

BIRMINGHAM CITY COMMISSION MEETING MINUTES
APRIL 20, 2020
VIRTUAL MEETING ON ZOOM
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor, called the virtual meeting to order at 7:30 p.m. with the reciting of the Pledge of Allegiance.

II. ROLL CALL

Alexandria Bingham, City Clerk Designee, called the roll:

PRESENT	Mayor Boutros Mayor Pro Tem Longe Commissioner Baller Commissioner Hoff Commissioner Host Commissioner Nickita Commissioner Sherman
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ADMINISTRATION	City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Attorney Camargo, Attorney Kucharek, Planning Director Ecker, Planning Assistant Cowan, Parks & Recreation Manager Laird, IT Manager Brunk, City Clerk Designee Bingham, and Acting City Clerk Arft.
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III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS.

04-060-20 ANNOUNCEMENTS

Mayor Boutros made the following announcements:

- The agenda has been amended to include a change order for the NOW Parking Structure.
- All city offices remain closed to the public. All departments are accessible via phone and email. Payments may be dropped off using the convenient drop box, located behind City Hall and accessible via the Police Department parking lot off Henrietta Street.
- The City has created a hotline to provide residents with information about City and County COVID resources. Elderly, quarantined and immuno-compromised individuals are encouraged to use the hotline to request assistance with essential functions, and obtaining necessary supplies Call 248-530-1805, Monday through Friday from 8 a.m. – 5 p.m.
- We encourage everyone to sign up for our email distribution system to receive the latest information from the City. You can do this by going to our website and clicking on the box in the lower right corner of your screen to sign up.
- The Baldwin Public Library is now offering four weekly virtual story times for children from birth to second grade. Watch these story times online at www.baldwinlib.org/storytime.

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.

04-061-20 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Hoff:
To approve the Consent Agenda as presented.

ROLL CALL VOTE: Ayes, Commissioner Nickita
Commissioner Hoff
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Host
Commissioner Sherman
Mayor Boutros
Nays, None

- A. Resolution approving the City Commission regular meeting minutes of April 6, 2020.
- B. Resolution approving the warrant list, including Automated Clearing House payments, dated April 8, 2020 in the amount of \$268,794.33.
- C. Resolution approving the warrant list, including Automated Clearing House payments, dated April 15, 2020 in the amount of \$264,361.36.
- D. Resolution authorizing the City Manager to sign the Service Order form initiating the purchase of an 200mb internet connection from Crown Castle Fiber for a term of 36 months with a monthly payment of \$643.00 contract total of \$23,148.00. Funds are available in the IT connectivity fund 636-228.000-933.0700.

V. UNFINISHED BUSINESS

04-062-20 PUBLIC HEARING TO CONSIDER THE PROPOSED LOT COMBINATION OF 1680 S. BATES STREET & 1698 S. BATES STREET

Planning Director Ecker presented this item.

She and City Attorney Currier worked up an agreement with the property owners that would attach conditions to the proposed lot combination as discussed at the City Commission meeting on April 6, 2020.

Mayor Boutros asked Attorney Currier to elaborate on Chapter 102, Section 84 of the City Code that regulates accessory structures and usages and how it is relevant to the proposed lot combination.

Attorney Currier expressed that the homeowners are allowed to have an accessory structure and types of usages are governed by the zoning ordinance, which is separate from the City Code. He went on to say the property owners have acknowledged the conditions set forth by the commission and have signed the agreement.

Commissioner Host asked Attorney Currier had there ever been a lot combination allowed with a lot of caveats.

Attorney Currier recalled an instance where there was a triple lot combination requested and approved that resulted in a very large footprint on the property; it was prior to the zoning change. However, he did not recall a time when an agreement between the City and property owner existed concerning a lot combination.

Commissioner Hoff asked about the minimum requirements for side setbacks.

Planning Director Ecker detailed that there are two separate requirements for setbacks. One is a side setback, which simply cannot be less than five (5) feet; the second is a restriction in the zoning ordinance that dictates distance between primary structures that is fourteen (14) feet.

Commissioner Hoff asked if the rear setback was realistic, because there is a garage on the property. She further pointed out that the request does not meet one of the requirements for a lot combination and asked Director Ecker to explain.

Director Ecker explained that it is realistic because the setback measurement is from the primary structure. It is a detached garage as opposed to an attached garage. She also agreed that the proposal appears to be slightly over and explained that the previous owners of the second lot purchased additional land over the original platted lot expanding their lot size.

Commissioner Baller asked how the COVID pandemic has affected the timing of this project. He also asked if anyone had calculated the taxable value of the combined lots.

