

**THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN  
WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, DECEMBER 19, 2022 BY MAYOR TERBRACK**

**ROLL CALL:**

Councilmember Steve Baker  
Councilmember Ross Gavin  
Mayor Daniel J. Terbrack

Mayor Pro Tem Bridget Dean  
Councilmember Dennis Hennen  
Councilmember Jessica Vilani

**OTHER STAFF PRESENT:**

City Manager Matthew Baumgarten  
City Clerk Victoria Mitchell  
City Attorney John Staran  
DDA Executive Director Michael McGuinness  
Finance Director Mark Pollock  
Accountant Laurie Fielder

**APPROVAL OF AMENDED AGENDA:**

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

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT:**

DDA Executive Director Michael McGuinness stated Happy late Birthday to Mayor Pro Tem Dean and future Happy Birthday to Councilmember Baker. He also thanked Councilmember Baker for being the DDA liaison.

Lucy Pearce, a Berkley resident, stated that she is concerned about the lack of safety on Greenfield Road, the speed limit is 40 and everywhere else it is 30. How can we make that change? She talked to Road Commission and they suggested she come to the meeting. She said it is not safe for kids and residents.

**CONSENT AGENDA:**

Councilmember Gavin moved to approve the following amended Consent Agenda  
Seconded by Councilmember Baker:

*Councilmember Hennen requested one correction be made to the minutes: stating that during the Tree Board presentation it was incorrectly noted that Ferndale is at 37 percent, etc. while Berkley is at 33 percent. **The minutes should reflect that Ferndale is at 30 percent.***

**APPROVAL OF THE MINUTES:** Matter of approving the minutes of the 39<sup>th</sup> Regular City Council meeting on Monday, December 5, 2022, with one change, noted to the Tree Board presentation portion and the Special City Council Ad Hoc Subcommittee meeting on Thursday, December 1, 2022.

**WARRANT:** Matter of approving Warrant No.1381.

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

***REGULAR AGENDA:***

**RECOGNITIONS/PRESENTATIONS:** Matter of any recognitions or presentations from the Consent Agenda.

Mayor Terbrack stated there were none.

**PRESENTATION:** Matter of receiving a Presentation by Rana Emmons of PSLZ, LLC of the annual audit and resulting Annual Consolidated Financial Report (ACFR) and requesting the City Council to Receive and File the ACFR.

City Manager Baumgartner described the annual audit process which includes having a third-party auditor review the city finances and then to come to a public meeting to present their audit findings.

Rana Emmons, PSLZ LLC auditor, started off by stating that the City did receive an unmodified opinion which is the highest report that a community can receive. The City does take the extra steps to receive the Certificate of Excellence in Financial Reporting and this is a feather in the cap for the city and not every city receives this certificate.

She discussed the following highlights of the audit:

1. Largest source of revenue property tax values increased this year 4.88% - prior year was 3.5% with no increase in millage rates.
2. The City received \$1.6 million American Rescue Act funds. These will be shown as a revenue when the city spends it and it will hit the fund balance.
3. Total general City Fund Balance decreased \$397,000 – had budgeted to go into Fund Balance originally \$997,000 but the City slowed Capital projects.
4. Building permit revenues increased \$73,000 this year. It is a good indicator of development.
5. The City did pay down \$493,000 in debt in water and sewer fund.
6. Capital Outlays for ongoing street projects, water meters, and sewer lining projects.
7. MERS net pension liability stayed the same about \$10 million net pension liability.
8. Public Safety pension increased liability due to mostly market value. Investment loss this year and last year was a gain with an ending liability of \$3.96 million. - MERS is funded at 58% and Public Safety Pension is funded at 68%.
9. Cyclical nature of Headlee Rollback causes there to be a downward slope in operating millage.
10. City did put off significant projects this year due to rollbacks and purchasing public safety vehicles.
11. Just wanted to alert them to be aware of the Headlee override downward trend to keep an eye on the potential to look at Headlee override.

Mayor Terbrack asked what is the impact of the downward trend and the impact on our budget – Ms. Emmons said we are slowing down capital outlay. She said if that continues then you will be cutting services to the residents. She said you provide excellent services but that could change in the future.

