

BIRMINGHAM CITY COMMISSION MINUTES
AUGUST 12, 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, Assistant Fire Chief Connaughton, DPS Director Wood, Assistant to the Manager Wuerth, Planning Director Ecker, City Engineer O'Meara, Police Chief Studt, Deputy Police Chief Clemence

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

**08-223-13 PROCLAMATION
NEIGHBORHOOD HARDWARE**

The Mayor read a proclamation congratulating Neighborhood Hardware and the Reynolds family on their retirement after sixty years serving the community.

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.

08-224-13 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item P (Extension of Bistro Contract for Market) by Commissioner Hoff
- Item V (Installation of Expressparc at Pierce Structure) by Commissioner Hoff
- Item F (2013 Asphalt Street Resurfacing Project) by Commissioner Nickita

MOTION: Motion by McDaniel, seconded by Sherman:

To approve the consent agenda as follows:

- A. Approval of City Commission special minutes of July 17, 2013.
- B. Approval of City Commission minutes of July 22, 2013.

- C. Approval of warrant list, including Automated Clearing House payments, of July 24, 2013 in the amount of \$572,713.90.
- D. Approval of warrant list, including Automated Clearing House payments, of July 31, 2013 in the amount of \$5,331,350.24.
- E. Approval of warrant list, including Automated Clearing House payments, of August 7, 2013 in the amount of \$1,354,566.56.
- G. Resolution approving the Purchase Agreement with The Detroit Edison Company for street lighting equipment near 2125 E Lincoln Ave in the amount of \$4,848.00 from account #401-901.009-981.0100. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.
- H. Resolution approving a request from Church World Service to hold the CROP Walk in the City of Birmingham, on October 6, 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.
- I. 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 and aerial fly over on November 11, 2013 at 11:00 AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- J. Resolution approving the purchase of four (4) new 2014 Ford Escapes from Gorno Ford, through the State of Michigan extendable purchasing MiDEAL contract #071B1300005 for a total expenditure of \$82,652.00. Funds for this purchase are available in the auto equipment fund, account #641-441.006-971.0100.
- K. Resolution approving the purchase of 31A hot asphalt mix at \$48.00/ton from Barrett Paving Materials, Inc., and UPM cold patch at \$106.75/ton from Ajax Materials Corporation for fiscal year 2013-2014 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.
- L. Resolution accepting the bid of R.S. Contracting, Inc. for painting centerline striping in the amount of \$9,700.00 for the spring 2014 contract; further authorizing and directing the mayor and city clerk to sign the agreement on behalf of the city; further awarding the contract for 2013-14 pavement marking handwork to Hart Pavement Striping Corporation in the amount of \$66,400.00 for combined fall 2013 and spring 2014 paintings; further authorizing and directing the Mayor and City Clerk to sign the contract on behalf of the city; further authorizing these budgeted expenditures from account #202-303.001-937.0200.
- M. Resolution authorizing the purchase of (60) Honeywell NEOCELL model P7200 batteries, (30) single bay chargers, and (3) six bay chargers from Global Technology Systems, Inc. via Oakland County Cooperative Purchasing contract ID#3868 in the amount of \$8,722.64; further approving the appropriation and amendment to the fiscal year 2013-14 Law and Drug Enforcement Budget as follows:

Law & Drug Enforcement Fund

Revenues:

Draw from Fund Balance (Account #265-000.000-400.0000)	\$8,722.64
Total Revenues	\$8,722.64

Expenditures:

Machinery and Equipment (Account #265-302.001-971.0100)	\$8,722.64
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Total Expenditures \$8,722.64

