

BIRMINGHAM CITY COMMISSION MINUTES
MAY 18, 2015
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

ROLL CALL: Present,	Mayor Sherman Commissioner Dilgard Mayor Pro Tem Hoff Commissioner McDaniel Commissioner Moore Commissioner Nickita Commissioner Rinschler
Absent,	None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Finance Director Gerber, Deputy Police Chief Clemence, City Engineer O'Meara, Public Works Manager Matthews, City Planner Ecker

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

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.

05-108-15 APPROVAL OF CONSENT AGENDA

MOTION: Motion by McDaniel, seconded by Rinschler:

To approve the consent agenda as follows:

- A. Approval of warrant list, including Automated Clearing House payments, of May 13, 2015 in the amount of \$481,199.89.
- B. Resolution appointing Assistant City Engineer Austin Fletcher as alternate representative for the City of Birmingham, on the Southeastern Oakland County Water Authority Board of Trustees for the period starting June 1, 2015.
- C. Resolution authorizing Change Order #1 to the 2015 Concrete Sidewalk Repair Program (Contract #7-15(SW)), which will address the sidewalk repairs at the Baldwin Public Library and the new Sidewalk along S. Old Woodward (south of Haynes St.) at an estimated cost of \$ 24,559.00. Further, approving the 2015-2016 appropriations and budget amendment as follows:

Revenues:

Draw from Fund Balance	401-000.000-400.0000	\$ 6,180.00
Total Revenue Adjustments		\$ 6,180.00
Expenditures:		
Library Capital Projects Fund	401-265.003-981.0100	\$ 6,180.00
Total Expenditure Adjustments		\$ 6,180.00
Revenues:		
Draw from Fund Balance	101-000.000-400.0000	\$ 18,379.00
Total Revenue Adjustments		\$ 18,379.00
Expenditures:		
Public Improvements (Sidewalks)	101-444.001-981.0100	\$ 18,379.00
Total Expenditure Adjustments		\$ 18,379.00

- D. Resolution awarding the "Main Garage Roof Replacement at the Department of Public Services Facility" project which includes the installation of a new Carlisle Sure-Seal 60-mil non-reinforced EPDM (Ethylene, Propylene, Diene Terpolymer, Membrane) ballasted roof and an additional 2.7" of foam core insulation and alternative edging and coping to Tri-Star Roofing Incorporated for a total expenditure of \$133,200 and authorizing the Mayor and City Clerk to sign the contract on behalf of the City upon the receipt of all required insurances. Funds for this project are contained within the Capital Projects Fund, account #401-901.013-977.0000.
- E. Resolution approving the purchase of one (1) new 2015 Chevrolet Tahoe 2WD Pursuit from Shaheen Chevrolet, using State of Michigan MiDeal Cooperative Contract #071B1300008 for a total expenditure of \$29,997.00. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

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

 Nays, None

 Absent, None

 Abstentions, 1, Hoff from Warrant 234593 (payment as election inspector)

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**05-109-15 PUBLIC HEARING TO CONSIDER A LOT REARRANGEMENT
1530 PILGRIM**

Mayor Sherman opened the Public Hearing to consider a proposed lot rearrangement at 1530 Pilgrim at 7:33 PM.

Planning Director Ecker explained the recommendation to postpone this Public Hearing due to incomplete property and financial records.

The Commission agreed to recess the Public Hearing to June 1, 2015.

05-110-15

**PUBLIC HEARING TO CONSIDER SPECIAL LAND USE PERMIT
AMENDMENT FOR 250 NORTH OLD WOODWARD**

Mayor Sherman opened the Public Hearing to approve the Final Site Plan and Special Land Use Permit (SLUP) Amendment – 250 N. Old Woodward – Emagine Palladium Theatre and Ironwood Grill restaurant at 7:34 PM.

Planning Director Ecker explained that all liquor license establishments are subject to a SLUP review. The three licenses at this address are being transferred from the former owner to the Jonah family, then to the new operators of each of the new establishments using those licenses. This is to transfer one of the licenses to the Jonah family, then to Emagine Palladium and Ironwood Grill. She explained the layout of the Emagine theater and the Ironwood Grill.

