

Birmingham City Commission Minutes

January 10, 2022

7:30 p.m.

Municipal Building, 151 Martin

Vimeo Link: <https://vimeo.com/event/3470/videos/656423258/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Therese Longe, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Alexandria Bingham, City Clerk, called the roll.

Present: Mayor Longe
Mayor Pro Tem Boutros
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner McLain
Commissioner Schafer

Absent: None

Administration: City Manager Markus, City Clerk Bingham, Finance Director Gerber, City Attorney Kucharek, Parks and Recreation Manager Laird, Department of Public Services Director Wood

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

Announcements

COVID-19 cases COVID-19 cases locally are the highest they have been since the beginning of the pandemic. Michigan and Oakland County continue to be at a high level of community transmission. As a result, the CDC recommends vaccinated and unvaccinated individuals wear a facemask indoors while in public. The City requires masks in City Hall for all employees, board and commission members, and the public. Please visit the CDC's website for more COVID-19 information.

The Mayor acknowledged National Law Enforcement Appreciation Day which occurred on January 9, 2022 and thanked the City's law enforcement officers for their service to the community.

Proclamations

01-001-22 Proclamation, Norm and Bonnie LePage

Proclamation honoring Norm and Bonnie LePage for their 37 years of stewardship of the former Grand Trunk Railroad Station building at 245 S. Eton, Birmingham, and the preservation of its unique architectural character.

Appointments

01-002-22 Appointment of Timothy Baldwin to the Corridor Improvement Authority

The Commission interviewed Timothy Baldwin for the appointment.

MOTION: Nomination by Mayor Pro Tem Boutros:

To concur in the Mayor's appointment of Timothy Baldwin to the Corridor Improvement Authority as a resident member to serve a four-year term to expire December 15, 2025.

ROLL CALL VOTE: Ayes, Mayor Pro Tem Boutros
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner McLain
Commissioner Schafer
Mayor Longe

Nays, None

CC Bingham swore in Mr. Baldwin.

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

Dan Marsh, Executive Director of the Birmingham YMCA, notified the community that the YMCA would be hosting a Health Fair aimed largely at seniors but open to all on January 24, 2022 from 9 a.m. to noon.

Brad Coulter spoke in favor of the Commission's move to prevent Commissioners from attending other board and commission meetings. He then raised concerns about individual Commissioners using email or social media to publish negative comments about members of the community, and asked the Commission to consider making rules to curb that behavior as well.

David Bloom ~~echoed Mr. Coulter's~~ also expressed concerns about the behavior of an individual Commissioner¹ and requested that the Commission take action.

V. 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.

01-003-22 Consent Agenda

The following items were pulled from the Consent Agenda:

¹ As amended at the January 24, 2022 Commission meeting.

Mayor Longe: Item B – City Commission Minutes of December 6, 2021
 Item C – City Commission Minutes of December 13, 2021

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Host:
To approve the Consent Agenda excluding Items B and C.

ROLL CALL VOTE: Ayes, Mayor Pro Tem Boutros
 Commissioner Host
 Mayor Longe
 Commissioner Haig
 Commissioner Baller
 Commissioner McLain
 Commissioner Schafer

Nays, None

- A. Resolution to approve the City Commission Workshop meeting minutes of December 6, 2021.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated December 15, 2021, in the amount of \$707,870.44.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated December 22, 2021, in the amount of \$4,368,471.49.
- F. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 5, 2022, in the amount of \$354,991.68.
- G. Resolution to set a public hearing date of February 14, 2022 to consider ordinance amendments to Article 4, Section 4.44, Outdoor Dining Standards, to remove temporary restrictions on outdoor dining patios in the public right-of-way, and to allow outdoor dining fixtures and furnishings to stay outside overnight.
- H. Resolution to set a public hearing date of February 14, 2022 to consider the Special Land Use Permit, Final Site Plan and Design Review application for 211 Hamilton Row – Sybil – to allow the addition of a new food and drink establishment serving alcoholic beverages for on premise consumption and associated interior/exterior renovations.
- I. Resolution to approve a 1 year agreement with the Michigan Department of Transportation (MDOT) for Governmental Agencies, and furthermore, to authorize James J. Surhigh, Consulting City Engineer, Lauren Wood, Director of DPS, and Scott Zielinski, Assistant City Engineer to apply to MDOT for the necessary Annual Permit, and other Individual Permits for work within the State Highway Right-of-Way on behalf of the City of Birmingham. In addition, to authorize the City Clerk to sign the certification of the Performance Resolution for Governmental Agencies form required for the Annual Permit on behalf of the City.
- J. Resolution to approve the contract Video Inspection – Old Woodward Phase 3, to the sole source provider, M-1 Studios for video inspection services in the amount not to exceed \$27,000.00. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funding for this project has been budgeted in the following accounts as specified in the staff report.

