

**BIRMINGHAM CITY COMMISSION MINUTES**  
**APRIL 13, 2017**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Mark Nickita called the meeting to order at 7:30 PM.

**II. ROLL CALL**

ROLL CALL: Present,	Mayor Nickita
	Mayor Pro Tem Harris
	Commissioner Bordman
	Commissioner Boutros
	Commissioner Hoff
	Commissioner Sherman
Absent,	Commissioner DeWeese

Administration: City Manager Valentine, City Attorney Currier, City Clerk Brown, Police Chief Clemence, Fire Chief Connaughton, City Planner Ecker, Police Commander Grewe, Building Official Johnson, City Engineer O'Meara, DPS Director Wood

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

Mayor Nickita announced Commissioner Hoff was honored by Michigan State University's College of Communication Arts and Sciences with an Outstanding Alumni Award.

**04-86-17 APPOINTMENTS TO BROWNFIELD REDEVELOPMENT AUTHORITY**

Robert Runco was present and was interviewed by the Commission. Beth Gotthelf was not able to attend.

Commissioner Hoff noted both Mr. Runco and Ms. Gotthelf are seeking reappointment and were inaugural members of the Board.

**MOTION:** Motion by Commissioner Boutros:

To appoint Robert Runco to the Brownfield Redevelopment Authority to serve a three-year term to expire May 23, 2020.

**MOTION:** Motion by Commissioner Hoff:

To appoint Beth Gotthelf to the Brownfield Redevelopment Authority to serve a three-year term to expire May 23, 2020.

Vote on Robert Runco

VOTE:       Yeas,   6  
              Nays,   None  
              Absent, 1 (DeWeese)

Vote on Beth Gotthelf

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-87-17: APPOINTMENTS TO BOARD OF BUILDING TRADES APPEALS**

Benjamin Stahelin and Dennis Mando were present and were interviewed by the Commission.

Mr. Stahelin confirmed for Commissioner Bordman that his wife serves on the Board of Review.

City Manager Valentine noted the Board has not met in approximately ten years.

Mr. Mando commented he has served on the Board for more than nine years. He stated he has been a mechanical contractor for 35 years and has performed work in Birmingham and surrounding communities. He verified for Commissioner Bordman that he has not worked for the City of Birmingham.

**MOTION:** Motion by Mayor Pro Tem Harris:  
To appoint Benjamin Stahelin to the Board of Building Trades Appeals to serve a three-year term to expire May 23, 2020.

**MOTION:** Motion by Commissioner Bordman:  
To appoint Dennis Mando to the Board of Building Trades Appeals to serve a three-year term to expire May 23, 2020.

Vote on Benjamin Stahelin

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

Vote on Dennis Mando

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-88-17: APPOINTMENTS TO HOUSING BOARD OF APPEALS**

Neither Chris McLogan nor David Frink was able to attend. Brian Blaesing provided notice that he does not wish to be reappointed.

Commissioner Sherman pointed out both applicants are seeking reappointment. He noted one has served on the Board for 16 years and the other was interviewed by the Commission recently.

**MOTION:** Motion by Commissioner Sherman:  
To appoint Chris McLogan to the Housing Board of Appeals to serve a three-year term to expire May 4, 2020.

**MOTION:** Motion by Commissioner Boutros:

To appoint David Frink to the Housing Board of Appeals to serve a three-year term to expire May 4, 2020.

Vote on Chris McLogan

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

Vote on David Frink

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

Commissioner Boutros announced an opening on the Housing Board of Appeals.

Commissioner Hoff read the qualifications for the Board, "Applicants shall be qualified by education or experience in building construction administration, social services, real estate, or other responsible positions".

Mayor Nickita reminded residents that the City announces openings on boards on the City's web site and at City Commission meetings.

The City Clerk administered the oath to the appointed 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.