Mayor Terbrack explained Headlee and the negative impact it has for municipality funding. He said we are in a position of zero debt in general fund but still are losing money due to Headlee. He discussed 2009 and that we are in a similar situation. He said it is important for residents to understand that and its not due to spending, its rollback. Ms. Emmons said the three largest sources of city revenue such as Property Taxes, State Shared Revenue, Investment Earnings, are out of the City's control.

Councilmember Baker thanked Ms. Emmons for the presentation and for the thorough review of finances and thanks to the finance department. He said at last meeting we extended our fund balance targets for each account and he asked her thoughts. He asked what is healthy balance. Ms. Emmons said the 35% is very fiscally responsible. She said not all communities set that. She said 35% balance is the total fund balance. She explained about how fund balance is determined. She said it is a monitoring process. She said look at the trend.

Mayor Terbrack thanked Ms. Emmons and said unmodified is great but there are still things to watch for.

Ms. Emmons thanked all department heads and specifically the finance team, City Manager, and department heads. She said first year is not always an easy task and she appreciates Council's support.

**MOTION NO. M-110-22:** Matter of appointing a member to fill the current vacancy on City Council.

Mayor Pro Tem Dean moved to approve Motion No. M-110-22

Seconded by Councilmember Hennen

Mayor Terbrack introduced this item and stated that at the last Council meeting they heard from five candidates to fill the vacancy upon the resignation of State Representative elect Natalie Price. He said that now we appoint and no matter the outcome four engaged citizens will be disappointed. He said he received endorsements from members of the community. He said there is another opportunity coming up in November to be elected. Council followed the process and the final step is to make the appointment. He said that what will not happen is discussing the perceived deficiencies of any candidate who has applied to freely give of their time and he said advocating is fine, but denigrating any candidate will not be accepted at all. If you have nothing nice to say, don't say anything at all. He explained how the voting will work and each Councilmember will have the opportunity to name their preferred top choice. Must have four votes to make the next appointment. Process will conclude when someone has four votes.

Councilmember Hennen stated his preferred candidate is Michael Dooley

Councilmember Baker stated his preferred candidate is Stacey Stevens

Mayor Pro Tem Dean stated her preferred candidate is Michael Dooley

Councilmember Gavin stated his preferred candidate is Michael Dooley

Councilmember Vilani stated her preferred candidate is Clarence Black

Mayor Terbrack stated his preferred candidate is Michael Dooley

Councilmember Hennen moved to appoint Michael Dooley to the vacant city council position.

Seconded by Mayor Pro Tem Dean

Ayes: Hennen, Dean, Gavin, and Terbrack

Nays: Vilani and Baker

Motion Approved.

Mayor Terbrack congratulated Michael Dooley and stated that the swearing in ceremony will take place on January 9<sup>th</sup>.

## **COMMUNICATIONS:**

### **COUNCILMEMBER VILANI:**

- No updates from CEC or TAC as they have not met.
- No new business from the Berkley Chamber of Commerce.
- Thanked all of the candidates who came out and it was great getting to know them and look forward to seeing their names this November as they stay engaged in the community.

### **COUNCILMEMBER GAVIN:**

- Planning Commission does have a meeting on December 20<sup>TH</sup> at 7 pm in Council Chambers.
- EAC has not met since last Council meeting.
- He thanked all of the candidates who gave of their time and liked hearing about all of them and hope they stay engaged.
- Hope everyone has a happy holiday and reminded everyone about Moonbeams for Sweet Dreams taking place at the Beaumont Royal Oak Campus to shine flashlights for pediatric patients. Go there around 7:45 pm and participate to offer them the reminder that they are not alone during this time of the year. It starts tonight and goes through Christmas Eve.

### **MAYOR PRO TEM DEAN:**

- Extended her thanks to all of the candidates who applied for the city council seat, she learned something from every one of them and she is encouraged by those that put themselves out there and be vulnerable and looks forward to seeing them in the community and on the ballot.
- Parks and Recreation update – Community Center will be closed the week of December 26<sup>th</sup> and they wish everyone a safe and Happy Holiday season and they look forward to continued events, programs, and time together in our parks, fields, and center in 2023. They are grateful for the participants all year and cannot wait to gather in the new year.

