

BIRMINGHAM CITY COMMISSION MINUTES
FEBRUARY 10, 2020
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Pierre Boutros called the meeting to order at 7:33 p.m.

II. ROLL CALL

Present: Mayor Boutros
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Commissioner Sherman

Absent: None

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Acting City Clerk Arft, Human Resource Manager Myers, DPS Director Wood, City Engineer Fletcher, Assistant City Engineer Bridges, Police Commander Grewe, Police Chief Clemence, City Planner Ecker, IT Director Brunk, BSD Executive Director Tighe, and Building Official Johnson.

III. PUBLIC COMMENT

The City of Birmingham welcomes public comment limited at the Mayor's discretion on items that do not appear in the printed agenda in order to allow for an efficient meeting. The Commission will not participate in a question and answer session and will take no action on any item not appearing on the posted agenda. The public can also speak to agenda items as they occur when the presiding officer opens the floor to the public. When recognized by the presiding officer, please step to the microphone, state your name for the record, and direct all comments or questions to the presiding officer.

- Rob Bowen, Harmon Street between Woodward and Quarton Lake, representing the DIA.
 - ✓ Provided information about the DIA
 - ✓ Described how services are provided
 - ✓ The History of Ownership
 - ✓ Tax Support
 - ✓ Free Admission
 - ✓ Discounted Tickets to Ticketed Exhibitions
 - ✓ Bus Transportation
 - ✓ Professional Development for Educators
 - ✓ Senior Programs

- ✓ Public Art Programs
- ✓ Murals in the Communities
- ✓ Upcoming Events

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

MOTION: Motion by Mayor Pro Tem Longe, seconded by Commissioner Sherman To amend the agenda under Staff Reports to include a third item for an update on the North Old Woodward garage.

VOTE: Ayes, 7
 Nays, 0

02-030-20 ANNOUNCEMENTS:

- Mayor Boutros announced that Commissioner Nickita was celebrating a birthday. After a rendition of Happy Birthday, he invited everyone to be his guest for coffee and cookies in the back after the meeting.
- The City Clerk's Office reminds you that Absent Voter ballots are available now for the March 10, 2020 Presidential Primary election. Voters are required to complete a written and signed application prior to receiving a ballot. We also want to remind voters that this is a Closed Primary which means you must designate the type of ballot you wish to vote: Democrat, Republican, or a ballot for the proposals only. Sample ballots will be available on our website and at our office in the next week.
- On Wednesday, February 12th at 7:30 PM Room 205 in City Hall, the Planning Board will meet to review and discuss Master Plan Premises and The Future City (vision). The public is encouraged and invited to attend. If you are unable to attend, the meeting will be televised, and you may submit comments or questions by calling the Community Development office at 248-530-1850 during regular business hours, or email to jecker@bhamgov.org.
- The Birmingham Museum is launching its new exhibit, "Beyond Suffrage: Empowering Birmingham's Women" in February. The exhibit, which is a celebration of the centennial of the 19th Amendment giving women the right to vote, will run through 2020 and features the stories of remarkable women in Birmingham's history.

02-031-20 RECOGNITION OF 2019 STUDENT REPRESENTATIVES TO CITY BOARDS AND COMMITTEES

Assistant to the City Manager Gallagher, on behalf of the City, recognized and thanked the student representatives who served on boards and committees in 2019; and to welcome the incoming group of students from the 2020 cohort. Suzanne O'Leary is the representative from Seaholm High School for this educational partnership between Birmingham Public Schools and the City dating back to 1996. The program was designed to promote citizenship, leadership, and encourage future participation in Government. She thanked everyone for the opportunity to participate in this program.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:

To approve the resolution recognizing the following seven student representatives for their service in 2019 on Birmingham Boards and Committees and awarding each student a certificate in appreciation for their civic involvement:

- John Utley – Planning Board – Seaholm High School
- Sophia Trimble – Planning Board – Seaholm High School
- John Butcher – Parks & Recreation Board – Seaholm High School
- Meredith Weddell – Museum Board – Seaholm High School
- Bennett Pompei – Multi-Modal Transportation Board – Seaholm High School
- Chris Capone – Multi-Modal Transportation Board – Seaholm High School
- Klea Shmet – Historic District Commission and Design Review Board - Seaholm High School

02-032-20 STUDENT APPOINTMENTS TO CITY BOARD AND COMMITTEES:

Assistant to the City Manager James Gallaher presented the students desiring appointments to City Boards for 2020 to be interviewed by the City Commission.

Commissioner Hoff noted a discrepancy in Mr. Watkinson's name; while his application addressed him as James, his teachers addressed him as Hayden. She asked him how would he like to be addressed. Mr. Watkinson replied "Hayden" is his preference.

Commissioner Nickita commented about his experience with students serving on the planning board and encouraged them to take advantage of the opportunity and participate on a high level. He referenced Mr. Greg Moore, who took advantage of this opportunity, participated, worked hard, was recognized for an internship, and is now working as a successful licensed architect. He went on further to say that if the students really want to embrace the opportunity; it will advance them quite a bit.

