

Birmingham City Commission Minutes
February 5, 2024
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/905430821>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor McLain
MPT Schafer
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner Long
Commissioner Longe

Absent: None

Staff: City Manager Ecker; City Clerk Bingham, Assistant City Manager Clemence, City Engineer Coatta, Senior Planner Cowan, Police Chief Grewe, Building Official Johnson, Police Captain Kearney, City Attorney Kucharek, Public Services Manager Markus

02-029-24 Change to the Agenda

MOTION: Motion by Commissioner Longe, seconded by MPT Schafer:
To move the closed session to occur after the consent agenda and prior to the City Manager's report.

In reply to Commissioner Host, Commissioner Longe said she believed the change would contribute to efficient conduct of the meeting.

Commissioner Host and the Mayor voiced support for the motion.

ROLL CALL VOTE: Ayes, MPT Schafer
Commissioner Longe
Commissioner Long
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Baller

Nays, None

III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS

Announcements

- The City of Birmingham, along with the nation, recognizes Black History Month in February. We celebrate the legacy of Black Americans whose power to lead, to overcome and to expand the meaning and practice of American democracy has helped our nation become a more fair and just society. The city continues to make significant progress in understanding the important history of Black families in early Birmingham, and remains committed to seeking opportunities to share the whole story of our community in the future.

02-030-24 Public Arts Board

The Commission interviewed Monica Neville for the appointment.

MOTION: Nomination by Commissioner Host:
To appoint Monica Neville to the Public Arts Board as a regular member for a three-year term to expire January 28, 2027.

VOICE VOTE: Ayes, MPT Schafer
Commissioner Longe
Commissioner Long
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Baller

Nays, None

02-031-24 Public Arts Board

The Commission interviewed Shabnam Hosseini for the appointment.

MOTION: Nomination by Commissioner Longe:
To appoint Shabnam Hosseini to the Public Arts Board as an alternate member for the remainder of a three-year term to expire January 28, 2025.

VOICE VOTE: Ayes, MPT Schafer
Commissioner Longe
Commissioner Long
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Baller

Nays, None

02-032-24 Historic District Study Committee

The Commission interviewed Katherine Barta for the appointment. After a clarification from Ms. Barta’s interview, the Commission noted that Ms. Barta had a personal, and not a financial, interest in historic preservation.

MOTION: Nomination by Commissioner Haig:
To appoint Katherine Barta as a regular member to the Historic District Study Committee to serve the remainder of a three-year term to expire June 25, 2026.

VOICE VOTE: Ayes, MPT Schafer
Commissioner Longe
Commissioner Long
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Baller

Nays, None

CC Bingham swore in the present appointees.

IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

David Bloom commented regarding free speech.

V. CONSENT AGENDA

02-033-24 Consent Agenda

MOTION: Motion by Commissioner Longe, seconded by MPT Schafer:
To move the Consent Agenda with the exception of Items H and I.

ROLL CALL VOTE: Ayes, MPT Schafer
Commissioner Host
Commissioner Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

- A. Resolution to approve the City Commission Long Range Planning meeting minutes of January 20, 2024.

- B. Resolution to approve the City Commission regular meeting minutes of January 22, 2024.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 25, 2024 in the amount of \$2,377,776.27.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 31, 2024 in the amount of \$396,739.34.
- E. Resolution to approve the Memorandum of Understanding and the Cost Reimbursement Agreement with the FBI and to authorize the Chief of Police to sign the agreements on behalf of the city.
- F. Resolution to approve an extension of the public services and minor home repair contract with NEXT for the purpose of expending remaining program year 2021-2022 Community Development Block Grant funds for Yard Services and Minor Home Repair Services administered by NEXT through December 31, 2024; and further, to authorize the Mayor and the City Clerk to sign the amendment on behalf of the City.
- G. Resolution to approve the purchase of root control services, as quoted by Duke's Root Control, Inc. for the 2024 Sewer Root Control Program, in the amount not to exceed \$125,085.30. Funding for this project has been budgeted in the following account:

Fund Account	Fund ID Number	Project Award
Sewer Fund	590.0-538.000-811.0000	\$125,085.30