In response to a question from Mayor Pro Tem Hoff, Ms. Ecker explained that there is nothing in the zoning ordinance that restricts the hours of operation to 2:00 AM. The applicant wanted to confirm that there would be no issue if they run past 2:00 AM in the case of special features or premiers.

Mr. Paul Glantz, Emagine Entertainment, explained that there will be no advertising of the film outside of the building. He explained that most users use the internet or phone to look up show times. He explained the preferred seating model and noted that this will be a family environment.

In response to a question from Mayor Sherman regarding the dance permit endorsement, Mr. Glantz explained that the facility has a banquet room. It would be a rare circumstance that there would be dancing.

The Commission received a communication in support of the project from Victor Doherty, 1573 South Eton.

The Mayor closed the Public Hearing at 8:12 PM.

MOTION: Motion by Rinschler, seconded by Nickita:

To approve the Final Site Plan and Special Land Use Permit Amendment at 250 N. Old Woodward to allow the operation of the Emagine Palladium Theatre and Ironwood Grill restaurant, operating under one Class C Liquor License to be held by CH Birmingham, LLC:

WHEREAS, CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium have together filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate two food and drink establishments under common ownership, both serving alcoholic liquors, as required in Article 6, section 6.02(5) of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of N. Old Woodward along Hamilton Row;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits food and drink establishments serving alcoholic liquors 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 March 25, 2015 reviewed the application for Final Site Plan and Special Land Use Permit and recommended approval with the following conditions:

1. Execute a contract with the City outlining the details of the proposed theatre and restaurant operations upon approval of the SLUP in accordance with the presentation made this evening;
2. Meet all City Department requests, subject to administrative approval;
3. Provide material specifications for the background sign panel on the marquis, and clarify all sign colors;
4. Obtain a variance from the Board of Zoning Appeals for all exterior entry signage;
5. Planning Board finds that the marquis is an architectural feature of the building, and is approved as an alternate design in lieu of a sign band; and
6. LED lighting on the Ironwood Grill signs must be mounted so that it is not visible through the open cut area.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on March 25, 2015;

WHEREAS, The Birmingham City Commission has reviewed CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium's 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 CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium application for a Special Land Use Permit authorizing the operation of two food and drink establishments, under common ownership, serving alcoholic liquors with a Class C liquor license with a Direct Connect Endorsement, New Sunday Sales Permit (AM and PM), Dance Permit, Entertainment Permit, (1) New Add Bar Permit, Specific Purpose Permit (food and movies) at 250 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. Execute a contract with the City outlining the details of the proposed theatre and restaurant operations upon approval of the SLUP in accordance with the presentation made this evening;
2. Meet all City Department requests, subject to administrative approval;
3. Provide material specifications for the background sign panel on the marquis, and clarify all sign colors;
4. Obtain a variance from the Board of Zoning Appeals for all exterior entry signage;
5. Planning Board finds that the marquis is an architectural feature of the building, and is approved as an alternate design in lieu of a sign band;
6. LED lighting on the Ironwood Grill signs must be mounted so that it is not visible through the open cut area;

7. CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium shall abide by all provisions of the Birmingham City Code;
8. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;
10. CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium shall provide for the removal of disposable materials resulting from the operations 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; and
11. CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium shall enter into a contract with the City outlining the details of the operation of the proposed restaurants.

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, CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium 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 CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium 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 CH Birmingham LLC dba Emagine Palladium and Ironwood Grill inside Emagine Palladium are recommended for operation of a theatre and restaurant, under common ownership, serving alcoholic liquors, with a Class C Liquor License with a Direct Connect Endorsement, New Sunday Sales Permit (AM and PM), Dance Permit, Entertainment Permit, (1) New Add Bar Permit, Specific Purpose Permit (food and movies) at 250 N. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**05-111-15 BUDGET APPROPRIATIONS RESOLUTION
 FISCAL YEAR 2015-2016**

Finance Director Gerber presented the Fiscal Year 2015-2016 Budget Appropriations. He explained that at the budget hearing in April, the taxable value was substantially higher than what was proposed in the original budget. After discussion, the consensus was to split the difference and use half of the funds for staff recommended projects and the other half to lower the operating mil.

