

**BIRMINGHAM CITY COMMISSION MINUTES**  
**MARCH 28, 2016**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Rackeline J. Hoff, Mayor, called the meeting to order at 7:34 PM.

**II. ROLL CALL**

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

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, DPS Director Wood, Planning Director Ecker, Building Official Johnson, Police Chief Studt, City Engineer O'Meara

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

**03-91-16 APPOINTMENT TO THE PUBLIC ARTS BOARD**

Applicant Kaitlyn Tuson was not in attendance to be interviewed. The City Commission postponed this item until the applicant is able to be in attendance.

**03-92-16 APPOINTMENT TO THE AD HOC RAIL DISTRICT REVIEW COMMITTEE**

**MOTION:** Motion by DeWeese, seconded by Bordman:  
To appoint Lisa Krueger, as the Advisory Parking Committee member, to the Ad Hoc Rail District Review Committee.

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

**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.

**03-93-16 APPROVAL OF CONSENT AGENDA**

The following item was removed from the consent agenda:

- Item B (Minutes of March 14, 2016) by Mayor Hoff

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

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of February 22, 2016.
- C. Approval of warrant list, including Automated Clearing House payments, of March 16, 2016 in the amount of \$920,274.69.
- D. Approval of warrant list, including Automated Clearing House payments, of March 23, 2016 in the amount of \$198,205.23.
- E. Resolution approving the purchase and planting of 22 native trees and 83 native shrubs and container plants from KLM Landscape for the 2016 Barnum Park and Quarton Lake Park planting project for a total project cost not to exceed \$9,530.00. Funds are available from the Parks – Other Contractual Services account #101-751.000-811.0000. In addition, donation dollars and grant funds will be applied to this account when appropriate. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.
- F. Resolution waiving the formal bidding requirements and approving the purchase and installation of the DeZurik PTW plug valve in the total amount not to exceed \$17,899.00; from Kennedy Industries in the amount of \$5,779.00 for the plug valve and for replacement services from Midwest Power Systems in the amount of \$12,120.00 for the Quarton Road Pump Station to be paid from the Sewer Fund – Operating Supplies account #590-536.002-729.0000.
- G. Resolution approving the purchase and planting of 100 trees from KLM Landscape for the 2016 spring tree purchase and planting project for a total project cost not to exceed \$30,325.00. Funds are available from the Local Streets Fund-Forestry Service Contract account #203-449.005-819.0000, the Major Streets Fund-Forestry Service Contract account #202-449.005-819.0000, the Local Streets Fund-Operating Supplies account #203-449.005-729.0000 and the Major Streets Fund-Operating Supplies account #202-449.005-729.0000 for these services. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.
- H. Resolution awarding the Birmingham Train Station Demolition, Contract #7-16(M), to ILE Excavating Co. of Canton, MI, in the amount of \$71,856, charged to account number 401-901.014-981.0100 and further, approving the appropriations and budget amendments for a total amount not to exceed \$90,000 for related engineering costs, as follows:
  - Capital Projects Fund
  - Revenues:

MDOT Grant	#401-901.014-540.0002	\$ 90,000
Total Revenue Adjustments		\$ 90,000
  - Expenditures:

Public Improvements	#401-901.014-981.0100	\$ 90,000
Total Expenditure Adjustments		\$ 90,000
- I. Resolution approving the purchase of four (4) new 2016 GMC Sierra Pickup trucks from Todd Wenzel GMC through the Oakland County Purchasing Contract #4096 in the amount of \$112,874.00. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.
- J. Resolution setting a public hearing on April 25, 2016 to consider the approval of the Brownfield Plan and Reimbursement Agreement for 34965 Woodward.
- K. Resolution setting a public hearing on April 25, 2016 to consider the proposed Lot Split of 221 Baldwin, Parcel #1925352017.