Commissioner Baller commented by piggybacking on Commissioner Nickita's remarks and expressed to the students that they are valued as the future of Birmingham. He expressed that he would like to see the number of students participating increase annually and would like to also see private schools included in the partnership.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:

To appoint the following students as non-voting members to their respective boards for the calendar year 2020:

- James Hayden Watkinson, Seaholm High School - Parks & Rec Board
- Mallory Windsor, Seaholm High School – Parks & Rec Board
- June Lee, Seaholm High School – Planning Board
- Rachel Hester, Seaholm High School – Planning Board

VOTE: Ayes, 7
 Nays, 0

02-033-20 ADMINISTRATION OF OATH

Acting City Clerk Arft administered the Oath of Office.

- I. Resolution approving the appointment of election inspectors, absent voter counting board inspectors, receiving board inspectors and other election officials as recommended by the City Clerk for the March 10, 2020 Presidential Primary Election pursuant to MCL 168.674(1), setting 10:00 a.m. as the start time for the Absent Voter Counting Board, and granting the City Clerk authority to make emergency appointments of qualified candidates should circumstances warrant to maintain adequate staffing in the various precincts, counting boards and receiving boards.
- J. Resolution approving the purchase and installation of LED lights from Smart Lighting, LLC for the lighting project at the Birmingham Ice Sports Arena at a total project cost not to exceed \$17,850. Funds are available from the Capital Projects Fund-Ice Arena. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City, contingent upon all required insurances.
- K. Resolution confirming the City Manager's authorization for the emergency expenditure related to the repair of vehicle #211 by Cummins Bridgeway for \$14,031.33 to be charged to the Auto Equipment account #641-441.006-933.0200, pursuant to Sec. 2-286 of the City Code.
- L. Resolution confirming the City Manager's authorization for the emergency expenditure related to the repair of two garage hoists by Allied Incorporated for \$10,258.66 from the Auto Equipment Fund account #641-441.006-933.0200, pursuant to Sec. 2-286 of the City Code.
- M. Resolution approving the 2020 annual flower purchase from Croswell Greenhouse Inc. in the amount not to exceed \$20,589.55. Funds are available from the General Fund – Property Maintenance – Operating Supplies account #101-441.003-729.0000.
- N. Resolution awarding the 2019-2020 Public Services contract totaling \$10,827.00 for Yard Services and Senior Outreach Services to NEXT under the Community Development Block Grant Program; and further, authorizing the Mayor to sign the contract on behalf of the City.
- O. Resolution approving the Addendum to the Public Services contract between NEXT and the City to include Minor Home Repair and extending the contract until June 30, 2020, and authorizing the Mayor to sign the Addendum on behalf of the City.
- Q. Resolution setting Monday, March 9, 2020 at 7:30 PM for a public hearing to consider the proposed lot combination of 1680 and 1698 S. Bates Street.

02-034-20 RESOLUTION APPROVING THE CITY COMMISSION GOAL SETTING WORKSHOP MINUTES OF JANUARY 29, 2020 (ITEM C).

Commissioner Host expressed that he had spoken with Acting City Clerk Arft and City Manager Valentine because he felt that the remarks and synopsis of the meeting from Lew Bender,

workshop facilitator, should be considered in the minutes. He went on to say that he did not want it to appear to be a closed meeting. The public was invited and should be able to see the facilitator's synopsis.

Commissioner Hoff expressed that the minutes are present and the synopsis that Mr. Bender prepared could perhaps be attached, but the synopsis was not presented in the meeting.

City Manager Valentine expressed that the synopsis came after the meeting, it was not a record of the meeting. He added that as a procedural matter, it could perhaps be attached subsequent. City Manager Valentine went on to explain that if it does not happen during the meeting, it is a byproduct of the meeting provided after the fact. Finally, including the synopsis in the minutes would not be an accurate reflection of the meeting because it came subsequent as a document.

Commissioner Hoff agreed to an attachment, but does not want anyone to think it was a closed meeting.

Mayor Boutros reiterated that it was a public meeting and met all of the requirements of a public meeting.

Commissioner Sherman reiterated that it was a workshop session and stated that there are other ways to include Mr. Bender's report in the record history; but feels to have the report in the minutes is not the way to do it.

Commissioner Host asked for suggestions to include the report in the record.

City Manager Valentine explained that in as much as the document was received after the workshop, it would be put before the City Commission at a later meeting. At that time, it would become a record of that meeting.

MOTION: Motion by Commissioner Host, seconded by Commissioner Hoff:
To approve the City Commission Goal Setting workshop minutes of January 29, 2020.

Commissioner Nickita pointed out that the minutes clearly reflected a public meeting because comments were captured from Cindy Rose, who attended the meeting in a public capacity and spoke under Public Comment as set forth on the Agenda.