**04-89-17 APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Commissioner Bordman – Item G (Purchase of Larvicide Material)
- Commissioner Hoff – Item A (City Commission Minutes of March 27, 2017)
  - Item E (Medical Marijuana Operation/Oversight Grant)
  - Item F (High Intensity Drug Trafficking Area Agreement)
  - Item H (Lawn and Landscape Services Contract)

**MOTION:** Motion by Mayor Pro Tem Harris, seconded by Commissioner Boutros: To approve the Consent Agenda, with items A, E, F, G, and H removed.

ROLL CALL VOTE:	Yeas,	Commissioner Harris Commissioner Boutros Commissioner Hoff Commissioner Sherman Commissioner Bordman Mayor Nikita
	Nays,	None
	Absent,	1 (DeWeese)

- B. Approval of warrant list, including Automated Clearing House payments, dated March 29, 2017 in the amount of \$393,256.29.
- C. Approval of warrant list, including Automated Clearing House payments, dated April 5, 2017 in the amount of \$342,587.68.
- D. Resolution authorizing the 2017 Sidewalk Repair Program, and directing the Engineering Department to notify the owners of subject property of the City's intention to replace sidewalks adjacent to their properties
- I. Resolution approving the purchase and planting of 106 trees from KLM Landscape for the 2017 spring tree purchase and planting project for a total project cost not to exceed \$32,550.00, charged to account numbers 203-449.005-819.0000, 202-449.005-819.0000, 203-449.005-729.0000 and 202-449.005-729.0000, and authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.
- J. Resolution awarding the Springdale Pavilion New Concrete Floor Contract to Luigi Ferdinandi & Son Cement Co. in an amount not to exceed \$57,900.00, charged to account number 401-751.001-981.0100 and authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

The Commission agreed to discuss the removed items at this time.

**04-90-17 PURCHASE OF LARVICIDE MATERIAL**

Commissioner Bordman reminded the public of the importance of patrolling one's property and removing standing water to eliminate the ability of mosquitos to lay eggs or for the eggs to hatch.\*

**MOTION:** Motion by Commissioner Bordman, second by Commissioner Sherman:  
 To approve the purchase of the larvicide material from Clarke Mosquito Control in the amount not to exceed \$8,109.40, waiving the normal bidding requirements based on the government regulated pricing for this type of material, charged to account number 590-536.002-729.0000.

VOTE: Yeas, 6  
 Nays, None  
 Absent, 1 (DeWeese)

**04-91-17 PARKS AND CITY PROPERTY LAWN AND LANDSCAPE SERVICES CONTRACT**

Commissioner Hoff asked why the City's current vendor, Birmingham Lawn Maintenance & Snow Removal, Inc., increased their price by a significant amount. DPS Director Wood said Birmingham Lawn did not offer an explanation for the price increase, but she noted the new contract contains an increased scope of work over the current contract.

Director Wood confirmed for Commissioner Hoff:

- The City has been satisfied with Birmingham Lawn's work.
- Progressive Irrigation, Inc. is familiar to the City and had favorable reference checks.
- The subject quote does not include irrigation service.
- Progressive Irrigation is the current contractor for irrigation services with the City.
- The subject contract includes mowing of grass and noxious weeds for lots in violation of City ordinance, the costs of which are recouped by charging the violators.

**MOTION:** Motion by Commissioner Hoff, second by Commissioner Bordman:  
To award the Parks and City Property Lawn and Landscape Services Contract to Progressive Irrigation, Inc. DBA Pro Turf Management Lawn for a four (4) year Agreement in the amount of \$541,320.00 plus amounts for ordinance enforcement and fertilization/weed control services, charged to account numbers 203-449.003-937.0400, 202-449.003-937.0400, 101-751.000-811.0000, 101-441.003-811.0000, and 591-537.002-811.0000, and authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-92-17 APPROVAL OF CITY COMMISSION MINUTES OF MARCH 27, 2017**

Commissioner Hoff explained that the indented paragraph on Page 4 should be omitted.

