

BIRMINGHAM CITY COMMISSION MINUTES
OCTOBER 21, 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 Pierce, Assistant City Manager Valentine, DPS Director Wood, Planning Director Ecker, Police Chief Studt, City Engineer O'Meara

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.

10-295-13 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Hoff, seconded by McDaniel:

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of October 7, 2013.
- B. Approval of City Commission special meeting minutes of October 14, 2013.
- C. Approval of warrant list, including Automated Clearing House payments, of October 9, 2013 in the amount of \$802,593.31.
- D. Approval of warrant list, including Automated Clearing House payments, of October 16, 2013 in the amount of \$1,828,655.64.
- E. Resolution accepting the resignation of William Ley from the Advisory Parking Committee, thanking Mr. Ley for his service, and directing the Clerk to begin the process to fill the vacancy.
- F. Resolution receiving the petition submitted by Mr. David Young requesting the paving of Clark Street from George St. to E. Lincoln Ave., and setting a Public Hearing of Necessity for the improvement proposed herein on November 25, 2013. If necessity is determined, to set a Public Hearing to review the assessments and to confirm the roll on December 9, 2013.
- G. Resolution approving the Purchase Agreement with The Detroit Edison Company for street lighting equipment adjacent to 2425 E. Lincoln Ave in the amount of \$49,181.19 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 the purchase of one (1) new 2013 IBAK Sewer Camera System from Jack Doheny Companies, using National Intergovernmental Purchasing Alliance extendable purchasing pricing for a total expenditure of \$220,203.35. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.
- I. Resolution approving the agreement by and between the City of Birmingham and Woodward Brown, LLC and authorizing the Mayor and Clerk to execute the same on behalf of the city.
- J. Resolution authorizing the filing of an application for the annual permit for work on state highways and designate Paul T. O'Meara, City Engineer, as the officer authorized to sign permits required by the State of Michigan beginning January 1, 2014, in accordance with

the requirements of the application and permit. In his absence, the designated officer shall be Brendan Cousino, Assistant City Engineer.

- K. Resolution setting a public hearing date for November 25, 2013 to consider the adoption of the Multi-Modal Transportation Plan.

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

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**10-296-13 SPECIAL EVENT REQUEST
 QUARTON ELEMENTARY SCHOOL**

Mr. Bruner determined that this should not be considered a special event. He confirmed that the application fee will be refunded.

Commission took no action.

10-297-13 GREENWOOD CEMETERY ADVISORY COMMITTEE

City Manager Bruner explained the composition, duties, and term of the proposed Greenwood Cemetery Advisory Committee. He stated that the Committee will have six months to perform the duties and provide recommendations, however the term is one year. He noted that the resolution implies that the Committee will review the contract with Elmwood as the duties include reviewing specific aspects in the contract. He noted that the Committee will be subject to the Open Meetings Act.

The Commission discussed the make up of the committee and criteria/qualifications for the members. The Commission agreed that four members of the committee should be general members of the public and as best as possible meet the qualifications listed. These members would be appointed by the Commission. The Commission also agreed that the committee should include a member of the Historic District Commission, Museum Board, and Friends of the Birmingham Historical Museum and Park.

The following individuals commented on the criteria to serve on the Committee:

- Dorothy Conrad
- Russ Dixon
- Darlene Gehringer

Mr. Bruner confirmed for Commissioner Hoff that the contract with Elmwood will remain in place until the City or Elmwood terminates it in accordance with the termination clause.

MOTION: Motion by McDaniel, seconded by Hoff:

Whereas, Greenwood Cemetery was established in 1825 on land donated by Dr. Ziba Swan; and

Whereas, Martha Baldwin organized the Greenwood Cemetery Association in 1885 after the cemetery had fallen into disrepair; and

Whereas, Martha Baldwin left \$1,000 for the Cemetery Perpetual Care Fund upon her death in 1913, and

Whereas, the City of Birmingham took over the operation of Greenwood Cemetery in 1946 after the cemetery had fallen into disrepair once again; and

Whereas, Section 34-26 of the City Code places the care, maintenance and operation of Greenwood Cemetery under the supervision and control of the city manager; and

Whereas, Section 34-27 of the City Code places the sale of the lots in Greenwood Cemetery, and the issuance of burial and other permits pertaining to the use of lots in the cemetery under the control and supervision of the city clerk; and