Attorney Currier expressed that timing would depend on when the Governor lifts restrictions on residential construction.

Mrs. Pearce expressed that there would be an increase based on the improvements proposed for the lot and not on the property itself.

Commissioner Baller further expressed concern about moving on this item because time was of essence. He wants to have a solution for property owners requesting lot combinations and wonders if the commission, as a body, is moving toward a solution.

City Manager Valentine explained that based on prior discussions the commission decided that the City should not take a one-size fits all approach to this issue, it should be handled on a case-by-case basis.

Attorney Currier confirmed that based on previous lot combinations, the decision should be done on a case-by-case basis.

Commissioner Baller asked is the agreement solid, or would the City be exposed to risk in the future.

Attorney Currier expressed that in his opinion, it is a good solid agreement and supported by the current zoning ordinance.

Commissioner Hoff asked what affect this would have on others who become aware of this approval and want to combine lots, and how would it be handled.

Attorney Currier reiterated that the city commission must approve all lot combos.

Public Comment

David Bloom, 1591 Stanley Street, is concerned about the City approving this proposal due to discussion in the past that addressed availability of affordable housing in the city. He further expressed, that it is his feeling, that taxes should be assessed on two fully developed lots if the suggested resolution is approved.

Mrs. Pearce, 1698 Bates, expressed gratitude to the commission and staff for their consideration and work on this proposal. She reiterated that it is not their intention to build an oversized structure on the site. She also mentioned that there are 25 letters of support from their neighbors.

Commissioner Nickita commented on the current lot combination ordinance and expressed that it needs work. He went on to say that a thoughtful amendment is needed to strengthen the City's position in deciding whether or not to approve future lot combinations. Commissioner Nickita agreed that this has been carefully reviewed and in the moment appears to be a good solution for the circumstance before this body and supports the suggested resolution.

Mayor Boutros closed the public hearing.

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Sherman

To approve the suggested resolution to approve an agreement between the City and Mr. and Mrs. Pearce to approve the lot combination of 1680 & 1698 S. Bates with conditions to limit the size and placement of future building(s).

Commissioner Hoff agreed with Commissioner Nickita that an ordinance revision is needed so that consistent standards are in place moving forward. She went on to say that she supports what the Pearce family is attempting but is concerned with what other residents will present in request for lot combinations in the future.

Commissioner Baller expressed support in revising the ordinance governing lot combinations.

Mayor Pro Tem Longe expressed her support reluctantly because she prefers to revise the ordinance to allow a property owner to have accessory uses on a lot without forcing a lot combination. While the current agreement shows that the city is being flexible, Mayor Pro Tem Longe does not agree that it is the best solution.

Commissioner Host agreed with the other commissioners that the ordinance is the problem.

Commissioner Sherman reminded everyone that the ordinance was developed into its existing state to address large structures built on combined lots. It is now evident that there is still work that needs to be done to the ordinance.

Mayor Boutros acknowledged that this is a unique circumstance and a tough decision to make. He went on to express his comfort with supporting this reasonable request; and thanked Mrs. Pearce for her persistence.

ROLL CALL VOTE: Ayes, Commissioner Nickita
Commissioner Sherman
Commissioner Baller
Commissioner Hoff
Commissioner Host
Mayor Pro Tem Longe
Mayor Boutros

Nays, None

VI. NEW BUSINESS

04-063-20

RESOLUTION DIRECTING THE EM BISTRO APPLICATION TO THE PLANNING BOARD FOR FULL SITE PLAN AND DESIGN REVIEW AND SPECIAL LAND USE PERMIT REVIEW.

Director Ecker presented this item and explained the Bistro application process.

Mr. and Mrs. Bongiovanni, 583 N Old Woodward, came forward to present the concept for the restaurant.

Mayor Boutros redirected the applicants to speak specifically about the Bistro, menu items, hours, date opening, price, and ambiance.

The details are as follows:

- Authentic Mexican Cuisine
- Rustic, cozy, and casual environment
- Outdoor dining
- Traditional tacos
- Fresh fish dishes
- Craveable items
- Moderately priced
- Twists to the menu.

Mayor Boutros thanked the applicants for his enthusiastic presentation and his resilience to grow his business in this pandemic environment.

Commissioner Hoff asked if ~~the market~~ The Market Restaurant¹ would still be on the corner. She also pointed out that the bistro is adjacent to another bistro they currently operate and asked what makes them separate.

The applicant responded yes ~~the market~~ The Market Restaurant² would remain on the corner and a wall separates the two establishments.

Commissioner Nickita pointed out that the applicant does not own the building and asked has the owner approved the proposed enhancements to the building façade, and will the salon remain on the second level.

