

**BIRMINGHAM CITY COMMISSION MINUTES**  
**APRIL 22, 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, DPS Director Wood, Assistant Fire Chief Connaughton, City Engineer O'Meara, Museum Director Pielack, Planning Director Ecker

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

**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.

**04-127-13 APPROVAL OF CONSENT AGENDA**

The following items were removed from the consent agenda:

- Item J (Park St. Parking Structure Elevator Lobby) by Commissioner Hoff
- Item G (Set Public Hearing - Historic District Study Committee Ordinance) by Russ Dixon
- Item A (Minutes of April 8, 2013) by Dorothy Conrad

**MOTION:** Motion by Nickita, seconded by McDaniel:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of April 10, 2013 in the amount of \$901,746.43.
- C. Approval of warrant list, including Automated Clearing House payments, of April 17, 2013 in the amount of \$164,671.74.
- D. Resolution accepting the bid and executing a contract with Hurst for the purchase of new battery operated extrication equipment in the amount of \$31,300.00. Funds are available in account #663-338.000-971.0100. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City.

- E. Resolution awarding the Kenning Park Tennis Court repair project to Goddard Coatings, Inc. in the amount not to exceed \$29,288.00 and authorizing the Mayor and City Clerk to sign the agreement contingent upon receipt of all required insurances. Funds for the Kenning Park Tennis Court repair project are available in the Capital Projects - Park Improvement Resurfacing Tennis Courts account #401-751.001-981.0100.
- F. Resolution awarding the Barnum Park Landscape Improvement project to Agroscaping, Inc. in the amount not to exceed \$39,793.00; further authorizing the Mayor and City Clerk to sign the agreement contingent upon receipt of all required insurances. Funds for the Barnum Park Landscape Improvements are available in the Capital Projects - Park Improvement - Barnum Park Phase 2 account #401-751.001-981.0100.
- H. Resolution setting a public hearing date for May 20, 2013 to consider the following ordinance amendments to Chapter 126, Zoning, of the Birmingham City Code:
  - 1) To amend Article 5, Use Specific Standards, Section 5.13, (MX) to amend the regulated use standards in the MX district.
  - 2) To amend Article 7, Regulated Uses, Section 7.20 – 7.23 to amend the review process for regulated uses in the city.
  - 3) To amend Article 9, Definitions, Section 9.02 to amend the definitions for banquet facility, bathing establishment, tattoo parlor and use, regulated and to add definitions for nightclubs and pawnshops.
- I. Resolution authorizing the Mayor to sign the two agreements finalizing the City's commitment to DTE Energy for the installation of street lights on the Pierce St. & Merrill St. Paving Project. Further, authorizing the issuance of a purchase order in the amount of \$169,481 to be issued to DTE Energy, covering the cost of the removals, wiring, installation of new footings, and installation of new hardware.

Capital Improvement Fund	401-901.010-981.0100	\$131,448.14
Pierce St. Parking Structure	585-538.002-981.0100	<u>\$ 38,032.86</u>
TOTAL		\$169,481.00

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**

**04-128-13                    EAST MAPLE GARDENS WATER/SEWER IMPROVEMENT PROJECT CONTRACT AWARD**

Mr. O'Meara explained that the project consists of the reconstruction and new water main on Derby in front of the school, which would be done in the summer. The other streets in the project area would receive new water and sewer where needed as well as a new chip seal surface.

**MOTION:**    Motion by Sherman, seconded by Rinschler:

To award the E. Maple Gardens Water and Sewer Improvement Project, Contract #4-13(W), to Pamar Enterprises, Inc., in the amount of \$2,482,677.10, and charged to the following accounts:

Sewer Fund	590-536.001-981.0100	\$1,030,028.00
Water Fund	591-537.004-981.0100	\$ 982,410.13
Major Streets Fund	202-449.001-981.0100	\$ 362,767.85
Local Streets Fund	203-449.001-981.0100	<u>\$ 107,100.00</u>
TOTAL		\$ 2,482,677.10

VOTE: Yeas, 7  
Nays, None  
Absent, None

**04-129-13 SET PUBLIC HEARING – SPECIAL ASSESSMENT DISTRICT  
EAST MAPLE GARDENS WATER/SEWER IMPROVEMENT PROJECT**

Mr. O’Meara presented the request to set public hearings of necessity and confirmation for the installation of lateral sewers within the E. Maple Gardens Water & Sewer Improvement Project area. He confirmed that the owners are notified once the hearing is scheduled.

Dorothy Conrad requested the fee waiver for this project be extended to two years.

