

**BIRMINGHAM CITY COMMISSION MINUTES**  
**FEBRUARY 24, 2014**  
**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: Assistant City Manager Valentine, City Attorney Currier, City Clerk Pierce, DPS Director Wood, Fire Chief Metz, Police Chief Studt, Deputy Police Chief Clemence, Assistant to the Manager Wuerth, Planner Baka, City Engineer O'Meara

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

**02-38-14 APPOINTMENT TO THE BOARD OF REVIEW**

**MOTION:** Motion by Sherman:

To appoint Alex Chapman, 1832 Cole, to the Board of Review to complete a three-year term to expire December 31, 2016.

**VOTE:** Yeas, 7  
Absent, None

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.

**02-39-14 APPROVAL OF CONSENT AGENDA**

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

To approve the consent agenda as follows:

- A. Approval of City Commission Long Range Planning minutes of February 1, 2014.
- B. Approval of City Commission minutes of February 10, 2014.
- C. Approval of warrant list, including Automated Clearing House payments, of February 12, 2014 in the amount of \$1,194,450.01.

- D. Approval of warrant list, including Automated Clearing House payments, of February 19, 2014 in the amount of \$1,372,340.21.
- E. Resolution awarding Contract #6-14(PK), Park Street Parking Structure Restoration – Levels 1, 2 & 3, to DRV Contractors, LLC, of Shelby Township, MI in the amount of \$803,525.00, to be charged to account #585-538.003-977.0000.
- F. Resolution appointing Sandy Debicki as chairperson of the 2014 Celebrate Birmingham Parade Committee.
- G. Resolution approving a request submitted by the City of Birmingham to hold the Celebrate Birmingham Parade on Sunday, May 18, 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.
- H. Resolution approving a request from Common Ground to hold the 40th Annual Birmingham Street Art Fair on South Old Woodward on September 20 - 21, 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.
- I. Resolution approving a request from the City of Birmingham to hold the In the Park Concerts on Wednesday evenings from June, 2014 through August, 2014 and the Band Jam on Friday, June 13, 2014 in Shain Park, 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.
- J. Resolution approving the 2014 annual flower purchase from Gardens & Beyond in the amount not to exceed \$15,732.35. Funds are available from the General Fund – Property Maintenance – Operating Supplies account #101-441.003-729.0000.
- K. Resolution recognizing Birmingham Seaholm Bands, 2436 W. Lincoln, Birmingham, Michigan 48009 as a non-profit organization for the purpose of obtaining a State of Michigan Gaming License with the State of Michigan Charitable Gaming Division. Further, authorizing the City Clerk to complete the Local Governing Body Resolution Form, forwarding same to the Charitable Gaming Division, Lansing, Michigan.
- L. Resolution approving an agreement with Revize Software Systems, LLC for website hosting and support services, for a period of five (5) years, in an amount not to exceed \$14,000 from account #636-228.000-933.0700. Further authorizing the Mayor and City Clerk to sign the agreement on behalf of the City.
- M. Resolution approving the purchase agreement with AVI Systems for the purchase and installation of a new video monitor at Adams Fire Station, and further directing the Mayor and City Clerk to sign the agreement on behalf of the City and charging \$11,208 towards the grant received from the Birmingham Area Cable Board for this purchase.

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, 1, Hoff from Item B (absent)

**V. UNFINISHED BUSINESS**

**VI. NEW BUSINESS**

**02-40-14 PUBLIC HEARING TO CONSIDER SPECIAL LAND USE PERMIT AND FINAL SITE PLAN FOR TEA PARLOR, INC DBA MAD HATTER, 185 NORTH OLD WOODWARD**

Mayor Moore opened the Public Hearing to consider approval of a Special Land Use Permit and Final Site Plan for the operation of a new bistro - Tea Parlor, Inc. dba Mad Hatter, 185 N. Old Woodward at 7:35 PM.

Planner Baka explained that the applicant had to apply for variances for the 70% glazing requirement and for the location of the outdoor dining platform as it will extend in front of the neighboring storefront. He explained that the outdoor dining platform will be located on Old Woodward at Hamilton between the crosswalks and will not take away any parking spaces.

Eileen Sakko, owner, explained the Mad Hatter concept includes new American cuisine.

The Mayor closed the Public Hearing at 7:53 PM.

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

To approve the Final Site Plan and Design and a Special Land Use Permit for 185 N. Old Woodward, Tea Parlor, Inc, dba Mad Hatter, pursuant to Article 7, section 7.34, Zoning, of the Birmingham City Code, in accordance with the recommendation of the Planning Board on December 12, 2012;

WHEREAS, Tea Parlor, Inc, dba Mad Hatter filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate their new restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the west side of N. Old Woodward between Maple and Willits;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits bistros 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 Planning Board on December 11, 2013 reviewed the application for Final Site Plan and Special Land Use Permit and recommended approval with the following conditions:

1. The applicant obtain a variance for the 70% glazing requirement from the Board of Zoning Appeals ("BZA");
2. The applicant obtain a variance to extend the outdoor dining platform in front of the neighboring storefront from the BZA;
3. The applicant submit specification sheets on the planters prior to review by the City Commission;
4. The applicant will be required to enter into a license agreement with the City for use of the public right-of-way, and to provide the required insurance. Liquor liability insurance will also be required for the service of liquor in the right-of-way, as well as an outdoor dining permit;
5. The applicant will need to return to the Historic District Commission for changes they have made to the platform; and

6. The applicant meets all Fire Dept. requirements.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on December 11, 2013;

WHEREAS, The Historic District Commission on December 18, 2013 reviewed the application for a Historic Design and Sign review and voted to approve the proposed changes to the historic building.

