

BIRMINGHAM CITY COMMISSION MINUTES
NOVEMBER 25, 2013
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Scott D. Moore, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present,	Mayor Moore Commissioner Dilgard Commissioner Hoff Commissioner McDaniel Commissioner Nickita Commissioner Rinschler Mayor Pro Tem Sherman
	Absent,	None

Administration: City Manager Bruner, Attorney Currier, Clerk Pierce, Assistant City Manager Valentine, City Engineer O'Meara, Assistant Engineer Cousino, Finance Director Ostin, Assistant Finance Director Gerber, Police Chief Studt, Planning Director Ecker

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

The Commission agreed to change the order of the agenda to move the audit presentation and 48th District Court budget to first items under New Business.

11-324-13 APPOINTMENT TO THE PRINCIPAL SHOPPING DISTRICT BOARD

MOTION: Motion by Sherman, seconded by Nickita:

To concur with the City Manager's request to appoint William Roberts, 273 Pierce, as the business operator and property owner member; Richard Astrein, 120 W. Maple, as the business operator and property owner member; and Robert Benkert, 908 S. Adams, as the business operator member to the Principal Shopping District Board to serve a four-year term to expire November 16, 2017.

VOTE: Yeas, 7
Absent, None

11-325-13 INTERVIEWS FOR APPOINTMENT TO THE GREENWOOD CEMETERY ADVISORY COMMITTEE

The Commission agreed to interview the applicants tonight and make the appointment at the next Commission meeting.

The Commission interviewed the following for appointment to the Greenwood Cemetery Advisory Committee:

1. Patrick Lynch, 4525 Charing Cross, Bloomfield Hills
2. Jay Shell, 1121 Northlawn
3. Dave Randall, 642 Fairfax
4. Bill Wozniak, 119 S. Adams
5. Daniel Share, 1040 Gordon Lane
6. Philip Stenger, 970 Pilgrim
7. Barbara Thurber, 663 Vinewood
8. Marjory Basile, 670 Fairfax (not in attendance)
9. Dorothy Conrad, 2252 Yorkshire (withdrew application)
10. Thomas Goad, 1840 Redding
11. Linda Peterson, 1532 Melton
12. Thomas Booth, 430 Aspen
13. Kevin Desmond, 962 Humphrey
14. Vicki Walsh, 729 Vinewood
15. J.W. (Jack) Burns, 898 Putney
16. Patricia Bordman, 1091 Lake Park Drive
17. Ron Berndt, 2182 Lost Tree Way, Bloomfield Hills
18. Joseph Mercurio, 1060 Lake Park Drive
19. Laura Ann Schreiner, 591 Bird
20. Patricia Andrews, 235 Chesterfield

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.

11-326-13 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item E (purchase of a vehicle for the Auto Parking System) by Commissioner Hoff

MOTION: Motion by Rinschler, seconded by McDaniel:

To approve the consent agenda as follows:

- A. Approval of City Commission special meeting minutes of November 9, 2013.
- B. Approval of City Commission minutes of November 11, 2013.
- C. Approval of warrant list, including Automated Clearing House payments, of November 13, 2013 in the amount of \$722,113.53.
- D. Approval of warrant list, including Automated Clearing House payments, of November 20, 2013 in the amount of \$857,981.02.
- F. Resolution approving RJ Moreland Hills, LLC's request to transfer ownership of the Class C and SDM license and all associated permits from Chagrin Falls, LLC at 201 – 207 S. Old Woodward, Birmingham, MI 48009, Oakland County. Furthermore, authorizing the city clerk to complete a Local Approval Notice at the request of RJ Moreland Hills, LLC, to transfer ownership of the Class C and SDM license and all associated permits from Chagrin Falls, LLC at 201 – 207 S. Old Woodward, Birmingham, MI 48009, Oakland County.
- G. Resolution granting AT&T a five year extension of the Metro Act Right of Way Permit:

WHEREAS, the State of Michigan enacted the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002 (the "Act"); and

WHEREAS, the Act, among other things, provides for a Uniform Safe Harbor Permit Application and a Safe Harbor Unilateral Permit for access to and use of the public rights-of-way by telecommunications providers; and

WHEREAS, the Act further provides, among other things, for the City to approve or deny access to the rights-of-way within 45 days of receiving the Safe Harbor Application from a telecommunications provider; and

WHEREAS, Michigan Bell Telephone Company d/b/a AT&T Michigan (AT&T) received a Unilateral permit pursuant to the Act on December 8, 2003; and

WHEREAS, the City granted AT&T an extension of that permit on December 8, 2008, extending the permits expiration date to December 31, 2010.