David Bloom expressed that Birmingham has been an outstanding community to live in especially from a government standpoint. Birmingham has always gone above and beyond on what has been required by the law in terms of engaging participation, keeping records, being inclusive, and inviting the community. He sees it falling off; an example is the North Old Woodward project and other matters. He also sees it in the quality of the minutes. He went on to say that the minutes may meet the legal or parliamentary requirements but does not meet the Birmingham requirement or standard of what has been done in past practice. Mr. Bloom went on to say that the minutes are not acceptable to him and should not be acceptable to anyone else. He asked that the minutes be redrafted in accordance with what happened in that meeting commensurate with the previous standards that have been held in Birmingham.

VOTE: Ayes, 7
 Nays, 0

**02-035-20 RESOLUTION APPROVING A REQUEST FROM THE BIRMINGHAM
BLOOMFIELD CHAMBER OF COMMERCE TO HOLD THE ANNUAL
VILLAGE FAIR AND PRIVATE PARTY IN SHAIN PARK (ITEM G).**

Commissioner Hoff pulled this item because it is the Annual Village Fair and there are unique situations surrounding the event. Work is scheduled for Maple Road at the same time that the Library's children section is being reconstructed. While she was not clear what changes the Village Fair organizers had planned due to the construction schedule around the site, Commissioner Hoff sees that it is moving forward. She asked for more information on how the event would work and be successful under the aforementioned circumstances.

Joe Bauman, President of the Birmingham Bloomfield Chamber of Commerce, addressed the commission with gratitude. He expressed that his team from the Chamber of Commerce have had a series of meetings with the City of Birmingham administration and businesses for feedback because of the challenges from construction that this event would be facing. Based on the feedback, the organization drafted an amended plan as follows:

- Takes it off Martin St. and moves it further south, to keep traffic patterns available for Police and fire, and maintain other emergency access.
- The large dumpster that is usually in lot #6 would be moved onto Merrill St.
- While the Chamber realizes that the fair will be disruptive, they are bringing thousands to the City not only for the fair, but to shop and eat.
- The Chamber is comfortable with the modifications recommended by staff and are prepared to do what needs to be done to show the community that downtown Birmingham is still open despite construction of Maple Road.

Commissioner Hoff asked would Martin St. be open all the way. Mr. Bauman stated that Martin would be closed from Henrietta to Bates.

Commissioner Hoff also asked about the private party scheduled for the Wednesday night before the event. She understands that this event is important to the chamber, but asked how important would the party be to the chamber this year; because it would add a day to the event.

Mr. Bauman replied that this year the chamber partnered with the Young Presidents Organization, an association of Corporate CEO's under the age of 45. The members live in the Birmingham/Bloomfield area and are planning to bring 200 families, a much smaller group. It is a major source of income and will be generating income for the Community House as well. He assured Commissioner Hoff that this event would not add an additional day to the fair because the streets would still close on Tuesday setup.

Commissioner Sherman commented that there was discussion about moving the fair to S. Old Woodward in the triangle area, and wondered what happened to the idea.

Mr. Bauman expressed that the challenges were crowd control, and the safety of the crowd while crossing Woodward. One of the great things about the current location is that it is enclosed, not visible, and the families feel more secure.

Commissioner Hoff stated that since it has been approved by all of the departments and is a very popular event in Birmingham, she will support it.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To approve a request from the Birmingham Bloomfield Chamber of Commerce to hold the Annual Village Fair and private party in Shain Park and on the surrounding streets and sidewalks, May 27th through May 31st, 2020, 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: Ayes, 7
 Nays, 0

02-037-20 RESOLUTION APPROVING THE ASSIGNMENT OF THE BOB ADAMS TOWING CITY CONTRACT TO JAKE'S AUTOMOTIVE (JAKE'S TOWING) (ITEM P).

Item P- Commissioner Hoff pulled this item because she did not understand the terms of the contract. Police Chief Clemence clarified that it is the original contract through 2021 with an option to renew for two additional years at current pricing.

Commissioner Hoff noted that Jakes Automotive is located in Auburn Hills while Bob Adams was located in Birmingham. Chief Clemence said that Jakes would be in Bob Adams current location and everything would remain the same. The contract requires Jakes Automotive to be in Birmingham.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:
To approve the assignment of the Bob Adams Towing City contract for the towing and storage of impounded, abandoned, accident and other motor vehicles to Jake's Automotive (Jake's Towing) pursuant to all the terms and conditions of the existing agreement.

VOTE: Ayes, 7
 Nays, 0

Police Chief Clemens took the opportunity to recognized Terry and Sandy Adams of Bob Adams Towing, as being great vendors to the City of Birmingham for the last 25 years. He went further to acknowledge that they have been great members of the community and good partners with the City. He wished them the best in their retirement on behalf of the City, Police Department, and the City Commission.