WHEREAS, The Board of Zoning Appeals on January 14, 2014 reviewed the appeal for two variances regarding the first floor glazing requirement and the placement of the outdoor dining platform and granted the applicant both variances;

WHEREAS, The Birmingham City Commission has reviewed Tea Parlor, Inc, dba Mad Hatter, Special Land Use Permit 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 Mad Hatter application for a Special Land Use Permit authorizing the operation of a bistro at 185 N. Old Woodward in accordance with Chapter 10, Alcoholic Liquors, 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. Tea Parlor, Inc, dba Mad Hatter, shall abide by all provisions of the Birmingham City Code;
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;
3. The hours of operation for outdoor dining shall cease at 12:00 a.m.;
4. Tea Parlor, Inc, dba Mad Hatter, shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
5. Tea Parlor, Inc, dba Mad Hatter, shall enter into a contract with the City outlining the details of the proposed bistro option.

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, Tea Parlor, Inc, dba Mad Hatter, 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 Tea Parlor, Inc, dba Mad Hatter, 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 Tea Parlor, Inc, dba Mad Hatter, which will do business at 185 N. Old Woodward, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that Tea Parlor, Inc, dba Mad Hatter, is recommended for the operation of a bistro, with a Class C Liquor License, at 185 N. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

- AND -

To allow Tea Parlor, Inc, dba Mad Hatter, to obtain a liquor license with an outdoor dining endorsement for the operation of a bistro above all others pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code;

- AND -

To authorize the Mayor and the City Clerk to complete and execute the contract for operation of Tea Parlor, Inc, dba Mad Hatter, at 185 N. Old Woodward.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**02-41-14 2013 LIQUOR LICENSE REVIEW AND  
2014 LIQUOR LICENSE RENEWALS**

Assistant to the City Manager Wuerth explained that staff conducted the reviews and inspections of the liquor license establishments. In response to a question from Commissioner Hoff, Mr. Wuerth explained that a license is held in escrow until the establishment is open.

Commissioner Hoff pointed out that the food to liquor ratio at Churchill's does not add up to 100%. Mr. Wuerth explained that the establishment sells other products as well.

**MOTION:** Motion by McDaniel, seconded by Rinschler:  
To approve the renewal, for the 2014 licensing period, of all Class B and Class C liquor licenses for which a current year application was received.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**02-42-14 PRESENTATION OF THE NEW CITY WEBSITE  
WWW.BHAMGOV.ORG**

Mr. Wuerth and Joe Nagrant, Revize Software Systems, presented the new City website. Mr. Nagrant pointed out the responsive web programming feature which automatically adjusts the website depending on the device being used. Mr. Wuerth confirmed for Commissioner Hoff that each department will keep their respective pages up to date on the website.

**02-43-14 CLOSED SESSION REQUEST  
PERSONNEL EVALUATION**

**MOTION:** Motion by Nickita, seconded by Hoff:  
To meet in a closed session to consider the personnel evaluation of the Interim City Manager pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976).

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

**02-44-14 CLOSED SESSION REQUEST**

**ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

**MOTION:** Motion by McDaniel, seconded by Nickita:  
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

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

**VII. REMOVED FROM CONSENT AGENDA**

**VIII. COMMUNICATIONS**

**02-45-14 COMMUNICATIONS**

The Commission received the following Communications:

- Comcast regarding new contact person
- Comcast regarding Comcast and Time Warner Cable Transaction Fact Sheet
- Comcast regarding merger with Time Warner Cable
- Paula Jones regarding election date

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

**X. REPORTS**

**02-46-14 COMMISSIONER REPORTS**

The Commission intends to appoint members to the Multi-Modal Transportation Board on March 24, 2014.

**02-47-14 COMMISSIONER COMMENTS**

Commissioner Dilgard encouraged the public to tour the library.

**02-48-14 CABLECASTING BOARD ANNUAL REPORT**

The Commission received the Cablecasting Board Annual Report.

**02-49-14 CITY STAFF REPORTS**

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

The Commission received the Oakland County Water Resource Commissioner's Office (OCWRC) Update submitted by City Engineer O'Meara.

The Commission received the Oakland County Federal Aid Committee (OCFAC) Update submitted by City Engineer O'Meara.

Dorothy Conrad expressed concern with the sewer reconstruction in parking lot #6 as it would disrupt the Farmers Market (OCWRC Update).

Mayor Moore pointed out a correction to the construction schedule in the OCFAC Update.

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

The Commission reconvened in open session at 9:53 PM.

<b>XI. ADJOURN</b>
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The Mayor adjourned the meeting at 9:53 PM.

Laura M. Pierce  
City Clerk