**MOTION:** Motion by Commissioner Hoff, second by Commissioner Bordman:  
To approve the City Commission minutes of March 27, 2017 as corrected.

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-93-17 2017 MICHIGAN MEDICAL MARIJUANA OPERATION AND OVERSIGHT GRANT SUB RECIPIENT AGREEMENT; and  
04-94-17 2017 HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) SUB RECIPIENT AGREEMENT**

In response to Commissioner Hoff's request for more information Police Chief Clemence explained the agreements secure the City's portion of Federal grant funding in the case of the HIDTA Grant and of state grant funding in the case of the MMOO Grant. He further noted both grants are specifically allocated to cover overtime for narcotics enforcement activities. He indicated \$4,100 is expected from HIDTA, and a little over \$7,000 from MMOO.

**MOTION:** Motion by Commissioner Hoff, second by Commissioner Sherman:  
To approve the 2017 Michigan Medical Marijuana Operation and Oversight Grant Sub recipient Agreement between the City of Birmingham and Oakland County and authorizing the Mayor and City Manager to sign the agreement on behalf of the City.

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**MOTION:** Motion by Commissioner Hoff, second by Commissioner Boutros:  
To approve the Program Year 2017 High Intensity Drug Trafficking Area (HIDTA) Sub recipient Agreement between the County of Oakland and the City of Birmingham and authorizing the Mayor and City Manager to sign the agreement on behalf of the City

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**V. UNFINISHED BUSINESS**

**VI. NEW BUSINESS**

**04-95-17 PUBLIC HEARING – SLUP AMENDMENT AT 250 N. OLD  
WOODWARD – EMAGINE PALLADIUM/FOUR STORY BURGER**

Mayor Nickita opened the public hearing at 7:59 PM.

City Planner Ecker provided background information:

- In December of 2016 the petitioner changed the business name and concept to Four Story Burger. The City's Zoning Ordinance requires approval from the City Commission for a name change.
- During the liquor license renewal hearings the City Commission set a public hearing for April 13, 2017 to consider terminating the Special Land Use Permit (SLUP).
- The petitioner submitted a complete application to the Planning Department seeking a SLUP amendment for the name change. There is no change in ownership.
- The Planning Board, on March 22, 2017, recommended approval of the SLUP amendment.
- No exterior signage is proposed at this time. The building owner would pursue any exterior changes separately.

Commissioner Sherman confirmed the City received a letter from Mr. Jon Goldstein, CH Birmingham, LLC, DBA Emagine Palladium, indicating that neither he nor Mr. Paul Glanz would be available to attend the public hearing. Commissioner Sherman stated the Commission had made it clear their attendance was necessary as the owners. He desired to postpone the public hearing because of Mr. Goldstein's and Mr. Glantz's absence.

Commissioner Bordman supported postponing the public hearing and stated her disappointment that the owners have been unable meet with the Commission on an item of such importance to them and to the City.

Mayor Pro Tem Harris questioned the business' ability to sell liquor and operate should the Commission postpone consideration of a SLUP Amendment. City Manager Valentine confirmed the business would continue to operate at status quo.

Mayor Nickita pointed out the owners have had three opportunities for a dialogue with the Commission on the issue of the SLUP violation and have consistently failed to appear.

Commissioner Hoff supported postponing the public hearing because it is an important issue, and she has questions for the owners. She felt the situation is more than a name change.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Bordman: To postpone until May 8, 2017 the public hearing to consider an amendment to the Special Land Use Permit and Final Site Plan Review for 250 N. Old Woodward, Emagine Palladium Theatre and Ironwood Grill restaurant to allow the establishment to change their name to Emagine Palladium Theatre and Four Story Burger.

Patrick Howe, attorney representing CH Birmingham, LLC, was present and introduced the third owner of Emagine Palladium, Lauren Goldstein. Mr. Howe confirmed he and Ms. Goldstein are

authorized to act on behalf of Mr. Goldstein and Mr. Glantz. He was unable to confirm whether they would be available on May 8, 2017.

