

BIRMINGHAM CITY COMMISSION MINUTES
MARCH 4, 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
Absent,	None

Administration: City Manager Bruner, Attorney Currier, Clerk Broski, Assistant City Manager Valentine, Billing Manager Laing, Police Chief Studt, DPS Director Wood, City Engineer O'Meara, City Planner Ecker, Library Director Koschik, Assistant Library Director Church

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

03-72-13 APPOINTMENT TO THE PLANNING BOARD

MOTION: Motion by McDaniel:

To appoint Robin Boyle, 840 Wimbleton, to serve a three-year term on the Planning Board to expire March 28, 2016.

MOTION: Motion by Moore:

To appoint Scott Clein, 1556 Yosemite, to serve a three-year term on the Planning Board to expire March 28, 2016.

VOTE ON NOMINATION OF BOYLE:

Yeas, 7
Absent, None

VOTE ON NOMINATION OF CLEIN:

Yeas, 7
Absent, None

03-73-13 APPOINTMENT TO THE CABLECASTING BOARD

MOTION: Motion by Rinschler:

To appoint Jeffrey Heldt, 1415 Lakeside, to serve a three-year term on the Cablecasting Board to expire March 30, 2016.

VOTE: Yeas, 7
 Absent, None

**03-74-13 APPOINTMENT TO THE
 PARKS AND RECREATION BOARD**

MOTION: Motion by Moore:

To appoint Therese Quattrociocchi Longe, 1253 Yosemite, to the Parks & Recreation Board to serve a three-year term to expire March 13, 2016.

MOTION: Motion by Rinschler:

To appoint Dominick Pulis, 1158 Cole St, to the Parks & Recreation Board to serve a three-year term to expire March 13, 2016.

VOTE ON NOMINATION OF LONGE:

 Yeas, 7
 Absent, None

VOTE ON NOMINATION OF PULIS:

 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.

03-75-13 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item A (Minutes of February 25, 2013) by Dorothy Conrad

MOTION: Motion by Hoff, seconded by Sherman:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of February 27, 2013 in the amount of \$940,911.14.
- C. Resolution awarding Contract #3-13(PK), Park Street Parking Structure Restoration – Levels 4 & 5, to DRV Contractors, LLC, of Shelby Township, MI in the amount of \$828,969.00, to be charged to account 585-538.003-977.0000.
- D. Resolution approving the Amendment to the Agreement between the City of Birmingham and Traffic & Safety Control Systems, Inc.; further, waiving the normal bidding requirements as Traffic & Safety Control Systems is the sole authorized manufacturer’s representative for Amano-McGann parking equipment, and approving the proposals from Traffic & Safety Control Systems, Inc. to furnish and install one expressparc pay-in-lane machine, and two barrier gates for a total cost of \$24,058.00 from account number 585-538.002-971.0100.

- E. Resolution approving the landscape project in the right-of-way, as submitted, along Hawthorne Street which is part of the City trail system in Linden Park. Further, all costs will be borne by the applicant, Mrs. Marianne Schwartz. Further, authorizing the Department of Public Services to issue a Tree and Shrub Permit in accordance with the Tree Preservation Ordinance for such work on public property.
- F. Resolution approving the purchase of two (2) 2013 Toro Reelmaster 5410 Fairway Mowers from Spartan Distributors, Inc., through the State of Michigan extendable purchasing contract #071B0200329 for a total expenditure of \$92,627.90. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.
- G. Ordinance amending Chapter 114, Utilities, to add a new Article V, Consumers Energy Company Gas Franchise Ordinance to the Code of the City of Birmingham.
- H. Ordinance adopting the addition of Sec. 74-35 Prohibited conduct for a person informed of criminal investigation by a peace officer to the City Ordinance and authorizing the Mayor and City Clerk to sign the ordinance on behalf of the City.

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

**03-76-13 SPECIAL EVENT REQUEST
 VILLAGE FAIR**

Joe Bauman, Birmingham Bloomfield Chamber President, explained the addition of a private event on the Wednesday prior to the fair. He explained that the park would be open to the public, but the rides would only be open to party guests. He confirmed for the Commission that any costs incurred would be paid by the Chamber from the funds donated for the party. He noted that there will be a DJ and the host would bring in food for the guests.

