

BIRMINGHAM CITY COMMISSION MINUTES
MAY 14, 2018
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Harris called the meeting to order at 7:30 p.m.

II. ROLL CALL

ROLL CALL: Present,	Mayor Harris Mayor Pro Tem Bordman Commissioner Boutros Commissioner DeWeese Commissioner Hoff Commissioner Nickita Commissioner Sherman
Absent,	None

Administration: City Manager Valentine, City Attorney Currier, Senior Planner Baka, Communications Director Byrnes, Assistant City Planner Chapman, Planning Director Ecker, DPS Manager Filipski, Building Official Johnson, Assistant Building Official Morad, City Clerk Mynsberge, City Engineer O'Meara, Director of Public Services Wood

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

05-125-18 ANNOUNCEMENTS

Mayor Harris announced:

- The Celebrate Birmingham Parade and Party will be held Sunday, May 20th. The parade starts at 1:00 p.m., rain or shine, at the corner of S. Old Woodward and Frank and continue to Brown, Pierce, Martin, and Bates. The parade will be immediately followed by the Party in Shain Park with entertainment, games, food and fun for the entire family.
- A few artifacts have been uncovered beneath the pavement during the current Maple-Brown construction, including:
 - An inter-urban rail spike from the streetcar line used from 1890 – 1920.
 - A utilitarian bottle from 1890 – 1920.as well.
 - A Nesbitt's soda bottle from 1942 – 1952.

These items will be on display at the Birmingham Museum.

05-126-18 APPOINTMENTS TO THE BOARD OF BUILDING TRADES APPEALS

The City Commission interviewed David Force and Bradley Klein. Ronald White, a current member of the Board was unable to attend.

MOTION: Motion by Commissioner Sherman:

To appoint Ronald White to the Board of Building Trades Appeals as a regular member to serve a three-year term to expire May 23, 2021.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

MOTION: Motion by Commissioner Boutros:

To appoint David Force to the Board of Building Trades Appeals as a regular member to serve a three-year term to expire May 23, 2021.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

The Commission was in agreement to delay making an appointment for the vacant position until applicant Bradley Klein was able to attend an interview.

05-127-18 APPOINTMENT TO THE BROWNFIELD REDEVELOPMENT AUTHORITY

Wendy Zabriskie, a current member of the Authority, was unable to attend. Mayor Harris asked the Commission to concur with him in appointing Wendy Zabriskie.

Commissioner Hoff expressed concern that Ms. Zabriskie only attended one of three meetings in 2017. City Manager Valentine explained the Authority meets as needed and therefore members are sometimes unable to accommodate meetings scheduled with little advance notice.

MOTION: Motion by Mayor Harris:

To concur in the Mayor's appointment of Wendy Zabriskie to the Brownfield Redevelopment Authority as a regular member to serve a three-year term to expire May 23, 2021.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-128-18 APPOINTMENT TO THE MULTI-MODAL TRANSPORTATION BOARD

The City Commission interviewed Doug White.

MOTION: Motion by Commissioner Hoff:

To appoint Doug White to the Multi-Modal Transportation Board as a regular member to serve a three-year term to expire March 24, 2021.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-129-18 APPOINTMENT TO THE PLANNING BOARD

The City Commission interviewed Jason Emerine.

MOTION: Motion by Mayor Pro Tem Bordman:

To appoint Jason Emerine to the Planning Board as an alternate member to serve the remainder of a three-year term to expire November 2, 2020.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-130-18 APPOINTMENT TO THE CABLECASTING BOARD

The City Commission interviewed George Abraham, currently serving on the Board as an alternate member.

MOTION: Motion by Commissioner DeWeese:

To appoint George Abraham to the Cablecasting Board as a regular member to serve the remainder of a three-year term to expire March 30, 2021.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

The City Clerk administered the Oath of Office to the appointees.

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.

05-131-18 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Commissioner Hoff: Item N, Sidewalk Trip Hazard Elimination Services.
- Mayor Pro Tem Bordman: Item B, City Commission Budget Hearing Minutes, 04/28/18.
 Item J, Oakland County West Nile Expense Reimbursement Request.
- City Manager Valentine: Item M, Set Public Hearing for 736 & 760 Pleasant Lot Combination. Application withdrawn by the applicant.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:

To approve the Consent Agenda, with Items B, J, and N removed, and M removed from the agenda in its entirety, and with special thanks to Michael Surnow for his service on the Multi-Modal Transportation Board, and to Cheryl Daskas and Rachel A. Woods for their service on the Birmingham Shopping District Board.

ROLL CALL VOTE: Yeas, Mayor Pro Tem Bordman
 Commissioner Boutros
 Commissioner DeWeese

Mayor Harris
Commissioner Hoff
Commissioner Nickita
Commissioner Sherman

Nays, None
Absent, None

- A. Resolution approving the City Commission meeting minutes of April 23, 2018.
- C. Resolution approving the City Commission special meeting minutes of April 28, 2018.
- D. Resolution approving the warrant list, including Automated Clearing House payments, dated April 25, 2018 in the amount of \$562,763.31.
- E. Resolution approving the warrant list, including Automated Clearing House payments, dated May 2, 2018 in the amount of \$539,780.51.
- F. Resolution approving the warrant list, including Automated Clearing House payments, dated May 10, 2018 in the amount of \$781,428.52.
- G. Resolution accepting the resignation of Michael Surnow from the Multi-Modal Transportation Board as a Regular Member, thanking him for his service, and directing the City Clerk to begin the process of filling the vacancy.
- H. Resolution accepting the resignation of Cheryl Daskas from the Birmingham Shopping District Board, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.
- I. Resolution accepting the resignation of Rachel A. Woods from the Birmingham Shopping District Board, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.
- K. Resolution approving the purchase of uniforms with Contractors Clothing Company for the total amount not to exceed \$9,000 for fiscal year 2018-2019. Funds are available for this in the Public Services - Uniform Allowance account # 101-441.002-743.0000.
- L. Resolution setting Monday, June 4, 2018 at 7:30 PM for a public hearing to consider a Special Land Use Permit Amendment for 209 Hamilton Row/250 N Old Woodward – Emagine Palladium, to allow for the renovation and installation of a 35 seat private viewing theater.
- O. Resolution authorizing the purchase of the one model #D6626-1 bus shelter from account 401-901.020-971.0100 in the amount of \$21,927 from Enseicom, and further, waiving the normal bidding requirements as Enseicom is a sole source vendor for this product.
- P. Resolution awarding the contract for the Native Wet Meadow Planting Project to Cardno, Inc. in the amount not to exceed \$16,720.00. Funds are available in the Parks - Other Contractual Services account, #101-751.000-811.0000 for this project. Further, authorizing the Mayor and Clerk to sign the agreement on behalf of the City upon the receipt of required insurances.