**02-038-20 RESOLUTION APPROVING THE CITY COMMISSION LONG RANGE PLANNING MEETING MINUTES OF JANUARY 25, 2020 (ITEM A).
RESOLUTION APPROVING THE REGULAR CITY COMMISSION MEETING MINUTES OF JANUARY 27, 2020 (ITEM B).
RESOLUTION APPROVING THE CITY COMMISSION SPECIAL MEETING MINUTES OF FEBRUARY 1, 2020.**

David Bloom, 1591 Stanley, pulled these items from the Consent Agenda because the publics' comments were not detailed. He wants the comments to be included in keeping with the Birmingham traditions of being inclusive and providing robust record keeping with regards to what happens in the City's meetings.

Commissioner Baller commented that the issue for him is consistency. He went on to say that some meetings are televised and streamed, and some are not. Meeting minutes are thorough, some do include substance of comments, and some do not. He feels that the community ought to be able to expect some amount of consistency in all of those things. He does not know why some are televised or audio taped, and some are not. He also does not understand why the substance of some comments are included and some are not.

Commissioner Host commented that he was at the Long Range Planning Session and remembered what people said, with the exception of the younger man who mentioned about pathways. The specifics of those comments were not put in the comments.

Mayor Pro Tem Longe expressed that she agrees that the substance of comments are important and provides an important context when people go back in time and look at the way that the commission makes decisions. She felt it was important to document that Scott Clein was the chairman of the planning board and that he was encouraging people to participate in the sessions that are going to be held to discuss the Master Plan. She reflected that they had detailed comments and minutes on the Parks and Recreation board so that you can go back and follow through time who appeared and what they proposed. She thinks that it was extraordinarily helpful and wanted to state for the record that she prefers minutes that go above and beyond what is required for recording votes and parliamentary procedure and she thinks that they do not have to be book length but a summary of the substance is important and should be included where permissible.

Acting City Clerk Arft advised the commission that there were four sets of minutes in seven days. She went on to say that the minutes presented were meant to be just a draft with a plan to go back and provide a more complete set of works.

Commissioner Sherman expressed that he did not understand the Acting City Clerks comment. He asked if the minutes are to come back revised. He felt that the minutes for the 27th were more complete than the other minutes; and expressed if the intention was to revise the minutes, than the recommendation should be to send back Items A, B, and D for revisions.

Commissioner Baller suggested that Item C be unapproved and sent back.

Commissioner Nickita clarified that there are four meetings on one agenda which is not typical. There is also a special meeting, again not typical, included. An emergency meeting for the parking deck which had to be put together in 18 hours. He went on to say that there is an aspect of consistency, all of the meetings that are noticed as regular meetings are televised and there are votes on specific issues at all of those meetings. The aforementioned types of meeting are different from meetings that are essentially workshops for long range planning that range 6-7 hours in duration. Televising this type of meeting is prohibitive due to other scheduled programming set forth by the service provider. He went on to point out that there is a way that the commission has held these meetings in the past and it has not changed. It is not typical that a workshop is televised. The commission has been consistant.

Commissioner Hoff observed that when a decision has to be made, the comments on why people are voting the way that they vote is important. In a workshop situation, comments may not be included because decisions regarding City business are not being made. She went further to express that during regular meetings of the City Commission when decisions are being made and votes are being taken, she has seen supporting comments reflected in the meeting minutes.

Commissioner Baller asked about the costs of televising meetings; and further wanted to know if it has been communicated to the public.

City Manager Valentine affirmed that there is a nominal cost. The challenge of televising the Long Range Planning meeting was the duration and it made programming problematic.

Mayor Boutros added that all of the meetings are publicized and they are always welcome to attend. He asked the commission not to make an issue of something that is not an issue.

David Bloom commented that the two most important meetings that the City holds annually are the Long Range Planning meeting and the budget hearings in March. It sets the tone and is very important to record what everyone says.

By consensus, Items A, B, and D are to be amended and brought back.

VI. UNFINISHED BUSINESS

02-039-20 ORDINANCE AMENDING PART II OF THE CITY CODE, CHAPTER 74 OFFENSES, ARTICLE I. – GENERAL, SEC 74-6, TO REPLACE THE CUR- RENT ORDINANCE TO INCLUDE BICYCLING AND ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

Commander Grewe presented this item.

Definitions of the devices referenced were taken from State law.

- Any area with a speed limit of 25 miles per hour or less including all sidewalks ***all devices*** are permitted in those areas.
- Roadways with a speed limit above 25 miles per hours, only devices with handle bars are permitted.

Mayor Boutros thanked Commander Grewe for his thorough presentation informing the commission about the changes proposed to the existing City Code.

Commissioner Nickita complemented Commander Grewe and his team for the work put into this item. He went on to express appreciation for the presentation and the alignment of the proposed ordinance with State law. Commissioner Nickita went on to say that his questions were clarified and he agrees with the plan for the Central Business District, Birmingham Shopping District, and others outlined on the map. He went further to recommend including the ½ mile along Woodward between Lincoln and 14 Mile Road in the plan due to the consistent pedestrian condition with the businesses situated so close to the street.

