BIRMINGHAM CITY COMMISSION MINUTES
JUNE 9, 2014
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Scott D. Moore, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Moore
Commissioner Dilgard
Commissioner Hoff
Commissioner McDaniel
Commissioner Nickita
Commissioner Rinschler
Mayor Pro Tem Sherman (arrived at 7:36 PM)
Absent, None

Administration: Interim City Manager Valentine, City Attorney Currier, City Clerk Pierce, DPS Director Wood, Finance Director Ostin, City Planners Ecker & Baka, Police Chief Studt, City Engineer O'Meara

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

06-126-14 CHANGE TO THE AGENDA REGARDING THE PUBLIC HEARING TO CONSIDER ZONING ORDINANCE AMENDMENT RE: TRANSITIONAL ZONING

Mayor Moore discussed noticing regarding the transitional zoning public hearing. He stated that was proposed as an overlay on the existing zoning, however it is a rezoning. He noted that the City has complied with all noticing requirements except for the sign boards required for a rezoning. He suggested that this item be posted until such time as the proper notification can be done.

MOTION: Motion by Rinschler, seconded by Dilgard:
To change the agenda to eliminate New Business Item B regarding the Public Hearing to consider amendments to the zoning ordinance regarding transitional zoning.

The following individuals commented on the change to the agenda:
Anne Stallkamp, 333 Ferndale
Benjamin Gill, 520 Park
Carroll DeWeese, 932 Purdy
Paul Reagan, President of Central Birmingham Neighborhood Association
Jim Partridge, 925 S Adams

VOTE: Yeas, 7
Nays, None
Absent, None

06-127-14 APPOINTMENT TO THE BOARD OF ETHICS

MOTION: Motion by Rinschler:
To appoint Sophie Fierro-Share, 1040 Gordon Lane, to serve a three-year term on the Board of Ethics to expire June 30, 2017.

VOTE: Yeas, 7
Absent, None

06-128-14 APPOINTMENT TO THE BROWNFIELD REDEVELOPMENT AUTHORITY

MOTION: Motion by McDaniel:
To concur in the Mayor's appointment of Robert Runco, 1556 Lakeside, to the City of Birmingham Brownfield Redevelopment Authority to serve a three-year term to expire May 23, 2017.

VOTE: Yeas, 7
Absent, None

06-129-14 APPOINTMENT TO THE HOUSING BOARD OF APPEALS

MOTION: Motion by Nickita:
To appoint Frank Carnovale, 462 Steeple Chase, Bloomfield Hills to serve a three-year term on the Housing Board of Appeals to expire May 4, 2017.

MOTION: Motion by Hoff:
To appoint Brian Blaesing, 2444 Polo Place to serve a three-year term on the Housing Board of Appeals to expire May 4, 2017.

MOTION: Motion by McDaniel:
To appoint David Frink, 5277 Coulter Lake, Clarkston to serve a three-year term on the Housing Board of Appeals to expire May 4, 2017.

VOTE ON NOMINATIONS OF CARNOVALE, BLAESING, FRINK:
Yeas, 7
Absent, None

06-130-14 APPOINTMENT TO THE BOARD OF BUILDING TRADES APPEALS

MOTION: Motion by McDaniel:
To appoint Dennis Mando, 2225 Ironwood, Clarkston, to serve a three-year term on the Board of Building Trades Appeals to expire May 23, 2017.

VOTE: Yeas, 7
Absent, None

The Commission requested the interviews for applicants Douglas Leahy, 783 Robinhood Circle, Bloomfield Hills and Richard Wiand, 630 Waddington, Bloomfield Village be rescheduled as they were not in attendance to be interviewed.

The Clerk administered the oath to the appointment board members.

