

Birmingham City Commission Minutes

December 05, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/776021657>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

City Clerk Bingham called the roll.

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

Absent: None

Staff: City Manager Markus; City Clerk Bingham, Senior Planner Cowan, Planning Director Dupuis,
Finance Director Gerber, City Attorney Grochowski, City Attorney Kucharek

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

Announcements

- The City recommends members of the public wear a mask if they have been exposed to COVID-19 or have a respiratory illness. City Staff, City Commission and all board and committee members must wear a mask if they have been exposed to COVID-19 or actively have a respiratory illness. The City continues to provide KN-95 respirators and triple-layered masks for attendees.
- Happy Birthday Commissioner Boutros!

Appointments

12-303-22 Appointment to the Museum Board

The Mayor noted that while Caroline Ashleigh was not able to be in attendance, the Commission had recently been able to interview Ms. Ashleigh when she applied for a different position on the Museum Board.

MOTION: Nomination by Commissioner Baller:

To appoint Caroline Ashleigh to the Museum Board as an alternate member to serve the remainder of a three-year term to expire July 5, 2023.

VOICE VOTE: Ayes, Mayor Longe

MPT McLain
Commissioner Baller
Commissioner Host
Commissioner Boutros
Commissioner Schafer
Commissioner Haig

Nays, None

It was noted that Ms. Ashleigh would be sworn in at a future date.

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

George Dilgard raised concerns about some non-ordinance compliant light fixtures in the City, and asked the Commission to support bringing the lights into compliance.

V. CONSENT AGENDA

12-304-22 Consent Agenda

Commissioner Baller: Item K – Appointment of Scott Grewe as Police Chief
MPT McLain: Item C – Special Event Application: 58th Annual Village Fair

MOTION: Motion by Commissioner Baller, seconded by Commissioner Boutros:
To approve the Consent Agenda excluding Items C and K.

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

Nays, None

- A. Resolution to approve the warrant list, including Automated Clearing House payments, dated November 23, 2022, in the amount of \$390,693.98.
- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated November 30, 2022, in the amount of \$938,371.60.
- D. Resolution to approve a special event permit as requested by the Birmingham Memorial Day Committee to hold the annual Memorial Day Service on May 29, 2023, 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, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.
- E. Resolution to approve the hiring of PCI Dailey for construction management services for the Front Entrance and Circulation Area of the Baldwin Public Library, to be paid out of account 271.0-790.000-977.0000 (Capital Outlays – Building Improvements). Payment will be based on the bid

submission from October 19, 2022, with a construction management fee of 2.5% of the Guaranteed Maximum Price, to be determined once all subcontract bids are received.

- F. Resolution to confirm the City Manager’s authorization for the emergency expenditure related to backfilling the water main break on the north side of 14 Mile Road west of Shipman Boulevard by D’Angelo Brothers Inc., which is located at 30836 West 8 Mile Road, Farmington Hills, MI 48336, for a cost of \$21,358.00 to be charged to Water Fund account # 591.0-544.000-811.0000, pursuant to Sec. 2-286 of the City Code.
- G. Resolution to confirm the City Manager’s authorization for the emergency expenditure related to the purchase of materials from Carrier & Gable, Inc., for the repair of the west attenuator for the bridge at the S. Eton and Maple Road intersection for a cost of \$8,494.07 to be charged to Bridge Maintenance account for Other Contractual Services Account# 202.0-449.002-811.0000, pursuant to Sec. 2-286 of the City Code.
- H. Resolution to amend Fee Schedule A to add a \$40/unit monthly fee for dumpster rentals.
- I. Resolution to approve the sale of (34) used dumpsters to the Williamsburg of Birmingham Condominiums Complex at \$100 each, totaling \$3400, with Williamsburg Condominiums responsible for maintaining and replacing the dumpsters in the future.
- J. Resolution to authorize the City Clerk to complete the Local Government Approval Notice at the request of Toast Birmingham, LLC, which holds the Class C and SDM License with Sunday Sales (PM) and Outdoor Service Area located at 203 Pierce, Birmingham, Oakland County, MI, to maintain ownership in Toast Birmingham, LLC’s sole member, Toast Holdings, LLC., but to transfer ownership of one of Toast Holdings, LLC’s members, Vision Toast, solely to Regan Bloom.