Commissioner Hoff questioned the definition of pedestrian, which states that it is a person on foot or skateboard. She went on to ask about the electric skateboard. To clarify, according to State law, skateboards are allowed on the sidewalk but not electronic skateboards.

Commander Grewe went on to clarify that, according to State law, skateboards are allowed on the sidewalk but not electric skateboards. However, the law does permit Cities to develop codes to restrict skateboards of all kinds on the sidewalk in designated areas; and the City of Birmingham has restricted them in the Central Business District including Shain Park.

Commissioner Host asked Commander Grewe to respond to Commissioner Nickita’s assertion that North Old Woodward and East Maple are similar to Woodward between Lincoln and 14 Mile Road. Commissioner Host agreed that the Lincoln area should be included in the proposed amendment as well.

Commander Grewe expressed that it is an enforcement issue.

Commissioner Baller asked for a better definition of the problem associated with the increased calls regarding people riding electric devices in the downtown area. He asked if Commander Grewe has any data to support the perception of the problem.

Commander Grewe expressed that he does not have exact number of calls. While there has been no accidents, the department does witness excessive speeds with the potential for accidents but is unable to do anything about it. The current City code only addresses devices under human

compulsion; therefore, the department is proposing the suggested resolution for the sake of pedestrian/public safety.

Mayor Boutros asked for clarification of his understanding that this amendment is the City trying to be proactive rather than to wait for an accident to happen. He expressed that amending the code will not hurt the City but an accident would hurt the City.

Commander Grewe agreed.

Mayor Pro Tem Longe concurred with Mayor Boutros and his desire to prevent injuries. She referenced a report from Detroit Receiving Hospital enumerating a number of patients seen there for injuries related to accidents from electric skateboards. She felt that this is a worthwhile amendment. Mayor Pro Tem Longe expressed that if the City is going to regulate skateboards, then electric bicycles should also be included. She asked Commander Grewe to explain B5 of the City Code.

Commander Grewe explained that coasters referred to in B5 of the code, are roller skates and fit-type devices in the roadway.

Mayor Boutros expressed that he would not object to moving this item forward and amending it later to include the Lincoln area proposed by Commissioner Nickita and concurred with by Commissioner Host.

Public Comment

- Mary Neff, has a son who was once an electric skateboarder and now has a scooter, spoke on behalf of her son enjoying what Birmingham has to offer via electric devices due to the lack of parking in the City. She felt that forcing these scooters into the road on Woodward would be a safety issue especially around Dairy Mat. Ms. Neff expressed that the electric devices are the wave of the future – they are sold at Costco and are a very handy mode of transportation in the summer. She suggested that maybe the City restrict speed limits such as on Woodward sidewalks. She does not want to see selective enforcement of scooters as opposed to bikes.

Commissioner Nickita expressed it is very wise that the commission is doing what they are doing in terms of this amendment. There is a popularity growth of encouraging more walking, biking, and an increase in these vehicles. While there are a lot of dynamics surrounding this issue, such as a growing elderly population and an increased use of assistance devices; by doing this we're getting in front of it. Commissioner Nickita asked how much more difficult would it be to enforce S. Old Woodard vs. N. Old Woodward. He walks a lot South of Lincoln on Woodward; so he encourages extending the amendment to the south initially and if unable to enforce it, alter it later.

City Manager Valentine clarified the procedure for modification of the suggested resolution. He would prefer to have that language in final form for the commission to adopt the ordinance with the language included as opposed to trying to define an area to add the language now. He suggested that the item be tabled and come back with a modified boundary; or pass it this evening and have it come back with a new boundary as an amendment to the amendment.

Commissioner Nickita agreed with City Manager Valentine, extending it into the south is logical and consistent with the current approach.

Commissioner Hoff asked if the City would be restricting young families from riding into town on their electric scooters and limiting them to the neighborhood only.

Commander Grewe confirmed that as the amendment was being proposed, they would be allowed to ride in the street only.

Commissioner Baller commented with regard to the boundaries, the CBD makes sense but the areas around the BSD appear to be arbitrary boundaries and does not make sense. He went on to say that the area South of Lincoln to 14 Mile Road is problematic and he agrees with Commissioner Nickita's point of view. He believes that there will be many violations and the amendment needs more nuance.

Commissioner Sherman agreed with Commissioner Hoff. He reminisced about his own childhood and the excitement surrounding a trip downtown. He believes it is unreasonable that folks would allow small children to ride their scooters in the street. He suggest that the amendment receive more thought. Especially the how, whys, and possible exceptions.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host: To approve an Ordinance amending Part II of the City Code, Chapter 74 Offenses, Article I. – General, Sec 74-6, to replace the current ordinance to include Bicycling and Electric Personal Assistive Mobility Devices in the **(Central Business District)**. Furthermore, authorizing the Mayor and City Clerk to sign the ordinance on behalf of the city.

