

BIRMINGHAM CITY COMMISSION MINUTES
JANUARY 13, 2014
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Stuart Sherman, Mayor Pro Tem, called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present,	Mayor Pro Tem Sherman Commissioner Dilgard Commissioner Hoff Commissioner McDaniel Commissioner Nickita Commissioner Rinschler
	Absent,	Mayor Moore

Administration: City Manager Bruner, Attorney Currier, Clerk Pierce, Finance Director Ostin, Fire Chief Metz, Police Chief Studt, Deputy Police Chief Clemence, Building Official Johnson, City Engineer O'Meara

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

01-01-14 APPOINTMENT TO THE PUBLIC ARTS BOARD

MOTION: Motion by McDaniel:

To appoint Diane Kowaleski, 750 Hazelwood, as a member of the Public Arts Board to complete a three-year term to expire January 28, 2017.

VOTE: Yeas, 6
Absent, 1 (Moore)

The Clerk administered the oath to the appointed board member.

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.

01-02-14 APPROVAL OF THE CONSENT AGENDA

MOTION: Motion by Hoff, seconded by Rinschler:

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of December 16, 2013.
- B. Approval of warrant list, including Automated Clearing House payments, of December 18, 2013 in the amount of \$637,857.00.

- C. Approval of warrant list, including Automated Clearing House payments, of December 26, 2013 in the amount of \$ \$334,576.44.
- D. Approval of warrant list, including Automated Clearing House payments, of January 2, 2014 in the amount of \$378,630.20.
- E. Approval of warrant list, including Automated Clearing House payments, of January 8, 2014, in the amount of \$3,100,793.63.
- F. Resolution receiving the report prepared by the Engineering Department, and setting a Public Hearing to review to review the increased costs for Special Assessment District #850, regarding parking lot repairs conducted on the frontage parking lot located between 33600 and 33692 Woodward Ave. on Monday, February 10, 2014, at 7:30P.M.
- G. Resolution accepting the report from the Director of Public Services regarding the emergency purchase of contractual services for repairs to the Lull vehicle #36 in the amount of \$9,545.75 to be paid from the Auto Equipment Fund account #641.441.006-971.0100, as authorized by the City Manager pursuant to Sec. 2-286 of the City Code.
- H. Resolution accepting the report from the Director of Public Services regarding the emergency purchase of contractual services for broken water service repairs at 519 E. Lincoln in the amount of \$11,416.23 to be paid from the Risk Management Fund - Loss Payments account #677-851.000-957.0300, as authorized by the City Manager pursuant to Sec. 2-286 of the City Code.
- I. Resolution adopting the 2012 Oakland County Hazard Mitigation Plan for the City of Birmingham. Further, authorizing the Mayor and Clerk to sign the resolution on behalf of the City:
 - WHEREAS, the mission of the City of Birmingham includes the charge to protect the health, safety, and general welfare of the people of Birmingham; and
 - WHEREAS, Birmingham, Michigan is subject to flooding, tornadoes, winter storms, and other natural, technological, and human hazards; and
 - WHEREAS, and the Oakland County Homeland Security Division and the Oakland County Local Emergency Planning Committee, comprised of representatives from the County, municipalities, and stakeholder organizations, have prepared a recommended Hazard Mitigation Plan that reviews the options to protect people and reduce damage from these hazards; and
 - WHEREAS, Birmingham has participated in the planning process for development of this Plan, providing information specific to local hazard priorities, encouraging public participation, identifying desired hazard mitigation strategies, and reviewing the draft Plan; and
 - WHEREAS, the Oakland County Homeland Security Division (HSD), with the Oakland County Local Emergency Planning Committee (LEPC), has developed the OAKLAND COUNTY HAZARD MITIGATION PLAN (the "Plan") as an official document of the County and establishing a County Hazard Mitigation Coordinating Committee, pursuant to the Disaster Mitigation Act of 2000 (PL-106-390) and associated regulations (44 CFR 210.6); and
 - WHEREAS, the Plan has been widely circulated for review by the County's residents, municipal officials, and state, federal, and local review agencies and has been revised to reflect their concerns; and

NOW THEREFORE BE IT RESOLVED by the Birmingham City Commission that:

 1. The Oakland County Hazard Mitigation Plan is hereby adopted as an official plan of Birmingham.
 2. The Emergency Management Coordinator is charged with supervising the implementation of the Plan's recommendations, as they pertain to Birmingham and within the funding limitations as provided by the Birmingham City Commission or other sources.

3. The Emergency Management Coordinator shall give priority attention to the following action items recommended in portions of the Plan specific to Birmingham:
 - a. Continue hazardous materials training for all members of the Police, DPS and Fire departments, section 6.3.1, page 160.
 - b. Continue open communication between the City and the railroad to determine hazards transported through the City, section 6.3.1, page 160.
- J. Resolution adopting the recommendation of the Advisory Parking Committee to increase the number of monthly permits authorized for sale in the Chester Street Parking Structure by 200 permits, for a total of 1,140 permits authorized for sale.
- K. Resolution accepting the resignation of Christopher Cummins from the Museum Board, and thanking Mr. Cummins him for his years of service to the City of Birmingham, and directing the Clerk to begin the process to fill the vacancy.