- K. Resolution to meet on Monday, February 14, 2022 at 7:30 P.M. for the purpose of conducting the Public Hearing of Necessity for the SAD for properties within project area with sewer laterals meeting the requirements for replacement on Maple Road, between Bates Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue; and,

If necessity is determined on February 14, 2022, to meet on Monday, February 28, 2022 at 7:30 P.M. for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for the SAD for properties within the project area with sewer laterals meeting the requirements for replacement on Maple Road, between Bates Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue.

01-004-22 (Item B) City Commission Minutes of December 6, 2021

The Mayor noted that on page five, rather than closing the public hearings for Items 12-311-21 and 12-312-21, it should say she continued the public hearings to the December 13, 2021 meeting.

CA Kucharek concurred.

MOTION: Motion by Mayor Longe, seconded by Mayor Pro Tem Boutros:
To approve the City Commission meeting minutes of December 6, 2021.

VOICE VOTE: Ayes, Mayor Longe
Mayor Pro Tem Boutros
Commissioner Host
Commissioner Haig
Commissioner Baller
Commissioner McLain
Commissioner Schafer

Nays, None

01-005-22 (Item C) City Commission Minutes of December 13, 2021

The Mayor noted that on pages two and four, rather than opening the public hearings for Items 12-317-21 and 12-318-21, it should say she continued the public hearings from the December 6, 2021 meeting.

CA Kucharek concurred.

MOTION: Motion by Mayor Longe, seconded by Mayor Pro Tem Boutros:
To approve the City Commission meeting minutes of December 13, 2021.

VOICE VOTE: Ayes, Mayor Longe
Mayor Pro Tem Boutros
Commissioner Host
Commissioner Haig
Commissioner Baller
Commissioner McLain

Commissioner Schafer

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

01-006-22 Public Hearing for 298 S. Old Woodward – Daxton Hotel – Special Land Use Permit Amendment

The Mayor opened the public hearing at 7:51 p.m.

PD Dupuis presented the item.

In response to an inquiry from CM Markus, the Mayor Pro Tem recused himself at 7:53 p.m. citing a financial relationship to the Daxton Hotel.

Kelly Allen, attorney, spoke on behalf of the applicants.

The Mayor closed the public hearing at 7:56 p.m.

In reply to Commissioner Host, CA Kucharek clarified that the City added language to the standard SLUP agreements that allows the City to more easily terminate a SLUP if the SLUP holder is not adhering to promises made to the Commission, is violating ordinances, or offends general health and safety. She explained that language is included in every new SLUP.

CM Markus said the language could also be added to SLUPs modified at the SLUP holder’s request.

CA Kucharek said that the language is not being added at this point to liquor license renewals for SLUP holders, but that the City could explore the possibility further. She said she could get the number of SLUPs amended to add the new language thus far from ACM Ecker.

MOTION: Motion by Commissioner Schafer, seconded by Commissioner Baller:
To approve the Special Land Use Permit Amendment at 298 S. Old Woodward – Daxton Hotel – to allow the transfer of ownership of an existing liquor license.

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

Nays, None

Recused,
Mayor Pro Tem Boutros

01-007-22 Oakland County Parks and Recreation Park Improvement Grant

Mayor Pro Tem Boutros returned to the meeting at 8:01 p.m.

DPSD Wood introduced the item and PR Laird presented the item.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Schafer:
To authorize the City of Birmingham to apply for the Oakland County Parks and Recreation Park Improvements Grant Program for the maximum amount of \$100,000.