Whereas, Section 34-28 of the City Code gives the city manager the power and authority to adopt such rules and regulations for the control of Greenwood Cemetery, for the conduct of persons therein, and governing the charges for lots, burial spaces and services, as he may deem necessary; and

Whereas, the City Commission wishes to establish a committee to advise the City Commission, City Manager, and City Clerk regarding the administration, maintenance, operation, preservation, and strategic planning for future development of Greenwood Cemetery; and

Therefore, be it resolved that the City of Birmingham establishes an advisory committee to be known as the "Greenwood Cemetery Advisory Committee" to balance the interest of those interred in Greenwood Cemetery and their surviving family members, those who wish to be interred in Greenwood Cemetery, those who will pay for the regular care and maintenance of the cemetery in perpetuity, and those who wish to preserve Greenwood as a historic site.

Duties: Considering the past, present and future operations of the Cemetery, the Committee shall be charged with the following duties:

1. Prepare recommendations regarding whether or not to proceed with the reclamation of abandoned burial spaces within the existing cemetery and, if so, the best method for doing so.
2. Prepare recommendations regarding whether or not to plan for the development of new burial spaces within the existing cemetery and, if so, the best method for doing so.
3. Prepare recommendations regarding whether or not to plan for the expansion of the existing cemetery and, if so, the best method for doing so.
4. Prepare recommendations regarding whether or not to establish an endowment care fund to provide regular care and maintenance of the cemetery in perpetuity and, if so, the best method for doing so.
5. Prepare recommendations regarding the need for a standing cemetery advisory committee and, if so, the duties the committee shall be charged with.
6. Solicit and receive public input on those recommendations.
7. Finalize and present recommendations to the City Commission by June 30, 2014.

Composition: The Committee shall be composed of the following:

1. Four members of the general public
2. One Historic District Commission member appointed by the Historic District Commission
3. One Museum Board member appointed by the Museum Board
4. One member of the Friends of the Birmingham Historical Museum & Park appointed by the Board of Directors of the Friends

At least one member shall be a surviving family member of an individual interred in Greenwood Cemetery. At least one member shall own a grave and intend to be interred in Greenwood Cemetery (this member may also be a surviving family member of an individual interred in the cemetery). At least one member shall not own a grave in Greenwood Cemetery (this member may be on the interest list). At least one member may be a licensed funeral director.

The City Manager, City Clerk, Director of Public Services, cemetery contractors and subcontractors may be present at all Committee meetings, take part in all discussions but shall have no vote.

Terms of office: The Committee's term and the term of each member shall run until December 31, 2014 at which time this Resolution shall sunset and be of no further force or effect unless the City Commission resolves to continue the Committee's term.

Compensation: The Committee shall serve without compensation.

Meetings: The Committee shall not be a "public body" as defined by the Open Meetings Act (Act 267 of 1976). However, all Committee meetings shall be open to the public and held in accordance with the Open Meetings Act.

Minutes: The Committee shall not be a "public body" as defined by the Open Meetings Act (Act 267 of 1976). However, the Committee shall keep minutes of each meeting in accordance with the Open Meetings Act.

Records: The Committee shall not be a "public body" as defined by the Freedom of Information Act (Public Act 442 of 1976). However, all Committee records shall be accessible to the public in accordance with the Freedom of Information Act.

Quorum: A majority of the Committee shall constitute a quorum. The Committee shall adopt all recommendations by resolution.

Organization: The Committee shall elect one of its members as chairperson and any other officers that it shall deem necessary.

Rules of procedure: The Committee shall adopt rules of order and procedure consistent with the provisions of this resolution.

Removal of members from office and filling vacancies: Members of the Committee may be removed from office by the appointing authority for inefficiency, neglect of duty or misfeasance or malfeasance after public hearing. Vacancies on the Committee shall be filled for the unexpired term by appointment from the appointing authority.

Relation to administrative branch: The Committee shall deal with the administrative branch of the City government solely through the City Manager and neither the Committee nor any member thereof shall give any order or direction either publicly or privately to any of the subordinates of the City Commission or City Manager. The City Manager is authorized to provide assistance to the Committee without further City Commission approval.

