

BIRMINGHAM CITY COMMISSION MINUTES
JULY 14, 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

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

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, City Engineer O'Meara, Management Analyst Thomas, DPS Director Wood, Public Works Manager Matthews, Assistant Fire Chief Connaughton, Deputy Police Chief Clemence, Planner Ecker

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

07-160-14 STATE REPRESENTATIVE MIKE MCCREADY
Representative McCready presented an update from the House of Representatives.

07-161-14 INTRODUCTION OF MANAGEMENT ANALYST AMANDA THOMAS
City Manager Valentine introduced the new Management Analyst Amanda Thomas.

07-162-14 APPOINTMENT TO THE RETIREMENT BOARD
MOTION: Motion by Sherman:
To appoint Christopher Conti, 759 Greenwood, to the Retirement Board as the citizen member to serve a three-year term to expire July 1, 2017.

VOTE: Yeas, 7
Absent, None

07-163-14 APPOINTMENT TO THE MUSEUM BOARD
MOTION: Motion by Hoff:
To appoint Marty Logue, 2010 Buckingham, as a member to the Museum Board to serve a three- year term to expire July 5, 2017.

MOTION: Motion by Nickita:

To appoint Gretchen Maricak, 1040 Chapin, as a member to the Museum Board to serve a three- year term to expire July 5, 2017.

MOTION: Motion by Sherman:

To appoint Shawn O'Rourke, 540 Berwyn, as a member to the Museum Board to serve a three-year term to expire July 5, 2017.

VOTE ON NOMINATION OF LOGUE:

Yeas, 7
Absent, None

VOTE ON NOMINATION OF MARICAK:

Yeas, 7
Absent, None

VOTE ON NOMINATION OF O'ROURKE:

Yeas, 7
Absent, None

**07-164-14 APPOINTMENT TO THE
MULTIMODAL TRANSPORTATION BOARD**

The Commission interviewed the following individuals for appointment to the Multimodal Transportation Board:

- Stuart Bordman, 1091 Lake Park
- Alicia Chandler, 955 Shirley
- Malcolm Hendy, 2336 Northlawn

MOTION: Motion by Hoff:

To appoint Stuart Bordman, 1091 Lake Park, to the Multi-modal Transportation Board, as the Member-at- large from different geographical areas of the City, to complete a three-year term to expire March 24, 2017.

MOTION: Motion by Sherman:

To appoint Alicia Chandler, 955 Shirley, to the Multi-modal Transportation Board, as the Member-at- large from different geographical areas of the City, to complete a three-year term to expire March 24, 2017.

VOTE ON NOMINATION OF BORDMAN:

Yeas, 4 (Hoff, Rinschler, McDaniel, Dilgard)
Absent, None

Mr. Bordman was appointed to the Multimodal Transportation Board.

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.

07-165-14 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item N (Elevator Maintenance Contract) by Commissioner Sherman

MOTION: Motion by Rinschler, seconded by Hoff:

To approve the consent agenda as follows:

- A. Approval of City Commission/Planning Board Workshop Session minutes of June 16, 2014.
- B. Approval of City Commission meeting minutes of June 23, 2014.
- C. Approval of warrant list, including Automated Clearing House payments, of June 25, 2014 in the amount of \$333,526.44.
- D. Approval of warrant list, including Automated Clearing House payments, of July 2, 2014 in the amount of \$472,776.60.
- E. Approval of warrant list, including Automated Clearing House payments, of July 9, 2014 in the amount of \$907,277.44.
- F. Resolution accepting the resignation of Virginia Reynolds from the Public Arts Board, thanking Ms. Reynolds for her service, and directing the Clerk to begin the process to fill the vacancy.
- G. Resolution approving a request from the Piety Hill Chapter, National Society Daughters of the American Revolution to hold the Veteran's Day Wreath Laying Ceremony and aerial fly over on November 11, 2014 at 11:00AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- H. Resolution approving the appointment of election inspectors for the August 5, 2014 Primary Election pursuant to MCL 168.674(1) and authorizing the City Clerk to make revisions as needed.
- I. Resolution approving chemical/fertilizer purchases for Lincoln Hills and Springdale golf courses from Harrell's for \$16,000, Residex Turfgrass for \$24,000, Great Lakes Turf for \$8,000, and John Deere Landscapes for \$2,500. Funds will be charged to account numbers 584/597-753.001-729.0000.
- J. Resolution awarding the contract, for the replacement of matting at the Birmingham Ice Sports Arena, to All-American Arena Products, of Little Canada, MN in the amount of \$13,615.00, to be funded from Capital Projects Fund account #401-901.001-977.0000. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances. And approving the appropriation and budget amendments to the fiscal year 2014-2015 budget as follows:
Capital Projects Fund
Revenues:

| | | |
|---------------------------|----------------------|--------------------|
| Draw from fund balance | 401-000.000-400.0000 | <u>\$ 1,115.00</u> |
| Total Revenue Adjustments | | \$ 1,115.00 |

Expenditures:

| | | |
|-------------------------------|----------------------|--------------------|
| Buildings | 401-901.001-977.0000 | <u>\$ 1,115.00</u> |
| Total Expenditure Adjustments | | \$ 1,115.00 |
- K. Resolution waiving the formal bidding requirements and approving the purchase of repairs to the Rotary brand AP52E-200 16,000 lb. capacity truck lift in the motor pool garage from Allied Inc. in the amount not to exceed \$9,655.00. Funds for the truck lift repairs are available in the Auto Equipment Fund account #641.441.006-971.0100.
- L. Resolution approving Change Order No. 1 to Contract 7-14(SW), in the amount not to exceed \$42,500.00, to Luigi Ferdinandi & Son Cement Company for concrete parking lot

and sidewalk repairs at the Department of Public Services facility. Funds for this purchase are available in the Capital Projects Fund account #401-901.013-977.0000.

- M. Resolution approving the agreement with Tech Mechanical Inc., in the amount not to exceed \$6,654.00 to perform replacement of the HVAC System for the Birmingham Historical Museum & Park in the City of Birmingham; and further authorizing the mayor to sign the agreement on behalf of the City. Further, approving the appropriations and amendments to the fiscal year 2014-2015 budget as follows:

General Fund

Revenues:

| | | |
|---------------------------|----------------------|--------------------|
| Draw from fund balance | 101-000.000-400.0000 | <u>\$ 6,654.00</u> |
| Total Revenue Adjustments | | \$ 6,654.00 |

Expenditures:

| | | |
|-------------------------------|----------------------|--------------------|
| Buildings- Allen House | 101-804.002-977.0000 | <u>\$ 6,654.00</u> |
| Total Expenditure Adjustments | | \$ 6,654.00 |

- O. Resolution waiving the normal bidding requirements and accepting the quote as written from Physio-Control to purchase the Lucas II chest compression device in the amount of \$14,270.35 using unused federal grant funds of \$9,045.00 and \$5,225.35 from the Fire Department budget account #101-336.000-971.0100.
- P. Resolution authorizing the City Manager to cast a vote, on the City's behalf, for the three incumbent members of the Michigan Municipal League Workers' Compensation Fund Board of Trustees for two-year terms, beginning October 1, 2014.

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, None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**07-166-14 PUBLIC HEARING – SPECIAL LAND USE PERMIT
 TOAST BIRMINGHAM, 203 PIERCE**

Mayor Moore opened the Public Hearing to consider a Special Land Use Permit Amendment for Toast Birmingham, 203 Pierce at 7:49 PM.

Planner Ecker explained the request from Toast Birmingham to add an outdoor dining platform. She noted that the platform would require the use of two on-street parking spaces and one parking meter would have to be removed. The platform would add an additional twenty-eight seats.

Commissioner Dilgard expressed concern with taking away two parking spaces with the current parking situation.

Commissioner Hoff pointed out that a letter was received from Leslie Rogers, 180 Pierce, opposed to the proposed platform.