Commissioner Nickita expressed that the Commander's team did a good job bringing the amendment this far, and he does support the motion; but there are some gaps. He further concur that he has some concerns about lumping in the Triangle District because there are some areas that may require exceptions to preserve the integrity of public safety.

Mayor Pro Tem Longe expressed that she supports the motion, but believes that BSD boundaries are overkill due to front parking.

Public Comment

Mary Kerr asked if bikes will be included, and further warned that some of the boundaries may not be expanded and still stay compliant with State law.

VOTE: Ayes, 7
 Nays, 0

VII NEW BUSINESS

02-040-20 HEALTH EFFECTS OF SMALL CELL TOWERS BUILT TO ACCOMMODATE 5G TECHNOLOGY

City Manager Valentine presented this item that is being pushed by the FCC.

Jane Awdish, City Attorney Currier's associate from Beier Howlett, walked the commission through the framework of this new technology and what authority the City has in regulating 5G relative to federal law:

- The FCC regulates all communications.
- Municipalities are banned from prohibiting small cell facilities.
- Current Case Law is attempting to repeal the Moritorium Order and Small Cell Order, which regulates the technology, but it will take a long time to get a decision.

Commissioner Baller asked if municipalities are free to develop installation guidelines. Ms. Awdish answered no and clarified that the City is prohibited from regulating the facilities. He further asked if the installers would need to come to the City for permits and would the City have the authority to deny the permits.

City Attorney Currier explained the process to the commission. There is a great demand for this technology on a federal and state level. Pole pollution is imminent.

Commissioner Baller expressed that he received an email with an alternative resolution that could be sent to Lansing. He further asked City Attorney Currier if there are other options.

City Attorney Currier nor Ms. Awdis saw any emails offering an alternate resolution.

City Manager Valentine expressed that there are certainly different alternatives that may be adopted; in working with legal counsel, other resolutions were evaluated but caution must be exercised so that the Federal government addresses health and safety concerns.

Commissioner Hoff asked if small cells replace the traditional wireless antenna or in addition to what already exist and who receives the revenue.

City Attorney Currier affirmed that they are in addition and the revenue is minimal based on State statute.

Mayor Boutros suggested that the commission just focus on what is before them now. The suggested resolution is to initiate a health study and guidelines to protect the health and welfare of the residents of Birmingham.

City Manager Valentine reminded Mayor Boutros that the commission does not have approval authority just a process to review.

City Attorney Currier added that because the entities installing the technology try to be good corporate citizens, the City may have some ability to discuss and impact aesthetics.

Commissioner Hoff expressed that the suggested resolution was written for Birmingham to send to State and Federal legislators. It is not to change anything but for the City to urge them to initiate a study of the health effects of 5G and develop guidelines to protect our citizenry.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:

Resolution urging the state legislature and federal government to initiate a study of the health effects of small cell towers built to accommodate 5G technology and to develop installation guidelines protecting the health and welfare of residents.

Commissioner Host suggested an amendment to include stronger language into the suggested resolution. Such as putting forth a moratorium on 5G until the exact health benefits are known.

Public Comment

- Betty Gusho, 1195 Lyonhurst Street, expressed that New Hampshire has a safety commission that started in September through November 2020. Therefore, she felt there is no need to put forth a resolution for another safety study. A resolution for a moratorium on 5G until it is proven safe. She also encouraged protecting folks dependent on pace makers, etc.
- Ann Bray, 1260 Buckingham, stated that there are a coalition of groups adjoined with municipalities from Grand Rapids, E. Grand Rapids, Rochester, and surrounding municipalities regarding wireless infrastructure in the public right-of-ways throughout Michigan. Municipal lawyers from other states who are successful in implementing protective policies and ordinances following the many lawsuits. She went further to say that the government is still dealing with the health consequences of 4G technology. Safe technology is available but it is not wireless. It must be hardwired.
- Christa Odell, 959 Kennesaw, she strongly encouraged the commission to support the suggested resolution, and agreed with Commissioner Host suggestion of stronger language. She asked that the City Commission be the voice of Birmingham.
- Lindsay Flatter, 19541 Wilshire, Franklin, was relieved that the commission is open minded to their suggestions. She expressed that she is concerned that from a legal standpoint, that a moratorium may not be available. She said that San Francisco has found a loophole and is not able to not allow towers for aesthetic reasons. She feels that this is a human rights issue because everyone is at risk for health problems.
- Serena Sedat, 2601 Leroy, West Bloomfield, suggested that everyone review YouTube video to educate themselves on the dangers of this technology.
- Stacy Barnes, Beverly Hills, had her home tested for RF threats by a building biologist, which were cordless phones and wifi. Where the house is a safe distance from 4G cell tower, the levels of RF in the rear of her home were very high and is afraid of what 5g would do.

Commissioner Baller asked if attorneys had read the resolution brought to the meeting by the public.