AND

To approve the appropriation and amendment of the fiscal year 2023/2024 budget as follows:

Sewer Fund:

Revenues:

590.0-00.00-400.0	Draw from Net Position	\$25,085.30
Total Revenue		<u>\$25,085.30</u>

Expenditures:

590.0-537.000-811.0000	Other Contractual Services	\$25,085.30
Total Expenses		<u>\$25,085.30</u>

02-034-24 Award of the Bid for Truck Transport and Tank Wagon Deliveries (Item I)

Commissioner Haig pulled Item I. DPSD Zielinski answered informational questions from the Commission.

MOTION:

Motion by Commissioner Haig, seconded by Commissioner Host:

To split the award of the bid for truck transport and tank wagon deliveries of unleaded gasoline and diesel fuel to the following vendors, to enable a backup supply source to be available to the

City should the need arise, based on bid factors included in their respective bids for a two-year period beginning February 1, 2024, with the option to extend terms and conditions an additional two years upon mutual consent:

Truck Transport deliveries:

1. RKA Petroleum Companies, 28340 Wick Rd., Romulus, MI, 48174 and
2. Marathon Flint Company, 1919 S Dort Highway, Flint, MI 48503

Tank Wagon deliveries:

1. RKA Petroleum Companies, 28340 Wick Rd., Romulus, MI, 48174 and
2. Gen Oil Company, 1238 Anderson Rd., Clawson, MI 48017

Funds for this purchase of gasoline and diesel fuels are budgeted in Auto Equipment Fund - Fuel Expense account #661-441.006-737.0000.

ROLL CALL VOTE: Ayes, MPT Schafer
 Commissioner Host
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain
 Commissioner Baller

Nays, None

02-035-24 Amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4) (Item H)

Paul Reagan, a member of the public, pulled Item H. He opposed the proposed change to the Ethics Ordinance.

Public Comment

Jim Mirro supported Mr. Reagan.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Long:
To amend Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a) Board of ethics (4) allowing for a business or property owner in the City of Birmingham to serve on the Ethics Board as appointed by the City Commission.

Staff answered informational questions from the Commission.

Individual Commissioner comments were as follows:

- The change would not eliminate residents from the Board of Ethics. It would expand eligibility to allow for property- or business-owning non-residents to serve on the Board of Ethics. Board of Ethics opinions are thorough and considered, and there is likely a small pool of applicants who have both the capacity and availability to serve on the Board. Having two alternate positions on the Board is wise, given that succession planning for

the Board is necessary. The Commission would have to use its discretion to determine appropriate appointees;

- The change was being proposed because too few residents were volunteering their time. Any interested residents would be encouraged to apply for volunteer boards and committees in order to ensure there are enough members to conduct City business;
- The proposed language was not an attempt to obscure any outcome, and it was disappointing that the Board of Ethics has seen an increase in its utilization recently;
- The Commission should not make the recommended changes because the Board of Ethics can judge Commissioners, which could have the outcome of non-residents impacting voter-elected officials. If applications to the Board of Ethics remain an issue, the matter should be revisited in a year's time; and,
- The City strives to ensure that its boards and committees are devoid of conflicts-of-interest. Many municipalities do not have formal Boards of Ethics, and it is valuable that the City has one.

Public Comment

Mr. Bloom commented on how the independence of the Board of Ethics members could potentially be increased.

Irene Hathaway opposed the proposed change to the Ethics Ordinance, and supported the City increasing its efforts to publicize Board of Ethics positions to residents first.

Suzanne Faber also supported the City increasing its efforts to publicize Board of Ethics positions to residents first.

It was noted in reply to Brooke Reiter that residential renters are able to serve on the City's boards and committees.

Judy Doyle, alternate on the Board of Ethics, commented that the preceding discussion might serve to recruit additional resident applications to serve on the Board of Ethics.

Mr. Mirro reiterated his support for Mr. Reagan, and commented on the increased frequency of the Board of Ethics' utilization.

