THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, MARCH 21, 2022 BY MAYOR TERBRACK

PRESENT:	Steve Baker Dennis Hennen	Bridget Dean Ross Gavin
	Natalie Price Daniel Terbrack	Jessica Vilani

APPROVAL OF AGENDA

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

INVOCATION: Pastor Zack Dunlap

PUBLIC COMMENT

Sen. Marshall Bullock, Fourth District, introduced himself and stated due to the new Independent Redistricting Committee, where he lives now, will encompass a great deal of Detroit up to Birmingham, including Berkley. He listed out the numerous Committees he chairs and sits on including the Marihuana Regulatory Agency & Racial Equity. He said his prior background is working in Detroit Mayor Duggan's Office for six years. He stated whatever he can do to help the City moving forward, whether he is Berkley's representative or not, he would appreciate that relationship to make sure he can get things done in Lansing.

Gary Leitner, Berkley, stated he is in attendance to discuss the Kenmore/Cornwall water main and pavement project. He distributed a letter to Council that he received from the City Clerk in response to a FOIA request dated Feb. 22nd. He said the information received on March 15th was missing one of the larger items he asked for and the distributed letter stated the information does not exist. He said the specific safety report asked for was referenced in a town-hall-style Zoom meeting. He stated that he felt this report was a large basis of the discussion surrounding emergency vehicles and parking on one side of the road. He said residents would like to park on both sides of the road as it has been. He said another item referred to during the Zoom meeting was arborist reports. He said he would like to see that information as well. He said the City said there would be another Zoom meeting and he would like to know when that would happen. He read other questions he has regarding this project including who made all of the decisions. He read letters into the record from the following residents:

- 1. Linda & Joe Long, Berkley, expressed concern regarding the Kenmore/Cornwall project. They stated they have lived in their home for many years and take pride in their property. They stated they have a large family and have the following concerns:
 - a. Driveways are not long and limiting parking to the east side won't provide enough parking.
 - b. There won't be enough parking during city festivals and events like Woodward Dream Cruise.
 - c. Where would they put all of the leaves in the fall since they live on the east side which would be designated for parking? Also, if people park on top of their raked leaves, that would be a fire hazard.

They asked why the first block of Kenmore/Cornwall is the only portion impacted and not all of Kenmore? They said if some trees need to come down, they are ok with that because they know

new ones will be planted. They stated they want parking on both sides of the street as it has been for the 43 years they have lived there.

2. Aliehs Zepke, Berkley, stated she is opposed to reducing the parking by 50 percent. She stated if the threshold for parking on both sides of the street is 25 feet, then let's be exempt from that by adding 6 inches to our street. She stated it does not have to be one or the other in regards to trees and parking. She said they could still be known as St. John Woods with patience and long-term vision. She stated reducing the parking by 50 percent has several negative impacts including asking residents to live differently in their daily lives and impacting future potential growth as families are looking for wide open streets. She stated new trees can be planted. She reiterated her message regarding the importance of available on-street parking in front of their homes. She stated the project also presents a safety concern for neighborhood children. She stated city employees have done a lot to make this a great community and she would like to see everyone working together to protect certain rights.

Ryan Duffy, Berkley, stated he is here to speak regarding the lessening of the street width. He stated he would like to have a better explanation regarding this city-wide initiative including how it was determined, who determined it, and what creates the need for this new safety width. He stated there seems to be little information regarding project specifications. He stated another consideration is because we are going to be the first in Berkley for this project, we should poll every street that could be impacted by this decision and possibly see a lot more resistance. He stated to look at New York or Chicago where parking is at a premium. He stated there is a lot of value with being able to put a couple of cars on the street in front of you. He said parking around the block isn't going to make life convenient. He read a letter into the record from the following resident:

1. Michele Ash, Berkley, asked if this project would get rid of the flooding in the street without pushing water into our basements? She stated the rains we have create water that go up to many of the porches and the ground is clay. She stated that she feels reducing the street size will not help. She said realtors in her family have said that parking on one side of the street is not good for resale value. She stated there could be a fight to get street parking for some. She stated she is worried about room for her son to ride his bike to school safely. She asked where she would put her leaves after raking them? She stated cars parking on leaves is a fire hazard. She stated she is not against trees, but said she thought we were supposed to mix the ages of the trees anyhow. She stated she does not agree that saving trees that are too close to the street is worth giving up parking, safety, and the value of her property. She asked about the impact when delivery trucks double park and if there will be digging down to her connection along with bonding concerns.