Mr. Gerber explained that the water fund currently is in greatest need of additional resources. Resources have been depleted due to capital improvements.

MOTION: Motion: Rinschler, seconded by Nickita:
 To approve the budget appropriations resolution adopting the City of Birmingham's budget and establishing the total number of mills for ad valorem property taxes to be levied for the fiscal year commencing July 1, 2015 and ending June 30, 2016:

WHEREAS, the City Manager has submitted the proposed 2015-2016 Budget, and:

WHEREAS, the City Commission has reviewed the 2015-2016 Budget, and;

WHEREAS, the City Commission has held a Public Hearing on the 2015-2016 Budget;

WHEREAS, Chapter VII, Section 14 of the Birmingham City Charter requires that the City Commission pass an annual appropriations resolution, and;

NOW THEREFORE, BE IT RESOLVED, that the City Commission does hereby adopt the following estimated revenues for the City of Birmingham for the fiscal year commencing July 1, 2015, and ending June 30, 2016:

GENERAL FUND:

Taxes	\$ 20,281,450
Licenses & Permits	3,240,750
Intergovernmental Revenue	1,931,160
Charges for Services	2,848,820
Fines & Forfeitures	1,697,650
Interest & Rent	204,480
Other Revenue	<u>81,600</u>
Total General Fund	\$ 30,285,910

MAJOR STREETS FUND:

Intergovernmental Revenue	\$ 1,978,610
Interest & Rent	25,500
Other Revenue	2,940
Contributions from Other Funds	1,580,000
Draw from Fund Balance	<u>65,560</u>
Total Major Streets Fund	\$ 3,652,610

LOCAL STREETS FUND:

Intergovernmental Revenue	\$ 376,480
Interest & Rent	35,500
Other Revenue	113,770
Contributions from Other Funds	2,250,000
Draw from Fund Balance	<u>281,040</u>
Total Local Streets Fund	\$ 3,056,790

COMMUNITY DEVELOPMENT BLOCK GRANT FUND:

Intergovernmental Revenue	<u>\$ 32,950</u>
Total Community Development Block Grant Fund	\$ 32,950

SOLID WASTE DISPOSAL FUND:

Taxes	\$ 1,825,000
Charges for Services	22,900
Interest	<u>8,500</u>
Total Solid Waste Disposal Fund	\$ 1,856,400

LAW AND DRUG ENFORCEMENT FUND:

Fines & Forfeitures	\$ 37,500
Interest	<u>750</u>
Total Law and Drug Enforcement Fund	\$ 38,250

DEBT SERVICE FUND:		
Taxes		\$ 1,575,090
Interest		<u>1,400</u>
Total Debt Service Fund		\$ 1,576,490
GREENWOOD CEMETERY PERPETUAL CARE FUND:		
Charges for Services		\$ 30,000
Interest		<u>450</u>
Total Greenwood Cemetery Perpetual Care Fund		\$ 30,450
PRINCIPAL SHOPPING DISTRICT FUND:		
Special Assessments		\$ 884,710
Interest		5,400
Other Revenue		175,000
Draw from Fund Balance		<u>55,590</u>
Total Principal Shopping District Fund		\$ 1,120,700
BALDWIN LIBRARY FUND:		
Taxes		\$ 2,174,180
Intergovernmental Revenue		930,508
Charges for Services		99,740
Interest		<u>16,500</u>
Total Baldwin Library Fund		\$ 3,220,928
BROWNFIELD REDEVELOPMENT AUTHORITY FUND:		
Taxes		\$ 226,750
Interest		1,500
Other Revenue		20,000
Transfers In		<u>13,900</u>
Total Brownfield Redevelopment Authority Fund		\$ 262,150
TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY FUND:		
Taxes		\$ 115,000
Interest		<u>1,000</u>
Total Corridor Improvement Authority Fund		\$ 116,000
CAPITAL PROJECTS FUND:		
Intergovernmental		\$ 18,000
Interest		29,900
Other Revenue		19,120
Contribution from Other Funds		586,500
Draw from Fund Balance		<u>61,480</u>
Total Capital Projects Fund		\$ 715,000
AUTOMOBILE PARKING SYSTEM FUND:		
Charges for Services		\$ 4,616,120
Interest		<u>38,000</u>
Total Automobile Parking System Fund		\$ 4,654,120
WATER-SUPPLY SYSTEM RECEIVING FUND:		
Taxes		\$ 500,000
Charges for Services		4,406,360