### **COUNCILMEMBER BAKER:**

- Happy December and shared his gratitude for those that applied to the council vacancy. He learned a lot from every candidate and was grateful to have the privilege to learn more and he looks forward to remaining in contact with all of them.
- Historical Committee met last Tuesday and continue their preparations for the upcoming 100-year anniversary. He reminded everyone to stop by the Museum to see the great holiday exhibits and displays and for more information. Visitors are always welcome on Wednesdays from 10-1 pm and Sundays from 2-4 pm and for more information check out [berkeleyhistory.com](http://berkeleyhistory.com)
- DDA Board met on Wednesday the 14<sup>th</sup> and topics included the continued progress on the Coolidge Crosswalks, Parking Study and successful Merry month events. He thanked all of the volunteers and businesses. They still have the last Merry and Bright Shopping event on the Thursday the 22<sup>nd</sup> and for more information [downtownberkeley.com](http://downtownberkeley.com)
- He said 2022 has had a lot of highs and bumps and he wants to remind everyone to celebrate the diversity in what makes use each special and unique and please stay safe and hug someone you love because they need it more than you think they do.

### **COUNCILMEMBER HENNEN:**

- Thanked everyone who threw their hat in the ring and participated. He is always impressed with the amount of participation we have in the City and speaks well for all of the citizens that are so engaged.
- Tree Board does not meet in December – next meeting is Monday, January 23<sup>rd</sup> at 7 pm.
- Zoning Board of Appeals met and approved an increase in size of an already non-conforming porch – will not be meeting in January.

- The City's commercial district parking study has already started – he is a member of the Steering Committee along with Councilmember Gavin and some members of the DDA and Planning Commission – very productive start for the meeting and should be anticipating a public meeting to gather input starting in January or February.
- He helped the city put together a self-service Holiday map – can nominate other homes or list your own with or without photos – check out [berkleymich.org/holidaymap](http://berkleymich.org/holidaymap).

**CITY MANAGER BAUMGARTEN:**

- Wished on behalf of the staff and to the entire city Happy Holidays and a prosperous 2023.

**CITY ATTORNEY STARAN:**

- He shared information to Council already but wanted to let those watching that the city did receive a favorable Court decision from the Court of Appeals for litigation for Marihuana applicants for the lawfulness of the ordinance, scoring, and procedure. It was favorable on a local and statewide level. Court upheld our local control that our ordinance, standards, and process was lawful. State level it helped to create case law recognizing local council ability to craft and adopt standards and application scoring criteria to arrive at applicants that they feel are best suited for their communities.

**MAYOR TERBRACK:**

- He wished everyone a very Merry Christmas and happy holiday season.
- Like 2020, 2021, 2022 has proven to be another challenging year and new challenges have appeared. But what hasn't changed is Berkley's resolve and no matter what challenges we have had to face our residents and departments and staff have been able to rise to the occasion.
- However, it has been increasingly evident that he cannot say the same regarding himself. Back in 2007 he was a 27-year-old laid off teacher then he went onto becoming a principal and then a financial advisor to now being the Development officer at his firm with four daughters. There are more demands on his time and he feels if he cannot dedicate the time required to sit in the mayoral seat then he shouldn't be the one to sit in the seat anymore.
- He is incredibly proud of his time on Council and while he is not leaving the City he announced his official retirement as Mayor on December 31<sup>st</sup>, 2022. In 2023, we will have a new member of Council and Mayor Pro Tem will slide over to become Mayor.
- He sincerely thanked all of the residents for believing in him and his vision and passion and electing him on six separate occasions – while they might not have agreed on everything but he promised every decision he cast and vote he made was in the best interest for the City of Berkley.

**ADJOURNMENT:**

Mayor Pro Tem Dean moved to adjourn the Regular Meeting at 7:45 p.m.

Seconded by Councilmember Baker

Ayes: Vilani, Baker, Dean, Gavin, Hennen, and Terbrack

Nays: None

Motion Approved.

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Daniel J. Terbrack, Mayor

**ATTEST:**

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Victoria Mitchell, City Clerk