Mrs. Goldstein confirmed she is one of three owners of the business. She admitted the name change in violation of the SLUP was done in the wrong way and in the wrong order and, with apology, stated her commitment to rectifying the situation.

Commissioner Hoff indicated she believes violation is very serious and wants to talk to the two main partners.

Commissioner Boutros said he would respect Ms. Goldstein's position as an owner, believes Mr. Goldstein's letter to the Commission expresses a sincere wish to correct the SLUP, and stated he does not support postponing the public hearing.

Mayor Pro Tem Harris remarked on the seriousness of the SLUP process and commented he believes the owners are sincere in their wish to address the situation. He stated he has no objection to holding the public hearing as scheduled and noted the Planning Board has recommended unanimously that the SLUP amendment be approved.

Commissioner Sherman was firm in his belief that Mr. Goldstein and Mr. Glantz are making the business decisions and that Ms. Goldstein is not involved in the day-to-day operation. He was in favor of postponing the public hearing so that Mr. Goldstein and Mr. Glantz could attend.

Commissioner Bordman expressed her belief that Mr. Howe, having represented the owners in the original request for the SLUP, should have known Commission approval was required for a name change.

Mr. Howe indicated he was not asked to assist with the name change. Ms. Goldstein confirmed Mr. Howe was not consulted until the City notified the owners they were in violation of the SLUP.

Mayor Nickita stated he does not recall another entity causing such complexity and having such inconsistent representation from the ownership team. He said he wants to know who is in charge and what is actually going on. Mr. Howe clarified that he was brought in two weeks ago to take over and finish the project. He reiterated he was not involved in the name change or in past discussion regarding the SLUP amendment.

Commissioner Bordman called the question.

VOTE:           Yeas,    4  
                  Nays,    2 (Harris, Boutros)  
                  Absent, 1 (DeWeese)

The public hearing was postponed until May 8, 2017.

**04-96-17                   PUBLIC HEARING – SLUP TERMINATION AT 250 N. WOODWARD  
                                  – EMAGINE PALLADIUM/IRONWOOD GRILL**

Mayor Nickita opened the public hearing at 8:18 PM.

City Planner Ecker confirmed the Commission set the public hearing based on concerns over the SLUP violation and that the two public hearings are tied together

**MOTION:** Motion by Harris, seconded by Sherman:  
To postpone until May 8, 2017, the public hearing to consider termination of the Special Land Use Permit at 250 N. Woodward – Emagine Palladium/Ironwood Grill.

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-97-17 SPECIAL EVENT – HAVDALAH IN THE PARK.**

Deborah Morosohk, Director of Education at Temple Beth Al El\*, explained Havdalah is an approximately 10-minute short Jewish blessing ceremony at end of Sabbath consisting of singing with guitar accompaniment. The event is proposed for two Saturdays, 6:30 – 7:30 and is intended to be a fun family event for people from the synagogue. She confirmed for Commissioner Hoff that the service will take place in Shain Park, that the event is open to the public, and that attendance is anticipated to be around 30 people.

Commissioner Hoff expressed concern about the July 22 date because the Day on the Town event is the same day.

City Manager Valentine confirmed that Day on the Town will end just before Havdalah in the Park begins.

Clerk Brown confirmed for Commissioner Hoff that Temple Beth Al sent out the required notice letter.

**MOTION:** Motion by Commissioner Bordman, seconded by Commissioner Sherman:  
To approve a request from Temple Beth El to hold Havdalah in the Park in Shain Park, on June 17, 2017 and on July 22, 2017 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-98-17 SPECIAL EVENT – HIGH OCTANE EVENT ON WILLITS STREET.**

Mr. Darakjian explained he is requesting the closure of Willits Street for the safety of attendees and so the cars can be parked at an angle to allow for more cars to be displayed. He noted the event typically fills the parking spaces on both sides of the street with approximately 30 cars, and additional cars are parked in the Bates Street lot.

