its look at several grant opportunities and those grants would require matching funds. He provided an example of a grant. Councilmember Hennen touched on the Coolidge Road Diet saying about a year ago there was supposed to be a six-month assessment. He stated some of the data is out, but the reporting is still not complete and he would like to close the loop on that data and start making plans to assess the diet moving forward. He stated he knows COVID turned things upside down making it difficult to assess what to do with the road diet, but the data he is referring to was collected pre-COVID. 

MAYOR PRO TEM DEAN: stated that a meeting of the Domestic Violence High Risk Response Team took place on September 10th and she listed the attendees including herself and the mayor; area judges and attorneys; and area law enforcement officials. She said she is delighted to report that based on the response of those in attendance the Berkley-Royal Oak Court is ready to move forward and bring this team model to our court. She stated a kick-off meeting is planned for sometime in early October and she will keep everyone posted. Mayor Pro Tem Dean stated that Parks & Recreation put together a Clue taking participants to different outside areas in the City. She said it ended on Sept. 20th and 18 families registered. She said outdoor Parks & Recreation classes continue, weather depending. She said Parks & Recreation is currently working with the City on a safe reopen plan for mid- to late-October. She said there will be limited programming. She said more information will be coming in the coming weeks. She stated the department is partnering with Oakland County Parks & Recreation to offer a Monster Mania Scavenger Hunt beginning this Friday the 25th. Mayor Pro Tem Dean said the groundbreaking did take place on the Oxford/Merchants Park project and the work has begun. Mayor Pro Tem Dean wished a happy 69th anniversary to Ted and Ellen Flynn. She said she is delighted for them and they are an inspiration. Mayor Terbrack stated he and his children participated in the Clue game and it was a great time.

COUNCILMEMBER BAKER: stated the Technology Advisory Committee (TAC) would have met on September 16th but did not have a quorum. The next TAC meeting is scheduled for 6:30 p.m. Wednesday, November 18th. Councilmember Baker said the Historical Committee has news to share which is that the museum will be open again on Wednesdays from 10 a.m. to 1 p.m. starting September 30th by appointment
He said facemasks are required. He said the museum is rehabbed and features new exhibits. To make an appointment, call 248-658-3335 or send an email to museum@berkleymich.net. He said they will broadly open up the museum as conditions permit and he offered thanks to City Manager Matt Baumgarten and staff for making the reopen happen. He stated there will be a new holiday mug for sale this season. He said the same artist that created the first mug, has created a great picture of the Berkley Theatre with a holiday feel. The mugs are $10 and will be for sale soon at all the usual spots, including the museum and City Hall. He stated the Committee will also have Berkley street signs for sale. As the signs were being replaced with larger, easier to read signs, the museum collected the old signs with the help of Department of Public Works for a fundraising initiative. He said details to come on the museum Facebook page and the city’s website. Councilmember Baker said the Downtown Development Authority (DDA) met September 9th. He offered thanks to Ashley Poirer for joining the board. He said they are looking forward to her being a part of the team. He stated the new DDA director has been putting together a document that highlights a lot of what is going on in the downtown including a set of façade grants and updates on the wayfinding sign initiative. He said phase one of the wayfinding project will begin on December 20th. He stated the Berkley Plaza project on Coolidge has been approved by all of the appropriate parties and the timeline will be finalized and posted. He also pointed out some new downtown businesses. Councilmember Baker said September 25th is the next concert in the pop-up concert series. The concert will take place from 7 to 8:30 p.m. at the greenspace between Clark’s Ice Cream and Odd Fellows Antiques on the north side of 12 Mile Road, close to Greenfield Road. Lastly, Councilmember Baker thanked all of the businesses, drivers and residents impacted by the construction on 12 Mile Road for their patience. He said it will be completed soon. He said please be safe, kind and respectful to one another.

COUNCILMEMBER PRICE: offered thanks to City Manager Matt Baumgarten, department heads and all of the city staff who continue to pivot and adapt as we navigate this new normal. Councilmember Price said Berkley Public Library continues service with curbside pickup, delivery and digital collections. She said the library is newly offering a seed library. She said the library is taking donations of both commercially packaged and garden harvested seeds. She said to put them in envelopes, label, and place in the appropriate bin outside of the library. She stated the lending of the seeds will begin in spring 2021. Councilmember Price said the Beautification Advisory Committee (BAC) will meet this Wednesday via Zoom. She offered congratulations to all of the new committee members. Councilmember Price said the Citizens Engagement Advisory Committee (CEAC) will meet on the first Wednesday in October. She thanked everyone who expressed interest in serving on this committee. She said with the appointment that evening, the committee is now full and ready to take on new challenges. Councilmember Price said tonight marks the official changing of the seasons, shifting focus to autumn traditions that need to look a bit different this year. She stated she applauds the efforts of city and school staff along with volunteers who are reimagining events with fun and safety in mind. She said spreading joy while keeping people safe will help sustain through the marathon of this pandemic. She also reminded everyone to get their flu shot.

