

BIRMINGHAM CITY COMMISSION MINUTES
MARCH 18, 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: Attorney Currier, Clerk Broski, Assistant City Manager Valentine, Deputy Chief Clemence, DPS Director Wood, Golf Manager Brito, Special Event Coordinator Rondello, Building Official Johnson, City Engineer O'Meara

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

03-85-13 APPOINTMENT TO THE PUBLIC ARTS BOARD

MOTION: Motion by Hoff:

To appoint Virginia Reynolds, 521 N. Vermont, Royal Oak, as a member to the Public Arts Board to complete a three-year term to expire January 28, 2016.

MOTION: Motion by Moore:

To appoint Phyllis Klinger, 1844 Bowers, as a member to the Public Arts Board to complete a three-year term to expire January 28, 2015.

VOTE ON NOMINATION OF REYNOLDS:

Yeas, 7
Absent, None

VOTE ON NOMINATION OF KLINGER:

Yeas, 7
Absent, None

The Clerk administered the oath to the appointed board members.

03-86-13 OAKLAND COUNTY TREASURER

ANDY MEISNER

The Commission agreed to move this item to later in the agenda as Mr. Meisner was not present.

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.

03-87-13 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item J (Golf Report) by Commissioner Rinschler
- Item K (Old Woodward Ave. reconstruction project) by Commissioner Nickita
- Item F (Schedule of Fees, Charges, Bonds and Insurance) by Commissioner Sherman
- Item H (Liquor License re: Bella Piatti, LLC) by Commissioner Sherman
- Item I (Liquor License transfer 34977 Woodward) by Commissioner Hoff
- Item L (Hidden Ravines Sanitary Sewer Connection Improvement) by Commissioner Hoff
- Item A (Minutes of March 4, 2013) by Dorothy Conrad

MOTION: Motion by Rinschler, seconded by McDaniel:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of March 6, 2013 in the amount of \$4,502,370.87.
- C. Approval of warrant list, including Automated Clearing House payments, of March 13, 2013 in the amount of \$814,073.74.
- D. Resolution approving a request from the Principal Shopping District requesting permission to hold Day on the Town in downtown Birmingham, July 27, 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.
- E. Resolution approving a request from the Principal Shopping District to hold the Family Movie Night on June 21st, July 19th, and August 9th, in Booth Park, 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.
- G. Resolution setting a Public Hearing for April 8, 2013 to consider the proposed subdivision of 290 Lake Park Dr.

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

Mayor Dilgard opened the Public Hearing of Necessity at 8:09 PM for the installation of lateral sewers within the Cole Ave. Paving project area.

Mr. O'Meara requested Lot 259, 1432 Cole, be removed from the district as the sewer lateral was recently replaced.

Mr. O'Meara confirmed for Jeff Gapp, 1440 Cole that the cost per linear foot includes the connection.

The Mayor closed the Public Hearing at 8:13 PM.

MOTION: Motion by Rinschler, seconded by Nickita:

To declare necessity for the installation of lateral sewers within the Cole Ave. Paving project area. The Public Hearing to confirm the roll will be held on April 8, 2013:

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 the following streets:

Cole Ave. – Adams Rd. to Eton Rd.

Torry St. – Webster Ave. to Lincoln 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 a price per lineal 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:

"Leinbach-Humphrey's Woodward Ave. Subdivision"

Lots 192-208, 210-212, 215, 218-224, 226, 230, 232-234, 237-242, 246-247, westerly half of 248, 250-252, 254-270, 275-285, (all lot ranges inclusive). Excluding Lot 259.

"Birmingham Gardens"

Lots 481-495 inclusive, lots 497-510 inclusive.

RESOLVED, that the Commission shall meet on Monday, April 8, 2013, 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 Cole Ave. Paving Project.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**03-92-13 PUBLIC HEARING - LOT SPLIT
 AT 2400 EAST LINCOLN**

Mr. Valentine noted that the City received a correspondence from the attorney representing the developers of 2400 East Lincoln requesting that the public hearings be postponed to April 8th.

Mayor Dilgard opened the Public Hearing to consider the proposed subdivision of 2400 E. Lincoln at 8:15 PM.

The Mayor closed the Public Hearing at 8:15 PM.

MOTION: Motion by Rinschler, seconded by Hoff:
To continue the public hearings regarding 2400 East Lincoln to April 8, 2013.

VOTE: Yeas, 7
Nays, None
Absent, None

03-95-13 SOUTH WOODWARD GATEWAY PROJECT AMENDMENT

Ms. Ecker explained that the proposed amendment would include a short-term study of the Oakland/Park/Woodward sub-area.