Interest	5,000
Transfers In	<u>500,000</u>
Total Water-Supply System Fund	\$ 5,411,360
SEWAGE DISPOSAL FUND:	
Taxes	\$ 3,207,260
Charges for Services	7,685,100
Interest	<u>52,000</u>
Total Sewage Disposal Fund	\$ 10,944,360
LINCOLN HILLS GOLF COURSE:	
Charges for Services	\$ 623,900
Interest	<u>18,000</u>
Total Lincoln Hills Golf Course Fund	\$ 641,900
SPRINGDALE GOLF COURSE:	
Charges for Services	\$ 474,150
Interest & Rent	<u>9,000</u>
Total Springdale Golf Course Fund	\$ 483,150
COMPUTER EQUIPMENT FUND:	
Charges for Services	\$ 555,040
Interest	7,000
Other Revenue	22,200
Draw from Net Position	<u>253,980</u>
Total Computer Equipment Fund	\$ 838,220
AND, BE IT FURTHER RESOLVED, that the City Commission does hereby adopt on a budgetary center basis the following expenditures for 2015-2016:	
GENERAL FUND:	
General Government	\$ 5,332,290
Public Safety	12,247,920
Community Development	2,377,900
Engineering & Public Services	4,138,420
Transfers Out	5,358,210
Contribution to Fund Balance	<u>831,170</u>
Total General Fund	\$ 30,285,910
MAJOR STREETS FUND:	
Maintenance of Streets and Bridges	\$ 353,030
Street Cleaning	184,920
Street Trees	227,710
Traffic Controls & Engineering	222,490
Snow and Ice Removal	365,320
Administrative	17,920
Capital Outlay-Engineering and Construction of Roads and Bridges	<u>2,281,220</u>
Total Major Streets Fund	\$ 3,652,610
LOCAL STREETS FUND:	
Maintenance of Streets and Bridges	\$ 373,040
Street Cleaning	206,740

Street Trees	523,980
Traffic Controls & Engineering	59,990
Snow and Ice Removal	224,020
Administrative	25,230
Capital Outlay-Engineering and Construction of Roads and Bridges	<u>1,643,790</u>
Total Local Streets Fund	\$ 3,056,790
COMMUNITY DEVELOPMENT BLOCK GRANT FUND:	\$ 32,950
SOLID WASTE DISPOSAL FUND:	
Refuse Pickup	\$ 1,520,620
Equipment Rental	100,000
Salaries	194,740
Miscellaneous	12,440
Capital Outlay	20,000
Contribution to Fund Balance	<u>8,600</u>
Total Solid Waste Disposal Fund	\$ 1,856,400
LAW AND DRUG ENFORCEMENT FUND:	
Capital Outlay	\$ 8,800
Contribution to Fund Balance	<u>29,450</u>
Total Law and Drug Enforcement Fund	\$ 38,250
DEBT SERVICE FUND:	
Debt Service	\$ 1,571,490
Contribution to Fund Balance	<u>5,000</u>
Total Debt Service Fund	\$ 1,576,490
GREENWOOD CEMETERY PERPETUAL CARE FUND:	
Contribution to Fund Balance	<u>\$ 30,450</u>
Total Greenwood Cemetery Perpetual Care Fund	\$ 30,450
PRINCIPAL SHOPPING DISTRICT FUND:	\$ 1,120,700
BALDWIN LIBRARY FUND:	
Expenditures	\$ 3,148,292
Contribution to Fund Balance	<u>72,636</u>
Total Baldwin Library Fund	\$ 3,220,928
BROWNFIELD REDEVELOPMENT AUTHORITY FUND:	
Expenditures	\$ 260,560
Contribution to Fund Balance	<u>1,590</u>
Total Brownfield Redevelopment Authority Fund	\$ 262,150
TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY FUND:	
Expenditures	\$ 20,000
Contribution to Fund Balance	<u>96,000</u>
Total Triangle District Corridor Improvement Authority Fund	\$ 116,000
CAPITAL PROJECTS FUND:	\$ 715,000
AUTOMOBILE PARKING SYSTEM FUND:	