Mr. Duffy said one other concern he has is the people who cut-through to avoid the Coolidge and 12 Mile light. He said he has two young daughters and is worried they will run out into the street. He thinks parking on one side encourages speeding.

Michael McGuinness, Downtown Development Authority Executive Director, invited everyone to participate in some downtown initiatives now through the end of March including participating in the Downtown Leprechaun Scavenger Hunt, exploring the downtown leprechaun fairy doors, and winning literal pots of gold and gift certificates thanks to Zalman's Treasures. He stated the DDA partnered with Berkley Public Library in offering the Leprechaun Story Stroll. He stated this event was inspired by the successful Parks & Recreation Tail on the Trail. He stated there will be multiple stops on 12 Mile Road and Coolidge Highway and free coloring books and crayons at Vibe Credit Union. He stated the first Ladies Night Out event of the season will take place on Thursday, April 7th. For more information, visit downtownberkley.com.

City Clerk Victoria Mitchell read the following two emails:

1. Paul Jordan, Berkley, stated he believes the three-minute rule for public comment should apply to all agenda items at every meeting. He also stated he does not favor increasing the number of

marihuana licenses from three to five. He stated Council already adopted an ordinance that addressed ties. He asked councilmembers to vote "no" on O-02-22.

2. Amy Keely, Berkley, stated she does not want more marihuana dispensaries and big foots.

Consent Agenda

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

<u>APPROVAL OF THE MINUTES</u>: Matter of approving the minutes of the 39th Regular City Council meeting on Monday, March 7, 2022.

WARRANT: Matter of approving Warrant No. 1372.

PROCLAMATION NO. P-04-22: Matter of proclaiming April 2022 as Child Abuse Prevention and Awareness Month.

PROCLAMATION NO. P-05-22: Matter of proclaiming April 2022 as Sexual Assault Awareness Month.

PROCLAMATION NO. P-06-22: Matter of proclaiming April 2022 as Autism Awareness Month.

PROCLAMATION NO. P-07-22: Matter of proclaiming April 2022 as Fair Housing Month.

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

Regular Agenda

<u>RECOGNITIONS/PRESENTATIONS</u>: Matter of any recognitions or presentations from the Consent Agenda.

- 1. Councilmember Vilani read into the record P-04-22 in its entirety.
- 2. Mayor Pro Tem Dean read into the record P-05-22 in its entirety.
- 3. Councilmember Hennen read into the record P-06-22 in its entirety.
- 4. Councilmember Price read into the record P-07-22 in its entirety.

MOTION NO. M-30-22: Matter of approving the "Berkley Art Bash" event on Saturday, June 11, 2022 from 10 a.m.-6 p.m. on 12 Mile Road for the Berkley Area Chamber of Commerce, P.O. Box 72-1253. Approval is conditional upon the submission of required items and documents prior to event dates. Council reserves the right to rescind the permit due to State and/or County health and pandemic protocols.

Councilmember Hennen moved to approve Motion No. M-30-22 Seconded by Councilmember Price Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin, and Terbrack Nays: None Motion Approved.

MOTION NO. M-31-22: Matter of approving the "Berkley Street Art Fest" event on Saturday, July 16, 2022 from 11 a.m.-5 p.m. on Coolidge Highway, between Catalpa and Beverly, for the Berkley Area Chamber of Commerce, P.O. Box 72-1253. Approval is conditional upon the submission of required

items and documents prior to event dates. Council reserves the right to rescind the permit due to State and/or County health and pandemic protocols. Councilmember Baker moved to approve Motion No. M-31-22 Seconded by Mayor Pro Tem Dean Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen, and Terbrack Nays: None Motion Approved.

