Navigating through the agenda:

- Use the bookmarks on the left to navigate through the agenda.

- **Tablet Users:** Tap the screen for available options, select “Open in”, select “Adobe Reader”. The agenda will open in Adobe Reader. Scroll through the bookmarks to navigate through the agenda. 
  (The Adobe Reader application is required to download the agenda and view the bookmarks. This free application is available through the App Store on your tablet device.)
BI R M I N G H A M C I T Y C O M M I S S I O N A G E N D A  
A U G U S T 8, 2016  
M U N I C I P A L B U I L D I N G, 1 5 1 M A R T I N  
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
Rackeline J. Hoff, Mayor

II. ROLL CALL
Laura M. Pierce, City Clerk

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

Announcements:
- Commissioner Birthday – Harris

IV. CONSENT AGENDA
All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

A. Approval of City Commission minutes of June 27, 2016.
B. Approval of City Commission minutes of July 11, 2016.
C. Approval of City Commission minutes of July 25, 2016.
D. Approval of warrant list, including Automated Clearing House payments, of July 27, 2016 in the amount of $1,488,835.57.
E. Approval of warrant list, including Automated Clearing House payments, of August 3, 2016 in the amount of $5,229,699.76.
F. Resolution approving a service agreement with Nagy Devlin Land Design, LLC to provide landscape architect services for the museum in the amount of $4,800 with additional renderings of $300 for an amount not to exceed $5,100.00, with funds provided by the Friends of the Birmingham Museum from a grant from the Rosso Family Foundation for account #101-804.002-811.0000. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.
G. Resolution approving the purchase of one (1) new 2016 Dodge Durango AWD in the amount of $33,360.00 from Lafontaine Chrysler Dodge Jeep Ram through the State of Michigan MiDEAL purchasing contract #071B1300010. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.
H. Resolution approving a request from the Piety Hill Chapter, National Society Daughters of the American Revolution to hold the Veteran’s Day Wreath Laying Ceremony on November 11, 2016 at 11:00 AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
I. Resolution amending special event permit for the Birmingham Cruise Event to include an additional day for set up to begin on Tuesday, August 16 in the 555 Triangle to accommodate the Historic Vehicle Association Camaro #1 display.
J. Resolution approving state law drug forfeitures and authorizing the finance department to transfer $1,079.48 from the drug enforcement bond account number 701-000.000-256.0005 to the state drug forfeiture account number 265-000.000-660.0001.

K. Resolution setting Monday, September 12, 2016 at 7:30 PM for a public hearing to consider amendments to Chapter 126, Zoning, Article 4, section 4.19, Height Standards, to increase the maximum height of buildings in the MX district.

L. Resolution approving the purchase of lighting equipment for the Park St. Structure from Grainger, through the TCPN extendable purchasing contract #R142102 for a total expenditure of $260,055.87. Funds for this purchase are available in the Auto Parking Fund, account #585-538.003-977.0000. Further, directing the Mayor and City Clerk to approve the purchase of light fixtures on behalf of the City,

AND

Resolution approving the agreement with Lee & Associates, in the amount not to exceed $36,170.00 to install light fixtures at the Park St. parking structure. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

M. Resolution amending the Fee Schedule to increase the fee for the combination of platted lots from $50 per lot to $200 per lot, consistent with the fee for the separation of platted lots and lot splits.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. Public hearing to consider lot rearrangement - 976 & 1058 Arden Ln.
   1. Resolution approving the proposed lot rearrangement at 976 & 1058 Arden Ln. as proposed by granting a waiver per Chapter 102, Subdivisions, Sec. 102-4 of the City Code;

   OR

   2. Resolution denying the proposed lot rearrangement at 976 & 1058 Arden Ln. as proposed, based on the application not meeting the requirements of Chapter 102, Subdivisions, Sec. 102-53.

B. Resolution supporting A Coalition for Transit. (complete resolution in agenda packet)

C. Resolution authorizing the Mayor and Clerk to sign the agreement between Buccilli Group and the City of Birmingham for engineering services.

D. Closed Session - City Manager Performance Evaluation

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

A. Commissioner Reports
   1. Notice of Intention to appoint to the Advisory Parking Committee, Historic District Commission and Design Review Board on September 12, 2016.

B. Commissioner Comments

C. Advisory Boards, Committees, Commissions’ Reports and Agendas
XI. ADJOURN

INFORMATION ONLY

NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk’s Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

Las personas que requieren alejamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
Rackeline J. Hoff, Mayor, called the meeting to order at 7:33 PM.

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

Absent, None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, City Planner Ecker, City Engineer O'Meara, Finance Director Gerber, Deputy Treasurer Klobucar, DPS Director Wood, Police Chief Clemence

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

06-192-16 U.S. CONGRESSMAN - 11th DISTRICT
DAVE TROTT
Congressman Trott presented an update on legislation passed in Washington.

06-193-16 APPOINTMENT TO THE MARTHA BALDWIN PARK BOARD
MOTION: Motion by Harris:
To appoint Bob Kenning, 1700 Villa, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

MOTION: Motion by Bordman:
To appoint Ronald Buchanan, 1280 Suffield, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2019.

MOTION: Motion by DeWeese:
To appoint Jane McKee, 392 Ferndale, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

MOTION: Motion by Sherman:
To appoint Linda Forrester, 1252 South Bates, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2019.
VOTE ON NOMINATION OF KENNING:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF BUCHANAN:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF MCKEE:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF FORRESTER:
Yeas, 7
Absent, None

06-194-16 APPOINTMENT OF THE HEARING OFFICER AND ALTERNATE HEARING OFFICER
The Commission interviewed Alexander Stotland, 698 Hanna, for appointment to the Hearing Officer position. Patricia Papadopoulos, 1588 Bennaville was unable to attend to be interviewed.

The Commission agreed to postpone the appointment until Ms. Papadopoulos is available to be interviewed.

The Clerk administered the oath to the appointed members of the Martha Baldwin Park Board.

IV. CONSENT AGENDA
All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

06-195-16 APPROVAL OF CONSENT AGENDA
The following items were removed from the consent agenda:
- Item E (Special Event Request - Harriers 5K Run/Walk) by Commissioner Bordman
- Item K (Purchase of DPS Message Boards) by Commissioner Bordman
- Item M (Outside Agency Agreements for Birmingham Bloomfield Community Coalition, Birmingham Youth Assistance, Common Ground, Haven) by Commissioner Bordman
- Item N (Outside Agency Agreement for Deaf & Hearing Impaired Services, Inc) by Commissioner Bordman
- Item I (Tree Care and Removal Agreement) by Mayor Hoff

MOTION: Motion by DeWeese, seconded by Boutros:
To approve the consent agenda as follows:
A. Approval of City Commission minutes of June 6, 2016.
B. Approval of warrant list, including Automated Clearing House payments, of June 8, 2016 in the amount of $900,497.25.
C. Approval of warrant list, including Automated Clearing House payments, of June 15, 2016 in the amount of $1,583,670.79.
D. Approval of warrant list, including Automated Clearing House payments, of June 22, 2016 in the amount of $559,547.20.

F. Resolution approving the purchase of one (1) new Toro Workman MDX Utility Vehicle from Spartan Distributors, through State of Michigan extendable purchasing contract #071B0200329 for a total purchase price not to exceed $11,746.77. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

G. Resolution awarding the 2016 Asphalt Resurfacing Project, Contract #5-16(P), to Pamar Enterprises Inc. in the amount of $1,072,270.00 to be charged to the following accounts:

<table>
<thead>
<tr>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Street Fund</td>
<td>202-449.001-981.0100</td>
</tr>
<tr>
<td>Local Street Fund</td>
<td>203-449.001-981.0100</td>
</tr>
<tr>
<td>Sewer Fund</td>
<td>590-536.001-981.0100</td>
</tr>
<tr>
<td>Water Fund</td>
<td>591-537.004-981.0100</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
</tr>
</tbody>
</table>

And further; approving the appropriation and amendment to the 2016-2017 Major Street Funds, as well as the Sewer Fund budgets as follows:

Major Streets Fund

- **Revenues:**
  - Draw from Fund Balance 202-000.000-400.0000 | $39,786.00
  - Total Revenue | $39,786.00

- **Expenditures:**
  - EPS-Construction/ Public Improvements 202-449.001-981.0100 | $39,786.00
  - Total Expenditures | $39,786.00

Sewer Fund

- **Revenues:**
  - Draw from Fund Balance 590-000.000-400.0000 | $196,340.00
  - Total Revenue | $196,340.00

- **Expenditures:**
  - EPS-Construction/ Public Improvements 590-536.001-981.0100 | $196,340.00
  - Total Expenditures | $196,340.00

H. Resolution approving the appointment of election inspectors for the August 2, 2016 Primary Election pursuant to MCL 168.674(1) and authorizing the City Clerk to make revisions as needed.

J. Resolution approving the purchase of one (1) new 2016 Case 580SNWT Loader Backhoe from Southeastern Equipment Co., Inc., using National Joint Powers Alliance extendable purchasing pricing for a total expenditure not to exceed $103,798.86. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

L. Resolution setting July 25, 2016 as the date of a public hearing to consider the amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.

O. Resolution approving the service agreement with Next in the amount of $99,810 for services described in Attachment A of the agreement for fiscal year 2016-2017, account number 101-299.000-811.0000, and further directing the Mayor and City Clerk to sign the agreement on behalf of the City.

P. Resolution approving the First Amendment to the Ground Lease Agreement by and between the City of Birmingham and NCWPCS MPL. 23-Year Sites Tower Holdings, LLC and approving the Memorandum of the First Amendment to the Ground Lease and authorizing the Mayor and Clerk to execute the same on behalf of the City.

June 27, 2016
ROLL CALL VOTE:  Yeas,  Commissioner Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita
Commissioner Sherman
Mayor Hoff
Nays,  None
Absent,  None
Abstention,  1 (Hoff from Item A – absent)

06-196-16  SPECIAL EVENT REQUEST
BIRMINGHAM HARRIERS 5K RUN/WALK
Terri McArdle, representing the Birmingham Harriers Run, confirmed for Commissioner Bordman
that set up on site will begin at 7:00 AM, but any set up along the course will begin at 8:00 AM.

Commissioner Bordman expressed concern with noise that would affect the neighborhood.

MOTION:  Motion by Bordman, seconded by Harris:
To approve a request submitted by the Seaholm Cross Country Team to hold Birmingham
Harriers 5K Run/Walk on August 7, 2016, contingent upon compliance with all permit and
insurance requirements and payment of all fees and, further pursuant to any minor
modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE:  Yeas, 7
Nays, None
Absent, None

V.  UNFINISHED BUSINESS

VI.  NEW BUSINESS

06-197-16  PUBLIC HEARING TO CONSIDER A REZONING
404 PARK STREET
Mayor Hoff opened the Public Hearing to consider the rezoning of 404 Park Street at 7:56 PM.

City Planner Ecker explained the proposal to rezone the property at 404 Park. She noted that it
is two lots located on the north side of Oakland between Park Street and Woodward Avenue.
She explained the history of the rezoning attempts and study of this site by the Planning Board
and LSL Planning.

Ms. Ecker noted that the proposal is to rezone this property to the TZ1 zoning category. She
explained that the applicant is proposing four units and have stated that they intend to comply
with the recommendations of the LSL sub-area plan. She explained that the current zoning R-2
would allow for two detached single family units. Under the proposal TZ1, they would be
allowed to have four attached single family units. Ms. Ecker explained the standards that must
be reviewed for a rezoning application.
Mayor Pro Tem Nickita disclosed that he had past involvement with the development interest on this site. City Attorney Currier explained the decision by the Board of Ethics that this is not a conflict of interest as it was a past business relationship.

Mayor Pro Tem Nickita questioned the dialog in the sub-area plan and how it focused on the one site versus all three sites to the north, specifically 404 and the site adjacent to the west. Ms. Ecker explained that the Oakland Park Sub-Area Plan clearly delineated the two. One of the areas of the study was the Oakland Area along the north side of Oakland. 404 Park was distinguished as a separate area only because it made up part of the Oakland gateway into the downtown and it was unique fronting on three streets and having a narrow depth compared to the other lots. The views across Oakland of the office building and parking structure were not well shielded by the median landscaping and the house would have to be closer to Oakland due to the shallow depth of the lot. Ms. Ecker explained that all of Oakland was considered a gateway as having some similar characteristics.

Ms. Ecker confirmed for Mayor Pro Tem Nickita that the residential density capacity of an R8 versus a TZ1 are the same.

Rick Rattner, attorney representing the applicant, reviewed the history of this parcel and the ordinance. He further explained why rezoning was necessary, why the existing zoning is no longer appropriate, and why the proposed rezoning would not be detrimental to the surrounding properties.

Tom Ryan, attorney representing Mr. & Mrs. Host at 416 Park, noted that a transitional zone is a buffer zone between the lower density neighborhood to protect it from the higher density property. He stated that Oakland has been the buffer. He noted that he is not convinced it is necessary to rezone.

The following individuals spoke in opposition to the rezoning:
William Finnicum, owner of 404 Bates
Paul Gillin, 271 & 273 Eculid
Kathryn Gaines, 343 Ferndale
Jane McKee, 392 Ferndale
Paul Reagan, 997 Purdy
Michael Schuck, 247 Oakland and owns 267 Oakland
Benjamin Gill, 520 Park
Bella Fichtenberg, 430 Park
Gina Russo, 431 Park

Commissioner Harris disclosed that he was involved in litigation with an entity named FCB. One of the members of FCB is the owner of 404 Park. He noted that FCB was adverse to his client and the case is now settled.

Commissioner Sherman pointed out that the last time the Commission looked at this was in September, 2015, not only at this parcel, but across the City and evaluating whether certain parcels should be rezoned at that time to TZ1, TZ2, or TZ3. Looking at what was presented then and now, he sees no difference. There is nothing different in the plan, no facts have changed and the sole reason this is back to the Commission is the argument that the City initiated that process to look at all of the zoning and this was initiated by the developer. He stated that he questions the original reason it was reviewed because a developer came forward.
and wanted contractual zoning and the City is not interested in contractual zoning. The Commission had LSL prepare a study and look at a number of parcels around the City. LSL provided recommendations as to what could be done. LSL looked at the area of Ferndale to Woodward and from Oakland back one parcel. The study said that 404 may have had some differences, but when you look at the language used for all of them, LSL said if the City wanted additional transitional buffering, this is the area that should be used.

Commissioner Sherman pointed out that in looking at Oakland, it is commercial zoning, residential, then it would be transitional. He stated that doing this does not make sense. If the City is going to have transitional zoning, it should be congruent. He stated that the property is zoned R2. Just because the developer wants it to be something else, does not mean it should be if it does not fit in with the view of the City according to its plans for how things should be interpreted. He stated that he is not in support of the request to rezone.

Commissioner DeWeese stated that he will not support a change in zoning as he believes that nothing has been fundamentally changed. To make the decision to change any parcel, a case would have to be made for changing all the parcels.

Mayor Pro Tem Nickita commented that the study on transitional zoning needs to be looked at as a unit.

**MOTION:** Motion by Sherman, seconded by DeWeese:
To deny the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional.

The Mayor closed the Public Hearing at 9:37 PM.

Mayor Hoff expressed concern with prolonging this and stated that it is the Commission's responsibility to make a decision. She expressed opposition to the motion.

Commissioner DeWeese commented that it should be dealt with as a unit. He suggested it be reviewed with the master plan.

Commissioner Harris expressed support of the motion and agreed that a review of the entire block would be consistent with what the Commission requested back in the fall. He stated that he is having a hard time finding the community benefit to the rezoning.

**VOTE:**
Yeas, 5
Nays, 2 (Bordman, Hoff)
Absent, None

Commissioner Bordman pointed out that the property owner has a right to return in one year to ask for a rezoning.

Commissioner Sherman explained that back in September, the Commissioners had requested that before this came back, the entire Oakland area be reviewed to evaluate whether the entire area should be transition zoning from commercial to Woodward. This was never done. He stated that the Planning Board should return to the Commission with a report.
Commissioner DeWeese stated that the master plan is coming up within a year. He would rather wait and have them look at it in the context of the new master plan.

Commissioner Bordman stated that it is not fair to the residents to wait for possibilities. If the Commissioners want the Planning Board to review this, give them a time certain within two to three months so the residents have peace of mind about what is happening with this property.

**MOTION:** Motion by Sherman, seconded by Nickita:
To direct staff to gather information about the RFP, the review and revisions to the master plan, and input from the planning board as to process that would best be used to analyze Oakland Avenue from Old Woodward to Woodward.

Commissioner Bordman stated that she will not be supporting the motion because she does not agree with it in principle. She stated that this should be sent right to the Planning Board to examine.

Mayor Pro Tem Nickita stated that the bigger picture has to be considered and not focusing on one particular property.

**VOTE:**
Yeas, 6
Nays, 1 (Bordman)
Absent, None

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**PUBLIC HEARING OF NECESSITY FOR SEWER LATERAL REPLACEMENT WITHIN THE VILLA AVENUE PAVING PROJECT AREA**

Mayor Hoff opened the Public Hearing of Necessity for sewer lateral replacement within the Villa Ave. Paving Project at 10:16 PM.

City Engineer O’Meara explained that the price normally charged to the residents is based on the low bidder price. He suggested a new formula be used based on the average price of all the bidders which would be $65.33 per foot.

Commissioner Sherman noted that this has been done on other projects where the contract has been substantially higher than the average price.

Bob Kenning, resident, commented that he has been extremely pleased with the work of the current contractor.

The Mayor closed the Public Hearing at 10:21 PM.

**MOTION:** Motion by Sherman, seconded by DeWeese:
To declare necessity for replacement of sewer laterals within the Villa Ave. Paving Project. The public hearing of confirmation will be held on Monday, July 11, 2016, at 7:30 P.M:

WHEREAS, The City Commission has passed Ordinance No. 1906, to establish and adopt requirements and procedures for the replacement of sewer lateral lines when the City street is open for repairs or reconstruction; and
WHEREAS, The City Commission is of the opinion that replacement of sewer laterals not meeting current criteria as a part of the planned road paving project is declared a necessity; and

WHEREAS, formal bids have been received and the actual cost per foot for replacement of the sewer laterals has been determined,

RESOLVED, that all sewer laterals not meeting current criteria located within the limits of the following streets shall be replaced as a part of the paving project on Villa Ave. from Adams Rd. to Columbia Ave.

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, of which 100% of the contractor’s charge to replace sewer lateral (calculated at the rate of $65.33 per linear foot) shall be charged to the adjoining property owners benefiting from the sewer lateral,

RESOLVED, that there be a special assessment district created and special assessments levied in accordance with benefits against the properties within such assessment district, said special assessment district shall be all properties, within the following district:

“Birmingham Villas Subdivision”
All of the following lots also include the southerly 8 ft. of the adjacent vacated alley:
Lots 73-75 inclusive, lots 78-82 inclusive, lots 84-90 inclusive, lots 92-94 inclusive, lot 95 and the adjacent westerly half of adjacent vacated Dixie Ave., lots 101-105 inclusive, lots 108, 109.

All of the following lots also include the adjacent 9.5 ft. vacated alley to the south of each lot, as well as have an adjacent 9.5 ft. exception taken for Villa Ave. right-of-way:
Lots 110-115 inclusive, lots 117, 118, lots 120, 121, the easterly 45 ft. of lot 123 plus the westerly half of adjacent vacated Dixie Ave. right-of-way, Lot 124 plus the easterly half of adjacent vacated Dixie Ave. right-of-way, lots 125-127 inclusive, lots 129, 130, 132, 134, 135 plus th4e westerly 20 ft. of adjacent vacated Yankee Ave. right-of-way, lots 138-146 inclusive.

RESOLVED, that the Commission shall meet on Monday, July 11, 2016, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the replacement of sewer laterals within the Villa Ave. Paving Project.

VOTE: Yeas, 7
Nays, None
Absent, None

06-199-16 PUBLIC HEARING TO CONSIDER SPECIAL LAND USE PERMIT
100 TOWNSEND, TOWNSEND HOTEL (CORNER BAR)

Mayor Hoff opened the Public Hearing at 10:21 PM to consider the Final Site Plan and Special Land Use Permit – 100 Townsend, Townsend Hotel (Corner Bar).

City Planner Ecker explained that any establishment that serves alcoholic liquors that makes a change to the name, ownership, or application for site plan review, must obtain a Special Land Use Permit. The Townsend Hotel is requesting a thirty square foot addition to fill in the corner at the entrance to the Corner Bar. She explained they are proposing to get rid of the Corner Bar as a separate establishment and create another private reception area. She presented the plans for the proposed area.
Ms. Ecker explained that the area will be connected to the hotel. She confirmed for Commissioner Bordman that the steps would be removed.

Mayor Pro Tem Nickita commented that an existing conditions drawing would be helpful.

Victor Saroki, architect for the project, confirmed for Mayor Pro Tem Nickita that the glass windows would be clear. He explained that there will be drapery in the space similar to the Rugby Grill. He explained the entry off of Merrill Street will be ADA compliant and near the valet should a function need valet. He noted that the outdoor dining will be eliminated in that area.

The Mayor closed the Public Hearing at 10:36 PM.

**MOTION:** Motion by Nickita, seconded by Boutros:
To approve the Final Site Plan and Special Land Use Permit to allow the Townsend Hotel to convert The Corner Bar into a private reception and special event space:

WHEREAS, The Townsend Hotel has filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a private dining and special event space with alcoholic beverage sales for on-premise consumption under Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on at 100 Townsend St. between Pierce Rd. and Henrietta;

WHEREAS, The land is zoned B-4 and D-4, and is located within the Downtown Birmingham Overlay District, which permits restaurants with alcoholic beverage sales for on-premise consumption with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, On May 18, 2016 the Historic District Commission reviewed the proposed changes to the site and issued a Certificate of Approval pursuant to the requirements of the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

WHEREAS, On May 25, 2016, the Planning Board reviewed the proposed changes to the site and recommended approval of the Final Site Plan to the City Commission;

WHEREAS, The Birmingham City Commission has reviewed The Townsend Hotel Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that The Townsend Hotel application for a Special Land Use Permit authorizing the operation of a establishment with alcoholic beverage sales (on-premise consumption) at 100 Townsend in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;
BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted;

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, except as herein specifically provided, The Townsend Hotel and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of The Townsend Hotel to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7
Nays, None
Absent, None

06-200-16 PUBLIC HEARING TO CONSIDER TEMPORARY SPECIAL LAND USE PERMIT 835 & 909 HAYNES, LAVERY PORSCHE

Mayor Hoff opened the Public Hearing at 10:37 PM to consider the Revised Final Site Plan and Temporary Special Land Use Permit Amendment – 835 & 909 Haynes, Lavery Porsche.

City Planner Ecker explained that renovations are being done to the Audi building. The applicant would like to use 909 Haynes temporarily for the sales office. She noted that the request is to use the building for a period of twelve months. She noted that the Planning Board had a few comments regarding landscape and screening in the parking area. She noted that twenty-four parking spaces are required by ordinance and there are thirty-six dedicated parking spaces for this site. She pointed out that vehicles for sale or lease are not allowed to be stored within the twenty-four spaces required for the building.

Fred Lavery, applicant, explained that the sales staff and managers will have to be relocated due to the renovation to the Audi building. He noted that the twenty-four parking spaces are for the occupants of the building. The difference between the twenty-four required spaces and thirty-six spaces will be used for the storage of cars.

A resident at 635 Elm Street expressed his support of the request, but only for one year.

The Mayor closed the Public Hearing at 10:54 PM.

MOTION: Motion by Nickita, seconded by Bordman:
To approve the Revised Final Site Plan and Temporary Special Land Use Permit Amendment of one year for 835 & 909 Haynes – Lavery Porsche with the condition that applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, Lavery Porsche has applied for a Temporary Special Land Use Permit Amendment of one year to operate an Audi automobile sales agency on the first floor of the building located at 909 Haynes,
WHEREAS, The land for which the Temporary Special Land Use Permit Amendment is sought is located on the north side Haynes east of Elm,

WHEREAS, The land is zoned MU-5, Mixed Use 5, which permits automobile sales agencies with a Special Land Use Permit,

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, requires a Special Land Use Permit Amendment to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The Planning Board reviewed the proposed Temporary Special Land Use Permit Amendment request on April 27, 2016 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following condition:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on April 27, 2016;

WHEREAS, The Birmingham City Commission has reviewed the Lavery Porsche Temporary Special Land Use Permit Amendment application as well as the standards for such review as set forth in Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below and the Lavery Porsche application for a Temporary Special Land Use Permit amendment is hereby approved for one year from the date of approval, subject to the attached site plan, and subject to the following conditions:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Lavery Porsche and its heirs, successors and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Lavery Porsche to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7
Nays, None
Absent, None

06-201-16   SOUTH OAKLAND COUNTY CRASH INVESTIGATION TEAM INTERLOCAL AGREEMENT

MOTION: Motion by Sherman, seconded by Harris:
To approve the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Interlocal Agreement for
Participation in the South Oakland County Crash Investigation Team (SOCCIT). Further, directing the Mayor and the City Clerk to sign the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT).

Police Chief Clemence explained the South Oakland County Crash Investigation Team multi-jurisdictional crash investigation team is currently made up from officers from Auburn Hills, Bloomfield Township, Bloomfield Hills, and Troy. He explained that this is part of the multi-jurisdictional movement to share resources to make our communities safer, better, and more efficient.

VOTE: Yeas, 7  
Nays, None  
Absent, None

06-202-16  2015-2016 FISCAL YEAR  
BUDGET APPROPRIATIONS AND AMENDMENTS

Finance Director Gerber explained that the memo explains the requested changes to the 2015-2016 budget.

MOTION: Motion by Sherman, seconded by Boutros:

To approve the appropriations and amendments to the fiscal year 2015-2016 budget as follows:

**General Fund:**

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<td>Total Expenditure Adjustments</td>
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**Major Streets Fund:**
Expenditures:
Traffic Controls & Engineering 202-303.002-804.0200 $ 60,000
Street Trees
202-449.005-702.0001 12,000
202-449.005-702.0002 1,000
202-449.005-706.0002 2,000
202-449.005-941.0000 15,000
Snow & Ice Control 202-449.006-729.0000 (70,000)
202-449.006-941.0000 (20,000)

Total Expenditure Adjustments $ -0-

Local Streets Fund:
Revenues:
Intergovernmental 203-000.000-540.0000 $ 80,000
Total Revenue Adjustments $ 80,000
Expenditures:
Traffic Controls & Engineering 203-303.001-937.0300 $ 2,000
Street Cleaning 203-449.004-941.0000 10,000
Capital Outlay - Engineering & Construction of Roads
203-449.001-981.0100 100,000
203-449.001-985.7300 25,000
Snow & Ice Control 203-449.006-702.0001 (7,000)
203-449.006-729.0000 (40,000)
203-449.006-941.0000 (10,000)

Total Expenditure Adjustments $ 80,000

Principal Shopping District:
Revenues:
Other Revenue 247-000.000-676.0001 $ 15,000
Draw from Fund Balance 247-000.000-400.0000 55,000
Total Revenue Adjustments $ 70,000
Expenditures:
Principal Shopping District 247-441.005-702.0002 $ 15,000
247-441.005-941.0000 15,000
247-748.000-811.0000 25,000
247-748.000-829.0200 (5,000)
247-748.000-903.0000 (5,000)
247-748.000-904.0000 10,000
247-748.000-909.0000 15,000

Total Expenditure Adjustments $ 70,000

VOTE: Yeas, 7
Nays, None
Absent, None

06-203-16 FEE SCHEDULE AMENDMENT WATER AND SEWER RATES AND INDUSTRIAL SURCHARGES & WASTE CONTROL CHARGES
Finance Director Gerber explained the changes to the water and sewer represent a 7.25% increase.
**MOTION:** Motion by DeWeese, seconded by Bordman:
To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in water and sewer rates and changes in industrial surcharges and industrial waste control charges to be effective for bills with read dates on or after July 1, 2016.

**VOTE:**
- Yeas, 7
- Nays, None
- Absent, None

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**06-204-16 CLOSED SESSION REQUEST PENDING LITIGATION**

**MOTION:** Motion by Nickita, seconded by Sherman:
To meet in closed session to review pending litigation regarding Shellaberger v City of Birmingham pursuant to Section 8(e) of the Open Meetings Act.

**ROLL CALL VOTE:**
- Yeas, Commissioner Boutros, Commissioner DeWeese, Commissioner Harris, Mayor Pro Tem Nickita, Commissioner Sherman, Commissioner Bordman, Mayor Hoff
- Nays, None
- Absent, None
- Abstention, None

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**06-205-16 CLOSED SESSION REQUEST ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

**MOTION:** Motion by Sherman, seconded by Nickita:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

**ROLL CALL VOTE:**
- Yeas, Commissioner DeWeese, Commissioner Harris, Mayor Pro Tem Nickita, Commissioner Sherman, Commissioner Bordman, Commissioner Boutros, Mayor Hoff
- Nays, None
- Absent, None
- Abstention, None

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**VII. REMOVED FROM CONSENT AGENDA**

**06-206-16 TREE CARE AND REMOVAL AGREEMENT**

Mayor Hoff requested clarification on the average annual increase to the contractor as listed in the report. DPS Director Wood explained that the contract has been on-going for twelve years. The last six of those years there has been no increase.
Ms. Wood confirmed for Mayor Hoff that extending the contract will allow time to continue discussion with the current contractor or to rebid the service.