05-132-18 CITY COMMISSION BUDGET HEARING MINUTES - APRIL 28, 2018 (ITEM B)

Mayor Pro Tem Bordman noted Mayor Harris' title on Page 8 under the Community Development Block Grant heading should be corrected from "Mayor Pro Tem" to "Mayor".

MOTION: Motion by Mayor Pro Tem Bordman, seconded by Commissioner Boutros: To approve the City Commission budget hearing minutes of April 28, 2018 as corrected.

VOTE: Yeas, 7
Nays, 0
Absent, 0

05-133-18 OAKLAND COUNTY WEST NILE EXPENSE REIMBURSEMENT REQUEST (ITEM J)

Mayor Pro Tem Bordman took the opportunity to remind residents to remove any standing water on their property, as it provides a breeding ground for mosquitos.

MOTION: Motion by Mayor Pro Tem Bordman, seconded by Commissioner Nickita: To approve the Resolution requesting reimbursement for the maximum allotment of \$2,648.39 for eligible mosquito control activity under the Oakland County's West Nile Virus Fund Program. *(Formal resolution appended to these minutes as Attachment A)*

VOTE: Yeas, 7
Nays, 0
Absent, 0

05-134-18 SIDEWALK TRIP HAZARD ELIMINATION SERVICES (ITEM N)

City Engineer O'Meara said that only Precision Concrete, Inc. responded to the City's bid for sidewalk trip elimination services. Their specialty is a patented system for grinding which will deal with minor trip hazards. Larger issues will be dealt with in a different contract. A little over 700 locations will be addressed as part of this project.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Boutros: To award the 2018 Sidewalk Trip Hazard Elimination Program, Contract #6-18(SW) to Precision Concrete, Inc., in the amount of \$48,000.00, to be charged to the Sidewalk Fund, account number 101-444.001-981.0100, contingent upon execution of the agreement and meeting all insurance requirements. Further, approving an Amendment to the 2017-18 Fiscal Year Budget as follows:

Sidewalk Fund		
Revenues:		
Draw from Fund Balance	#101-000.000-400.0000	\$48,000
Total Revenue Adjustments		\$48,000
Expenditures:		
Public Improvements	#101-444.001-981.0100	\$48,000
Total Expenditure Adjustments		\$48,000

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

V. UNFINISHED BUSINESS

None.

VI. NEW BUSINESS

**05-135-18 PUBLIC HEARING TO CONSIDER NECESSITY FOR IMPROVEMENT –
2018 CAPE SEAL PROJECT – PUBLIC STREET IMPROVEMENT**

Mayor Harris opened the public hearing at 7:51 p.m.

DPS Manager Filipski reviewed Director of Public Services Wood's memo to City Manager Valentine dated May 3, 2018 regarding the 2018 Cape Seal Project – Public Hearing of Necessity.

Mayor Pro Tem Bordman stated that she and Mayor Harris live within the cape seal project area. City Attorney Currier did not believe there was a conflict of interest, and the Commission concurred.

DPS Manager Filipski sent out two sets of notices regarding this public hearing, both of which explained the option of petitioning for an improved street . DPS has received phone calls regarding whether there would be parking restrictions, but there has not otherwise been much interest.

Dave Sillman said he did not recall receiving a proposal for improved streets.

DPS Manager Filipski clarified that improving streets has a higher up-front cost, and that there was a town hall meeting noticed and held to address all related concerns.

Bob Corry expressed opposition to the project due to the massive construction traffic occurring on his block of Fairfax. Mr. Corry emphatically stated he would see it as a waste of money at this time.

City Engineer O'Meara, at Commissioner DeWeese's request, explained the roads are in poor condition and that is why the project is proposed now. The work will be more extensive the longer it is delayed. Commissioner DeWeese encouraged residents to petition for an improved street.

Commissioner Sherman commented that the Ad Hoc Unimproved Street Study Committee will be working on a plan for improving streets in the future. The short-term alternative is residents petitioning for an improved street. Cape seal is just a temporary measure.

There being no further comment, Mayor Harris closed the public hearing at 8:02 p.m.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:

To approve the determination of necessity for the improvement to be known as 2018 Cape Seal Program-Public Street Improvement; further, to approve the cost estimates submitted by the Department of Public Services; further, to create a special assessment district and special assessments levied in accordance with benefits against the subject properties; further that the following method of assessment be adopted: 85% of front-foot costs for improvement are assessed on all property fronting the improvement; 25% of side-foot costs for improvement are assessed on all residential property siding the improvement; 85% of side-foot costs for improvement are assessed on improved business property siding the improvement and; 25% of side-foot costs for improvement are assessed on vacant business property siding on the improvement; further, to direct the City Manager to prepare the special assessment roll and present the same to the City Commission for confirmation at the public hearing on Monday, June 4, 2018 at 7:30 p.m.

Commissioner Nickita noted the Commission is doing the temporary solution because residents have not expressed interest in petitioning for improved streets.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

**05-136-18 PUBLIC HEARING TO CONSIDER THE SPECIAL LAND USE PERMIT
 AND FINAL SITE PLAN REVIEW – 260 N. OLD WOODWARD – THE
 MORRIE**

Mayor Harris opened the public hearing at 8:04 p.m.

Planning Director Ecker reviewed her May 3, 2018 memo to City Manager Valentine regarding The Morrie.

Planning Director Ecker confirmed the design accommodates the new sidewalk condition post-construction, including the required five-foot clearance.

Aaron Bellin, the owner of The Morrie, appeared before the Commission. Mr. Bellin said there will be a dance floor between the bar and booth seating.

Planning Director Ecker stated no dance floor was included in the plans submitted to the Planning Board.