Fire Chief Connaughton explained closing the road poses problems should the Fire Department have to respond to a fire. The response would be within three minutes with two engines, an aerial truck, a rescue truck, and there would not be time for the cars to be moved if they were in the way. Normally all operations would happen on Willits Street because a minimum of 18' feet is need for set up, and there is not enough room in Willits Alley.

Mayor Nickita and all five of the Commissioners who were present liked the idea of the event but did not support closing Willits Street due to the concerns expressed by Chief Connaughton. Commissioners also cited concerns with traffic flow due to the Old Woodward closures.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Hoff:  
To deny a request from Darakjian Jewelers to hold High Octane on Willits Street between N. Bates St. and N. Old Woodward Ave. on June 25, July 16, August 20, September 17, and October 8, 2017 based on objections to the closing of Willits Street from the Fire Department, Police Department, and Engineering.

VOTE: Yeas, 6  
Nays, None  
Absent, 1 (DeWeese)

**04-99-17                      **SIDEWALK AND CROSSWALK IMPROVEMENTS AT MAPLE AND S. ETON INTERSECTION.****

City Engineer O'Meara explained both the Ad Hoc Rail District Review Committee and the Multi-Modal Transportation Board have reviewed the proposal and, in conjunction with Fleis & Vandenbrink (F&V), the City's traffic consultant, recommend improvements consisting of three primary parts:

1. Splitter island. Given the current size of the intersection, a splitter island as shown can successfully be installed splitting the left and right turn lanes, while not changing the traffic patterns of the intersection. Existing concrete can be removed, replaced with new curb and gutter, and approximately 18 feet of new sidewalk that will act as a refuge area for pedestrians crossing Eton Rd. The triangular area south of the sidewalk could be landscaped with perennials, under the direction of the City's landscape maintenance staff. The total construction cost of this work is estimated at \$21,000.
2. Enlarged handicap ramp area at the southeast corner. At the southeast corner, additional public land is available to allow for a wider, more ample waiting area at the handicap ramp. An oval shaped piece of concrete is proposed here to enhance the existing sidewalk on this corner, at a cost of \$1,000.
3. West side curb relocation. As a part of the discussion with the Ad Hoc Rail District Committee, there was discussion about the existing sidewalks being installed immediately behind the curb, in close proximity to traffic. This was done due to the limited right-of-way available on this block. Since most of the neighborhood would use the west side sidewalk, and since the existing southbound lane is wider than normal, it was recommended that the west side curb and gutter section could be removed and replaced with a new curb three feet further east, for the entire block, as shown. Moving the curb would allow the existing five foot wide sidewalk to then be replaced with an eight foot wide sidewalk, providing extra space for pedestrians in this area. This work is estimated at \$53,000.

The entire package is estimated to be about \$75,000.00.

City Engineer O'Meara stated staff would like to include the sidewalk and crosswalk improvements in the 2017 Concrete Sidewalk Program, if the Commission approves the proposal.

In response to questions from Commissioner Hoff, City Engineer O'Meara and City Planner Ecker confirmed:

- The sidewalk on Eton would be 8' wide.
- The sidewalk on Maple would be 5' wide with a grass buffer between the sidewalk and the road.
- There would be no grass bumper on the Eton side, just as it exists currently, because the right-of-way is too narrow.
- The design contains no bump outs. The island will be curbed, and the whole west side of the block will be removed and replaced closer into the road so the southbound driving lane would be narrower.
- The City's traffic engineering consultant, F&V, provided the design plans which do show the following turns could be made: turning onto Maple, turning from Maple onto Eton, turning westbound from Maple, and making a left onto Eaton.

Mayor Nickita asked for details about the process that took the plan from a conceptual idea to the design specifications as presented.

City Engineer O'Meara confirmed he was not involved in development of the design drawing and that the Multi-Modal Transportation Board considered the same drawing that is before the Commission.