**MOTION:** Motion by DeWeese, seconded by Sherman:
To approve the Amendment and Resolution to the Tree Care and Removal Agreement with J. H. Hart Urban Forestry that ends on June 30, 2016 and authorizing a sixty (60) day extension with all terms and conditions remaining the same until August 31, 2016. Further, authorizing the Mayor and City Clerk to sign the Agreement upon receipt of all required insurances.

VOTE: Yeas, 7
Nays, None
Absent, None

06-207-16   DPS MESSAGE BOARDS
In response to a question from Commissioner Bordman, DPS Director Wood explained the differences between the type of message boards. She noted that the model chosen gives more functionality and more uses for formatting, number of characters, and software.

**MOTION:** Motion by Bordman, seconded by Boutros:
To approve the purchase of two (2) Sunray 345 message boards from National Signal Inc. in an amount not to exceed $28,650.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

VOTE: Yeas, 7
Nays, None
Absent, None

06-208-16   OUTSIDE AGENCY AGREEMENTS
Commissioner Bordman expressed her hesitation with approving expenditures without knowing whether the residents are receiving any value for the funds given to the organizations. She requested additional information be provided to include the number of residents utilizing the service. Mayor Hoff suggested documentation be provided as to how the funds are used.

Clerk Pierce explained that a detailed invoice is received from Deaf & Hearing Impaired Services. Chief Clemence explained the services provided by Birmingham Bloomfield Community Coalition, Birmingham Youth Assistance, Common Ground, and Haven.

The Commission agreed to postpone the outside agency agreements for additional information.

**VIII. COMMUNICATIONS**

06-209-16   COMMUNICATIONS
The Commission received the following communications:
- Troy & Lisa Testa re: Villa Road paving project
- Terry Holmes re: Petition for Maddie

City Manager Valentine commented that the Police Chief has sent a letter outlining the status of where that case sits. He noted that the matter has been turned over to the 48th District Court for prosecution.
Robin Smith re: Leash laws
Mayor Pro Tem Nickita expressed concern with the issue of dogs being off-leash. He noted the Rouge River Trail from Lincoln to Maple is a problem area and suggested the Police Department address this area.

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

06-210-16 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA
George Stern, 1090 Westwood, suggested the cemetery reports be moved to the next meeting due to the late hour.

X. REPORTS

06-211-16 COMMISSIONER COMMENTS
Commissioner Harris suggested a representative from the ACT Coalition advocating for regional transit in metro Detroit address the Commission. The Commission agreed.

06-212-16 CITY STAFF REPORTS
The Commission received the Mosquito Control Update submitted by DPS Director Wood.

City Manager Valentine noted that this is an annual process for mosquito control. He pointed out that the treatment does address the zika and west nile virus.

Commissioner Bordman encouraged residents to remove any standing water on their property to eliminate potential breeding grounds for mosquitos.

The Commission agreed to receive the Greenwood Cemetery Advisory Board Annual Report and Cemetery Report/Contractor Update submitted by the City Clerk and bring the reports to the next meeting as a New Business item.

The Commission recessed to closed session at 11:32 PM.
The Commission reconvened in open session at 12:20 AM

XI. ADJOURN

The meeting adjourned at 12:20 AM.

Laura M. Pierce
City Clerk
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor, called the meeting to order at 7:33 PM.

II. ROLL CALL

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

Absent, None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Police Chief Clemence, City Planner Ecker, Finance Director Gerber, Deputy Treasurer Klobucar, City Engineer O’Meara, DPS Director Wood, Building Official Johnson, HR Manager Taylor, Assistant to the Manager Haines

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

07-213-16  CITIZEN’S ACADEMY PLAQUE PRESENTATION
Jack Burns, representing the Citizens Academy, presented a plaque to the City in recognition of the first class of participants in the Academy.

07-214-16  REGIONAL TRANSIT AUTHORITY REPRESENTATIVE
The Mayor announced that the Regional Transit Authority Representative presentation has been postponed.

07-215-16  APPOINTMENT TO THE GREENWOOD CEMETERY ADVISORY BOARD

MOTION: Motion by Bordman:
To appoint Linda Buchanan, 1280 Suffield, to the Greenwood Cemetery Advisory Board to serve a three-year term to expire July 6, 2019.

MOTION: Motion by Nickita:
To appoint Margaret Suter, 1795 Yosemite, to the Greenwood Cemetery Advisory Board to serve a three-year term to expire July 6, 2019.

VOTE ON NOMINATION OF BUCHANAN:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF SUTER:
Yeas, 7
Absent, None

07-216-16 APPOINTMENT TO THE MUSEUM BOARD

MOTION: Motion by Bordman:
To appoint Judith Keefer, 505 East Lincoln, #4, to the Museum Board to serve a three-year term to expire July 5, 2019.

VOTE: Yeas, 7
Absent, None

The Clerk administered the oath to the appointed board members.

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

07-217-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:
- Item B (Minutes of June 27, 2016) by Commissioner Sherman
- Item F (Agreement for IT Services) by Mayor Hoff
- Item K (Contract for Skating Director) by Mayor Hoff
- Item L (Special Event Request – Winter Markt) by Commissioner Harris

MOTION: Motion by DeWeese, seconded by Boutros:
To approve the consent agenda as follows:
A. Approval of City Commission/Planning Board workshop minutes of June 20, 2016.
C. Approval of warrant list, including Automated Clearing House payments, of June 29, 2016 in the amount of $747,133.71.
D. Approval of warrant list, including Automated Clearing House payments, of July 6, 2016 in the amount of $723,771.57.
E. Resolution approving the purchase of 36A hot asphalt mix at $58.00/ton and $59.00/ton, UPM cold patch (delivered) at $115.00/ton and $116.00/ton and UPM cold patch (picked up) at $111.00/ton and $112.00/ton for fiscal years 2016-2017 and 2017-2018; respectively from Cadillac Asphalt LLC to be charged to account #s 202-449.003-729.0000, 203-449.003-729.0000, 590-536.002-729.0000 and 591-537.005-729.0000.
G. Resolution setting Monday, August 8, 2016 at 7:30 PM for a Public Hearing to consider the proposed Lot Rearrangement of 976 Arden Ln. and 1058 Arden Ln.
H. Resolution approving the Birmingham Police Departments participation in the amended Oakland County Law Enforcement Mutual Aid Agreement. Further, directing the Chief of Police to submit a copy of the approved resolution to the Oakland County Association of Chiefs of Police.
I. Resolution recognizing FAR Conservatory of Therapeutic and Performing Arts, 1669 West Maple, Birmingham, Michigan 48009 as a 501(c) (3) non-profit organization for the
purpose of obtaining a State of Michigan Gaming License with the State of Michigan Charitable Gaming Division. Furthermore, authorizing the City Clerk to complete the Local Governing Body Resolution Form, forwarding same to the Charitable Gaming Division, Lansing, Michigan.

J. Resolution accepting the resignation of Jeff Wilmot from the Museum Board, thanking Mr. Wilmot for his service.

ROLL CALL VOTE: Yeas, Commissioner Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita
Commissioner Sherman
Mayor Hoff
Nays, None
Absent, None
Abstention, None

V. UNFINISHED BUSINESS

07-_218_-16 OUTSIDE AGENCY AGREEMENTS
BIRMINGHAM BLOOMFIELD COMMUNITY COALITION,
BIRMINGHAM YOUTH ASSISTANCE, COMMON GROUND, HAVEN
DEAF & HEARING IMPAIRED SERVICES, INC

Commissioner Boardman commented that the City requires a level of information that justifies the expenses from the organizations. She stated that she expects to receive much more detail from the agencies next year.

Mayor Hoff explained that the agencies used to have to make a presentation to the Commission. City Manager Valentine confirmed that the current process is consistent with last year.

MOTION: Motion by Bordman, seconded by DeWeese:
To approve the 2016-2017 outside agency contracts for Birmingham Bloomfield Community Coalition in the amount of $3,000, Birmingham Youth Assistance in the amount of $18,000, Common Ground in the amount of $1,500, Haven in the amount of $2,000, and, further authorizing and directing the mayor and city clerk to sign the agreements on behalf of the city.

The following representatives briefly described the services they offer:
Martha Moyer, Haven
Carol Mastroianni, Birmingham Bloomfield Community Coalition
Nikki Keller and Dick Stasys, Birmingham Youth Assistance
Heather Rae, Common Ground

VOTE: Yeas, 7
Nays, None
Absent, None

MOTION: Motion by Bordman, seconded by DeWeese:
To approve the service agreement with Deaf & Hearing Impaired, Inc. in the amount of $2,400.00 for services described in Attachment A of the agreement for fiscal year 2016-2017, account number 101-215.000-811-0000. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

VOTE: Yeas, 7  
Nays, None  
Absent, None

VI. NEW BUSINESS

07-219-16  PUBLIC HEARING OF CONFIRMATION  
SPECIAL ASSESSMENT DISTRICT  
VILLA AVENUE - SEWER LATERALS

Mayor Hoff opened the Public Hearing of Confirmation – S.A.D. #877 – Villa Ave. Water Main Project Sewer Laterals at 8:08 PM.

Deputy Treasurer Klobucar recommended adoption of the roll.

The Mayor closed the Public Hearing at 8:09 PM.

MOTION:

Motion by Sherman, seconded by Boutros:

To confirm Special Assessment Roll No. 877 for the Villa Ave. Water Main Project Sewer Laterals, and instructing the City Clerk to endorse said roll, showing the date of confirmation thereof, and certifying said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement:

WHEREAS, Special Assessment Roll, designated Roll No. 877, has been heretofore prepared for collection, and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property to be assessed, and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction and

Commission Resolution 06-198-16 provided it would meet this 11th day of July 2016 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this June 27, 2016, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham,

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 877 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of four and a half percent (4.5%) on all unpaid installments.
07-220-16  RESIDENTIAL PERMIT PARKING ON SOUTH GLENHURST BETWEEN LINCOLN AND MIDVALE

Police Chief Clemence explained that a petition was received for residential parking on South Glenhurst between Lincoln and Midvale from 7:00 AM – 4:00 PM to address the school parking issue. He noted Glenhurst is the first street east of the high school that does not have residential permit parking.

Commissioner Sherman expressed concern that one street after the other is asking for permit parking. He commented that this problem may disappear down the road as the school district is planning to expand the parking lot. He noted that the previous Commission had asked for an in-depth study for how to deal with this as opposed to on a street by street basis.

City Manager Valentine explained that residential permit parking is intended to be included with the Citywide master plan update as a component to look at parking throughout the City and address these issues comprehensively.

Commissioner Sherman suggested putting a one-year limit on the request. He pointed out that all these streets are public streets and the issue needs to be addressed.

Mayor Pro Tem Nickita agreed that the a parking strategy in the neighborhood is needed. Commissioner Bordman agreed and stated that the schools must address this more urgently.

Steve Gretchko, resident on Glenhurst, expressed support of the permit parking and noted the permit is the only mechanism the residents have to deal with this.

Richard Widerstedt, 936 South Glenhurst, expressed support of the request. He explained the difficulty in getting out of his driveway and having the trash picked up due to all the students cars parked on the street.

Commissioner DeWeese and Mayor Pro Tem Nickita agreed that there should be a one year time limit on the permit. Commissioner Boutros questioned why a time limit would be crucial. He stated that the pressure should be on the City, not the residents, for a solution. Commissioner Harris stated that he would not support a time limit on the permit.

MOTION: Motion by Nickita, seconded by Sherman:
To approve residential permit parking on Glenhurst, between Lincoln and Midvale, 7:00 AM – to 4:00 PM School Days Only. Further to direct the Chief of Police and the City Clerk to sign the traffic control order on behalf of the City establishing residential permit parking on Glenhurst between Lincoln and Midvale 7:00 AM to 4:00 PM School Days Only with the addition of a one year review of all permit parking in the area of Seaholm to determine the circumstances and how the circumstances have been altered.

Commissioner Harris stated that he is voting against the motion as it does not cover the entire City.

VOTE: Yeas, 6
Police Chief Clemence explained the request for residential permit parking on Frank St. between Bates and Chester to address the encroachment of employees from the downtown businesses parking on their street. Chief Clemence confirmed for Mayor Hoff that only one resident has an address on Frank, but there are four residents that are on that particular block.

Commissioner Bordman commented that the parking issue is in the evening and late afternoon. She suggested changing the timeframe to late afternoon and add a review of all parking permits in the City. Commissioner Harris suggested extending the two hour time limit to 10:00 PM.

MOTION: Motion by Bordman, seconded by Harris:
To extend the residential parking 2-hr time limit from 8:00 AM - 10:00 PM for Frank Street between Bates and Chester. In addition that we put a one-year review provision for all permit parking in the City of Birmingham.

Chief Clemence confirmed for Dan Teehan, 187 Chesterfield, that the two hour time limit is monitored by marking tires.

Darlene Gehringer, 1108 West Maple commented that if a resident has a parking complaint, they should contact the City to send out parking enforcement.

VOTE: Yeas, 7
Nays, None
Absent, None

Police Chief Clemence explained that the key findings of the West Maple Road Reconfiguration Study shows a reduction in the crash data as well as an overall reduction of accidents by 38%. The traffic volume remained unchanged. The average speed was reduced and the cut-through traffic was reduced with the exception of two streets Lake Park and Pleasant. The level of service as to how the intersections function was not reduced and the travel time increased which is related to the slower movement of traffic and the closing of Big Beaver Road. He noted that, based on the data, Fleis & Vandenbrink recommended the road be changed to a three lane road.

Commissioner Sherman commented that it seems that traffic has sped up in the area of the merge lanes from Cranbrook toward the City. He questioned why the merge lane is so long. Chief Clemence noted that extra signage will be added. Commissioner Bordman agreed that the merge lane is the biggest problem that she has observed.

Mike Labadie, traffic consultant, stated that for the merge to work correctly, it has to be that long. Mayor Pro Tem Nickita suggested hatching the road to make it clear that it is a zone that one is not allowed to drive on.
Commissioner Boutros commented on the congestion heading east toward Southfield. He stated that the closing of Big Beaver Road has affected the congestion as well. He suggested the City explore the option to extend the right turn lane after Baldwin Road because a center lane is not needed after Baldwin.

Mayor Hoff noted that the Commission received about thirty letters and most are in favor of the three lanes. Those objecting are on Lincoln and Oak.

The following residents spoke in support of the three lanes:
Tom Lynch, 1580 West Lincoln
Jill Wilkinson, 690 Kimberly
Mike Clawson, 139 Pilgrim
Darlene Gehringer, 1108 West Maple

The following individuals commented on the congestion on Maple:
Dan Teahan, 187 Chesterfield
Melanie Teehan 187 Chesterfield

**MOTION:** Motion by Nickita, seconded by Bordman:
To accept the final report that West Maple Road, between Cranbrook Road and Southfield Road, be reconfigured from four lanes of traffic to three lanes of traffic on a permanent basis as part of the City of Birmingham’s plan to re-surface the road.

**VOTE:**
Yeas, 7
Nays, None
Absent, None

**07-223-16**
ORDINANCE AMENDMENT TO REPEAL SECTION 74-5 FORTUNETELLING
Police Chief Clemence explained that after a review of section 74-5 of the Birmingham City Code, Fortunetelling, has been determined to be unconstitutional based on a Supreme Court ruling.

**MOTION:** Motion by DeWeese, seconded by Boutros:
To adopt an ordinance repealing City Code, Chapter 74, Offenses, Article I In General, Section 74-5 Fortunetelling, in its entirety. Furthermore, authorizing the Mayor and City Clerk to sign the ordinance for the removal of behalf of the City.

**VOTE:**
Yeas, 7
Nays, None
Absent, None

**07-224-16**
ORDINANCE AMENDMENT TO SECTION 74-324 MINOR IN POSSESSION
Police Chief Clemence explained that the ordinance amendment would add a term of probation as a sentencing option for the judge.

**MOTION:** Motion by Sherman, seconded by DeWeese:
To adopt an ordinance amending Part II of the City Code, Chapter 74 Offenses, Article VII Offenses Against Public Morals, Division 5 Controlled Substances, Subdivision II Alcoholic
Liquors Generally, Section 74-324 Persons under 21, unlawful purpose, consumption or possession, section (2) and (3) to add “complete a term of probation” and authorizing the Mayor and City Clerk to sign the ordinance on behalf of the City.

VOTE: Yeas, 7  
Nays, None  
Absent, None

07-225-16 SMART PARKING METER 30-DAY TRIAL
Police Chief Clemence explained that the City is looking at reconstructing Old Woodward in the downtown area. Staff felt that, at this time, the parking meters should be reviewed to determine whether they could be replaced with a multi-spaced system or remain using single spaced meters. It was the opinion of the Advisory Parking Committee that the single spaced smart meters were a better option. The users of the meters could use coins, credit cards, or park mobile. Both vendors offered a thirty-day trial period.

Mayor Pro Tem Nickita expressed support of the study. He noted that the idea of looking at a parking system needs to be considered longer term. He explained that downtown Detroit eliminated all the meters and implemented zones. He stated it is good for the City to update the meters, but going forward do a broader review and rethink technology.

MOTION: Motion by Nickita, seconded by Sherman:
To direct the Police Department to proceed with 30 day trials of (16) each IPS Group M5 and CivicSmart Liberty smart meters and vehicle detection sensors to be installed on Martin Street between Pierce and Henrietta, further authorizing the mayor to sign the agreements on behalf of the city.

Mayor Hoff questioned the use of the credit card at a meter. Chief Clemence explained that there would be an additional charge – the City would receive its dollar and the credit card fees would be paid to a third party by the consumer.

The Commission discussed the pay by space parking versus the zone parking.

Darlene Gehringer expressed opposition to this as parking should not be a profit center. She stated that the meter should not reset to zero as it is illogical.

VOTE: Yeas, 7  
Nays, None  
Absent, None

07-226-16 GREENWOOD CEMETERY ADVISORY BOARD 2015 ANNUAL REPORT & GREENWOOD CEMETERY CONTRACT UPDATE
The Commission received the Greenwood Cemetery Advisory Board 2015 Annual Report and the Greenwood Cemetery Report/Contractor Update submitted by City Clerk Pierce.

City Clerk Pierce presented the 2015 Greenwood Cemetery Advisory Board (GCAB) Annual Report. Ms. Pierce explained that the GCAB addressed three major items in 2015 which include space availability and the sale of graves, ground penetrating radar, and updating the rules and regulations. She explained that 103 graves were sold in 2015, 44 of which were sold in
Sections B & C. Once 200 graves are sold in Sections B & C, the GCAB will discuss whether to continue selling graves in those sections and a recommendation will be given to the Commission. Ms. Pierce presented the financial information from the sale of the newly designated graves.

Commissioner DeWeese suggested including a breakdown of where the non-residents are from who have purchased graves and whether they are former residents or have some connection with the City. He requested an update on Public Act 13 in terms of the perpetual care fund and maintaining historical markers.

Commissioner Bordman suggested the contractor is responsible for the upkeep in the cemetery and that repair should be borne by the contractor. City Manager Valentine explained that the structural maintenance of the cemetery still resides with the City. He explained that the perpetual care fund will effectively be used as the source of funding for the ongoing care and maintenance in the future once significant principal is established in that fund. He stated that the contractor handling the headstones was not part of the contract.

Commissioner DeWeese suggested the GCAB consider recommending steps to make a Friends of Greenwood Cemetery 501c(3) that could be used as a fundraising and support arm similar to the library and museum.

Finance Director Gerber explained that Public Act 13 allows cities to invest some of the cemetery perpetual care funds in mutual funds. The requirement in the Act is that the mutual fund be rated in the top two tiers of a nationally recognized mutual fund rating agency and no more than 60% of the funds fund balance can be invested in equity securities. He cautioned that as with any investment in the market, there is a potential for market loss. The way the City currently invests its funds is very secure, but does limit the interest income.

Mr. Valentine pointed out that the Finance Director is working on developing a policy to allow for this more risky type of investment. The policy will be presented to the Commission with parameters in place by which the City manages its funds.

Mayor Hoff stated that reclamation is a way of getting grave sites that no one is ever going to use and do not know they even have in their family. It is a research and date information process. Mr. Valentine explained that, to alleviate the concern of the grave owners, there was no direction given by the Commission to proceed with reclamation. It was rather to proceed with the spaces available existing in the cemetery.

Commissioner Bordman expressed support of starting the process to discover how many spaces have not been used in a number of decades and proceeding to inquire, not take, but inquire of any family members whether those spaces are ever going to be used. If the answer is no, they could sell them back to the City for the going rate instead of creating new spaces.

Commissioner Sherman explained the discussion held by the former Commission regarding reclamation and the concern from individuals who had plots within the cemetery. He pointed out that there is space available in the cemetery and reclamation is not a pressing need.

Commissioner Harris agreed with the Commission’s decision in August and expressed support of the status quo. Wait to see if there is a demand, then balance it against the concern with reclamation. He commented that the figures are low and show a potential lack of demand.
Darlene Gehringer, chairperson of the GCAB, expressed concern with the payment plan and noted that the payment plan is not part of the contract. She also expressed concern with the Lot Resale Policy where the City pays 100% of the repurchase price. She stated that the contractor should share in that as well. She noted that the Board has requested ground penetrating radar be done on the entire cemetery which would help in the reclamation process. She stated that the reclamation process has changed so it is less than a year now.

Ms. Pierce explained that the ground penetrating radar request is planned to be presented in the 2017-18 budget year. She explained the payment plan and noted that the City Attorney reviewed the contract and the rules and regulations and found that neither speak to the methodology of sale. Ms. Pierce explained the Lot Resale Policy only addresses graves sold after October 1, 2014. If someone owned a grave prior to that date, they could sell it privately.

George Stern, resident & GCAB member, expressed concern with the payment plan. He suggested the Commission ask the GCAB to discuss whether the City should have a regulation permitting the payment of graves over time, should it include interest, and a time limit for payment. He expressed concern with the location of the newly designated graves and suggested the Commission ask the GCAB to revisit this regulation. He stated that the City is doing a disservice to its residents by offering this precious and rare commodity, the graves at the cemetery, to non-residents at the same enticing prices as offered to residents. He suggested the possibility of not selling graves to non-residents. Mr. Stern suggested the Commission move to adopt Public Act 13 speedily. He encouraged the Commission to move forward with reclamation under Public Act 215.

City Attorney Currier explained that the courts have ruled that one cannot exclude non-residents. He explained that the cemetery is not supported by taxes, therefore the ability to have a differential in fees is not there.

City Clerk Pierce presented the Greenwood Cemetery Update/Contractor Update. She explained that the City entered into an agreement with the Historic Elmwood Cemetery for Cemetery Management Services in 2013. She pointed out that the care, maintenance, and operation of the Cemetery remain under the supervision and control of the City Manager. Ms. Pierce presented a breakdown of the responsibilities of the City before and after the contract and the contractor’s current responsibilities. She presented the financial information since the inception of the contract as well. She noted that the labor costs are not tracked separately by the City and the Contractor.

Ms. Pierce explained the Grave Interest List and the process used by the contractor to contact the individuals on that list. She explained that a payment plan is offered by the contractor. She pointed out that once the payment plan is fulfilled, the City will receive its 75% portion of the sale. Burials cannot occur until the payment plan is paid in full.

Commissioner Harris commented on the pace of the contractor contacting individuals on the Grave Interest List. He stated that it seems like a slow and inefficient pace.

Commissioner DeWeese stated that he would like to see a more comprehensive review of all the costs and revenues for the contractor that are associated with the cemetery.
In response to a question from Commissioner Bordman regarding monuments and gravestones, Kevin Desmond, GCAB member, explained that the contractor, any funeral home, and any independent monument dealer could sell monuments and markers. He further explained that the contractor does not sell caskets, vaults or flowers.

Mr. Desmond encouraged the Commission to focus on the fact that new graves would not be available without the contractor. The contractor has mapped out the new spaces and met with the families. It has created a situation for the income to be coming to the City for the creation of the Perpetual Care fund. The cemetery is being managed and the residents are being served at an exceptional level and better than when the City itself was managing it.

George Stern stated that the Community Foundation for Southeast Michigan has a negative return and you can never get the money back and never borrow from it. He commented on his opinion of the contractor’s financial information.

Commissioner DeWeese suggested the GCAB create a possible action list for the Commission to review to prioritize some of the different issues. The Commission can make the judgement and prioritize the list.

**07-227-16 CURRENT PLANNING ISSUES DISCUSSION**
The Commission agreed to postpone the current Planning issues for discussion to the next meeting.

**07-228-16 2017 CITY COMMISSION MEETING SCHEDULE**
**MOTION:** Motion by Sherman, seconded by DeWeese:
To approve the proposed schedule of regular City Commission meetings for 2017.

**VOTE:** Yeas, 7  
Nays, None  
Absent, None

**VII. REMOVED FROM CONSENT AGENDA**

**07-229-16 MINUTES OF JUNE 27, 2016**
Commissioner Sherman requested additional information be added to the minutes regarding the 404 Park discussion. The Commission agreed to return this item to the next meeting.

**07-230-16 INFORMATION TECHNOLOGY SERVICES AGREEMENT WITH LOGICALIS**
Mayor Hoff questioned when the IT Director position would be filled. HR Manager Taylor explained that the City wants to look at the performance of the contractor first.

**MOTION:** Motion by DeWeese, seconded by Sherman:
To approve a 12-month service agreement with Logicais, Inc. for City Information Technology services. Further, directing the City Manager to sign the agreement on behalf of the City.

**VOTE:** Yeas, 7  
Nays, None  
Absent, None
07-231-16  SKATING DIRECTOR CONTRACT
Commissioner Hoff noted that the contract stated the position is an interim skating director. DPS Director Wood confirmed that agreement will be modified to remove “interim”.

Ms. Wood confirmed for Mayor Hoff that there will be two contractual positions - the Ice Show Manager and the skating director.

**MOTION:** Motion by DeWeese, seconded by Nickita:
To approve the Contract for Skating Director with Jill Kolaitis effective July 12, 2016 up to and including May 26, 2017 as corrected. Further, to authorize the Mayor and City Clerk to sign the Contract on behalf of the City of Birmingham upon receipt of all required insurances.

**VOTE:**
Yeas, 7  
Nays, None  
Absent, None

07-232-16  SPECIAL EVENT REQUEST  
WINTER MARKT
In response to a question from Commissioner Harris regarding the use of a liquor license, City Manager Valentine explained that the City approves the ability to allow it during the event.

Commissioner Harris suggested a sign be placed at the carriage ride boarding area when the horses are on a break.

**MOTION:** Motion by Harris, seconded by Boutros:
To approve a request from the Birmingham Shopping District to hold the Winter Markt, in Shain Park and surrounding streets from December 2 - 4, 2016 and to allow the use of temporary liquor licenses in Shain Park for this event, contingent upon compliance with all permit and insurance requirements and payment of all fees, and, further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

**VOTE:**
Yeas, 7  
Nays, None  
Absent, None

VIII. COMMUNICATIONS

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

X. REPORTS

XI. ADJOURN
The meeting adjourned at 12:14 AM.

Laura M. Pierce  
City Clerk
BI RMI NGH A M CI TY COM MI SSION MI NUTES
JULY 25, 2016
MUNICI PAL BUILDING, 151 MAR TI N
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

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

Absent, None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Assistant to the
Manager Haines, DPS Director Wood, BPS Director Heiney, City Planners Ecker & Baka, Fire
Chief Connaughton, Deputy Fire Marshal Campbell, Finance Director Gerber, Deputy Treasurer
Klobucar, Police Chief Clemence

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

07-233-16
INTRODUCTION OF DEPUTY FIRE MARSHAL
Fire Chief Connaughton introduced the new Deputy Fire Marshal Joel Campbell.

07-234-16
RECOGNITION OF PEABODY FAMILY
The Commission presented a Proclamation to the Peabody Family in recognition of the forty-one
years operating Peabody’s Restaurant in the City of Birmingham.

07-235-16
APPOINTMENT OF THE
HEARING OFFICER AND ALTERNATE HEARING OFFICER

MOTION: Motion by Sherman:
To appoint Alexander Stotland, 698 Hanna, as the Hearing Officer to serve a three-year term to
expire June 30, 2019.

MOTION: Motion by Harris:
To appoint Patricia Papadopoulos, 1588 Bennaville, as the alternate Hearing Officer to serve a
two-year term to expire June 30, 2018.

VOTE ON NOMINATION OF STOTLAND:
Yeas, 7
Absent, None
VOTE ON NOMINATION OF PAPADOPOULOS:
Yeas, 7
Absent, None

**07-236-16**

APPOINTMENT TO THE
BIRMINGHAM SHOPPING DISTRICT BOARD

**MOTION:** Motion by Boutros:
To concur in the city manager’s appointment of Amy Pohlod, 912 S. Old Woodward (Bridal Couture) to the Birmingham Shopping District Board, as the business operator or property owner member, to serve the remainder of a four-year term to expire November 16, 2018.

**VOTE:** Yeas, 7
Absent, None

The Clerk administered the oath to the appointed board members.