Kevin Biddison, architect for The Morrie, appeared before the Commission. Mr. Biddison explained:

- A ten-by-ten foot area in front of the bar that would occasionally be cleared of tables to make space for dancing;
- The flooring in the Morrie will be concrete; and
- Soundproofing material would be applied to the ceiling and walls.

Mr. Bellin said:

- The Morrie will be open seven days a week, from 12 p.m. until 11 p.m. on weeknights, and Friday and Saturday until 2 a.m.
- There may be a cover charge depending on the band, ranging from \$5 - \$20.

Planning Director Ecker confirmed that the applicant specifically told the Planning Board there would be no dance floor at the Birmingham location of The Morrie, and no tables would be cleared to create a dance floor.

John Jonna, co-owner of Vinoteca Wine Bar, appeared before the Commission and offered a statement in support of The Morrie's opening.

Jordan Jonna, representing AF Jonna Development, L.L.C., the owners of the property at 260 N. Old Woodward, appeared before the Commission. Mr. Jonna stated:

- The Morrie in Royal Oak is not a nightclub. Rather, it creates a sing-along atmosphere with the bands, and "soft dancing".
- The space was formerly a theater and so already has some soundproofing.

City Manager Valentine said a recently adopted ordinance permits the City Manager to suspend activities at a business with a Special Land Use Permit (SLUP) and to require the owner to appear before the Commission for a public hearing should issues regarding the SLUP agreement arise.

Commissioner Boutros told the Commission that the Police Chief of Royal Oak wrote a complimentary email regarding The Morrie's operations in Royal Oak.

There being no further comment, Mayor Harris closed the public hearing at 8:21 p.m.

MOTION: Motion by Commissioner Boutros, seconded by Mayor Pro Tem Bordman: To approve the Special Land Use Permit and Final Site Plan Review for 260 N. Old Woodward – The Morrie, to allow the operation of a restaurant, serving alcoholic liquors, and providing live entertainment. (*Formal resolution appended to these minutes as Attachment B.*)

Mayor Pro Tem Bordman expressed concern with the discrepancy regarding the dance floor.

Owner confirmed for Commissioner Hoff that there will be valet parking.

Commissioner Nickita shared concern that the plans submitted are not fully accurate without depictions of the dance floor. When detail is missing from a SLUP, the City cannot assess a business' adherence to its permit in an on-going way.

Mayor Harris suggested a motion to amend to include the dance floor as part of the SLUP. Commissioner Boutros consented to this suggestion, and City Attorney Currier stated this would be legally valid.

Mayor Pro Tem Bordman drew City Attorney Currier's attention to a clause on the second page of the proposed SLUP reading "1. The Morrie shall be permitted to provide entertainment in accordance with their entertainment permit issued by the MLCC". Mayor Pro Tem Bordman asked for clarification as to what is allowed under such a permit.

City Attorney Currier said:

- Birmingham has either specifically licensed or prohibited dance floors, historically, as part of a business' SLUP. There have even been specific hours of permitted operation for dance floors required.
- Reliance on the general provisions of an entertainment permit to address the matter would be inadvisable.

Planning Director Ecker reiterated for Mayor Harris that The Morrie communicated in writing there would be no guest interaction with the band beyond singing.

Commissioner Sherman said the Commission could either send the application back to the Planning Board for review and possible amendment or adopt the SLUP with no dance floor and no dancing.

Mr. Bellin stated that he has been transparent about intended dancing within The Morrie throughout the application process.

Commissioner Sherman replied that the dance floor was not presented as part of the SLUP proposal. The Commission can only move forward on the information presented within an application.

Scott McDonald, general counsel to Mr. Bellin and stand-in for attorney Kelly Allen, clarified the MLCC requires a dance floor be clearly marked and suggested such delineation would be the second part of this application.

Commissioner Nickita replied that the SLUP must be specific because it is part of a contract with the City, and needs to be laid out clearly as part of the application. Commissioner Nickita then requested guidance from City Attorney Currier for the best way to move forward.

City Attorney Currier advised that:

- The Commission should approve the SLUP this evening if they see fit; and,
- Mr. Bellin should be required to appear before the Planning Board for the formulation of an amendment to the SLUP providing details regarding the dance floor and dancing at The Morrie.

Commissioner Sherman clarified this action would allow the applicant to move forward in their application process with the MLCC, while requiring the details necessary for a concrete SLUP with the City. City Attorney Currier concurred.

VOTE: Yeas, 7

Nays, 0
Absent, 0

05-137-18 PUBLIC HEARING TO CONSIDER ZONING ORDINANCE AMENDMENTS TO BISTRO ORDINANCE

Mayor Harris opened the public hearing at 8:41 p.m.

Senior Planner Baka reviewed the joint Commission/Planning Board effort to consider possible amendments to the Bistro Ordinances, and the proposed Bistro Ordinance amendments as suggested by the Planning Board to the Commission.

Senior Planner Baka said the Planning Board recommended eliminating enclosed platforms for dining because another ordinance prohibits enclosures.

Mayor Pro Tem Bordman stated:

- If the desire is to require a platform with a railing, the language should read "platform with a railing".
- If Planning Board does not address rooftop dining so as not to encourage it, rooftop dining will be implicitly allowed by the lack of any language addressing the issue.

Planning Director Ecker explained that the Planning Board sought:

- To not be overbroad in the requirements for outdoor dining, rooftop dining, and parking for outdoor dining so as to encourage its development while still allowing its regulation through the SLUP application process.
- To maintain the difference between a smaller bistro license and a Class C license by prohibiting enclosed year-round outdoor dining for a Bistro.

Commissioner Nickita believed the prohibition on year-round outdoor dining insufficiently addresses the need to keep bistro-licensed restaurants smaller than Class C-licensed restaurants, especially since bistro licenses already technically preclude year-round outdoor dining.

Planning Director Ecker explained the Planning Board did not want to limit total outdoor seating by ordinance, but that the SLUP application process may allow the City to sufficiently limit the seating in a bistro-licensed restaurant on a case-by-case basis.

Planning Director Ecker confirmed that the proposals potentially allow bistro-licensed restaurants to have unlimited seating in the warmer months, and that this was the Planning Board's intent.

Commissioner Nickita stated:

- His concerns regarding seating capacity were enough for him to not move these amendments forward as currently proposed.
- A 42"-inch maximum rail would be sufficient, though he would like to see them smaller.
- Preventing the use of eisenglass around outdoor seating is a positive move to control seating capacity.
- It might be wise to codify platform standards.