ROLL CALL VOTE: Yeas, Commissioner Dilgard
 Commissioner Hoff
 Commissioner McDaniel
 Commissioner Nickita
 Commissioner Rinschler
 Mayor Pro Tem Sherman

 Nays, None
 Absent, 1 (Moore)
 Abstentions, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**01-03-14 EAST MAPLE GARDENS WATER & SEWER IMPROVEMENTS
 CONTRACT AMENDMENT**

City Engineer O'Meara presented the contract amendment between the City and Pamar Enterprises, contractor in charge of the East Maple Sewer Project. He noted that the project has not been finished as expected by the end of 2013 construction season. He stated that Pamar intends to maintain the gravel roads through the winter and return in a timely manner in the spring to finish the project.

Mr. O'Meara confirmed for the Commission that the amount being charged to Pamar is \$5,000 as the liquidated damages are \$500.00 per day as sited in the contract. The Commission discussed the penalty and questioned the incentive for the company to complete the work.

Dorothy Conrad commented that the roads are not drivable due to the potholes, ice, and mud. She expressed that she is very unhappy.

MOTION: Motion by Rinschler, seconded by Dilgard:
 To approve the Contract Amendment with Pamar Enterprises, Inc., an amendment to Contract #4-13(W), E. Maple Gardens Water & Sewer Improvements, and further, to direct the Mayor and City Clerk to sign the amendment on behalf of the City.

Commissioner Nickita stated that he is reluctant to support this, but the City is in a position now where the alternative is much worse.

Commissioner Hoff requested staff look at the streets. Mr. O'Meara noted that staff is out every day to review the status of the streets.

Commissioner Rinschler commented that he would like to have a discussion about what went wrong in the process and how this situation can be prevented in the future.

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

01-04-14 LIBRARY RENOVATION AND EXPANSION PROJECT

City Manager Bruner explained that staff has met with bond counsel, architect, and financial advisor to see whether the original schedule presented in November was feasible with a 2014 election date and 2015 bond sale. He noted that if bonds are issued before July 1st, the City can levy the debt on the July 1st tax bill and not have to pay capitalized interest on that debt. If the bonds are sold after July 1st, there is capitalized interest in that debt which will reduce the amount of the bond proceeds to use on the actual project. The previous schedule did not take that into account.

He explained that the proposed schedule is to utilize a construction manager as an advisor which will allow the process to move quickly to save time to stay on schedule for a 2015 bond sale and debt levy if voter approved in May. Alternatively, the City could solicit proposals for an owner's representative and wait until after the election to hire the owner's representative, but time would be lost in between.

Mr. Bruner confirmed for Commissioner Rinschler that if the proposed resolution was approved, the owner's representative would be hired before the election.

Commissioner McDaniel pointed out that the Commission agreed to have the discussion on capital requirements at the Long Range Planning Session. He stated that before taking any steps on this project, the Commission ought to know what the total capital requirements are.

Commissioner Rinschler suggested staff be directed to incorporate the schedule that reflects having an owners representative into the project.

Discussion ensued regarding hiring an owner's representative before the project is approved. Discussion also ensued regarding bonds. Concern was expressed at issuing bonds before the cost of the project is known. Mayor Pro Tem Sherman requested information on how the City handled the construction of the Adams Fire Station and Chester Parking Structure. Commissioner McDaniel suggested the underground parking garage be included in the analysis.

The Commission agreed to postpone this item.

**01-05-14 CLOSED SESSION REQUEST
 PERSONNEL EVALUATION**

Commissioner Nickita made a motion to meet in a closed session to consider personnel evaluation pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976). A 2/3 roll call vote of the City Commission is not required to call a closed session permitted under Section 8(a). Commissioner Rinschler seconded.

City Attorney Currier confirmed a vote is not needed for this item as the request is made by the employee.

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

01-06-14 COMMUNICATIONS

The Commission received the following communications:

- Consumers Energy Company – Public Hearing Notice
- WOW – Letter dated December 12, 2013 regarding P.A. 480 of 2006 (Section 9) compliance

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

01-07-14 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

David Bloom expressed concern with the cost of the Library expansion and renovation project and urged the Commission to get a second opinion.

X. REPORTS

01-08-14 COMMISSIONER REPORTS

The Commission intends to appoint members to the Museum Board on January 27, 2014 and the Board of Zoning Appeals on February 10, 2014.

01-09-14 CITY STAFF REPORTS

The Commission received a report regarding the Quarton Rd. & Chesterfield Ave Intersection Improvement submitted by City Engineer O'Meara.

The Commission received the Baldwin Public Library Renovation and Expansion Study Final Report submitted by City Manager Bruner.

The Commission recessed to closed session at 8:25 PM.

The Commission reconvened in open session at 9:33 PM.

01-10-14 CITY MANAGER CONTRACT

Commissioner Sherman read the following statement: "After extensive consideration, the Commission has decided to allow Mr. Bruner's contract to expire on February 13, 2014. We expect Mr. Bruner to complete the terms of his contract. Over the next few weeks, we intend to appoint an interim City Manager and will have these discussions at an upcoming City Commission meeting."

MOTION: Motion by McDaniel, seconded by Hoff:

After extensive consideration, the Commission has decided to allow Mr. Bruner's contract to expire on February 13, 2014. We expect Mr. Bruner to complete the terms of his contract. Over the next few weeks, we intend to appoint an interim City Manager and will have these discussions at an upcoming City Commission meeting.

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

XI. ADJOURN

The Mayor adjourned the meeting at 9:35 PM.

Laura M. Pierce
City Clerk