MOTION NO. M-32-22: Matter of approving the purchase and installation of a Water System Fixed Network Gateway at a total cost of \$59,381.48 from Ferguson Waterworks of Warren, Michigan. Councilmember Gavin moved to approve Motion No. M-32-22 Seconded by Councilmember Hennen Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price, and Terbrack Nays: None Motion Approved.

MOTION NO. M-33-22: Matter of approving the purchase of a 2,350-gal Anti-Ice Tank Assembly and Skid at a total cost of \$32,735 from Truck & Trailer Specialties, Inc. utilizing the MITN Cooperative Bid Contract. Councilmember Vilani moved to approve Motion No. M-33-22 Seconded by Councilmember Hennen Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani, and Terbrack Nays: None Motion Approved.

<u>MOTION NO. M-34-22</u>: Matter of authorizing the Mayor to execute a third party Specialized Services Operating Assistance contract between SMART and the City of Berkley for public transportation services primarily designed for senior citizens and persons with disabilities. The contract period for this program is from October 1, 2021 to September 30, 2022. Mayor Pro Tem Dean moved to approve Motion No. M-34-22 Seconded by Councilmember Price Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker, and Terbrack Nays: None Motion Approved.

RESOLUTION NO. R-03-22: Matter of approving a Resolution of the Council of the City of Berkley, Michigan establishing an 'Ad Hoc Woodward Dream Cruise Committee' coordinating the 2022 Cruisfest events for the City of Berkley. Councilmember Baker moved to approve Resolution No. R-03-22 Seconded by Councilmember Gavin Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean, and Terbrack Nays: None Motion Approved.

Public Comment for O-02-22:

Bill Scarmeas, 1878 Rosemont, stated he backs to a proposed facility. He thinks we should stick exactly to the approved licensing and to the original parameters. He said he saw in past meetings that there is concern that if we increase to five that could give us a dubious distinction of having more licenses than other communities of similar size and demographics. He said he doesn't believe that is good optics for the community. He read from a letter that he submitted to Council regarding the concern he has regarding the zoning of Lume, which he said could be 500 feet from his home and within 500 feet from an established early learning center, KinderCare. He stated he and his wife both object to the proposed Lume dispensary on 12 Mile Road. He said they encourage City Council and the Planning Commission not to approve Lume

Dispensary. He said the couple, and some of their neighbors, is concerned about property values and safety. He said it struck him after looking at the city's ordinance that it is silent on the issue of dispensaries being close to Pre-K centers. He stated his concerns regarding this issue, including there is a fine line of differentiation between a 5- and 6-year-old. He said the state being silent on this matter is something he will contact state legislators about, but the city being silent, that is something else. He referred to an article citing a survey conducted by CS Mott Children's Hospital that he previously sent to Council. He said this study had mass appeal and was well referenced by news organizations. He said the bottom line is that a majority of parents want a say-so in where provisioning centers/dispensaries are located. He said the main concerns are the safety and potential intoxication of those that are on marihuana around our children. He discussed the red zones that are around K-12 schools. He shared some other items that were presented like crime, violence and cash businesses. He stated the presence of having a Schedule 1 narcotic that the federal government doesn't acknowledge the monetary value of and still considers illegal is a nonstarter for him. He asked Council to think outside the box a little bit. He discussed THC and recalls. He cited a study stating 56 percent of people using medical marihuana admitted to driving high. He said he loves Berkley. He said he hasn't been to a city council meeting in 30 years. He asked Council to think about the studies he presented and all of the ramifications. He asked Council to please vote "no" on the Lume Dispensary on 12 Mile Road.