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

06-131-14 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item M (Window Cleaning Services Agreement) by Commissioner Hoff
- Item P (Set Public Hearing - Zoning Ordinance Amendment) by Commissioner Rinschler
- Item I (Oakland County Solid Waste Management Plan) by Dorothy Conrad
- Item N (Tea Parlor, Inc Liquor License) by Dorothy Conrad

MOTION: Motion by Sherman, seconded by Nickita:

To approve the consent agenda as follows:

A. Approval of City Commission minutes of May 19, 2014.

B. Approval of warrant list, including Automated Clearing House payments, of May 21, 2014 in the amount of $698,857.43.

C. Approval of warrant list, including Automated Clearing House payments, of May 28, 2014 in the amount of $347,296.81.

D. Approval of warrant list, including Automated Clearing House payments, of June 4, 2014 in the amount of $1,163,909.52.

E. Resolution accepting the resignation of Patricia Bordman from the Multi-Modal Transportation Board, thanking Ms. Bordman for her service, and directing the Clerk to begin the process to fill the vacancy.

F. Resolution appointing Lauren Wood as the City representative and Joseph Valentine as the alternate representative to the Board of Trustees of the Southeastern Oakland County Resource Recovery Authority for the fiscal year beginning July 1, 2014.

G. Resolution appointing City Engineer Paul T. O'Meara, as representative, and Brendan Cousino, Assistant City Engineer, as alternate representative, for the City of Birmingham, on the Southeastern Oakland County Water Authority Board of Trustees for the period starting July 1, 2014.

H. Resolution waiving the formal bidding requirements and approve the purchase of repairs to vehicle #30 from Southeastern Equipment Company in the amount not to exceed $9,757.47. Funds for this repair are available in the Auto Equipment Fund, account #641.441.006-971.0100.

J. Resolution setting a Public Hearing of Necessity for the 2014 Cape Seal Program on Monday, July 14, 2014 at 7:30 PM and a Public Hearing of Confirmation of the Roll on Monday, July 28, 2014 at 7:30 PM.

- and -

Resolution approving the 2014 Cape Seal bid from Highway Maintenance & Construction Co. for a total expenditure not to exceed $175,000.00 contingent on the results of the Public Hearing of Necessity and the Public Hearing of the Confirmation of the Roll. Further, authorizing the Mayor and Clerk to sign the agreement on behalf of the City

upon receipt of proper insurances. Funds for this purchase are available in the Major and Local Streets Fund 202/203-449.003-937.0400.

K. Resolution opting into Oakland County's Urban County Community Development Block Grant (CDBG) programs for the years 2015, 2016 and 2017. Furthermore, resolving to remain in Oakland County's Urban County Community Development programs, which shall be automatically renewed in successive three-year qualification periods of time, or until such time that it is in the best interest of the City to terminate the Cooperative Agreement. Further approving the Cooperative Agreement and authorizing the mayor to sign the agreement on behalf of the City.

L. Resolution approving the appropriations and amendments to the fiscal year 2013-2014 budget as follows:

General Fund

Revenues:	
Property Taxes #101-000.000-402.0005	$ (56,000)
Licenses and Permits #101-000.000-476.0000	500,000
Intergovernmental Revenue #101-000.000-588.0000	39,000
#101-000.000-574.0001	11,000
Charges for Services #101-000.000-626.0005	(15,000)
#101-000.000-627.0001	(8,000)
#101-000.000-634.0002	(20,000)
#101-000.000-646.0003	(40,000)
Fines and Forfeitures #101-000.000-657.0000	350,000
Interest and Rent #101-000.000-664.0000	(67,000)
Other Revenue #101-000.000-678.0000	250,000
Total Revenue Adjustments	$944,000
Expenditures:	
Public Safety #101-301.000-702.0002	$(40,000)
#101-301.001.702.0001	(60,000)
Transfers Out #101-136.000-999.9999	450,000
#101-999.000-999.0202	150,000
#101-999.000-999.2030	150,000
#101-999.000-999.0731	294,000
Total Expenditure Adjustments	$944,000

Local Street Fund

Revenues:	
Transfers In #203-000.000-699.0101	$ 150,000
Draw from Fund Balance #203-000.000-400.0000	(125,000)
Total Revenue Adjustments	$25,000
Expenditures:	
Snow and Ice Removal #203-449.006-729.0000	$15,000
#203-449.006-941.0000	10,000
Total Expenditure Adjustments	$25,000

