

BIRMINGHAM CITY COMMISSION MINUTES
APRIL 11, 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 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present,	Mayor Hoff Commissioner Bordman Commissioner Boutros Commissioner DeWeese Commissioner Harris Mayor Pro Tem Nickita (arrived at 7:36 PM) Commissioner Sherman
	Absent,	None

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

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

04-105-16 APPOINTMENT TO THE AD HOC RAIL DISTRICT REVIEW COMMITTEE

MOTION: Motion by DeWeese, seconded by Harris:
To appoint Michael Steinberger, 2849 Buckingham, to the Ad Hoc Rail District Review Committee, as the resident member living in the neighborhood adjoining North Eton between Maple and Derby, to serve a term to expire December 31, 2016.

VOTE: Yeas, 7
Absent, None

04-106-16 APPOINTMENT TO THE BOARD OF REVIEW

Commissioner Sherman disclosed that he has done work for Mr. Gottlieb in the past.

MOTION: Motion by Bordman, seconded by DeWeese:
To appoint Harold Gottlieb, 748 Hidden Ravines, as an alternate member, to the Board of Review to serve the remainder of a three-year term to expire December 31, 2016.

VOTE: Yeas, 7
Absent, None

04-107-16 APPOINTMENT TO THE ARCHITECTURAL REVIEW COMMITTEE

MOTION: Motion by Sherman, seconded by DeWeese:
To appoint Christopher Longe, 1253 Yosemite, to the Architectural Review Committee to serve a three-year term to expire April 11, 2019.

VOTE: Yeas, 7
Absent, None

The Clerk administered the oath to the appointed board members.

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.

04-108-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item G (purchase of larvicide material) by Commissioner DeWeese
- Item A (Minutes of March 28, 2016) by Commissioner Bordman

MOTION: Motion by Nickita, seconded by Sherman:

To approve the consent agenda as follows:

- B. Approval of warrant list, including Automated Clearing House payments, of March 30, 2016 in the amount of \$444,363.68.
- C. Approval of warrant list, including Automated Clearing House payments, of April 6, 2016 in the amount of \$881,657.83.
- D. Resolution approving a request submitted by the Community House to hold the Farm to Table Block Party on Merrill and Bates on September 10, 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.
- E. Resolution approving a request from the Community House to hold ParkArt on June 24, 2016 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.
- F. Resolution approving the purchase of one (1) new Toro Workman MDX Utility Vehicle from Spartan Distributors, through State of Michigan extendable purchasing contract #071B0200329 for a total purchase price not to exceed \$18,781.75. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.
- H. Resolution waiving the formal bidding requirements and approve the Downtown Light Post Painting project of approximately 98 light posts with Seaway Painting, LLC, who serves as the approved DTE contractor, in an amount not to exceed \$17,000. Funds are available in the Street Lighting CBD Maintenance account #202-449.003-937.0500.
- I. Resolution authorizing the 2016 Sidewalk Repair Program, and to direct the Engineering Department to notify the owners of properties on the list of the City's intention to replace sidewalks adjacent to their properties.
- J. Resolution setting a public hearing date for May 9, 2016 to consider approval of the Revised Final Site Plan and Special Land Use Permit Amendment for 555 S. Old Woodward – Triple Nickel.

- K. Resolution approving the agreement with Wm. Crook Fire Protection Co. in the amount not to exceed \$13,000.00 to relocate the Pre-Action System Fire Protection at City Hall. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

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, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**04-109-16 PUBLIC HEARING OF NECESSITY
 HAMILTON AVENUE PAVING PROJECT AREA
 INSTALLATION OF NEW STREET LIGHTS**

Mayor Hoff opened the Public Hearing of Necessity to consider a Special Assessment District for the installation of new street lights in the Hamilton Avenue Paving Project area at 7:43 PM.

City Engineer O'Meara explained that there are two properties within the district. In order to complete the streetscape in this area, two street lights will be installed at a cost of approximately \$10,500 each.

Mayor Pro Tem Nickita noted that it is not often that the City has to special assess for street lights. He questioned if there was any other way to distribute the assessment versus putting the street light assessment on the adjacent property given that street lights are a unique circumstance and quite expensive. He stated that he is just looking for an alternative way to distribute the cost where it is not such a direct burden on that individual as it really benefits the overall street. Mr. O'Meara noted that the other properties did pay the assessment when the other lights were first installed and these two properties were spared that expense at that time.

Commissioner Sherman pointed out that when properties are redeveloped and they do not have streetscape, they are individually charged for that streetscape so it is no different. This is consistent with the policy.

The Mayor closed the Public Hearing at 7:51 PM.

MOTION: Motion by Sherman, seconded by Nickita:
 To declare necessity for the installation of new street lights on Hamilton Ave. from N. Old Woodward Ave. to Woodward Ave., and Park St. from Hamilton Ave. to E. Maple Rd. The Public Hearing of Confirmation will be held on April 25, 2016:

WHEREAS, The City Commission is of the opinion that construction of the improvement herein is declared a necessity; and
 RESOLVED, that there be constructed an improvement to be hereinafter known as

HAMILTON AVE. STREET LIGHTS

consisting of the installation of new street lights by DTE Energy conforming to those installed elsewhere within the Central Business District, be it further

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, one-hundred percent (100%) of the estimated cost be levied against the assessment district, be it further

RESOLVED, that there be a special assessment district created and special assessments levied in accordance with benefits against the properties within such assessment district, said special assessment district shall be all properties, both public and private, within the following district:

“Assessor’s Plat No. 21”

The easterly 50.98 ft. of lot 10, lots 42 through 44 inclusive except for that portion taken for Park St. right-of-way, lot 70.

RESOLVED, that the Commission shall meet on Monday, April 25, 2016, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the Hamilton Ave. Street Lights.

