

**THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN  
WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, SEPTEMBER 18, 2023 BY MAYOR DEAN**

**PRESENT:** Councilmember Steve Baker                      Councilmember Gregory Patterson  
                 Councilmember Ross Gavin                      Councilmember Jessica Vilani  
                 Councilmember Dennis Hennen                      Mayor Bridget Dean  
**ABSENT:** Councilmember Mike Dooley

**OTHER STAFF PRESENT:**

City Manager Matt Baumgarten  
City Attorney John Staran  
City Clerk Victoria Mitchell  
Department of Public Works Director Shawn Young  
Parks & Recreation Director Theresa McArleton

**APPROVAL OF AGENDA**

Councilmember Hennen moved to approve the Agenda with the removal of item number two on the consent agenda  
Seconded by Mayor Pro Tem Gavin  
Ayes: Gavin, Hennen, Patterson, Vilani, Baker, and Dean  
Nays: None  
Absent: Dooley  
Motion Approved.

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT**

Mike Matthews-Pennanen, Berkley, stated he had a meeting with his neighbors trying to gauge the level of concern with the elimination of the chipper service. Received 281 signatures and could have gotten a lot more. He said it is a large concern for residents. He read comments he received from neighbors that he's spoken to. He feels there is a continued misunderstanding of the corrosive effects of Headlee and Prop A. He said this particular item is very important. He presented to the clerk a petition signed by 281 people. He did bring some people with him to show their support.

**CONSENT AGENDA:**

Mayor Pro Tem Gavin moved to approve the amended Consent Agenda  
Seconded by Councilmember Baker:

**APPROVAL OF THE MINUTES:** Matter of approving the minutes of the 39<sup>th</sup> Regular City Council meeting on Monday, August 14, 2023 and Special City Council meeting on Monday, August 28, 2023.

**PROCLAMATION NO. P-27-23:** Matter of proclaiming October 2023 as Berkley Area Chamber of Commerce Month.

**PROCLAMATION NO. P-28-23:** Matter of proclaiming October 2023 as National Breast Cancer Awareness Month.

**PROCLAMATION NO. P-29-23:** Matter of proclaiming October 2023 as National Cybersecurity Awareness Month.

**PROCLAMATION NO. P-30-23:** Matter of proclaiming October 2023 as National Disability Employment Awareness Month.

**PROCLAMATION NO. P-31-23:** Matter of proclaiming September 2023 as Uterine Cancer Awareness Month.

Ayes: Hennen, Patterson, Vilani, Baker, Gavin, and Dean  
Nays: None.  
Absent: Dooley  
Motion Approved.

## **Regular Agenda**

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

Councilmember Vilani read P-27-23 in its entirety.

Councilmember Patterson read P-28-23 in its entirety.

Councilmember Patterson P-24-23 in its entirety.

Mayor Dean read P-31-23 in its entirety.

Liz Petry, Berkley resident, volunteer, and cheerleader fighting uterine cancer, said she stands at the podium to build awareness. She said uterine cancer is on the rise in women in their 30s and 40s. Common symptoms include abnormal bleeding, weight loss, abnormal discharge, and pain during sex. Those at higher risk of getting uterine cancer are early age menstruation, obesity, women who do not have children, women taking tamoxifen, and women of color. Typically this cancer happens around 60. She urges people not to skip their appointments. She said she did for a few years. In March of this year she was diagnosed with stage 3 uterine cancer; she stands before us cancer free now. She said anyone can email her for support or reach out through social media. She is working on hosting an event at her church.

**MOTION NO. M-62-23:** Matter of authorizing the Berkley Instrumental Boosters/Orchestra Association, 2325 Catalpa Drive, Berkley, Michigan, to conduct Berkley Tag Days 2023 in the City of Berkley on Friday, October 6th from 4-8 p.m., Saturday, October 7th from 9 a.m.-5 p.m., and Sunday, October 8th from 9 a.m.-5 p.m.

Councilmember Patterson moved to approve Motion No. M-62-23

Seconded by Councilmember Vilani

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

Nays: None

Absent: Dooley

Motion No. M-62-23 Approved.

**MOTION NO. M-63-23:** Matter of approving the purchase of a 2023 EL250 Ford Transit Van from Lunghammer Ford in the amount of \$56,276 to replace a damaged 2008 GMC Van.

Councilmember Hennen moved to approve Motion No. M-63-23

Seconded by Councilmember Baker

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

Nays: None

Absent: Dooley

Motion M-63-23 Approved.

