

**BIRMINGHAM CITY COMMISSION MINUTES**  
**JANUARY 27, 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<br>Commissioner Dilgard<br>Commissioner Hoff<br>Commissioner McDaniel<br>Commissioner Nickita<br>Commissioner Rinschler |
|            | Absent,  | Mayor Moore   |

Administration: Assistant City Manager Valentine, Attorney Currier, Deputy Clerk Arft, Police Chief Studt, Deputy Police Chief Clemence, City Engineer O'Meara, Planner Ecker, PSD Director Heiney

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

Mike McCready, State Representative, provided an update for the commissioners and residents.

**01-11-14 INTRODUCTIONS AND AWARDS**

City intern Jayvon Garth was introduced by Engineer O'Meara as the recipient of an American Society of Civil Engineers Award. Mayor Pro Tem Sherman presented Mr. Garth with a certificate from the City of Birmingham recognizing his award.

Robot Garage, 637 S. Eton was recognized for being selected as a recipient of a \$250,000 grant from the Mission Main Street Grant Program.

Chief Studt introduced Michael Byberg and Yacoub Iseid as the newest police officers. The Deputy Clerk administered the oath.

**01-12-14 CLOSED SESSION REQUEST  
ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

**MOTION:** Motion by Rinschler, seconded by McDaniel:

To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act. The commission will move to closed session immediately after the board appointment.

|            |       |   |
|------------|-------|---|
| ROLL CALL: | Yeas, | Commissioner Rinschler<br>Mayor Pro Tem Sherman<br>Commissioner Dilgard |
|------------|-------|---|

Commissioner Hoff  
Commissioner McDaniel  
Commissioner Nickita

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

**01-13-14 APPOINTMENT TO THE HOUSING BOARD OF APPEALS**

**MOTION:** Motion by Nickita:

To appoint Alexander Chapman, 1832 Cole, as a member of the Housing Board of Appeals to complete a three-year term to expire May 4, 2016.

**VOTE:** Yeas, 6  
Absent, 1 (Moore)

The Deputy 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.

**01-14-14 APPROVAL OF THE CONSENT AGENDA**

**MOTION:** Motion by Rinschler, seconded by Hoff:

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of January 13, 2014.
- B. Approval of warrant list, including Automated Clearing House payments, of January 15, 2014 in the amount of \$366,429.26.
- C. Approval of warrant list, including Automated Clearing House payments, of January 22, 2014 in the amount of \$ 5,919,141.81.
- D. Resolution approving the request submitted by the Principal Shopping District to hold the 2014 Farmers Market in the Municipal Parking Lot #6 (on North Old Woodward) on Sundays in May through October 2014 from 9:00 AM to 2:00 PM, 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.
- E. Resolution approving the request submitted by the Principal Shopping District to hold Family Movie Nights in Booth Park on Friday, June 20, Friday, July 18, and Friday, August 8, 2014 at 7:30 PM, with movies to begin at dusk, 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.
- F. Resolution setting a public hearing date for February 24, 2014 to consider approval of the Final Site Plan and Special Land Use Permit for Mad Hatter, at 185 N. Old Woodward, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code.
- G. Resolution approving the liquor license transfer request of Crowley Restaurant, LLC to remove 260 Old Woodward, LLC as Co-Licensee from the 2013 Class C and SDM License located at 260 N. Old Woodward, Birmingham, MI., 48009. Furthermore, authorizing the city clerk to complete a Local Approval Notice at the request of Crowley Restaurant,

LLC transferring ownership of the 2013 Class C and SDM License removing 260 Old Woodward, LLC as Co-Licensee at 260 N. Old Woodward, Birmingham, MI., 48009.

- H. Resolution approving the liquor license transfer request of Palladium Restaurant II, LLC to remove 201 Hamilton Partners, LLC as Co-Licensee from the 2013 Class C and SDM License located at 201 Hamilton, Birmingham, MI., 48009. Furthermore, authorizing the city clerk to complete a Local Approval Notice at the request of Palladium Restaurant II, LLC transferring ownership of the 2013 Class C and SDM License by removing 201 Hamilton Partners, LLC as Co-Licensee at 201 Hamilton, Birmingham, MI., 48009.
- I. Resolution approving the installation of residential permit parking for Argyle Street from 8:00 AM to 4:00 PM on school days only. Further, directing the Chief of Police and the City Clerk to sign the traffic control order on behalf of the City establishing residential permit parking on Argyle Street on school days only between the hours of 8:00 AM and 4:00 PM.
- J. Resolution approving the proposal and agreement with DTE Energy Co. for the removal and replacement of one street light in front of 555 S. Old Woodward Ave., in the amount of \$8,503.98, to be charged to account #401-901.006-981.0100. Further, directing the Mayor to sign the agreement on behalf of the City.