12-305-22 (Item K) Appointment of Scott Grewe as Police Chief

Commissioners Baller and Haig congratulated Police Captain Grewe.

It was noted that if the motion passed Police Captain Grewe’s swearing in would be scheduled for the December 19, 2022 Commission meeting.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Haig:
To provide Commission consent to the City Manager’s appointment of Police Captain Scott Grewe to the role of Police Chief of the City of Birmingham.

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

Nays, None

12-306-22 (Item C) Special Event Application: 58th Annual Village Fair

Joe Bauman, President of Birmingham Bloomfield Chamber (BBC), answered brief informational questions about the event.

In reply to MPT McLain, Mr. Bauman said it would not be presently financially feasible to open the fair on Wednesday to under-resourced community members that might not otherwise be able to afford to attend. He explained that if the BBC were able to find a sponsor to allow that to happen it might be feasible. He noted that the BBC lost about 45% of its revenue in 2020 and 2021 because of the Covid-19 pandemic. He noted that the BBC also distributes a significant portion of its own fundraising to its non-profit partners throughout the year.

MPT McLain noted a number of organizations that might benefit from free attendance to the Fair on Wednesday night in the future.

CM Markus noted that the operator may be willing to offer some wristbands for free to allow for some under-resourced community members to attend.

Mr. Bauman said the operator likely already had such a program running. He added that it would be easier for the BBC to work with its non-profit partners to distribute some free wristbands for the Fair's regular operating hours than it would be to open the Fair on the Wednesday night prior.

CM Markus told the Commission that Mr. Bauman could include a proposal in the following year's application for helping under-resourced community members to attend.

MPT McLain confirmed she would want such a proposal to be presented, noting that community youth engagement is important for youth mental health and wellbeing.

MOTION: Motion by MPT McLain, seconded by Commissioner Boutros:
To approve a special event permit as requested by the Birmingham Bloomfield Chamber to hold the 58th Annual Village Fair on May 31st – June 4th, 2023 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, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

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

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

Fiscal Year 2021-2022 Audit Presentation

FD Gerber introduced the item.

Timothy St. Andrew and Spencer Tawa from Plante Moran presented the audit and answered informational questions from the Commission.

Commissioner Baller commended the City administration and FD Gerber on their work.

The Mayor concurred.

CM Markus offered comments on how the City maintains its financial health.

MPT McLain thanked HR Staff and the City administration for managing the retiree health care fund well.

48th District Court 2023 Budget

FD Gerber introduced the item.

Patrick Dunn, representative for the 48th District Court (Court), presented the budget.

Mr. Dunn, CM Markus, and FD Gerber answered informational questions for the Commission.

MPT McLain noted for the public that the City has not increased enforcement in order to make a profit or increase a revenue stream.

The Mayor concurred, noting that increased enforcement results in more expenses for the City.

Commissioner Haig said he wanted to know how the Court and the funding units could work together to increase the Court's efficiency. He also emphasized that Birmingham has no interest in compromising community safety in order to increase the Court's efficiency.

The Mayor noted the Commission has a responsibility to inquire how the Court's expenses could be decreased and its revenues increased since Birmingham taxpayers help fund the Court's budget shortfall.

MPT McLain thanked Mr. Dunn for being present and participating. She noted that the Court has an excellent record in terms of the turnaround times for misdemeanors compared to many other courts in the metropolitan area. She noted that those turnaround times are extremely important to public safety. She also concurred with the Mayor that the Commission is accountable to Birmingham residents to understand the details of the Court's budget.

Mr. Dunn was asked to return at the December 19, 2022 Commission meeting with an estimate of the 2022 and 2023 shortfalls based on current cases, and the caseload per judge relative to similar communities.