*Clerk Mitchell read the following email into the record:*

Joshua Hunter, Berkley, stated in regards to M-63-23: This purchase contract should not be authorized until there is a new budget appropriation, per Section 9.5 of the City Charter. He stated the Charter language in his email. He stated, furthermore, why is the 15-year-old van to be replaced not included in the seven-year Capital Equipment Replacement Plan if it is necessary to maintain existing water services?

**MOTION NO. M-64-23:** Matter of approving the purchase of a 2023 Combination Sewer Cleaning Machine from Jack Doheny Company in the amount of \$551,542.27 with the remaining budgeted funds to be held in contingency.

Councilmember Hennen moved to approve Motion No. M-64-23

Seconded by Councilmember Patterson

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

Nays: None

Absent: Dooley

Motion M-64-23 Approved.

**RESOLUTION NO. R-21-23:** Matter of adopting a resolution of the Council of the City of Berkley, Michigan to formally rename Jaycee Park to Bacon Park.

Mayor Pro Tem Gavin moved to approve Resolution No. R-21-23

Seconded by Councilmember Baker

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

Nays: None

Absent: Dooley

Resolution R-21-23 Approved.

Tom Merrit, Berkley, said he had questions regarding the financial impact of redoing the name. There will need to be new literature, changes to websites, renaming, altering signage, etc. He would like to know the financial impact of renaming the park at this time when we're trying to maintain fiscal responsibility.

**ORDINANCE NO. O-09-23:** Matter of considering the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley, Michigan to Add Article V, Retail Pet Store Sales, in Chapter 2, Animals, of the Berkley City Code to Prohibit Retail Pet Stores in the City from Selling Dogs, Cats, or Rabbits.

Councilmember Hennen moved to approve Ordinance No. O-09-23

Seconded by Mayor Pro Tem Gavin

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

Nays: None

Absent: Dooley

Ordinance O-09-23 Approved.

Carla Osborn, Berkley, said here we are 35 days from the last meeting and what have we learned? She said we've learned that between March and June of this year, the current business operating in Berkley has brought in approximately 100 dogs according to the CBI registry from the state of Michigan. She said according to their Facebook page, they have listed 32 new dogs they have brought to the business in the past 35 days. She said they learned more names of breeders they are getting their dogs from. She said a breeder supplies to Petland which we know is a place that sells puppy mill puppies. She listed another breeder who also keeps over 100 dogs. She said these are not humane-type facilities. She said if the business is allowed to continue for the duration of its lease, that equals 4,000 dogs. She talked about animals being bred to death. She said she knows the City has an economic responsibility, but it also has an ethical responsibility. She said just because something is legal doesn't make it right.

Rachel Schuler, Royal Oak, thanked the Council for its time; she said they have been here for a really long time. She said they have been talking about this for a long time. She said they will probably not stop hearing from them as this store will stay open. They would love Berkley to be a leader by example but instead what she's seeing is that they are choosing the path of least resistance. She said they are favoring out-of-state corporate greed. She said they are favoring consumer disinformation, dogs in distress, and embarrassment. She said they are looking for support for a statewide ban. She said they will work with other neighboring councils who will work with them. She said for some in this room who backpedaled on their support from the previously drafted ordinance she hopes it is uncomfortable for them to lay their heads down as it's uncomfortable for the animals in poor conditions. She mentioned the cost of animals sold at Puppygram and the interest rate offered.

Tiffany Perkins, Royal Oak, said she has her own nonprofit group, "Paws Friend Network." She said her work has turned into hospice care. She said she gets puppies now that are in hospice care. And she has to be the one to get them into an MRI, physical therapists, etc. She said these messages will continue to reach her and she will help the dogs and the families that are brokenhearted. She said she has received no help from Puppygram. She said they showed up one time; they are not ethical. She said when she says goodbye to these puppies, she loves them and cares about them. She described what happened to an animal named Buzz who was discounted in price as he aged and has not recently been seen. She said she is here to ask the Council to please lead the change of what is ethical and normal. She said the euthanasia rate for every other animal welfare locality is published and transparent and they answer all of their questions.

Thad Dickenson, Berkley, said one argument he heard against the Council approving this ordinance is that a similar statewide bill is being considered in Lansing. He said he's heard that the Council needs to tap the brakes on this ordinance as there is no rush or urgency and that the Council should just wait and see what they do in Lansing. He said he attended a conference in August where attendees heard a few success stories about States passing animal-friendly legislation; regardless of the issue or the state all the stories had something in common: it took years to pass those bills. He said that 10 years was a time span he heard cited most often in getting animal-friendly legislation passed at the state level. He said maybe they do things quicker in Lansing than other state capitals, but the legislation being considered there, HB 4838, currently doesn't have a single Republican sponsor and there's no guarantee that the bill will be passed soon or at all. He said he urges the Council to not wait for Lansing because that could be a really long wait and the dogs suffering in the puppy mill industry which is supported by businesses like Puppygram have waited long enough. He asks that they respectfully approve the ordinance under consideration.