- N. Resolution designating the east side of Taunton between Humphrey and Melton as an area in which parking is restricted to residents of the area and their guests from 8:00 AM to 9:00 PM pursuant to Sec. 110-138E of the City Code.
- O. Resolution setting a public hearing date for September 9, 2013 to consider an application for a Special Land Use Permit and Final Site Plan for ROJO at 250 E. Merrill.
- Q. Resolution accepting the resignation of Gordon Thorsby from the Cablecasting Board, thanking Mr. Thorsby for his service, and directing the Clerk to begin the process to fill this vacancy.
- R. Resolution accepting the resignation of Robert Goldman from the Historic District Commission and Design Review Board, thanking Mr. Goldman for his service, and directing the Clerk to begin the process to fill the vacancies.
- S. Resolution accepting the bid of Physio-Control for the purchase of two (2) LifePack 15 monitor/defibrillators in the amount \$54,253.20. Also, authorizing the withdrawal of \$2,712.66 from account #101-336.000-971.0100. Further, directing the Mayor and City Clerk to sign the purchase agreement on behalf of the City.
- T. Resolution recognizing Bella Piatti, LLC as the legal name at 167 Townsend, operating under the assumed name of Bella Ristorante for all purposes of the "Contract for a Principal Shopping District Liquor License (Bistro)" and Special Land Use Permit.
- U. Resolution approving the outdoor service area on City property, in conjunction with the Class C Bistro License for What Crepe Old Woodward, LLC, located at 172 North Old Woodward, Birmingham, MI 48009.

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

The Commission agreed to consider Item P (Extension of Bistro Contract for Market) at this time.

**08-225-13 BISTRO CONTRACT EXTENSION
MARKET BISTRO, 474 NORTH OLD WOODWARD**

In response to a question from Commissioner Hoff, City Planner Ecker explained that Market Bistro is close to being opened and reviewed the items that need to be addressed in the building prior to opening.

MOTION: Motion by Hoff, seconded by Sherman:
To amend the bistro contract with Market to allow an additional month for the opening of Market bistro, thus extending the date of opening for Market bistro to September 9, 2013.

VOTE: Yeas, 7

Nays, None
Absent, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**08-226-13 PUBLIC HEARING – SPECIAL LAND USE PERMIT
EMBURY UNITED METHODIST CHURCH, 1803 E. 14 MILE**

Mayor Dilgard opened the Public Hearing at 7:40 PM to consider an application for a Special Land Use Permit Amendment (SLUP) and Final Site Plan for Embury United Methodist Church, 1803 E. 14 Mile Rd.

City Planner Ecker explained that churches are required to have a SLUP. She explained the church is requesting approval to add a wheelchair ramp to the building to make it ADA compliant and to extend the existing playground.

The Mayor closed the Public Hearing at 7:44 PM.

MOTION: Motion by McDaniel, seconded by Rinschler:

To approve the Special Land Use Permit Amendment and Revised Final Site Plan for 1803 E. 14 Mile Rd. – Embury United Methodist Church:

WHEREAS, Embury United Methodist Church filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to install a wheelchair ramp and an addition to an existing playground in an O-1 and R-2 zoning district in accordance with Article 2, Section 2.01 and 2.21 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment being sought is located on the west side and north side of the existing church and the playground extension is on the southwest corner of the property.

WHEREAS, The land is zoned O-1 and R-2, which permits the use of a church 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 July 10, 2013 reviewed the application for a Special Land Use Permit and recommended approval of the application with the following conditions:
(1) The applicant provide a landscape details for administrative approval; and
(2) The applicant must verify that the parking requirements are met or obtain a variance from the BZA.

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan for Embury United Methodist Church;

WHEREAS, The Birmingham City Commission has reviewed Embury United Methodist Church'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 Embury United Methodist Church application for a Special Land Use Permit and Revised Final Site Plan at 1803 E. 14 Mile Rd. 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. Embury United Methodist Church shall abide by all provisions of the Birmingham City Code; and
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.

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, Embury United Methodist Church 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 Embury United Methodist Church 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 Embury United Methodist Church is recommended for the installation of a wheelchair ramp and extension of existing playground, subject to final inspection.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-227-13 PUBLIC HEARING – LOT REARRANGEMENT
 572 WATKINS & 559 SOUTHFIELD**

Mayor Dilgard opened the Public Hearing to consider the proposed Lot Rearrangement of 572 Watkins and 559 Southfield at 7:45 PM.

City Planner Ecker explained that the applicant was previously approved by the Commission for the lot rearrangement to put an addition on an existing garage. The applicant was informed by DTE that he could not do the addition due to overhead power lines. The applicant is now proposing to build a new structure. Ms. Ecker confirmed for Commissioner Hoff that there will be two garages, not attached to each other, located on the property.

The Mayor closed the Public Hearing at 7:47 PM.