**MOTION:** Motion by Rinschler, seconded by Hoff:

RESOLVED, that the City Commission shall meet on Monday, May 20, 2013 at 7:30 P.M., for the purpose of conducting a public hearing of necessity for the installation of lateral sewers within the E. Maple Gardens Water & Sewer Improvement Project area. Should the district be declared at that time, be it further

RESOLVED, that the City Commission shall meet on Monday, June 3, 2013 at 7:30 P.M. for the purpose of conducting a public hearing to confirm the roll for the installation of lateral sewers in the E. Maple Gardens Water and Sewer Improvements Project area.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**04-130-13 EAST MAPLE GARDENS  
ABANDONMENT OF BACKYARD WATER/SEWER**

Mr. O’Meara explained the request to begin the process to request the noted properties disconnect from backyard water and sewers over the next ten years.

**MOTION:** Motion by Rinschler, seconded by Sherman:

To direct the Engineering Dept. to implement the E. Maple Rd. portion of the Backyard Water and Sewer Master Plan as a part of its E. Maple Gardens project and to waive the relevant fees to those homeowners who disconnect their backyard water service within the first two years:

WHEREAS, the City of Birmingham will be conducting a significant water and sewer improvement project within the E. Maple Gardens Subdivision as part of a 2013 construction project, and

WHEREAS, there are 79 properties within the subject area currently connected to a backyard water main, and up to 18 properties connect to a backyard sewer, and

WHEREAS, the subject backyard water mains and sewers have been identified as ones that should be abandoned in the City's Backyard Water and Sewer Master Plan, and

WHEREAS, the E. Maple Gardens Water and Sewer Improvement Project provides a cost efficient opportunity to install water and sewer services from the public water mains and sewers in the street to the right-of-way line to service each adjacent property in the future, therefore so be it,

RESOLVED, that certain properties within the East Maple Gardens Subdivision., legally described as:

"East Maple Gardens Subdivision"

Lots 1 & 2 (except that portion taken for CN Railroad and Eton Rd. right-of-way), lots 3-8 inclusive, lot 19, lots 21-25 inclusive, lots 29-31 inclusive, lots 34-67 inclusive, the south 138 ft. of lot 67, the south 149.3 ft. of lots 68-71 inclusive, lots 72 & 73, the south 149.3 ft. of lots 74 & 75, lots 76-79 inclusive, the south 149.3 ft. of lot 80, lots 81-83 inclusive, the south 139.5 ft. of lot 84, lot 85, the south 149.3 ft. of lot 86, lot 87, the south 139.92 ft. of lot 88, the south 140 ft. of lots 89-99 inclusive.

shall have 1 inch to 2 inch copper water services and 6 inch plastic sewer services installed to their property line (as needed) as a part of this construction project, at City expense, thereby allowing the City to implement City Code Section 114-58 and its related operating policy, providing a ten year period for them to disconnect their current water and/or sewer service, at their expense, and to reconnect to the new City water and/or sewer service extending from the public water mains and sewers located in the adjacent rights-of-way,

FURTHER, to waive the regular fees that would be charged when installing a new private water and/or sewer service, and relocating a water meter, for a period of two years after proper notification has been received, described as follows:

Internal Plumbing Inspection, 1 inch dia. pipe or smaller	\$ 80
Water Service Lateral Inspection, 2 inch dia. or smaller	\$115
Old Meter Removal and New Meter Installation, 1 inch dia.	\$450
Internal Plumbing Inspection, Sewer	\$ 65
Sewer Service Inspection	\$100

After the two year period has expired, said fees for such work that apply at that time shall be in full effect.

All City funded contractor costs relative to implementing the backyard disconnection shall be charged to the Water Fund Capital Improvement Account, number 591-537.004-981.0100 & the Sewer Fund Capital Improvement Account, number 590-536.001-981.0100.

VOTE:        Yeas, 7  
              Nays, None  
              Absent, None

**04-131-13                    SPECIAL EVENT REQUEST – THE TEAM JULIAN FOUNDATION  
   COURAGE FOR CURES MOVIE NIGHT**

Amanda Herr, Director of Development for Courage for Cures, explained the event request includes a movie in Booth Park with face painters and games. A band will be playing from 7:00 PM to 8:30 PM.

**MOTION:**     Motion by Sherman, seconded by Rinschler:

To approve a request from The Team Julian Foundation requesting permission to hold a movie night on June 22, 2013 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.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**04-132-13 2013-2016 STRATEGIC PLAN  
BIRMINGHAM HISTORICAL MUSEUM & PARK**

Ms. Pielack presented the 2013-2016 Strategic Plan for the Historical Museum and Park.