Public Comment

Mr. Bloom stated that the plaza outside of the Baldwin Library is slated to be updated and functions as an extension of Shain Park. He recommended the City keep an eye out for grants that could be used to enhance the updates to the plaza outside of the Library.

ROLL CALL VOTE: Ayes, Commissioner Baller
Commissioner Schafer
Mayor Longe
Mayor Pro Tem Boutros
Commissioner Host
Commissioner Haig
Commissioner McLain

Nays, None

01-008-22 Confirmation of SEMCOG Delegate

The Mayor noted that two Commissioners expressed their interest in serving as SEMCOG delegates. The City Manager offered to withdraw his name from serving as the alternate delegate so both Commissioners could participate. The Mayor noted that CM Markus and ACM Ecker would continue to attend SEMCOG meetings and participate in SEMCOG discussions even though CM Markus would not serve as the alternate delegate.

MOTION: Nomination by Commissioner Baller:
To appoint Commissioner Schafer as the SEMCOG delegate.

VOICE VOTE: Ayes, Commissioner Baller
Commissioner Schafer
Mayor Longe
Mayor Pro Tem Boutros
Commissioner Host
Commissioner Haig
Commissioner McLain

Nays, None

01-009-22 Confirmation of SEMCOG Alternate Delegate

CM Markus clarified that both the delegate and the alternate delegate could attend every meeting, with the alternate delegate serving as a voting member in the absence of the primary delegate.

Mayor Longe asked that the delegates be prepared to report back to the Commission on SEMCOG proceedings. She said those reports should occur under 'Commissioner Comments' at the next Commission meeting following a SEMCOG meeting.

MOTION: Nomination by Commissioner McLain:
To appoint Commissioner Haig as the SEMCOG alternate delegate to serve on behalf of the City of Birmingham.

VOICE VOTE: Ayes, Commissioner McLain
Commissioner Baller
Commissioner Schafer
Mayor Longe
Mayor Pro Tem Boutros
Commissioner Host
Commissioner Haig

Nays, None

01-010-22 48th District Court Interlocal Agreement/Intent To Opt Out

CA Kucharek, CM Markus, and FD Gerber presented the item.

The Mayor explained that the Commission was presently considering whether to give the two other participating municipalities technical notice of Birmingham's intent to opt out of the Agreement, and then to use that technical notice to prompt discussions between Birmingham, the two other participating municipalities, and the 48th District Court over the course of 2022 to reach a solution that is responsible to Birmingham's taxpayers.

CA Kucharek concurred. She stated that offering the City's technical notice of intent to opt out by January 31, 2022 would allow the City to review all of its options over the course of 2022 before reaching a decision.

In reply to Commissioner McLain, CA Kucharek said the most likely outcome would be that the 48th District Court would quickly seek an injunctive answer from the Supreme Court through the Administrator's Office to determine what would happen to the 48th District Court come January 1, 2023.

CA Kucharek explained that no matter the path to the decision, a decision on how the 48th District Court should be funded would be reached by January 1, 2023. She stated that under no circumstances would the Court be left without funding.

It was noted that Birmingham is a participant in the 48th District Court per statute, and cannot participate in another district court.

Mayor Pro Tem Boutros lamented that there had not been more open and consistent communication between the parties to the Agreement over the last few years.

Marc Barron, Chief Judge of the 48th District Court and resident of Birmingham, spoke. He contended that misinformation had been provided to the Commission at its December 13, 2021 meeting. He continued that:

- Since the Court will remain funded regardless of outcome, he has no vested interest in how Birmingham proceeds from his position as Chief Judge. He does have an interest, however, as a Birmingham resident;
- Opting out of the Agreement would be less financially beneficial because the City would not be considered a 'little', which would allow it to avoid funding the Court while receiving one-third of the revenue from the City's fines and costs imposed in its cases;
- The City cannot unilaterally cease to be a funding unit unless Bloomfield Township and West Bloomfield agree to allow that, and they have stated they would not;
- Birmingham's recent decision to remain party to the agreement was beneficial because Birmingham will receive two-thirds of the revenue from the City's fines and costs imposed in its cases;
- Under statute Birmingham's Court funding requirements would be about the same as they are under the present Agreement, but Birmingham would only receive a third of the revenue from the City's fines and costs imposed in its cases;
- Contrary to CA Kucharek's memo, the Agreement will cease to exist if Birmingham provides its intent to opt out. Doing so could increase the short- and long-term costs to the City;
- Case law indicates that Birmingham would not be able to opt out and not fund the Court;
- The City seems to be conflating the question of the appropriateness of the 48th District Court's budget, which was approved by the Commission a month prior, and the question of who funds the Court;
- If the Commission had issues with the Agreement of the Court, they should not have directed the City Manager to sign the Agreement;
- It was, however, financially beneficial for the City to enter into that Agreement;
- The parties to the Agreement allowed Bloomfield Hills to leave, and did not have to do so, but it was beneficial to the remaining parties since their portion of the revenues increased;
- As Chief Judge, he has a responsibility to the other municipalities that comprise the 48th District;
- Once a municipality gives notice of its intent to opt out, the Court and two other participating municipalities will be forced to act immediately to determine how the Court will be funded;
- City Staff's assertion that the Court has been an expense to the City during the last six of twelve years is incorrect;
- In every year but one since 2014 Birmingham has received more revenue from the Court than it has paid in costs;
- The one exception was 2020, which was due to Birmingham's decisions during the start of the Covid-19 pandemic;
- Some Commissioners' comments at the December 13, 2021 meeting that the Court has not cut costs were 'careless, negligent, and false';
- Prior to making similar comments in the future, Commissioners should speak with constituents who regularly visit the 48th District Court as litigants, jurors, and police officers whether the Court 'runs a tight ship';
- Commissioners are welcome to meet with the Court Administrator or the Court's judges to ask questions about the Court's operations;
- Individuals should watch Bloomfield Township's discussion during its December 13, 2021 meeting regarding funding the Court to see their elected officials' 'appreciation' of how the Court operates;
- Birmingham's City Manager had an opportunity to review the lease between Bloomfield Township and the Court before it was signed;
- It is unlikely that the City would be able to reach a resolution with the other municipalities in one year;
- He participated in the last meeting between the three current parties to the Agreement. During that meeting, West Bloomfield and Bloomfield Township stated that they would likely default to the statutory funding of the Court if Birmingham were to leave the Agreement;

- If the Commission has concerns about the veracity of his statements, they should consult the City Attorney;
- The Commission should ask the City Attorney whether she believes it is in the City's best legal and financial interests to give notice of its intent to opt out today;
- He firmly advised the Commission that it would not be in its best financial or legal interests to opt out today; and,
- He urged the Commission to vote against the suggested action.

CM Markus said:

- He agreed with FD Gerber's report on the Court's costs and revenues to the City;
- The Bloomfield Township also found that the Township was not making money from participating in the Agreement; and,
- At a minimum the signatories to the Agreement need to be convinced that the figures provided by the Court Administrator were accurate, and FD Gerber found that those figures were misstated.

Commissioner Baller asked that Judge Barron's contention that Birmingham would be charged approximately the same amount either way, with the option to either receive either two-thirds or one-third of the revenue from the City's fines and costs imposed in its cases, be addressed.

CA Kucharek explained that based on an interpretation of the figures of costs and revenues, FD Gerber was advising that it would likely be more financially advantageous to the City to leave the Agreement. She said she understood that Judge Barron was interpreting the figures differently.

CA Kucharek said she found no case law that exactly parallels the issues present in this discussion. She noted that she had stated during her presentation that litigation may be required to resolve the issue of how the 48th District Court is funded.

CA Kucharek also clarified that the presentation given to the Commission on December 13, 2021 was based on the understanding that the two other municipalities in the Agreement would remain funding units if Birmingham were to opt out. She noted the two other municipalities stated during a meeting on January 6, 2022 that if Birmingham were to opt out of the Agreement they would likely opt out as well. She stated that West Bloomfield indicated that they would prefer to remain in an Agreement.

Mayor Longe drew the discussion's attention to the last paragraph of the proposed letter to be sent by the City and Beier Howlett to the two other participating municipalities. She asked CA Kucharek to comment whether the intent of that paragraph was to provide the technical notice of intent to opt out that is required under the Agreement, while remaining more equivocal about whether the City would ultimately opt out.

CA Kucharek confirmed that to be the case. She stated that the Agreement has no provisions preventing the withdrawal or revocation of an intent to opt out.