Expenses/Contract: The Committee shall not have any authority to authorize expenditures or otherwise obligate the City or incur expenses and/or approve contracts. Any expenditure shall be requested by resolution to the City Commission for consideration.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**10-298-13 SET A SPECIAL MEETING OF THE CITY COMMISSION,
 HISTORIC DISTRICT STUDY COMMITTEE, MUSEUM BOARD &
 HISTORIC DISTRICT COMMISSION**

Mr. Bruner explained the previous discussions to hold a special meeting to discuss City history and historic preservation. He suggested the Historic District Study Committee, Historic District Commission and Museum Board be invited to participate.

MOTION: Motion by McDaniel, seconded by Rinschler:
To call a special meeting of the City Commission on Saturday, November 9, 2013 at 9:00 AM to meet with the Historic District Commission, Historic District Study Committee, and Museum Board.

Commissioner Hoff requested that Planner Bashiri be in attendance at the meeting.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**10-299-13 2014 INITIAL SCREENING OF
 BISTRO APPLICANTS**

The City Commission heard proposals from the following bistro applicants:

- The Mad Hatter Café, 185 North Old Woodward
- Libertine, 255 South Old Woodward
- Debonair Bistro, 825 Bowers

The following applications withdrew their applications:

- Maru Birmingham, 138 South Old Woodward
- Feed & Grain, 2010 Cole

The Commission discussed the proposals and the proposed locations. Commissioner Rinschler expressed concern with putting too many bistros in the downtown. Commissioner Hoff expressed concern with the proximity of Debonair to the residential and shared the concern with bistros in the downtown. Commissioner Sherman expressed concern with replacing retail space with bistros. Commissioner Nickita stated the intention is to activate areas outside of the downtown.

Mayor Dilgard suggested the Planning Board review this discussion.

MOTION: Motion by Rinschler, seconded by Nickita:
To direct the following bistro applications to the Planning Board for full site plan and design review and Special Land Use Permit review:

- The Mad Hatter Café, 185 North Old Woodward

- Debonair Bistro, 825 Bowers

The following individuals commented on the discussion:

Saverio Bitonti, 709 Ann
David Bloom, 1591 Stanley
Dominic Pulis, 1158 Cole

VOTE: Yeas, 7
 Nays, None
 Absent, None

**10-300-13 CONIFER ROCK GARDEN DONATION PROJECT
 LINDEN PARK**

Marshall Lasser presented his request to build a conifer rock garden at Linden Park. He stated that he would donate \$60,000 to pay for the project, which was designed by Michael Dul. He noted that maintenance costs will be very low or non-existent. Mr. Lasser explained his intent to help beautify the area and to hold a challenge grant for the neighborhood to include them in the planning process for future projects.

The Commission expressed concern that this is a highly restrictive donation and the procedure was not followed properly. Commissioner Rinschler noted that there are many items on the list to be funded and this is not one of them. Mayor Pro Tem Moore commented that signatures are important and give weight, but they are not the overriding criteria for approval. He commented that with good governance there needs to be a process.

Ms. Wood confirmed for Mayor Dilgard that the Parks Board had expressed concern in November with the originally proposed partially funded project. The Board had commented that if there were funds to spend, this would not be one of the top projects.

The following individuals expressed concern with the proposed project:

Anne and Peter Bray, 1260 Buckingham
Jeff O'Connor, 680 Linden
Dave and Fran Linden, 380 Aspen
Claudia Sills, 120 Hawthorne

The following individual expressed support of the proposed project:

Monique Keefer and her son

The Commission expressed appreciation of the generous gift and expressed concern with the policy ramification that this did not go through the process. Commissioner Hoff suggested staff be involved in the process from the beginning.

Mr. Bruner suggested a park plan be done with the opportunity for public input.

Commission took no action.

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

10-301-13 COMMUNICATIONS

The Commission received the following communications:

- Comcast regarding a channel change 09/26/13
- Comcast regarding channel changes 10/9/13
- Comcast regarding the encryption of the limited basic service 10/10/13

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

X. REPORTS

10-302-13 COMMISSIONER REPORTS

The Commission intends to appoint to the Advisory Parking Committee on November 11, 2013.

10-303-13 CITY STAFF

The Commission received the First Quarter 2013-2014 Financial Report submitted by Finance Director Ostin.

The Commission received the First Quarter 2013-2014 Investment Report submitted by Finance Director Ostin.

The Commission received the New Floodplain Insurance Legislation Report submitted by City Engineer O'Meara.

The Commission received the Engineering Department Update submitted by City Engineer O'Meara.

XI. ADJOURN

The Mayor adjourned the meeting at 10:44 PM.

Laura M. Pierce
City Clerk