Mayor Boutros commented that he is supportive of all the concerns expressed, but he let everyone know that the City has limitations on their authority and a specific resolution is before the commission tonight that need a vote.

Mayor Pro Tem Longe expressed that she is greatly concerned about the potential health effects, and knows how long studies could take. She felt that the right thing to do is pass the recommended resolution and send out to the State legislators. She feels the City should continue to look for loopholes; but most importantly move forward with the resolution.

VOTE: Ayes, 7
 Nays, 0

02-041-20 BFA LOCAL 911 GRIEVANCE OF NOVEMBER 5, 2019.

HR Manager Myers described the grievance as being appealed to the commission as Step 4 in the grievance procedure of the bargaining unit agreement.

Commissioner Baller wanted to know how many years the grievant has been a fire fighter for the City of Birmingham. HR Manager Myers affirmed 24 years.

City Manager Valentine reminded the commission of the issue before them and that it is a labor management issue sensitive in nature. The suggested resolution does not provide for discussion at this time, only an action as to whether the grievance will be heard by the City Commission.

Commissioner Baller continued to inquire about the merits of the case.

Commissioner Sherman called for a point of order.

Mayor Boutros intervened that the question was asked and answered.

Commissioner Baller expressed that his primary inclination was to hear the case because the primary responsibility of the commission is oversight and this is an excellent opportunity to exercise that duty. However, he does not want to sit as a jury.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To waive consideration of the Birmingham Firefighters Association Local 911 grievance of November 5, 2019.

VOTE: Ayes, 7
 Nays, 0

VIII. REMOVED FROM CONSENT AGENDA

None

IX. COMMUNICATIONS

None

X. REPORTS

A. Commissioner Reports

1. Notices of Intent to appoint the Parks and Recreation Board, Multi-Modal Transportation Board, Planning Board and Cablecasting Board on March 9, 2020.

B. Commissioner Comments

- Commissioner Nickita reported on Birmingham being named 1 of the safest cities in the United States to buy a home, by the group Lend EDV. They analyze FBI crime

databases to find the most safest and dangerous regions in the U.S. Out of 1250 cities of over 10,000 people around the country and identified Birmingham as 137th safest city. A big thanks to the Chief of Police and staff. He further pointed out that a Detroit Free Press article on Feb 3, 2020 about a shortage of City Hall job seekers in particular City Managers. Apparently, there are a small number of City Managers and it is difficult to find a good one. It is a difficult market in the Detroit metropolitan area and a difficult job and spreading nationally. Birmingham has a very good City Manager; and Joe Valentine is highly respected and valued in the Municipal community.

- Commissioner Sherman reported on the Ad Hoc Unimproved Streets Committee. He went on to say that they met a week prior to this meeting and received the 1st draft of the committee's findings. It was reviewed carefully and is a very thorough document of approximately 72 pages. The anticipated completion date is the beginning of March.
- Commissioner Sherman also reported that Lew Bender's notes from the Commissioner's Work Shop of January 29, 2020 was received by email and he would like to incorporate them into this meeting's minutes (See Attachment A). Commissioner Sherman mentioned that there were certain ground rules agreed to by the commission and it would be good to list them and acknowledge the ground rules that would be abided by.
- Commissioner Host thanked Commissioner Sherman because two other thing in those minutes is that the commission should have more workshops and would like to see them televised. He would also like to attempt to get the agenda a lot earlier and hopefull with a lot more input from the commission.
- Commissioner Nickita commented about the discussion earlier on meeting minutes and documentation of Commission Meetings. He pointed out that over the course of 10 years on the commission and prior to that the planning board, he has reviewed roughly 500 sets of minutes. He went on to say that there has been a lot of different levels of quality; with that said, some of the minutes in recent months have been quite exceptional. He futher expressed that he is impressed with the quality of the minutes and the succinct documentation of the essence of the dialog. He is actually quite surprised how well the points of view carry forth. He commended Cheryl and her team on a job well done.

C. Advisory Boards, Committees, Commissions' Reports and Agendas

1. Public Arts Board annual report

D. Legislation

E. City Staff

1. 2nd Quarter Financial Report, submitted by Finance Director Gerber
2. 2nd Quarter Investment Report, submitted by Finance Director Gerber
3. N. Old Woodward Garage – Vehicle Barrier System and Exterior Façade Options
 - Assistant City Manager Gunter gave an update on the issue that required a special meeting on February 1, 2020. She explained the preliminary design proposal and considerations. Staff began moving immediately. The plan is to do one side at a time, meeting daily with all of the departments involved working through the logistics of the plan.
 - Matt Lewis talked about vehicle barrier design.

