

**BIRMINGHAM CITY COMMISSION MINUTES
FEBRUARY 11, 2013
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

George Dilgard, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL: Present,	Mayor Dilgard Commissioner Hoff Commissioner McDaniel Mayor Pro Tem Moore Commissioner Nickita Commissioner Rinschler Commissioner Sherman (arrived at 7:35 PM)
Absent,	None

Administration: City Manager Bruner, Attorney Currier, Clerk Broski, Assistant City Manager Valentine, Fire Chief Metz, Police Chief Studt, Deputy Chief Clemence, Building Official Johnson, Planners Ecker and Baka, DPS Director Wood, Assistant to the Manager Wuerth, Interim IT Director Gemmell

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

**01-36-13 COUNTY COMMISSIONER
SHELLEY TAUB**

County Commissioner Taub updated the Commission on the status of Community Development Block Grant funding.

01-37-13 ANNOUNCEMENT

Resident, Elaine McClain, urged the public to be aware of pedestrians in the crosswalks and encouraged drivers to respect the crosswalk.

01-38-13

Police Chief Studt introduced the new police officer Mark Morrison.

01-39-13 RECOGNITION OF 2012 STUDENT BOARD MEMBERS

The Commission recognized the 2012 student board members:

Kate Leary	Planning Board
Erin Brown	Historic District Commission
Kendal Tamler	Historic District Study Committee
Anna Collins	Parks and Recreation Board
Daniel Maertens	Parks and Recreation Board
Haley Gumenick	Public Arts Board

Hunter Kurepa-Peers Public Arts Board
Jacqueline Smith Traffic and Safety Board
Dana Smith Museum Board

01-40-13 APPOINTMENT OF 2013 STUDENT BOARD MEMBERS

MOTION: Motion by Rinschler:

To appoint students as non-voting members to the following city boards for calendar year 2013:

Arshon Afrakhteh	Planning Board
Caroline Stacey	Historic District Commission / Design Review Board
Erin Jacobs	Historic District Study Committee
Hannah Gould	Parks and Recreation Board
Carolyn Hollingshead	Public Arts Board
Katherine Rink	Traffic & Safety Board
Olivia Kurajian	Museum Board

VOTE: Yeas, 7
 Absent, None

The Clerk administered the oath to the 2013 student board members.

**01-41-13 APPOINTMENT TO THE
 PUBLIC ARTS BOARD**

MOTION: Motion by Moore:

To appoint Sally Parsons, 1335 Willow Lane, as a regular member to the Public Arts Board to serve a three-year term to expire January 28, 2016.

MOTION: Motion by McDaniel:

To appoint Linda Wells, 588 Cherry Ct, as a regular member to the Public Arts Board to serve a three-year term to expire January 28, 2016.

VOTE ON NOMINATION OF PARSONS:

Yeas, 7
Absent, None

VOTE ON NOMINATION OF WELLS:

Yeas, 7
Absent, None

**01-42-13 APPOINTMENT TO THE
 HISTORIC DISTRICT COMMISSION**

MOTION: Motion by Rinschler:

To appoint Mark Coir as a regular member to the Historic District Commission to complete a three-year term to expire September 25, 2015 and authorizing the Clerk to being the process to fill the vacancy for an alternate member.

VOTE: Yeas, 7
 Absent, None

The Clerk administered the oath to 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.

01-43-13 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item A (minutes of January 28, 2013) by Commissioner Hoff
- Item K (555 S. Old Woodward off-street parking requirements) by Commissioner Hoff