Major Street Fund

Revenues:	
Transfers In #202-000.000-699.0101	$150,000
Draw from Fund Balance #202-000.000-400.0000	(85,000)
Total Revenue Adjustments	$ 65,000
Expenditures:	
Snow and Ice Removal #202-449.006-729.0000	$20,000

#202-449.006-941.0000	45,000
Total Expenditure Adjustments	$ 65,000

Solid Waste Fund

Revenues:	
Taxes #226-000.000-402.0001	$(20,000)
Investment Income #226-000.000-664.0000	(4,500)
Total Revenue Adjustments	$(24,500)
Expenditures:	
Refuse Pickup #226-582.000-827.0100	$(24,500)
Total Expenditure Adjustments	$(24,500)

Debt Service Fund

Revenues – Park Bonds:	
Taxes #308-000.000-402.0001	$(15,000)
Draw from Fund Balance #308-000.000-400.0000	15,240
Total Revenue Adjustments	$ 240
Expenditures:	
Paying Agent Fees #308-906.005-996.0000	$ 240
Total Expenditure Adjustments	$ 240

Law and Drug Enforcement Fund

Revenues:	
Fines and Forfeitures #265-000.000-660.0001	$(19,000)
#265-000.000-660.0002	(5,000)
Draw from Fund Balance #265-000.000-400.0000	26,460
Total Revenue Adjustments	$ 2,460
Expenditures:	
Operating Supplies #265-302.002-729.0000	$ 2,460
Total Expenditure Adjustments	$ 2,460

Capital Projects Fund

Revenues:	
Interest and Rent #401.000.000-664.0000	$ (11,660)
Draw from Fund Balance 401-000.000-400.0000	331,660
Total Revenue Adjustments	$320,000
Expenditures:	
Public Improvements #401.751.001-981.0100	$320,000
Total Expenditure Adjustments	$320,000

O. Resolution setting a public hearing date for July 14, 2014 to consider the Final Site Plan & Special Land Use Permit Amendment at 203 Pierce – Toast Birmingham to add an outdoor dining platform.

ROLL CALL VOTE: Yeas, Commissioner Dilgard
Commissioner Hoff
Commissioner McDaniel
Commissioner Nickita
Commissioner Rinschler
Mayor Pro Tem Sherman
Mayor Moore
Nays, None

Absent, None
Abstentions, None

06-132-14 PUBLIC COMMENT REGARDING TRANSITIONAL ZONING

Leo Hagen of Rochester, MN, explained his background as a resident of Birmingham. He encouraged the Commission to preserve the history of the City and plan for the future. He commented that this is a residential community, not a business community.

06-133-14 WINDOW CLEANING SERVICES AGREEMENT

Commissioner Hoff noted that the resolution should indicate the agreement is for four-years. Interim City Manager Valentine confirmed for Commissioner Hoff that if the City wanted to add another building, a discussion could be held with the contractor.

MOTION: Motion by Hoff, seconded by McDaniel:
To approve the four-year agreement with Saber Window Cleaning DBA Transparent Window Cleaning in the amount not to exceed $41,160.00 ($10,290.00 per year) to perform window cleaning services to the City of Birmingham Facilities and charge these services to the respective department accounts; and further authorizing the mayor to sign the agreement on behalf of the City.

VOTE: Yeas, 7
Nays, None
Absent, None

06-134-14 SET PUBLIC HEARING – ZONING ORDINANCE AMENDMENT REGARDING MEDICAL MARIJUANA

Commissioner Rinschler expressed concern with the public hearing to be held in July as there has not been much publicity on the matter. He suggested either publicizing this item or delay it until there is more interest.

Commissioner McDaniel commented that the definition of the business should be clarified and the proposed district should be further reviewed.

City Attorney Currier explained that this is prohibited in the zoning ordinance, however it is permitted under State law. He explained proposed legislation.