CM Markus stated that since the last meeting with the two other municipalities he had received a communication regarding meeting to discuss further.

CM Markus noted that Judge Barron seemed to believe that once the intent to opt out is given there is no option to revoke the intent.

In reply to Commissioner Baller, CA Kucharek confirmed that she did believe that once Birmingham gives its intent to opt out the 48th District Court and the two other municipalities would take immediate action, as suggested by Judge Barron.

Mayor Pro Tem Boutros and Commissioners McLain, and Host said they were in favor of using the technical notice to opt out to broach further negotiations with West Bloomfield and Bloomfield Township. All three emphasized the importance of using this approach to open respectful, considerate conversations with these two other municipalities that Birmingham partners with regularly on a number of projects.

Commissioner Host stated that the best way to save the City money is to limit its expenses. He said there would be less risk to the financial wellbeing of the City if it opted to only receive a third of the revenue from the City's fines and costs imposed in its cases.

In reply to Commissioner Baller, CA Kucharek clarified that there are three possible outcomes if Birmingham were to opt out of the Agreement:

- The other two municipalities remain funding units, and Birmingham receives a third of the revenue from the City's fines and costs imposed in its cases;
- Funding the Court is determined by statute, and Birmingham receives a third of the revenue from the City's fines and costs imposed in its cases as per statute; or,
- Through some other legal process or Agreement, a different way of funding the Court and distributing the fines and costs is reached.

Commissioner Baller said that while the City provided the financial analysis of the present Agreement and the first option referenced by CA Kucharek. He said he had not seen an analysis of the financial impact if Birmingham were to pay to fund the Court according to the number of cases the City brings, and were to receive a third of the revenue from the City's fines and costs imposed in its cases.

CM Markus said if Birmingham were to pay to fund the Court according to the number of cases the City brings, and were to receive a third of the revenue from the City's fines and costs imposed in its cases, that would be a poor financial outcome for the City.

Commissioner Baller said the City needed to confront the possibility of that being the outcome if the City opts out of the current Agreement.

CM Markus said if that were the outcome for Birmingham, that would be the outcome for the majority of the other seven municipal members of the 48th District. He said that it was unlikely that most of them would accept those terms, which would then bring the municipalities back to the negotiation table to form another Agreement. He said that is why he and the two other municipalities currently party to the Agreement have already been in touch about continuing discussions.

Mayor Longe reiterated that the City's goal is to perform its due diligence and end up with a more equitable and fiscally responsible agreement.

In reply to Mayor Pro Tem Boutros, CA Kucharek confirmed it would be possible that the 48th District Court would take legal action either against the seven municipalities in the 48th District, or against Birmingham alone. She confirmed that the City would then incur the costs of litigating that case. She noted that it seemed that the City Manager thought that engaging in litigation to reach an equitable outcome might be a worthwhile expenditure.

Both Mayor Pro Tem Boutros and Commissioner Baller expressed concern that there were discrepancies between the figures and findings provided by the Court Administrator versus the ones provided by FD Gerber.

The Mayor noted that those figures also previously included Bloomfield Hills as a funding unit, which is no longer the case. Consequently, the situation going forward will be even less advantageous for Birmingham since it will have to pay more per year to help cover the funding shortfall.

CA Kucharek recommended that the Commission table the discussion to the January 24, 2022 meeting, with a request to FD Gerber for more financial information to be presented at the meeting. CA Kucharek said she would also continue to do more legal research to see if she might find something that would offer more clarity. She noted that it is also the City's intent to meet with the two other municipalities before the the next Commission meeting to begin discussions, which could then be reported on to the Commission at its January 24, 2022 meeting.

CM Markus said he thought the Court Administrator and FD Gerber should come before the Commission on January 24, 2022 to explain how each reached their respective figures and findings.

Commissioner Haig agreed with CA Kucharek's and CM Markus' recommendations, saying it would be most beneficial to see the credits and debits the Court Administrator and FD Gerber are working with.

The Mayor reiterated CM Markus' previous comment that Bloomfield Township also seemed to agree that the Court Administrator's figures were not representative.

The Mayor then asked if the Commission was comfortable with returning to the discussion on January 24, 2022 with updated memos from Staff, clarification of all possible outcomes, and more information on finances from the perspective of both the Court Administrator and FD Gerber.