MOTION: Motion by Hoff, seconded by Rinschler:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of January 30, 2013 in the amount of \$217,019.70.
- C. Approval of warrant list, including Automated Clearing House payments, of February 6, 2013 in the amount of \$1,624,703.16.
- D. Resolution authorizing the purchase of (11) Latitude ATG mobile data computers, power adapters and docking stations from Dell in the amount of \$33,846.23, also approving the purchase of (11) Havis mounts from Cynergy Wireless in the amount of \$5,873.94; further to approve the appropriation and amendment to the fiscal year 2012-13 Law and Drug Enforcement Budget as follows:
- | | |
|--|--------------------|
| Law & Drug Enforcement Fund | |
| Revenues: Draw from Fund Balance
(Account #265-000.000-400.0000) | <u>\$39,720.17</u> |
| Total Revenues | \$39,720.17 |
| Expenditures: Machinery and Equipment
(Account #265-302.002-971.0100) | <u>\$39,720.17</u> |
| Total Expenditures | \$39,720.17 |
- E. Resolution approving the purchase of one (1) new 2013 Chevrolet Caprice Police Patrol Vehicle from Shaheen Chevrolet, using State of Michigan MiDeal Cooperative Contract #071B1300008 for a total expenditure of \$27,344.00. Funds for this purchase are available in the auto equipment fund, account #641.441.006-971.0100.
- F. Resolution approving the Interlocal Agreement and join the Oakland County Tactical Training Consortium. Further, authorizing the Mayor and City Clerk to execute the agreement.
- G. Resolution approving a request submitted by the City of Birmingham to hold Celebrate Birmingham Parade on Sunday, May 19, 2013, 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.
- H. Resolution appointing Sandy Debicki as chairperson of the 2013 Celebrate Birmingham Parade Committee.
- I. Resolution authorizing the City to enter into a contract with Colonial Fireworks for providing a fireworks display on July 3, 2013 (July 5 rain date) at Lincoln Hills for the sum of \$15,000, and further authorizing the administration to secure the necessary insurance. This would be contingent upon the vendor meeting all state and local laws, City requirements, and insurance requirements.

- J. Resolution setting a public hearing date for March 4, 2013 to consider approval of a Special Land Use Permit Amendment and Revised Final Site Plan for 34977 Woodward Avenue to allow The Stand of Birmingham to operate an establishment with the Economic Development License formerly approved for Zazio's.
- L. Resolution approving the Technical Service Agreement for part time temporary contract labor service from Integrated Data Solutions, Inc. for an unknown, but approximate term of one (1) month or as determined by the Interim IT Director and City Manager to be in the City's best interest, at a rate of \$110 per hour for approximately 24 hours per week; and directing the mayor to sign the Agreement contingent upon meeting the City's insurance requirements. Estimated cost, assuming one month of service is \$10,560.00.

ROLL CALL VOTE: Yeas, Commissioner Hoff
 Commissioner McDaniel
 Mayor Pro Tem Moore
 Commissioner Nickita
 Commissioner Rinschler
 Commissioner Sherman
 Mayor Dilgard
 Nays, None
 Absent, None
 Abstentions, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

01-44-13 2012 LIQUOR LICENSE REVIEW & 2013 LIQUOR LICENSE RENEWAL

Mr. Wuertth explained that staff conducted the reviews and inspections of the liquor licenses. He confirmed that the establishments, which owed monies to the City, have made payments or have expressed intent to do so in the near future.

Commissioner Hoff pointed out that the percentage of food to alcohol sales in several applications did not add up to 100.

Commissioner Sherman questioned when Bistro Joe's will be open. Tony Curtis, Papa Joe's Gourmet Market, confirmed that it will be open in March. Chef VonStaden stated Bistro Joe's will be open on March 15th.

Kelly Allen confirmed for Commissioner McDaniel that the MLCC is no longer considering co-licensee applications. Instead, the MLCC prefers a participation permit is obtained, which was not the intent of Mr. Curtis and Ms. Lopus.

MOTION: Motion by Rinschler, seconded by Nickita:
 To approve the renewal, for the 2013 licensing period, of all Class B and Class C liquor licenses for which a current year application was received.

Commissioner Nickita suggested obtaining clarification on the percentage of food to alcohol issue. He questioned if there is another designation that should be added to the application.

He noted the food ratio is a key component for bistros. Mayor Pro Tem Moore agreed the information is important to obtain.

Dorothy Conrad agreed that the percentage of food to alcohol is important as it gives the Commission a good overview of the establishments.

Joel Harris, representing the 180 Pierce Street Association, and Stuart Lebenbom, representing S. Dennis Rogers spoke in opposition to the renewal of the Townhouse liquor license.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**01-45-13 PUBLIC HEARING – SPECIAL LAND USE PERMIT
 BIRMINGHAM SUSHI CAFÉ, 377 HAMILTON ROW**

Mayor Dilgard opened the Public Hearing to consider approval of the Final Site Plan and Special Land Use Permit for Birmingham Sushi Cafe, at 377 Hamilton Row, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code at 8:20 PM.

Mr. Baka explained the proposal includes minor changes to the inside such as flowering trees, an additional display, a saki warmer, new menu items and a new sushi chef. He explained the metal blinds would be installed to block the sunlight.

Mr. Baka explained for Commissioner Hoff that one of the requirements includes the installation of a Knox box which would provide the Fire Department with a key to access the building.