Commissioner Nickita commented that additional information is needed such as whether there is a size requirement of the area and what is the justification to allow this in the rail district.

The Commission agreed to direct administration to return with a new date for the hearing and more specific information.

06-135-14 LIQUOR LICENSE REQUEST TEA PARLOR, INC

Dorothy Conrad expressed concern that this item was in the consent agenda.

Chief Studt explained that this was merely a background investigation on the owner. Nothing negative was found which would prohibit the issuance of a license. Mayor Moore noted that the liquor license was previously approved.

MOTION: Motion by Rinschler, seconded by Sherman:
To authorize the chief of police to sign the MLCC Police Investigation Report (LC-1800) and approving the liquor license request of Tea Parlor, Inc. that requests a New Class C License to be issued under MCL 436.1521(A) (1) (B) & SDM License with Outdoor Service (1 Area) to be located at 185 N. Old Woodward, Birmingham, MI 48009, Oakland County. Furthermore, pursuant to Birmingham City Ordinance, authorizing the city clerk to complete the Local Approval Notice at the request of Tea Parlor, Inc. approving the liquor license request of Tea Parlor, Inc. that requested a New Class C License to be issued under MCL 436.1521(A) (1) (B) & SDM License with Outdoor Service (1 Area) to be located at 185 N. Old Woodward, Birmingham, MI 48009, Oakland County.

VOTE: Yeas, 7
Nays, None
Absent, None

06-136-14 OAKLAND COUNTY SOLID WASTE MANAGEMENT PLAN

In response to a question from Dorothy Conrad, DPS Director Wood explained that this a modification to the existing plan which requires the locations of the transfer stations and disposal facilities be identified.

County Commissioner Shelley Taub explained that this resolution must appear before every community in Oakland County.

MOTION: Motion by McDaniel, seconded by Dilgard:
To recommend Oakland County amend the Oakland County Solid Waste Management Plan; including the insertion of an additional clause requesting that the County completely update the solid waste plan:

WHEREAS, Oakland County ("County") has a Solid Waste Management Plan ("Plan") that was prepared in accordance with Public Act 451, as amended, 1994, Part 115; Solid Waste Management; and

WHEREAS, the law requires that the Plan identify all solid waste landfills, Type A Transfer Stations, and Waste Processing Facilities within the County and that the Plan must be amended if the County desires to include new facilities or sites; and

WHEREAS, the Oakland County Executive received a request to amend the County Solid Waste Management Plan for the inclusion of a proposed Type A Transfer Station and a Waste Processing Facility to be located on the same piece of property in Pontiac at 900 Baldwin Avenue from Pontiac Baldwin, LLC and Rizzo Properties LLC ("Requested Amendment"); and

WHEREAS, The Oakland County Solid Waste Planning Committee ("SWPC"), along with the staff of the Oakland County Economic Development & Community Affairs Department, which is the Designed Planning Agency ("DPA") for Oakland County have met and discussed this requested amendment to the Plan; and

WHEREAS, the Oakland County Solid Waste Planning Committee authorized by resolution that the requested amendment be released for the required 90-day public comment period which was held from December 14, 2013-March 17, 2014 and was widely publicized to all Oakland County municipalities, adjacent counties, the Board of Commissioners, the MI Department of Environmental Quality, SEMCOG and other interested parties; and

WHEREAS, notice of the public comment period and date of a public hearing was published in The Oakland Press on December 13, 2013 and all corresponding documents were available for public review in the Oakland County One Stop Shop, as well as on the Oakland County website; and

WHEREAS, the applicants ,Baldwin Pontiac, LLC and Rizzo Properties LLC have entered into a host community agreement with the City of Pontiac to provide the City of Pontiac additional benefits; and

WHEREAS, a public hearing was held on February 26, 2014 at the Oakland County Executive Office Building; and

WHEREAS, the SWPC met after the end of the 90-day public comment period and reviewed the transcript of the public hearing and considered all written and verbal public comments received during the meetings and public comment period. The SWPC approved the requested amendment and recommended that it be forwarded to the Oakland County Board of Commissioners for consideration; and