CM Markus said it would be appropriate for Mr. Dunn and Mr. Gerber to meet to determine those figures.

12-307-22 Public Hearing to consider the proposed Zoning Ordinance amendment to Article 3, Section 3.04(D)(3) of the Downtown Overlay Parking Requirements to allow nonresidential uses in the D4 Zone located outside of any former parking assessment districts to reduce or eliminate parking requirements under the provision of a Special Land Use Permit

The Mayor opened the public hearing.

SP Cowan presented the item.

Stephen Estey, attorney, and Doraid Markus, owner of 469-479 S. Old Woodward, spoke on behalf of the request.

Michele Prentice, senior property manager of Birmingham Place, spoke in support of the request.

The Mayor closed the public hearing.

SP Cowan, Mr. Markus, and Mr. Estey answered informational questions from the Commission.

Commissioner Baller noted that the present request did not entail a waiver of the parking requirements for 74 vehicles. He clarified that a future request could entail a smaller parking requirement waiver request.

Commissioner Boutros said that, with this request, the Commission must consider what would be best for the City overall. He noted that this site has remained undeveloped and could continue to remain undeveloped. He said it is valuable when developers work with their neighbors and with the City.

Mr. Markus said there would be sufficient parking available because residents of 469-479 S. Old Woodward would go to work during the day, leaving parking available for the retail use, and would park at 469-479 S. Old Woodward at night, when the retail use would be closed.

Commissioner Haig raised a concern that many of the vehicles of the residents of 469-479 S. Old Woodward would remain at the property during the day more frequently than in the past because of the increase in work-from-home positions.

Messrs. Estey and D. Markus said the applicant would work with City boards and Staff to find appropriate SLUP terms that would take circumstances like the one mentioned by Commissioner Haig into account.

At the request of MPT McLain, CA Grochowski reiterated the statement from the Staff memorandum that the recommendation by staff of the Planning Department was fully supported by the City Attorney.

Commissioner Baller said he takes Staff and City Attorney recommendations very seriously, and was not entirely persuaded by their arguments in this case. He noted that the City Attorney warned that there was a potential to set a precedent by moving forward with this request.

The Mayor noted it was possible the precedent was already set by allowing a SLUP with a dimensional variance in D5.

Commissioner Baller concurred. He noted that the Planning Board was also largely supportive of the request from the applicant. He said that the Commission may have a role in allowing this site to be developed appropriately.

CA Kucharek noted that the precedent she referred to in her correspondence regarding the request was that this could encourage any property owner to try and find a need to change the ordinance based on their goals for a property.

Commissioner Boutros noted that the City would be able to significantly influence the development of this

property because of Mr. Markus' willingness to enter into a SLUP. He said he did not believe that the City would be setting a precedent through granting this request since 469-479 S. Old Woodward is the only D4-zoned property excluded from the Parking Assessment District (PAD). He said he was leaning towards supporting this request in order to allow this property to be developed in a way that would benefit the City.

MPT McLain said this project was one of a few recently in the City that had been stuck in negotiation at the City board and commission level. She said she would like to see a more creative approach to addressing that pattern. She said it was not beneficial to the City to have an essentially blighted property on S. Old Woodward. She said the Commission had to balance ordinances, zoning, and the public's interest in making these decisions.

Commissioner Haig said that while he concurred with his fellow Commissioners that this property needed to be developed, he was very concerned about the potential parking impact of this ordinance amendment. He said he would prefer to see a plan that would align with the proposed ordinance amendment before voting on the proposed ordinance amendment.

The Mayor said she believed it would be inappropriate to consider granting an ordinance amendment based on whether the Commission liked a plan for the property.

CA Grochowski confirmed that to be the case. He said the ordinance amendment would create the mechanism for allowing a plan to be considered at the Planning Board and then at the Commission.

Commissioner Host echoed Commissioner Haig's concerns about the ordinance amendment's potential impact on parking in the area.