ROLL CALL VOTE: Ayes, None

 Nays, MPT Schafer
 Commissioner Host
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain
 Commissioner Baller

02-036-24 Amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4) (Item H) (Part II)

MOTION: Motion by Commissioner Long, seconded by Commissioner Baller:

To table this issue for 60 days, and then to bring it back.

Commissioner comments were as follows:

- This conversation hopefully will generate enough resident awareness and interest that there will be no shortage of applications for the Board of Ethics. Residents should sign up for the City’s emails and other communications, and should encourage others to do the same. Residents can also note open board and committee positions at the end of each Commission agenda; and,
- City information is available via multiple different sources, and now that residents are aware of it they should seek it out.

ROLL CALL VOTE: Ayes, MPT Schafer
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain
 Commissioner Baller

Nays, Commissioner Host

02-037-24 Closed Session Pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act

MOTION: Motion by Commissioner Longe:
To meet in closed session to discuss a written attorney/client privilege communication pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act.

ROLL CALL VOTE: Ayes, MPT Schafer
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain
 Commissioner Baller
 Commissioner Host

Nays, None

The Commission went into closed session at 8:48 p.m.

The Commission returned from closed session at 9:02 p.m.

VI. CITY MANAGER’S REPORT

VII. UNFINISHED BUSINESS

02-038-24 Staff Update – Shirley Rd. & Arlington St. Interim Report for City-Initiated Unimproved Street Project

Commissioner Baller recused himself from the discussion citing his residence within the project area and left the room at 9:02 p.m.

Individual Commissioner comments were as follows:

- Members of the Commission are residents. These changes would represent improvements to the project area's health and safety by improving the water and sewer infrastructure. The Commission has an obligation to ensure that the roadway is safe. The Fire Chief has said that the hydrants likely have insufficient water pressure due to the current infrastructure. Road improvements in the project area would increase accessibility and safety. The focus of this conversation should be the failing infrastructure. All of the Commission deliberation on the matter has occurred in public, and can be reviewed via the minutes, the agendas, and/or video recordings online. Members of the public can reach the Mayor on her City-provided cell phone at 248-490-7188. Collaboration and safety should be the priority of these proceedings;
- There has been limited but vocal public conjecture that the Commission made its decision prior to hearing from the public, and/or that the Commission does not listen to the public. In contrast to those accusations, the Commission has participated in a number of conversations on the matter in public as well as a publicly-accessible walk in the neighborhood. Individual Commissioners declined to engage with residents who wanted to speak privately to Commissioners in order to avoid the appearance of prematurely reaching a decision. Accusing the Commission of enacting a foregone conclusion or ignoring public input when the evidence is to the contrary does damage to the community and the process. The Commission will make the best decision it possibly can;
- Misinformation and bullying have been present among some members of the public's reactions to the proposed project. These reactions have intimidated some other members of the public into not participating publicly. While the Commission has been described by some members of the public as inflexible, the Commissioners have repeatedly stated their commitment to weighing all of the information available. Sidewalks are safer than a lack of sidewalks, and advocating for children requires that to be recognized;
- The vitriol of the public discourse regarding this matter is relatively unprecedented within Birmingham. Some members of the public have engaged in threats, name calling, insulting staff, and misinformation. Residents should be aware that when certain parties attempt to generate suspicion of the Commission, it may be an attempt to pressure the Commission into voting a certain way. While those attempting to generate suspicion of the Commission are within their rights, they should also consider their impact on the members of the Commission, and should consider whether their actions are based in truth;
- Thanks were due to all City staff and Commissioners that enabled the walk of the project area to occur; and,
- Government exists to serve the residents. Some members of the public have been described as being part of a lobbyist group or a special interest group. These members of the public are also residents, and the Commission should listen intently to their opinions.

A number of Commissioners also noted that:

- All correspondence that came to the Commission regarding the matter was reviewed;
- While the tone of some of the correspondence was inappropriate, the extent of the correspondence was valuable and appreciated;
- The Commissioners did not respond directly to the correspondence so that the

- Commission could deliberate as a body;
- The Commission would hear information from all parties, and that said information would be considered with an open mind;
- It would be challenging to make a decision on this matter given the heightened atmosphere;
- Members of the public should not endeavor to threaten, insult, or intimidate members of the Commission;
- The discussion should proceed civilly and respectfully; and,
- Staff deserved thanks for their work on the item.

