THE REGULAR MEETING OF THE THIRTY-EIGHTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, JULY 19, 2021 BY MAYOR TERBRACK

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

ABSENT:     Bridget Dean

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

INVOCATION: Pastor Tal Sullivan

PUBLIC COMMENT
David Lupien-Parrish, Berkley, commented his concerns about the City Council settlement agreement regarding overturning the Zoning Boards of Appeals denial of an applicant and wanted to know how City Council came to their agreement.

Paul Jordan, Berkley, commented his concerns about the City Council settlement agreement regarding overturning the Zoning Board of Appeals denial of an applicant and wanted to know how City Council came to their agreement.

Consent Agenda
Councilmember Baker moved to approve the following Consent Agenda, seconded by Councilmember Price.

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 38th Regular City Council Meeting on Monday, June 21, 2021 and Special City Council Meeting on Tuesday, June 22, 2021.

WARRANT: Matter of approving Warrant No. 1364.

ORDINANCE NO. O-06-21: Matter of considering the Second Reading and Adoption of an Ordinance of the Council of the City of Berkley, Michigan to Amend Division 4 of Article VIII of Chapter 82, Offenses and Miscellaneous Provisions, of the City of Berkley Code of Ordinances to Prohibit the Possession and Use of Cigarettes, Tobacco, and Nicotine Products to Persons Under the Age of 21, and the Sale, Giving, or Furnishing of Cigarettes, Tobacco, and Nicotine Products, Including Electronic Cigarettes, to Persons Under the Age of 21, and to Prescribe Penalties for Violations.

RESOLUTION NO. R-25-21: Matter of adopting a resolution of the City Council of the City of Berkley, Michigan in opposition to legislation restricting voting rights or interfering with local clerk election procedures.
**PROCLAMATION NO. P-23-21:** Matter of proclaiming July 22, 2021 as Master Plan Day.
Ayes: Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Absent: Dean
Nays: None
Motion Approved.

**Regular Agenda**

**PRESENTATION:** Matter of receiving a presentation by Annaka Norris of Main Street Oakland County regarding the City of Berkley's Main Street Accreditation Certificate and the importance Main Street has for the City.

Annaka Norris, from Main Street Oakland County, talked about how Main Street Oakland County is a part of the national main street program. She stated that the program is a 21-year old program that works with Downtown Development Authorities (DDA) and is the only county wide program in the country. She stated that this program is a 40-year-old program that helps maintain and revitalize commercial districts. She gave some statistics that reflected how strong the program is. She talked about the four main points of the program that include economic vitality, design, organization, and preservation. She stated that part of the accreditation is that your community needs to hit all four of those points. She stated that Berkley is 1 out of 189 nationally recognized accredited programs and 1 out 13 select level programs in Oakland County. She thanked everyone and presented a plaque and said she enjoys working with the DDA and the City.

Mayor Terbrack thanked Ms. Norris and said that the context she gave everyone helped illustrate part of the value of being a part of the program, working through the different phases, and where the City currently stands.

Councilmember Baker thanked Ms. Norris and the staff at the county for bringing all of their knowledge to the DDA and guiding them through transitions. He said he would appreciate any guidance regarding the DDA's Master Plan and Design Guidelines.

Ms. Norris said that DDAs are confined to their districts and with the recent pandemic she has seen them step up quite a bit. For example, the DDA helped distribute pandemic kits for businesses throughout the community.

Mayor Terbrack thanked Ms. Norris once again and then introduced the Interim DDA Director, Mike McGuinness.

Director McGuinness introduced himself and thanked everyone. He said looked forward to working with everyone and building upon what former Director Finney had already done. Finally, he thanked the members of the community that came to Ladies Night Out this past Thursday. He said there was a lot of great feedback from Berkeley business owners regarding the event.

Mayor Terbrack thanked Director McGuinness for attending the meeting and introducing himself and also said that he looks forward to working with him.

Former DDA Director Jennifer Finney thanked everyone for the accreditation.

Mayor Terbrack thanked Former Director Finney for all her hard work as DDA Director.

**RESOLUTION NO. R-26-21:** Matter of approving the community distribution of the Draft Master Plan.
Councilmember Gavin moved to approve Resolution No. M-26-21
Seconded by Councilmember Baker
Ayes: Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Absent: Dean
Nays: None
Motion Approved.