WHEREAS, the City, on November 16, 2010 received an AT&T Michigan 3 Year Permit Extension created by the Metro Authority, seeking to extend the term of the Permit until December 31, 2013; and

WHEREAS, The City, on August 6, 2013 received an AT&T Michigan 5 Year Permit Extension created by the Metro Authority, seeking to extend the term of the Permit until December 31, 2018; and

WHEREAS, the City held a public hearing on November, 2013 to consider the Permit Extension between the City of Birmingham and AT&T Michigan.; and

WHEREAS, the City complied with the requirements of the Act by approving this Extension; and

WHEREAS, the City of Birmingham determined that the AT&T Michigan Metro Act Right Of Way Permit Extension complies with the Act.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the 5 Year Permit Extension filed by AT&T Michigan is approved.

- H. Resolution approving the METRO Act application and permit submitted by Fibertech Networks.
- I. Resolution approving a request from the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 10th – 11th, 2014 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.

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

V. UNFINISHED BUSINESS

11-327-13 PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE PERMIT FOR LUXE BAR AND GRILL, 525 NORTH OLD WOODWARD

Ms. Ecker notified the Commission that the applicant has withdrawn his application.

VI. NEW BUSINESS

**11-328-13 48TH JUDICIAL COURT
2014 PROPOSED BUDGET**

Jim Harkin, Court Administrator, presented the 2014 District Court budget. He confirmed for Commissioner Hoff that the projections in case load are submitted by the police department.

MOTION: Motion by Rinschler, seconded by Dilgard:
To receiving the 2014 proposed budget from the 48th Judicial District Court; and further, to approve the budget as submitted.

VOTE: Yeas, 7
Nays, None
Absent, None

11-329-13 2013 AUDIT PRESENTATION

Representatives from Plante & Moran discussed the financial outlook, budget variations, and the impact of pension and legacy costs on the City's financial statements. It was noted that the taxable value trend is expected to increase. In response to questions from the Commission, Joe Heffernan, Plante & Moran, explained the governmental accounting standards. He noted that the communities with a strong fund balance have been using a three year budget or a five year financial forecast.

**11-330-13 PUBLIC HEARING OF NECESSITY
CLARK STREET PAVING FROM GEORGE ST TO E. LINCOLN**

Mayor Moore opened the Public Hearing of Necessity for Special Assessment Clark Street Paving from George St. to E. Lincoln Ave at 8:37 PM.

Assistant City Engineer Cousino explained the request the residents to pave Clark Street due to persistent drain issues.

Commissioner Nickita commented on the paving materials report and suggested the asphalt vs concrete options needs further assessment. Mr. Cousino explained that Lincoln and Pierce have a base of concrete with an asphalt overlay. He noted that a concrete road will be good for fifty years and an asphalt resurfacing would only be good for ten to fifteen years.

David Young, 1011 Clark, noted the petition stated concrete as the residents thought it was the only option. He requested additional time to ask the preference of the residents.

Carroll DeWeese, 932 Purdy, questioned whether concrete or asphalt was the standard and requested it be consistent.

The Mayor closed the Public Hearing at 8:52 PM.

MOTION: Motion by Nickita, seconded by Rinschler:
To declare necessity for the paving of Clark St., from George St. to E. Lincoln Ave., and further setting the Public Hearing to confirm the roll for the paving of Clark St., from George St. to E. Lincoln Ave. for December 9, 2013 at 7:30 P.M.