Planning Director Ecker replied that when platforms were first discussed by the Planning Board in 2007, they decided to leave the requirements open so as not to inhibit creativity. She continued that the Commission could ask the Planning Board to revisit that, should the Commission see fit.

Commissioner Nickita clarified he does not seek to regulate design standards for platforms, but fundamental building standards such as size, materials, edge conditions, sleeper channels, non-skid texture and other related criteria.

City Manager Valentine stated that city staff can create a formalized platform standard for the Commission to review and potentially adopt.

Commissioner DeWeese said the intended benefits of the bistro were:

- Activation of the street;
- Focus on food and not alcohol; and,
- The creation of intimacy within a so-licensed restaurant.

Commissioner DeWeese continued that:

- Moving seating up to higher floors or rooftops fails to activate the street.
- He would like to see bistro licenses remain closer to their original intent.
- Different districts could potentially have different bistro requirements.

Mayor Harris suggested that the Commission could approve the proposed ordinance language and direct staff and the Planning Board to re-address outdoor seating issues.

Mayor Pro Tem Bordman said:

- A reconsideration of the outdoor seating issue may also affect the indoor capacity of a bistro-licensed establishment.
- There are enough other concerns that all proposed amendments should return to the Planning Board.

Commissioner Nickita said:

- The Planning Board should provide seating parameters, and not require the Commission to determine said parameters with every individual bistro SLUP application.
- He would be comfortable having the Planning Board review the amendments and send them back to the Commission.

Norman LePage, owner of Big Rock Chop House, voiced his support for the Commission's suggestions.

Senior Planner Baka told Mr. LePage that the bistro seating regulations increased from 65 indoor seats to 85 indoor seats in order to encourage more bistro applications in certain areas of the City.

Mayor Pro Tem Bordman told Mr. LePage that should any existing establishment come before the Commission seeking to change their SLUP bistro license, the Commission can require that the establishment come into alignment with the new bistro requirements.

Jeremy Sassoon appeared before the Commission and said:

- There should be a focus group to consider the difference between a bistro license and a Class C license.
- The City should clarify its standards for bistro licenses and other applications, because he feels he has been denied two licenses for subjective, not objective, reasons.

Joe Zane appeared before the Commission and said he would like to see bistro licenses granted in the Triangle District, even if it requires relaxing the standards a bit.

There being no further comment, Mayor Harris closed the public hearing at 9:24 p.m.

The Commission agreed to send the proposed ordinance amendments back to the Planning Board for reconsideration.

05-138-18 PUBLIC HEARING TO CONSIDER ORDINANCE AMENDMENTS TO ALLOW HOTEL LIQUOR LICENSES IN THE B-4 ZONING DISTRICT

Mayor Harris opened the public hearing at 9:25 p.m.

Planning Director Ecker provided a review of her May 2, 2018 memo to City Manager Valentine regarding the B-4 zoning district.

Commissioner Sherman suggested the Commission look at the Chapter 10 Liquor License first, decide on whether to move that forward, and then look at zoning aspects, so as not to confuse topics.

Planning Director Ecker explained that:

- An economic development license (EDL) is not being considered because an EDL is only permitted in specific locations.
- Expanding the geographic parameters of the EDL was previously considered by the Commission, but not enacted.
- The proposed ordinance amendment would require 100 hotel rooms in order to apply for a liquor license.
- The 100-room figure was set by the Planning Board in order to set a reasonable benchmark for economic investment on the part of the applicant.

Commissioner Boutros suggested there should be both a minimum investment amount and a minimum room number in the proposed hotel ordinance amendment in order to account for potential variables.

Planning Director Ecker said a new hotel property would likely meet a minimum investment requirement, but a rehab of a previously-existing hotel property might not. This would potentially disqualify the latter type of applicant from being able to apply for a hotel liquor license.

Commissioner Boutros recommended further study in order to prevent loopholes.

Commissioner Nickita agreed that the room number requirement merits further study and analysis.

Rick Rattner, representing The Daxton Hotel (The Daxton), appeared before the Commission and spoke in favor of the ordinance amendment, that it allows the development of first-class hotels in Birmingham and enhances a visitor's experience of the unique and pedestrian-friendly nature of the City.

David Berman, a representative of the group developing The Daxton, appeared before the Commission. Mr. Berman stated that in the three-year process of developing The Daxton, it has become clear that no luxury, boutique hotel operates with fewer than 100 rooms, and said it is a reasonable threshold.

Dave Marcus appeared before the Commission as the owner of the Holiday Inn in Birmingham and said:

- A luxury hotel needs a liquor license in order to survive.
- It would be wise to require a minimum investment amount and not a minimum room number because some locations in Birmingham are so space-limited that 100 rooms may not fit.

Marc Beshany appeared before the Commission as a resident and the Director of the Birmingham Wells Fargo. Mr. Beshany said this ordinance amendment would have a positive impact on the City.

Scott Barry spoke in support of the proposed ordinance amendment.

Andy Petcoff spoke in support of the proposed ordinance amendment.

Paul Choukourian spoke in support of the proposed ordinance amendment.

David Foster spoke against the proposed ordinance amendment, citing lack of benefit to the residents, increased congestion and further parking difficulties. Mr. Foster said residents should be surveyed on their perspective before this moves forward.

Michele Prentiss spoke as the owner of 142 condominiums in Birmingham, and said a survey of her residents demonstrated broad approval for this ordinance amendment.

Justin Barnes, owner of Blue Yoga in Birmingham, spoke in favor of the proposed ordinance amendment.

Linda Taubman spoke against the proposed ordinance amendment, citing similar reasons as Mr. Foster.

Rino Marra, owner of Figo Salon and the building at 265 N. Old Woodward in Birmingham, spoke in favor of the proposed ordinance amendment.

Robert Carson spoke as a representative of several Class C liquor license holders. Mr. Carson stated:

- There are three Class C liquor licenses in escrow in Lansing.
- This sets up a system in which some businesses are more accommodated by the City than others.
- No need for this special treatment has been established, and The Daxton could acquire a Class C liquor license.

Mr. Carson clarified for Commissioner Sherman that he represents Big Rock, The Townsend, and other establishments. Mr. Carson declined to name the other establishments, noting the other clients were not in attendance.