Ms. Ecker confirmed for Commissioner Hoff that the ordinance does not restrict outdoor dining to the sidewalk or a platform. Commissioner Hoff expressed concern with eliminating two parking spaces on Pierce due to the parking issue. She expressed concern with increasing the size of the bistros as it was not the intent of the bistro ordinance.

Commissioner Rinschler agreed that parking is a serious issue, but noted that other platforms have been approved on Pierce. Commissioner Nickita pointed out that Martin Street has been rebuilt since the previous request by Toast to add a platform.

Mayor Pro Tem Sherman pointed out that taking away parking spaces sends a double message with the appearance of a parking issue. Commissioner McDaniel agreed that the timing of the request is wrong and noted that he does not have a problem with the proposed size of the platform.

Chris Longe, representing Toast Birmingham, acknowledged the parking deficit and noted that not allowing the platform on two spaces will not make a significant impact on the deficit.

Dorothy Conrad suggested postponing the decision as a platform removes parking in the day and evening.

Cheryl Daskas, Tender, expressed opposition to the platform and commented that there is a parking crisis.

The Mayor closed the Public Hearing at 8:18 PM.

The Commission took no action.

**07-167-14 PUBLIC HEARING OF NECESSITY
2014 CAPESEAL PROGRAM**

Mayor Moore opened the Public Hearing of Necessity for the 2014 Capeseal Program at 8:18 PM.

Public Works Manager Matthews presented the 2014 Capeseal Program. City Engineer O'Meara confirmed for Mayor Pro Tem Sherman that the City has not received any petitions to improve these streets.

Mayor Pro Tem Sherman and Mayor Moore commented on the benefits of a permanent street versus an unimproved road. Mr. Matthews and Mr. O'Meara explained the difference between asphalt and chipseal and an improved street.

Jack Burns, Putney, expressed support of the sealcoat. He noted that the sewers, not the street, are the problem on Putney. Mr. O'Meara noted that the sewers were camera scoped and no issues were found. He noted it could be that the sewers are undersized for the area. The Commission suggested Mr. Burns meet with City Engineer O'Meara for further discussion on the issue.

Heather Carmona, Lakeside/Oak, explained the uniqueness of her corner lot and expressed concern with the path on the corner. DPS Director Wood noted that she has reviewed the site and will address Ms. Carmona's concerns.

Mayor Moore confirmed for Michael Pilus, Pine St., that the cost to improve a road is more than the capeseal.

Anthony Long, Smith/Cummings, questioned how to begin the petition process to improve the road. Mayor Moore suggested Mr. Long meet with City Engineer O'Meara.

Richard & Beth Bommarito, Abbey/Poppleton, questioned the method of assessment and whether any adjustments could be made. Mr. Valentine explained that the cost is based on City policy and there is no method for appeal. Mr. Matthews explained that only the frontage on Abbey will be capesealed.

The Mayor closed the Public Hearing at 8:56 PM.

The Commission discussed the program and the need for residents to understand the benefits of improved streets. Commissioner Hoff noted that if there is a number of residents who want their street removed from the capeseal program, to contact City Staff.

In response to a question from Mayor Pro Tem Sherman, City Attorney Currier confirmed that a street could be removed from the list at the public hearing of confirmation. However, if the residents came forward before the hearing of confirmation, staff would have time to recalculate the costs.

MOTION: Motion by Hoff, seconded by McDaniel:

To declare necessity for the improvement to be known as 2014 Cape Seal Program-Public Street Improvement; further, to approve the detailed cost estimates submitted by the Department of Public Services; further, to create a special assessment district and special assessments levied in accordance with benefits against the properties as described above; further, that the following method of assessment be adopted:

1. Eighty-five percent of the front-foot costs for improvement are assessed on all property fronting on the improvement.
2. Twenty-five percent of the side-foot costs for improvement are assessed on all residential property siding on the improvement.
3. Eighty-five percent of the side-foot costs for improvement are assessed on improved business property siding on the improvement.
4. Twenty-five percent of side-foot costs for improvement are assessed on vacant business property siding on the improvement.

The, remaining balance, 15% and 75%, front footage and side footage respectively, are paid by the city.