VOTE: Yeas, 7
Nays, None
Absent, None

04-110-16 SPRING INITIAL SCREENING FOR BISTRO APPLICANTS - 2016

City Planner Ecker explained the bistro program and requirements that must be met. She pointed out that the permissible locations include the downtown overlay district, the triangle overlay district and the rail district – MX district. She explained that the ordinance governs the type and size of the establishments. Ms. Ecker presented a map of the existing bistros.

Commissioner Sherman noted that one of the proposals is not currently zoned for a restaurant. Ms. Ecker explained that the applicant has submitted an application for rezoning to TZ3 and site plan review. She confirmed for Commissioner Bordman that a decision on the rezoning would be made in the next three to six months. The Commission expressed concern that their decision could influence the rezoning, but agreed to let the applicant present their concept.

The City Commission heard proposals from the following bistro applicants:

- Honey (in The Apiary) at 191 Chester
- Bongiovanni’s Raw Bar & Grill at 523 N. Old Woodward
- SHO at 148 Pierce
- Toshi at 101 N. Old Woodward
- Toshi at 135 N. Old Woodward (as previously submitted in October 2015)

The Commission discussed each concept and the location of each proposal. Concern was expressed with the location of Honey as the property is not zoned for commercial use. Concern was expressed with the location of proposed establishments located at the core of the downtown as it would put too much emphasis in the downtown. It was noted that the concepts are great and would add to the diversity of downtown, just not the locations in all cases.

Commissioner Bordman commented that SHO is intended to be opened, even without a liquor license. She expressed support of the activation of the alley for its outdoor dining. The applicant confirmed that he would not lease the alley space without the liquor license.

MOTION: Motion by Bordman, seconded by Harris:

To direct the following bistro application to the Planning Board for full site plan and design review and Special Land Use Permit review: SHO at 148 Pierce.

Commissioners DeWeese, Nickita, and Sherman expressed concern with moving SHO forward as Pierce Street is activated. Commissioner Bordman stated that her support is based on the applicant opening the restaurant regardless of the license. Mayor Hoff commented that is why she will not support it. Commissioner Harris expressed support of the use of the alley.

VOTE: Yeas, 3 (Bordman, Boutros, Harris)
 Nays, 4 (DeWeese, Hoff, Nickita, Sherman)
 Absent, None

MOTION FAILED.

No action was taken on the remaining applications.

**04-111-16 BOARD AND COMMITTEE MEMBERSHIP POLICY
 REGARDING RELATIVES SERVING ON THE SAME BOARD.**

City Clerk Pierce explained that the proposed policy would prohibit relatives, within the second degree of consanguinity, from serving on the same board. The second degree of consanguinity or affinity includes spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, sibling-in-law. She pointed out that the proposed language is in line with the nepotism clause in the City Charter.

MOTION: Motion by DeWeese, seconded by Boutros:
To prohibit family members from serving on the same Board or Committee by adopting the following policy:

*Nepotism Policy for Appointed Board and Committee Members:
"Relatives by blood or marriage, within the second degree of consanguinity or affinity, of an existing City Board, Commission, or Committee member shall not serve on the same board as their relative. This shall not apply to Election Inspectors serving in the same precinct."*

VOTE: Yeas, 7
 Nays, None
 Absent, None

VII. REMOVED FROM CONSENT AGENDA

04-112-16 PURCHASE OF LARVICIDE MATERIAL

Commissioner DeWeese questioned what specific larvicide will be used. DPS Director Wood explained that Natular XRT Tablets will be used. It is an organic, extended release, natural occurring soil organism. She explained that the City treats once a year.

Commissioner Bordman reminded residents of the importance of eliminating any standing water from their yards as it is a breeding ground for mosquitos.

MOTION: Motion by DeWeese, seconded by Sherman:
To approve the purchase of the larvicide material from Clarke Mosquito Control in the amount not to exceed \$9,680.88. Further, waiving the normal bidding requirements based on the

government regulated pricing for this type of material. Funds for this purchase will come from the Sewer Fund-Operating Supplies Account #590-536.002-729.0000.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**04-113-16 APPROVAL OF CITY COMMISSION MINUTES
 OF MARCH 28, 2016**

Commissioner Bordman suggested the following revisions:

- Resolution 03-94-16: Add the comments from Commissioner Sherman regarding the background information of the ethics ordinance that explained how the ordinance has been modified through the years.
- Resolution 03-36-16: Add the comment from Mayor Pro Tem Nickita suggesting that as policy question, the park use should be discussed by the Parks and Recreation Board.

MOTION: Motion by Bordman, seconded by DeWeese:
To approve the City Commission meeting minutes of March 28, 2016 as amended.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VIII. COMMUNICATIONS

04-114-16 COMMUNICATIONS

The Commission received the following communications:

- Arbor Day Foundation recognizing Birmingham as a 2015 Tree City USA
- Charles Lillie, 496 S. Glenhurst, regarding West Maple

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

04-115-16 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

Judy Martins expressed concern with the move to eliminate free parking for handicap people in Birmingham. She suggested allowing two hours of free parking at the handicap meters.

X. REPORTS

04-116-16 COMMISSIONER REPORTS

The Commission intends to appoint members to the Board of Building Trades Appeals, Brownfield Redevelopment Authority, Hearing Officer, and the Housing Board of Appeals, on May 9, 2016.

04-117-16 CITY STAFF REPORTS

The Commission received the report regarding clerical error corrections to Chapter 126, Zoning submitted by Planning Director Ecker.

The Commission received the report regarding the Museum's selection as part of a National Conference Tour in September submitted by Museum Director Pielack.

XI. ADJOURN

The meeting adjourned at 9:56 PM.

Laura M. Pierce
City Clerk