MOTION NO. M-42-21: Matter of authorizing the purchase and install of new play equipment at Community Park at a cost not to exceed $155,512 from MidStates Recreation, 1279 Hazelton-Etna Road SW Pataskala, OH 43062. Funds for this expenditure will come from Account 615-950-974-000. Councilmember Hennen moved to approve Motion No. M-42-21
Seconded by Councilmember Blanchard
Ayes: Hennen, Price, Baker, Blanchard, Gavin, and Terbrack
Absent: Dean
Nays: None
Motion Approved.


Community Development Director, Erin Schlutow, discussed an annual report that came from the Planning Commission and is a requirement of the Michigan Planning and Enabling Act. She said that this is a report that they see every year however, there have been some updates and changes she has made to this year’s report. The report that she is presenting she says is from July 2020 – June 2021. She stated that the Planning Commission held 12 regular meetings and 6 six work sessions during the City’s fiscal year. She also mentioned that during that time, the Planning Commission oversaw 3 site plans, 1 special land use, and 7 zoning text amendments. She talked about the Master Plan as well since it has been something that been a big part of the last year. She stated that the City has been thorough with trying to get as many residents’ thoughts and feedback regarding the Master Plan. She continued to say that once the Master Plan is adopted that will be when a lot zoning ordinance amendments will be made and will be a lengthy process since the zoning ordinance has not had a real lengthy review in many years. She stated the new part of the report she added this year was the Community Development Department and what has been happening this department for that past year as well. She said the department slowed down momentarily due to construction being shut down from the pandemic but now the activity has amped up once again. She also highlighted the code enforcement section. She stated out of the 772 code enforcements were logged into the City’s code enforcement software, 664 were closed and that comes to an 86 percent success rate. She talked about the achievements and accomplishments the that Planning Commission and the Community Development Department have both been a part of. She also discussed how the Community Development Department did a good job with the transition and adjustment when it came to conducting business during the pandemic. She said when it came to the community engagement part of the Master Plan it was a unique experience that had them doing things that she not done before due to the limitations with the pandemic. She said because of this, there were functions that city staff were asked to attend and speak about their experiences having to navigate through the pandemic while putting together the Master Plan. She stated how application processes, the fee schedule, and the business licenses have been streamlined and updated. She mentioned that the Planning Commission and Zoning Board of Appeals have their requirements that are expected of them when it come to things such as attendance and training more clearly laid for them as well. She stated a work plan for that has some goals lined out for the next years to come. The work plan includes five items that are: adopt the Master Plan, Redevelopment Ready Certification, Zoning Ordinance Technical Review, Sign Ordinance Re-Write, and DDA Guidelines and Overlay District.

Councilmember Hennen complimented the presentation and asked about the timeline of the zoning ordinance updates.
Director Schulow stated that it depends on how it is done. She said that it can be done in small sections or as one comprehensive documents. Overall, it could take about a year.

Councilmember Hennen said he sees pros and cons with both approaches and not it sure what would be preferable.

Councilmember Baker praised the document and recognized how there have been many obstacles everyone had to overcome due to the pandemic. He also said he liked how the document has areas that show where they are currently at and moving forward where the City will be.

Mayor Terbrack thanked Director Schulow and said the document contained a lot of depth and he appreciated the data representation and he recognized how far things have come and improved but still there are more goals and more improvements as well.

**MOTION NO. M-43 -21**: Matter of considering a bid from WCI Contractors Inc, 20210 Conner St, Detroit, MI 48234, for $160,594 for the BHS Plaza Project. Costs are to be shared evenly with the Berkley Downtown Development Authority and Berkley School District.
Councilmember Baker moved to approve Motion No. M-43-21
Seconded by Councilmember Hennen
Ayes: Price, Baker, Blanchard, Gavin, Hennen, and Terbrack
Absent: Dean
Nays: None
Motion Approved.

**COMMUNICATIONS**

**COUNCILMEMBER BANCHARD**: stated the next event the Berkley Chamber of Commerce has is the Berkley Street Art Fest on Saturday, August 7th. It is open to the public from 11:00 am – 5:00pm. It is located on Coolidge between Beverly and Catalpa. He quoted Petra Nemcova, “We cannot stop natural disasters. We can arm ourselves with knowledge. So many lives would have to be lost if there was enough disaster preparedness.”