**MOTION:** Motion by Rinschler, seconded by Nickita:  
To approve the proposed 2013-2016 Strategic Plan for the Birmingham Historical Museum & Park.

Commissioner Hoff noted the repeated message in the plan is limitation in staffing and funding. Ms. Pielack explained the intent of the plan was to identify the current situation and the direction that needs to be taken.

Mr. Bruner explained that there is a certain amount of support that the City can provide. He stated that the Museum Board has prioritized some of the items in the plan that will help accelerate the Museum's financial independence. He noted the continued City support in the short term and increasing the Museum's non-City resources to carry out other parts of the plan.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**04-133-13 MULTI-MODAL TRANSPORTATION  
MASTER PLAN UPDATE**

Norm Cox, Greenway Collaborative, presented the Multi-modal Transportation Master Plan Update including an overview on each phase of the plan.

**04-134-13 CLOSED SESSION REQUEST  
PENDING LITIGATION**

**MOTION:** Motion by Rinschler, seconded by Nickita:  
To meet in a closed session to consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation in accordance with Section 8(e) 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**

**04-135-13                    APPROVAL OF CITY COMMISSION MINUTES  
OF APRIL 8, 2013**

Dorothy Conrad requested the third paragraph in Resolution #04-114-13 be reviewed for accuracy.

The Commission directed the Clerk to review the tape.

**MOTION:**     Motion by Rinschler, seconded by McDaniel:  
To approve the City Commission minutes of April 8, 2013 as corrected.

VOTE:            Yeas, 7  
                     Nays, None  
                     Absent, None

**04-136-13                    SET PUBLIC HEARING – ORDINANCE AMENDMENT  
HISTORIC DISTRICT STUDY COMMITTEE**

Russ Dixon suggested this item be discussed in a workshop session for open dialog and better exchange of ideas.

The Commission agreed the discussion could be held at the public hearing.

**MOTION:**     Motion by McDaniel, seconded by Rinschler:  
To set a public hearing date for May 20, 2013 to consider the following ordinance amendments to Chapter 127, Historic Preservation, of the Birmingham City Code: To amend Section 127-4 Historic District Study Committee and the Study Committee Report, and Section 127-5, Establishing additional, modifying, or eliminating historic districts to eliminate a standing Historic District Study Committee and replace it with an ad hoc Historic District Study Committee.

VOTE:            Yeas, 7  
                     Nays, None  
                     Absent, None

**04-137-13                    PARK STREET PARKING STRUCTURE  
ELEVATOR LOBBY**

Mr. O'Meara confirmed for Commissioner Hoff that price is not the first parameter to base the recommendation.

**MOTION:**     Motion by Sherman, seconded by Rinschler:  
To authorize the Mayor and Clerk to sign the agreement with Niagara Murano to provide architectural services on the Park St. Parking Structure Elevator Lobby Addition project, for a fee not to exceed \$19,000, chargeable to account #585-538.003-977.0000.

VOTE:            Yeas, 7  
                     Nays, None  
                     Absent, None

**VIII. COMMUNICATIONS**

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

**04-138-13                    OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

Corryl Parr, 942 Arden Lane, informed the Commission of a structure that is proposed to be built on Seaholm High School property. She expressed concern with the structure as it will run the length of her property and be built within five feet of the property line.

Commissioner Hoff agreed that the school did not provide any advance notice of the construction until contacted by Ms. Parr.

Mr. Bruner noted that the City has little control as it is school property.

**X.        REPORTS**

**04-139-13                    FIRST THURSDAYS SHOPPING PROMOTION EVENT**

The Commission received a report regarding the First Thursdays Birmingham Shopping Promotion Event submitted by PSD Director Heiney. The First Thursday's event will consist of stores staying open late with events, activities and promotions on the first Thursday of each month from May through September.

**04-140-13                    HYDROELECTRIC STUDY AT QUARTON DAM UPDATE**

The Commission received the Hydroelectric Study at Quarton Dam update submitted by City Engineer O'Meara. The report indicated that at this time, there will be no further action on the concept of developing a hydroelectric facility at the Quarton Lake Dam.

**04-141-13                    BIRMINGHAM AREA CABLE BOARD  
   AMENDED BUDGET FY 2012-13**

The Commission received the Birmingham Area Cable Board Amended FY 2012-13 Budget submitted by Assistant City Manager/HR Director Valentine. The report indicated a significant increase in administrative and PEG grants to participating municipalities in Birmingham Public Schools.

The Commission recessed to closed session at 9:00 PM.  
The Commission reconvened in open session at 9:21 PM.

**XI.        ADJOURN**

The Mayor adjourned the meeting at 9:21 PM.

Laura M. Broski  
City Clerk