Further, to direct the City Manager to prepare the special assessment roll and present the same to the Commission for confirmation at the public hearing on July 28, 2014.

VOTE: Yeas, 7
 Nays, None
 Absent, None

The Commission agreed that if there is a street coming forward with a petition for improvement or if there is a street with an overriding issue as to why it should not be part of the program, it must be presented to the City by July 22nd.

The Commission received a letter from David and Tina Blodgett, 839 Randall Court opposed to the street improvements.

The Commission received a letter from Brian Day and Carla Calabrese, 646 Kimberley, requesting a re-evaluation of the assessment and requesting an installment plan for payments.

**07-168-14 OFF-STREET PARKING REQUIREMENTS
 33680 – 33692 WOODWARD AVE**

City Planner Ecker presented the request to utilize four parking spaces on Benneville to fulfill a portion of the off-street parking requirements.

Commissioner Hoff suggested the Planning Department re-evaluate the parking requirements. Ms. Ecker explained that the Woodward Gateway Study will address this issue.

MOTION: Motion by McDaniel, seconded by Dilgard:

To approve the use of 4 parking spaces on Bennaville to fulfill a portion of the off-street parking requirements per Article 4, section 4.43 (G)(1) of the Zoning Ordinance for 33680 – 33692 Woodward Avenue, subject to any recommended repairs required by the Engineering Department.

VOTE: Yeas, 7
 Nays, None
 Absent, None

07-169-14 MAST ARM TRAFFIC SIGNALS MASTER PLAN

City Engineer O'Meara presented the opportunity to upgrade the traffic signal at Woodward and Maple. He stated that MDOT has budgeted to upgrade the signal in the 2015-2016 budget year. He explained that the mast arm signals have been installed in the downtown, however there is no City policy which addresses the locations.

In response to a question from Commissioner Nickita, Mr. O'Meara explained that the Woodward Avenue Action Association did a study of the corridor and recommended the Woodward and Maple intersection be a mast arm signal.

Commissioner Nickita expressed reluctance for making a master plan on Old Woodward since the street has not been designed. Commissioner Rinschler agreed that there is no need for a plan. Commissioner McDaniel noted that the mast arm signals are massive and out of scale in the downtown.

MOTION: Motion by Rinschler, seconded by McDaniel:

To direct staff to notify the MI Dept. of Transportation relative to the City's desire to install a mast arm signal at the intersection of Woodward Ave. and Maple Rd. in conjunction with MDOT's upcoming signal modernization, and to budget for the work accordingly in the fiscal year 2015/16 budget request.

VOTE: Yeas, 7
Nays, None
Absent, None

07-170-14 EAST MAPLE ROAD CONCRETE PATCHING

City Engineer O'Meara presented the opportunity for federal funding for concrete patching of East Maple Road. He explained that this is part of a contract bid by the Oakland County Road Commission.

MOTION: Motion by Sherman, seconded by McDaniel:

To approve the funding agreement with the Road Commission for Oakland Co. in the amount of \$31,000 for the local share of the cost of concrete patches for E. Maple Rd. (Woodward Ave. to Adams Rd.), and to direct the Mayor to sign the agreement on behalf of the City, with funding for the \$31,000 local share to be distributed as follows:

| | | |
|-----------------------|-------------------------------|----------|
| Water System Fund | (acct. #591-537.004-811.0000) | \$11,900 |
| General Sidewalk Fund | (acct. #101-444.001-981.0100) | \$ 2,500 |
| Major Street Fund | (acct. #202-449.001-981.0100) | \$16,600 |

VOTE: Yeas, 7
Nays, None
Absent, None

**07-171-14 SET PUBLIC HEARING - SPECIAL ASSESSMENT DISTRICT
508 WEST LINCOLN AVENUE**

City Engineer O'Meara explained the request to install a sidewalk on Stanley between Wallace and Lincoln as this will complete the sidewalk link in that area. He explained that the sidewalk will deviate around the tree. He noted that this project would be added to the Lincoln paving project.