- L. Resolution setting a public hearing of necessity on April 25, 2016 to consider the installation of lateral sewers within the Webster Ave. Paving project area. If necessity is declared, setting a public hearing to confirm the roll on May 9, 2016.
- M. Resolution awarding the Webster Ave. Paving Project, Contract #4-16(P) to DiPonio Contracting, Inc., of Shelby Twp., MI, in the amount of \$1,780,615.00, to be charged to the various accounts as detailed in the report; and further approving the appropriations and budget amendments as follows:

Sewer Fund

Revenues:

Draw from Fund Balance	#590-000.000-400.0000	\$ 85,520
Total Revenue Adjustments		\$ 85,520

Expenditures:

Public Improvements	#590-536.001-981.0100	\$ 85,520
Total Expenditure Adjustments		\$ 85,520

Water Fund

Revenues:

Draw from net position	#591-000.000-400.0000	\$ 76,475
Total Revenue Adjustments		\$ 76,475

Expenditures:

Public Improvements	#591-537.004-981.0100	\$ 76,475
Total Expenditure Adjustments		\$ 76,475

Local Street Fund

Revenues:

Draw from Fund Balance	#203-000.000-400.0000	\$128,620
Total Revenue Adjustments		\$128,620

Expenditures:

Public Improvements	#203-449.001-981.0100	\$128,620
Total Expenditure Adjustments		\$128,620

ROLL CALL VOTE:    Yeas,                    Commissioner Bordman  
    Commissioner Boutros  
    Commissioner DeWeese  
    Commissioner Harris  
    Mayor Pro Tem Nickita  
    Commissioner Sherman  
    Mayor Hoff

                                 Nays,                    None  
                                  Absent,                None  
                                  Abstention,        1, Hoff (from warrant #241062 – reimbursement)

**V. UNFINISHED BUSINESS**

**VI. NEW BUSINESS**

**03-94-16                    ORDINANCE AMENDMENT  
    ETHICS ORDINANCE**

Ms. Fierro-Share, chairperson of the Ethics Board, explained that the proposed amendment would clarify that the ordinance only governs ethical behavior not private morality.

Commissioner DeWeese noted that ones private affairs may have an impact on public office. Ms. Fierro-Share explained that the Ethics Board does not judge private affairs. Judging non-official behavior exceeds the purview of the ethics ordinance.

Jim Robb, member of the Ethics Board, explained that the part of the ordinance about morality is essentially unworkable. When discussing ethics and measuring the conduct of city officials against the requirements of the ordinance in terms of their acts rather than their morality, it is much easier to handle.

Commissioner Bordman suggested a revision to the second paragraph of Section 2-231 to clarify that it refers to official conduct.

Commissioner Harris commented that he sees no harm in clarifying the second paragraph. He questioned whether the Commission has the authority to accept, reject, or modify the Ethics Board opinions. Mr. Robb explained that the determination of whether the conduct or prospective conduct meets the requirements of the ordinance is committed to the Ethics Board. It is up to the City Commission to determine what to do about it. He noted that the only time it is binding is if it is a question from the Commission as to whether one of its members has a conflict and must recuse him or herself.

Commissioner Sherman explained that when this ordinance was originally brought forward, the original intention was to govern everything about anyone's conduct, including official and private conduct. There were disclosure provisions and a requirement for volunteers to disclose their assets and their parents, siblings, and grandparents assets. It was extremely overreaching. What eventually came out is what is currently in place and is really directed toward the official capacity. This language may have been a remnant from the original and this is a great change.

**MOTION:** Motion by Sherman, seconded by Bordman:  
To adopt an ordinance amending Part II of the City Code, Chapter 2 Administration, Article IX Ethics, Section 2-321 Responsibilities of Public Office as amended.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**03-95-16 SPECIAL EVENT REQUEST  
FEED 5K & FUN RUN**

Megan Coppen, student, explained the purpose of the run is to raise money to feed the hungry at an orphanage in Zimbabwe.