**IV. CONSENT AGENDA**

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

**07-237-16 APPROVAL OF CONSENT AGENDA**
The following items were removed from the consent agenda:
- Item C (Chemical/Fertilizer Purchases for Golf Courses) by Commissioner Bordman
- Item J (Trail Improvement Project) by Commissioner Boutros

**MOTION:** Motion by Sherman, seconded by DeWeese
To approve the consent agenda as follows:
A. Approval of warrant list, including Automated Clearing House payments, of July 13, 2016 in the amount of $908,197.85.
B. Approval of warrant list, including Automated Clearing House payments, of July 20, 2016 in the amount of $2,810,980.77.
D. Resolution approving the amendment to the City of Birmingham Park Rules and Regulations as it pertains to Park Rule #10 and corresponding Birmingham City Code Chapter 78 – Parks and Recreation Article IV. Use of Parks Section 78-82. Closing hours. Language change is as follows:

The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.

(1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.

(2) Adams Park shall be closed from 9:00 p.m. to 8:00 a.m.
(3) Springdale Park hours shall coincide with Springdale Golf Course hours and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty.

(4) Except as provided in subsections (1), (2) and (3) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.

(5) All public property not included in subsections (1), (2), (3) and (4) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.

E. Resolution accepting the resignation of Diane Kowaleski from the Public Arts Board, thanking Ms. Kowaleski for her service, and directing the Clerk to begin the process to fill the vacancy.

F. Resolution accepting the resignation of Amanda Warner from the Multi-Modal Transportation Board, thanking Ms. Warner for her service, and directing the Clerk to begin the process to fill the vacancy.

G. Resolution setting Monday, August 22, 2016 at 7:30 PM for a public hearing to consider the amendments to Chapter 126, Zoning, Article 02, Sections 2.23, 2.27, 2.29, 2.31, 2.33, 2.35, 2.37, 2.39, Article 04, sections 4.12, 4.57, 4.67, 4.68, 4.69, 4.70, 4.71, Article 05, Sections 5.10, 5.12, 5.13, and Article 09, Section 9.02.

H. Resolution approving a request from the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 13 - 14, 2017 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

I. Resolution approving a request submitted by the Birmingham Bloomfield Chamber, Junior League of Birmingham, and The Community House requesting permission to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 30, 2016 in downtown Birmingham, 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.

ROLL CALL VOTE: Yeas, Commissioner Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita
Commissioner Sherman
Mayor Hoff

Nays, None
Absent, None
Abstention, None

07-238-16 CHEMICAL/ FERTILIZER PURCHASES FOR GOLF COURSES
Commissioner Bordman expressed concern with the use of glyphosate on the golf courses as it is thought to be a dangerous chemical.

DPS Director Wood explained that the use of glyphosate is very limited and used for spot treatment of weeds generally around the parking lot area and in cracks.
MOTION: Motion by DeWeese, seconded by Bordman:
To approve chemical/fertilizer purchases for Lincoln Hills and Springdale golf courses from
Harrell's for $22,000, Residex Turfgrass for $22,000 and Great Lakes Turf for $8,000, minus the
City using glyphosate on the golf courses. The total purchase from all vendors will not exceed a
total of $52,000. Funds will be charged to account numbers 584/597-753.001-729.0000.

Mayor Hoff questioned if there were any alternatives to the use of glyphosate. Ms. Wood
explained that she will research and report back to the Commission. Commissioner Harris
suggested that research at the state level be included in the report too.

Commissioner Sherman suggested it be approved for this year and ask staff to report back if
there is an alternate that can be used for this year.

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

07-239-16 TRAIL IMPROVEMENT PROJECT
Commissioner Boutros questioned if any consideration has been given to improving the trail
connectivity for crossing Maple at Baldwin Road.

City Manager Valentine explained that there is a plan proposed for trail connections which calls
for a north/south crossing at Maple. He stated that it is one of the elements that would require
further study to determine exactly what the connection method will be. At this point, the
proposal is to connect the trail from the sidewalk to the bridge.

Mr. Valentine suggested the concern of Commissioner Boutros be referred to the Multi-Modal
Transportation Board. Mayor Pro Tem Nickita agreed that now is the time to review this for a
potential solution.

Clinton Baller, resident, agreed that a crosswalk should be installed. He commented that the
proposed trail improvement is not necessary and is a waste of money. He noted that the sign
says it is the Rouge River Green Corridor and something that looks like asphalt will be installed.
He noted that people are not walking where the proposed path will be installed.

In response to a question from Mayor Pro Tem Nickita as to why porous material will be used
instead of the chip trail, Ms. Wood explained that the City received positive feedback on the
navigability of the material. She noted that the proposed material is perfect for the existing
condition and that there is a lot of maintenance with the chip trail.

Commissioner Boutros moved to approve the purchase and installation of Porous Pave by X Tier
Inc. to improve connectivity to the Rouge River trail system in the amount not to exceed
$25,000. Further, waiving the normal bidding requirements due to X Tier Inc. being the sole
source installer of this product. Funds are available for this project from the Parks - Other
Contractual Services account # 101-751.000-811.0000. There was no second.

Commissioner DeWeese summarized the concerns expressed by the Commission which includes
having consistency and durability. He noted that there are parts of the trail that are very soggy
and that the path does not follow the foot pattern.
MOTION:  Motion by DeWeese, seconded by Boutros:
That this be referred to the Parks and Recreation Board to look at options.

Mayor Pro Tem Nickita agreed that a path is needed for consistency. He stated that other items to consider is cost and maintenance and to consider something more permanent other than chips to address the soggy spots. Commissioner DeWeese noted that ADA accessibility should be considered as well.

VOTE:  Yeas, 7
Nays,  None
Absent, None

V.  UNFINISHED BUSINESS

07-240-16  CURRENT PLANNING ISSUES DISCUSSION
City Planner Ecker explained that the Commission discussed the current planning issues at the joint workshop. This report is to get the Commission’s formal direction to the Planning Board on each item.

(1)  Transitional Zoning (TZ2 District)
The Commission discussed transitional zoning. Commissioner Sherman noted that the purpose of this agenda item is to solidify the Commission’s direction on this topic to the Planning Board, not to re-discuss the issues. He stated that the question is whether the suggested resolution accurately reflects what the Commission wants the Planning Board to study.

MOTION:  Motion by DeWeese, seconded by Sherman:
To direct staff to work with the Planning Board to prepare a narrative on the recent study of transitional zoning including the following:
   (i)  What initiated the transitional zoning study;
   (ii) What options have been considered to date; and
   (iii) A comparison of existing O1 and O2 uses in relation to the proposed TZ2 uses.
And further, to direct the Planning Board to review the number and type of uses proposed to be permitted in TZ2, outline the next steps planned, and to conduct a public hearing with sufficient public notice to gather input on the proposed changes and develop a recommendation based on input received that can be forwarded to the City Commission.

VOTE:  Yeas, 7
Nays,  None
Absent, None

(2)  Commercial Development Parking Requirements
City Planner Ecker explained that the Planning Board is looking for direction as to whether or not the Planning Board should review the parking requirements for private developments and potentially consider the possible reduction of parking standards for residential units and consider the multi-modal transportation projects that are going on in the region and whether those should affect the private parking standards and to direct staff to include a discussion on parking in the City-wide master plan.

MOTION:  Motion by Nickita, seconded by DeWeese:
To direct the Planning Board to review the parking requirements for private developments, including but not limited to, considering the possible reduction of parking standards for residential units, and considering the impacts of multi-modal transportation options on the required number of parking spaces; and further to direct staff to include a discussion on parking requirements in the City-wide master plan update.

Clinton Baller, resident, suggested the Commission consider the provision of parking as something that is discussed in the master plan and in the context of a possible D5 new zone and how the City can get more public parking out of new developments. He stated that the concept is that density bonuses be offered.

VOTE: Yeas, 7  
Nays, None  
Absent, None

(3) Existing Commercial Non-Conforming Buildings
City Planner Ecker explained that if a review of all the buildings in town was done, one would find something slightly non-conforming on many of the buildings that were built, especially if they were built prior to the sixty's when the zoning ordinance came into effect. She noted specifically buildings such as the Merrillwood Building, Birmingham Place, and the 555 building in regards to the height and bulk of the buildings. She explained that the discussion at the workshop was that there should be some regulation in the zoning ordinance that allows for some maintenance or renovation to those types of buildings when they are already non-conforming. The City does have that for residential non-conforming now.

Mayor Hoff questioned whether renovation includes expansion as expansion is another issue. Ms. Ecker explained that it would be something for the Board to discuss.

Commissioner DeWeese noted that there are two elements - general language about what anyone could do for non-conformance and language that specifically applied to non-conforming and tell them what limits they can go to. That will give developers an opportunity to not always have to get exceptions.

Mayor Pro Tem Nickita commented that this is an issue that the Commission wants to address. He questioned if the City is looking at identifying a district or a series of buildings throughout the City. Ms. Ecker explained that this is to establish a procedure where if there was a non-conforming building in the City and whichever way it is non-conforming, it would give the owner a way to make changes to modernize that building.

MOTION: Motion by DeWeese, seconded by Bordman:  
To review the non-conformance provisions pertaining to commercial buildings to provide specific requirements, considering a new zoning category or categories, that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

Jerry Reinhart, representing the 555 Building, suggested this item be moved to the top of the priority list.

VOTE: Yeas, 7  
Nays, None
(4) Definition of Retail
City Planner Ecker explained that another topic frequently discussed is whether the definition of retail should be clarified to make it more specific to the types of things that one consider as traditional retail or leave it wider open so there are no vacancy issues.

In response to a question from Mayor Pro Tem Nickita, Ms. Ecker explained that the original discussion of retail downtown gives a basis for the Board to start from. She explained that the discussion would include where we wanted to go, did we accomplish it and where do we want to go from here. Commissioner DeWeese suggested that there be a measure of primary use versus secondary use as well.

**MOTION:** Motion by DeWeese, seconded by Boutros:
To direct the Planning Board to study the following:

(i) To evaluate the success of the red line retail district in Downtown Birmingham to determine if the intended objectives are being met;
(ii) To study the existing definition of retail in the Zoning Ordinance and recommend any needed amendments to the definition; and
(iii) To review all retail-related requirements contained in the Zoning Ordinance and recommend any needed amendments.

**VOTE:** Yeas, 7
Nays, None
Absent, None

(5) Dormer Considerations
City Planner Ecker explained that the dormer issue is primarily on the residential side mostly with the habitable attic space. She explained the Building Department is looking for some guidelines that make the dormer guidelines very clear for residential and the definition for habitable attic.

**MOTION:** Motion by Nickita, seconded by Boutros:
To direct the Planning Board to review the dormer and habitable attic regulations in the Zoning Ordinance as they relate to current dormer construction trends in residential zoned districts. Specifically, to conduct a detailed public input and review process to:

(1) Clarify the types of dormers permissible that project from second story roofs enclosing habitable attics;
(2) Provide recommended width limitations for dormers projecting from second story roofs; and
(3) Refine the maximum area regulations for habitable attics that would not count as a story.

**VOTE:** Yeas, 7
Nays, None
Absent, None

(6) Planning Board Action List
City Planner Ecker explained that given the direction tonight and the outcome of the joint meeting, the Planning Board wanted to know if the Commission would like the Action List tweaked in terms of the order of priorities.

The Commission discussed the items to be prioritized and agreed to the following priority order:

1. Dormers
2. TZ2
3. Non-Conforming Buildings
4. Commercial Development Parking Requirements

Move item #9 after item #11 and keep the outdoor storage and glazing on the list.

**MOTION:** Motion by Sherman, seconded by Nickita:
To direct the Planning Board to revise their 2016-2017 Planning Board Action List to reflect the City Commission’s recent and pending directives as of July 11, 2016.

**VOTE:**
- Yeas, 7
- Nays, None
- Absent, None

**VI. NEW BUSINESS**

**07-241-16 PUBLIC HEARING TO CONSIDER ORDINANCE AMENDMENT REGARDING GLAZING STANDARDS**

Mayor Hoff opened the Public Hearing to consider amendments to Zoning Ordinance – Glazing Standards at 9:54 PM.

Planner Baka explained that there are three sets of standards that govern how window standards are applied in the City – for the downtown overlay, the triangle district, and for all other commercial properties in the City which includes the rail district. He explained that as the Planning Board was reviewing projects, they started seeing projects that were forced to obtain variances to accomplish the design or had to alter the design of the façade in order to gain approval without a variance.

Mr. Baka explained the recommendation to add a provision that would require glazing on not just the frontage lines, but also on any side of the building where there is a public entrance. In certain situations, specifically along Woodward where there are only two sides to the building and there are rear entrances, a lot of stores need storage rooms and back of house type of situations. The recommendation includes a minimum requirement of 30% on secondary entrances, which is half of what is required on the front. The other recommendation is that no blank walls longer than twenty feet that face a plaza, park, parking area or street.

Mayor Pro Tem Nickita stated that the ability to provide glass on a passageway is one of the fundamental goals that is trying to be achieved and should be included as well. He commented that it is identified in the 2016 Plan and is promoted throughout the retail is that glass must be clear. The City needs language that is enforceable and “lightly tinted” is not legally binding.

The Commission agreed to direct this back to the Planning Board to consider the changes as discussed.

The Mayor closed the Public Hearing at 10:16 PM.
07-242-16   REFINANCING OF BONDS
Finance Director Gerber explained the analysis by the City's municipal finance advisor detailing where the City could save approximately $960,000 by refinancing the City's two park bonds. Additionally after the report was assembled, the City's finance advisor noted that the 2004 sewer bond refunding could possibly be lumped into this as well.

Pat McGow, the City's bond counsel with Miller Canfield, explained that these are the only remaining three bond issues that the City has outstanding. He explained that the resolution would essentially refinance that debt by taking advantage of lower interest rates. He explained that each issue is refinanced for the same period as the existing issue so there is no stretching of the debt service.

MOTION: Motion by Sherman, seconded by DeWeese:
To authorized issuance of 2016 Unlimited Tax General Obligation Refunding Bonds:
WHEREAS, the City of Birmingham, County of Oakland, State of Michigan (the “City”) has previously issued its 2004 Unlimited Tax General Obligation Refunding Bonds in the original principal amount of $9,930,000 (the “2004 Bonds”) to refinance a portion of the City's 2000 Unlimited Tax General Obligation Bonds which were originally issued to pay the cost of acquiring, constructing, furnishing and equipping sewer and drainage facility improvements, including new mains, replacement mains and other relief and rehabilitation improvements and related work together with all necessary rights of way, interests in land and all appurtenances and attachments; and

WHEREAS, the City has previously issued its 2006 Unlimited Tax General Obligation Recreation Refunding Bonds in the original principal amount of $8,920,000 (the “2006 Bonds”) to refinance a portion of the City's 2002 Unlimited Tax General Obligation Bonds which were originally issued to pay the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including land acquisition, facilities acquisition and related site improvements in the City (the “Recreation Projects”); and

WHEREAS, the City has previously issued its 2008 Unlimited Tax General Obligation Bonds in the original principal amount of $4,000,000 (the “2008 Bonds”, together with the 2004 Bonds and the 2006 Bonds are referred to as the “Prior Bonds”) to pay part of the cost of the Recreation Projects; and

WHEREAS, the City has been advised that it may achieve interest costs savings through the refunding of the Prior Bonds; and

WHEREAS, the Revised Municipal Finance Act, Act 34, Public Acts of Michigan, 2001, as amended (“Act 34”), permits the City to refund and advance refund all or part of the outstanding securities of the City; and

WHEREAS, it is the determination of the City Commission that the City should issue refunding bonds in the principal amount of not to exceed Fifteen Million Nine Hundred Thousand Dollars ($15,900,000) to refund all or a portion of the Prior Bonds to achieve interest cost savings for the benefit of the taxpayers of the City.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization of Refunding Bonds; Bond Terms, Bonds of the City designated 2016 UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS (the “Bonds”) are authorized to be issued in the aggregate principal sum of not to exceed Fifteen Million Nine Hundred Thousand Dollars ($15,900,000) for the purpose of paying the
costs of refunding all or a portion of the Prior Bonds, including the costs incidental to
the issuance, sale and delivery of the Bonds.

The issue shall consist of bonds in fully-registered form of the denomination of
$5,000, or multiples thereof not exceeding for each maturity the maximum principal
amount of that maturity, numbered consecutively in order of registration. The Bonds
will be dated as of the date of delivery or such other date as determined at the time
of sale by the City Manager or Finance Director (each, an “Authorized Officer”), be
payable on October 1st in the years 2017 to 2028, inclusive, in the annual amounts
determined at the time of sale and may be subject to redemption in the manner and
at the times and prices to be determined at the time of sale.

The Bonds shall bear interest at a rate or rates to be determined at the time of sale,
payable on April 1, 2017 and semi-annually thereafter by check or draft mailed by
the Transfer Agent (as hereinafter defined) to the registered owner of record as of
the 15th day of the month prior to the payment date for each interest payment. The
record date of determination of registered owner for purposes of payment of interest
as provided in this paragraph may be changed by the City to conform to market
practice in the future.

2. Execution of Bonds; Book-Entry-Only Form. The Bonds of this issue shall be
executed in the name of the City with the facsimile signatures of the Mayor and Clerk
of the City and shall have the seal of the City, or a facsimile thereof, printed or
impressed on the Bonds. No Bond shall be valid until authenticated by an authorized
officer or representative of the Transfer Agent. The principal of the Bonds shall be
payable at the designated corporate trust office of The Bank of New York Mellon
Trust Company, N.A., Detroit, Michigan, as registrar and transfer agent for the Bonds
(the “Transfer Agent”).

The Bonds may be issued in book-entry-only form through the Depository Trust
Company in New York, New York (“DTC”) and the Authorized Officers are authorized
to execute such custodial or other agreement with DTC as may be necessary to
accomplish the issuance of the Bonds in book-entry-only form and to make such
changes in the Bond form within the parameters of this resolution as may be
required to accomplish the foregoing.

Unless waived by any registered owner of Bonds to be redeemed, official notice of
redemption shall be given by the Transfer Agent on behalf of the City. Such notice
shall be dated and shall contain at a minimum the following information: original
issue date; maturity dates; interest rates; CUSIP numbers, if any; certificate numbers
(and in the case of partial redemption) the called amounts of each certificate; the
redemption date; the redemption price or premium; the place where Bonds called for
redemption are to be surrendered for payment; and that interest on Bonds or
portions thereof called for redemption shall cease to accrue from and after the
redemption date.

In addition, further notice shall be given by the Transfer Agent in such manner as
may be required or suggested by regulations or market practice at the applicable
time, but no defect in such further notice nor any failure to give all or any portion of
such further notice shall in any manner defeat the effectiveness of a call for
redemption if notice thereof is given as prescribed herein.

3. Transfer of Bonds. The Transfer Agent shall keep the books of registration for this
issue on behalf of the City. Any Bond may be transferred upon such registration
books by the registered owner of record, in person or by the registered owner's duly
authorized attorney, upon surrender of the Bond for cancellation, accompanied by
delivery of a duly executed written instrument of transfer in a form approved by the
Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the
City shall execute and the Transfer Agent shall authenticate and deliver a new Bond
or Bonds, for like aggregate principal amount. The Transfer Agent shall require the
payment by the bondholder requesting the transfer of any tax or other governmental
charge required to be paid with respect to the transfer.

4. Debt Retirement Fund; Defeasance of Bonds. The City Treasurer is hereby
authorized to open a separate depositary account with a bank or trust company
designated 2016 UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS DEBT
RETIREMENT FUND (the “Debt Retirement Fund”), the moneys to be deposited into
the Debt Retirement Fund to be specifically earmarked and used solely for the
purpose of paying principal of and interest on the Bonds as they mature. All
proceeds from taxes levied for the Debt Retirement Fund shall be deposited into the
Debt Retirement Fund as collected. Commencing with the year 2017, there shall be
levied upon the tax rolls of the City for the purpose of the Debt Retirement Fund
each year, in the manner required by the provisions of Act 34, Public Acts of
Michigan, 2001, as amended (“Act 34”), an amount sufficient so that the estimated
collection therefrom will be sufficient to promptly pay, when due, the principal of and
interest on the Bonds becoming due prior to the next annual tax levy; provided,
however, that if at the time of making any such annual tax levy there shall be
surplus moneys on hand in the Debt Retirement Fund for the payment of principal of
and interest on the Bonds, then credit therefor may be taken against such annual
levy for the Debt Retirement Fund.

In the event cash or direct obligations of the United States or obligations the
principal of and interest on which are guaranteed by the United States, or a
combination thereof, the principal of and interest on which, without reinvestment,
come due at times and in amounts sufficient to pay the principal of and interest on
the Bonds when due, shall be deposited in trust, this Resolution shall be defeased
and the owners of the Bonds shall have no further rights under this Resolution
except to receive payment of the principal of and interest on the Bonds from the
cash or securities deposited in trust and the interest and gains thereon and to
transfer and exchange Bonds as provided herein.

5. Use of Proceeds. The proceeds of the Bonds shall be used to pay the costs of
issuance of the Bonds and to secure payment of the Prior Bonds as provided in this
paragraph. Upon receipt of the proceeds of sale of the Bonds, the accrued interest,
if any, shall be deposited in the Debt Retirement Fund for the Bonds. From the
proceeds of the Bonds there shall next be set aside a sum sufficient to pay the costs
of issuance of the Bonds in a fund designated 2016 UNLIMITED TAX GENERAL
OBLIGATION REFUNDING BOND ISSUANCE FUND (the “Issuance Fund”). Moneys in
the Issuance Fund shall be used solely to pay expenses of issuance of the Bonds.
Any amounts remaining in the Issuance Fund after payment of issuance expenses
shall be transferred to the Debt Retirement Fund for the Bonds.

The balance of the proceeds of the Bonds together with any moneys transferred by
the City at the time of sale of the Bonds from the debt retirement funds for the Prior
Bonds and any other available funds of the City, shall be held as cash or invested in
direct obligations of or obligations the principal of and interest on which are
unconditionally guaranteed by the United States of America or other obligations the
principal of and interest on which are fully secured by the foregoing (the “Escrow
Fund”) and used to pay principal of and interest on the Prior Bonds to be refunded
(the “Refunded Bonds”). The Escrow Fund shall be held by a bank or trust company
to be selected as escrow agent (the “Escrow Agent”) pursuant to an escrow agreement (the “Escrow Agreement”) which shall irrevocably direct the Escrow Agent to take all necessary steps to call for redemption the Refunded Bonds, including publication and mailing of redemption notices, on any call date, as specified by the City. The investments held in the Escrow Fund shall be such that the principal and interest payments received thereon will be sufficient, without reinvestment, to pay the principal of and interest on the Refunded Bonds as they become due pursuant to maturity or the call for redemption required by this paragraph. Following establishment of the Escrow Fund, any amounts remaining in the debt retirement funds for the Prior Bonds shall be transferred to the Debt Retirement Fund for the Bonds. Each of the Authorized Officers is hereby authorized to select and appoint a bank or trust company qualified to serve as Escrow Agent and to negotiate the terms of and execute and deliver an Escrow Agreement on behalf of the City. Each Authorized Officer is authorized and directed to purchase or cause to be purchased, Escrow Securities, including United States Treasury Obligations - State and Local Government Series (SLGS), in an amount sufficient to fund the Escrow Fund.

6. Bond Form. The Bonds shall be in substantially the following form with such changes as may be required to conform to the final terms of the Bonds established by the Sale Order:

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF BIRMINGHAM

2016 UNLIMITED TAX GENERAL OBLIGATION  
REFUNDING BOND

Date of Interest Rate Maturity Date Original Issue

Registered Owner: October 1, 20___

CUSIP

Principal Amount: Dollars

Original Issue: 1, 2016

The City of Birmingham, County of Oakland, State of Michigan (the “City”), acknowledges itself to owe and for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America, unless redeemed prior to maturity, on the Maturity Date specified above with interest thereon until paid from the Date of Original Issue specified above or such later date to which interest has been paid, at the Interest Rate per annum specified above (computed on the basis of a 360 day year consisting of twelve 30-day months), first payable on April 1, 2017 and semiannually thereafter. Principal of this bond is payable at the designated corporate trust office of the Bank of New York Mellon Trust Company, Detroit, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner not less than sixty (60) days prior to any interest payment date (the “Transfer Agent”). Interest on this bond is payable to the registered owner of record as of the 15th day of the month preceding the interest payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed by the Transfer Agent to the registered owner of record at the registered address. For prompt payment of this bond, both principal and interest, the full faith, credit and resources of the City are hereby irrevocably pledged.
This bond is one of a series of bonds aggregating the principal sum of $____________, issued for the purpose of refunding all or part of the City's outstanding 2004 Unlimited Tax General Obligation Refunding Bonds, 2006 Unlimited Tax General Obligation Recreation Refunding Bonds and 2008 Unlimited Tax General Obligation Recreation Bonds.

[Insert redemption provisions]

This bond is transferable only upon the registration books of the City kept by the Transfer Agent by the registered owner of record in person, or by the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the resolution authorizing this bond and upon the payment of the charges, if any, therein prescribed.

This bond is payable out of the City's Debt Retirement Fund for this issue and in order to make such payment, the City is required each year to levy taxes on all taxable property within the boundaries of the City for such payment without limitation as to rate or amount. It is hereby certified and recited that all acts, conditions and things required by law to be done, precedent to and in the issuance of this bond and the series of bonds of which this is one, exist and have been done and performed in regular and due form and time as required by law, and that the total indebtedness of the City, including this bond and the series of bonds of which this is one, does not exceed any constitutional, statutory or charter debt limitation.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City, by its City Commission, has caused this bond to be signed in the name of the City by the facsimile signatures of its Mayor and City Clerk and a facsimile of its corporate seal to be printed hereon, all as of the Date of Original Issue.

CITY OF BIRMINGHAM
County of Oakland
State of Michigan

By: Its: Mayor (SEAL)
By: Its: City Clerk

(Form of Transfer Agent's Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION
This bond is one of the bonds described in the within-mentioned resolution.

Bank of New York Mellon Trust Company, Detroit, Michigan
Transfer Agent
By:
Authorized:

DATE OF REGISTRATION:

7. Negotiated Sale. The City Council has considered the option of selling the Bonds through a competitive sale and a negotiated sale, and pursuant to the requirements of Act 34, determines that a negotiated sale of the Bonds will allow more flexibility in accessing the municipal bond market, and to price and sell the Bonds at the time that is expected to best achieve the most advantageous interest rates and costs to
the City, and will provide the City with greater flexibility in structuring bond maturities and adjusting terms for the Bonds.

8. **Bond Purchase Agreement; Delegation to Authorized Officer; Sale Order.** The Authorized Officers are each hereby authorized to select an underwriter for the Bonds (the "Underwriter"), negotiate the sale of the Bonds with the Underwriter, negotiate and execute a Bond Purchase Agreement, execute a Sale Order specifying the final terms of the Bonds and take all other necessary actions required to effectuate the sale, issuance and delivery of the Bonds within the parameters authorized in this resolution.

9. **Adjustment of Bond Terms.** The Authorized Officers are each hereby authorized to adjust the final bond details as set forth herein to the extent necessary or convenient to complete the sale of the Bonds and in pursuance of the forgoing are each authorized to exercise the authority and make the determinations pursuant to Sections 315(1)(d) of Act 34, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, date of issuance, interest payment dates, redemption rights and other matters within the parameters established by this resolution; provided that the principal amount of Bonds issued shall not exceed the principal amount authorized in this resolution, the interest rate per annum on the Bonds shall not exceed six percent (6.00%) per annum, the Bonds shall be sold at a price not less than 98.00% of their par value, the underwriter's discount shall not exceed 0.5% of the par amount of the Bonds and the refunding of the Prior Bonds shall result in net present value savings to the City.

10. **Tax Covenant.** The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exemption of the interest on the Bonds from general federal income taxation (as opposed to any alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds.

11. **Continuing Disclosure Undertaking.** The City agrees to enter into an undertaking for the benefit of the holders and beneficial owners of the Bonds pursuant to Rule 15c2-12 of the U.S. Securities and Exchange Commission and the Authorized Officers are each hereby authorized to execute such undertaking prior to delivery of the Bonds.

12. **Authorization of other Actions.** The Authorized Officers are each hereby authorized and directed to (a) approve the circulation of a preliminary official statement describing the Bonds and to deem the preliminary official statement "final" for purposes of Rule 15c2-12 of the SEC; (b) approve the circulation of a final official statement describing the Bonds and to execute the same on behalf of the City; (c) obtain ratings for the Bonds; and (d) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Bonds.

13. **Bond Counsel.** Miller, Canfield, Paddock and Stone, P.L.C. is hereby approved as bond counsel for the Bonds, notwithstanding periodic representation in unrelated matters of parties or potential parties to the transaction contemplated by this resolution, including the Underwriter.

14. **Financial Advisor.** The City hereby appoints Bendzinski & Co. as financial advisor with respect to the Bonds.
15. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

ROLL CALL VOTE: Yeas, Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita
Commissioner Sherman
Commissioner Bordman
Mayor Hoff
Nays, None
Absent, None
Abstention, None

07-243-16 ORDI NANCE AMENDMENT
COMBINATION OF LAND PARCELS
City Planner Ecker explained that the ordinance would add a review process for the consolidation of lots. She explained that the review process would require City Commission approval, a public hearing where everyone within 300 feet would be noticed, submit a plot plan or drawing to scale of the property and adjoining property for 500 feet in all directions in order to get a sense as to the character of the neighborhood and whether what they are proposing would fit in as a whole. In addition, the applicant would have to draw in the proposed building envelope showing the front, side and rear setbacks.