**COUNCILMEMBER PRICE**: stated some things she is grateful for that indirectly resulted from the pandemic. The first thing was we no longer take for granted our ability to connect and collaborate in person. The second thing she mentioned was having to become flexible and how city staff and to constantly readjusted things as more information unfolded. She stated that the Citizens Engagement Advisory Committee (CEAC) met this past Wednesday, July 14th. She stated that the Beautification Advisory Committee would meet next on Wednesday, July 28th. She stated that the Library Board would meet again on Wednesday, August 11th. The library is hosting a drawing workshop on Thursday, July 22nd at 6:30 pm. It is a virtual event, no registration is required, and it is through Facebook Live.

**COUNCILMEMBER BAKER**: stated that the Downtown Development Authority (DDA) met last Wednesday, July 14th. Some of the topics were the plaza that was discussed during regular agenda portion of the City Council meeting and the appointment of the Interim DDA Director, Mike McGuinness. He expressed gratitude for everyone that was involved in the last DDA event, Ladies Night Out. He stated that the Historical Committee and museum formed 30 years ago and he wished them a Happy Anniversary for this milestone. He stated that five years ago that Berkley and the State of Michigan were the first in the nation to recognize Leiomyosarcoma Awareness day on July 15th. He said that the Historical Committee
wanted to thank everyone that participated in the Berkley street sign sale. He pleased to announce that more than $1,000 was raised for the Historical Museum and he also wanted to thank Department of Public Works for providing those signs. He stated that the Technology Advisory Committee does not meet again till August and also wanted to inform everyone that even though the City’s website is insecure that any financial transactions that are done are redirected to a third-party website that is secure. He quoted Bing Crosby and the Andrews sisters, “You’ve got to accentuate the positive, eliminate the negative, latch onto the affirmative, and don’t mess with Mr. In-between.” He wanted to recognize the importance of equality, kindness, and compassion to other people. He talked about the elections resolution that was passed in the Consent Agenda during the meeting that is in opposition to voter suppression bills trying to be passed not only in the Michigan Legislature but also across the country. He stated that as of June, 17 states have passed 28 different voter suppression laws. He said the Michigan Legislature has introduced 39 bills that would restrict citizens voting rights. He voiced concern about the misinformation that is being spread about election procedures and also the misinformation about the COVID-19 vaccine.

**COUNCILMEMBER HENNEN:** stated that at the last Tree Board meeting, the board made recommendations for 10 new trees to be planted at Oxford Park. The final details for this should be worked out by next spring. The Tree Board has also completed a communications plan on how to properly manage trees and successful results because of it. He said the hope for this is to also have ordinance compliance as well. As of July 12th, there have been 372 requests for the 200 free trees that are available for the fall tree planting program. Those you are unable to make the list for this year will be added to the top of the list for next year. The next Tree Board meeting is Monday, September 13th. He stated that the Zoning Board of Appeals (ZBA) heard two cases at their last meeting. The first case was for a small addition to a home that extended outside of the allowed setback because of the historic placement of the home before the current zoning ordinance was created. The second case was a similar request as the first however, it was tabled and the applicant also asked for a significant amount more of lot coverage. The ZBA asked them to come back with a proposed alternative at their next meeting. Their next meeting will be Tuesday, August 10th instead of Monday since it conflicts with the City Council Meeting. He talked how the last meeting how City Council approved a settlement lawsuit to overturn a ZBA denial. He stated that the ZBA made a lawful decision and he voted against overturning it because it is bad policy and it is against the intent of Michigan State law to give the ZBA independence from City Council. He said the ZBA gave their sentiments and he said he attempted to explain the City Council reasoning for approval of the settlement. He went on to say that the ZBA was very disappointed about the lack of legal support and about the end result and wanted to know why they were not included in the deliberative process. He said that two strong members of the ZBA, Steve Allen and ZBA Chair, Paul Evans, resigned over lack of support and what they felt was unprofessional treatment. He said that he believes there was still a chance to keep them on the board if each Councilmember contacted them and as well as the entire board to have an open and frank discussion regarding their decision-making process. He emphasized that he doesn’t expect them to come to an agreement but at least to try to heal the rift between them. He says no matter what City Council has to say the ZBA has seen their actions and they do not feel like they have our support. He stated that there are two lessons that can be learned from this. First, we should include the body whose decision is being challenged in their deliberations and that it can only be to their benefit to get that additional context and detail. The second thing, is if they find an unjust law that they should go through the proper planning process to modify the law and not bow to legal bullying. He gave an example of Vibe Credit Union wanting to add landscape to their parking lot and how it would reduce their parking below their requirements and it was properly denied. He added that their parking requirements for banks are too stringent. He stated that the City went through the planning process starting with the Planning Commission and with the opportunity of public input. The result was to give the Planning Commission flexibility with these requirements. So now Vibe Credit Union was able to come back to the Planning Commission and following through with their renovations. He stated the importance of the proper process and public input and not making decisions behind closed doors. Finally he talked about the City of Berkley’s vaccination rates. As of July 1st, 78% of people 18 and older have received their first dose and 74% of adults have completed their vaccination. He said he was pleased to see this and complimented the City for their vaccination diligence.
COUNCILMEMBER GAVIN: stated that Planning Commission met and discussed the information that was presented by Director Schlutow earlier in the meeting. Their next meeting is Tuesday, July 27th at 7:00 pm. He stated that the Environmental Advisory Committee (EAC) met on July 15th to discuss utilizing a bike corral for the Berkley Art Bash on September 11th. The EAC did decide to go along with it and they are currently looking for volunteers for two hour shifts to oversee the bike corral. He stated you can contact him about volunteering by emailing him at rgavin@berkleymich.net. The EAC is currently in the process of putting together a climate change resolution. Their next meeting is Thursday, September 16th at 6:30 pm.