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

The Commission recessed to closed session at 7:47 PM.  
The Commission reconvened in open session at 8:43 PM.

**V. UNFINISHED BUSINESS**

**VI. NEW BUSINESS**

**01-15-14                    PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDMENT  
   TO CHAPTER 126, ARTICLE 04, SECTION 4.83 WN-01**

Mayor Pro Tem Sherman opened the Public Hearing to consider an ordinance amendment to Chapter 126, Article 04, Section 4.83 WN-01 at 8:44 PM.

Planner Ecker explained that the proposed ordinance amendment was the subject of a public hearing on September 25, 2013, after a request from the City Commission to add more specific criteria in order to waive the current 50% glazing requirement on upper level windows.

Planner Ecker explained that the Planning Board does not want to change the glazing standards for the first floor windows, which is 70% in the downtown area as well as in the triangle district; the change would apply to the upper levels only. There are no window glazing guidelines in the Rail District.

In response to Commission discussion regarding the amount of flexibility in the proposed ordinance, Planner Ecker noted that the Planning Board wanted to be able to respond to design changes in the marketplace and to prevent the glazing requirements from getting in the way of a good development.

Commissioner Nickita suggested the ordinance be more flexible in the rail district, less so in the triangle district, and more restrictive in the downtown district. Commissioner Dilgard suggested changing "to encourage flexibility", to "to allow flexibility".

Mayor Pro Tem Sherman closed the Public Hearing at 8:57 PM.

The commissioners took no action on the proposed ordinance amendment, and directed staff to review the discussion with the Planning Board.

**01-16-14                    ESTABLISHMENT OF A MULTI-MODAL TRANSPORTATION COMMITTEE**

Planner Ecker explained the request to establish a MMTP committee which would review all transportation projects. She explained that City Engineer O'Meara, Deputy Chief Clemence and herself would be the staff members on the committee.

Commissioners expressed concerns relative to the need for more input in the process from the residents in the project area.

Several Commissioners suggested that an analysis of the existing review process be conducted before the committee is formed and agreed the need for representation by the Traffic and Safety Board on the Multi-Modal Transportation Committee is important.

Commissioner Rinschler suggested that the committee have a membership at large core committee, and have resources for specific expertise that can be brought in as needed. Commissioner Hoff suggested general members of the public be appointed to the MMTP.

Commissioner Nickita clarified that he would like to see a balance of expertise with general members, which should include someone with a design background, perhaps a member of the Architectural Design Review board.

**MOTION:**     Motion by Rinschler, supported by Hoff:

To direct staff to analyze the existing review process for all transportation-related projects and transportation-related requests, including but not limited to a merger of the responsibilities of the Traffic and Safety Board and other City boards, to make recommendations for enhanced coordination among planning, engineering and public safety, and direct staff to prepare any ordinance language to establish a standing Multi-Modal Transportation Committee.

Ms. Ecker suggested that someone with a design background be appointed to the committee who could function as a "pre-screener", to identify a design issue, then hire a consultant.

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

**01-17-14                      TRANSFER OWNERSHIP OF CLASS C LIQUOR LICENSE  
220 RESTAURANT HOSPITALITY, LLC**

Deputy Chief Clemence explained the request to transfer ownership of a Class C Liquor License.

In response to a question from Commissioner Hoff, Deputy Chief Clemence confirmed that additional permits are being requested and that the state actually approves the permits. The permit language is added to the resolution to conform to the state's paperwork.

Commissioner Rinschler asked about significant changes that are rumored to be pending. Applicant Denise Ilitch, said there are no plans to change anything at this time.

Attorney John Carlin confirmed that Ms. Ilitch and co-owner Zaid Elia plan to restore and enhance the building.

Commissioner Nickita asked Attorney Currier how the outstanding issue with the alley condition is dealt with in light of the ownership transfer. The previous owner did disclose the issue, and the contract indicates that the new owners will resolve the issue. It was confirmed that this particular issue will not require a Special Land Use Permit.