Expenses	\$ 4,406,860
Contribution to Net Position	<u>247,260</u>
Total Automobile Parking System Fund	\$ 4,654,120
WATER-SUPPLY SYSTEM RECEIVING FUND:	
Expenses	\$ 4,976,360
Contributions to Net Position	<u>435,000</u>
Total Water-Supply Receiving Fund	\$ 5,411,360
SEWAGE DISPOSAL SYSTEM FUND:	
Expenses	\$ 10,501,850
Contribution to Net Position	<u>442,510</u>
Total Sewage Disposal System Fund	\$ 10,944,360
LINCOLN HILLS GOLF COURSE:	
Expenses	\$ 557,730
Contribution to Net Position	<u>84,170</u>
Total Lincoln Hills Golf Course	\$ 641,900
SPRINGDALE GOLF COURSE:	
Expenses	\$ 480,220
Contribution to Net Position	<u>2,930</u>
Total Springdale Golf Course	\$ 483,150
COMPUTER EQUIPMENT FUND:	\$ 838,220

BE IT FURTHER RESOLVED that the budget summary above be approved as the 2015-2016 City Budget and that this resolution shall be known as the City of Birmingham 2015-2016 General Appropriations Act.

BE IT FURTHER RESOLVED that the City Commission does hereby designate \$22,875,410 to be raised by 11.4943 mills levied for General Purposes on the taxable valuation of all real and personal property subject to taxation in the City.

BE IT FURTHER RESOLVED that the City Commission does hereby designate \$2,189,180 to be raised by 1.1000 mills levied for Library Operations on the taxable valuation of all real and personal property subject to taxation in the City

BE IT FURTHER RESOLVED that the City Commission does hereby designate \$2,632,560 to be raised by 1.3156 mills levied for Debt Service Requirements on the taxable valuation of all real and personal property subject to taxation in the City.

BE IT FURTHER RESOLVED that the City Commission does hereby designate \$1,825,000 to be raised by 0.9170 mills levied on the taxable valuation of all real and personal property subject to taxation in the City for the purpose of the collection and removal of garbage and trash of the City as authorized by MCL 123.261, et. seq.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to make budgetary transfers within the budgetary centers established through the adoption of this budget, and that all transfers between budgetary centers may be made only by further action of the City Commission pursuant to the provisions of the Michigan Uniform Accounting and Budgeting Act.

BE IT FURTHER RESOLVED that the 2015-2016 budget shall be automatically amended on July 1, 2015, to re-appropriate encumbrances outstanding and reserved at June 30, 2015.

BE IT FINALLY RESOLVED that the City Treasurer be authorized to add to all taxes paid after August 31, 2015, three-fourths of one percent (3/4 of 1%) penalty each and every month, or fraction thereof, that remains unpaid. On all taxes paid after February 16, 2016, and through February 29, 2016, there shall be added a late penalty charge equal to three percent (3%) of such tax.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**05-112-15 AMENDMENT TO THE FEE SCHEDULE
 WATER AND SEWER RATES AND
 INDUSTRIAL SURCHARGES AND WASTE CONTROL CHARGES**

Finance Director Gerber explained that the net effect of the increase in the water rate and the decrease in the sewer rates resulted in an overall change of 1.1% increase combined.

MOTION: Motion by Hoff, seconded by McDaniel:
To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in water and sewer rates and changes in industrial surcharges and industrial waste control charges to be effective for bills with read dates on or after July 1, 2015.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

05-113-15 COMMUNICATIONS

The Commission received the following communications:

- Claudia and Dan Malone, 372 Westwood Dr., Bloomfield Village re: Maple Road
- Westchester Village Homeowner Association re: Maple Road

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

X. REPORTS

XI. ADJOURN

The Mayor adjourned the meeting at 8:21 PM.

Laura M. Pierce
City Clerk