CITY MANAGER BAUMGARTEN: thanked the city staff involved in making sure they could meet in person again and also maintaining the accessibility that the virtual meetings has served for the residents.

ATTORNEY STARAN: discussed the recent legislative efforts this year regarding short term residential rentals. In particular, there is an attempt to create state wide regulation that would divest local governments ability to oversee these rentals. He stated that there has been some momentum than there was in the past to have this move forward however, recently there has been some push back too. So, he will continue to keep everyone updated regarding this matter.

MAYOR TERBRACK: expressed his appreciation for all the efforts to have the meeting in a hybrid format of both in person and virtual. He stated that Parks and Recreation’s Jaycee Jamboree will be this Thursday, July 22nd at Jaycee park. There is no pre-registration required and it is from 6:00 pm – 8:00 pm. He stated that the Concert at the park will be held Thursday, July 29th at Community Park and that is a location change from Oxford Park. The time for the event is 7:00 – 9:00 pm. He stated that the next Parks and Recreation outdoor movie will be Tuesday, August 10th at Oxford Park and starts at 7:00 pm. He stated that the Parks and Recreation fall programming is currently being planned and will have programs and scheduling released soon. He reminded everyone that the Annual Golf Outing is this coming Monday, July 26th at Red Run Golf Course. He wished Berkley native, Katherine Nye, good luck as she was not only representing the United States but also the City of Berkley in the 2020 Toyoko Olympics.

CLOSED SESSION: Matter of considering whether to enter into a Closed Session for the purpose of consulting with the City's attorneys to discuss strategy and confidential attorney/client privileged communications relating to pending litigation, specifically, Yellow Tail Ventures, et al v City of Berkley, et al, and Fire Farm LLC, et al v City of Berkley, et al, Oakland County Circuit Court case nos. 2020-184751-CZ and 2020-184754-CZ.
Councilmember Gavin moved to meet in Closed Session
Seconded by Councilmember Blanchard
Ayes: Blanchard, Gavin, Hennen, Price, Baker, and Terbrack
Absent: Dean
Nays: None
Motion Approved.

A Closed Session of the thirty-eighth Council of the City of Berklemy, Michigan was called to order at 8:43 p.m. on Monday, July 19, 2021 by Mayor Terbrack.
PRESENT: Steve Baker  Jack Blanchard
       Ross Gavin  Dennis Hennen
       Natalie Price  Daniel Terbrack

ABSENT: Bridget Dean

Councilmember Hennen moved to adjourn the Closed Session at 9:06 p.m.
Seconded by Councilmember Blanchard
Ayes: Blanchard, Gavin, Hennen, Price, Baker, and Terbrack
Absent: Dean
Nays: None
Motion Approved.

The Regular Meeting of the thirty-eighth Council of the City of Berkley, Michigan was called back to order at 9:09 p.m. on Monday, July 19, 2021 by Mayor Terbrack.

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

ABSENT: Bridget Dean

ADJOURNMENT
Councilmember Blanchard moved to adjourn the Regular Meeting at 9:10 p.m.
Seconded by Councilmember Baker
Ayes: Blanchard, Gavin, Hennen, Price, Baker, and Terbrack
Absent: Dean
Nays: None
Motion Approved.