Commissioner Schafer said there was no clear indication as to what could be developed on the property that would be ordinance and master plan compliant. She concurred with a number of her fellow Commissioners that the property needed to be developed. She echoed Commissioner Boutros' comment that the SLUP would allow the City substantial influence in the project. She noted that the Planning Board would consider the parking impacts of any potential plans for the site, and would be responsible to make sure there would not be a negative impact on the surrounding area. Given these facts, she said she was supportive of the proposed ordinance amendment.

The Mayor concurred with a number of her fellow Commissioners that the Commission does not usually vote differently from the City Attorney's and Staff's recommendations. She said it was within the Commission's purview to choose to pursue creative solutions as appropriate, and not Staff's to recommend it. She said that if the Commission voted against the proposed ordinance amendment, she also did not see an immediate opportunity for 469-479 S. Old Woodward to be developed. She said that, given the control afforded by a SLUP and the Commission's statements that they would not be interested in parking-intensive uses on the site, granting the proposed ordinance amendment would allow the applicant to bring a plan to the Planning Board that would not require a 74-space waiver of the parking requirements. She also noted that passing the ordinance amendment in no way would obligate the Commission to approve the plans for the site if the Commission found them to be inappropriate.

CM Markus provided his perspective on the discussion, including noting that there was a previously approved plan for the site from the same developer. He said he also agreed with Commissioner Haig about it being more appropriate to review a plan, with estimated parking counts, for the site before approving the proposed ordinance amendment.

CA Kucharek concurred with CM Markus and Commissioner Haig, saying that this particular circumstance

was unique enough to warrant a review of the plan before considering an ordinance amendment.

Commissioner Baller noted that when the previous businesses were operating at 469-479 S. Old Woodward, there were operating at a parking deficit vis-a-vis the present ordinance requirements.

The Mayor asked Mr. Markus if he completely understood that the Commission would not be interested in a development on the site that would require a 74-space parking requirement waiver.

Mr. Markus confirmed that he did.

The Commission motioned to take a ten-minute recess.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Baller:
To adopt an ordinance to amend Article 3, Section 3.04(D)(3) of the Downtown Overlay Parking Requirements to allow nonresidential uses in the D4 Zone located outside of the former parking assessment district to reduce or eliminate parking requirements under the provision of a Special Land Use Permit per the Planning Board’s recommendation.

Commissioner Schafer advised Mr. Markus that he would be expected to come back with plans that require a less than 74-space parking requirement waiver.

Commissioner Host said he would not support the motion given concerns about the proposed ordinance amendment’s potential impact on parking in the area.

ROLL CALL VOTE: Ayes, Commissioner Schafer
MPT McLain
Commissioner Boutros
Mayor Longe
Commissioner Baller

Nays, Commissioner Host
Commissioner Haig

Commission Items for Future Discussion

12-308-22 Discussion of Process for Selecting a Mayor

MOTION: Motion by MPT McLain, seconded by Commissioner Host:
To schedule a discussion on the history of how the City has chosen a Mayor, and how the City should choose a Mayor moving forward.

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

Nays, None

12-308-22 Discussion of Review of City Lighting

MOTION: Motion by Commissioner Haig, seconded by MPT McLain:
To discuss having the City’s Sustainability Board come up with suggestions, guidelines, and/or best practices for reducing light pollution in the City.

Commissioner Boutros said that it might be more appropriate as a direction to the City Manager.

CM Markus said that could be considered as part of future discussions.

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

Nays, None

Commission Discussion On Items From A Prior Meeting

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of intention to appoint to the Public Arts Board
- B. Commissioner Comments

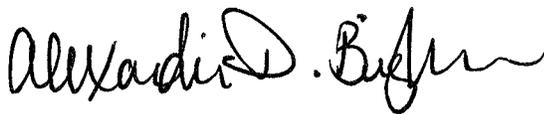
MPT McLain recommended residents use the GovAlert app to submit and track concerns.

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

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 11:48 p.m.



Alexandria Bingham
City Clerk

A handwritten signature in black ink, appearing to read 'Laura Eichenhorn', with a long horizontal flourish extending to the right.

Laura Eichenhorn
City Transcriptionist