James Campbell, 1591 Catalpa, said he made his position clear at the last meeting so he won't beat a dead horse. He said he's also not going to fight back against what seems to be a foregone conclusion. He said an article in the "Woodward Talk" piqued his curiosity enough to listen to the council playback online. He said it ticked him off when the attorney from Attitude Wellness threatened the city with a lawsuit. He said he understands from the vote during the first reading where this is going to go. He said Attitude Wellness has now laid bare its strategy on how it is going to deal with the City of Berkley. He cautioned city leaders that when dealing with this organization, it has to go by the book. He said they need to caution the Planning Commission to go by the book or there will be more lawsuits. He said these guys have gotten their way through threats. He said everyone is worn out by marihuana, including government at every level. He said as a CPA, he can say that the tax court doesn't want to hear another marihuana case. He said he would be interested to hear commentary from the MML on how this matter has worn the citizenry and government down. He said they got their way.

Mayor Terbrack clarified that no licenses are being granted this evening. He said as mentioned previously, that process will be followed up by the Planning Commission. He said they are looking at the ordinance today in relation to increasing the cap from three to five as discussed and outlined by the city manager and city attorney.

Councilmember Hennen said if the goal is going from three to five is to avoid litigation, he just really isn't sure how it's going to help. He said they just heard a pretty convincing argument that if these folks don't get their way during any step in the process, they will probably go after us guns a-blazing. He said the City is already at five lawsuits, which is up one from the last time they were here. He stated if any of the five lawsuits prevail, they could very well end up with a tie again, requiring a tie-breaker and making this entire exercise fruitless and counter-productive. He said he wants to emphasize that this is brand new to all of us and for example, it is crystal clear already the parking requirements we have are wrong. He said several of these sites that's going to push parking into the neighborhoods. He said we don't know yet what other things we have gotten wrong, but once we grant these licenses, the parking problems could last literally forever. He said he would rather that Council figures it out at three sites rather than unnecessarily expanding the problem to five sites otherwise we are headed down the path of

another Vinsetta Garage situation where we cause an undue burden on our residential neighborhoods. He said he sees increasing the number of licenses as bad policy that is going to have negative impacts on our residents, probably not going to solve the problems we are trying to avoid, and it's just rolling over to legal bullying. He said he would love to hear from everybody that supports increasing to five licenses what their reasoning and rationale for supporting that is.

ORDINANCE NO. O-02-22: Matter of considering the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley, Michigan to Amend Section 30-807 of Article XV of Chapter 30, Marihuana Businesses, to increase the License Limit and to Modify Penalties. Councilmember Price moved to approve Ordinance No. O-02-22 Seconded by Mayor Pro Tem Dean Ayes: Price, Vilani, Dean, and Terbrack Nays: Hennen, Baker, and Gavin Motion Approved.

MOTION NO. M-35-22: Matter of authorizing the amendment of the 2021-22 Budget as presented. Mayor Pro Tem Dean moved to approve Motion No. M-35-22 Seconded by Councilmember Vilani Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen, and Terbrack Nays: None Motion Approved.

COMMUNICATIONS

COUNCILMEMBER VILANI: stated her updates are brief since many of her items were covered earlier. She said from the Berkley Area Chamber of Commerce - Art Bash is back in June. She said it will take place on Saturday, June 11th from 10 a.m.–6 p.m. on 12 Mile Road. She stated they are accepting applications for artists, food vendors, and sponsors and anyone interested may visit berkleyartbash.com to apply. She stated the Berkley Street Art Fest will take place on July 16th from 11 a.m.– 5 p.m. on Coolidge between Catalpa and Beverly. She said they are accepting applications for shop-for-good vendors, sponsors, and food vendors. She said to visit berkleystreetartfest.com for more information.

COUNCILMEMBER GAVIN: stated there has not been a Planning Commission meeting since the last Council meeting. He said the next Planning Commission meeting will take place on March 22nd at 7 p.m. in the council chambers. He stated the next Environmental Advisory Committee meeting will take place on April 21st at 6:30 p.m. on the second floor of the public safety building. Councilmember Gavin congratulated former councilmember Jack Blanchard for doing a great job of presenting at the Michigan Municipal League on Emergency Preparedness. He also congratulated Councilmembers Hennen and Price and Mayor Pro Tem Dean for completing their differing levels of the elected official's academy. He said he enjoyed being able to attend the conference again as well as moderating one of the sessions.