Keith Longsdon, architect with Mike Willoughby & Associates representing the restaurant owners, explained the future plans to improve the exterior include an improvement of the canopy above the entry.

Mayor Dilgard suggested improving the presentation of the menu in the window.

The Mayor closed the Public Hearing at 8:33 PM.

The Commission received a communication from Keith Butler, landlord of Birmingham Sushi Café, in support of the bistro license.

**01-46-13 PUBLIC HEARING – SPECIAL LAND USE PERMIT
 WHAT CREPE?, 172 NORTH OLD WOODWARD**

Mayor Dilgard opened the Public Hearing to consider approval of the Final Site Plan and Special Land Use Permit for What Crepe?, at 172 N. Old Woodward, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code at 8:33 PM.

Ms. Ecker explained the applicant received approval from the Advisory Parking Committee to install a platform on Old Woodward. She explained the changes to the interior include eight seats at a bar and forty-two seats in the restaurant.

Commissioner Hoff and Mayor Dilgard expressed concern with a platform on Old Woodward and losing two parking spaces.

Commissioner Rinschler stated that this is a high pedestrian area. He suggested removing the portion of the platform which blocks part of the sidewalk.

Paul Jenkins, Jr., owner of What Crepe?, explained that the platform was designed for the minimum capability.

The Mayor closed the Public Hearing at 8:51 PM.

**01-47-13 PUBLIC HEARING – SPECIAL LAND USE PERMIT
CRUSH BISTRO, 555 SOUTH OLD WOODWARD**

Mayor Dilgard opened the Public Hearing to consider approval of the Final Site Plan and Special Land Use Permit for Crush Bistro, at 555 S. Old Woodward, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code at 8:51 PM.

Ms. Ecker explained the proposal includes a two story building with outdoor dining at grade on the sidewalk. The second floor would include a terrace on the west side for outdoor dining and a rooftop garden on the east side. She noted that this will be a new building located under the existing building. Ms. Ecker explained the requirements for an economic development license which require an investment of \$10 million or a 500% increase in assessable value.

Commissioner Hoff expressed concern with the proposed number of seats and noted that this would fall into another category, not bistro.

Rick Rattner, representing Crush, explained that the building would be a separate unit condo of the 555 building. He explained the second floor outdoor dining would be closed for the season after November. He discussed the number of parking spaces required.

Jack Reinhart, minority partner in the 555 building, explained that the partners have agreed to sell this piece of land for the project.

In response to a question from Commissioner Nickita regarding the application for an economic development license, Mr. Rattner explained that Oakland County Equalization determined the assessed value is in excess of 500%.

Lynn Groth, representing Galyn Associates Center at 444-494 South Old Woodward, stated that restaurants have caused parking problems at the center as the adjacent lot offers free parking. She stated the fee to park in the parking structure is more than street parking.

Mr. Rattner confirmed that the restaurant plans to validate patron parking for a flat fee of \$3.00.

Dorothy Conrad stated that the restaurant will enhance the building and suggested the economic development license would not be as limited as the bistro license.

The Mayor closed the Public Hearing at 9:41 PM.

The commission received communications from the following in support of Crush:

Gary Astrein, 805 Purdy

Eunice Galperin, 411 South Old Woodward, #902
Jeffrey Kaftan, 850 Purdy
Prudential HWWB Realtors, 880 South Old Woodward

The Commission received a communication from Lynn Groth, Galyn Associates Center at 444-494 South Old Woodward, expressing concern with restaurant patrons parking in their lot.

01-48-13 CONSIDERATION OF 2013 BISTRO APPLICATIONS

The Commission discussed the three bistro options taking into consideration the location of the outdoor dining platform requested by What Crepe? and the bistro versus economic development option for Crush.

Mayor Dilgard expressed support of Crush as a bistro. He expressed that the investment is not significant to qualify under the economic development license.

Susan Peabody, Peabody's, asked the Commission to take into consideration that there are many restaurants coming into the City and immediate area.