MOTION: Motion by Sherman, seconded by Nickita:
 To approve the proposed rearrangement of 572 Watkins as proposed.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-228-13 PUBLIC HEARING – LOT REARRANGEMENT
 740 N. ADAMS**

Mayor Dilgard opened the Public Hearing to consider the proposed Lot Rearrangement of 740 N. Adams at 7:48 PM.

City Planner Ecker explained that in order to preserve the trees as required by the Planning Board, the right of way must be reconfigured to satisfy the emergency turning radius.

The Mayor closed the Public Hearing at 7:49 PM.

MOTION: Motion by Sherman, seconded by McDaniel:

To approve the proposed lot rearrangement of 740 N. Adams.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-229-13 PARK STREET PARKING STRUCTURE
 ELEVATOR LOBBY ADDITION**

City Engineer O'Meara presented the proposal to enhance the Park Street Parking Structure by expanding the elevator lobby to house the pay-on-foot cash machines.

John Krasinkiewicz, Architect with Niagara Murano, LLC, presented the details of the design including a glass façade, benches and a glass canopy outside of the structure to give protection from the weather.

In response to questions from the Commission, Mr. Krasinkiewicz explained that the three existing pay-on-foot machines will be located in the lobby. He noted that there will be fans to cool the area in the summer and a heat element to keep the machines from freezing. He noted that the lobby area will require little maintenance.

Mr. Krasinkiewicz confirmed for Commissioner Hoff that light mesh or guide wires are being considered keep people from climbing on top of the structure.

MOTION: Motion by Rinschler, seconded by Nickita:
To accept the conceptual drawings for the Park St. Structure Elevator Lobby Addition, as prepared by architect Niagara Murano, and as endorsed by the Advisory Parking Committee and the Architectural Review Committee, further, authorizing an increase in the budgeted account for the construction of this project, (#585-538.003-977.0000) in the amount of \$95,000.00 in the current fiscal year, to enable construction to proceed in the spring of 2014.

In response to a question from Commissioner Hoff regarding the possibility of creating a one-story lobby, Mr. Krasinkiewicz explained that when adding a lobby, it should match the height of the building. Two stories allow for a more attractive design and the higher space allows for the heat to rise.

Commissioner Sherman expressed support of the project, but expressed concern about the pinch point for getting three lines in the area, plus have enough room for people to exit. He requested that this be looked at closer.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-230-13 WEBSITE DESIGN SERVICES
 REVIZE SOFTWARE SYSTEMS, LLC**

Assistant to the Manager Wuerth presented the agreement for website design services. He explained that the current website has existed for ten years. The new website will utilize device

agnostics technology and will include a live chat feature. He pointed out that a free web redesign is included in the fifth year.

Joe Nagrant, Revize Software Systems, LLC, explained for Commissioner McDaniel that with the re-design in five years, the website does not have to be built from scratch. The existing internal structure would be used.

MOTION: Motion by Moore, seconded by McDaniel:

To approve an agreement with Revize Software Systems, LLC for website design services, contingent upon the approvals required by Sec. 2-289 of the Birmingham City Code, including Additional Bid Item #1, in an amount not to exceed \$16,700 from account #636-228.000-973.0400. Further to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

VOTE: Yeas, 7
Nays, None
Absent, None

08-231-13 2014 CITY COMMISSION MEETING SCHEDULE

City Clerk Broski presented the 2014 meeting schedule.

The Commission discussed the meeting schedule in April regarding adding a regular meeting date, noting the holidays, spring recess, and the budget session date. Concern was expressed with having five weeks between meetings. The City Attorney explained that the ordinance requires regular Commission meetings be held on the second, third, or fourth Monday. The Charter states there must be two meeting per month.

The Commission agreed to move the April 21st meeting to April 28th and the Long Range Planning Session to February 1st.

The Commission directed staff to return with an ordinance amendment to allow more flexibility for scheduling Commission meetings.

The Commission agreed to move the 2014 meeting schedule to the next meeting.

**08-232-13 CLOSED SESSION REQUEST
PENDING LITIGATION**

MOTION: Motion by Hoff, seconded by Nickita,

To meet in a closed session to consult with the 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

**08-233-13 CLOSED SESSION REQUEST
EXEMPT MATERIAL**

MOTION: Motion by McDaniel, seconded by Sherman:
To meet in a closed session to consider material exempt from discussion or disclosure by state or federal statute in accordance with Section 8(h) of the Open Meetings Act (Act 267 of 1976).