In response to a question from Mayor Hoff regarding the fee, Ms. Ecker explained that the fee for a lot split is $200.00 per lot affected. It is recommended that if this is approved, the fee be the same as the lot split.

Mayor Pro Tem Nickita commented that until the City is at the point of doing a master plan study to identify areas where this might be approved, this is a solid stop/gap situation to allow flexibility to allow it if we see fit and not if it is detrimental to the neighborhood.

Clinton Baller suggested the Commission consider not as conditions exist, but as originally platted when considering a new lot combination.

MOTION: Motion by Nickita, seconded by Sherman:
To adopt an ordinance amending Chapter 102, Subdivisions, of the Birmingham City Code to add a new Article V - Combination of Land Parcels to create regulations governing the approval of residential lot combinations in the City of Birmingham and to add “including the original plat configuration” to Section 102-82(1).

VOTE: Yeas, 7
Nays, None
Absent, None

07-244-16 2017 BISTRO SELECTION PROCESS
City Planner Ecker explained that in recent years, there have been comments by the Commission that it would rather see bistros in the rail district or the triangle district. The proposed resolution would amend the existing policy to add that for this year, if the Commission
recommends any bistros to move forward to the full review process, at least one of them must be in the rail district or the triangle district.

The Commission agreed that a strong message was already sent last year during the bistro selection process and took no action.

07-245-16  LICENSE FOR RIGHT-OF-WAY OCCUPANCY BY TEMPORARY BUILDING WALL TIE-BACKS AND H PILES AT 369-397 N. OLD WOODWARD

City Attorney Currier explained that the Brookside Development has asked for a special Earth Restraining System (ERS) with respect to the construction of the foundation and the walls of the structure. He explained that they will be going two stories underground for the garage and they are adding 38 additional parking spots. He explained that temporary building wall tie-backs is a form of support that is drilled through the wall on an angle into the ground which holds the wall in place while the foundation sets. Afterwards the tie-backs are cut at 84 inches below grade and left in place. If the Bates Street extension is done, the tie-backs could be removed at that time. Additionally, they have agreed to be assessed 100% for all the streetscape improvements adjacent to the southerly property line. He noted that if the Bates Street extension is ever undertaken, they have already placed, in escrow, a deed that giving the City additional property on the that southerly line for the Bates Street extension.

Commissioner DeWeese suggested City staff start examining other ways to give incentives to encourage developers in the mixed-use areas to provide additional parking which would take the load off of the City directly and helps everyone.

MOTION: Motion by Boutros, seconded by Bordman:
To approve the license for Right-of-Way Occupancy by a temporary building wall tie-backs and H-piles.

VOTE: Yeas, 7
Nays, None
Absent, None

07-246-16  BIRMINGHAM BRAND DEVELOPMENT REQUEST FOR PROPOSAL

Assistant to the Manager Haines explained the proposed Request for Proposal detailing the scope of work to update the City’s graphics and logos. She explained the composite of the proposed Ad Hoc Birmingham Brand Development Committee which would review the proposals.

Mayor Hoff commented on a company from out of state that was hired for the wayfinding plan which had no knowledge of the Birmingham area. Commissioner Bordman shared Mayor Hoff’s concerns and requesting local firms be notified. She pointed out that there are several companies in Birmingham that should be personally notified. Commissioner Boutros agreed.

City Manager Valentine explained the requirement to bid competitively if the cost exceeds $6,000.00.

Clinton Baller, resident, commented that this could be done for a lot less money and effort than as proposed. He suggested that it could be done with volunteers.
Mayor Pro Tem Nickita commented that there are firms who have expressed interest in achieving this. He stated that the Commission needs to be definitive in what it is asking for.

After further discussion on the potential cost of the rebranding, Mr. Valentine suggested that language be drafted to solicit proposals from local firms to determine what the cost may be.

**MOTION:** Motion by DeWeese, seconded by Harris:
To approve the creation of an Ad Hoc Birmingham Brand Development Committee (BBDC) for the purpose of reviewing and making a recommendation to the City Commission for the rebranding of the City logo; and further, including 1 member of the Parks and Recreation Board, 1 member from the Birmingham Shopping District, 1 member from the Planning Board, (to be appointed by their respective boards), two members at large in the City, and Mayor Hoff and Commissioner Nickita.

VOTE: Yeas, 7
Nays, None
Absent, None

**07-247-16 CLOSED SESSION REQUEST ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

**MOTION:** Motion by Sherman, seconded by Nickita:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

ROLL CALL VOTE: Yeas, Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita
Commissioner Sherman
Commissioner Bordman
Commissioner Boutros
Mayor Hoff

Nays, None
Absent, None
Abstention, None

**VII. REMOVED FROM CONSENT AGENDA**

**VIII. COMMUNICATIONS**

**07-248-16 COMMUNICATIONS**
The Commission received a letter from the Birmingham Theater regarding a liquor license.

Janet Lankes, representing the Birmingham Theater, explained the request to obtain a movie theater only liquor license to stay competitive with other theaters. She explained the renovations that have already taken place in the theater.

City Manager Valentine explained that the City does not currently have a category for this type of license. If the Commission agrees to move forward with the request, staff would come
forward with SLUP language. He noted that two theaters would qualify – Birmingham 8 and the
Village Players. He noted the third theater in the City currently has a liquor license.

Commissioner Boutros commented that the theater has been in the City since 1927 and the City
should find a way so it stays a landmark in the City.

Commissioner Hoff expressed concern with creating a category and setting a precedent.

Commissioner Harris agreed that it is a landmark, but would like more concrete information
from the applicant with discussion and their position laid out.

The Commission agreed to request that staff put together options for the Commission to
review.

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

X. REPORTS

07-249-16 COMMISSIONER REPORTS
The Commission intends to appoint members to the Multi-Modal Transportation Board and the
Public Arts Board on August 8, 2016.

07-250-16 COMMISSIONER COMMENTS
Commissioner Boutros shared a letter received from Congressman Trott inviting students
interested in exploring the requirements to attend the military academy to a reception for
additional information.

07-251-16 CITY STAFF REPORTS
The Commission received the response to cemetery questions submitted by City Clerk Pierce.

The Commission recessed to closed session at 11:32 PM.
The Commission reconvened in open session at 12:19 AM.

XI. ADJOURN

The meeting adjourned at 12:19 AM.

Laura M. Pierce
City Clerk
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Sub Total Checks: $1,370,280.47
Sub Total ACH: $118,555.10
Grand Total: $1,488,835.57

All bills, invoices and other evidences of claim have been audited and approved for payment.

Mark Gerber  
Finance Director/ Treasurer  

*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.
City of Birmingham  
7/27/2016

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City of Birmingham
Warrant List Dated 08/03/2016

Meeting of 08/08/2016
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### City of Birmingham Warrant List Dated 08/03/2016

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Sub Total Checks: $291,991.24  
Sub Total ACH: $4,937,708.52  
Grand Total: $5,229,699.76

All bills, invoices and other evidences of claim have been audited and approved for payment.

Mark Gerber  
Finance Director/ Treasurer

*Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.
## City of Birmingham
### ACH Warrant List Dated 8/3/2016

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<td><strong>4,937,708.52</strong></td>
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DATE: August 8, 2016

TO: Joe Valentine, City Manager

FROM: Leslie Pielack, Museum Director

SUBJECT: Contract for Landscape Architect Services-Museum

Background

As part of its 2013-2016 Strategic Plan implementation and 2017-2020 update, the Museum Board would like to begin planning for the landscape and grounds at the museum. The site is part of the Mill Pond Historic District, originally occupied by Birmingham's first brick schoolhouse, built in 1855. The schoolhouse was still standing in 1928 when Marion and Harry Allen, the first mayor of Birmingham, acquired the property and planned a new home. A wall from the schoolhouse was incorporated into the house, and a number of landscape improvements were added to the site. Before formulating an overall long term Master Plan strategy for the park, a professional field study of the historic landscape is needed, including an inventory/survey with analysis and recommendations as to preservation, maintenance, barrier free access, and other interventions.

On March 3, 2016, the Museum Board voted unanimously to incorporate the identification and protection of the museum’s historic and natural resources in its planning for the grounds, in accordance with the museum’s mission and ongoing Strategic Plan implementation. Historic landscape survey professionals are relatively rare; two qualified consultants were identified, and two proposals were received. On June 2, 2016, the Museum Board reviewed the proposals and unanimously approved the choice of Nagy Devlin Landscape Design, LLC. Funds are available through a grant provided by the Rosso Family Foundation and held by the Friends of the Birmingham Museum, acting as fiduciary. The Friends will transfer the funds to the city to fund the contract in full.

Suggested Resolution:

To approve a service agreement with Nagy Devlin Land Design, LLC to provide landscape architect services for the museum in the amount of $4,800 with additional renderings of $300 for an amount not to exceed $5,100.00, with funds provided by the Friends of the Birmingham Museum from a grant from the Rosso Family Foundation for account #101-804.002-811.0000. Further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City.
CITY OF BIRMINGHAM AGREEMENT
WITH NAGY DEVLIN LAND DESIGN, LLC
LANDSCAPE ARCHITECT SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of __________, 2016, by
and between the CITY OF BIRMINGHAM, a Michigan Municipal Corporation located at 151
Martin Street, Birmingham, Michigan, hereinafter referred to as the CITY, and NAGY DEVLIN
LAND DESIGN, LLC, located at 31736 West Chicago Street, Livonia, MI, 48150-2830
hereinafter referred to as the CONSULTANT.

WITNESSETH:

WHEREAS, the CITY would like to engage the professional services of the
CONSULTANT to perform the services described in Attachment A thereof, and,

WHEREAS, the CONSULTANT is willing to render such services desired by the CITY
for the considerations hereinafter expressed.

NOW, THEREFORE, for and in consideration of the mutual undertakings of the parties
hereto, all as hereinafter set forth, it is agreed by and between the parties as follows:

1. The CONSULTANT shall perform the professional services for the CITY, as set
forth on Attachment A which is attached hereto and incorporated by reference.

2. The CONSULTANT shall perform all work under the direction of the City
Manager or his designated representative.

3. The CITY agrees to pay the CONSULTANT for services rendered in the lump
sum amount of Four Thousand Eight Hundred Dollars ($4,800). The City shall also pay Three
Hundred Dollars ($300) for renderings and copies.

4. This Agreement shall commence on __________, and shall terminate on
__________. However, notwithstanding the term of the agreement, the City shall have the
right to terminate this Agreement on ten (10) days written notice. In the event of termination, the
CONSULTANT shall receive compensation for services to the date the termination takes effect
and the City shall be entitled to retain and use the results to the date the termination takes effect
and the City shall be entitled to retain and use the results of all information, documents and
recommendations prepared by the CONSULTANT through such date.

5. If the CONSULTANT fails to perform its obligations hereunder, the CITY may
take any and all remedial actions permitted by law.

6. The CONSULTANT shall hire personnel of good character and fitness to perform
the duties under this Agreement.
7. The CONSULTANT agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The CONSULTANT shall inform the CITY of all claims or suits asserted against it by the CONSULTANT’S employees who work pursuant to this Agreement. The CONSULTANT shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

8. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party’s claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator’s and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

9. To the fullest extent permitted by law, the CONSULTANT and any entity or person for whom the CONSULTANT is legally liable, agrees to indemnify the City of Birmingham, its elected and appointed officials and employees against any and all claims, demands, suits, or loss, and for any damages which may be recovered against or from the CITY, its elected and appointed officials and employees by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the CONSULTANT including its employees and agents, in the performance of this Agreement. Consultant is not obligated to indemnify the City for that portion which is attributable to the City’s own negligence.

The CITY agrees that the contractors shall be solely responsible for job site safety and all contractors shall be required in the CITY’S contract with such contractors to indemnify the CONSULTANT for any liability incurred by the CONSULTANT as a result of the contractor’s negligent acts or omissions. However, such indemnification shall not extend to liability resulting from the negligence of the CONSULTANT.

10. The CONSULTANT shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All coverages shall be with insurance carriers acceptable to the City of Birmingham. The CONSULTANT shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:
A. Commercial General Liability Insurance: CONSULTANT shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

B. Motor Vehicle Liability Insurance: CONSULTANT shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

C. Additional Insured: The Commercial General Liability and Motor Vehicle Liability, as described above, shall include an endorsement stating the following shall be Additional Insureds: The City of Birmingham including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from CONSULTANT under this Section.

D. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, Professional Liability Insurance and Motor Vehicle Liability Insurance as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Director of Finance, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

E. Proof of Insurance Coverage: CONSULTANT shall provide the CITY at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City, as listed below.

1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;

2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;

F. **Coverage Expiration:** If any of the above coverages expire during the term of this Agreement, CONSULTANT shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

11. If, after the effective date of this Agreement, any official of the CITY, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the CONSULTANT, the CITY shall have the right to terminate this Agreement without further liability to the CONSULTANT if the disqualification has not been removed within thirty (30) days after the CITY has given the CONSULTANT notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

12. The CONSULTANT and the CITY agree that the CONSULTANT is acting as an independent contractor with respect to the CONSULTANT'S role in providing services to the CITY pursuant to this Agreement, and as such, shall be liable for its own actions and neither the CONSULTANT nor its employees shall be construed as employees of the CITY. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the CITY nor the CONSULTANT shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The CONSULTANT shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the CITY.

13. The CONSULTANT agrees that it will apply for and secure all permits and approvals as may be required from the CITY in accordance with the provisions of applicable laws and ordinances of the CITY, State of Michigan or federal agencies.

14. This Agreement shall be binding upon and apply and inure to the benefit of the parties hereto and their respective successors or assigns. The covenants, conditions, and the agreements herein contained are hereby declared binding on the CITY and CONSULTANT. It is further agreed that there shall be no change, modification, or alteration hereof, except in writing, signed by both of the parties hereto. Neither party shall assign any of the rights under this Agreement without prior approval, in writing, of the other. Any attempt at assignment without prior written consent shall be void and of no effect.
15. The CITY shall be the owner of all the drawings, specifications or other documents prepared by the CONSULTANT. Any modifications made to the drawings by the CITY shall be clearly marked as such on the modified document. The CITY may not use these documents for any purpose other than pursuant to the activities provided for in this Agreement.

16. Notices shall be given to:

   a. City of Birmingham
      151 Martin Street, P.O. Box 3001
      Birmingham, MI 48012-3001
      Attention: Mr. Joseph A. Valentine,
      City Manager

      With copies to:

      Timothy J. Currier, City Attorney
      Beier Howlett, P.C.
      3001 W. Big Beaver Rd., Ste. #200
      Troy, MI 48084

   b. Nagy Devlin Land Design, LLC
      31736 West Chicago Street
      Livonia, MI 48150-2830
      Attention: J. Brian Devlin

17. The CONSULTANT acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The CONSULTANT recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the CONSULTANT agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The CONSULTANT shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The CONSULTANT further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

18. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The CONSULTANT agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

19. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.
FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF BIRMINGHAM

Rackeline J. Hoff, Mayor

Laura M. Pierce, Clerk

NAGY DEVLIN LAND DESIGN, LLC

By: Brian Deslin

Its: President

APPROVAL (Sec 2-289 City Code)

Leslie Pielack, Director of the Birmingham Museum & John West Hunter Park As to Substance

Mark Gerber, Director of Finance as to Financial Obligation

Joseph A. Valentine, City Manager As to Substance

Timothy J. Currier, City Attorney as to Form
2016 Historic Landscape Survey
Scope of Work
Birmingham Museum/John West Hunter Park

Date: May 6, 2016
Proposal Due Date: June 1, 2016

Description and Purpose

The 1928 Allen House and adjoining 1822 Hunter House have been operated by the City of Birmingham as a public museum since 2001. The museum grounds include approximately four acres that are immediately east of the Rouge River, and stretch from Maple Road on the south to Willits Road on the north. The landscape slopes steeply north of the two buildings down to a lower level at Willits Road, and from the lawn area around the Allen House steeply down to the Rouge River. Stairways provide access the lower level from Willits as well as from the north porch of the Allen House. Rustic stairs descend from the lawn area down to the Rouge River in a wild and unmaintained area. The grounds are maintained as a public park and are frequented by visitors from both the upper level and lower level access.

The site and its buildings are part of the City of Birmingham’s Mill Pond historic district, and the John West Hunter House is individually listed on the National Register of Historic Places. The 1928 Allen House was built on the previous site of the first brick school house in Birmingham, built in 1850. The Allens incorporated part of the school house walls in the house. They also did extensive landscaping and planting of the site, particularly the north side with its steep slope. Cobble walls, concrete walls and a spillway for a spring fed pond were built at that time, and still survive. A few of the trees planted by the Allens also still survive in the landscape. The Hunter House was moved to the site in 1969, so has no previous connection to the landscape.

Both the Allen and Hunter Houses have been modified to provide ADA access on the upper (Maple Road) level with professionally landscaped areas. This upper area and immediate vicinity around the two houses is not within the scope of this survey project. However, the City of Birmingham desires to develop a long term plan for the property that would include the slope and the lower level between the Rouge River to the west and the adjacent residential property to the east. A historic landscape survey of that portion of the landscape, with analysis and treatment recommendations, is needed as a first step in planning. The goal is to identify historic elements to enable planning and management of the landscape so as to preserve and interpret them for the benefit of the public, while enhancing the grounds. A special area of focus is the spring fed pond and concrete pool structures from the Allen period.

Services Required
1. Existing conditions and documentation: utilize existing topographical survey to add detail of any remaining elements of the vernacular 1) Red Schoolhouse Period (1850-1928) and the designed 2) Allen Period (1928-1969):
   a. Field survey of built and planted elements
   b. Overall landscape schematic drawings (maintained lawn and pond area)
   c. Overall landscape schematic drawings (wild area adjacent to Rouge River)
   d. Measured/scaled drawing of pool walls and pond area
   e. Photographic documentation of all significant elements, vegetative and constructed
   f. Marking (numbered survey tabs) for trees identified as significant elements with associated data as to species, apparent age, and existing condition
   g. Contemporary site functions or natural resources that contribute to understanding and planning

2. Analysis and evaluation of significant elements identified
   a. Historic integrity of landscape
      i. Analysis of change over time
      ii. Identification of missing/lost elements
      iii. Any areas with greater integrity or potential for preservation/restoration

3. Recommendations narrative
   a. Protection and planning for significant features
   b. Public access options that respect/protect historic features

4. Recommendations sketches/drawings
   a. Compatible conceptual designs for integrating public access (physical and virtual) and utilization with existing or restorable features
   b. Inclusion of ADA/barrier-free access to pond area, including parking options
   c. Threat assessment and recommendations (human, insect, vegetative, etc.) regarding significant elements
   d. Design options for education and interpretive opportunities with regard to introducing or protecting native plants, bee/bat/butterfly habitat

Resources Provided by City of Birmingham

1. Topographic survey data and CAD file of site (2003)
2. Boundary data
3. Historical timeline with context and narrative history of site/Statement of Significance
4. Historic area maps, plat maps, aerial photos
5. Period photographs of site, buildings, structures, plantings, etc. for both the Red Schoolhouse period (1850-1928) and the post-Allen period (1928-Present)
6. Overview of applicable city planning goals and initiatives that impact present and future site/landscape use

Meetings and Presentations
At this time it is anticipated that one to two meetings will be required to present findings to representatives of the City of Birmingham.

**Deliverables**

1. Existing Conditions Document and Plan with revised topographic survey drawing with added detail and location of significant elements
2. Tree Survey and labeling with written report (historically significant trees only)
3. Complete photographic documentation of significant landscape elements and features
4. Detailed scaled and measured drawings of area around pond to determine status of original pool walls and edges
5. Analysis/Evaluation and Recommendations Document
6. Conceptual sketches/drawings for recommended design considerations of all historically significant landscape areas
7. Field notes and sketches, as applicable
June 20, 2016

Mr. Timothy J. Currier  
Birmingham City Attorney  
Beier Howlett, P.C.  
3001 West Big Beaver Road  
Suite 200  
Troy, Michigan  48084

Re:  Nagy Devlin Land Design Verification of No Employees.

Dear Mr. Currier:

This letter is offered as verification that Nagy Devlin Land Design, L.L.C. is classified as a single-member LLC and does not have any employees at this time.

If you have questions or need any additional information, please do not hesitate to call our office at the above telephone number.

Sincerely,

J. Brian Devlin, R.L.A.  
President
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED IN THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
MIKE MARIHUGH
31707 PLYMOUTH ROAD
LIVONIA, MI 48150
734-261-6122

CONTACT
NAME: TRISHA ROI INSKEY
PHONE: 734-261-6122
FAX: 734-421-8105
EMAIL: trisha.roiinskey.qy@statefarm.com

INSURED
NAGY DEVLIN LAND DESIGN LLC.
31736 W CHICAGO ST
LIVONIA, MI 48150

INSURER(S) AFFORDING COVERAGE
INSURER A: State Farm Fire and Casualty Company
26143

COVERAGE
CERTIFICATE NUMBER:

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

<table>
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<th>TYPE OF INSURANCE</th>
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<th>POLICY NUMBER</th>
<th>POLICY EFFECTIVE DATE</th>
<th>POLICY EXPIRY DATE</th>
<th>LIMITS</th>
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<td>ANY PROPRIETOR, PARTNER, EXECUTIVE OFFICER, MANAGER EXCLUDED?</td>
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<td>IF YES, DESCRIBE UNDER DESCRIPTION OF OPERATIONS BELOW</td>
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</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The following shall be Additional Insureds: The City of Birmingham including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members.

CERTIFICATE HOLDER
City of Birmingham
151 Martin Street
Birmingham, MI 48012
Attn: Mr. Joseph Valentine

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Michele Marihugh

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ACORD 25 (2010/05) The ACORD name and logo are registered marks of ACORD.
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
CorRisk Solutions
225 W. Washington St. Suite 1560
Chicago, IL 60606

INSURED
Nagy Devlin Land Design, L.L.C.
31736 West Chicago Avenue
Livonia, MI 48150

INSURER A: New Hampshire Insurance Company 23841

COVERAGES

COVERAGE NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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<th>SUBV (W/D)</th>
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<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY EXP (MM/DD/YYYY)</th>
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<td>DAMAGE TO RENTED PREMISES (EA occurrence)</td>
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<td>DOES NOT APPLY</td>
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<td>E.L. EACH ACCIDENT</td>
<td>E.L. DISEASE - POLICY LIMIT</td>
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<td>If yes, describe under DESCRIPTION OF OPERATIONS below</td>
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<td>E.L. DISABILITY - EA EMPLOYEE</td>
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</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACCORD 101, Additional Remarks Schedule, if more space is required)
Preparation of a Landscape Master Plan for the Birmingham Museum.

CERTIFICATE HOLDER
City of Birmingham
Mr. Joseph Valentine
151 Main Street
Post Office Box 3001
Birmingham, MI 48012

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

[Signature]
Policy Number: 318 2447-F12-22B
Policy Period: June 12, 2016 to December 12, 2016
Vehicle:
2008 CHEVROLET AVEO
Principal Driver:
JOHN DEVLIN

CONVENIENT PAYMENT OPTION: We offer a 50-50 payment plan which divides your premium into two separate payments for a $2.00 handling charge. To use the plan, submit one half of your premium plus the $2.00. The balance will be due 60 days after your renewal date. We'll send you a reminder notice.

We also have available a plan to let you pay your premium in monthly installments. For details on this plan and to determine if you qualify, please contact your State Farm agent.

This policy is being renewed at rates in effect on the date of renewal.
This policy expires on the date due if premium is not paid.
Based on your driving record, you have our Accident-Free Discount for preferred customers.
When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer (continued on next page)

Page number 1 of 6
143802 201 06-01-2015
DATE: July 28, 2016

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services
       Mark H. Clemence, Chief of Police

SUBJECT: Purchase of Replacement Police Vehicle - Car #502

Police vehicle #502 is a 2008 Pontiac Grand Prix assigned to our investigative division. This vehicle is in need of replacement as it was totaled in a traffic crash on July 24, 2016 during the arrest of an armed robbery suspect.

The Police Department recommends replacing this vehicle with 2016 Dodge Durango AWD. The purchase price for this vehicle is $33,360.00 based upon the State of Michigan MiDEAL extendable purchasing contract (#071B1300010). The exclusive dealer for the 2016 Dodge Durango purchased via the MiDeal contract is Lafontaine Chrysler Dodge Jeep Ram of Lansing, MI.

There are sufficient funds available in the Auto Equipment Fund account number 641-441.006-971.0100 to provide for this purchase.

SUGGESTED RESOLUTION:
To approve the purchase of one (1) new 2016 Dodge Durango AWD in the amount of $33,360.00 from Lafontaine Chrysler Dodge Jeep Ram through the State of Michigan MiDEAL purchasing contract #071B1300010. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.
MEMORANDUM

City Clerk’s Office

DATE: July 29, 2016

TO: Joseph A. Valentine, City Manager

FROM: Laura M. Pierce, City Clerk

SUBJECT: Special Event Request
Veteran’s Day

Attached is a special event application submitted by the Piety Hill Chapter, National Society Daughters of the American Revolution requesting permission to hold the Veteran’s Day Wreath Laying Ceremony on November 11, 2016 at 11:00AM.

The application has been circulated to the affected departments and approvals and comments have been noted.

The following November events are anticipated to be held in November and do not pose a conflict with the proposed event.

<table>
<thead>
<tr>
<th>Event Name</th>
<th>Date</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tree Lighting</td>
<td>Nov 23</td>
<td>Shain Park</td>
</tr>
<tr>
<td>Nativity Display</td>
<td>Nov 23 – Dec 31</td>
<td>Shain Park</td>
</tr>
</tbody>
</table>

SUGGESTED RESOLUTION:
To approve a request from the Piety Hill Chapter, National Society Daughters of the American Revolution to hold the Veteran’s Day Wreath Laying Ceremony on November 11, 2016 at 11:00AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
CITY OF BIRMINGHAM
APPLICATION FOR SPECIAL EVENT PERMIT
PARKS AND PUBLIC SPACES

I. EVENT DETAILS

- Incomplete applications will not be accepted.
- Changes in this information must be submitted to the City Clerk, in writing, at least three weeks prior to the event

FEES:  
FIRST TIME EVENT: $200.00
ANNUAL APPLICATION FEE: $165.00

(Please print clearly or type)

Date of Application July 12, 2016

Name of Event Veteran’s Day Wreath Laying

Detailed Description of Event (attach additional sheet if necessary)
Veteran’s Day Wreath Laying at both monuments; Flag Ceremony

Location Shain Park

Date(s) of Event November 11, 2016  
Date(s) of Set-up November 11, 2016  
Date(s) of Tear-down November 11, 2016

 Hours of Event 11:00 am to 12 noon  
 Hours of Set-up 10:00 am to 11:00 am  
 Hours of Tear-down 12:00 noon - 1:00 pm

Organization Sponsoring Event Piety Hill Chapter NSDAR

Organization Address 418 Whippers IN Court Bloomfield Hills, MI 48304

Organization Phone 248.885.1264  
Contact Person Lisa Milton  
Contact Phone 248.885.1264  
Contact Email tmilton@brmattorneys.com
II. EVENT INFORMATION

1. Organization Type [Non-Profit/Community Group (city, non-profit, community group, etc.)]

2. Additional Sponsors or Participants (Provide name, address, contact person, status, etc. for all additional organizations sponsoring your event.)
   City of Birmingham

3. Is the event a fundraiser? [ ] YES [X] NO
   List beneficiary
   List expected income
   Attach information about the beneficiary.

4. First time event in Birmingham? [ ] YES [X] NO
   If no, describe 10th Annual Veterans Day Celebration

5. Total number of people expected to attend per day approx 100

6. The event will be held on the following City property: (Please list)
   [ ] Street(s) __________________________
   [ ] Sidewalk(s) __________________________
   [X] Park(s) Shain park __________________________

7. Will street closures be required? [ ] YES [X] NO

8. What parking arrangements will be necessary to accommodate attendance? None.
9. Will staff be provided to assist with safety, security and maintenance? □ YES □ NO
   Board Members Piety Hill Chapter NSDAR

10. Will the event require safety personnel (police, fire, paramedics)? □ YES □ NO
    Police officers will assist in placing wreaths

11. Will alcoholic beverages be served? □ YES □ NO
    If yes, additional approval by the City Commission is required, as well as the Michigan Liquor Control Commission.

12. Will music be provided? □ YES □ NO
    □ Live □ Amplification □ Recorded □ Loudspeakers
    Time music will begin 11:00 am (bagpipes & bugle)
    Time music will end 11:30 am
    Location of live band, DJ, loudspeakers, equipment must be shown on the layout map.

13. Will there be signage in the area of the event? □ YES □ NO
    Number of signs/banners _______________________________________________________________________
    Size of signs/banners _______________________________________________________________________
    Submit a photo/drawing of the sign(s). A sign permit is required.