MAYOR PRO TEM DEAN: talked about the Michigan Municipal League (MML) Conference and how Council attended as a whole. She explained how the conference is an opportunity for elected officials throughout the state to gather, exchange ideas, and network. She said one of the highlights was seeing former Councilmember Jack Blanchard as one of the presenters. She said his presentation was about Emergency Management Training for Local Government. She discussed how even though Mr. Blanchard is not on Council anymore, he continues to serve the City well in a professional manner and how lucky they are to have a resident like him. She thanked Mr. Blanchard for giving his time and talent to the City of Berkley. Mayor Pro Tem Dean discussed the updates going on at Jaycee Park. She said as mentioned earlier in one of the proclamations about equity and accessibility, the updates to the park will do just that. She said Jaycee Park was accepted into the Public Spaces Community Places Program. She explained that it is a place making initiative from the Michigan Economic Development Corporation (MEDC). She stated the City of Berkley has until Monday, May 9th to raise \$50,000 and mentioned that anyone may donate by visiting patronicity.com/jayceepark. She said the MEDC will match up to \$50,000 of funding. She said this is a critical piece of funding for the park so that there will be more inclusivity so more kids can use the park. She emphasized how important it is that residents get behind this project since it will truly be a benefit to all. Mayor Pro Tem Dean talked about the next senior event which is the Senior Hoping into Spring Bingo event on April 20th at noon. She said those interested may sign up at the Community Center or call (248) 658-3470. She said registration for spring and summer programming continues online and to check the Berkley Buzz for more information. Mayor Pro Tem Dean offered a shout out to Parks and Recreation Director Theresa McArleton and her team, as well as Community Engagement Officer Torri Mathes, for elevating the Berkley Buzz and making it more user-friendly, a nicer publication, and really putting Berkley in its best light.

COUNCILMEMBER BAKER: stated the Historical Committee encourages everyone to continue celebrating that it was 90 years ago this month that Berkley made the transition from a village to a city. He said the Historical Museum will be opening a special display on April 1st featuring the Holland Hardware Fire of 1978 on 12 Mile Road. He said it was the biggest fire in Berkley history. He said everyone that stops in will receive a free gift including children who will receive a junior fire chief helmet. He stated the new edition of the quarterly museum newsletter is available by visiting the Historical Museum's website and at the Historical Museum, City Hall, and the library. He said the hours for the Berkley Historical Museum are Wednesdays from 10 a.m. to 1 p.m. and Sundays from 2 p.m. to 4 p.m. He encourages everyone to visit online at berkleyhistory.com. Councilmember Baker said the Downtown Development Authority (DDA) last met on March 9th. He said some of the items discussed during that meeting included facade grants, additional mural opportunities, and crosswalk enhancements with a particular focus on Coolidge. He talked about March downtown events such as the Leprechaun Scavenger Hunt running March 9th- 31st and the Leprechaun Story Stroll running March 17th- 31st. He said to visit dowtownberkley.com for more information. Councilmember Baker quoted current Energy Secretary and former Michigan Governor Jennifer Granholm, "America needs to be able to be energy-independent, and the electric vehicle, and the battery technology is one way of getting there." He talked about attending the Michigan Municipal League conference and specifically talked about one of the sessions he attended discussing providing electric vehicle charging infrastructure at the municipal level. He said Council is beginning to look at electric vehicle infrastructure opportunities within the City. He asked everyone to please stay safe and hug someone they love.