In response to a question from Mayor Hoff, Kelly Willian, youth director at the First United Methodist Church, confirmed that volunteers will be at every intersection to let cars through during the event.

**MOTION:** Motion by Bordman, seconded by DeWeese:  
To approve a request submitted by the First United Methodist Church to hold the Feed 5K and Fun Run in Birmingham May 21, 2016, 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.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**03-96-16 SPECIAL EVENT REQUEST  
CRUSING WITH THE CHILDREN'S CHARITY COALITION**

Andrea Coronado, Director of Special Events at the Community House, explained the event will benefit the Children's Charity Coalition. She explained that temporary fencing will be used to completely enclose the space including the bandshell and grassy area of the park up to the Community House. She explained there will be a tent, entertainment in the bandshell, and a classic car display on Bates Street. She noted that the sidewalks near the library will be open for public access.

Commissioner Sherman expressed concern with blocking off the park. He questioned whether the event could be done without the fence around the entire area. Commissioner Bordman agreed.

Ms. Coronado and Ms. Ninneman agreed to review the plans and return to the Commission with an alternate layout.

Mayor Pro Tem Nickita stated that this poses a policy question as to when and how the parks are used. He suggested that this is something that the City may want to explore with the Parks Board and have a recommendation as to how Shain Park should be used going forward. He commented that it would be better to have a clear understanding of what the City is allowing or not allowing and set the precedent that way as opposed to at the Commission meeting. Mayor Hoff agreed.

The Commission agreed to postpone this item.

**03-97-16 DISABLED PARKING POLICY  
FOR THE CENTRAL BUSINESS DISTRICT**

City Engineer O'Meara explained that the Americans with Disabilities Act will have revisions in the near future asking all cities to have marked reserved on-street parking spaces for the disabled. This would be required whenever resurfacing and reconstructing a street. He noted that this would be a city-wide change throughout the downtown area. He stated that there would be one handicap space for up to every 25 spaces on a block in accordance with the future ADA rules. The spaces would be located near an existing handicap ramp. The time limits would be the same as the other meters on the street. Those utilizing the spaces would have to pay and abide by the time limits. Those using the ParkMobile system would be able to double their time by utilizing the remote payment option. He explained that meter posts and meter heads would be painted, some of the meters would have to be separated, sign posts would be installed and pavement markings painted. He noted that the meters would be lower as any operable part has to be 42" or lower.

The Commission discussed the location of the meters and the enforcement of the new policy. City Manager Valentine confirmed that there will be a warning period once the meters are initially installed.

Mayor Hoff suggested the City provide information to the Senior Men's Club and Senior Women's Club at the Community House. Commissioner Bordman suggested Next be included as well.

Commissioner DeWeese noted that this does not prevent individuals from parking at any space.

**MOTION:** Motion by Bordman, seconded by Nickita:

To direct staff to proceed with implementation of the new disabled parking policy for the Central Business District, as follows:

1. Reserved, designated spaces shall be provided at the rate of at least one per 25 existing parking metered spaces on each block, located near adjacent ramps, as well as near pedestrian traffic generators.
2. Each reserved space shall have a blue marked parking meter and post, reserved parking sign using the standard accessible parking symbol, and blue pavement markings. The meter shall charge for parking at the same rate and time limit as the other meters on the block, except that no meter shall have a time limit of less than two hours.
3. Parkmobile customers parked at disabled parking spaces shall have the ability to renew their parking fee remotely one time over and above the posted time limit.
4. Staff shall implement the policy throughout the Central Business District during calendar year 2016, at which time the current policy of parking for free or at yellow curbed zones shall no longer be allowed. Disabled parkers with a yellow free parking tag affixed to their permit shall continue to be exempt.
5. All new street projects within the Central Business District shall be designed with fully compliant reserved disabled spaces in accordance with the new ADA law.
6. All costs relative to this project shall be charged to the Auto Parking System Fund.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**03-98-16                      ORDINANCE AMENDMENT  
   HEARING OFFICER**

City Manager Valentine explained that the law has changed and the City is looking to re-establish the Hearing Officer position to allow for an appeal process for any violations that occur under the ordinance for snow removal and grass trimming. City Attorney Currier explained that the purpose is to recover the cost that the City incurs.