SP Cowan and CE Coatta presented the item.

Commissioners continued their discussion. Individual Commissioner comments were as follows:

- The discussion could be separated into three separate sections: water and sewer, street type, and sidewalks. It might be appropriate to approve the replacement of water and sewer infrastructure within the project area, and then to send the road surface, design, and reconstruction back for further board review. The unimproved streets funding methodology should also be reviewed, because the City's Insurance Services Office rating (ISO) was reduced in part due to its older water infrastructure;
- While staff recommendations are guided by City plans, neither those recommendations or those plans are binding on the Commission. The Commission should improve the water and sewer, but should otherwise return the street to its present condition. One member of the public supplied an alternate proposal for sidewalks and street design which should be considered;
- Staff deserved thanks for their presentation of the item. The City's street width and sidewalk goals were adopted before any of the present Commissioners were elected. The Ad Hoc Unimproved Street Study Committee (AHUSSC) recommended that the City adopt a City-initiated process for improving streets for a number of reasons. It would behoove the City to re-evaluate the way it selects projects. The present project area has never been assessed for improvement. While a 26 foot width may be the street standard, it may not be appropriate in every location. Residents have requested that the City propose creative alternatives for this project. It may be most appropriate to table the item or to return it to the Multi-Modal Transportation Board (MMTB) for the generation of creative alternatives. A compromise solution may be a bit wider, may have partial, complementary sidewalks on each side of the street, may generally take the conditions more into consideration, and/or may include a bicycle lane;
- The City's plans are advisory, and cannot be appropriately applied to each circumstance. Shirley and Arlington is a unique neighborhood within the City. Westwood was another somewhat unique circumstance, and the width of that street was maintained rather than reduced. The water and sewer improvements in the project area are a necessity. It would then be appropriate to improve the road surface by adding curbs and using either concrete or asphalt. The sidewalk aspect of the project should not be proceeded with. The project should not be tabled because the project area needs new sewer and water lines as soon as possible;
- Collaboration between the City, Commissioners, and residents should focus on promoting safety within the project area for both present and future residents. It may be appropriate to send this back to the MMTB for expedited review, asking for a creative design that integrates water, sewer, road, pedestrian, and young children's safety needs;

- There was significant agreement on the importance of the water and sewer improvements, and on the value of improving the road. Once the road is improved, maintenance of the road surface would be paid for by the City rather than the project area's residents; and,
- The AHUSSC considered alternative funding methods for road improvements and did not recommend any, in part because other Birmingham streets have been improved using the present funding method. Westwood, a street that recently chose to remain unimproved, is now being noted for its poor surface quality by some residents.

MOTION: Motion by Commissioner Long, seconded by Commissioner Longe:
We approve to go forward with the water and sewer, that the City replaces the roadway and the curbs, and the roadway is asphalt and remains the same width that it is right now, and no sidewalks.

Commissioner comments were:

- The project area residents did not request asphalt;
- Everyone should look at the October 2, 2023 Commission workshop on unimproved roads to understand the cost structure for unimproved versus improved and the payback period;
- If the water and sewer is improved, it is possible that the manhole covers, grates, and curbs would need to be replaced; and,
- One Commissioner would not support the project without road improvement, citing the issues with Westwood's road surface. Additionally, sidewalks are safer than walking in the road.

Staff provided guidance regarding the process and answered informational questions from the Commission.

Public Comment

Fremont Scott supported replacing only the necessary curbs.

Jenny Shebib supported saving as much of the curb as possible.

Mike Minelli supported the water and sewer improvements, more attention for sidewalk repair, and breaking future projects into smaller portions for review purposes.

Richard Silbergleit, Cary Miliron, Lisa Drake, Ms. Shebib, Renee Billmeyer, Pam Minelli, and Creagh Milford supported the motion.

Ms. Hathaway supported each street being evaluated individually when improvement is under consideration.