To receive the petition submitted by Mr. David Young requesting the paving of Clark St., from George St. to E. Lincoln Ave.:

WHEREAS, The City Commission is of the opinion that construction of the improvement herein is declared a necessity; and

WHEREAS, The City Commission has not declared it practicable to cause estimates of cost thereof and plans to be made at this time, now therefore be it,

RESOLVED, that there be constructed an improvement to be hereinafter known as:

CLARK STREET – GEORGE ST. TO E. LINCOLN AVE

consisting of the construction of a 26 foot wide concrete pavement (face to face) with integral curb and gutter, be it further

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, eighty-five percent (85%) of the estimated cost be levied against the assessment district, and fifteen percent (15%) of the estimated cost be charged against the City at large, be it further

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, both public and private, within the following district:

Lot 1, lots 4 through 7 inclusive, lot 10, lot 11, and lots 14 through 18, inclusive of the "Lincoln Pierce Subdivision", being part of the S.W. ¼ of the S.W. ¼ of the N.E. ¼ of Section 36, T. 2 N., R. 10. E., City of Birmingham, Oakland County, Michigan

be it further

RESOLVED, that the Commission shall meet on Monday, December 9, 2013, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the paving of Clark St., from George St. to E. Lincoln Ave.

In response to a question from Commissioner Hoff, Mr. Bruner explained that if necessity is declared for a concrete road, the decision is reversible until it is time to bid out the job.

VOTE: Yeas, 7
 Nays, None
 Absent, None

11-331-13 PUBLIC HEARING TO CONSIDER ADOPTION OF MULTI-MODAL TRANSPORTATION PLAN

Mayor Moore opened the Public Hearing to consider the adoption of the Multi-Modal Transportation Plan at 8:55 PM.

Norm Cox, The Greenway Collaborative Inc, presented the Multi-Modal Transportation Plan. Mr. Bruner explained that the plan is a guide. Many items in the plan would have to come to the Commission for approval.

Commissioner Hoff noted that the plan is specific for specific streets. She commented that adopting the plan indicates support and each situation should be considered separate. Mr. Bruner noted that the plan states which areas will need additional analysis.

The following individuals expressed concern with changes to West Maple Road according to the Multi-Modal Transportation Plan:

- Laura Smith, Arlington
- Alicia Chandler, Shirley
- Tom Booth, Aspen
- Elaine Heitsch, Aspen

- Alice Silbergleit, Shirley
- Allan Lasser, Glenhurst
- Jim Mirro, Arlington

The following individuals commented on the Multi-Modal Transportation Plan:

- Vicki Walsh, Vinewood, re: incorporating surrounding communities
- Doug Weaver, Townsend, agreed that the plan should be a guideline
- Bob Ziegelman, Ziegelman Architects, re: include signage on Ring Road
- Dave Brown, Chesterfield, support of the plan
- Carroll DeWeese, Purdy, recommend the plan be accepted in principle.
- Johanna Slanga, Winthrop and chair of Multi-Modal Committee, expressed support for changes to Maple.
- JC Cataldo, Chesterfield, support of the plan
- Dorothy Conrad, Yorkshire, expressed support for a trial run on Maple
- Lex Kuhne, Chair of APC and member of Multi-Modal Committee, explained that the committee received an education from the consultant on intersection improvements and modifications and traffic lights.
- Ms. Ecker read an email from Scott Clein, Yosemite, in support of changes to Maple.

The Mayor closed the Public Hearing at 10:24 PM.

MOTION: Motion by Sherman, seconded by McDaniel:

To receive the Multi-Modal Transportation Plan and to direct City staff to begin implementing the Policy and Program Recommendations that do not require a budget amendment without coming back to the Commission. Further, to direct City staff to use the Multi-Modal Transportation Plan as a guide for all transportation projects within the public right-of-way and to conduct more detailed corridor assessments and traffic studies prior to proceeding with any of the Physical Environment Recommendations in this report.

VOTE: Yeas, 7
 Nays, None
 Absent, None

The Commission received a communication from the Coryell Park Association and petitions submitted by Jim Mirro in opposition to changes on Maple.

The meeting recessed at 10:26 PM.
 The Mayor reconvened the meeting at 10:33 PM.

**11-332-13 LIBRARY RENOVATION AND EXPANSION PROJECT
 BY THE JOINT LIBRARY BUILDING COMMITTEE**

Library Director Koschik presented the conceptual design for the proposed renovation and expansion of the library. Ann Dilcher, Quinn Evans, presented the site elements that should be addressed such as the square footage and two story addition along Merrill. She discussed the floor plans for the upper and lower levels. She noted the expansion would increase the size of the library to 56,600 square feet with a project cost of \$21.5 million. She explained the estimated timeline would include one year of design time and twenty-two months of construction to be completed in 2017.