Patrick Hall, representing The Daxton and appearing as liquor counsel for them, stated:

- The three licenses in escrow in Lansing are not available, as they are held by landlords for specific, currently vacant spaces.
- The Daxton sought to acquire a Class C license from holders within Birmingham and holders within Oakland County and was unable to do so.

David Sillman, co-owner of The Townsend Hotel, stated that this proposed ordinance amendment is due to a lack of due diligence on the part of The Daxton's developers. Mr. Sillman continued:

- If The Daxton had sufficiently vetted the property and the entitlements they needed before purchase, they would not be asking for a special allowance now.
- There has not been sufficient study of the implications of the proposed ordinance amendment.

There being no further comment, Mayor Harris closed the public hearing at 10:17 p.m.

Commissioner Boutros emphasized that the question before the Commission is not regarding The Daxton, but how the proposed ordinance amendment will benefit Birmingham.

Commissioner Hoff clarified that The Daxton was already approved, and that the Commission is considering a special allowance, not the existence of The Daxton in general. Commissioner Hoff shared:

- Agreement with Mr. Sillman's concerns.
- That the City should consider expanding the definition of the EDL, rather than making a new ordinance amendment, so as to make sure any business that invests \$10 million in Birmingham can acquire the liquor license needed.

Commissioner DeWeese concurred with Commissioner Hoff.

Commissioner Nickita stated that:

- This proposed ordinance amendment meets a need in Birmingham, just as the process of developing bistro licenses and EDLs met City needs.
- The minimum number of rooms requirement must be studied.
- There should also be a way for the Birmingham Holiday Inn to acquire a liquor license should it see fit, in order to allow the opportunity for its further development.
- Expanding the EDL may be an option, but potentially leads to changing zones to meet the needs of a project, which has not historically been Birmingham's approach to resolving zoning issues. Both this option and the proposed ordinance amendment have benefits and drawbacks.

Mayor Harris:

- Shared much of Commissioner Nickita's perspective.
- Added that much of the opposition voiced this evening regarded the building of The Daxton, which was already approved, and not the particular proposed ordinance amendment. As a result, he was inclined to move forward.

Commissioner Sherman stated that when bistro licenses were developed, the City made it possible for existent establishments meeting the same criteria to apply for said licenses. The same principle should apply here, and the 100-room minimum prevents that.

Commissioner DeWeese said the proposed ordinance amendment should apply to all City hotels, but should also encourage additional investment and development.

Commissioner Sherman agreed, and reviewed the fact that existent restaurants had to meet certain investment requirements in order to obtain a bistro license.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese: To amend Chapter 10, Alcoholic Liquors, Article II, Division 5, to allow hotels in Downtown Birmingham to qualify to operate with liquor licenses, similar to theaters (*Ordinance appended to these minutes as Attachment C*);

Commissioner Sherman told Mayor Harris that this motion creates a particular class of license, but does not yet specify the permitted geographic application within the City. This functionally prevents the licenses' issuance until the Commission determines the geographic application.

Mayor Pro Tem Bordman said the proposed ordinance amendment should be returned to the Planning Board, given the Commission's concerns.

Commissioner Sherman said opportunities for revision remain even if the amendment passes this evening.

VOTE: Yeas, 5

Nays, 2 (Bordman, Hoff)
Absent, 0

Commissioner Sherman said this part of the discussion determines the geographic application of the licenses. He continued it might be best to have the Planning Board determine where these licenses should be allowed on a city-wide basis.

Mayor Harris said he was persuaded these licenses should be allowed in B-4 zoning, but this does not preclude additional study and additional geographic applications.

City Attorney Currier said a hotel not included in B-4 zoning could come before the Commission to ask that the proposed ordinance amendment be included to their SLUP.

Commissioner DeWeese suggested:

- Restricting this license to B-4 zoning only is too limiting.
- The Planning Board should study the geographic application, the minimum number of rooms required, and the possibility of adding an economic investment requirement.

Commissioner Nickita agreed with Commissioner DeWeese and said he would like a way to allow the Holiday Inn to benefit from these changes in order to encourage investment in the property.

Commissioner Sherman said the process of approving a license type while requesting further study of the geographic application has precedent in the TZ zoning ordinance.

MOTION: Motion by Mayor Pro Tem Bordman, seconded by Mayor Harris:
Resolution amending Chapter 126, Zoning, Article 2, section 2.37, B-4 Business Residential, to allow the sale of liquor in hotels in the B-4 zoning district with a valid Special Land Use Permit.
(Ordinance appended to these minutes as Attachment D)

City Manager Valentine confirmed the Planning Board would prioritize this analysis to speed its return to the Commission, with direction drawn from the Commission's comments this evening.

Commissioner Sherman cautioned that defining the zone here allows an establishment to benefit from this ordinance before all the desired revisions are in place.

Mayor Harris stated that such an application is still subject to SLUP approval and remains up to the Commission's discretion.

VOTE: Yeas, 4
Nays, 3 (DeWeese, Hoff, Sherman)
Absent, 0

Mayor Harris recessed the meeting at 10:55 p.m. and reconvened at 11:00 p.m.

05-139-18 SPECIAL EVENT REQUEST SUBMITTED BY BIRMINGHAM FIRST UNITED METHODIST CHURCH – SHINE ON WORSHIP SERVICE

Kristin Snyder, Worship Coordinator, First United Methodist Church, presented the request for a special event permit.

Ms. Snyder clarified:

- Set-up would be from 7 a.m. to 8 a.m., rehearsal would be from 8 a.m. to 9:30 a.m., and the service would run from 10 a.m. to 11 a.m. Break-down and clean-up should be finished by noon.
- The speakers will not be as loud as the City's concert series, though there will be a full band with a drum kit.
- Every property within 300 feet was notified.
- The amplification and equalization must be calibrated as part of the rehearsal, so it would be difficult to rehearse without amplification.
- The rehearsal can be monitored with a decibel meter and kept under 90 dB.

City Clerk Mynsberge said no responses about the event were received by the City.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner DeWeese: To approve a request submitted by Birmingham First United Methodist Church requesting permission to hold a contemporary worship service with a live band and message on Sunday, July 15, 2018 in the Shain Park pavilion and lawn area, 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.