14. Will food/beverages/merchandise be sold? □ YES □ NO
    • Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event.
    • All food/beverage vendors must have Oakland County Health Department approval.
    • Attach copy of Health Dept approval.
    • There is a $50.00 application fee for all vendors and peddlers, in addition to the $10.00 daily fee, per location. A background check must be submitted for each employee participating at the event.
LIST OF VENDORS/PEDDLERS
(attach additional sheet if necessary)

<table>
<thead>
<tr>
<th>VENDOR NAME</th>
<th>GOODS TO BE SOLD</th>
<th>WATER HOOK-UP REQUIRED?</th>
<th>ELECTRIC REQUIRED?</th>
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</table>
### III. EVENT LAYOUT

- Include a map showing the park set up, street closures, and location of each item listed in this section.
- Include a map and written description of run/walk route and the start/finish area

1. Will the event require the use of any of the following municipal equipment?  
   *(show location of each on map)*

<table>
<thead>
<tr>
<th>EQUIPMENT</th>
<th>QUANTITY</th>
<th>COST</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Picnic Tables</td>
<td>6 for $200.00</td>
<td></td>
<td>A request for more than six tables will be evaluated based on availability.</td>
</tr>
<tr>
<td>Trash Receptacles</td>
<td>$4.00 each</td>
<td></td>
<td>Trash box placement and removal of trash is the responsibility of the event. Additional cost could occur if DPS is to perform this work.</td>
</tr>
<tr>
<td>Dumpsters</td>
<td>$200.00 per day</td>
<td></td>
<td>Includes emptying the dumpster one time per day. The City may determine the need for additional dumpsters based on event requirements.</td>
</tr>
<tr>
<td>Utilities (electric)</td>
<td>_____ # of vendors requiring utilities</td>
<td>Varies</td>
<td>Charges according to final requirements of event.</td>
</tr>
<tr>
<td>Water/Fire Hydrant</td>
<td>Contact the Fire Department.</td>
<td></td>
<td>Applicant must supply their own means of disposal for all sanitary waste water. Waste water is NOT allowed to be poured into the street or on the grass.</td>
</tr>
<tr>
<td>Audio System</td>
<td>$200.00 per day</td>
<td></td>
<td>Must meet with City representative.</td>
</tr>
<tr>
<td>Meter Bags / Traffic Cones / Barricades</td>
<td># to be determined by the Police Department.</td>
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</tbody>
</table>

2. Will the following be constructed or located in the area of the event?  
   *(show location of each on map)*  
   *NOTE:* Stakes are not allowed.

<table>
<thead>
<tr>
<th>TYPE</th>
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<tbody>
<tr>
<td>Tents/Canopies/Awnings</td>
<td></td>
<td></td>
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<tr>
<td>(A permit is required for tents over 120 sq ft)</td>
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<td></td>
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<tr>
<td>Portable Toilets</td>
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<tr>
<td>Rides</td>
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<tr>
<td>Displays</td>
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<tr>
<td>Vendors</td>
<td></td>
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<tr>
<td>Temporary Structure (must attach a photo)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (describe)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SIGNATURE OF APPLICANT REQUIRED

EVENT NAME Veterans' Day Wreath Laying Ceremony
EVENT DATE November 11, 2016

The Birmingham City Commission shall have sole and complete discretion in deciding whether to issue a permit. Nothing contained in the City Code shall be construed to require the City Commission to issue a permit to an applicant and no applicant shall have any interest or right to receive a permit merely because the applicant has received a permit in the past.

As the authorized agent of the sponsoring organization, I hereby agree that this organization shall abide by all conditions and restrictions specific to this special event as determined by the City administration and will comply with all local, state and federal rules, regulations and laws.

[Signature]
July 12, 2016

IV. SAMPLE LETTER TO NOTIFY ANY AFFECTED PROPERTY/BUSINESS OWNERS

- Organizer must notify all potentially affected residential property and business owners of the date and time this application will be considered by the City Commission. (Sample letter attached to this application.)

- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk's Office. The letter must be distributed at least two weeks prior to the Commission meeting.

- A copy of the letter and the distribution list must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.

- If street closures are necessary, a map must be included with the letter to the affected property/business owners.
SPECIAL EVENT REQUEST NOTIFICATION LETTER

DATE: July 22, 2016

TO: Occupant
250 MARTIN ST STE 2
BIRMINGHAM MI 48009

The Birmingham City Code requires that we receive approval from the Birmingham City Commission to hold the following special event. The code further requires that we notify any property owners or business owners that may be affected by the special event of the date and time that the City commission will consider our request so that an opportunity exists for comments prior to this approval.

EVENT INFORMATION
NAME OF EVENT: Veteran's Day Wreath Laying Ceremony

LOCATION: Shain Park

DATE(S) OF EVENT November 11, 2016    HOURS OF EVENT 11:00 am to 12 noon

BRIEF DESCRIPTION OF EVENT/ACTIVITY: Wreath Laying Ceremony

DATE(S) OF SET-UP November 11, 2016    HOURS OF SET-UP 10:00 am to 11:00 am
DATE(S) OF TEAR-DOWN November 11, 2016   HOURS OF TEAR-DOWN 12 noon to 1:00 pm

DATE OF CITY COMMISSION MEETING: August 8, 2016

The City commission meets in room 205 of the Municipal Building at 151 Martin at 7:30PM. A complete copy of the application to hold this special event is available for your review at the City Clerk's Office (248/530-1880). Log on to www.bhamgov.org/events for a complete list of special events.

EVENT ORGANIZER: Piety Hill Chapter NSDAR

ADDRESS: 418 Whippers In Court, Bloomfield Hills, MI 48304

PHONE: (248) 885-1264
DEPARTMENT APPROVALS

EVENT NAME: Veterans Day Wreath Laying Ceremony

LICENSE NUMBER: #16-00010749

COMMISSION HEARING DATE: August 8, 2016

DATE OF EVENT: 11/11/16

NOTE TO STAFF: Please submit approval by July 18, 2016

<table>
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<tr>
<th>DEPARTMENT</th>
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<tbody>
<tr>
<td>BUILDING</td>
<td>S.W.</td>
<td>None</td>
</tr>
<tr>
<td>FIRE</td>
<td>LKB</td>
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</tr>
<tr>
<td>POLICE</td>
<td>SG</td>
<td>Personnel</td>
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</table>

PERMITS REQUIRED: (Must be obtained directly from individual departments)

ESTIMATED COSTS: (Must be paid two weeks prior to the event. License will not be issued if unpaid.)

ACTUAL COSTS: (Event will be invoiced by the Clerk’s office after the event)

1. No Smoking in any tents or canopy. Signs to be posted.
2. All tents and Canopies must be flame resistant with certificate on site.
3. Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed.
4. Cords, hoses, etc. shall be matted to prevent trip hazards.
5. Dial 911 for fire/rescue/medical emergencies.
6. Do Not obstruct fire hydrants or fire sprinkler connections on buildings.
<table>
<thead>
<tr>
<th>PUBLIC SERVICES</th>
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<tbody>
<tr>
<td>101-000.000-634.0002</td>
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<tr>
<td>248.530.1642</td>
</tr>
<tr>
<td>Carrie Laird</td>
</tr>
<tr>
<td>1-Portable Audio System</td>
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<tr>
<td>1-Podium</td>
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<tr>
<td>25-folding chairs (chairs placed in Shain Park)</td>
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<tr>
<td>Chairs and all flags placed around site. Large flag pole available to post colors with flags.</td>
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<table>
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<tr>
<td>A.F.</td>
</tr>
<tr>
<td>No Comments</td>
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<tr>
<td>None</td>
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<tr>
<td>248.530.1803</td>
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<td>LP</td>
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<tr>
<td>Notification letters mailed by applicant 7/22/16. Notification addresses on file in the Clerk’s Office. Evidence of required insurance must be on file with the Clerk’s Office no later than 10/28/16.</td>
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<td>Applications for vendors license must be submitted no later than N/A</td>
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<tr>
<td>TOTAL DEPOSIT REQUIRED</td>
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<tr>
<td>ACTUAL COST</td>
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</table>

**FOR CLERK’S OFFICE USE**

Deposit paid ________________

Actual Cost ________________

Due/Refund ________________
DATE: July 29, 2016

TO: Joseph A. Valentine, City Manager

FROM: Laura M. Pierce, City Clerk

SUBJECT: Special Event Amendment Request
          Birmingham Cruise Event

The Birmingham Shopping District is requesting an amendment to the Birmingham Cruise Event Special Event Permit, which would allow setup to begin one day earlier, on Tuesday August 16. This is to accommodate a special display in the Chevrolet display area, on the 555 Triangle.

The amendment has been circulated to the affected departments. City staff has no concerns with the request.

SUGGESTED RESOLUTION:
To amend special event permit for the Birmingham Cruise Event to include an additional day for set up to begin on Tuesday, August 16 in the 555 Triangle to accommodate the Historic Vehicle Association Camaro #1 display.
MEMORANDUM

DATE: July 18, 2016
TO: Joseph A. Valentine, City Manager
FROM: John Heiney, Executive Director
SUBJECT: Amendment for Birmingham Cruise Event Special Event Permit

The Birmingham Shopping District is requesting an amendment to the Birmingham Cruise Event Special Event Permit, which would allow setup to begin one day earlier, on Tuesday August 16. This is to accommodate a special display in the Chevrolet display area, on the 555 Triangle.

The Shopping District office was approached by representatives the Historic Vehicle Association (HVA) with a request to include a single car display as part of the Birmingham Cruise Event on August 20. They requested to place a single car inside a glass structure, on display somewhere inside the 555 “triangle” starting Tuesday, August 16 through Sunday August 21. The display would be self-contained, and would include an electrical power source with lighting. (see attached photos of a similar display along with a draft map of Chevrolet’s display area, clearing indicating location of the HVA display).

The display is for “Camaro #1”, the first production Camaro. They are working with Chevrolet, who is currently celebrating the 50th anniversary of the Camaro model. Chevrolet representatives are thrilled to have this as part of their display. Chevrolet’s set-up begins on Wednesday, and their display will only fully function on Saturday.

There will be a request for 10 meter bags on Tuesday, during installation. The agency is also considering a “lighting ceremony” on Wednesday, August 17 in the evening at the site. As of the publication of this memo, plans for this are not firm. If this moves forward we will provide information to Police, DPS and the City Manager’s office.

We have asked the City attorney to draft an agreement which indemnifies the City and addresses the details of location, setup, security and other details. We are currently waiting for this to be signed and returned by HVA along with the appropriate insurance documents. Mention agreement with BSD Executed with BSD
Suggested Resolution:
To amend special event permit for the Birmingham Cruise Event to include an additional day for set up to begin on Tuesday, August 16 in the 555 Triangle to accommodate the Historic Vehicle Association Camaro #1 display.
When funds are seized for forfeiture actions by our officers as a result of criminal investigations, they are deposited into the drug enforcement bond account number 701-000.000-256.0005. The purpose of this account is to hold monies in a type of escrow, as the person from whom the money is seized has the right to contest the action. Should they file a claim the matter is adjudicated and the money may be awarded back to the petitioner. If no claim is filed in the allotted time period, the funds can be transferred by City Commission resolution to the state drug forfeiture account number 265-000.000-660.0001 for use by the police department.

Upon review of the status of the bond account, there is a balance of $1,079.48 in the drug enforcement bond account from two state law forfeitures conducted in calendar year 2015.

<table>
<thead>
<tr>
<th>CASE NUMBER</th>
<th>AMOUNT</th>
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<tbody>
<tr>
<td>15-7077</td>
<td>$1,032.48</td>
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<tr>
<td>15-16291</td>
<td>47.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$1,079.48</td>
</tr>
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</table>

There are no claims filed or bonds posted to contest these funds. Therefore, the department requests that the City Commission approve by resolution the forfeiture of these assets and transfer the funds to the state drug forfeiture account number 265-000.000-660.0001.

SUGGESTED RESOLUTION:

To approve state law drug forfeitures and authorize the finance department to transfer $1,079.48 from the drug enforcement bond account number 701-000.000-256.0005 to the state drug forfeiture account number 265-000.000-660.0001.
DATE: August 3, 2016

TO: Joseph A. Valentine, City Manager

FROM: Jana L. Ecker, Planning Director

SUBJECT: Request to set a public hearing to consider amendments to Chapter 126, Zoning, Article 04, Section 4.19, Height Standards

On July 27, 2016, the Planning Board conducted a public hearing on the proposed ordinance amendments, and voted unanimously in support of recommending to the City Commission that the maximum height in the MX District be increased by 10’ to allow for rooftop mechanical equipment and other structures, to be consistent with other zone districts. Please find attached the staff report presented to the Planning Board, along with the proposed ordinance language and minutes from previous discussions on the topic.

Thus, the Planning Division requests that the City Commission set a public hearing date for September 12, 2016 to consider an amendment to the maximum height in the MX District.

Suggested Action:

To set a public hearing date for September 12, 2016 to consider amendments to Chapter 126, Zoning, Article 4, section 4.19, Height Standards, to increase the maximum height of buildings in the MX district.
DATE:    July 22, 2016
TO:     Planning Board
FROM:  Jana Ecker, Planning Director
SUBJECT:  Request to consider amendments to Chapter 126, Zoning, Article 04, Section 4.19, Height Standards

At the January 14, 2015 Planning Board meeting, the Board considered the Final Site Plan for 245, 325 and 375 S. Eton (District Lofts, Building B). The applicant originally proposed a four story mixed use building with a rooftop terrace, a mechanical tower extending above the roof, and rooftop mechanical equipment. While the site plan was approved, the Planning Board added a condition requiring the applicant to remove the rooftop terrace, and lower the height of the mechanical tower and other mechanical equipment to 55’ in height or less to comply with Article 4, section 4.19, Height Standards, or obtain a variance from the Board of Zoning Appeals.

The applicant submitted an application for variances to the Board of Zoning Appeals. On July 14, 2015, the Board of Zoning Appeals heard the requests and denied each of them. The Board of Zoning Appeals stated that the applicant’s best path in this case would be to seek ordinance amendments through the City Commission. Thus, the applicant amended their plans to comply with the Zoning Ordinance.

On June 22, 2016, the Planning Board considered an applicant’s request for an amendment to Article 4, section 4.19, Height Standards to increase the maximum overall height in the MX district to allow for rooftop mechanical equipment and associated structures, and a second request for an amendment to the same section to allow rooftop terraces and accessory uses such as fitness areas and kitchen facilities. The applicant submitted a letter detailing the reasons for these requests. After much discussion, the Planning Board voted to set a public hearing for July 27, 2016 to consider an amendment to allow an additional 10’ in height to accommodate mechanical equipment and other structures to be consistent with other zone districts. The Planning Board did not wish to recommend any amendments to allow use or occupancy above 40’ at this time. Draft ordinance language is attached for your review, along with the staff report presented to the Planning Board.

Suggested Action:

To recommend an amendment to Article 4, section 4.19 HT-04 of the Zoning Ordinance to the City Commission to alter the maximum height of buildings in the MX district.
ORDINANCE NO.________

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 04 DEVELOPMENT STANDARDS, SECTION 4.19, HT-04 (HEIGHT STANDARDS) TO ALTER THE MAXIMUM HEIGHT OF BUILDINGS IN THE MX DISTRICT.

Article 04, section 4.19 HT-04 shall be amended as follows:

4.19 HT-04

This Height Standards section applies to the following district:
MX
The following height standards apply:

A. Roofs:
   1. Flat roofs shall be no more than 45 feet.
   2. Eave line for sloped roofs shall be no more than 40 feet.
   3. Peak or ridge of any sloped roof shall be no more than 50 feet as measured to the average grade at the sidewalk at the frontage line.
   4. Maximum overall height including the mechanical and other equipment shall be no more than 50 feet.
   5. Sloped roofs no greater than 45 degrees measured to the horizontal shall be permitted for the screening of mechanical and other equipment.
   6. Any other use or occupancy above 40 feet shall be prohibited.
   7. Maximum of 4 stories.
   8. Structures Along Eton Road: The minimum eave height for a 1 story building along Eton Road shall be 18 feet.

ORDAINED this _______ day of __________, 2016 to become effective 7 days after publication.

________________________________________
Rackeline J. Hoff, Mayor

________________________________________
Laura Pierce, City Clerk
DATE:       June 16, 2016
TO:         Planning Board
FROM:       Jana Ecker, Planning Director
SUBJECT:    Request to consider amendments to Chapter 126, Zoning, Article 04, Section 4.19, Height Standards

At the January 14, 2015 Planning Board meeting, the Board considered the Final Site Plan for 245, 325 and 375 S. Eton (District Lofts, Building B). The applicant originally proposed a four story mixed use building with a rooftop terrace, a mechanical tower extending above the roof, and rooftop mechanical equipment. While the site plan was approved, the Planning Board added a condition requiring the applicant to remove the rooftop terrace, and lower the height of the mechanical tower and other mechanical equipment to 55’ in height or less to comply with Article 4, section 4.19, Height Standards, or obtain a variance from the Board of Zoning Appeals.

The applicant submitted an application for variances to the Board of Zoning Appeals. On July 14, 2015, the Board of Zoning Appeals heard the requests and denied each of them. The Board of Zoning Appeals stated that the applicant’s best path in this case would be to seek ordinance amendments through the City Commission. Thus, the applicant amended their plans to comply with the Zoning Ordinance.

At this time, the applicant has filed a petition to amend the Zoning Ordinance to request an amendment to Article 4, section 4.19, Height Standards to increase the maximum overall height in the MX district to allow for rooftop mechanical equipment and associated structures. The applicant is also requesting an amendment to the same section to allow rooftop terraces and accessory uses such as fitness areas and kitchen facilities. The applicant has submitted a letter detailing the reasons for these requests, and has suggested specific amendments (see attached). Specifically noted reasons include allowing safe access to the roof for repair and maintenance, and allowing reasonable rooftop uses and structures within the spirit and intent of those envisioned in the Eton Road Corridor Plan.

**MX Zoning District**

Currently, Article 4, section 4.19, Height Standards, provides the following with regards to the permitted height of buildings in the MX zone district:

The following height standards apply:

B. **Roofs:**
   1. **Flat roofs shall be no more than 45 feet.**
2. Eave line for sloped roofs shall be no more than 40 feet.
3. **Peak or ridge of any sloped roof shall be no more than 50 feet as measured to the average grade** at the sidewalk at the frontage line.
4. **Maximum overall height including the mechanical and other equipment shall be no more than 50 feet**.
5. Sloped roofs no greater than 45 degrees measured to the horizontal shall be permitted for the screening of mechanical and other equipment.
6. **Any other use or occupancy above 40 feet shall be prohibited**.
7. Maximum of 4 stories.

Thus, Article 4, section 4.19 does not provide any additional height for mechanical equipment over the peak or ridge height of a sloped roof building, but does provide an additional 5’ of height for mechanical equipment on flat roof buildings. In addition, Article 4, section 4.19 specifically prohibits any use or occupancy above 40’ in height, thus precluding a rooftop terrace, swimming pool, and perhaps even a rooftop garden.

**All Other Commercial Zoning Districts**

Article 4, section 4.19, Height Standards, provides the following with regards to the permitted height of buildings in all other commercial zoning districts:

The following height standard applies:

A. **Structures Excluded**: The **maximum height limits set forth in the two-page layout in Article 2 shall not apply to any penthouses, rooftop screening, rooftop mechanical equipment and/or other rooftop mechanical appurtenances, providing they are screened in accordance with Section 4.54**.

Thus, for all other commercial zoning districts, rooftop penthouses, screening and mechanical equipment are exempt from the maximum height standards for their zone district, so long as they are fully screened in accordance with Article 4, section 4.54, which states:

The following screening standards apply:

8. **Rooftop mechanical and other equipment shall be limited, positioned and screened to minimize views from adjacent properties and public rights-of-way**:

a. To minimize the visual impact of such equipment from adjacent elevated views all rooftop mechanical equipment and associated screening must be removed if:
   i) The equipment is inoperable and not serviceable: or
   ii) The equipment is obsolete and not in service, or
   iii) The equipment is not being utilized for its intended purpose.

b. To minimize the visual impact of such equipment from other points of observation, **rooftop mechanical and other equipment shall be obscured by a screenwall composed of materials compatible with the building** or by landscaping demonstrated to provide an effective permanent visual barrier.
c. **Any screenwall barrier:**
   i) Shall, to the best extent possible, not extend above the top edge of an imaginary plane extending upward no more than 45 degrees from the eave line: and
   ii) ** SHALL not exceed 10’ in height.**

Accordingly, Article 4, section 4.19, Height Standards allows for an additional 10’ of height above the maximum permitted height in all commercial zoning districts, with the exception of the MX district. Further, there are no specific prohibitions against rooftop uses as apply in the MX district.

**Downtown Overlay District**

Currently, Article 3, section 3.04, Downtown Birmingham Overlay District, provides the following with regards to the permitted height of buildings in the Downtown Overlay:

1. **D2 Zone** (two or three stories):
   
   ..... 
   b. Peak or ridge of any sloped roof shall be no more than 46 feet as measured to the average grade.  
   c. Maximum overall height including the mechanical and other equipment shall be no more than 56 feet.  
   ..... 

2. **D3 Zone** (three or four stories):
   
   ..... 
   b. Peak or ridge of any sloped roof shall be no more than 58 feet as measured to the average grade. 
   c. Maximum overall height including the mechanical and other equipment shall be no more than 68 feet. 
   ..... 

3. **D4 Zone** (four or five stories):
   
   ..... 
   b. Peak or ridge of any sloped roof shall be no more than 70 feet as measured to the average grade. 
   c. Maximum overall height including the mechanical and other equipment shall be no more than 80 feet. 
   ..... 

Thus, Article 3, section 3.04, Downtown Birmingham Overlay District, also provides an additional 10’ of height for mechanical equipment over the peak or ridge height of a sloped roof building, and provides potentially more than 10’ for flat roof buildings. Further, there are no specific prohibitions against rooftop uses as apply in the MX district.
Based on the findings noted above, the Planning Board may wish to discuss ordinance amendments to address the noted inconsistencies between the MX district and all other commercial zoning districts. Draft ordinance language is attached for your review and discussion.
Ms. Ecker explained the subject site, 375 S. Eton, is part of a larger site including the existing Big Rock Chop House, Big Rock Chop House parking deck, the Reserve banquet facility, and the District Lofts - Villa Street Building (Building A), and has a total land area of 3.54 acres. It is located on the southeast corner of S. Eton and Maple Rd., and extends down to Villa St. to the south. A Special Land Use Permit ("SLUP") was granted for the Reserve on September 22, 2003 as it exceeds 6,000 sq. ft. in size, and has hours of operation past 11 p.m. The applicant was also required to prepare a Community Impact Study ("CIS") in accordance with section 7.27(E) of the Zoning Ordinance at the time that the entire site was originally approved (when Building A was to be constructed), and the CIS was accepted by the Planning Board on January 25, 2006. As the Big Rock Chop House is also listed in the City's inventory of historic properties, the entire site was also previously reviewed and approved by the Historic District and Design Review Committee ("HDDRC").

The applicant is proposing to construct the final phase of the entire development which was originally approved on August 6, 2006. This final phase includes the proposed construction of a four-story, mixed-use building containing 18 residential loft units, two live/work ground floor units and two commercial spaces on the first floor (Building B). Building B is not located in a Historic District. All of the underground parking will be under the footprint of the new loft building and accessed from the existing loft building. The units range in size from 924 sq. ft. to 2,800 sq. ft.

The applicant meets the majority of the bulk, height, area and placement requirements for the MX Zoning District. However, the applicant will be required to reduce the height of the building or obtain a variance from the Board of Zoning Appeals to allow the mechanical tower and other equipment to exceed 50 ft. in height. The applicant is proposing 58 ft. including the mechanical and four stories. They have advised that they wish to seek a variance from the BZA to allow the stair and elevator tower to provide access to the rooftop, and to seek a variance to allow a rooftop deck with a pergola and an enclosed exercise room and a restroom if the Planning Board is supportive of this use.

Design Review
The proposed building design matches the contemporary style of the existing District Lofts building next door, while using some traditional style materials to blend in with the historic Big Rock Restaurant and The Reserve to create a building design that is harmonious with both the Mixed-Use District on the east side of Eton and the Single- Family Residential District on the west side of Eton. Overall, the proposed design of Building A is compatible with the vision for the MX District contained in the Eton Road Corridor Plan. All of the materials match what is on the existing loft building.
Mr. Victor Saroki, the architect for this development, was present along with Mr. Scott LePage, the developer; and Mr. John Kelly, the general contractor. The new building is exactly the same as originally proposed, except for the roof terrace. The original building has been very successful and there is a waiting list to get in. This building has some nice retail spaces that front right on Eton. The materials and aesthetic details are meant to resemble updated warehouses. The project meets all parking requirements and an additional 34 underground spaces are proposed for the new building. They are happy to work with staff to identify street furniture along Eton and the appropriate spaces for lighting along both Eton and Villa.

They see the roof terrace as a nice element to introduce into this project. Serviceability for the mechanical equipment is a practical consideration for allowing the stairs and elevator to go to the roof. In the MX District the allowable building height is 45 ft. and only 5 ft. more is permitted for mechanical. All the other zoning districts in town permit 10 ft. for mechanical. So with only 5 ft. permitted, the only way to get to the roof is to climb up a ladder and through a hatch. In summary, the rooftop terrace is a small element that is practical for service and it is good for the residents. Mr. Saroki thinks that use of the roofs should be encouraged, but it cannot be done with only 5 ft. allowed above the building height.

Ms. Whipple-Boyce thought the rooftop area is somewhat like a fifth story. She suggested they could achieve what they want by taking half of an end unit and turning it into a terrace. Mr. Saroki replied if they are not successful at the BZA, the terrace won't happen.

Mr. Koseck likes the aesthetic of the building. He was surprised at the 5 ft. limit on rooftop screening, the same with stairs and an elevator. Mr. Saroki showed the circulation through the site and explained how people can go in and out comfortably.

Mr. DeWeese said he finds it very hard to support the uses, given the way the ordinance is written; but again, it is not clear why it is that way because the 5 ft. height allowance for screening is not practical.

In response to Chairman Clein, Mr. Saroki stated there is no intention to add an enclosure to allow for all season use. This is truly a sun deck.

The Chairman called for comments from members of the public at 9:55 p.m.

Mr. J. Colsman, 521 Lewis, asked where all the cars will park. Ms. Ecker verified that the applicant complies with the parking requirement. Mr. Saroki said they have 397 spaces on-site, which is an excess of 60 spaces, not including street parking. Mr. Williams noted that people always want to park on the streets.

Motion by Ms. Whipple-Boyce
Seconded by Mr. Share to approve the Final Site Plan and Design Review for 375 S. Eton subject to the following conditions:
1) Reduce the height of the building or obtain a variance from the BZA to allow the mechanical tower and other equipment to exceed 50 ft. in height;
2) Remove all uses above 40 ft. in height (deck, exercise room and restroom) or obtain a variance from the BZA;
3) Provide specification sheets for the proposed rooftop mechanical equipment and identify the proposed roofing material;
4) Add one street tree along Villa and provide street lights every 40 ft. on S. Eton and every 80 ft. on Villa all along the north side, adjacent to Buildings A and B, with all locations to be administratively approved; and
6) Add benches, trash receptacles and bike racks, with locations to be administratively approved.

There were no comments from the audience on the motion at 10:03 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Whipple-Boyce, Share, Clein, DeWeese, Koseck, Lazar, Williams
Nays: None
Absent: Boyle
The owners of the property known as 375 S. Eton request four dimensional variances to construct a 60 ft. 4 in. high mixed-use building in the MX District:

A. Chapter 126, Article 4, Section 4.19 (A) (1) of the Zoning Ordinance requires that buildings constructed with flat roofs shall be no more than 45 ft. in height. The applicant is proposing to construct an elevator shaft, two stairwells and enclosed room with a flat roof that would extend above the fourth story 15.33 ft. for an overall height of 60.33 ft. Therefore the applicant is requesting a dimensional variance of 15.33 ft. to allow the flat roof to exceed 45 ft.

B. Chapter 126, Article 04 section 4.19 (A) (4) of the Zoning Ordinance requires that the maximum overall height of a building, including mechanical and other equipment that 50 ft. The applicant is proposing to construct an elevator shaft, that 50 ft. The applicant is proposing to construct an elevator shaft, two stairwells and enclosed room that would extend above the maximum allowable height 10.33 ft. for an overall height of 60.33 ft. Therefore, the applicant is requesting a dimensional variance of 10.33 ft. to allow them to exceed the maximum allowable height.

C. Chapter 126, Article 04 section 4.19 (A) (6) of the Zoning Ordinance states that any other use or occupancy above 40 ft. shall be prohibited. The applicant is proposing to construct an elevator shaft, two stairwells and enclosed room as well as an outdoor terrace that would have an occupied floor height of 45 ft. Therefore, the applicant is requesting a dimensional variance of 5 ft. to allow use and occupancy above 40 ft.

D. Chapter 126, Article 04 section 4.19 (A) (7) of the Zoning Ordinance states that buildings in the MX Zone are permitted a maximum of four stories. The applicant is proposing to construct an elevator shaft and enclosed room as well as an outdoor terrace that would be constructed above the fourth story. Per the definition of story contained in Article 09 of the Zoning Ordinance, the proposed enclosed room and elevator shaft constitute an additional story. Therefore, the applicant is requesting a dimensional variance to permit five stories.