WHEREAS the Oakland County Board of Commissioners approved the requested amendment at its April 17, 2014 meeting; and

WHEREAS, per Public Act 451, Part 115, Solid Waste Management, Section 11536, it is a requirement that a solid waste plan amendment must receive support via resolution by no less than 67% of the local units of government within the respective county before being sent to the Michigan Department of Environmental Quality for approval;

NOW, THEREFORE BE IT RESOLVED, that the City Commission of the City of Birmingham does hereby approve the requested amendment to the Oakland County Solid Waste Plan for the inclusion of a Type A Transfer Station and Solid Waste Processing Facility to be located at 900 Baldwin Avenue in Pontiac, MI and recommends that Oakland County fully update the 2000 Solid Waste Plan in accordance with State law after the current amendment process is completed.

VOTE: Yeas, 7
Nays, None
Absent, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

06-137-14 PUBLIC HEARING OF NECESSITY
CLARK STREET PAVING PROJECT

Mayor Moore opened the Public Hearing of Necessity for the Clark Street Paving Project at 8:24 PM.

City Engineer O'Meara confirmed that the notification was sent and no objections to the project have been received.

The Mayor closed the Public Hearing at 8:25 PM.

MOTION: Motion by Hoff, seconded by McDaniel:
To declare necessity for the replacement of sewer laterals within the Clark Street Paving Project Area. The Public Hearing of Confirmation will be held on June 23, 2014:

Commissioner Hoff noted that through the Foundation for Birmingham Senior Residents, any senior who qualify by age and income would be eligible to apply for a loan to pay for their share of this assessment.

VOTE: Yeas, 7

Nays, None
Absent, None

06-138-14 CLOSED SESSION REQUEST
LABOR RELATIONS

MOTION: Motion by Nickita, seconded by McDaniel:
To meet in closed session to discuss labor relations in accordance with Section 8(c) of the Open Meetings Act.

ROLL CALL VOTE:	Yeas,	Commissioner Hoff
		Commissioner McDaniel
		Commissioner Nickita
		Commissioner Rinschler
		Mayor Pro Tem Sherman
		Commissioner Dilgard
		Mayor Moore
	Nays,	None
	Absent,	None
	Abstentions,	None

06-139-14 CLOSED SESSION REQUEST
ATTORNEY/CLIENT PRIVILEGE COMMUNICATION

MOTION: Motion by Nickita, seconded by Sherman:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

ROLL CALL VOTE:	Yeas,	Commissioner McDaniel
		Commissioner Nickita
		Commissioner Rinschler
		Mayor Pro Tem Sherman
		Commissioner Dilgard
		Commissioner Hoff
		Mayor Moore
	Nays,	None
	Absent,	None
	Abstentions,	None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

06-140-14 COMMUNICATIONS

The Commission received the following communications:

- Residents on Park and Oakland regarding transitional rezoning from R-2 to TZ1
- Alice Thimm regarding transitional zoning
- James Partridge regarding transitional zoning
- Eric Wolfe regarding transitional zoning

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

06-141-14 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Mayor Moore confirmed for Paul Reagan that notices would be sent once the new date has been set for the public hearing regarding transitional zoning.

X. REPORTS

06-142-14 COMMISSIONER REPORTS

The Commission intends to appoint members to the Retirement Board, Museum Board, and Multimodal Transportation Board on July 14, 2014.

06-143-14 COMMISSIONER COMMENTS

In response to a question from Commissioner McDaniel regarding the Liquor Control Commission granting temporary liquor licenses, City Attorney Currier confirmed that every liquor license holder must obey local ordinances.

06-144-14 CITY STAFF REPORTS

The Commission received the report regarding the Lincoln Ave Reconstruction Option – Southfield to Woodward submitted by City Engineer O'Meara.

The Commission recessed to closed session at 8:31 PM.
The Commission reconvened in open session at 9:55 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 9:55 PM.

Laura M. Pierce
City Clerk