Commissioner Hoff supported the motion in recognition of all First United Methodist Church does for the community.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-140-18 ESTABLISHMENT OF AD HOC MASTER PLAN SELECTION COMMITTEE

Senior Planner Baka reviewed his memo dated May 3, 2018 to City Manager Valentine regarding the establishment of an Ad Hoc Master Plan Selection Committee.

Commissioner Sherman said he would like to see the Planning Board members limited to two, and the inclusion of a former Birmingham elected official with experience in planning issues.

Mayor Pro Tem Bordman said:

- One of the resident positions could be specified for a former elected official.
- There should be at least one Commissioner on the committee.
- Reducing the number of Planning Board members on the committee to two would be acceptable.

City Manager Valentine stated residents will apply for the committee in the same manner they apply for any other board or committee. Boards and committees can recommend their own extant members for the committee. The Commission retains final say over the resident appointees, and can retain final say over all appointees, should it see fit.

Commissioner Nickita recommended an appointee from the Architectural Review Committee in lieu of a third Planning Board member.

Commissioner DeWeese recommended the committee retain at least two positions for Planning Board members so they can provide the necessary depth to the considerations, while the other members provide added breadth.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Boutros:
To establish an Ad Hoc Master Plan Selection Committee for the duration of the consultant selection process to review all Master plan RFP submittals and make a recommendation to the City Commission, with the following members:

- Two (2) Planning Board members
- Two (2) City residents, with a preference that one be a former City Commissioner
- One (1) Multi-Modal Transportation Board member
- One (1) Advisory Parking Committee member
- One (1) Parks and Recreation Board member
- One (1) Design Review Board/Historic District Commission member
- One (1) Architectural Review Committee member

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-141-18 BICYCLE INFRASTRUCTURE

Assistant City Planner Chapman presented the recommendation of the Multi-Modal Transportation Board.

Mayor Pro Tem Bordman wondered if anyone called Ferndale or Detroit to see what the experience has been with the Fixit system.

Assistant City Planner Chapman stated:

- Visual inspection showed the stations in good condition.
- The signs only come in blue, but the air pump comes in Birmingham green.

Commissioner DeWeese would like Barnum Park considered as a location for the future, and suggested that each location should show other locations so cyclists are aware.

Assistant City Planner Chapman said:

- The QR code directs users to other locations.
- The goal is to make each location an active transportation hub with water fountains, a map with wayfinding, and other amenities.
- The privately funded location at Griffin Claw, which uses the same product, has not experienced any issues.
- The kiosks referenced will not be implemented at this time.
- No count has been undertaken for usage at Griffin Claw.
- Screwdrivers and other tools are affixed to the rack.

MOTION: Motion by Commissioner Boutros, seconded by Mayor Pro Tem Bordman:
To approve the installation of 9 U Rack embedded bike racks and the purchase and installation of 8 Loop embedded bike racks as outlined on the attached chart and map of Phase 4 of the City's Bicycle Parking Plan, for a total cost of \$3240 from account #721.000-825.0000;

AND

To approve the following as the City-wide standard bicycle maintenance station components:

1. Fixit bicycle maintenance station with a Hunter Green powder coat finish;
2. Air Kit 2 public bike pump with a Hunter Green powder coat finish; and
3. Dero Bicycle Repair signs;

AND

To approve the purchase and installation of four bicycle repair stations, including four fixit stations (\$2808), four air pumps (\$1624), and four Dero Bicycle Repair signs (\$128) at the locations noted in Booth Park, Quarton Lake Park, Shain Park, and Kenning Park, for a total expenditure of \$4,819.50 from account #721.000- 825.0000.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-142 -18 ALLEY IMPROVEMENT PLAN

Senior Planner Baka presented his May 2, 2018 memo to City Manager Valentine regarding the Alley Improvement Plan. Senior Planner Baka confirmed that the new signs would be the in same style as the already extant signs in the Hamilton alley.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To accept the bid from Johnson Sign Co. and to authorize the allocation of \$7,800.00 from account #101-721.000-825.0100 for the purpose of the fabrication and installation of via wayfinding signs.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

05-143-18 PROPOSED SCULPTURE LOAN OF *EASTERN HOPHORNBEAM*

Planning Director Ecker reviewed the memo from Brooks Cowan, City Planner, to City Manager Valentine dated April 23, 2018 regarding *Eastern Hophornbeam*.

Planning Director Ecker said the artist or his representative pays for the cost of installation. All necessary structural requirements will be monitored by the Building and Engineering Departments. The piece will be insured through the Cultural Council.

MOTION: Motion by Commissioner Hoff, seconded by Mayor Pro Tem Bordman:
To approve the recommendations of the Public Arts Board and Parks and Recreation Board to accept a 5-year loan of *Eastern Hophornbeam*, by Robert Lobe, and to approve the proposed located at Booth Park;

AND

To approve the Access and Maintenance Agreement with Robert Lobe and further to direct the Mayor and City Clerk to sign the agreement on behalf of the City;

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

VII. REMOVED FROM THE CONSENT AGENDA

The items removed were discussed earlier in the meeting.

VIII. COMMUNICATIONS

None.

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

None.

X. REPORTS

05-144-18 COMMISSIONER REPORTS

The City Commission will appoint one regular member to the Board of Ethics on June 4, 2018.

The City Commission will appoint three regular members to the Greenwood Cemetery Advisory Board on June 4, 2018.

The City Commission will appoint an alternate Hearing Officer on June 4, 2018.

The City Commission will appoint four regular members to the Historic District Study Committee on June 4, 2018.

The City Commission will appoint two regular members to the Museum Board on June 4, 2018.

The City Commission will appoint one regular member to the Multi-Modal Transportation Board on June 4, 2018.

The City Commission will interview for two positions to be appointed by the City Manager with the concurrence of the City Commission on the Birmingham Shopping District Board on June 4, 2018.

05-145-18 COMMISSIONER COMMENTS

Mayor Pro Tem Bordman reported on the Regional Transit Authority meeting.

Commissioner Hoff reported on the Birmingham Museum's open house and encouraged everyone to see the exhibit.

City Manager Valentine told Commissioner DeWeese that the effort to encourage longer-term parkers to park on higher levels of the parking garages has been successful.