Mr. Baka explained the applicant is proposing to construct this building as Phase 2 of the District Lofts. Phase 1 was previously completed in 2009 and constructed without the stair/elevator access to the roof and they are requesting this variance to provide easier and safer access to the roof.

Mr. Lyon received clarification there is no code requirement for this stairway and elevator in order to have necessary egress from the roof. Mr. Baka explained for Mr. Jones the existing first phase went in without the additional height and it functions under code. In response to Mr. Miller, he noted the Planning Board found the maximum overall height allowance of 50 ft. a little odd. In the rest of the City an additional 10 ft. in height is allowed for mechanical equipment, whereas in the MX District it is only 5 ft. They didn't necessarily show support for the additional uses.
Mr. Judd noted that back in 1999, and before, there were public meetings, committees, and input prior to enactment of the MX District Ordinance. Mr. Jones noticed that one of the Planning Board members had suggested that the idea of the deck could be achieved by taking half of an end unit and turning it into a terrace.

Mr. Baka verified for Mr. Hart there are 30 mechanical units on the roof that will have to be maintained and in the current building access to them is through a hatch.

Mr. Victor Saroki, Architect, said along with him this evening are Norman and Bonnie LePage, the project owners; Rick Rattner, Attorney; John Kelly, General Contractor and Builder; and J.C. Cataldo, Manager of the Phase 1 Building. Mr. Saroki indicated now that the economy has recovered they plan to build Phase 2. There is a total of 20 residential units in this building and two retail spaces. They believe there is a practical difficulty and hardship caused by strict compliance with the Ordinance that only allows 5 ft. additional height for mechanical screening on the roof. They are asking for 15 ft. to permit the elevator to protrude.

This started because they have learned some lessons from constructing the first building. Servicing a building through a ladder and a roof hatch with this many mechanical units on the roof has become problematic. He pointed out that the core is the furthest point back from the two faces of the building, so the perception from the street is still a four-story building. They believe the central issue is really the health, safety, and welfare of people servicing the equipment. They feel this is a reasonable request for adequate access to the roof and that their request does substantial justice. This project is within the spirit of the Ordinance and the granting of the variances is not at all contrary to that. They feel that literal enforcement of this chapter is an unnecessary hardship. Further, the granting of the variances does substantial justice to the property owners, to all or the residents who would reside in this building, and to the general public.

Mr. Saroki went on to note that in buildings like this it is a very nice amenity to have some open air space and some vegetation on the roof.

Chairman Lillie pointed out the BZA is a quasi-judicial board. The applicants are asking the board to re-write the statute and that is not the board’s function. It is up to the City Commission to make changes to Ordinances. He asked Mr. Saroki to explain why his building is unique and different than any other building in the MX District at four stories and a flat roof. He is having a hard time seeing how this building would meet the uniqueness test. Also, the fact they don't have stairs going to the roof doesn't prevent them from using the property as zoned, as evidenced by their first building.

Mr. Saroki pointed out their first building has been successful but they have an opportunity to make this a better and safer building at a very minimal increase in height in one small area. As to the unique characteristics of the property, their feeling is that every building in the MX District is not going to be built like this one.

Mr. Judd noted this is something that could have been addressed during the period from 1999 until construction of this building. Large compressors can be hoisted to the roof with cranes. He asked Mr. Saroki how they get around the self-created problem. Mr. Saroki said the sun
terrace is self-created but he doesn't believe it is a self-created issue to ask for access to the roof in a more reasonable and safe way than through a roof hatch. Because there are more commercial spaces in this building than in their first building, larger and heavier commercial equipment is required. The ideal location is on the roof.

Mr. Lyon asked how this issue is not self-created in that they could go three stories and have all the room they need for the mechanicals. Mr. Saroki replied that is really not reasonable here and not in the spirit of the Ordinance that allows four-story buildings.

Mr. Jones inquired if there is anything in between the elevator and the ladder they could design that would address the safety concerns. Show how they could ameliorate the requested variances.

Mr. Saroki said a solution could be to create a stairway within the third floor that gets up to the roof.

Responding to Mr. Miller, Mr. Saroki explained they started with one stairway as a way to get up, then they thought it would be reasonable to get an elevator to go up. After that they decided it just makes sense to extend the whole core up. However, they couldn't have elevator doors just open to the roof so there had to be an enclosure or a vestibule. So then they thought a reasonable amenity for the building would be to allow the residents to enjoy the roof deck.

Mr. Lyon advised the applicant that in order to improve the Ordinance and make their building better the City Commission is the place to go.

There was no one in the audience who wanted to speak to this appeal at 8:35 p.m.

Motion by Mr. Judd
Seconded by Mr. Lyon on Appeal 15-20, 375 S. Eton, the appellant is asking for four variances. Mr. Baka, he felt, did a very complete job in describing the four. They all arise from Chapter 126, Article 04, section 4-19 (A) and four of the subsections of section (A). Variance A deals with a dimensional variance of 15.33 ft. to allow a flat roof to exceed 45 ft. Variance B is requesting a dimensional variance of 10.33 ft. to allow them to exceed the maximum allowable height. Variance C is a dimensional variance of 5 ft. to allow use and occupancy above 40 ft. Variance D is a dimensional variance to permit five stories.

This particular appeal arises from the MX District which is a fairly new creation. He doesn't recall too many or any appeals dealing with this section. In its creation it has been noted that there were hearings called by the City Commission; there were committees appointed; testimony was taken during those periods; drafts were made; and eventually the MX Ordinance was produced and approved.

In this case the appellant is asking for these variances based on the health, safety, and welfare of workers who may be servicing the building. It has been noted in discussions by the members of this board that the prior building (the sister building if you will), really of the same construction and many of the same dimensions, was built without the request for two stairways and an elevator with mechanics on top of the building. It was also noted that the building is
extremely popular. It is well designed pursuant to the description of both the attorney representing the appellant and the architect.

Mr. Judd moved to deny all four variances requested by the appellant. He doesn't feel that a practical difficulty has been effectively argued in this case. He doesn't feel that strict compliance with the height requirements in the MX District would unreasonably prevent the owner from using the property for a permitted purpose and would be unnecessarily burdensome. In support of that he points to Building 1 that was built in 2009 which has been extremely effective.

He feels that pretty well mutes the argument of the petitioner dealing with the second building. He also notes that Building 1 and this particular building at 375 S. Eton meet all the Code requirements dealing with safety, and he feels that pretty well takes care of that point. Secondly, he doesn't feel that granting the variance would do substantial justice to the other property owners in the District in that conducting a spot zoning in this case, and perhaps that is not the proper term, we would certainly be creating a specialized district, which is spot zoning with an individualized height different from all the others. We would be doing this in contravention of all of the hearings and ordinances that were enacted by the City Commission and he thinks we would be placing ourselves in jeopardy if we did such an action.

Mr. Judd does not feel the plight of the owner is due to the unique circumstances of the property, as already amply discussed by other members of this board. He does feel the problem is self-created, in that the elevator to the decks is really the engine that is driving this appeal. He discounts the importance in this case of the indications of health, safety and welfare. For those reasons he would move to deny.

Mr. Miller felt that as urban density increases the use of roof areas is becoming more and more desirable. Access to these areas needs to be made by stairs, elevators; exactly what is being asked here. In this regard he thinks the Zoning Ordinance is kind of behind the curve. However, it is beyond our charge here on the board to redefine the ordinance in such a sweeping manner by carrying occupied space up to another floor.

Mr. Lyon agreed with Mr. Miller and believes that urban density will drive everything up. However, he thinks it is way beyond this board's purview to grant these variances. This is not unique and it is self-created. He doesn't feel the applicant meets the four points to grant the variances.

Mr. Jones concurred. He finds that this appeal is self created. Functionality is borne out by the adjoining building still being very popular both economically and functionally. He concurs as the board always states that their job is not to create the ordinance but to enforce within the parameters that they have for a variance. For those reasons he will support the motion.

Chairman Lillie indicated he will also support the motion. He doesn't think there is anything unique about this property. Denying the requested variances will not prevent the petitioner from using the property for the permitted purpose. From what has been presented it is pretty obvious there is no problem with Building 1. A further reason for him to support the motion is the petitioner has said there may be an issue with the Ordinance. If that is the case the way to
change the Ordinance is through the City Commission.

Mr. Hughes thought that Messrs. Saroki and Rattner have made a rather persuasive case. It is very compelling and would be fine if it were permitted under the restrictions under which this board operates. However, granting the variances is too much of a reach over what the board's authority is. The proper way to have something like this approved would be to modify the Ordinance and this board is not in a position to do that.

Motion to deny carried, 6-1.
ROLLCALL VOTE
Yeas: Judd, Lyon, Hughes, Jones, Lillie, Miller
Nays: Hart
Absent: None
PETITION TO AMEND ZONING ORDINANCE

1. 245, 325 AND 375 S. Eton
Petition to amend maximum height for mechanical equipment in the MX Zoning District

Ms. Ecker recalled that at the January 14, 2015 Planning Board meeting, the board considered the Final Site Plan for 245, 325 and 375 S. Eton (District Lofts, Building B). The applicant originally proposed a four-story mixed-use building with a rooftop terrace, a mechanical tower extending above the roof, and rooftop mechanical equipment. While the site plan was approved, the Planning Board added a condition requiring the applicant to remove the rooftop terrace, and lower the height of the mechanical tower and other mechanical equipment to 55 ft. or less in height to comply with Article 4, section 4.19, Height Standards, or obtain a variance from the Board of Zoning Appeals ("BZA").

The applicant submitted an application for variances to the BZA and on July 14, 2015, the BZA heard the requests and denied each of them. Thus, the applicant amended their plans to comply with the Zoning Ordinance.

At this time, the applicant has filed a petition to amend the Zoning Ordinance to request an amendment to Article 4, section 4.19, Height Standards to increase the maximum overall height in the MX District to allow for rooftop mechanical equipment and associated structures. The applicant is also requesting an amendment to the same section to permit rooftop terraces and accessory uses such as fitness areas and kitchen facilities. Specifically noted reasons include allowing safe access to the roof for repair and maintenance, and allowing reasonable rooftop uses and structures within the spirit and intent of those envisioned in the Eton Road Corridor Plan.

**MX Zoning District**
Article 4, section 4.19 does not provide any additional height for mechanical equipment over the peak or ridge height of a sloped roof building, but does provide an additional 5 ft. of height for mechanical equipment on flat roof buildings. In addition, Article 4, section 4.19 specifically prohibits any use or occupancy above 40 ft. in height, thus precluding a rooftop terrace, swimming pool, and perhaps even a rooftop garden.

**All Other Commercial Zoning Districts**
For all other commercial zoning districts, rooftop penthouses, screening and mechanical equipment are exempt from the maximum height standards for their zone district, so long as they are fully screened in accordance with Article 4, section 4.54, which states the screening standards that apply. Accordingly, Article 4, section 4.19, Height Standards allows for an additional 10 ft. of height above the maximum permitted height in all commercial zoning districts, with the exception of the MX District. Further, there are no specific prohibitions against rooftop uses as apply in the MX district.
Downtown Overlay District
Article 3, section 3.04, Downtown Birmingham Overlay District also provides an additional 10 ft. of height for mechanical equipment over the peak or ridge height of a sloped roof building, and provides potentially more than 10 ft. for flat roof buildings. Further, there are no specific prohibitions against rooftop uses as apply in the MX District.

Mr. Victor Saroki, Architect for the District Lofts, said they feel there are some practical aspects to be able to access and use the roof. Presently there is a roof hatch which is not ideal for getting people or equipment up. They would like to have reasonable access to the roof to service equipment, both via a stair and an elevator. A good safe number would be 15 ft. above a flat roof. Beyond this, he feels there is a need in urban areas to build and promote the use of the roofs. They become a nice amenity to residential or mixed-use buildings and they attract consumers to these projects.

The chairman thought this seems to make sense dimensionally, but he is not ready to start talking uses yet. The nature of the adjacencies needs to be studied. Mr. Koseck was also in favor of extending the height but thought needs to be given to allowable usage of some or all of the roof.

Mr. Saroki was okay with a portion of the roof for a deck. They are even okay with setting it back a little bit and would add landscaping. They are across the street from two and three-story apartments. Ms. Ecker advised the process for simply making the height consistent across all zones would take at least three months. Mr. Saroki said they would be okay dealing with height now and then tackling uses later.

Motion by Mr. Williams
Seconded by Mr. Jeffares to set a public hearing on the proposed changes to Article 04, section 4.19 ht-04 related to height only, as set forth in the materials for July 27, 2016.

There were no comments from the public on the motion at 8:53 p.m.

Motion carried, 7-0.

VOICE VOTE
Yeas: Williams, Jeffares, Boyle, Clein, Koseck, Lazar, Whipple-Boyce
Nays: None
Absent: None
PUBLIC HEARING

1. To consider amendments to Chapter 126, Zoning, Article 04 Development Standards, section 4.19, HT-04 (Height Standards) to alter the maximum height of buildings in the MX District to allow for rooftop mechanical equipment.

The chairman opened the public hearing at 7:34 p.m.

Ms. Ecker recalled at the January 14, 2015 Planning Board meeting, the board considered the Final Site Plan for 245, 325 and 375 S. Eton (District Lofts, Building B). The applicant originally proposed a four-story mixed-use building with a rooftop terrace, a mechanical tower extending above the roof, and rooftop mechanical equipment. While the site plan was approved, the Planning Board added a condition requiring the applicant to remove the rooftop terrace, and lower the height of the mechanical tower and other mechanical equipment to 55 ft. in height or less to comply with Article 4, section 4.19, Height Standards, or obtain a variance from the Board of Zoning Appeals ("BZA").

On July 14, 2015, the BZA heard the requests and denied each of them. They stated that the applicant's best path in this case would be to seek ordinance amendments through the City Commission. Thus, the applicant amended their plans to comply with the Zoning Ordinance.

At this time, the applicant has filed a petition to amend the Zoning Ordinance to request an amendment to Article 4, section 4.19, Height Standards to increase the maximum overall height in the MX District to allow for rooftop mechanical equipment and associated structures. The applicant is also requesting an amendment to the same section to allow rooftop terraces and accessory uses such as fitness areas and kitchen facilities. Specifically noted reasons for this request include allowing safe access to the roof for repair and maintenance, and allowing reasonable rooftop uses and structures within the spirit and intent of those envisioned in the Eton Road Corridor Plan.

In every other zone district in the City an extra 10 ft in height is allowed for mechanical equipment, screening and other rooftop structures. The maximum allowable height in the MX District is currently no more than 50 ft. These amendments will bring the MX District in line with all other districts in the City with regard to allowable mechanical space above the maximum height. The roof height is the same, but an extra 10 ft. is allowed for mechanicals.

The chairman took comments from the public at 7:36 p.m.

Mr. Victor Saroki, Architect, said they are very pleased to see the text amendment and they support it as it is written for 60 ft. access for mechanical use, stairs, and elevators. He asked the board to please consider moving forward an allowance for use of the rooftop area. They become outdoor areas for people to enjoy, especially when they do not have a yard.

Motion by Mr. Williams
Seconded by Ms. Whipple-Boyce to recommend an amendment to Article 04, Section 4.19, Height Standards HT-04 of the Zoning Ordinance to the City Commission to alter the maximum height of buildings in the MX District as set forth in the proposed ordinance in the materials. Among other things, 4.19 HT-04 A would increase the maximum overall height, including mechanical and other equipment to be no more than 60 ft.

There were no comments from members of the public at 7:40 p.m.

**Motion carried, 7-0.**

**VOICE VOTE**
Yeas: Williams, Whipple-Boyce, Boyle, Clein, Jeffares, Koseck, Lazar
Nays: None
Absent: None

Chairman Clein closed the public hearing at 7:40 p.m.
In June of 2016, the Department of Building Facilities was invited by the Engineering Department to participate in a project to re-light the Park St. Parking Structure, as part of the city's ongoing effort to improve parking facilities. A consultant was hired to prepare the specifications and, blueprints, and to provide recommendations for the replacement of light fixtures.

After analyzing and making comparison the existing light fixture to the new light fixtures it was determined that there is the potential for significant savings on installation of more efficient light fixtures with the latest technology. Replacement of the light fixtures will save the City money in electrical usage charges, but also in the cost of replacing bulbs, installing new ballasts, etc.

The Department Building Facilities and Finance Department began researching cooperative purchasing agreements in an effort to evaluate the pricing to purchase all light fixtures needed for this projects. The city is a member of The Cooperative Purchasing Network (TCPN) which has a competitively bid extendable contract with Grainger available for lighting supplies.

The City can purchase this lighting off TCPN Cooperative Contract # 142102. The City would also receive a rebate of approximately $5,000.00, in addition to incurring no taxes and preventing contractors from marking up the light fixtures. If we placed this order on our Grainger account, we will also get free delivery.

Also, we applied for DTE incentives and they have reserved an estimated amount of $60,540.00 with a date of completion on or before October 25, 2016.

The light fixture specification on the plans are for the Park St. Parking Structure are LED. Each light has its own photocell to turn off during the day when ambient light is available. Also, each light will dim automatically if the internal motion sensor determines that no one is in the immediate area, helping reduce electrical usage further, especially late at night. Similar lights were installed previously at the Pierce St. Structure with great success.

Attached is the supplier quotation for Park St. Parking Structures. Four different kinds of lights are being purchased for the following areas:

1. Overhead ceiling mounted lights.
2. Stair tower lights (with built in battery pack for emergency operation during power
outages).
3. EXIT signs.
4. Pole mounted lights for the roof level.

The City went to bid for a firm specializing in commercial electrical installation for re-lighting of the Park St. Parking Structure.

Interested firms were required to register to attend a mandatory pre-bid meeting. The pre-bid meeting was scheduled to review, tour the facility and answer any question regarding the request for proposal, nine interested firms attended. Four bids were received.

All bids have been reviewed for compliance with the City's request for proposal (RFP).

After reviewing all bids, the low bidder Lee & Associates meets with the requirements outlined in the RFP. for the amount of $36,170.00.

As a result, the Maintenance Department and Engineering Department recommends that the City Commission approve the purchase of the specified light fixtures with Grainger and a contract for the installation of these lights fixtures to Lee & Associates, to complete this project.

Funds were budgeted for this project, in the 2016-2017 budget under the Capital Purchases and Improvements Fund, account #585-538.003-977.0000.

The re-lighting work will generally start at 4:00 a.m. until 8:00 a.m. and the contractor will conduct his operation such that the parking operation is not disrupted by this work.

This work is expected to be completed by the first week on October 2016.

SUGGESTED RESOLUTION:

To approve the purchase of lighting equipment for the Park St. Structure from Grainger, through the TCPN extendable purchasing contract #R142102 for a total expenditure of $260,055.87. Funds for this purchase are available in the Auto Parking Fund, account 585-538.003-977.0000. Further, to direct the Mayor and City Clerk to approve the purchase of light fixtures on behalf of the City.

And, To approve the agreement with Lee & Associates, in the amount not to exceed $36,170.00 to install light fixtures at the Park St. parking structure contract. Further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City.
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CITY OF BIRMINGHAM
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BIRMINGHAM, MI 48009-6870
US
Shipper Account:

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## Customer Quotation

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- **Print Date**: 07/21/2016
- **Customer Account**: 803227974
- **Page**: 4 / 6

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<tr>
<th>Line</th>
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<th>Unit</th>
<th>Price</th>
<th>Quote Price</th>
<th>Extended Price</th>
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<tr>
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<td>OSQ-DABZ</td>
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<tr>
<td></td>
<td>Mfr Brand Name: CREE</td>
<td>Customer Part No.:</td>
<td></td>
<td>Carrier: 30202 - RYDER INTEGRATED LOGISTICS INC</td>
<td>Cost expiration date: 08/17/2016</td>
<td>Taxable: NO</td>
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| 90   | STWL4-T-L250-LP-UN-SD- | 40 | 45 | EA | 483.28 | 21,747.60 |
|      | Mfr Brand Name: NEW STAR | Customer Part No.: | | Carrier: 30202 - RYDER INTEGRATED LOGISTICS INC | Cost expiration date: 08/17/2016 | Taxable: NO |

---

Thank You!

Call or visit us at
827 Fisher Drive
Waterloo, IA 50701
Ph: (800) 323-0620
Fax: (800) 722-3291
### Information

<table>
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<tr>
<th>Grainger Quote Number</th>
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<tr>
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<td>07/21/2016</td>
</tr>
<tr>
<td>Customer Account</td>
<td>803227974</td>
</tr>
<tr>
<td>Page</td>
<td>5 / 6</td>
</tr>
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**CEWSRE**
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Cost expiration date: 08/17/2016
Taxable: NO

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**STWL4-T-L2L50-277-BB-E**
--VOLUNTARY ALTERNATE--STAIRWELL FIXTURE, POLYCARBONATE, 277V, BACK BOX, EMERGENCY BATTERY (HIGH), INTERNAL OCCUPANCY SENSOR, S TEP DIMMING MODULE 50%
Mfr Brand Name NEW STAR
Customer Part No.:
Carrier: 30202 - RYDER INTEGRATED LOGISTICS INC
Cost expiration date: 08/17/2016
Taxable: NO

---

Thank You!
Call or visit us at
827 Fisher Drive
Waterloo, IA 50701
Ph : (800) 323-0620
Fax: (800) 722-3291
Customer Quotation

Information
Grainger Quote Number 2028236083
Print Date 07/21/2016
Customer Account 803227974
Page 6 / 6

Total Sell Price in USD 260,055.87

This is not an invoice. Changes to product or quantities may result in different pricing. Availability and lead times are subject to change and can be confirmed at order placement. Additional lead time may apply for AK and HI. Unless otherwise stated, these items are sold for domestic consumption in the United States. If exported, purchaser assumes full responsibility for compliance with U.S. export control. Contact Sales Rep or Grainger branch listed below for questions, order placement or to submit a new request. Return Policy: Please contact Grainger before returning any product. All returns are subject to the manufacturer's return policy. Special Order items may not be returnable. Restocking fees may apply.

Thank You!
Call or visit us at
827 Fisher Drive
Waterloo, IA 50701
Ph: (800) 323-0620
Fax: (800) 722-3291
City of Birmingham  
Park Street Parking Structure LED Relight – 2016  
20-1708.00  

Name of Bidder: Lee & Associates Company, Inc.

SECTION 004100 - BID FORMS

30.1 INSTRUCTIONS

Submit Bids on this Bid Form in accordance with Instructions to Bidders.

30.2 BID FORM

PART 1 - TERMS OF BID

PROJECT IDENTIFICATION: Park Street Parking Structure Relight - 2016

CONTRACT IDENTIFICATION AND NUMBER: 10-16(PK)

THIS BID IS SUBMITTED TO: City of Birmingham

A. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in form included in Contract Documents to complete all Work as specified or indicated in Contract Documents for Contract Price and within Contract Time indicated in this Bid and in accordance with Contract Documents.

B. BIDDER accepts all of terms and conditions of Instructions to Bidders, including without limitation those dealing with disposition of Bid Security. BIDDER will sign Agreement and submit Contract Security and other documents required by Contract Documents within 15 days after date of OWNER's Notice of Award. This Bid will remain open for 60 days after day of Bid opening.

C. In submitting this Bid, BIDDER represents, as more fully set forth in Agreement, that:

1. BIDDER has examined copies of all Contract Documents and of following addenda:

<table>
<thead>
<tr>
<th>Date</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/25/2016</td>
<td>1</td>
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</tr>
<tr>
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<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(receipt of all of which is hereby acknowledged) and also copies of Advertisement or Invitation to Bid or Instructions to Bidders.

2. BIDDER has examined site and locality where Work is to be performed, legal requirements (federal, state and local laws, ordinances, rules and regulations)
and conditions affecting cost, progress or performance of Work and has made such independent investigations as BIDDER deems necessary.

3. This Bid is genuine and not made in interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly induced or solicited any other Bidder to submit false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER; and

4. BIDDER agrees that Work Item quantities are estimates and that OWNER may increase or decrease these quantities at unit prices stated, so long as increases or decreases in Base Bid do not exceed 25% of Base Bid price. Increases or decreases beyond these limits shall be in accordance with Supplementary Conditions, Section 007300.

5. BIDDER agrees that all alterations or additions to Work shall be performed in accordance with paragraph "Changes" and/or "Construction Change Directives" under Section "Supplementary Conditions."

6. OWNER reserves right to delete any section of Work.

D. BIDDER agrees that Work shall be substantially completed and fully completed on or before dates indicated in Section 007300 Supplementary Conditions.

BIDDER accepts provisions of Agreement as to liquidated damages in event of failure to complete Work on time.

E. BIDDER will complete Work for following price(s) based on unit prices and bid quantity extensions:

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>UNITS</th>
<th>QUANTITY</th>
<th>UNIT PRICE</th>
<th>EXTENSION</th>
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<tr>
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<td>Stair Tower Light Fixture Replacement (Labor)</td>
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<td>45</td>
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**TOTAL** $ 36,170.00

LUMP SUM CONTRACT PRICE Thirty-six thousand one hundred
(use words)

seventy and 00/100 DOLLARS $ 36,170.00
(figures)
City of Birmingham
Park Street Parking Structure LED Relight – 2016
20-1708.00

Name of Bidder: Lee & Associates Company, Inc.

F. Communications concerning this Bid shall be addressed to: (BIDDER to provide bidder's name, address, telephone number and name of individual familiar with this Bid and able and authorized to answer questions regarding this Bid.)

Lee & Associates Company, Inc., 6444 Malvern Drive, Troy, MI 48098
Attn: Blong Lee
(248) 884-3893

G. Terms used in this Bid which are defined in General Conditions of Construction Contract included as part of Contract Documents have meanings assigned to them in General Conditions.

SUBMITTED ON July 29, 2016

PART 2 - SIGNATURES

If BIDDER is:

An Individual

By ____________________________ (SEAL)
(Individual's Name)

doing business as ____________________________

Business Address: ____________________________

Phone Number: ____________________________

A Partnership

By ____________________________ (SEAL)
(Firm Name)

______________________________
(General Partner)

Business Address: ____________________________
City of Birmingham
Park Street Parking Structure LED Relight – 2016
20-1708.00

Construction Documents
July, 2016

Name of Bidder: Lee & Associates Company, Inc.

Phone Number:

A Corporation

By: Lee & Associates Company, Inc. (Corporation Name)

Michigan (State of Incorporation)

By: Blong Lee (Name of Person Authorized to Sign)

President (Title)

(Corporate Seal)

Attest: Maycy Lee (Secretary)

Business Address: 6444 Malvern Drive

Troy, MI 48098

Phone Number: (248) 884-5800

A Joint Venture

By: (Name)

(Address)

By: (Name)

(Address)

Each joint venture member must sign. The manner of signing for each individual partnership and corporation that is party to joint venture should be in manner indicated above.
PART 3 - NON-COLLUSION AFFIDAVIT

A. Bidder, by its officers and its agents or representatives present at the time of filing this Bid, being duly sworn on their oaths say, that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other Bidder, or with any officer of The City of Birmingham whereby such affiant or affiants or either of them has paid or is to pay such other Bidder or officer any sum of money, or has given or is to give to such other Bidder or officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other free competition into the letting of the contract sought for by the attached Bids that no inducement of any form or character other than that which appears on the face of the Bid will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the Bid or awarding of the Contract, nor has this Bidder any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the Contractor sought by this Bid.

Submitted By:

Type or print firm name:

Lee & Associates Company, Inc.

Authorized Signature

Date

July 29, 2016

PART 4 - ATTACHMENTS

Following documents are attached to and made condition of this Bid, unless noted otherwise:

A. Required Bid Security in form of: Bid bond, Bank Draft or Certified Check in the amount no less than 5% of the total bid price.

END OF SECTION 004100
SECTION 005200

AGREEMENT

THIS AGREEMENT made the 29th day of July, 2016, by and between the CITY OF BIRMINGHAM, Oakland County, Michigan, hereinafter called the “City”, and Lee & Associates Company, Inc. of the City of Troy, County of Oakland, State of Michigan, hereinafter called the “Contractor”, relative to Contract No. 10-16(PK), otherwise known as: Park Street Parking Structure LED Relight – 2016 in the amount of $ 36,170.00:

1. The documents consisting of RFP, including all exhibits and the General Contract Conditions, and the Bid shall be incorporated herein by reference, shall become a part of this Agreement, and shall be binding upon both parties hereto. In the event that there is a conflict between these documents, this Agreement shall control, then the RFP, and then the Bid.

2. The Contractor shall furnish all labor and appliances necessary, and to all the work as set forth in the Proposal, and in accordance with the plans and specifications, which have been made a part of this agreement in a manner, time and place, as therein set forth.

   a. The Contractor shall provide a Performance Bond, which form is attached hereto and incorporated herein by reference to protect the City, and conditioned upon the faithful performance of the contract in accordance with the plans, specifications and terms hereof.

   b. The Contractor shall provide a Payment Bond which form is attached hereto and incorporated herein by reference for the protection of the claimants as defined in MCL §129.201(6) to supply labor to the principal Contractor or his Subcontractor and the prosecution of the work provided for in this contract.

3. Time is of the essence of this agreement. All of the work to be performed by the Contractor shall be completed on or before the Time of Completion, as set forth in the Supplementary Conditions. The Contractor shall pay to the City as liquidated damages, the amount per day as set forth under Liquidated Damages in the Supplementary Conditions, for each calendar day after the date specified under Time of Completion that the work to be performed by the Contractor is not completed. Liquidated damages are established because of the difficulty in ascertaining actual damages which the City might sustain, and are not intended as a penalty.