Mr. Bongiovanni expressed that they are still in the process of acquiring approval from the owner and to his knowledge the salon would remain.

Commissioner Baller commented that the applicant is creating quite a restaurant dynasty in town, and asked if a superlative interior design could be expected.

Mr. Bongiovanni expressed that his family is committed to the area and flexible to accommodate the changing demographic of their guest.

Commissioner Sherman asked how does the new bistro compare to Owl; is it more upscale. The applicant responded that it is very different from Owl and it would be a new concept for Birmingham (seaside Mexican with a Middle Eastern component) with a price point of \$\$.

Mayor Boutros expressed that he did not favor the location and wishes that they would have selected a site further south or north of the current spot because bistros are designed to activate a street. He went on to say that in these are unprecedented times, and asked if there was any hesitation with the possible economic depression before us.

¹ As corrected on May 11, 2020.

² As corrected on May 11, 2020.

Mr. Bongiovanni stated that he and his wife believe in the city and their guests. He went on to say that he is confident that there will be a normal again and he is committed to North Old Woodward and is looking forward to bringing vibrancy to the area.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To approve the suggested resolution directing the EM bistro application to the Planning Board for full site plan and design review and Special Land Use Permit review.

ROLL CALL VOTE: Ayes, Commissioner Hoff
 Commissioner Host
 Commissioner Nickita
 Commissioner Sherman
 Mayor Pro Tem Longe
 Commissioner Baller
 Mayor Boutros

 Nays, None

04-064-20 RESOLUTION APPROVING THE AMENDMENT TO THE BEVERLY HILLS BIRMINGHAM³ RACQUET CLUB AND AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN ON BEHALF OF THE CITY.

City Manager Valentine presented this item.

Commissioner Hoff asked if the agreed upon arrangement would be affordable for 24 months. She went on to ask Mr. Stassen to explain the request for an extension to improve the courts.

Mr. Jeff Stassen, Beverly Hills Birmingham⁴ Racquet Club, expressed that they are confident that once the restrictions relative to COVID are lifted, the operations would rebound. He also noted that he would need to get the business running again before he would be able to do the preplanned resurfacing project, which has been delayed due to COVID.

Commissioner Hoff pointed out that the racquet club provides a valuable service to the City and she is in support of this resolution.

Commissioner Baller commented that in agreeing to this arrangement, the City is being a good property owner; he asked are there any other tenants that need the same type of arrangement.

City Manager Valentine had not received request like this from other tenants.

Commissioner Sherman led the discussion on refurbishing the courts and the extension requested to complete the project. City Manager Valentine added that the extension to refurbish the racquet courts would be a separate amendment to their agreement and would be brought to the Commission at a future meeting.⁵

MOTION: Motion by Commissioner Sherman, seconded by Mayor Pro Tem Longe;
To support the suggested resolution to approve the amendment to the Beverly Hills Racquet Club and authorizing the Mayor and City Clerk to sign on behalf of the City.

³ As corrected on May 11, 2020.

⁴ As corrected on May 11, 2020.

⁵ As amended on May 11, 2020.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Mayor Pro Tem Longe
Commissioner Host
Commissioner Nickita
Commissioner Baller
Commissioner Hoff
Mayor Boutros

Nays, None

04-065-20 RESOLUTION AUTHORIZING THE AMENDMENT TO THE EXISTING AGREEMENT WITH DRV CONTRACTORS DATED FEBRUARY 1, 2020 TO CONDUCT THE EDGE SLAB REPAIR FOR AN AMOUNT NOT TO EXCEED \$148, 000.

Assistant City Manager Gunter presented this item.

Commissioner Host asked for clarification surrounding the cost of this amendment. Assistant City Manager Gunter clarified the cost.

Question from Commissioner Hoff noted that the top two floors appear to be level, but the third floor does not appear to be level.

Derek Vetor, DRV, explained that the floors are not level because they are ramps.

Commissioner Baller led a discussion about the aesthetics of the repairs and the NOW property with respect to the Master Plan.

Mayor Pro Tem Long expressed that she would like to see cable design drawings, and supports using the gift of low occupancy to complete the needed repairs.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman; To authorize the amendment to the existing agreement with DRV Contractors dated February 1, 2020 to conduct the edge slab repair for an amount not to exceed \$148, 370.

Commissioner Nickita expressed concerns about additional amendments in the future. He asked would the consultant conduct a thorough review, and provide a total cost estimate to address safety first. Commissioner Nickita further noted that he does not want to allocate funds to a decaying structure.

Assistant City Manager Gunter confirmed that the consultant is in the process of performing structural assessments on each garage. She affirmed that she could have feedback in a month.