Commissioner DeWeese noted the public does not yet perceive an increase in available parking.

Mayor Harris reported the '88 Seaholm Varsity baseball team will be honored May 12 at Maple Field at Seaholm High School.

05-146-18 CITY STAFF

The Commission received the Parking Utilization report submitted by Assistant City Manager Gunter.

XI. ADJOURN

Mayor Harris adjourned the meeting at 11:43 p.m.

05-133-18

CITY OF BIRMINGHAM RESOLUTION AUTHORIZING WEST NILE VIRUS FUND EXPENSE REIMBURSEMENT REQUEST

MOTION: Motion by Mayor Pro Tem Bordman, seconded by Commissioner Nickita:
To approve the Resolution requesting reimbursement for the maximum allotment of \$2,648.39 for eligible mosquito control activity under the Oakland County's West Nile Virus Fund Program:

WHEREAS, upon recommendation of the Oakland County Executive, the Oakland County Board of Commissioners has established a West Nile Virus Fund Program to assist Oakland County cities, villages and townships in addressing mosquito control activities; and

WHEREAS, Oakland County's West Nile Virus Fund Program authorizes Oakland County cities, villages and townships to apply for reimbursement of eligible expenses incurred in connection with personal mosquito protection measures/activity, mosquito habitat eradication, mosquito larviciding or focused adult mosquito insecticide spraying in designated community green areas; and

WHEREAS, the City of Birmingham, Oakland County, Michigan has incurred expenses in connection with mosquito control activities believed to be eligible for reimbursement under Oakland County's West Nile Virus Fund Program.

NOW THEREFORE BE IT RESOLVED that the Birmingham City Commission authorizes and directs its Director of Public Services, as agent for the City of Birmingham, in the manner and to the extent provided under Oakland County Board of Commissioners, to request reimbursement of eligible mosquito control activity under Oakland County's West Nile Virus Fund Program.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the above is a true and correct copy of a resolution adopted by the Birmingham City Commission at their regular meeting of May 14, 2018.

J. Cherilynn Mynsberge
City Clerk

Date: May 14, 2018

**05-136-18
THE MORRIE
260 N. OLD WOODWARD SPECIAL LAND USE PERMIT AMENDMENT
2018**

WHEREAS, The Morrie filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food and drink establishment in the B4 zone district in accordance Article 2, Section 2.37 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of N. Old Woodward, north of Hamilton Row;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit 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 applicant submitted an application for a Special Land Use Permit and Final Site Plan to open a new restaurant, The Morrie, with live entertainment in the former Au Cochon and Arthur Avenue spaces;

WHEREAS, The Planning Board on March 28, 2018 reviewed the application for a Special Land Use Permit and Final Site Plan Review and recommended approval of The Morrie with the condition that the applicant revises the proposed signage to comply with the Overlay signage standards.

WHEREAS, The applicant has complied with the condition of approval recommended by the Planning Board and submitted revised plans;

WHEREAS, The Birmingham City Commission has reviewed The Morrie's Special Land Use Permit Amendment 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 that The Morrie's application for a Special Land Use Permit Amendment and Final Site Plan at

ATTACHMENT B (CONT'D)

260 N. Old Woodward 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. The Morrie shall be permitted to provide entertainment in accordance with their entertainment permit issued by the MLCC;
2. The Morrie shall abide by all provisions of the Birmingham City Code; and
3. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest including, but not limited to, violations of the state law or Birmingham City Code.

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, The Morrie 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 The Morrie 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 The Morrie is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises with a Class C Liquor License, at 260 N. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on May 14, 2018.

J. Cherilynn Mynsberge, City Clerk

05-138-18
CITY OF BIRMINGHAM
ORDINANCE NO. 2268

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 10 ALCOHOLIC LIQUORS, ARTICLE II. LICENSES, TO AMEND DIVISION 5 TO ADD LICENSES FOR HOTELS.

THE CITY OF BIRMINGHAM ORDAINS:

Part II of the City Code, Chapter 10 Alcoholic Liquors, Article II. Division 5. – Licenses for Theaters shall be amended to add hotels, as follows:

DIVISION 5. - LICENSES FOR THEATERS AND HOTELS

Sec. 10-100. - Purpose.

The purpose of this division is to establish a policy and conditions to allow the city commission the ability to approve a request to transfer a liquor license into the city in excess of the city's quota licenses if the request is deemed to constitute a substantial benefit to the city for the continuation and development of theaters **or hotels**, and to establish criteria for selecting applicants, and to provide limitations on the influx of new liquor licenses and to insure controlled growth and development regarding liquor licenses and to evaluate the impact of increased liquor licenses on the city. For purposes of this division, theaters shall be defined as a building, part of a building for housing dramatic presentations, stage entertainments or motion picture shows, **and hotels shall be defined as in Chapter 126, Article 9, Section 9.02 of the Zoning Ordinance.**

Sec. 10-101. - Request for transfer of license into city.

Persons desiring to transfer a liquor license from outside the city limits into the city limits in excess of the city's quota licenses shall make an application to the city commission and pay the applicable theater **or hotel** liquor license transfer review fee as set forth in appendix A of this Code. In addition to those items and conditions set forth in section 10-42, the application shall set forth in detail its proposed project, including, but not limited to:

- (1) Utilization of said liquor licenses and details on the number of quota liquor licenses in escrow at the time of application.
- (2) Proposed and/or existing site plan of the property, building floor plan and an operations floor plan.
- (3) An economic impact analysis.
- (4) A copy of the special land use permit application and supporting documentation

submitted by the applicant.

- (5) All documentation submitted to the LCC requesting the transfer.
- (6) Full identification and history of the license holder(s) as it pertains to the license proposed to be transferred, including all complaints filed with the state liquor control commission (LCC) or actions taken by any municipality or the LCC to suspend, revoke or deny the non-renewal of said license and all other documentation setting forth the detail of the existing theater **or hotel**, or proposed theater **or hotel** by the applicant, including the approximate dollar amount of the investment to be made, number of jobs to be created, minimum of 150 seats **for theaters, a minimum of 100 guest rooms for hotels**, and other benefits to the city.
- (7) Information detailing how the proposed operation will create or sustain the theaters **or hotels** in the city.
- (8) Such other items deemed necessary by city administration.

Sec. 10-102. - Application for transfer of liquor license into the city for theater **or hotel** purposes.