MOTION: Motion by Rinschler, seconded by Sherman:

To approve a request submitted by the Birmingham Bloomfield Chamber to hold the Village Fair in the Shain Park area, May 29, 2013 to June 2, 2013, including the private party, 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.

The Commission discussed concerns with setting a precedent. Commissioner Nickita suggested the event be monitored to determine the value of gains versus concerns.

VOTE: Yeas, 7

Nays, None
Absent, None

**03-77-13 PUBLIC HEARING OF CONFIRMATION
PIERCE & MERRILL LATERAL SEWERS**

Mayor Dilgard opened the Public Hearing of Confirmation for the installation of lateral sewers within the Pierce St. & Merrill St. Paving project area at 7:57 PM.

Ms. Laing recommended confirmation of the roll.

The Mayor closed the Public Hearing at 7:58 PM.

MOTION: Motion by Hoff, seconded by Sherman:

To confirm Special Assessment Roll No. 854, to defray the cost of the installation of sewer laterals on Pierce Street and on Merrill Street:

WHEREAS, Special Assessment Roll, designated Roll No. 854, has been heretofore prepared by the Billing Manager 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 01-64-13 provided it would meet this 4th day of March, 2013 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this March 4th, 2013, 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. 854 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 quarter percent (4.25%) on all unpaid installments.

VOTE: Yeas, 7
Nays, None
Absent, None

**03-78-13 PUBLIC HEARING - SPECIAL LAND USE PERMIT
THE STAND, 34977 WOODWARD AVE**

Mayor Dilgard opened the Public Hearing at 7:58 PM to consider approval of a Special Land Use Permit and Final Site Plan for the operation of an establishment with an Economic Development license The Stand, 34977 Woodward Ave (formerly Zazio's).

Ms. Ecker reviewed the proposed changes to the entrance location, interior, and signage. She noted the liquor license will remain at the current location.

Victor Saroki, architect on the project, discussed the design elements that will be incorporated into The Stand. He noted that there will be 218 seats including the private rooms. He explained that the existing door will remain as it is the access into the office building.

Kelly Allen, of Adkison, Need & Allen, explained the request to transfer the liquor license and amend the Special Land Use Permit.

Paul Grosz, chef, and John Kelly, general manager, discussed the atmosphere of The Stand.

The Mayor closed the Public Hearing at 8:37 PM.

MOTION: Motion by Moore, seconded by Nickita:

To approve the 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 on the same terms and conditions as the Planning Board recommended:

WHEREAS, TB Stand, LLC, doing business as The Stand, filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a new restaurant with an Economic Development License in accordance with Article 3, Section 3.04(c) of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the south west corner of Woodward and E. Maple;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, in the area identified on Map 3.1 of Chapter 126, Zoning, which permits the use of Economic Development Licenses 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 on February 27, 2013 reviewed the application for a Special Land Use Permit Amendment and consider the approval of the application with the following conditions:

- 1) Applicant either reconfigure canopy signage to meet the requirements of the Downtown Overlay Signage Standards or apply to the BZA for a sign variance with the support of the Planning Board;
- 2) Applicant executes the attached contract with the City of Birmingham outlining the nature of the proposed operation of The Stand and approving the transfer of the existing Economic Development Liquor License.

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan for TB Stand, LLC, doing business as The Stand, using the existing Economic Development License;

WHEREAS, The Birmingham City Commission has reviewed TB Stand, LLC, doing business as The Stand, Special Land Use Permit Amendment 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 TB Stand, LLC, doing business as The Stand's, application for a Special Land Use Permit Amendment and Revised Final Site Plan at 34977 Woodward Avenue 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. TB Stand, LLC, doing business as The Stand, 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. TB Stand, LLC, doing business as The Stand, shall enter into a contract with the City outlining the details of the proposed operation.

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, TB Stand, LLC, doing business as The Stand 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 TB Stand, LLC, doing business as The Stand, to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit Amendment.