COUNCILMEMBER BLANCHARD: reminded everyone that September is National Preparedness Month. He said the motto is, “Disasters don’t wait, make your plan today.” He said everyone should make a plan; talk to your friends and family about how you would communicate before, during and after a disaster; make sure to update your plan based on the CDC recommendations due to the Coronavirus; and build a kit with supplies that will last several days after a disaster for everyone living in your home including pets. He said people should know the risks of disasters in their area and check their insurance coverage. He said everyone should learn how to make your home stronger in the face of storms and other common hazards. He stated to teach youth about preparedness by talking to children about preparing for emergencies and what to do if you are separated from an adult. He said we may not have wildfires or hurricanes, but we have other things we need to be prepared for. He said we will be trying to put out information each month to make sure people are informed. Councilmember Blanchard said he took a look at the Census response and Berkley is at 89 percent. He said that is good and makes us the 6th highest in the state. He said Huntington Woods is first, which he quipped means 11 percent aren’t doing their job! He said to get busy!
CITY MANAGER BAUMGARTEN: said information was disseminate that day about the city-wide road improvement program. He said no matter what the season, if the weather is good it is construction season so the City is progressing with its road improvement program. He said there has been some situations where the game of telephone has resulted in some concerns about roads being closed. He said to protect against that, the information is out. He said the release includes some great contact information, including the on-site inspector with HRC. He said the inspector is very responsive and even reached out to a resident late one evening to address her concerns. He said impacted homes received notices and parking passes if their driveways will be blocked. He encourages everyone to reach out to the provided contacts for information right from the source. Mr. Baumgarten said we continue to invest in our community over the next two years. He said this project will make 173 improvements to our road network. He said hopefully residents have seen the signs around town thanking them for voting in favor of the infrastructure millage in the November 2018 election. He said we are literally putting taxpayer money to work and appreciate the support. Mr. Baumgarten said in a changing world where so much is new and different, he wants to thank the Detroit Lions for being consistently terrible and for anchoring us Sunday in and Sunday out.

CITY CLERK MITCHELL: stated the number one question right now is when will the ballots be mailed and the answer is at the end of this week. She offered extra thanks to Deputy Clerk Gina Harold and all of staff that will be pitching in to get about 6,000 ballots out. She offered a reminder that all residents are eligible to receive an absentee ballot in the State of Michigan if they so choose. She said residents may visit Berkleymich.org/vote or call 248-658-3310 for more information. Ms. Mitchell announced the Clerk’s Office offered its first extended hours opportunity last week and many more extended hours opportunities are to come in October including a drive-up service 5-7 p.m. Tuesday, October 6th. She also stated some exciting news is coming regarding a second ballot drop box location.

CITY ATTORNEY STARAN: provided an update on the format of virtual meetings. He stated that as a consequence of the governor’s last extension of the State of Emergency through at least October 1st, our authority is extended to hold remote meetings through the end of October. He said if October 1st comes along, and the Governor further extends the State of Emergency, our authorization will run through 28 days past the expiration of the then-current State of Emergency. He said we may be hosting meetings in this format for a while. Mr. Staran said his other update relates to the election. He said specifically he is talking about the expectation that we are going to have an unprecedented and possibly overwhelming number of absentee ballots. He stated this brings up a couple of serious concerns relating to the reliability and timeliness of mail service and the ability and wherewithal of local governments to process all of the absentee ballots in a timely manner. He said in response to the first concern, the Michigan Court of Claims ruled that all absentee ballots that are postmarked before election day have to be counted even if they arrive after the election date. He said that will raise some questions when we can actually consider the vote final. He stated the other part relates to the processing of ballots. He said there is still some proposed legislation that will give local clerk offices some relief to begin processing absentee ballots on the Monday before the election. He said the legislation seems to be bogged down right now, but that type of legislation would help local clerks immensely.

MAYOR TERBRACK: stated Clerk Mitchell will be following pending legislation and hopefully as we near closer to election day, we will have some idea of what we will be looking at and how to process ballots. Mayor Terbrack said in our current operating system, we don’t have the ability to publicly recognize the items on our consent agenda as we normally would, but he would like to again congratulate Mr. & Mrs. Flynn on their 69th wedding anniversary and also thank Greg Butts, Michele Buckler and Tim Murad for all of their time and contributions to the City. He said Greg and Tim served on boards for more than 21 years and Michele was a past chair of the Planning Commission during her years of service to the city. He said without residents volunteering to serve on boards and commissions, the city would not be the same place that it is right now. He said he is incredibly appreciative to Greg, Tim and Michele and also to everyone appointed the last few meetings who freely give their time to the city without reservation or expectation. Mayor Terbrack took a moment to thank all of the parents and teachers who are dealing with this new
normal. He said in a normal year, kids would be physically back in school and for many of us that is not a reality. He said this certainly presents some challenges for the parents, teachers and students. He said that we know when we are faced with challenges, we learn a lot about who we are and what we can actually achieve and persevere through. He said this is no different. Mayor Terbrack provided an update on the Community Center group that began meeting last year. He said the update is there is no update. He said the group is on hold as in this current environment, discussing the possibility of a potential new community center is not at the top of the priority list. He said that does not mean the group is ceasing to exist. He said he is appreciative of all of their discussions and the care the group gave to the topics discussed. He said he certainly does not want the work to have been done in vain, but as of now, those conversations will remain on hold until some date in the future. Finally, Mayor Terbrack said regarding the elections, no matter what party or ideology you subscribe to, the most important thing is that you make your voice heard and we do that in our society by voting. He said the only way to create change is by having an opinion and making choices at the ballot box that reflect those opinions. He said so once ballots are received or if you vote at the polls, make your opinion heard. He said he anticipates that we will have record turnout in the City of Berkley and throughout the nation.

ADJOURNMENT
Councilmember Baker moved to adjourn the Regular Meeting at 9:34 p.m.
Seconded by Councilmember Gavin
Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.