City Planner Ecker noted:

- The Ad Hoc Rail District Committee was tasked to look at several issues on the South Eton corridor, which they did in 2016.
- The biggest complaints about the corridor were that it is not pedestrian friendly, the road is too wide, cars are going every which way, pedestrians not protected, and vehicular speed is too fast.
- The Committee discussed three alternatives and chose the proposal being considered by the Commission as the best alternative.
- The Committee received approval from the Commission to hire F&V to review the plan to determine its practicality.
- The Committee came up with conceptual idea, and F&V detailed the specifics.

Mayor Nickita commented he agrees with some aspects of the conceptual idea such as diminishing the amount of exposed crosswalk and providing a mid-crossing island for pedestrians. He was very concerned, however, with other aspects. He explained:

- The intersection is currently challenging and unsafe for pedestrians,
- When Whole Foods opens pedestrian and non-motorized traffic is going to increase.
- The acute angle for southbound turns from westbound Maple is fundamentally problematic.
- The white stop bar is almost always ignored by motorists, and at this intersection it is located 30' from the crosswalk. Cars are going to ignore the stop bar and encroach into the crosswalk, resulting in cars turning left from Maple either clipping the car in the crosswalk or having to slow down to maneuver around the car. Trucks trying to make the turn may require the car in the crosswalk to back up.

Mayor Nickita concluded the design does not take into account the way people will actually use the intersection, which creates a difficult situation with the threat of crashes and congestion. He commented he does not feel the logistics have been explored thoroughly enough to resolve the

issues in a manner that would be best for the intersection, best for the users, and that will actually be used in the way it is designed to be used.

Commissioner Bordman noted she had similar concerns with vehicular encroachment into the crosswalks. She also questioned the plan's lack of consideration for bicyclists.

City Planner Ecker responded that the Multi-Modal Transportation Board met at 5:30 today and discussed, among other items, the cross section for South Eton. The Ad Hoc Rail District Review Committee Report did not recommend a specific bike lane. The Committee recommended parking, three foot buffer zones for the opening of car doors, and two 10' lanes for sharrows. The Multi-Modal Board is now leaning toward a multi-directional bike lane. City Planner Ecker relayed the thought that perhaps the Maple and S. Eton intersection improvements should be postponed to consider the impacts of including a bi-directional bike lane in the plan.

Commissioner Sherman suggested sending this back with the comments that have been made for further review.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Boutros:  
To refer the proposal for sidewalk and crosswalk improvements at the Maple Road and S. Eton Road intersection back to Multi-Modal Transportation Board for further study based on the City Commission's comments and to consider the idea of including a multi-directional bike lane.

City Manager Valentine commented changes may impact the timing of construction. He explained the intersection improvements, being mostly concrete work, would be included in the sidewalk project which is being completed this year. Changes may delay the project.

Mayor Nickita wanted to know if there is a way to get the project done this year.

City Engineer O'Meara confirmed that the sidewalk program has already been put out to bid and consideration of awarding the bid is planned to be on the Commission's April 24, 2017 agenda. He suggested the costs of the proposed intersection improvements remain in the contract with the understanding that the concept may change. Any changes to the intersection improvement plan could be made in time for construction to still happen between now and August.

City Manager Valentine noted changing the scope of the intersection project may change the cost, but pointed out price can't be known at this point. He felt the City could proceed as suggested by City Engineer O'Meara with the idea that the intersection the project may need to be eliminated from the contract at some point. He clarified any decisions as to the addition of bike lanes or modifications to the sidewalks are yet to be determined.

Commissioner Hoff wondered if there were incremental improvements that could be made while waiting for revised plans and commencement of construction. City Engineer O'Meara commented that any incremental steps would be temporary and therefore not cost effective. He felt there is time for the Multi-Modal Board to reconsider the project in light of the Commission's comments and still keep in sync with the time frame of the Whole Foods opening.