MOTION: Motion by Hoff, seconded by Sherman:

To approve the Final Site Plan and Design and a Special Land Use Permit for 377 Hamilton Row, Birmingham Sushi Café, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code, in accordance with the recommendation of the Planning Board on December 12, 2012;

WHEREAS, Birmingham Sushi Café filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate their new restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the north side of Hamilton Row between Ferndale and Park;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits bistros 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, The Planning Board on December 12, 2012 reviewed the application for a Special Land Use Permit and recommended approval with the following conditions:

- 1) The applicant must execute a contract with the City outlining the details of the operation of the bistro;
- 2) The applicant executes a license agreement with the City for use of the public right-of-way, provide the required insurance, and obtain an Outdoor Dining Permit; and
- 3) The applicant adds a Knox box subject to approval by the Fire Dept.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on December 12, 2012;

WHEREAS, The Birmingham City Commission has reviewed Birmingham Sushi Café's 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 Birmingham Sushi Cafe application for a Special Land Use Permit authorizing the operation of a bistro at 377 Hamilton Row 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 subject to the following conditions:

1. Birmingham Sushi Cafe shall abide by all provisions of the Birmingham City Code;
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;
3. The hours of operation for outdoor dining shall cease at 12:00 a.m.;
4. Birmingham Sushi Cafe shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
5. Birmingham Sushi Cafe shall enter into a contract with the City outlining the details of the proposed bistro option.

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, Birmingham Sushi Cafe 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 Birmingham Sushi Cafe to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that Birmingham Sushi Cafe, which will do business at 377 Hamilton Row, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that Birmingham Sushi Cafe is recommended for the operation of a bistro, with a Class C Liquor License, at 377 Hamilton Row, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

- AND -

To allow Birmingham Sushi Café, to obtain a liquor license with an outdoor dining endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code;

- AND -

To authorize the Mayor and the City Clerk to complete and execute the contract for operation of Birmingham Sushi Café at 377 Hamilton Row.

VOTE: Yeas, 7
 Nays, None
 Absent, None

MOTION: Motion by Sherman, seconded McDaniel:

To approve the Final Site Plan and Special Land Use Permit for What Crepe?, at 172 N. Old Woodward, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code, in accordance with the recommendation of the Planning Board on December 12, 2012;

WHEREAS, What Crepe? filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate their restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of N. Old Woodward between E. Maple and Hamilton Row;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits bistros 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, The Planning Board on December 12, 2012 reviewed the application for a Special Land Use Permit and recommended approval with the following conditions:

- 1) The applicant submit specification sheets on all railings, furniture, umbrellas and the platform prior to review by the City Commission;
- 2) The applicant obtain approval of the Advisory Parking Committee prior to review by the City Commission;
- 3) The applicant enter into a license agreement with the City for use of the public right-of-way, and provide the required insurance;
- 4) The applicant adds a Knox box subject to approval by the Fire Dept.
- 5) The applicant must execute a contract with the City outlining the details of the operation of the bistro; and
- 6) Changes in the location of the outdoor seating proposed are permitted to open up the passageway in front of the location subject to administrative approval.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on December 12, 2012;

WHEREAS, The Birmingham City Commission has reviewed What Crêpe?'s 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 What Crêpe? application for a Special Land Use Permit authorizing the operation of a bistro at 172 N. Old Woodard 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 subject to the following conditions:

1. What Crêpe? shall abide by all provisions of the Birmingham City Code;
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;
3. The hours of operation for outdoor dining shall cease at 12:00 a.m.;
4. What Crêpe? shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
5. What Crêpe? shall enter into a contract with the City outlining the details of the proposed bistro option.

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, What Crêpe? 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 What Crêpe? to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that What Crêpe?, which will do business at 172 N. Old Woodward, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that What Crêpe? is recommended for the operation of a bistro, with a Class C Liquor License, at 172 N. Old Woodward, Birmingham, Michigan, 48009, above

all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

- AND -

To allow What Crepe?, to obtain a liquor license with an outdoor dining endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code;

- AND -

To authorize the Mayor and the City Clerk to complete and execute the contract for the operation of What Crepe? at 172 N. Old Woodward.

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

The Commission agreed that additional discussion is needed regarding the request from Crush for an economic development license.

The Commission recessed at 10:03 PM.
The Commission reconvened at 10:10 PM.

01-49-13 ORDINANCE AMENDMENT – CHAPTER 74

Chief Studt explained that the ordinance will make the City Code consistent with State law.

MOTION: Motion by Sherman, seconded by Rinschler:
To adopt an ordinance amending Part II of the City Code, Chapter 74, Offenses, Article VII Offenses Against Public Morals, Division 5, Controlled Substances, to add in Subdivision I, General, Section 74-310.

VOTE: Yeas, 7
 Nays, None
 Absent, None

01-50-13 ORDINANCE AMENDMENTS - CHAPTER 10

Mr. Currier explained that the LCC no longer requires local legislative approval for various permit endorsements. The proposed ordinances will require local legislative approval and local police approval of all permit endorsements and will require local legislative approval for the transfer of a liquor license.