- Commissioner Hoff asked if the plan is to install the barrier cable system before taking down the façade. She also expressed that she understood the façade to be the problem and is deteriorating, so she wonders why the barrier system is being installed first. Lastly, she asked if the façade would be moved from the inside or out and the distance between the barrier and the current facade.
- Mr. Lewis responded that it is important to have a system in place when the façade is removed in the interest of public safety. Currently the area is barricaded. He went on to say that it is more of a constructability concern than an engineering issue.
- Derek Vetor with DRV Contractors noted that it is safer for the workers, vehicular traffic, and pedestrians. He went on to answer that it would be done inside and outside and the distance between the façade and barrier is approximately 12 inches inboard from the edge of the slab.
- Commissioner Nickita asked about the potential for cars to damage the posts. He further asked if the worst-case scenario had been considered; if so, is everyone comfortable with the resulting vulnerabilities.
- Mr. Lewis assured Commissioner Nickita that the vehicle barrier is designed to withstand the impact per building code.
- Commissioner Baller suggested concrete bumpers and asked what materials are being used in the existing plan.
- Mr. Vetor replied galvanized dipped steel is being used. It is a material commonly used in exposed environments.
- Commissioner Hoff questioned why old concrete wall is being left. Mr. Lewis responded that they are part of the structure, and sound. There have been no issues identified.

INFORMATION ONLY

XI. ADJOURN

Meeting adjourned at 10:45 p.m. by Mayor Boutros.

City of Birmingham Leadership Team Workshop Summary January 29, 2019

I. **Facilitator Observations:**

On Wednesday, January 29, 2020, the Mayor, Commissioners, and City Manager of the City of Birmingham, Michigan, met to discuss ways to serve its citizens better. This elected leadership team has experienced significant issue-oriented and inter-personal conflicts over the past year. The depth of these conflicts has extended to the community and have surfaced in a recent election, social media and other venues.

Given the depths of the passions, this facilitator was impressed by the shared desire by each commissioner to find a constructive pathway to work together. Indeed, each commissioner faces the challenge of moving from political posturing and games to the essential process of governing. This means each person must “draw the line” in the sand and decide to follow the rules and expectations identified in this document.

In my view, this means several things:

- Not seeking ways to remind each other of past inter-personal and policy disagreements
- Discussing issues/ideas with each other and not using social media or other platforms to undermine the Mayor, Manager or a Commissioner or his/her position(s)
- Simply doing the things identified in this document that every member agreed to support.

This document summarizes the discussion that focused on these three questions:

- 1) *What are the expectations of the Mayor, City Manager, and Commissioners?*
- 2) *What are the ground rules?*
- 3) *What do we need to do differently to be more effective?*

II. **Questions for the Leadership Team:**

1) *What are the Expectations of the Mayor?*

- Leadership (2)
- Remain neutral
- Open-minded
- Fair
- Firm
- Respectful
- Personable
- Knowledgeable
- First among equals
- Run meetings fairly, efficiently, and professionally

- Represent the city at public events
- Ethical behavior and integrity

2) *Expectations of the City Manager?*

- Supportive
- Honest
- Non-political
- Responsive
- Professional and ethically based decision making
- Accessible
- Innovative
- Professional
- Call out micro-managing “fouls”
- Manage the staff
- Leadership
- Administration
- Primary information source
- Ethical behavior and integrity
- Represents the City

3) *Expectations of the Board of Commissioners?*

- Forthcoming and honest
- Open-minded
- Collaborative
- Don't personalize issues, grab a drink on occasion
- Be supportive of each other, the manager, and the staff
- Represent the entire community, not personal interests
- Make decisions in the best interest of the City
- Be prepared and do your homework
- Listen
- Accept the majority opinion
- Voice your opinion
- No personal attacks – in session or out

4 What are the ground rules?

- Treat each other with respect and civility.
- Follow the rules of procedure adopted by the City Commission.
- When you do not agree, do not conduct personal attacks on one another in any venue.
- All commissioners are equal elected officials.
- Be honest – expect and promote a high level of integrity.

- Focus decision-making on the best interest of all City constituents not just election supports.
- Do not discuss pending litigation in venues that do not comply with the Open Meetings Act.
- No personal agendas.
- Focus on the future and avoid seeking ways to remind each other of past issues of debate.

5 What do we need to do differently to be more effective?

- Talk more – formally and informally
- Conduct more workshops and study sessions
- Prioritization
- Education
- Communication
- Be willing to work together
- Accept decisions of the vote of the commission majority and move on.

6 Suggested Next Steps

- Improve communications and Commission decision-making process by experimenting with a work session process. My revised suggestion is that the Commission should pick two (non-controversial) topics that require more in-depth discussions. Do two work sessions and then decide how you wish to proceed with this approach.
- After experimenting with two-topic-work sessions, create a list of topics for further work session discussion. Also, create a schedule that suits the members.
- Consider examining and experimenting with the Commission packet. Does it meet Commissioners' needs? Should the schedule be offered?
- Periodically discuss these notes. Are members living up to the expectations that each one agreed to?
- Meet with Lew circa April-May.

Respectfully submitted:
Lewis G. Bender, Ph.D.
 618-792-6103 (Cell)
 February 3, 2020

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