In response to a question from Mayor Pro Tem Harris, City Engineer O'Meara confirmed the bidders for the 2017 sidewalk program are aware of the intersection project because it is included in the bid document.

Commissioner Boutros emphasized the importance of completing the intersection improvements this year. City Engineer O'Meara confirmed changes in the intersection project could be addressed as change orders to the contract.

Resident Benjamin Stahelin agreed with the need to widen the sidewalk, believed the white stop bar will be ignored, felt spending \$75,000 on the project as presented would be a waste of money, and felt the safest and most cost effective solution would be to install stop signs at each intersection

VOTE:           Yeas,   6  
                  Nays,   None  
                  Absent, 1 (DeWeese)

**04-100-17                   ORDINANCE AMENDING PART II OF CHAPTER 74, OFFENSES AGAINST PROPERTY.**

Police Commander Grewe confirmed the reason to amend the ordinance is to address identity theft and fraud. He noted the amendments mirror state law.

Commissioner Bordman explained that due to recent personal experience with her credit card being used fraudulently, this issue is close to her heart. She asked why "debit card" is not specifically listed as one of the instruments. She noted the omission of "debit card" is inconsistent with other language. Attorney Currier responded the way the state law reads "any instrument" would include debit card. Commissioner Bordman felt "debit card" ought to be mentioned since "credit card" is specifically mentioned.

Commissioner Hoff asked why the fine is limited to "not more than \$500". Attorney Currier explained the City is limited by the City Charter as to the amount of fines for misdemeanors. Commissioner Hoff was concerned that the fine was too limited for larger thefts. Attorney Currier explained that restitution is not precluded.

In response to a question from Mayor Pro Tem Harris, Attorney Currier explained the City is authorized to charge civil infractions and misdemeanors through local ordinance.

**MOTION:**     Motion by Sherman, seconded by Boutros:

To amend Part II of the City Code, Chapter 74, Offenses, Article IV, Offenses against Property to include the following eight new ordinances and authorizing the Mayor and the City Clerk to sign the ordinance amendments on behalf of the City:

1. Section 74-101: Illegal Use of State Personal Identification Card and Section 74-101(A) – Penalty for Violation of Section 74-101; and
2. Section 74-102: Definitions; and
3. Section 74-103: Stealing, Taking Title, or Removing Financial Transaction Device; Possession of Fraudulent or Altered Financial Transaction Device and Section 74-103(A) – Penalty for Violation of Section 74-103; and
4. Section 74-104: Use of Revoked or Cancelled Financial Transaction Device with Intent to Defraud and Section 74-104(A) – Penalty for Violation of Section 74-104; and
5. Section 74-105: Sales to or Services Performed for Violator and Section 74-105(A) – Penalty for Violation of Section 74-105; and

6. Section 74-106: Causing Device Holder to be Charged or Overcharged and Section 74-106(A) – Penalty for Violation of Section 74-106; and
7. Section 74-107: False Statement of Identity for Purpose of Procuring Issuance of Financial Transaction Device and Section 74-107(A) – Penalty for Violation of Section 74-107; and
8. Section 74-108: Fraudulent Use of Financial Transaction Device to Withdraw or Transfer Funds in Violation of Contractual Limitations and Section 74-108(A) – Penalty for Violation of Section 74-108.

VOTE:           Yeas,    6  
                   Nays,    None  
                   Absent, 1 (DeWeese)

**04-101-17                   ORDINANCE – DEFRAUDING PARKING STRUCTURES**

Police Commander Grewe explained the proposed ordinance amendment addresses recent issues with people attempting to defraud the parking structures by defeating the gate system. The proposed ordinance amendment would allow the City to cite offenders.

Commissioner Bordman was highly offended that anyone would do this and was highly supportive of the proposed ordinance amendment.

Attorney Currier noted the ordinance carries a penalty of 93 days and \$500.