4. The City promises and agrees to pay said Contractor for all labor, and for all work performed under this agreement at the unit prices provided in the attached Proposals and Specifications.
5. For the faithful performances of the terms of this agreement, said parties respectively bind themselves, their successors, heirs, executors, administrators and assigns.

_IN WITNESS WHEREOF_, the parties execute this agreement as of the day and year first written above.

CITY OF BIRMINGHAM

Attest ____________________________
City Clerk

Witnessed __________________________

By: ____________________________
Mayor

By: ____________________________
Contractor

APPROVAL (1.135 City Code)

City Manager as to Substance

City Attorney as to Form

Director of Finance as to Financial Obligation

City Engineer

END OF SECTION 005200
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<th>Base Bid</th>
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<td>$36,170.00</td>
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<tr>
<td>Douglas Electric</td>
<td>No. 1</td>
<td>Bond</td>
<td>$38,210.00</td>
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<td>Allied Building</td>
<td>No. 1</td>
<td>Bond</td>
<td>$42,419.00</td>
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<td>Corby Energy Services</td>
<td>No. 1</td>
<td>Bond</td>
<td>$47,700.00</td>
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DATE: August 5, 2016
TO: Joseph A. Valentine, City Manager
FROM: Jana L. Ecker, Planning Director
SUBJECT: Fee Change for Lot Combinations

On July 25, 2016, the City Commission adopted an ordinance to amend Chapter 102, Subdivisions, of the City Code to add a new Article V - Combination of Land Parcels to create regulations governing the approval of residential lot combinations. In addition, the City Commission directed staff to review the fees charged for the combination of platted lots, and amend the fees if needed to be consistent with the fees for lot split applications.

All fees charged by the City are contained in the Fee Schedule of the Birmingham City Code. The Fee Schedule for changes to lots establishes the following fees:

**Lot Division (Chapter 102):**

- Fee per parcel created from each platted or unplatted lot (lot splits)
- Boundary Adjustment for single family dwelling: $200.00
- Separation of platted lots (fee per each lot) $200.00
- Combination of platted lots (fee per each lot) $50.00

Accordingly, the fee currently charged per lot for lot combinations is significantly lower than the fee charged for lot splits and lot separations. The lot combination fee was lowered to $50.00 several years ago, and prior to that time had been $200.00 per lot the same as lot splits and lot separations.

In accordance with the direction of the City Commission on July 25, 2016, the fee per lot for the combination of platted lots should be increased from $50.00 per lot to $200.00 per lot to be consistent with lot splits and lot separations.

**Suggested Action:**

To amend the Fee Schedule of the Birmingham City Code to increase the fee for the combination of platted lots from $50 per lot to $200 per lot, consistent with the fee for the separation of platted lots and lot splits.
ORDINANCE NO.________

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE FEE SCHEDULE OF THE CODE OF THE CITY OF BIRMINGHAM
AS FOLLOWS:

COMMUNITY DEVELOPMENT

Lot Division (Chapter 102):

Fee per parcel created from each platted or unplatted lot (lot splits)      
Boundary Adjustment for single family dwelling:                         $200.00

Separation of platted lots (fee per each lot)                            $200.00

Combination of platted lots (fee per each lot)                          $50.00

ORDAINED this ______ day of ________, 2016.

____________________________
Rackeline J. Hoff, Mayor

____________________________
Laura Pierce, City Clerk
ORDINANCE AMENDMENT
COMBINATION OF LAND PARCELS

City Planner Ecker explained that the ordinance would add a review process for the consolidation of lots. She explained that the review process would require City Commission approval, a public hearing where everyone within 300 feet would be noticed, submit a plot plan or drawing to scale of the property and adjoining property for 500 feet in all directions in order to get a sense as to the character of the neighborhood and whether what they are proposing would fit in as a whole. In addition, the applicant would have to draw in the proposed building envelope showing the front, side and rear setbacks.

In response to a question from Mayor Hoff regarding the fee, Ms. Ecker explained that the fee for a lot split is $200.00 per lot affected. It is recommended that if this is approved, the fee be the same as the lot split.

Mayor Pro Tem Nickita commented that until the City is at the point of doing a master plan study to identify areas where this might be approved, this is a solid stop/gap situation to allow flexibility to allow it if we see fit and not if it is detrimental to the neighborhood.

Clinton Baller suggested the Commission consider not as conditions exist, but as originally platted when considering a new lot combination.

MOTION: Motion by Nickita, seconded by Sherman:
To adopt an ordinance amending Chapter 102, Subdivisions, of the Birmingham City Code to add a new Article V - Combination of Land Parcels to create regulations governing the approval of residential lot combinations in the City of Birmingham and to add “including the original plat configuration” to Section 102-82(1).

VOTE: Yeas, 7
Nays, None
Absent, None
NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION

PROPOSED LOT REARRANGEMENT

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<td></td>
<td>Birmingham, MI</td>
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<table>
<thead>
<tr>
<th>Location of Request:</th>
<th>976 Arden Ln,</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Parcel #1935152005, T2N, R10E,</td>
</tr>
<tr>
<td></td>
<td>SEC 35 THE MEYERING LAND COMPANY'S BIRMINGHAM HIGHLANDS SUB NO 2 NLY PART OF LOT 354 MEAS 45 FT ON W LOT LINE &amp; 72.27 FT ON E LOT LINE, ALSO PART OF LOT 365 BEG AT PT DIST S 16-23-00 E 63.18 FT ALG W LOT LINE FROM NW LOT COR, TH N 52-04-00 E 99.44 FT, TH S 34-22-00 E 28 FT, TH S 04-22-00 E 40 FT, TH S 70-41-00 W 92.93 FT, TH N 16-23-00 W 34 FT TO BEG, ALSO SLY PART OF LOT 366 MEAS 16 FT ON W LOT LINE &amp; 12.73 FT ON E LOT LINE: 224317</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>1058 Arden Ln,</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Parcel #1935152006, T2N, R10E,</td>
</tr>
<tr>
<td></td>
<td>SEC 35 THE MEYERING LAND COMPANY'S BIRMINGHAM HIGHLANDS SUB NO 2 SLY PART OF LOT 354 MEAS 12.73 FT ON E LOT LINE &amp; 0.0 FT ON W LOT LINE, ALSO ALL OF LOT 355 &amp; SLY PART OF LOT 365 MEAS 70 FT ON E LOT LINE &amp; 47 FT ON W LOT LINE: 224313</td>
</tr>
</tbody>
</table>

| Nature of Hearing:            | To rearrange the property line by adding a portion of 1058 Arden Ln to the side property line of 976 Arden Ln. |

| City Staff Contact:           | Jana Ecker 248.530.1841 |
|                               | jecker@bhamgov.org       |

| Notice Requirements:          | Mailed to all property owners within 300 feet of subject address. |

| Approved minutes may be reviewed at: | City Clerk's Office |

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.
The owner of the property known as 976 Arden Ln. and the neighboring property, 1058 Arden Ln., (Parcel #1935152006) are seeking approval for a lot line rearrangement. The request is being submitted to eliminate an infringement of the side walkway of 976 Arden Ln. that encroaches into the property of 1058 Arden Ln. The proposed rearrangement would transfer 262.5 sq. ft. of land from 1058 Arden Ln. to 976 Arden Ln. The land survey has been included for your review.

The Subdivision Regulation Ordinance (Chapter 102, Section 102-53) requires that the following standards be met for approval of a lot division.

1. All lots formed or changed shall conform to minimum Zoning Ordinance Standards.

Attached are copies of the survey provided by the applicant depicting existing and proposed conditions. The proposed rearrangement has been reviewed by the Community Development Department. The subject parcels are zoned R1 (Single-Family Residential). The minimum lot size for R1 is 9,000 sq. ft.

The resulting lot sizes proposed for the two (2) parcels will be larger than 9,000 sq. ft. The combined size of the existing parcels is approximately 20,516.1. The size of the new parcels would be 15,681 sq. ft. for 976 Arden Ln. and 15,246 sq. ft. for 1058 Arden Ln.
However, the building department has advised that both of the existing parcels are considered legal non-conforming in regards to the side yard setback. The Zoning Ordinance requires that the side yard setback in the R1 zone must be 14 ft or 25% of the lot width, whichever is larger for both side yards combined. The lot at 976 Arden Ln is 85’ wide, requiring 21.25’ of side setback with 18’ existing. The lot at 1058 Arden Ln is 92.73’ wide requiring 23.2’ of side yard setback with 12.3’ existing. Accordingly, based on the plan submitted by the applicant, approval of the requested lot rearrangement would increase the non-conforming condition at 1058 Arden Ln. from 12.3’ to 11.6’. Accordingly, the resulting parcels from the requested lot rearrangement do not conform to the minimum Zoning Ordinance standards.

(2) All residential lots formed or changed by the division shall have a lot width not less than the average lot width of all lots on the same street within 300 feet of the lots formed or changed and within the same district.

The requested lot rearrangement would not alter the width of either lot at the frontage lines.

(3) The division will not adversely affect the interest of the public and of the abutting property owners. In making this determination, the City Commission shall consider, but not be limited to the following:

a. The location of proposed buildings or structures, the location and nature of vehicular ingress or egress so that the use of appropriate development of adjacent land or buildings will not be hindered, nor the value thereof impaired.

b. The effect of the proposed division upon any flood plain areas, wetlands or other natural features and the ability of the applicant to develop buildable sites on each resultant parcel without unreasonable disturbance of such natural features.

c. The location, size, density and site layout of any proposed structures or buildings as they may impact an adequate supply of light and air to adjacent properties and the capacity of essential public facilities such as police and fire protection, drainage structures, municipal sanitary sewer and water, and refuse disposal.

The proposed rearrangement would not result in the creation of any new lots, nor are any new structures proposed for the site. Vehicular ingress and egress will not be altered.

The subject property is not located within the floodplain or soil erosion limit of a recognized stream, river, lake or other water body. The site does not appear to exhibit evidence of regulated wetlands or endangered species of flora and fauna.

The proposed lot division will not negatively affect the supply of light and air to adjacent properties. It will not negatively affect the capacity of essential public facilities.
Based on a review of the application as submitted by the property owners, it has been determined that the requested lot rearrangement does not meet the standards of approval listed in Chapter 102, Subdivisions, Sec. 102-53. Accordingly, the Planning Division cannot recommend approval of this request. However, the City Commission has the authority to waive the lot division requirements per Sec. 102-4, Waivers if it is determined that the enforcement of such requirements might cause unnecessary difficulties on the applicant, or where the commission determines that a waiver of any such requirement by the commission shall not preclude the applicant from complying with all provisions of Chapter 126 of this Code.

SUGGESTED RESOLUTION:
1) To APPROVE the proposed lot rearrangement at 976 & 1058 Arden Ln. as proposed by granting a waiver per Chapter 102, Subdivisions, Sec. 102-4 of the City Code;

OR

2) Deny the proposed lot rearrangement at 976 & 1058 Arden Ln. as proposed, based on the application not meeting the requirements of Chapter 102, Subdivisions, Sec. 102-53.
Division of Platted Lots Application

1. Applicant
   Name: Ronald R. Ross
   Address: 9744 Arden Lane
             Birmingham, MI 48009
   Phone Number: 248-646-3024
   Fax Number: Same as Phone
   Email Address: ronald@ross-mi.com

2. Applicant’s Attorney/Contact Person
   Name:                            
   Address: 
   Phone Number:                    
   Fax Number:                     
   Email Address:                  

3. Project Information
   Address/Location of Property: 974 Arden Lane
                                  Birmingham, MI 48009
   Sidewall #:                    
   Current Zoning:               

4. Attachments
   - Proof of ownership
   - Written statement of reasons for request
     - A letter of authority or power of attorney in the event the
       application is made by a person other than the property owner
     - Other data having a direct bearing on the request
     - Sketches of proposed development (optional)
     - One digital copy of plans

   Two (2) copies of a registered land survey showing:
   - All existing and proposed platted lot lines
   - Legal descriptions of proposed lots
   - Locations of existing/ surrounding structures and setbacks
   - Footprints of proposed development

(I), (We), the undersigned, do hereby request to divide lots of record in the City of Birmingham, Oakland County, Michigan. (I), (We), do hereby swear that all of the statements, signatures, and descriptions appearing on and with this request are in all respects true and accurate to the best of (my), (our), knowledge.

Signature of Property Owner: Ronald R. Ross
Print Name: Ronald R. Ross
Date: 6-28-10

Signature of Applicant: Ronald R. Ross
Print Name: Ronald R. Ross
Date: 6-28-10

Fee: $200.00 per lot affected, minimum fee $400

$400
+ $150
$550 - $100 refundable
CONSENT OF PROPERTY OWNER

1. John Horiszney, of the State of Michigan and County of Oakland, state the following:

   1. That I am the owner of real estate located at 1058 Arden Lane.

   2. That I have read and examined the Application for a Lot Split made to the City of Birmingham by Ronald Rose.

   3. That I have no objections to, and consent to the request(s) described in the Application made to the City of Birmingham.

Dated: June 27, 2016

John Horiszney
Owner's Name (Please Print)

Owner's Signature
June 24, 2016

It has come to our attention that a piece of our side walkway is infringing on the next-door property.

Our neighbor, John Koisney, has agreed to give us additional ground as per the transfer papers indicate.

Ronald Rose

Arlene Rose
WARRANTY DEED
STATUTORY FORM

KNOW ALL MEN BY THESE PRESENTS: That Robert R. Lemersal and Elizabeth Lemersal, his wife
whose address is 976 Arden Lane, Birmingham, Michigan
Convey and Warrant to Ronald R. Ross and Arlene L. Ross, his wife
whose street number and postoffice address is
the following described premises situated in the
and State of Michigan, to wit:

19512 Northrop, Detroit, Michigan 48219
City of Birmingham County of Oakland

See Attached Description

MAKE YOUR REAL ESTATE TRANSFERS SAFE BY USING BURTON TITLE INSURANCE

Liber 6316 Page 144

altogether with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining,
for the sum of Fifty Eight Thousand Five Hundred and no/100---($58,500.00)

subject to Mortgage to National Bank of Detroit recorded in Liber 5410
Page 425 Oakland County Records, which purchasers agree to
assume and pay.

Dated this 18th day of June 1974

Signed in the presence of:

Signed by:

Marilyn G V Howard
Richard E Howard

Robert R. Lemersal
Elizabeth Lemersal

STATE OF MICHIGAN COUNTY OF Oakland (a)
The foregoing instrument was acknowledged before me this 18th day of June 1974 by Robert R. Lemersal and Elizabeth Lemersal, his wife

My Commission expires January 16, 1978

When Recorded Return To:
National Bank of Detroit
Detroit, Michigan
Attn--Hedge Coffee
Mortgage Division

Send Subsequent Tax Bills To:

Drafted by: Garry G. Carley
Business Address 2461 W. Big Beaver
Troy, Michigan 480

Tax Parcel # 63-40-05

Revenue Stamps 64.35
DESCRIPTION OF REAL ESTATE

Land in the City of Birmingham, Oakland County, Michigan, described as:

PARCEL I

The central 1/3 of Lot No. 365 "The Meyerling Land Company's Birmingham Highlands Subdivision No. 2", more particularly described as beginning at a point in the Westerly line of said Lot No. 365 which is located South 16 degrees 23 minutes East along said Westerly line 63.18 feet from the Northwest corner of said lot; thence North 52 degrees 04 minutes East 99.44 feet to Easterly line of said lot; thence South 34 degrees 22 minutes East along said Easterly line 28.0 feet to a corner in Easterly line of said lot; thence South 4 degrees 22 minutes East along said Easterly line 40.0 feet; thence South 70 degrees 41 minutes West 92.93 feet to Westerly line of said lot; thence North 16 degrees 23 minutes West along said Westerly line 34.0 feet to the point of beginning.

PARCEL II

Part of Lot 354 and part of Lot 366, The Meyerling Land Company's Birmingham Highlands Subdivision No. 2, as recorded in liber 49 of Plats, page 5, Oakland County Records, being more fully described as: Beginning at a point on the East line of Lot 354 which point is North 5 degrees 07 minutes 33 seconds West 1.00 feet from the Southeast corner of Lot 354 and proceeding thence South 81 degrees 09 minutes 00 seconds West 139.56 feet; thence on West line of Lot 354 North 4 degrees 19 minutes 43 seconds West 40.00 feet; thence on Westerly line of Lot 366 North 34 degrees 24 minutes 40 seconds West 28.00 feet; thence North 72 degrees 17 minutes 10 seconds East 130.68 feet; thence along the Easterly line of Lot 354 and 366 on a curve to the right, radius 155.45 feet; central angle 32 degrees 40 minutes 30 seconds, arc distance of 88.65 feet and whose chord bears South 21 degrees 38 minutes 51 seconds East, a chord distance of 87.45 feet to the place of beginning.
NOTES:
- Bearings in relation to flat of record.
- No title work has been supplied by the client for purposes of this survey. Therefore no guarantee is made that any or all easements, both recorded and unrecorded are shown on this survey.
- This drawing and the corresponding legal descriptions of proposed parcel transfer is subject to municipal approval.

ARDEN LANE 60' WIDE

Surveyor's Certificate

I hereby certify that I have surveyed and mapped the land above platted and/or described on June 9, 2016 and that the ratio of closure on the unadjusted field observations of such survey does not exceed 1/10,000.

WARREN C. JAVEY
PROFESSIONAL SURVEYOR
No. 50628

STATE OF MICHIGAN
COUNTY OF MASON
TOWNSHIP OF MILTON

DATE OF SURVEY
6-13-16

DRAWM T.M.P.

CHECKED W.C.A.

SHEET 1 OF 3

URBAN LAND CONSULTANTS

PHONE 586-731-8020
FAX 586-731-2605

LEGAL
- FB = Found Bar
- FP = Found Pipe
- SW = Set Bow/Cop
- SW = Set Mag Nol
- R = Record Distance
- M = Measured Distance
- RAD = Radius

LEGEND

Job No.
160543-9431
Existing Property Description Parcel 19-35-152-005
Land in the City of Birmingham, Oakland County, Michigan described as:
Parcel I
The central 1/3 of Lot No. 365 "The Meyering Land Company's Birmingham Highlands Subdivision No. 2", more particularly described as beginning at a point in the Westerly line of said Lot No. 365 which is located S.16°23'E., along said Westerly line 63.18 feet from the Northwest corner of said lot; thence N.52°04'E., 99.44 feet to the Easterly line of said lot; thence S.34°22'E., along said Easterly line 28.00 feet to a corner in Easterly line of said lot; thence S.04°22'E along said Easterly line 40.00 feet; thence S.70°41'W., 92.93 feet to Westerly line of said lot; thence N.16°23'W., along said Westerly line 34.00 feet to the point of beginning.
Parcel II
Part of Lot 354 and part of Lot 366, The Meyering Land Company's Birmingham Highlands Subdivision No. 2, as recorded in Liber 49 of Plats, page 5 Oakland County Records, being more fully described as: Beginning at a point on the East line of Lot 354 which point is N.5°07'33"W., 1.00 feet from the Southeast corner of Lot 354 and proceeding thence S.81°09'00"W., 139.56 feet; thence on West line of Lot 354, N.4°19'43"W., 40.00 feet; thence on Westerly line of Lot 366, N.34°24'40"W., 28.00 feet; thence N.72°17'10"E., 130.68 feet; thence along the Westerly line of Lot 354 and 356 on a curve to the right, radius 155.45 feet; central angle 32°40'30", an arc distance of 88.65 feet and whose chord bears S.21°38'51"E., a chord distance of 87.43 feet to the place of beginning.

Existing Property Description Parcel 19-35-152-006
Land in the City of Birmingham, Oakland County, Michigan described as:
Lot 355 and part of Lot 354, "The Meyering Land Company's Birmingham Highlands Subdivision No. 2", according to the plat thereof as recorded in Liber 49 of Plats, page 5, Oakland County Records, being more fully described as: Beginning at the Southeast corner of said Lot 355 and proceeding thence along South line of Lot 355 S.85°40'17"W., 140.00 feet to the Southwest corner of said Lot 355; thence along the West line of said Lot 355 and Lot 354 N.4°19'43"W., 70.00 feet; thence N.81°09'00"E., 139.56 feet; thence along the east line of Lot 354 on a curve to the right, radius 155.45 feet, central angle 0°22'06", arc distance 1.00 feet and whose chord bears S.5°07'33"E., a chord distance of 1.00 feet; thence on the East line of Lot 355 and West line of Arden Lane, S.4°56'30"E., 80.00 feet.

Description of the Southerly 1/3 of Lot 365, "The Meyering Land Company's Birmingham Highlands Subdivision No. 2", more particularly described as beginning at a point in the westerly line of said Lot 365 which is located S.16°23'E., along said Westerly line 97.18 feet from the Northwest corner of said Lot; thence N.70°41'E., 92.93 feet to the Easterly line of said Lot; thence S.4°22'E. along said Easterly line 70.00 feet to the Southeast corner of said Lot 365; thence S.85°40'17"W. along Southerly line of said lot a distance of 80.00 feet to the Southwest corner of said Lot; thence N.16°23'W. along Westerly line of said Lot a distance of 47.00 feet to the point of beginning containing 0.11 acres more or less.
Transfer Parcel from 19-35-152-006 to 19-35-152-005

A parcel of land being a part of Lot 354 of “The Meyering Land Company’s Birmingham Highlands Subdivision No. 2”, part of the NW 1/4 of Section 35, T.2N., R10E., City of Birmingham, Oakland County, Michigan as recorded in Liber 49 Page 5 of the Oakland County Records is more particularly described as: Beginning at the Southeast Corner of Lot 354; thence S. 80°25’38”W., 139.73 feet to a point on the West line of Lot 354; thence N.04°19’43”W., 2.77 feet along said line; thence N.81°09’00”E., 139.36 feet to a point of the East line of Lot 354; thence along the East line of Lot 354 and a curve concave to the west of radius 155.46 feet, a central angle of 00°22’07” , whose chord bears S.05°07’33”E., 1.00 feet an arc distance of 1.00 feet to the Point of Beginning and containing 262.5 square feet.

Property Description parcel 19-35-152-005 plus transfer parcel

A parcel of land being a part of Lot 354, 365 and 366, of “The Meyering Land Company’s Birmingham Highlands Subdivision No. 2”, part of the NW 1/4 of Section 35, T.2N., R10E., City of Birmingham, Oakland County, Michigan as recorded in Liber 49 Page 5 of the Oakland County Records is more particularly described as: Beginning at the Southeast Corner of Lot 354; thence S.80°25’38”W., 139.73 feet to a point on the West line of Lot 354; thence N.04°19’43”W., 2.77 feet along said line; thence S.70°41’23”W., 92.95 feet to a point on the West line of Lot 365; thence N.16°21’11”W., 34.00 feet along said line; thence N.52°04’57”E., 99.44 feet to a point on the West line of Lot 366; thence N.72°17’10”E., 130.69 feet to a point on the East line of Lot 366; thence along the west line of Lot 366 and 354 and a curve concave to the west of radius 155.46 feet, a central angle of 33°02’28”, whose chord bears S.21°27’44”E., 88.41 feet an arc distance of 89.65 feet to the Point of Beginning and containing 0.36 acres.

Property Description parcel 19-35-152-006 minus transfer parcel

A parcel of land being a part of Lot 354 and 365, of “The Meyering Land Company’s Birmingham Highlands Subdivision No. 2”, part of the NW 1/4 of Section 35, T.2N., R10E., City of Birmingham, Oakland County, Michigan as recorded in Liber 49 Page 5 of the Oakland County Records is more particularly described as: Beginning at the Southeast Corner of Lot 355; thence S.85°40’17”W., 220.00 feet along the South line of Lot 355 and 365 to the Southwest corner of Lot 365; thence N.16°21’11”W., 47.00 feet along the West line of Lot 365; thence N.70°41’23”E., 92.95 feet to a point on the west line of Lot 354; thence S.04°19’43”E., 2.77 feet along said line; thence N.80°25’38”E., 139.73 feet to the Northeast corner of Lot 355; thence S.04°56’30”E., 80.00 feet along the East line of Lot 355 to the Southeast corner of Lot 355 and the Point of Beginning and containing 0.35 acres.
MEMORANDUM
Office of the City Manager

DATE: July 29, 2016
TO: Joseph A. Valentine, City Manager
FROM: Joellen Haines, Assistant to the City Manager
SUBJECT: Resolution supporting A Coalition for Transit (ACT)

A Coalition for Transit (ACT) is broad-based coalition of southeast Michiganders who recognize the importance of regional transit and the problems southeast Michigan faces. ACT is committed to connecting people in Southeast Michigan to jobs, allowing seniors and people with disabilities the ability to travel safe and independent, boosting the local economy, and reliably connecting Southeast Michigan’s four counties.

The goals of ACT support the Birmingham City Commission goal of continuing to utilize public resources in an effective, efficient manner adapting to current and future economic trends and conditions. Regional transit has become an important trend in its goal to connect counties to jobs, businesses, and services for all ages. Moreover, high-quality regional transit has been shown to spur economic development and growth. Research shows that for every one dollar invested in regional transit, the region sees four dollars in economic benefit. (Source: American Public Transportation Association, APTA)

Another Birmingham City Commission goal is to foster an innovative and inclusive environment that attracts all people to live, work, play and shop; improving the regional transit system directly impacts how easily people have access to Birmingham. Regional transit helps improve quality of life by providing convenient new options for people throughout the region to travel not only to work – but to sporting events, entertainment, restaurants, nightlife, arts and cultural institutions, and more.

ACT goals to bring reliable transit to all four counties are consistent with the Birmingham Complete Streets principles adopted by the City Commission by resolution on July 11, 2011 in the section that reads “Now, therefore, be it resolved, that the City of Birmingham City Commission hereby declares its support of Complete Streets policies and further directs City staff to develop a set of proposed policies and procedures to implement Complete Streets practices to make the City more accommodating to all modes of travel, including walkers, bicyclists and transit riders, of all ages and abilities.”

A representative from ACT will be at the August 8, 2016 meeting to make a presentation about the organization and answer any questions. A list of existing members is attached for reference.

A resolution supporting A Coalition for Transit (ACT) has been prepared for the City Commission’s consideration.

SUGGESTED ACTION:

To adopt a resolution supporting A Coalition for Transit.
Resolution
Supporting
A Coalition for Transit (ACT)

WHEREAS, Southeast Michigan’s regional public transit system is severely underfunded compared to the rest of the country and is one of the worst regional transit systems in the country; and

WHEREAS, seniors and people with disabilities are underserved by an unreliable system that prevents them from safe and independent travel in the region; and

WHEREAS, Southeast Michigan is failing to secure billions in potential economic benefit, that studies show accompany regional transit investments; and

WHEREAS, a large majority of jobs in the region are not readily accessible by regional transit; and

WHEREAS, Southeast Michigan’s four counties and two major population centers – Detroit and Ann Arbor – are not effectively connected by regional transit; and

WHEREAS, younger generations continue to look outside of Southeast Michigan to relocate to regions with effective, reliable regional transit; and

WHEREAS, regional transit must be strengthened and improved to make Southeast Michigan more competitive, which will help local communities attract more businesses and create local jobs; and

WHEREAS, Southeast Michigan cannot expect to compete economically with other major metropolitan areas without modern, effective and reliable public transit system;

NOW, THEREFORE, BE IT RESOLVED, that the City Commission of the City of Birmingham hereby expresses its strong support for A Coalition for Transit (ACT) and the need for a modern, reliable regional transportation system that connects Southeast Michigan’s four counties.
The Coalition

A Coalition for Transit (ACT) is a broad-based coalition representing individuals and organizations that recognize the importance of regional transit and the problems that Southeast Michigan faces due to our current system.

ACT recognizes that a modern, reliable regional public transit system that connects Southeast Michigan’s four counties — Macomb, Oakland, Washtenaw and Wayne — is vital and is committed to helping solve the problem of unreliable regional transit.