MOTION: Motion by Sherman, seconded by Rinschler:

1. To adopt an ordinance amending Chapter 10 of the Birmingham City Code to add Section 10-47 requiring City Commission approval for any and all permit endorsements to a liquor license for the consumption of intoxicating liquor on premises.
2. To adopt an ordinance amending Chapter 10 of the Birmingham City Code to add Section 10-46 requiring City Commission approval for any and all permit endorsements to a liquor license for the consumption of intoxicating liquor on premises.
3. To adopt an ordinance amending Chapter 10 of the Birmingham City Code, Section 10-44, requiring the duty of continuing compliance with respect to permit endorsements.
4. To adopt an ordinance amending Chapter 10 of the Birmingham City Code, Section 10-42, requiring City Commission approval for any and all transfers of the licenses of

consumption of intoxicating liquors on premises of any kind including, but not limited to ownership of a license, stock in a corporation that owns a license, interest in a license through any entity, or location of the licensed premises.

VOTE: Yeas, 7
 Nays, None
 Absent, None

01-51-13 TITLE VI PLAN

Mr. Valentine presented the Title VI Plan. He explained that the plan is mandated by MDOT for all recipients who receive federal aid funding.

MOTION: Motion by McDaniel, seconded by Rinschler:
To adopt the City of Birmingham's Title VI plan and authorize the Mayor and City Manager to sign the appropriate sections of the plan.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**01-52-13 CLOSED SESSION REQUEST
 PENDING LITIGATION**

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

ROLL CALL VOTE: Yeas, Commissioner McDaniel
 Mayor Pro Tem Moore
 Commissioner Nickita
 Commissioner Rinschler
 Commissioner Sherman
 Commissioner Hoff
 Mayor Dilgard
 Nays, None
 Absent, None

VII. REMOVED FROM CONSENT AGENDA

**01-53-13 CITY COMMISSION MINUTES
 JANUARY 28, 2013**

Commissioner Hoff made the following corrections:

Resolution 01-26-13: "Commissioner Hoff said this is already written in Section 10-83 of the City Code which states a bistro license issued by the City Commission shall not be transferred to another location or person/entity within the City without prior approval of the City Commission. Commissioner Sherman said the new resolution is repetitious."

Resolution 01-35-13: "The Commission received the update on the results of the public tree inventory conducted by City staff and the Davey Resource Group, which was funded by the DNR Community Forestry Grant and submitted by DPS Director Wood."

Dorothy Conrad requested that Resolution 01-32-13 reflect her opposition to the public hearing and include her question as to when the Commission passed an ordinance regarding conditional rezoning.

The Commission discussed the minutes in general and the amount of discussion and public comment should be included. Commissioner Rinschler suggested this be reviewed.

MOTION: Motion by Hoff, seconded by Sherman:
To approve the City Commission meeting minutes of January 28, 2013 as corrected.

VOTE: Yeas, 6
Nays, None
Absent, None
Abstention, 1 (Moore - absent)

**01-54-13 555 SOUTH OLD WOODWARD
OFF-STREET PARKING REQUIREMENTS**

Commissioner Hoff pointed out that the request is to approve parking for a restaurant that is seeking approval to operate. She suggested waiting to see if the restaurant will be approved.

The Commission took no action.

VIII. COMMUNICATIONS

01-55-13 COMMUNICATIONS

The Commission received a resolution from the City of Farmington Hills supporting mental health services.

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

01-56-13 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Jean Steinman, resident, expressed concern with the amount of her water bill and requested her bill reflect the previous water rates due to the length of time since the last indoor meter reading.

Mr. Bruner explained that DPS has attempted to negotiate a settlement. The Commission requested the City Manager resolve the issue.

X. REPORTS

01-57-13 COMMISSIONER REPORTS

The Commission intends to appoint to the Historic District Commission on February 25, 2013 and Parks and Recreation Board, Planning Board, and Cablecasting Board on March 4, 2013.

01-58-13 COMMISSIONER COMMENTS

Commissioner Hoff stated that she will be attending the National League of Cities Conference in March.

Commissioner McDaniel stated the interim report for the Joint Senior Services Committee will be available in the next few weeks.

The Commission recessed to closed session at 10:38 PM.
The Commission reconvened in open session at 11:00 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 11:00 PM.

Laura M. Broski
City Clerk