Public Comment

Rackeline Hoff, resident and former Commissioner, spoke. She suggested that it be clarified that if \$1,000, as an example, were collected due to an incident in Birmingham, how that \$1,000 would be allocated. She was supportive of the Commission's efforts to gain more clarity before proceeding.

Judge Barron said the Commission should determine why the City entered into this Agreement only to give an intent to opt out soon after. He reiterated his statement that the appropriateness of the Court's budget and how the Court is funded are two separate issues and should be treated as such. He said that while it would be beneficial for the Court Administrator and FD Gerber to come to agreement on their figures, it would not be directly relevant to the issue at hand. He reiterated that it is unlikely that Birmingham would be able to opt out of funding the Court at all while still receiving a third of the revenue from the City's fines and costs imposed in its cases. He said the two most likely outcomes are that Birmingham remains in the Agreement and retains two-thirds of the revenue from the City's fines and costs imposed in its cases, or it opts out and the location of the Court receives two-thirds of the revenue from the its fines and costs imposed in its cases and all the other municipalities receive one-third of theirs.

Judge Barron continued that the costs to potentially litigate this matter would be 'massive', and noted that the 48th District Court would have to draw on its budget, which is partially funded by Birmingham, to undertake the litigation. Judge Barron asserted that what the Court returns or does not return to each municipality is not relevant to the discussion.

CM Markus stated that this issue began when Bloomfield Hills chose to opt out of the Agreement. Then Bloomfield Township objected. Both CM Markus and CA Kucharek stated at the time that there was a conflict-of-interest in Bloomfield Hills, Bloomfield Township, and West Bloomfield having the same legal counsel. CM Markus stated at the time that Bloomfield Hills did not comply with the intent to opt out notice requirements, since they did not provide the intent to opt out in January 2021. West Bloomfield and Bloomfield Township then stated that they believed Bloomfield Hills gave adequate notice.

In reply to Judge Barron, CM Markus stated that the City entered into the current Agreement because the City could not withdraw at that point, and because the other two municipalities needed to be provided notice. He asked why there has been much more vocal opposition to Birmingham leaving the Agreement than there was to Bloomfield Hills leaving the Agreement.

The Commission agreed to have the item return on January 24, 2022.

01-011-22 Motion to Take a Brief Recess

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Boutros:
To take a five minute break.

VOICE VOTE: Ayes, Commissioner Baller
 Mayor Pro Tem Boutros
 Commissioner Host
 Commissioner Haig
 Commissioner McLain
 Commissioner Schafer
 Mayor Longe

Nays, None

The meeting took a brief recess at 10:25 p.m.

The meeting returned from recess at 10:32 p.m.

01-012-22 Emeritus Mayors' Club

CM Markus presented the item.

Both Commissioner Baller and Mayor Pro Tem Boutros expressed support for the idea.

Commissioner Haig asked whether there would be potential issues of perceived pressure or conflict of interest that could arise from members of this Club attending board or committee meetings, much like the concern with current Commissioners attending board or committee meetings.

CM Markus noted that they would have to each participate as individuals and make no reference to group. He said there would be no requirements of them because they would not make any policy.

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Boutros:
To encourage City Manager Tom Markus to continue to explore the concept of an Emeritus Mayors' Club with those mayors who are interested in forming such an entity.

Commissioner Host asked why the City should be involved in this.

CM Markus said because it is a group with a lot to offer the City and a deep reserve of civic commitment.

Commissioner McLain said that it would be appropriate to discuss the potential unintended consequences of such a group.

CA Kucharek clarified that this organization could not be mandated, controlled, directed or organized by the City Manager. She said she would even recommend that the City Manager not participate in any discussion regarding this topic during working hours because it could be a private entity, and public monies cannot be used for a private entity.

Commissioner Host said that if such an organization were to form it should be done entirely separately from the Commission.

Commissioner Haig said a motion formalizes the situation.

CM Markus then recommended that the motion be withdrawn.

Commissioner Baller withdrew the motion, and Mayor Pro Tem Boutros withdrew his second.