COUNCILMEMBER PRICE: talked about how she also had the opportunity to attend the Michigan Municipal League Capital Conference in Lansing. Some of the highlights she mentioned included learning more about municipal emergency management from former Councilmember Jack Blanchard, networking with councilmembers from other communities, and learning best practices for lobbying leaders in Lansing so the City can get the resources it needs to support the infrastructure and essential services for its residents. She discussed sitting down to breakfast with Berkley's State Rep. Reginia Weiss who also serves on the State's Appropriations Committee. She mentioned how they shared their priorities for the State's budget with Berkley in mind. She said since Representative Weiss is a former City of Oak Park councilmember, she understands what cities need from Lansing. Councilmember Price said she is grateful to have someone like her advocating on the City's behalf. Councilmember Price expressed her appreciation for all of the volunteers that bring events into the City like Berkley Days, Berkley Art Bash, Berkley Street Art Fest, and Berkley Cruise Fest. She said if anyone is looking for more volunteers to join their organization, they may reach out to the Citizens Engagement Advisory Committee (CEAC) through its Berkley Community Resources Facebook Group.

COUNCILMEMBER HENNEN: stated the Zoning Board of Appeals (ZBA) met to consider two dimensional variances to replace an existing home. He said Board members approved the smaller on one side, but denied the larger request on the other side. He said the ZBA will meet in April for a sign variance at the House of Renew on Woodward Avenue near 12 Mile Road. Councilmember Hennen said he

recently attended a workshop from the Michigan Association of Planners on Managing Risk: Making Sound Planning and Zoning Decisions. He said he learned a lot, saw the things the City is doing well, and saw the things the City could improve as well as some very recent appellate court cases that we need to be monitoring. Councilmember Hennen said he was also at the Michigan Municipal League conference and everything he wanted to say was said that evening. He congratulated now retired Public Safety Officer Greg Betts. He said he was able to attend his retirement along with Councilmember Price and City Manager Baumgarten. He said after 25 years of service to the City of Berkley, it is clear that he is well accomplished and well loved and will be missed in Berkley.

<u>CITY MANAGER BAUMGARTEN</u>: said he also wanted to put out a note on the Michigan Municipal League (MML) conference. He said it is a state-wide gathering of elected officials everywhere from Monroe to Iron Mountain. He said the fact that Berkley had all of its councilmembers there is impressive and rare. He said he hopes people at home know that the roles councilmembers serve are not only in this room, but also include efficacy across the state and interacting with neighbors all while holding down fulltime jobs. He stated he was impressed and was able to impress others as he bragged on his Council's level of commitment. He said kudos to them all. He said it was a great event and great to be back in person. He said he came back with a notebook full of items that he wants to work into the day-to-day operations in the team he leads at City Hall. He said he is incredibly grateful to the Michigan Municipal League.

<u>ATTORNEY CHRIST</u>: stated the U.S. Treasury Department finalized its rule effective April 1, 2020 with respect to the Coronavirus state and local recovery funds which will be coming to communities across the state as provided under the American Rescue Plan. He said it will be effective April 1st.

MAYOR TERBRACK: thanked his colleagues and the city manager regarding the Michigan Municipal League (MML) conference. He said you see a lot of folks at the Capital Conference that have one or two people from communities, but Berkley's reputation is significant, not only because of the involvement of many of his colleagues and their certification levels, but also as moderators. He said he can guarantee now that the City of Berkley is the leader in the State in Emergency Management. He said anytime anyone has a question, they are going to look to Berkley and former Councilmember Jack Blanchard. He said Mr. Blanchard wanted to do that because of how important it is to him and he wants to make sure other communities understand all of the intricacies. He said the Emergency Management session will continue. He said the way Berkley is known for its commitment, involvement, and activity in the MML is certainly commendable. He thanked his colleagues for putting in time that takes away from other responsibilities to learn, ask questions, and interact with other folks in similar situations. He said he appreciates being able to get feedback and guidance from the MML and for all that the League does. Mayor Terbrack said everything else he was planning to say was already mentioned. He thanked former Public Safety Officer Greg Betts on his retirement from the community and stated Council will have another opportunity to thank him.

ADJOURNMENT

Councilmember Hennen moved to adjourn the Regular Meeting at 8:53 p.m. Seconded by Mayor Pro Tem Dean Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani and Terbrack Nays: None Motion Approved.