Mr. Mirro commented on whether Arlington and Shirley are improved roads, on horizontal drilling, and on the coverage of this item in the news media.

Scott Allen supported narrowing the streets and adding sidewalks in the project area.

Vanessa Durham supported the addition of sidewalks.

Ms. Billmeyer supported the addition of sidewalks in the City in general, though not in the project area.

Mr. Bloom commented on the horizontal drilling process and read excerpts from another resident's letter which was previously provided to the Commission.

Mark Lakin asked about the timeframe of the project as proposed by the motion.

Lauren Buttazoni asked how the motion would impact potential future street width or sidewalk changes in the project area.

Madeline Kleitch commented on how projects impact the water level in the project areas.

Ms. Faber commented on road narrowing in the City.

Rosie Koul thanked the Commission, residents, and City staff for their participation in the process.

A number of residents thanked the Commission for their process and expressed remorse for the behavior of some members of the public.

ROLL CALL VOTE: Ayes, MPT Schafer
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain

 Nays, Commissioner Host

The Commissioner entered a brief recess, and returned from recess. Commissioner Baller rejoined the meeting at 11:34 p.m.

VIII. NEW BUSINESS

02-039-24 Brandon Street – Shirley Road to Linden Road – Adding to Arlington Road and Shirley Road Project

CE Coatta presented the item and answered informational questions from the Commission.

Commission discussed road surface improvements, better parking for the park, and the width of the road. There was discussion that a sidewalk on one or both sides of the street might also be beneficial.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Longe:
To direct the Engineering Department to add Brandon Street to the Arlington Street and Shirley Street project and proceed with the final design to include construction of the street within the project area that will meet the City standards for an improved street with a five foot wide sidewalk on at least one side of the road, accommodating parking and entrance to the park, as well as a gate for pump house road.

Commissioner comment was as follows:

- It might be prudent to have Engineering return with design based on the setbacks and rights of way before this motion is advanced;

Public Comment

Mr. Mirro commented on potential sidewalk and parking locations.

ROLL CALL VOTE: Ayes, MPT Schafer
 Commissioner Host
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain
 Commissioner Baller

Nays, None

02-040-24 Speed Mitigation Report

Chief Grewe summarized the report and answered informational questions from the Commission.

Commissioner comment was as follows:

- Speed signs and other speed mitigation measures should be standardized;
- Other speed mitigation measures should be considered; and,
- Given the lateness of the hour, this conversation should perhaps be continued in the future.

MOTION: Motion by Commissioner Long, seconded by Commissioner Baller:
To move this to an agenda item for further discussion and a decision process on another day.

Commissioner comment was as follows:

- There was a worthwhile question about whether to continue with the status quo.

ROLL CALL VOTE: Ayes, MPT Schafer
 Commissioner Host
 Commissioner Longe
 Commissioner Long
 Commissioner Haig
 Mayor McLain
 Commissioner Baller

Nays, None

Commission Items for Future Discussion

02-041-24 Cameras on City Vehicles

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host:
To consider the addition of front and rear facing cameras to all City vehicles.

ROLL CALL VOTE: Ayes, MPT Schafer
Commissioner Host
Commissioner Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

Commission Discussion On Items From A Prior Meeting

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of intention to appoint to the Architectural Review Committee
 - 2. Notice of intention to appoint to the Planning Board
- B. Commissioner Comments

The Mayor encourages unhoused individuals to request co-response support from the social worker who works with the City's police.

The Mayor noted that the Birmingham Youth Assistance Dog Show was a success.

The Mayor reiterated that credible threats to elected officials affect discourse, that the Attorney General's office has been informed of recent threats, and that the Attorney General's office would be informed again if threats recur.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
 - 1. Ethics Opinion 2023-03
 - 2. Ethics Opinion 2023-04
- D. Legislation
- E. City Staff

INFORMATION ONLY

XI. ADJOURN

The Commission motioned to adjourn at 12:29 a.m.

Alexandria Bingham, City Clerk

A handwritten signature in black ink, appearing to read 'Laura Eichenhorn', with a long horizontal flourish extending to the right.

Laura Eichenhorn, City Transcriptionist