Tom Merrit, Berkley, said that with all the ups and downs the city has experienced, he suggests that the Council shows some resilience getting this done sooner rather than later. He said no matter what your political beliefs, religious beliefs, etc. are, Berkley is a community of animal lovers. He asked that council members take this matter very seriously and not make them wait 10 years. He said a big portion of the room comes to hear updates on this issue and it should be a top priority.

Councilmember Hennen said 10 years isn't where any of us want to be. He said he wants the permitting process to uncover ill-treatment and be able to stop it. He said if Council finds fabrication of information or violations of constitutional ordinances then Council would have the power and the legal basis to shut them down. He said he doesn't believe they are acting ethically but that doesn't constitute the hard proof necessary to win in a courtroom. He said he would be voting "yes"; it isn't where he wants to be but where they have to be now.

Councilmember Baker thanked staff and his neighbors and colleagues for their passion. He said he voted no last time and voted for the moratorium. He said like his colleague, he is upset with the 10 years. He wished the second part was on tonight's agenda. He said he hears them. He said we need to have a permanent ban in place and that is where he is leaning. He said he gets why the lease clause was included but it hurts so bad. He said he is torn.

Councilmember Vilani said she echoes support for Hennen and Baker's comments. She said as someone who has owned many rescue dogs, she feels the same emotions as everyone else. She said right now we have to make sure this doesn't grow and have protections in place to ensure that if it does it is of an ethical nature.

*Clerk Mitchell submitted the following emails for the record:*

Rachel Mason stated tonight is the night to stand up and take action for the voiceless animals being unethically bred, mishandled, and housed in small glass boxes. She stated it takes courage to stand up and do the right thing when there are voices spewing threats into your ear. She urges the Council to vote "yes" on O-09-23.

Holly McCarthy stated she is writing to ask the Council to unanimously vote "yes" to ban the unethical sale of puppies in the retail store on Woodward and pass the Humane Ordinance proposal. She stated ethical breeders do not sell to pet stores and shelters are at capacity. She discussed how healthy, adoptable animals are euthanized and pet store puppies are not required to be spayed/neutered and are isolated and mistreated. She urges we join the growing list of communities passing a humane ordinance.

**MOTION NO. M-65-23:** Matter of considering a 180-day extension of Marihuana Business License #PMA20-0029 for Seven Point Dispensing, 28557 Woodward Ave.  
Councilmember Hennen motioned to approve Motion No. M-65-23  
Seconded by Councilmember Patterson  
Ayes: Patterson, Vilani, Hennen, and Dean  
Nays: Baker and Gavin  
Absent: Dooley  
Motion No. M-65-23 Approved.

**MOTION NO. M-66-23:** Matter of considering a 180-day extension of Marihuana Business License #PMA-200007 for Yellow Tail Ventures LLC #1, 3120 11 Mile Road.  
Councilmember Hennen motioned to approve M-66-23.  
Seconded by Councilmember Patterson  
Ayes: Vilani, Hennen, Patterson, and Dean  
Nays: Baker and Gavin  
Absent: Dooley  
Motion M-66-23 Approved.

**RESOLUTION NO. R-22-23:** Matter of considering a resolution in support and funding commitment of the joint application of the Reconnecting Communities grant program.  
Mayor Pro Tem Gavin motioned to approve R-22-23.  
Seconded by Councilmember Vilani.  
Ayes: Baker, Gavin, Hennen, Patterson, Vilani, and Dean  
Nays: None  
Absent: Dooley  
Motion R-22-23 Approved.

**MOTION NO. M-67-23:** Matter of approving the joint Agreement for Election Services between Oakland County, City of Berkley, City of Huntington Woods, City of Oak Park, and City of Pleasant Ridge.  
Councilmember Baker motioned to approve Motion No. M-67-23  
Seconded by Councilmember Vilani  
Ayes: Gavin, Hennen, Patterson, Vilani, Baker, and Dean  
Nays: None  
Absent: Dooley  
Motion M-67-23 Approved.

**MOTION NO. M-68-23:** Matter of considering amendments to the Fiscal Year 2023/24 Budget.

Mayor Pro Tem Gavin motioned to approve Motion No. M-68-23  
Seconded by Councilmember Baker  
Ayes: Hennen, Patterson, Vilani, Baker, Gavin, and Dean  
Nays: None  
Absent: Dooley  
Motion M-68-23 Approved.