**MOTION:**    Motion by Boardman Bordman\*, seconded by Mayor Pro Tem Harris:  
 To amend Part II of the City Code, Chapter 74 Offenses, Article IV. Offenses Against Property, Division 2 – Theft, Section 74-99 – Defrauding of hotel, motel, inn, restaurant, café and boarding house, to include parking lots and parking structures with the addition of subsection (2) and Authorizing the Mayor and City Clerk to sign the ordinance on behalf of the city.

VOTE:           Yeas,    6  
                   Nays,    None  
                   Absent, 1 (DeWeese)

**VII.    REMOVED FROM CONSENT AGENDA**

The items removed were discussed earlier in the meeting.

**VIII.   COMMUNICATIONS**

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

None.

**X.     REPORTS**

**04-102-17                   COMMISSIONER COMMENTS**

Commissioner Bordman relayed concerns with the safety issue posed by semi-trucks servicing the Kroger store and shared information from AAA cautioning drivers to be aware of the large blind spots semi-truck drivers have.

Mayor Nickita initiated discussion about addressing the visual aesthetic of the rail bridge that marks the transition between the east and west sides of the City. He asked about the

Commissioners' interest in having the City Manager coordinate the effort. Commissioners contributed ideas such as assigning the project to an ad hoc committee, looking at funding the project through a public/private partnership, and having a public contest for artwork. Generally the City Commission was in favor of having City Manager Valentine reach out to CN, the owner of the bridge.

Commissioner Bordman announced the contest to name the Little Library owl in Barnum Park has concluded and the winning name is "Barney", submitted by Anne Honhart.

**XI. RECESS**

**04-103-17 PEDESTRIAN SCALE STREET LIGHTS IN THE RAIL DISTRICT**

City Manager Valentine explained the fixtures lining the street in front of and to the west of Armstrong White are Hadco gooseneck street lights as previously approved by the City Commission for use in the Rail District. These fixtures match those that were originally approved and installed with the Crosswinds Development.

DTE is no longer using Hadco fixtures as Hadco is no longer an approved supplier. As a result, DTE selected a fixture they determined to be comparable and began installing these fixtures on new developments in the Rail District. Numerous complaints have been received by residents since DTE changed suppliers and switched fixtures. As a result of these complaints, City staff has met with DTE to research additional options to match more closely the originally approved Hadco street light. The fixture selected as the best match is a GlasWerks Flat LED2 Hallbrook fixture by Holophane. The same posts will be used, and the proposed fixture also has a gooseneck style. However, while the exterior design of the previous and proposed street lights are very similar, the proposed fixtures are LED and have different light qualities

DTE recently installed one of the proposed new Holophane street lights at the far east side of the Armstrong White property so that the City Commission and residents may compare the design and light quality of the previously approved Hadco fixtures to the proposed new Holophane fixtures.

Mayor Nickita clarified the Commission, when on-site, may take action to approve the use of the GlasWerks Flat LED2 Hallbrook fixture by Holophane as the new street light standard in the Rail District.

City Manager Valentine indicated, in response to a question from Commissioner Hoff, that DTE will pay for the replacement of the top portion of the pole, the neck, the housing, light fixture and bulb throughout the rail district.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Hoff: to recess the meeting and reconvene immediately outdoors by the easterly most streetlight on the north side of E. Lincoln Street, near the intersection with S. Eton Street (the closest building address is Armstrong White Advertising Agency, 2125 E. Lincoln Street, Birmingham MI 48009).

VOTE:           Yeas,    6  
                  Nays,    None  
                  Absent, 1 (DeWeese)

The meeting recessed at 9:29 PM and reconvened at 9:45 PM.

The Commission was in general agreement that the fixture was acceptable, as was the warm color of the new bulb, but the brightness of the bulb needs to be lowered.

**XI. ADJOURN**

The meeting was adjourned at 9:50 PM.

J. Cherilynn Brown  
City Clerk

*\*As corrected on April 24, 2017.*