MOTION: Motion by Nickita, seconded by Rinschler:
To amend the existing contract with LSL Planning for the S. Woodward Gateway project to include a small sub-area plan for the Oakland/Park/Woodward area in the amount of \$5,500.00 from account #101-721.000-811.0000, and further directing the Mayor and City Clerk to sign the amendment on behalf of the City and further appropriating and amending the Fiscal Year 2012-2013 Budget as follows:

Expenditures:		
Contingency account	# 101-3001-791.70-0100	(\$5,500.00)
Other Contractual Services account	# 101-2002-742.30-2200	<u>\$5,500.00</u>
	Total Expenditures	\$0

VOTE: Yeas, 7
Nays, None
Absent, None

03-96-13 CHARTER AMENDMENT – FILING DEADLINE

Ms. Broski explained that state election law changed the filing deadline for candidates effective in 2014. The proposed charter amendment would standardize the language in the Charter to make the filing deadline consistent with Michigan Election Law.

MOTION: Motion by Sherman, seconded by Rinschler:
To approve a Charter Amendment to Chapter IV, Registrations, Nominations, and Elections for submission to the Governor and Attorney General for subsequent placement on the November, 2013 ballot:

Chapter 46, Sec. 46-7. - Nominating petitions.
The method of nomination of any candidate shall be by petition in accordance with the terms of chapter IV of the city's Charter; however, nominating petitions for candidates for regular city elections shall be filed by 4:00 p.m. on the ~~twelfth Tuesday prior to the odd-year election.~~ date specified in accordance with Michigan Election Law.

VOTE: Yeas, 7
Nays, None
Absent, None

03-97-13 CITY COMMISSION RULES AND PROCEDURES

AMENDMENT

Ms. Broski presented an amendment to the City Commission Rules and Procedure which would regulate the content of the minutes.

The Commission discussed the amount of content to include in the minutes. Commissioners Hoff and Sherman agreed that it is important to include the reason why a commissioner voted against an item. Commissioner Sherman noted that it is important from a historical aspect to see why a decision was made. Commissioner Rinschler preferred Option B which included just the facts.

Dorothy Conrad stated that the minutes should contain as much information as needed to be able to go back in history to make a decision.

MOTION: Motion by Rinschler, seconded by Nickita:

To amend the City Commission Rules and Procedures to include the proposed section titled "MINUTES" (Example B):

The minutes shall include the mandatory information as required by the Open Meetings Act 267 of 1976; Section 15.269. The minutes shall reflect an overview or brief summary of the subject matter and any Commission comments that may have had an effect on the outcome.

The minutes shall include a participating citizen's name and position on an issue when there is public comment during the commission meeting in all of the following instances: (1) a public hearing, (2) an agenda item or (3) recognition of citizens in the audience.

Commissioner Nickita commented that guidance is needed for a level of continuity and structure in the minutes. Mayor Pro Tem Moore suggested a "B+" version to include the pros and cons from the Commission.

MOTION WITHDRAWN.

The Commission directed staff to return with a modified version of Example B.

03-98-13 CITY COMMISSION MEETING MINUTES OF MARCH 4, 2013

Ms. Broski confirmed for Dorothy Conrad that the correction to the February 25th minutes was made.

MOTION: Motion by McDaniel, seconded by Sherman:

To approve the City Commission minutes of March 4, 2013.

VOTE: Yeas, 7
Nays, None
Absent, None

03-99-13 GOLF REPORT 2012 REVIEW – 2013 PROSPECTUS

Ms. Wood and Ms. Brito presented the review of the Golf Report. Ms. Wood pointed out the addition of the beer and wine sales, expanded food menu, enhanced tournaments and events, and the increased marketing effort made for a successful season.

MOTION: Motion by Rinschler, seconded by Sherman:
To accept the Golf Report – 2012 Review – 2013 Prospectus.

VOTE: Yeas, 7
Nays, None
Absent, None

**03-100-13 SCHEDULE OF FEES, CHARGES, BONDS,
AND INSURANCE AMENDMENT**

In response to a question from Commissioner Sherman, Mr. O'Meara reviewed the fees for sewer inspection and trench maintenance fees. He noted that the current fees do not cover the cost for the work; therefore the fees have been incrementally increased each year.

Dorothy Conrad expressed opposition to the increase in sewer inspection and trench maintenance fees.

MOTION: Motion by Rinschler, seconded by Moore:
To amending the Schedule of Fees, Charges, Bonds and Insurance, Community Development section and Department of Public Service section as stated in the report and to adopt the revised Public Records Policy.

VOTE: Yeas, 7
Nays, None
Absent, None

**03-101-13 OLD WOODWARD AVE.
RECONSTRUCTION PROJECT**

Mr. O'Meara explained the opportunity for funding requires that the City confirm it will match the funds and complete the work in 2014.