*Clerk Mitchell read the following email into the record:*

Joshua Hunter, Berkley, stated in regard to the 2023/24 fiscal-year budget amendment, the document shows the beginning balances from the prior fiscal year instead of the current fiscal year. This is grossly inflating the current fiscal-year ending balances for the funds in the amendment schedule. Finally, what is the current reserve percentage for the ending General Fund balance? Residents need to understand if the 25 percent reserve policy is being followed.

## **COMMUNICATIONS**

### **COUNCILMEMBER PATTERSON**

- Planning Commission will meet Tuesday, September 26<sup>th</sup> at 7 p.m. in Council chambers.

### **COUNCILMEMBER HENNER**

- Tree Board will next meet on September 25<sup>th</sup>.
- Zoning Board of Appeals met in August and denied a lot split for a lot that wasn't large enough. They don't have any cases for September and they won't have any cases in October either.
- Asked city manager to give an update to the public on downtown crosswalks.

### **COUNCILMEMBER BAKER:**

- Wished everyone a happy September.
- The Downtown Development Authority (DDA) met on Wednesday the 13<sup>th</sup>; they accepted the Berkley parking study and the Strategic Plan. He said he'd like to again extend his gratitude to the Community Development Department and all the folks that provided input.
- Three mural applications are under consideration and going forward; those will go through the ZBA for consideration as part of that process.
- Planning is continuing for the soft launch of the Berkley Outdoor Social Scene (BOSS) which will be on 12 Mile. Three businesses have completed the registration and application process at the state and local level: Mongers' Provisions, El Patio and Amici's. Additional businesses in that stretch are working toward that; more communications will be coming as the social district is finalized.
- Save the date of November 18<sup>th</sup> to celebrate the life of Vivien Carmody. Vivian was Berkley's prior DDA executive director and a fantastic force in the community who helped establish so much of the foundational groundwork that our existing and future DDAs will benefit from. He said that we have tremendous leadership today with Mike McGuinness and the board; he said they also acknowledged what a great role she played to get us where we are today.
- If you'd like to learn more about things happening downtown, visit [downtownberkley.com](http://downtownberkley.com)
- Historical Committee has three important dates coming up: September 29<sup>th</sup> in tribute to the Berkley Theatre, the Redford Theater is going to show "Butch Cassidy and the Sundance Kid" which ran for over 100 days. There will be a display of photos of the Berkley Theatre and the last owner of theater will be in attendance. The event starts at 8 p.m., tickets are \$8. This is being held to commemorate the 30<sup>th</sup> anniversary of the closing of the Berkley Theatre.
- The very next day, September 30<sup>th</sup>, is the Kit Home Tour. Berkley has one of the largest concentrations of kit homes and if you don't know what that is, they used to have catalogs where you could buy a house and have all the lumber and bolts and screws and all that stuff delivered and you could put it together with your friends and family. The event is in partnership

with the Berkley Area Chamber of Commerce. Tickets are \$25; there are 10 homes being featured, five of which you can go in and five others you can walk around.

- On Saturday, October 14<sup>th</sup> at 3:30 p.m., a Michigan Historical marker will be unveiled at the 1928 Fire Station Village Hall. We'd love to have you there for the grand unveiling as well as the installation of the time capsule, to be opened in 100 years. There will also be cupcakes!
- Visit the museum from 10 a.m.–1 p.m. on Wednesdays and 2-4 p.m. on Sundays or by visiting [berkleyhistory.com](http://berkleyhistory.com)
- In 1978, Ali Willis wrote, "Do you remember the 21<sup>st</sup> night in September, love was changing the lives of pretenders." We are in September. Fall safety tips: Watch out for kids, don't be fooled by falling leaves – they can conceal hidden objects, avoid slips and trips from the rain, we are entering the flu season and covid is coming back so get your jab and wash your hands, when time changes check the batteries in your smoke detector, and if walking around after dark wear something reflective.
- Please hug someone you love – even if it's a dog because they need it.

### **MAYOR PRO TEM GAVIN**

- Several senior lunches and casino trips are scheduled over the next couple months. For more information call, stop in the office, or go online to [recreation.berkleymich.org](http://recreation.berkleymich.org).
- Senior fitness is back on Tuesdays and Fridays at 9:30 a.m. in the Community Center, drop in for \$3 a class.
- Trivia Tuesday is running on October 31<sup>st</sup> and December 5<sup>th</sup>. Fall Fun Bingo is running on September 19<sup>th</sup> and November 14<sup>th</sup>; lots for seniors to do this fall and early winter season.
- Youth and adult programs are back in the Community Center this Fall so check out registrations online.
- Parks & Recreation is closing out the outdoor movie season on October 28<sup>th</sup> with a showing of Hocus Pocus at Oxford Park at 6 p.m. Join us for some spooky fun; no registration needed.
- The Halloween fun continues with our annual Tale on the Trail event held on Thursday, October 19<sup>th</sup> at Bacon Park. Registration opens at the end of the week.
- Join us for the grand opening of the new inclusive playground at Bacon Park this Wednesday at 6 p.m.
- Next meeting will be on October 12<sup>th</sup> at 7 p.m. at the Community Center.