The Commission discussed the design, cost, need for additional space, and the potential of a May election. Commissioners McDaniel and Mayor Pro Tem Sherman expressed concern as there are other capital needs of the City and questioned whether a project of this size should be undertaken without knowing the other needs. Commissioner Rinschler noted that there will be some reduction in bond debt going forward.

The following individuals expressed support of the project and a May election:

Mark Capal, Bloomfield Hills resident

Margaret Betts

The following individuals expressed opposition to the project and a May election:

David Bloom

Doug Weaver

MOTION: Motion by Sherman, seconded by McDaniel:

To accept the schematic designs developed for the proposed Library Renovation and Expansion Project by the Joint Library Building Committee (JLBC) and thanking the members for their service.

VOTE: Yeas, 7
 Nays, None
 Absent, None

MOTION: Motion by Rinschler, seconded by Sherman:

To direct City staff to develop a financial plan to fund the Project including, but not limited to, bond debt, contributions from capital and operating funds, distributions from endowments and donations, and directing City staff to work with the City's financial advisor and bond counsel to prepare ballot language for a May 6, 2014 bond election.

In response to a question from Mayor Pro Tem Sherman regarding other capital needs, Mr. Bruner explained that working with the bond counsel would include returning to the Commission with information about the City's current debt and how the new debt would be structured in relationship to that debt.

Commissioner Nickita noted that the resolution is to further identify information about the project. Commissioner Hoff noted that by passing the resolution, the information discussed by Commissioners Sherman and McDaniel will be given.

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

**11-333-13 CLOSED SESSION REQUEST
 LAND ACQUISITION**

MOTION: Motion by Sherman, seconded by Dilgard:

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
Commissioner Nickita
Commissioner Rinschler
Mayor Pro Tem Sherman
Commissioner Dilgard
Commissioner Hoff
Mayor Moore
Nays, None
Absent, None
Abstentions, None

**11-334-13 CLOSED SESSION REQUEST
 CITY MANAGER PERSONNEL EVALUATION**

The Commission agreed to postpone this item to the next meeting.

VII. REMOVED FROM CONSENT AGENDA

**11-335-13 PURCHASE AND OPERATION OF VEHICLE FOR
 AUTO PARKING SYSTEM**

In response to a question from Commissioner Hoff, Mr. Bruner explained that the system was restructured so the contractor now provides the vehicle as opposed to the contractor driving a City vehicle. He confirmed that the City reimburses the expense out of the parking system funds.

MOTION: Motion by Hoff, seconded by Rinschler:
To approve the memorandum of understanding between the City of Birmingham and National Garages, Inc. relative to the purchase and operation of a vehicle for the Auto Parking System, further authorizing the Mayor to sign the agreement.

VOTE: Yeas, 7
Nays, None
Absent, None

VIII. COMMUNICATIONS

11-336-13 COMMUNICATIONS

The Commission received the following communications:

- Correspondence from Comcast regarding channel changes
- Public Hearing Notice from Michigan Public Service Commission regarding DTE Electric Company
- Correspondence from Hibu regarding Yellowbook
- Correspondence from WOW regarding program changes
- Richard Rollins, 465 Aspen re: long term growth and redevelopment of Birmingham

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

11-337-13 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Dorothy Conrad requested an update on the progress of the East Maple Gardens construction. City Engineer O'Meara will return with a report to the Commission.

X. REPORTS

11-338-13 COMMISSIONER COMMENTS

Commissioner Sherman commended the library on the success of the Books and Bites event.

11-339-13 CITY STAFF

The Commission received the Principal Shopping District Special Assessment District 852 Funding Report submitted by Billing Manager Laing.

The Commission received the Paving Materials Report regarding use of concrete vs. asphalt submitted by City Engineer O'Meara.

The Commission received the Oakland County Federal Aid Committee 2017 Call for Projects submitted by City Engineer O'Meara.

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

The Commission recessed to closed session at 12:08 AM.

The Commission reconvened in open session at 12:25 AM.

XI. ADJOURN

The Mayor adjourned the meeting at 12:25 AM.

Laura M. Pierce
City Clerk