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

**08-234-13 CLOSED SESSION REQUEST
CITY MANAGER PERSONNEL EVALUATION**

The Commission agreed to meet in closed session to consider the personnel evaluation of the City Manager as requested pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976).

VII. REMOVED FROM CONSENT AGENDA

08-235-13 2013 ASPHALT STREET RESURFACING PROJECT

Commissioner Nickita questioned how this project aligns with the Multi-Modal Plan. City Engineer O'Meara explained that the streets are not addressed in the plan. He noted that this is considered a resurfacing project. City Planner Ecker confirmed that the streets will be neighborhood connectors for the bike route.

MOTION: Motion by Nickita, seconded by Rinschler:
To award the 2013 Asphalt Street Resurfacing Project, Contract #6-13(P), to Pavex Corporation, of Grosse Ile, MI in the amount of \$466,605.59 to be charged to account #203-449.001-981.0100.

Dorothy Conrad commented that she would rather infrastructure work be done rather than just resurfacing.

VOTE: Yeas, 7
 Nays, None
 Absent, None

08-236-13 INSTALLATION OF EXPRESSPARC AT THE

PIERCE STREET PARKING STRUCTURE

Commissioner Hoff expressed concern that the machine was damaged and questioned what would be done in the future to ensure there is no further damage. City Engineer O'Meara explained that the machine was hit by a vehicle which does not happen frequently. The Commission discussed installing a bollard to protect the machine.

MOTION: Motion by Hoff, seconded by Sherman:

To approve the proposal from Traffic & Safety Control Systems, Inc. to furnish and install one Expressparc at the Pierce St. exit lane of the Pierce St. Parking Structure for a total cost of \$16,005.00 from account #585-538.002-971.0100; further, waiving the normal bidding requirements as Traffic & Safety Control Systems is the sole authorized manufacturer's representative for Amano-McGann parking equipment, with the addition of bollards if practical.

VOTE: Yeas, 7
Nays, None
Absent, None

VIII. COMMUNICATIONS

08-237-13 COMMUNICATIONS

The Commission received the following communications:

- AT & T regarding the Annual Video Report
- Notice of Hearing from DTE Gas Company
- Notice of Hearing from DTE Electric Company
- WOW regarding a possible line-up change
- WOW regarding an increase in the late fee charge

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

08-238-13 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Dorothy Conrad commented that the contractor Pamar has been wonderful to work with during the construction in her neighborhood.

X. REPORTS

08-239-13 COMMISSIONER REPORTS

The Commission intends to appoint to the Advisory Parking Committee, Design Review Board, Historic District Commission and Cablecasting Board on September 9, 2013.

08-240-13 COMMISSIONER COMMENTS

Commissioner Hoff commented that Andres Duany will be speaking at the upcoming Michigan Municipal League conference and encouraged the Commission to attend.

Commissioner McDaniel commented that the Joint Senior Services Committee report is continuing to be circulated to the other communities.

08-241-13 CITY STAFF REPORTS

The Commission received the June 2013 Investment Report submitted by Finance Director/Treasurer Ostin.

The Commission received the 2013 Fireworks Show Report submitted by Fire Chief Metz.

The Commission received the celebration of the Birmingham Fire Department 100 Year Anniversary report submitted by Fire Chief Metz.

The Commission received the update regarding Greenwood Cemetery submitted by City Clerk Broski.

The Commission received the Quarton Lake Management Plan submitted by DPS Director Wood.

In response to a question from Commissioner Hoff, DPS Director Wood explained that the chemical control option would not be implemented until approval is granted by the Commission. She noted that the lake will be dredged soon which may alleviate the water lilies. She noted the report is an update of the options available.

City Manager Bruner stated that a neighborhood meeting will be held after the dredging to discuss the options. He pointed out this item will also be discussed by the Parks and Recreation Board and City Commission.

Dorothy Conrad stated that this is not a neighborhood park and noted there is a concern throughout the community over the extensive lily pad growth.

The Commission recessed to closed session at 9:19 PM.
The Commission reconvened in open session at 9:54 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 9:54 PM.

Laura M. Broski
City Clerk