### **COUNCILMEMBER VILANI**

- Technology Advisory Committee/ Citizen's Engagement Advisory Committee has not met and has no updates.
- Tickets for the Kit Home Tour are available for \$25 at the Berkley Chamber; they are still looking for volunteers to help out with the event. Volunteers will receive a free ticket to the tour.
- Get your stretch pants on because Restaurant Weekend is coming back October 6<sup>th</sup> and 7<sup>th</sup> at participating restaurants in Berkley; more details to come. If you are so inclined, please go out and support your local restaurateurs; we have lots of great places in Berkley to dine.
- Thanked the Beautification Committee who recently spent some time on a Saturday cleaning up Friends Park; said she got to watch that in progress as it is right around the corner from her house. She said it is gorgeous now and that was all volunteer effort so she is appreciative.
- Thanked the Berkley School District who invited Council to be part of their Back To School rally right before school started; she said it was exciting to see the other arm of our community there.
- Echoing on Councilmember Baker's safety tips, there are a lot of kiddos not always paying attention on the roads now that school is back in session so please be careful.

### **CITY MANAGER MATT BAUMGARTEN**

- Regarding the back-to-back storms we had on August 24<sup>th</sup> and 25<sup>th</sup>, anyone who's visited City Hall has seen that City Hall itself also experienced flooding which led to a mold issue and has been in remediation since. Apologized for City Hall's construction site appearance in the last few weeks as things have been torn out, investigated, treated, sampled, air tested, etc.

- He said that about 54 people submitted claims or otherwise indicated they had water in their basements. This parallels the August 28<sup>th</sup>, 2017 storm; in that storm, we had nearly 1,000 homes affected. Now we are looking at about 50. Although it doesn't do those affected much good, on the aggregate we know that we are moving in the right direction. We take similar storms with very different results to be the signs that our Department of Public Service and the Department of Public Works have taken smart, appropriate cost-effective steps. These storms are not going away. We spend these months in a collective clutch, all of those in the Kuhn drain district, because anytime the rain starts to fall, they share the same concern over flooding. He said it's definitely muted good news, but for those 54 people who had water in their basement, we're still working at it and we will get there. We also lit a torch under the Oakland County Water Resource Commissioner's Office and we're hoping to get some good news out of them.

**CITY ATTORNEY JOHN STARAN**

- No updates.

**MAYOR DEAN**

- Mayor's Academy had its first meeting last Tuesday night; Plante Moran did a deep dive into fund-based accounting and how our budget is structured. Unfunded mandates, Headlee, and Prop A are just a part of what the city, and all municipalities, have to deal with. She said there are so many things and lots of moving parts. She said they have 16 people in this cohort and will offer this again on a yearly basis, through an application process. She thinks it's in our best interest in continued transparency, which the City takes very seriously; she thanked Plante Moran for their excellent presentation and City Manager Matt Baumgarten for his presentation. She knew when she came to him to ask for this, it was necessary. She thanked department heads and their staff for contributing to this. She said each week they have a look at a different department, its budget, any unfunded mandates, and services that they deliver.
- She said it's been a minute since the Council last met. Lots of fun things have happened in Berkley, including CruiseFest and IrishFest. One thing she noticed is that at both IrishFest and CruiseFest, there were generations of people. She said the vibe that was in our downtown was the priceless piece of this equation. Ikea donated furniture for the night and then that furniture was donated to people transitioning into their own homes. Part of what makes Berkley, Berkley are these types of events. She thanked the volunteers, Department of Public Works, Public Safety, and Parks & Recreation; there were lots of moving parts involved and so many things go into making an event safe and fun for everyone. She said when you call DPW, please be nice to Janis, Diane and Ashley.

**ADJOURNMENT:**

Councilmember Vilani moved to adjourn the Regular Meeting at 8:46 p.m.

Seconded by Councilmember Patterson.

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

Nays: None

Absent: Dooley

Motion Approved.

---

Bridget Dean, Mayor

**ATTEST:**

---

Victoria Mitchell, City Clerk