**MOTION:** Motion by DeWeese, seconded by Bordman:

To adopt an ordinance amending Part II of the City Code, Chapter 1, to add General Provisions, Section 1-17, Hearing Officer for Disputed Fees.

VOTE: Yeas, 7  
Nays, None  
Absent, None

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

To adopt an ordinance amending Part II of the City Code, Chapter 118, Article IX, Section 118-68(c) Work Done At Owner's Expense.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**03-99-16 AMENDMENT TO THE FEE SCHEDULE**

City Clerk Pierce explained that the fees charged for permits and services are set by the Fee Schedule. She explained the proposed revisions include increasing the BLS Emergency Transport fee and Load Mile fee in the Fire Department section to cover the current cost for those services, to move the Hydrant Use fee from the Fire Department section to the DPS section as the permits are issued through DPS, and to remove the fee for a copy of the Zoning Ordinance on CD from the Public Records Policy as it is available free on the City website.

Building Official Johnson explained the revisions to the Community Development section include increasing the bond amount for Swimming Pools and Replacement Windows to encourage contractors to schedule final inspections and to amend the text to further clarify Lawn Sprinklers and Water Heaters.

**MOTION:** Motion by Sherman, seconded by DeWeese:  
To amend the Schedule of Fees, Charges, Bonds and Insurance, Building Department section, Department of Public Services section, and Fire Department section as stated in the report and to adopt the revised Public Records Policy.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**03-100-16 CLOSED SESSION REQUEST PERSONNEL MATTER**

The Commission agreed to meet in closed session to discuss a personnel matter in accordance with Section 8(a) of the Open Meetings Act at the request of Police Chief Studt.

**03-101-16 CLOSED SESSION REQUEST LABOR RELATIONS**

**MOTION:** Motion by Nickita, seconded by Sherman:  
To meet in closed session to discuss labor relations in accordance with Section 8(c) of the Open Meetings Act.

ROLL CALL VOTE: Yeas, Commissioner Boutros  
Commissioner DeWeese  
Commissioner Harris  
Mayor Pro Tem Nickita  
Commissioner Sherman  
Commissioner Bordman  
Mayor Hoff  
Nays, None  
Absent, None  
Abstention, None

**VII. REMOVED FROM CONSENT AGENDA**

**03-102-16 CITY COMMISSION MEETING  
MINUTES OF MARCH 14, 2016**

Mayor Hoff suggested the following revisions:

- Resolution 03-75-16: "He noted a concrete path will be added and striped to be used for bikes only on the south side of Maple between Larchlea and Chesterfield."
- Resolution 03-84-16: "Ms. Pielack explained that many attempts were made to solicit input. In addition, this was discussed by the Friends of the Birmingham Historical Museum Historical Society Board."

Commissioner Harris corrected a spelling error on page 11.

**MOTION:** Motion by DeWeese, seconded by Bordman:  
To approve the City Commission minutes of March 14, 2016 as amended.

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

**VIII. COMMUNICATIONS**

**03-103-16 COMMUNICATIONS**

The Commission received the following communications:

- Robert F. Riley regarding West Maple
- Richard C. Rollins regarding West Maple

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

**X. REPORTS**

**03-104-16 COMMISSIONER COMMENTS**

Commissioner Bordman announced the Boomer Summit, sponsored by Next, which will be held on April 30<sup>th</sup> at Groves High School.

The Commission recessed to closed session at 8:55 PM.  
The Commission reconvened in open session at 9:32 PM.

**XI. ADJOURN**

The meeting adjourned at 9:32 PM.

Laura M. Pierce  
City Clerk