Commissioner Host pointed out that the July 5, 2019 engineering study of the structure noted considerable neglect and approximately \$6.3 million behind in regular scheduled maintenance. He asked what was wrong with the study and was something missed.

Assistant City Manager Gunter explained that the July 5, 2019 study was a preliminary visual observation of the deck; ~~the contractor is not working on~~ and not a⁶ structural assessment.

Public Comment

David Bloom, Stanley St., expressed that as bad as the situation is, the City is in a better position now than it would have been if the 2019 Bond had passed, given the current COVID environment.

⁶ As corrected on May 11, 2020.

ROLL CALL VOTE: Ayes, Commissioner Hoff
Commissioner Sherman
Commissioner Nickita
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Host
Mayor Boutros

Nays, None

City Manager Valentine spoke briefly confirming a conversation with Assistant City Manager Gunter about the status of the structures. To clarify the process, he pointed out that they do not know all of the answers yet. As work is being done, significant components that need to be addressed are being addressed. If additional work is needed, the administration will come back to this body for subsequent discussions.

04-066-20 RESOLUTION TO MEET IN CLOSED SESSION

Attorney Currier advised that there might be action taken after the session.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To meet in closed session.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Mayor Boutros

Nays, None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

David Bloom asked would it be possible to go back to the ~~maple road~~ Maple Road⁷ project, possibly saving money during this economic downturn. He went on to ask why the public comment section was moved back to the end of the agenda.

Mayor Boutros advised Mr. Bloom that the trial period expired, and is now suspended. The commission will review the process again when things return to normal.

City Manager Valentine offered the following:

- The commission authorized the relocation to the beginning of the agenda for a three-month trial period that ended in April. Public comment reverted to its prior location.

⁷ As corrected on May 11, 2020.

- The Maple Road contract has been awarded and issued; it is a binding contract with MDOT.

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to Appoint to the Martha Baldwin Park Board
- B. Commissioner Comments
 - Commissioner Hoff reminded everyone about the Birmingham senior residents File of Life magnetic folders (for the refrigerator) that holds the medical history of individuals. In light of the COVID virus, Chief Wells reordered the folders and they are available for anyone by contacting the fire department at their non-emergency number (248) 530-1900. They are also available through the police department and clerk's office.
 - Commissioner Host expressed that the Ad Hoc Unimproved road committee is essential and urged the administration to bring back the meetings even if they are held virtually. He closed by complimenting the City Manager and Assistant City Manager for their persistence in scheduling Lakeview for improvement. Improving unimproved roads are critical to everyone affected and is very important. He further suggested that 2040 plan be postponed and officially announced to the public that it is postponed.
 - City Manager Valentine affirmed that the plan would resume when the Governor allows the public to engage again.
 - Commissioner Baller pointed out that David Blooms point might have been missed because typically after a trial there is an evaluation to consider if there would be a permanent change. That did not happen and thus his comments. Secondly, the deferral of lease payments was a gratifying moment for him. He is excited about the measures that the City may be taking to assist businesses and other in Birmingham in the environments of COVID, post-COVID, or post-lockdown.
 - City Manager Valentine expressed that he is looking forward to coming back with proposed recommendations relative to ways to help the business community post-COVID. Staff are already looking at opportunities to make the transition easier for everyone. He raised caution that there has to be vetting through ordinance language and charter provisions to insure compliance.
 - Mayor Boutros commented that as he promised per suggestions the facilitator led workshops would begin. The first workshop would be in advance of the next commission meeting.
 - He also asked everyone watching to be responsible and compassionate in your actions over the next several weeks. While it is difficult for everyone, it is very important.

- He went on to ask that you do not let this define who you are. By working together, the great community will rebound.
- He thanked everyone for tuning in and advised everyone to stay healthy.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff

INFORMATION ONLY

Recessed to Closed Session at 10:12 p.m.

Reconvened Open Session at 11:15 p.m.

04-067-20 RESOLUTION TO EXECUTE SETTLEMENT AGREEMENT AND EASEMENT AGREEMENT

Attorney Currier presented this item.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff: For approval to execute the settlement agreement and easement agreement with respect to the Toroyan lawsuit and giving the Mayor the authority to sign both.

ROLL CALL VOTE: Ayes, Mayor Pro Tem Longe
 Commissioner Baller
 Commissioner Hoff
 Commissioner Host
 Commissioner Nickita
 Commissioner Sherman
 Mayor Boutros

Nays, None

XI. ADJOURN

Mayor Boutros adjourned the meeting at 11:17 p.m.

Alexandria Bingham, City Clerk Designee
 /vc