**MOTION:**     Motion by Rinschler, seconded by McDaniel:

To approve the liquor license transfer of ownership of the Class C License as well as all the Permits presently attached to it from Historical Edison Building, Inc. at 220 Merrill, Birmingham, MI 48009 to 220 Restaurant Hospitality, LLC. 220 Restaurant Hospitality, LLC also requests the issuance of a New SDM License, a Sunday Sales AM Permit, a Catering Permit and a Special Purpose Permit for the sale of food on Sundays between the hours of 8:00 AM and 12:00 noon. Furthermore, pursuant to Birmingham City Ordinance, authorizing the city clerk to complete the Local Approval Notice at the request of 220 Restaurant Hospitality, LLC transferring ownership of Class C License as well as all the Permits presently attached to it with the issuance of a New SDM License, a Sunday Sales AM Permit, a Catering Permit and a Special Purpose Permit for the sale of food on Sundays between the hours of 8:00 AM and 12:00 noon.

VOTE:            Ayes,                6  
                      Nays,                None  
                      Absent,            1 (Moore)  
                      Abstentions,     None

**01-18-14                      ENGINEERING DESIGN SERVICES FOR QUARTON ROAD &  
CHESTERFIELD AVENUE INTERSECTION IMPROVEMENTS**

City Engineer O'Meara noted that the City has received notification that funds from the state, will be available to the City to rebuild the intersection at Quarton Road and Chesterfield Avenue, which has to be done in 2014. He explained the request to hire Hubbell, Roth and Clark to prepare the plans. Bloomfield will have 50% stake in the project. Birmingham will be the lead on this project, since Bloomfield does not have an engineering department.

Mr. O'Meara confirmed for Commissioner McDaniel that a traffic light is not planned for the intersection.

**MOTION:**                      Motion by Hoff, seconded by Dilgard:

To approve the proposal to provide engineering design services related to the Quarton Rd. & Chesterfield Ave. Intersection Improvements project as prepared by Hubbell, Roth, & Clark, Inc., at a total cost of \$57,860, to be charged to account number 202-449.001-985.6700. Further, approving an appropriation and amendment to the Major Street Fund budget as follows:

|  |          |
|--|----------|
| Major Street Fund                                    |          |
| Revenue  |          |
| Draw From Fund Balance                               |          |
| Account 202-000.000-400.0000                         | \$57,860 |
| Total Revenue Adjustment                             | \$57,860 |
| Expenditures   |          |
| Capital Outlay – Quarton & Chesterfield Intersection |          |
| Account 202-449.001-985.6700                         | \$57,860 |
| Total Expenditure Adjustment                         | \$57,860 |

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

**01-19-14                    CLOSED SESSION REQUEST CONSIDER THE PURCHASE OR LEASE OF REAL PROPERTY**

**MOTION:**                Motion by Nickita, 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  
   Commissioner Sherman  
   Commissioner Dilgard  
   Commissioner Hoff  
   Nays,                None  
   Absent,            1, (Moore)  
   Abstentions,    None

**VII. REMOVED FROM CONSENT AGENDA**

**VIII. COMMUNICATIONS**

**01-20-14                    COMMUNICATIONS**  
 The City received the following communications:

- Mr. & Mrs. Thomas VanDeGrift re: pedestrian access to new train boarding platform
- Schokolad Chocolate Factory re: W. Maple Road lane conversion proposal
- Comcast re: channel changes
- Mayor of Ritto, Japan re: thanking city for visit and gifts
- Central Birmingham Residents Association re: proposed library renovation

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

**X. REPORTS**

**01-21-14 COMMISSIONER REPORTS**

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

**01-22-14 COMMISSIONER COMMENTS**

Commissioner Dilgard noted that in the November 2013 Traffic & Safety Committee minutes, a communication from Malcom Hendy indicated that the stop sign placed at Northlawn and Pleasant intersection is ineffective.

**01-23-14 CITY STAFF**

The Commission received the Crestview Sub Water Main Disconnections report submitted by City Engineer O'Meara. Commissioner McDaniel asked Mr. O'Meara about the one resident who was not notified about the project. Mr. O'Meara responded that he waived the fees associated with their portion of the project due to the situation.

The Commission received the E. Maple Gardens Project Completion report submitted by City Engineer O'Meara.

The Commission received the 2013 Police Department Annual Report, submitted by Police Chief Studt. In response to a question from Commissioner Dilgard, Chief Studt provided an explanation of the report, and noted that an additional police officer was hired in 2013, and that the traffic stops are being emphasized to the officers, thereby contributing to the increased number of arrests.

The Commission recessed to closed session at 9:54 PM.  
The Commission reconvened in open session at 10:21 PM.

**XI. ADJOURN**

The Mayor Pro Tem adjourned the meeting at 10:22 PM.

Cheryl Arft  
Deputy City Clerk