WHO'S IN OUR GROWING COALITION?
As of June 30th, 2016

- A3C Collaborative Architecture
- AARP-Michigan
- AFT Michigan
- Alzheimer's Association - Greater Michigan Chapter
- American Heart Association
- Amy Sullivan, City Manager, Huntington Woods
- Andy Meisner, Oakland County Treasurer
- Ann Perry, Pleasant Ridge City Commissioner
- Area Agency on Aging 1-B
- Beaumont Health
- Birmingham Bloomfield Democratic Club
- Bob Smith, Macomb County Commissioner
- Brainwrap Web Design
- Bruce Donigan, D.D.S.
- Brush Up Brush Park
- Catholic Social Services of Washtenaw County
- Central Detroit Christian Community
Development Corporation

- Chip Smith, Ann Arbor City Council
- Chuck Warpehoski, Ann Arbor City Council
- Christopher Taylor, Mayor of Ann Arbor
- City Living Detroit
- City of Berkley
- City of Huntington Woods
- City of Royal Oak
- Clean Energy Coalition
- Coalition on Temporary Shelter (COTS)
- Conan Smith, Washtenaw County Commissioner
- Cultivate Community
- CultureSource
- Dave Woodward, Oakland County Commissioner
- David Coulter, Mayor of Ferndale
- David Flynn, Chair, Macomb County Commission
- Detroit Area Agency on Aging 1-A
- Detroit Association of Planners
- Detroit Experience Factory
- Detroit Historical Society
- Detroit Medical Center
- Detroit River Project
- Detroit Tough Gym
- Disability Network Oakland & Macomb
- Donigan McLogan L.L.C.
- DRIVE - Detroit Regional Interfaith Voice for Equity
- Duo-Gard
- Ecology Center
- EcoWorks
- Enchanted Florist
- Episcopal Diocese of Michigan
- Erik Tungate, City Manager of Oak Park
- First Martin Corp.
- First United Methodist Church of Birmingham
- Fred Miller, Macomb County Commissioner
- Friends of WALLY
- Goodwill Industries of Greater Detroit
- Grandmont Rosedale Development Corporation
- Greater Royal Oak Democratic Club
- Groundcover News
- Groundwork Center for Resilient Communities
• Hagenbuch - Weikal Inc.
• Harriet Tubman Center
• Haven
• Helaine Zack, Oakland County Commissioner
• Healthy Pontiac, We Can! (Oakland University)
• Henry Ford Health System
• Huron Valley Watershed Council
• Hyperion Coffee Co.
• Interfaith Council for Peace and Justice
• Jack O'Reilly - Mayor of Dearborn
• Dr. James Jacobs, President of Macomb Community College
• JARC
• Jeff Jenks, Huntington Woods City Commissioner
• Jefferson East, Inc.
• Jeremy Mahrle, Royal Oak City Commission
• Jewish Community Relations Council of Metropolitan Detroit
• Jewish Family Service of Metropolitan Detroit
• Jewish Senior Life of Metropolitan
Detroit
- Jim Ellison, Mayor of Royal Oak
- Jim Nash, Oakland County Water Resources Commissioner
- Joyce Brooks, Minister
- Julie Grand, Ann Arbor City Council
- JVS Detroit
- Kirk Westphal, Ann Arbor City Council
- Kiwanis Club of Cosmopolitan Detroit
- League of Michigan Bicyclists
- League of Women Voters of Michigan
- Lean and Green Michigan
- Liberal Arts Gallery
- livingLAB Detroit
- M1 Concourse
- Macomb Community College
- Magna International Inc.
- Marcia Gershenson, Oakland County Commissioner
- Marian McClellan, Mayor of Oak Park
- Menlo Innovations
- Metro Matters
- Michael Bridges - Farmington Hills City Council
- Michael Fournier, Royal Oak City Commission
- Michigan Association of Railroad Passengers
- Michigan Association of REALTORS
- Michigan Building and Construction Trades Council
- Michigan Community Action
- Michigan Disability Rights Coalition
- Michigan Environmental Council
- Michigan Fitness Foundation
- Michigan League for Public Policy
- Michigan Licensed Beverage Association
- Michigan Municipal League
- Michigan Nonprofit Association
- Michigan Public Transit Association
- Miller Canfield
- MOSES
- Motor City Freedom Riders
- NASW - Michigan (National Association of Social Workers)
- Nate Shannon, Sterling Heights City Council
- Oakland County Water Resources
- Commission
- Oakland University
- Patricia Paruch, Royal Oak City Council
- Paul Gieleghem, Clinton Township Trustee
- PEAC - Program to Educate all Cyclists
- Peter Allen & Associates
- Phil O'Dwyer, Mayor, City of Berkley
- Presbyterian Villages of Michigan
- Preservation Detroit
- Rabbi Jeffrey Falick
- Rabbi Josh Bennett
- REBOOT
- REBOOT Alumni Association 6770 of Michigan
- Rector Beth Taylor
- Renaissance Unity
- Reverend Carter Grimmett
- Reverend Louise Ott
- Reverend Wendell Gibbs
- Robert Prud’homme Design, LLC.
- Robert Wittenberg, Michigan House of Representatives
- Saline Area Senior Center
- Senior Power Days on Belle Isle
- Services to Enhance Potential
- Scott Adkins, Roseville City Manager
- Sharlan Douglas, Royal Oak City Council
- Schutt & Company
- Society of St. Vincent DePaul
- St. John Providence
- State Representative Stephanie Chang
- State Senator Bert Johnson
- State Senator Hoon-Yung Hopgood
- State Senator Steve Bieda
- Steve Baker, Mayor Pro-Tem City of Berkley
- Temple Israel
- Theresa Rich - Farmington Hills City Council
- The ARC Michigan
- The Arab American and Chaldean Council
- The Athena Financial Group
- The Detroit Bus Company
- The Eyrie
- The Henry Ford
- The Imagine Center for Psychological Health
• The Senior Alliance
• Transit Matters
• Transportation for Michigan (Trans4M)
• Transportation Public Health Link (TPH Link)
• Transportation Riders United (TRU)
• Tri-Community Coalition
• Union of Part Time Faculty (ACT)
• United Way for Southeastern Michigan
• Vehicles for Change
• Vietnam Veterans of America Detroit Chapter 9
• Wake Up Washtenaw
• Wayne State University
• Wayne State University Future Urban Leaders of Detroit (WSU FULD)
• Wayne State University Students for Transit
• Woodward Avenue Action Association
• Wrightway Transportation LLC.
• WSE Nonprofit Consulting
• Young Democrats of Oakland County
• Zachary Ackerman, Ann Arbor City Council
• Zingerman's Community of Businesses
A Coalition for Transit (ACT)
200 Renaissance Center, Suite 3160 Detroit, MI 48243.

ACT to Connect Our Communities
DATE: August 2, 2016

TO: Joseph A. Valentine, City Manager

FROM: Paul T. O’Meara, City Engineer

SUBJECT: Buccilli Group, LLC
Temporary Inspection Services
Contract Approval

The Engineering Dept. is experiencing an exceptional amount of work at the present time. Currently, excavation crews are active on three (soon to be four) different local streets. In addition, our sidewalk contractor remains active making sidewalk and concrete street repairs in various parts of the City. Finally, W. Maple Rd. is now preparing to become very active as the road closes to through traffic later this week.

Our field staff consists of a Field Coordinator and one full time inspector, as well as three seasonal inspectors. While all are skilled at what they do, four of the five inspectors on the team are relatively new to Birmingham, with none having been on the team more than two years. As a result, our Field Coordinator is fully engaged overseeing all of the projects, in addition to conducting daily right-of-way inspections for the many private projects underway in the City.

The extreme conditions present are mainly due to the rescheduling of the Catalpa Dr. Phase II sewer project, and the longer time our sidewalk contractor has been in town than originally expected.

In previous recent years, we have contacted our usual engineering consulting firms to try to obtain assistance in this area for short term needs. Since the economy has been strong the past few years, these efforts have generally been unsuccessful, as inspectors are in short supply, and when one is available, they tend to be charged at $75 to $80 per hour, which is much more than we pay for our own inspection team.

In the past two weeks, we have located a firm that specializes in providing temporary inspection and administration services in the area of civil engineering. They actually have a working relationship with McKenna, the firm that the Building Dept. is currently using for similar services in the building inspection area. They have two people available with experience to assist us and represent us on two of our projects. In addition, their cost is very competitive at $54 per hour for regular time, and $66 per hour for overtime. We would like to utilize their services during the rest of August and for a short time in September to get us through this difficult period.
Attached is an engineering consultant agreement between the City of Birmingham and the firm Buccilli Group, LLC. The agreement is written to cover a three year period, in the event that we are in need of their services in the future as well.

It is estimated that the total value of these services should be no more than $56,000, to be charged to the various appropriate accounts within the Major and Local Streets, Sewer, and Water capital improvement accounts.

It is recommended that the City of Birmingham engage Buccilli Group, LLC, to provide engineering services according to the attached agreement, which has been approved by the City Attorney.

SUGGESTED RESOLUTION:

To authorize the Mayor and Clerk to sign the agreement between Buccilli Group and the City of Birmingham.
CITY OF BIRMINGHAM AGREEMENT
WITH BUCCILLI GROUP, LLC AGREEMENT

THIS AGREEMENT, made and entered into this 21 day of July 2016, by and between the CITY OF BIRMINGHAM, a Michigan Municipal Corporation located at 151 Martin Street, Birmingham, Michigan, hereinafter referred to as the CITY, and BUCCILLI GROUP, LLC, a Michigan Limited Liability Company located at 235 E. Main St. Suite 105, Northville, MI 48167 hereinafter referred to as the CONSULTANT.

WITNESSETH:

WHEREAS, the CITY would like to engage the professional services of the CONSULTANT to perform the services described in Attachment A thereof, and,

WHEREAS, the CONSULTANT is willing to render such services desired by the CITY for the considerations hereinafter expressed.

NOW, THEREFORE, for and in consideration of the mutual undertakings of the parties hereto, all as hereinafter set forth, it is agreed by and between the parties as follows:

1. The CONSULTANT shall perform the professional services for the CITY, as set forth on Attachment A which is attached hereto and incorporated by reference.

2. The CONSULTANT shall perform all work under the direction of the Building Official or a designated representative.

3. The CITY agrees to pay the CONSULTANT for services rendered on the basis of the hourly fees as set forth in Attachment A which is attached hereto and made a part hereof. The fee may be reviewed and adjusted annually by mutual consent of both parties in writing. The CONSULTANT shall submit billings on a regular basis.

4. This Agreement shall commence on 8-1-16, and shall terminate on 8-1-19. However, notwithstanding the term of the agreement, the City shall have the right to terminate this Agreement on ten (10) days written notice. In the event of termination, the CONSULTANT shall receive compensation for services to the date the termination takes effect and the City shall be entitled to retain and use the results to the date the termination takes effect and the City shall be entitled to retain and use the results of all information, documents and recommendations prepared by the CONSULTANT through such date.

5. If the CONSULTANT fails to perform its obligations hereunder, the CITY may take any and all remedial actions permitted by law.

6. The CONSULTANT shall hire personnel of good character and fitness to perform the duties under this Agreement.

7. The CONSULTANT agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions
or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The CONSULTANT shall inform the CITY of all claims or suits asserted against it by the CONSULTANT'S employees who work pursuant to this Agreement. The CONSULTANT shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

8. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

9. To the fullest extent permitted by law, the CONSULTANT and any entity or person for whom the CONSULTANT is legally liable, agrees to indemnify the City of Birmingham, its elected and appointed officials and employees against any and all claims, demands, suits, or loss, and for any damages which may be recovered against or from the CITY, its elected and appointed officials and employees by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the CONSULTANT including its employees and agents, in the performance of this Agreement. Consultant is not obligated to indemnity the City for that portion which is attributable to the City's own negligence.

The CITY agrees that the contractors shall be solely responsible for job site safety and all contractors shall be required in the CITY'S contract with such contractors to indemnify the CONSULTANT for any liability incurred by the CONSULTANT as a result of the contractor's negligent acts or omissions. However, such indemnification shall not extend to liability resulting from the negligence of the CONSULTANT.

10. The CONSULTANT shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All coverages shall be with insurance carriers acceptable to the City of Birmingham. The CONSULTANT shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: CONSULTANT shall procure and maintain during the life of this Agreement, Workers' Compensation
Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. **Commercial General Liability Insurance**: CONSULTANT shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence combined single limit. Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. **Motor Vehicle Liability Insurance**: CONSULTANT shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. **Additional Insured**: The Commercial General Liability and Motor Vehicle Liability, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from CONSULTANT under this Section.

E. **Professional Liability Insurance**: If Professional Liability Insurance is available, Professional Liability Insurance with limits of not less than $2,000,000 per claim if CONSULTANT will provide service that are customarily subject to this type of coverage.

F. **Cancellation Notice**: Workers' Compensation Insurance, Commercial General Liability Insurance, Professional Liability Insurance and Motor Vehicle Liability Insurance as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Director of Finance, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

G. **Proof of Insurance Coverage**: CONSULTANT shall provide the CITY at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City, as listed below.
1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;

2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;

3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;

H. **Coverage Expiration:** If any of the above coverages expire during the term of this Agreement, CONSULTANT shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

11. If, after the effective date of this Agreement, any official of the CITY, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the CONSULTANT, the CITY shall have the right to terminate this Agreement without further liability to the CONSULTANT if the disqualification has not been removed within thirty (30) days after the CITY has given the CONSULTANT notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

12. The CONSULTANT and the CITY agree that the CONSULTANT is acting as an independent contractor with respect to the CONSULTANT's role in providing services to the CITY pursuant to this Agreement, and as such, shall be liable for its own actions and neither the CONSULTANT nor its employees shall be construed as employees of the CITY. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the CITY nor the CONSULTANT shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The CONSULTANT shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the CITY, or be deemed an employee of the CITY for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the CITY.

13. The CONSULTANT agrees that it will apply for and secure all permits and approvals as may be required from the CITY in accordance with the provisions of applicable laws and ordinances of the CITY, State of Michigan or federal agencies.

14. This Agreement shall be binding upon and apply and inure to the benefit of the parties hereto and their respective successors or assigns. The covenants, conditions, and the agreements herein contained are hereby declared binding on the CITY and CONSULTANT. It is further agreed that there shall be no change, modification, or alteration hereof, except in
writing, signed by both of the parties hereto. Neither party shall assign any of the rights under this Agreement without prior approval, in writing, of the other. Any attempt at assignment without prior written consent shall be void and of no effect.

15. The CITY shall be the owner of all the drawings, specifications or other documents prepared by the CONSULTANT. Any modifications made to the drawings by the CITY shall be clearly marked as such on the modified document. The CITY may not use these documents for any purpose other than pursuant to the activities provided for in this Agreement.

16. Notices shall be given to:

a. City of Birmingham
   151 Martin Street, P.O. Box 3001
   Birmingham, MI 48012-3001
   Attention: Mr. Paul O’Meara, City Engineer

   With copies to:

   Timothy J. Currier, City Attorney
   Beier Howlett, P.C.
   200 E. Long Lake Road, Ste. #110
   Bloomfield Hills, MI 48304

b. Buccilli Group, LLC
   Attention: Mr. Robert Tolliver
   235 E. Main Street, Suite 105
   Northville, MI 48167

17. The CONSULTANT acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The CONSULTANT recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the CONSULTANT agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The CONSULTANT shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The CONSULTANT further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

18. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The CONSULTANT agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.
19. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF BIRMINGHAM

Rackeline J. Hoff, Mayor

Laura M. Pierce, Clerk

BUCCILLI GROUP, LLC

By: [Signature]

Its: [Signature]

APPROVAL (Sec 2-289 City Code)

Paul O'Meara, Engineer as to Substance

Joseph A. Valentine, City Manager as to Substance

Mark Gerber, Director of Finance as to Financial Obligation

Timothy J. Currier, City Attorney as to Form
DATE: August 4, 2016
TO: City Commission
FROM: Joseph A. Valentine, City Manager
SUBJECT: Request for Closed Session - Performance Evaluation

Annually, reviews are done for city staff and objectives are set for the year. This process is started following a personnel evaluation of the City Manager to align objectives throughout the organization. In alignment with this process I request the City Commission meet in closed session to consider my personnel evaluation pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976). A 2/3 roll call vote of the City Commission is not required to call a closed session permitted under Section 8(a).
NOTICE OF INTENTI ON TO APPOINT TO THE
ADVISORY PARKING COMMITTEE

At the regular meeting of Monday, September 12, 2016, the Birmingham City Commission intends to appoint three members to the Advisory Parking Committee to serve three-year terms to expire September 4, 2019.

Interested citizens may submit an application available at the city clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the city clerk's office on or before noon on Wednesday, September 7, 2016. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

Committee Duties
The Advisory Parking Committee shall provide guidance to the City Commission in the management of Birmingham's Auto Parking System. The Committee shall recognize parking requirements of the CBD and fairly assess the costs to users. It will provide for attractive, maintained and safe facilities.

<table>
<thead>
<tr>
<th>Criteria/Qualifications of Open Position</th>
<th>Date Applications Due (by noon)</th>
<th>Date of Interview</th>
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</thead>
<tbody>
<tr>
<td>The majority of the members shall be residents.</td>
<td>9/7/16</td>
<td>9/12/16</td>
</tr>
<tr>
<td>• One member shall be a resident</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• One member shall be a resident shopper</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• One member shall represent a professional firm</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
ADVISORY PARKING COMMITTEE


Terms: Three years
Appointment requirements: The majority of the members shall be residents and membership shall be as follows:
- Downtown commercial representatives - large retail - 1 member; small retail - 1 member;
- professional firm - 1 member; building owner - 1 member; restaurant owner - 1 member;
- downtown employee representative - 1 member; residential - two members who do not qualify under any of the previous categories, and one resident shopper.

The Advisory Parking Committee shall provide guidance to the City Commission in the management of Birmingham's Auto Parking System. The committee shall recognize parking requirements of the CBD and fairly assess the costs to users. It will provide for attractive, maintained and safe facilities.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Home Address</th>
<th>Business E-Mail</th>
<th>Appointed</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birmingham</td>
<td></td>
<td>48009</td>
<td><a href="mailto:gchampagne1@aol.com">gchampagne1@aol.com</a></td>
<td>Resident Shopper</td>
<td></td>
</tr>
<tr>
<td>Honhart</td>
<td>Anne</td>
<td>197 E. Frank</td>
<td>(248) 644-3678</td>
<td>9/4/1984</td>
<td>9/4/2018</td>
</tr>
<tr>
<td>Birmingham</td>
<td></td>
<td>48009</td>
<td><a href="mailto:ahonhart@atlaswelding.com">ahonhart@atlaswelding.com</a></td>
<td>Resident</td>
<td></td>
</tr>
<tr>
<td>Kalczynski</td>
<td>Steven</td>
<td>100 Townsend</td>
<td>(248) 642-7900</td>
<td>11/26/2012</td>
<td>9/4/2017</td>
</tr>
<tr>
<td>Birmingham</td>
<td></td>
<td>48009</td>
<td><a href="mailto:skalczynski@yahoo.com">skalczynski@yahoo.com</a></td>
<td>Large Retail</td>
<td></td>
</tr>
<tr>
<td>Krueger</td>
<td>Lisa</td>
<td>348 Ferndale Ave</td>
<td>(248) 921-0099</td>
<td>3/30/2015</td>
<td>9/4/2017</td>
</tr>
<tr>
<td>Birmingham</td>
<td></td>
<td>48009</td>
<td><a href="mailto:lisakrug21@gmail.com">lisakrug21@gmail.com</a></td>
<td>Downtown Employee Member</td>
<td></td>
</tr>
<tr>
<td>Last Name</td>
<td>First Name</td>
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<td>-------------</td>
</tr>
<tr>
<td>Kuhne</td>
<td>Lex</td>
<td>1530 Pilgrim Ave</td>
<td>(248) 642-8819</td>
<td><a href="mailto:lexkuhne@gmail.com">lexkuhne@gmail.com</a></td>
<td>9/24/2004</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Birmingham 48009</td>
<td>(248) 644-4539</td>
<td>Professional Firm</td>
<td></td>
</tr>
<tr>
<td>Paskiewicz</td>
<td>Judith</td>
<td>560 Woodland</td>
<td>248-642-3337</td>
<td><a href="mailto:judith.paskiewicz@gmail.com">judith.paskiewicz@gmail.com</a></td>
<td>1/28/2013</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Birmingham 48009</td>
<td></td>
<td>Resident</td>
<td></td>
</tr>
<tr>
<td>Peabody</td>
<td>Susan</td>
<td>1229 Oxford Rd</td>
<td>(248) 568-4853</td>
<td><a href="mailto:sannepeabody@gmail.com">sannepeabody@gmail.com</a></td>
<td>1/28/2002</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Berkley 48072</td>
<td>(248) 644-5222</td>
<td>Restaurant Owner</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td></td>
<td></td>
<td></td>
<td>Building Owner</td>
<td>9/4/2018</td>
</tr>
<tr>
<td>Vaitas</td>
<td>Algirdas</td>
<td>2633 Endsleigh Drive</td>
<td>(248) 593-3177</td>
<td><a href="mailto:alvortho@aol.com">alvortho@aol.com</a></td>
<td>11/13/2006</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bloomfield Village 48301</td>
<td></td>
<td>Small Retail</td>
<td></td>
</tr>
</tbody>
</table>
At the regular meeting of Monday, September 12, 2016 the Birmingham City Commission intends to appoint two members to the Historic District Commission to serve three-year terms to expire September 25, 2019.

Interested parties may submit an application available from the city clerk's office on or before noon on Wednesday, September 7, 2016. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

The function and duty of the Historic District Commission is to advise the City Commission with respect to the proper development of the city with primary emphasis upon the city’s established historic districts, sites, properties and historic resources. The Commission is also authorized to recommend for the guidance of the City Commission amendments to the City Code relating to the control and development of lands within historic districts.

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<td>• A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation.</td>
<td>9/7/16</td>
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<tr>
<td>• If available, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
# Historic District Commission

**Ordinance #1880**

**Terms:** 3 years  
Members: A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Two members shall be appointed from a list submitted by duly organized local historic preservation organizations. If available, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan. The City Commission may appoint two members of the Design Review Board to serve as alternate members of the Historic District Commission during their term of appointment. (ordinance #1976)

**Duties:** The function and duty of the Historic District Commission is to advise the City Commission with respect to the proper development of the city with primary emphasis upon the city’s established historic districts, sites, properties and historic resources. The Commission is also authorized to recommend for the guidance of the City Commission amendments to the City Code relating to the control and development of lands within historic districts.

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<th>Appointed</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coir</td>
<td>Mark</td>
<td>411 S. Old Woodward #1025</td>
<td>(248) 390-0372</td>
<td><a href="mailto:keskus2010@aol.com">keskus2010@aol.com</a></td>
<td>2/11/2013</td>
<td>9/25/2018</td>
</tr>
<tr>
<td>Deyer</td>
<td>Keith</td>
<td>1283 Buckingham</td>
<td>(248) 642-6390</td>
<td><a href="mailto:kwdeyer@comcast.net">kwdeyer@comcast.net</a></td>
<td>9/25/2006</td>
<td>9/25/2017</td>
</tr>
<tr>
<td>Dukas</td>
<td>Natalia</td>
<td>1685 Henrietta St.</td>
<td>(248) 885-8535</td>
<td><a href="mailto:nataliadukas@yahoo.com">nataliadukas@yahoo.com</a></td>
<td>9/9/2013</td>
<td>[9/25/2016]</td>
</tr>
<tr>
<td>Henke</td>
<td>John</td>
<td>724 South Bates</td>
<td>(248) 789-1640</td>
<td><a href="mailto:jwhenke@aol.com">jwhenke@aol.com</a></td>
<td>9/25/2006</td>
<td>9/25/2018</td>
</tr>
<tr>
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<td>Business Address</td>
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</tr>
<tr>
<td>Salter-Dodson</td>
<td>Loreal</td>
<td>1758 Grant</td>
<td></td>
<td><a href="mailto:lorealsd4@gmail.com">lorealsd4@gmail.com</a></td>
<td>2/8/2016</td>
<td>12/31/2016</td>
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<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
<td>Student Representative</td>
<td></td>
</tr>
<tr>
<td>Trapnell</td>
<td>Thomas</td>
<td>660 Smith Ave</td>
<td>(313) 568-6712</td>
<td><a href="mailto:ttrapnell@dykema.com">ttrapnell@dykema.com</a></td>
<td>4/27/2015</td>
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<tr>
<td>VACANT</td>
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<td>VACANT</td>
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<td>9/25/2016</td>
</tr>
<tr>
<td>Weisberg</td>
<td>Shelli</td>
<td>651 West Frank</td>
<td>(248)642-6461</td>
<td><a href="mailto:sweisberg@aclumich.org">sweisberg@aclumich.org</a></td>
<td>9/25/2006</td>
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<tr>
<td></td>
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<td></td>
<td>(248) 540-7603</td>
<td></td>
<td>Architect</td>
<td></td>
</tr>
</tbody>
</table>
NOTICE OF INTENTION TO APPOINT TO
DESIGN REVIEW BOARD

At the regular meeting of Monday, September 12, 2016 the Birmingham City Commission intends to appoint two members to the Design Review Board to serve three-year terms to expire September 25, 2019.

Interested parties may submit an application available from the city clerk's office on or before noon on Wednesday, September 7, 2016. Applications will appear in the public agenda at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

The function and duty of the Design Review Board is to advise the City Commission in regard to the proper development of the city. The Design Review Board is specifically charged with carrying out the goals, objectives and intent of the city's adopted master plan and urban design plan and other development-oriented plans which may subsequently be adopted. The Design Review Board is authorized to advise and cooperate with the City Commission, city Planning Board, Historic District Commission and other city advisory boards and cooperate with the planning, historic district and legislative bodies of other governmental units in any area outside the boundaries of the city.

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<td>• The other member shall represent, insofar as possible, different occupations and professions such as, but not limited to, the legal profession, the financial or real estate professions, and the planning or design professions.</td>
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NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.
DESIGN REVIEW BOARD

Ordinance #1882

Terms: 3 years

Members: One member of the Design Review Board shall be an architect duly registered in this state, if such person is available. The other members shall represent, insofar as possible, different occupations and professions such as, but not limited to, the legal profession, the financial or real estate professions, and the planning or design professions. The City Commission may appoint two members of the Historic District Commission to serve as alternate members of the Design Review Board during their term of appointment. (ordinance #1975)

Duties: The function and duty of the Design Review Board is to advise the city commission in regard to the proper development of the city. The Design Review Board is specifically charged with carrying out the goals, objectives and intent of the city's adopted master plan and urban design plan and other development-oriented plans which may subsequently be adopted. The Design Review Board is authorized to advise and cooperate with the City Commission, city Planning Board, Historic District Commission and other city advisory boards and cooperate with the planning, historic district and legislative bodies of other governmental units in any area outside the boundaries of the city.

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<td>Keith</td>
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<td>(248)642-6390</td>
<td><a href="mailto:kwdeyer@comcast.net">kwdeyer@comcast.net</a></td>
<td>9/25/2006</td>
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<td>(248) 885-8535</td>
<td><a href="mailto:nataliadukas@yahoo.com">nataliadukas@yahoo.com</a></td>
<td>9/9/2013</td>
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<td>(248) 789-1640</td>
<td><a href="mailto:jwhenke@aol.com">jwhenke@aol.com</a></td>
<td>9/25/2006</td>
<td>9/25/2018</td>
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<tr>
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<td>Loreal</td>
<td>1758 Grant</td>
<td><a href="mailto:lorealsd4@gmail.com">lorealsd4@gmail.com</a></td>
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<td>660 Smith Ave</td>
<td><a href="mailto:ttrapnell@dykema.com">ttrapnell@dykema.com</a></td>
<td>4/27/2015</td>
<td>9/25/2018</td>
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<tr>
<td>VACANT</td>
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<td>9/25/2016</td>
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<tr>
<td>Weisberg</td>
<td>Shelli</td>
<td>651 West Frank</td>
<td><a href="mailto:sweisberg@aclumich.org">sweisberg@aclumich.org</a></td>
<td>9/25/2006</td>
<td>9/25/2017</td>
<td></td>
</tr>
</tbody>
</table>
July 20, 2016

Laura Pierce, Clerk
City of Birmingham
151 Martin St.
Birmingham, MI 48012-3001

RE: Important Information—Billing Changes

Dear Ms. Pierce:

As part of our continuing effort to keep you informed, I wanted to let you know of a change, beginning August 29, 2016, in the billing vendors Comcast uses, which will enable us to provide an improved billing experience for our customers.

We plan for this change to have a minimal impact on our customers; however, customers’ account numbers and monthly due dates will change. Customers will need to update their Comcast account number if they make payments online or through their bank. We are informing customers of this upcoming change through emails and letters to their homes. A sample notification letter is enclosed for your reference. This change to the billing system will enable us to provide more detailed bills and enhance our customers’ experience.

As always, feel free to contact me directly at 734-254-1557 with any questions you may have.

Sincerely,

Kyle V. Mazurek
Manager of External Affairs
Comcast, Heartland Region
41112 Concept Drive
Plymouth, MI 48170

Enclosure
IMPORTANT INFORMATION ABOUT YOUR BILL

Dear [NAME],

Beginning **August 29, 2016**, we will be converting to a new billing system in order to provide an improved billing experience for our customers.

As part of this billing system conversion, several changes will take place starting with your next monthly bill. Your **account number and your bill due date will change.** Your **new due date is [Insert Date]**. We will be unable to mail bills during the billing system conversion, so we may be a couple of days late mailing your bill. Please be assured even if your bill is delayed, you will have 21 days to pay.

**If you use electronic banking to pay your Comcast bill, you need to:**

- Update your due date with the new due date.
- Update the Comcast information on your bank’s bill pay system with your new account number.

**If you use Comcast’s AutoPay service to pay your Comcast bill:**

- No action is required.

**If you are a Comcast Ecobill customers:**

- No action is required however the availability of your bill online may be delayed. You will receive an email when your Ecobill is available.

For more information or to sign up for Ecobill, please log in to your Comcast account online at www.xfinity.com/help.

Thank you for choosing Comcast. We appreciate your business and look forward to serving you in the future. Should you have any questions or concerns, please feel free to visit us at www.xfinity.com/billchange or call 1-800-XFINITY.

Sincerely,

Comcast

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