MOTION: Motion by Rinschler, seconded by Sherman:
To confirm the placement of the Old Woodward Ave. reconstruction project (from Willits St. to Brown St.) on a list being prepared by the Oakland Co. Federal Aid Committee, committing to design and construction in fiscal year 2014 should funding become available under a special statewide distribution opportunity being administered locally by SEMCOG scheduled to take place in May, 2013.

Commissioner Nickita commented that the next step is to hire an urban design consultant. He expressed concern with a civil engineering firm designing the project. Mr. O'Meara explained that Nowak and Fraus is needed to handle the MDOT paperwork, but will not handle the entire project.

VOTE: Yeas, 7
Nays, None
Absent, None

**03-102-13 HIDDEN RAVINES SANITARY SEWER
CONNECTION IMPROVEMENT**

Mr. O'Meara confirmed for Commissioner Hoff that the County will be notifying the residents and he will review the letter prior to the notification.

MOTION: Motion by Hoff, seconded by Rinschler:

To authorize the Oakland County Water Resources Commission (OCWRC) to include the work known as the Hidden Ravines Sanitary Sewer Connection Improvement on their contract plans as a part of the Evergreen-Farmington Sewage Disposal System (EFSDS) Emergency Stream Bank Repairs, with an estimated construction cost of \$10,000, to be charged to the Sewer Fund, account number 590-536.001-981.0100 (Capital Improvements). Further, to authorize the Mayor and Clerk to sign the following documents from the Oakland Co. Water Resources Commissioner's office:

- a) A Temporary Use Easement allowing the County's contractor to access the Rouge River wood chip trail area via Linden Park for the purpose of conducting the EFSDS Emergency Stream Bank Repairs project.
- b) An agreement to establish the payment terms between the City and the OCWRC for the Hidden Ravines Sanitary Sewer Connection Improvement portion of the EFSDS Emergency Stream Bank Repairs project.

VOTE: Yeas, 7
Nays, None
Absent, None

03-103-13 **CLOSED SESSION REQUEST
COLLECTIVE BARGAINING**

MOTION: Motion by Sherman, seconded by Rinschler:
To meet in Closed Session regarding Collective bargaining.

VOTE: Yeas, 7
Nays, None
Absent, None

The Commission recessed to closed session at 9:36 PM.
The Commission reconvened in open session at 9:52 PM. (absent Commissioner Rinschler)

03-104-13 **AFSCME LOCAL 998
COLLECTIVE BARGAINING AGREEMENT**

MOTION: Motion by Hoff, seconded by Sherman:
To approve the settlement agreement between the City and AFSCME Local 998 as recommended for a renewal of the collective bargaining agreement through June 30, 2016, and authorizing the Finance Director to transfer the appropriate funds for the contract effective July 1, 2013.

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

Commissioner Rinschler returned at 9:54 PM.

03-105-13 **BFFA GRIEVANCE**

OF DECEMBER 4, 2012

MOTION: Motion by Sherman, seconded by Hoff:
To waive consideration of the BFFA grievance of December 4, 2012.

VOTE: Yeas, 7
Nays, None
Absent, None

**03-106-13 CLOSED SESSION REQUEST
LAND ACQUISITION**

MOTION: Motion by Hoff, seconded by Nickita:
To meet in a closed session to consider the purchase or lease of real property in accordance with Section 8(d) of the Open Meetings Act (Act 267 of 1976).

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

VIII. COMMUNICATIONS

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

X. REPORTS

03-107-13 COMMISSIONER COMMENTS
Commissioner Hoff presented an update from the National League of Cities Conference.

**03-108-13 COMMUNITY DEVELOPMENT ANNUAL REPORT
PLANNING BOARD, HISTORIC DISTRICT COMMISSION, DESIGN
REVIEW BOARD ACTION LIST FOR 2013-2014**
The Commission received the Community Development Department/Planning Division Annual Report and the Planning Board, Historic District Commission, and Design Review Board Action Lists for 2013-2014 submitted by Planning Director Ecker.

Commissioner Rinschler suggested the workload of this department be discussed at the budget session or a joint meeting.

**03-109-13 EVERGREEN-FARMINGTON SEWAGE DISPOSAL SYSTEM
LONG TERM CORRECTIVE ACTION PLAN**
The Commission received the Evergreen-Farmington Sewage Disposal System Long Term Corrective Action Plan submitted by City Engineer O'Meara.

The Commission acknowledged the City Engineer for his efforts on behalf of the City.

The Commission recessed to closed session at 10:00PM.
The Commission reconvened in open session at 10:37 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 10:37 PM.

Laura M. Broski
City Clerk