MAY IT BE FURTHER RESOLVED that TB Stand, LLC, doing business as The Stand, which will do business at 34977 Woodward Avenue, 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 TB Stand, LLC, doing business as The Stand, is recommended for the operation of a restaurant, with a Class C Liquor License, at 34977 Woodward Avenue, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

VOTE: Yeas, 7
Nays, None
Absent, None

03-79-13 BALDWIN PUBLIC LIBRARY BUILDING PROGRAM

Mr. Koschik discussed the efforts of the Joint Library Building Committee and shared the results of the survey and focus groups. He explained that the needs identified include additional square footage, improved accessibility, improved staff entrance, increased study space, improved layout and flexibility. He explained that the alternate needs identified include a café, used book store, additional storage space, and a street level book return.

In response to questions from the Commission, Mr. Koschik confirmed that the original 1927 building will be the guide for future improvements and the RFP will provide a conceptual drawing for Phase I and will give the committee an idea of the cost.

John Carlos, Greening Detroit.com, questioned whether the improvements would be LEED certified. The Commission explained the policy of the City is to pursue that avenue in every decision.

MOTION: Motion by Rinschler, seconded by McDaniel:

To accept the "Baldwin Public Library Building Program" as revised on December 4, 2012, for the purposes of developing a proposal to expand and improve the Baldwin Public Library.

- AND -

To accept the "Proposed Scope of Work" for the purposes of developing a Request for Proposal for Architectural Services to:

- Develop a practical and affordable proposal based on the Building Program that will meet the needs of the community.
- Estimate the cost of the proposal.
- Provide architectural renderings and materials necessary to communicate the proposal.
- Support review of the proposal by the public, City boards, and City Commission.

- AND -

To direct staff to draft and issue the Request for Proposal for Architectural Services.

- AND -

To direct staff to continue the operation of Joint Library Building Committee.

VOTE: Yeas, 7
Nays, None
Absent, None

03-80-13 PIERCE & MERRILL STREET LIGHT REPLACEMENT

Mr. O'Meara explained the correct location of the sample LED light fixture on Pierce. He stated the resolution is to set a policy decision for all future downtown lights. Mayor Dilgard noted that the LED lights are 42% more energy efficient and the bulbs last four times longer.

MOTION: Motion by Rinschler, seconded by McDaniel:
To rescind the previous motion from last week and to direct DTE Energy to proceed with ordering the necessary hardware for the Pierce St. & Merrill St. street light replacement, using an LED light engine set at 4,000K. Further, to proceed with this light engine on all future Central Business District light replacement or upgrade projects.

VOTE: Yeas, 7
Nays, None
Absent, None

**03-81-13 CLOSED SESSION REQUEST
ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

MOTION: Motion by Nickita, seconded by Hoff:
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 McDaniel
Mayor Pro Tem Moore
Commissioner Nickita
Commissioner Rinschler
Commissioner Sherman
Commissioner Hoff
Mayor Dilgard
Nays, None
Absent, None
Abstentions, None

VII. REMOVED FROM CONSENT AGENDA

**03-82-13 APPROVAL OF CITY COMMISSION
MINUTES OF FEBRUARY 25, 2013**

Dorothy Conrad noted that during the discussion on Crush comments were made about improving the appearance of the 555 Building. She requested this information be included in the minutes.

MOTION: Motion by Hoff, seconded by McDaniel:

To approve the City Commission minutes of February 25, 2013 as corrected.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VIII. COMMUNICATIONS

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

X. REPORTS

03-83-13 COMMISSIONER REPORTS

The Commission intends to appoint to the Architectural Review Committee on April 8, 2013.

03-84-13 COMMISSIONER COMMENTS

Mayor Dilgard suggested a review of the tree ordinance be added to the Planning Board priority list and that it be discussed at the next joint workshop. The Commission discussed the sensitive nature of this issue and the workload of the Planning Board.

Dorothy Conrad encouraged the Commission to review the ordinance.

Commissioner McDaniel requested the link to the Bloomfield Hills tree ordinance be sent to the Commission.

The Commission recessed to closed session at 9:26 PM.
The Commission reconvened in open session at 9:38 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 9:38 PM.

Laura M. Broski
City Clerk