- (a) Selection criteria. In addition to the usual factors and criteria used by the city commission for liquor license requests, including those listed in section 10-42, the commission shall consider the following non-exclusive list of criteria to assist in the determination of which of the existing establishment applicants, if any, should be approved:
 - (1) The applicant's demonstrated ability to finance the proposed project.
 - (2) The applicant's track record with the city including responding to city and/or citizen concerns.
 - (3) Whether the applicant has an adequate site plan to handle the proposed liquor license activities.
 - (4) Whether the applicant has adequate health and sanitary facilities.
 - (5) **For theaters only**, the percentage of proceeds from the sale of tickets and food products as compared to the sale of alcoholic beverages.
 - (6) Whether the applicant has outstanding obligations to the city (i.e. property taxes paid, utilities paid, etc.).
- (b) Maximum number of theater **and hotel** licenses. The city commission may approve a maximum of two theater **or hotel** licenses each calendar year in addition to the existing quota licenses otherwise permitted by state law.
- (c) Annual review of need. Every three calendar years, the city commission shall perform a review of the previously approved theater **and hotel** license(s), if any, and the impact of those decisions on the city's downtown. A time for public comment shall be provided.
- (d) If any new transfers of licenses for theaters **or hotels** are to be considered, the city commission shall set a schedule setting forth when all applicants must submit their

application and supporting documentation, when interviews may be conducted and a timeframe within which a decision will be anticipated.

Sec. 10-103. - Transfer within city.

Should a theater **or hotel** license be issued by the city commission, said license is limited to the property proposed and approved and the applicant receiving the approval, and shall not be transferred to another location or person/entity within the city without prior approval of the city commission. Standards to be considered by the city commission and the procedure to be followed shall include those set forth in section 10-42 and section 10-43. In addition, any expansion of the building located on the property must be approved by the city commission.

Sec. 10-104. - Contract and special land use permit required.

A contract for transfer and a special land use permit are required for all licenses approved under this division. The licensee must comply with all provisions of the contract and special land use permit, and any amendments thereto as a condition of granting of a requested transfer and subsequently maintaining the license under this division.

Sec. 10-105. - Renewals.

Once a license is issued under this division, the license holder must go through the license renewal process set forth in section 10-39 and is subject to the renewal standards set forth in section 10-40. A review of compliance with the contract and special land use permit shall also be included.

Sec. 10-106. - License types, endorsements, additional bar permits.

If a license is issued under this division, the license holder may apply for entertainment, dance and additional bar permits from the state liquor control commission for use only on the premises, but shall not apply for or seek from the state liquor control commission any permit endorsements to its liquor license or seek any change in its license status/class whether available in current state liquor control code or in future state liquor control codes, or amendments thereto, without the prior approval from the city commission.

Sec. 10-107. - Violation of license, contract, special land use permit.

Violations or failures to abide by terms of the liquor license, contract, the special land use permit or this Code shall be grounds for the state liquor control commission to suspend, revoke or not renew the liquor license. Further, should violations occur, or should the applicant fail to complete the project as required by plans and specifications presented to the city commission, or fail to comply with all representations made to the city commission, the city shall be entitled to exercise any or all remedies provided in those documents, in this Code, including but not

limited to seeking the revocation of the special land use permit, pursuing breach of contract claims, and all other legal and equitable rights to enforce the terms thereunder. The licensee shall reimburse the city all of its costs and actual attorney fees incurred by the city in seeking the suspension, revocation or non-renewal of the liquor license, revocation of the special land use permit, or enforcement of such other rights and remedies, including contractual, as may be available at law or in equity.

Secs. 10-108—10-119. - Reserved.

Ordained this 14th day of May, 2018. Effective upon publication.

Andrew M. Harris, Mayor

J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held May 14, 2018 and that a summary was published in the Birmingham Observer & Eccentric newspaper on May 20, 2018.

J. Cherilynn Mynsberge, City Clerk

05-138-18
CITY OF BIRMINGHAM
ORDINANCE NO. 2269

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CITY CODE, ARTICLE III, SECTION 2.37 (B4) TO ALLOW THE USE OF LIQUOR LICENSES FOR HOTELS.

THE CITY OF BIRMINGHAM ORDAINS:

Chapter 126 Zoning, Article III, Section 2.37 (B4 Business-Residential) shall be amended as follows:

Permitted Uses

Residential Permitted Uses

- dwelling - multiple-family
- dwelling - one-family*
- dwelling - two-family*
- live/work unit

Institutional Permitted Uses

- church
- community center
- garage - public
- government office
- government use
- loading facility - off-street
- parking facility - off-street
- school - private
- school - public
- social club

Recreational Permitted Uses

- bowling alley
- outdoor amusement*
- recreational club
- swimming pool - public, semiprivate

Commercial Permitted Uses

- auto sales agency
- bakery

- bank
- barber shop/beauty salon
- catering
- child care center
- clothing store
- delicatessen
- department store
- drugstore
- dry cleaning
- flower/gift shop
- food or drink establishment*
- furniture
- greenhouse
- grocery store
- hardware store
- hotel
- jewelry store
- motel
- neighborhood convenience store
- office
- paint
- party store
- retail photocopying
- school-business
- shoe store/shoe repair
- showroom of electricians/plumbers
- tailor
- theater*

Other Permitted Uses

- utility substation

Other Use Regulations

Accessory Permitted Uses

- alcoholic beverage sales*
- laboratory - medical/dental*
- loading facility - off-street
- outdoor cafe*
- outdoor display of goods*
- outdoor sales*
- parking facility - off-street
- retail fur sales cold storage facility

- sign

Uses Requiring a Special Land Use Permit

- alcoholic beverage sales (on-premise consumption)
- assisted living
- continued care retirement community
- establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 5, Licenses for Theaters **and Hotels**
- independent hospice facility
- independent senior living
- skilled nursing facility

Uses Requiring City Commission Approval

- regulated uses*

*=Use Specific Standards in Section 5.10 Apply

Ordained this 14th day of May, 2018. Effective 7 days after publication.

Andrew M. Harris, Mayor
J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held May 14, 2018 and that a summary was published in the Birmingham Observer & Eccentric newspaper on May 20, 2018.

J. Cherilynn Mynsberge, City Clerk