Commission discussion on items from prior meeting

Commission Items for Future Discussion. A motion is required to bring up the item for future discussion at the next reasonable agenda, no discussion on the topic will happen tonight.

01-013-22 Leaf Blowers

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To discuss the environmental and noise impacts of leaf blowers, potential regulation, and potential alternatives.

Mayor Pro Tem Boutros recommended that Staff look back on previous discussions the Commission has had regarding leaf blowers and noise.

Public Comment

Mr. Bloom agreed that it would be a good topic to explore.

VOICE VOTE: Ayes, Commissioner Baller
 Mayor Pro Tem Boutros
 Commissioner Host
 Commissioner Haig
 Commissioner McLain
 Commissioner Schafer
 Mayor Longe

Nays, None

01-014-22 Food Trucks

MOTION: Motion by Commissioner Host, seconded by Commissioner Schafer:
To further discuss the matter of having food trucks in the neighborhoods.

Commissioner Schafer spoke in support of having the discussion.

CM Markus said he would ask Staff to provide an update on the survey responses and where exploration of the topic stands.

VOICE VOTE: Ayes, Commissioner Host
 Commissioner Haig
 Commissioner McLain
 Commissioner Schafer
 Mayor Longe
 Commissioner Baller
 Mayor Pro Tem Boutros

Nays, None

01-015-22 Commissioner Conduct

Commissioner Host moved that the Commission explore policies regarding behavior that is becoming of a Commissioner.

CM Markus said he has noticed behavior from a number of Commissioners that, while not illegal, may not be best practice. He said the only way that policy would be effective is if the Commission discusses the issues and believes the policies would have value. He said he could provide some examples of policies from other jurisdictions that discuss how elected officials will conduct themselves.

CM Markus said that making everyone better should be an objective process, and should not involve singling out particular individuals.

Commissioner Host asked that the Ethics Guidelines from the Michigan Municipal League also be included as part of the discussion.

There was no second to the motion and no vote on the motion, but the Mayor said there was concurrence on the direction to the City Manager.

01-016-22 Unimproved Streets

Commissioner McLain recommended that the matter of unimproved streets be further discussed.

CM Markus said it would come up in the long range planning session.

No motion was made.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

A. Commissioner Reports

1. Notice of Intention to Appoint to the Board of Zoning Appeals

B. Commissioner Comments

Commissioner Haig asked if there was an update from the Adams Park discussion regarding the cost difference between using artificial turf versus real sod in parts of the park. He noted that the landscape architect from the project had said he would provide further information.

Commissioner Haig said he was disappointed in recent writings from a particular Commissioner and said he felt there were patterns of behavior being demonstrated that were not commensurate with the position.

Commissioner Host said the more the Commission focuses on the residents' priorities the more likely the Commission is to act on the residents' behalf.

Commissioner McLain recommended that anyone interested in Michigan's recent redistricting visit the Michigan Municipal League's website (MML.org) for more information.

Commissioner McLain explained that Commissioners and other board and committee members are meeting in public again despite the current Covid-19 surge because the emergency orders from the State which allowed board members to meet virtually expired on December 31, 2021. She said those with concerns should email their State Senators and Representatives to share their concerns and to ask about next steps.

CA Kucharek said the sad part about the current situation is that those residents of Michigan who choose to volunteer their time and talents to serve their community, as members of an elected or appointed public body, are stripped of the choice to keep themselves safe. She said she found it a travesty that they do not have a choice. She said that in contacting their State Senators or Representatives they should state that they should have the choice to keep themselves and their families safe.

Mayor Longe noted that Oakland County Commissioner Moss was proud that board and committees have been forced to return to meeting in person.

CM Markus noted that when he worked in Kansas board and committee members could join meetings virtually when physically absent for any reason. He said he did not see it misused and that it was an effective way to conduct business. He said having board members give of their time and then to be put in this position was ridiculous and unfair.

Mayor Longe stated that she attended the Boy Scouts of America Troop 1034 Court of Honor to present letters of congratulations, prepared by Communications Director Gamboa, on behalf of the City to five Scouts who earned the rank of Eagle Scout. She congratulated the Eagle Scouts on their achievements.

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

D. Legislation

E. City Staff

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 11:21 p.m.

Alexandria D. Bingham

Alexandria Bingham, City Clerk
/le