Commissioner Hoff expressed concern that the patio will be touching the City right-of-way. If a fence is installed, it would be in the right-of-way. Mr. O'Meara explained that the City Attorney has suggested a document be drawn up that the homeowner acknowledges that their fence is on City property and the property will remain City property. He noted the fence would encroach approximately six inches.

MOTION: Motion by McDaniel, seconded by Sherman:

To receive the report submitted by the Engineering Dept., and setting a public hearing of necessity for the installation of new sidewalk on the west side of Stanley Ave., adjacent to 508 W. Lincoln Ave. on August 11, 2014. If necessity is declared, setting a public hearing to confirm the roll on August 25, 2014:

VOTE: Yeas, 7
Nays, None
Absent, None

**07-172-14 BIRMINGHAM FIREFIGHTERS ASSOCIATION
SETTLEMENT AGREEMENT**

City Manager Valentine presented the settlement agreement with the Birmingham Firefighters Association.

MOTION: Motion by Hoff, seconded by Nickita:
To approve the settlement agreement of July 2, 2014 between the City and the Birmingham Firefighters Association for a renewal of the collective bargaining agreement through June 30, 2017 and authorizing the transfer of the appropriate funds by the Finance Department.

VOTE: Yeas, 7
Nays, None
Absent, None

**07-173-14 CLOSED SESSION REQUEST
ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

MOTION: Motion by Nickita, seconded by Sherman:
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 Hoff
Commissioner McDaniel
Commissioner Nickita
Commissioner Rinschler
Mayor Pro Tem Sherman
Commissioner Dilgard
Mayor Moore
Nays, None
Absent, None
Abstentions, None

**07-174-14 CLOSED SESSION REQUEST
LAND ACQUISITION**

MOTION: Motion by Sherman, seconded by Nickita:
To meet in closed session to discuss land acquisition pursuant to Section 8(d) 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

**07-175-14 CLOSED SESSION REQUEST
PERSONNEL EVALUATION**

MOTION: Motion by McDaniel, seconded by Nickita:

To meet in a closed session to consider the personnel evaluation of the City Manager pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976). A 2/3 roll call vote of the City Commission is not required to call a closed session permitted under Section 8(a).

VOTE: Yeas, 7
 Nays, None
 Absent, None

VII. REMOVED FROM CONSENT AGENDA

07-176-14 ELEVATOR MAINTENANCE CONTRACT

In response to a question from Mayor Pro Tem Sherman, Mr. Valentine explained that this contract is for preventative maintenance service on all the City elevators. The freight elevator at the library had a separate evaluation recently to evaluate the life expectancy and long term issues relative to the elevator. He stated that once the results are in, it will be before the Commission for an action plan.

Dorothy Conrad expressed concern with the freight elevator issues and continuing a contract where the service has been unsatisfactory. Mr. Valentine explained that by addressing mechanical issues, it will alleviate the issues due to the aging mechanical system.

MOTION: Motion by Sherman, seconded by McDaniel:

To authorize the Department of Building Facilities to participate in the Elevators Maintenance contract for Kone Elevators & Escalators offered through U.S. Communities Government Purchasing Alliance for a 3 year initial term beginning June 10, 2014 and ending May 31, 2017; with an option to renew for an additional two (2), one (1) year periods.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VIII. COMMUNICATIONS

07-177-14 COMMUNICATIONS

The Commission received the following communications:

- Leslie Rogers, 180 Pierce, regarding the proposed outdoor dining platform at Toast
- Terence Gates, 1265 Bates, regarding the Library
- Robert & Susanne McNutt, 300 Shirley, regarding a Tri-Model Plan

Mr. Valentine confirmed for Commissioner Rinschler that the letters regarding the multimodal plan are shared with the Multimodal Transportation Board.

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

X. REPORTS

07-178-14 COMMISSIONER REPORTS

The Commission intends to appoint to the Public Arts Board on July 28, 2014.

07-179-14 CITY STAFF REPORTS

The Commission received the Curbside Clothing Recycling Pilot report submitted by DPS Director Wood.

In response to a question from Commissioner Hoff, DPS Director Wood explained the pilot program for curbside recycling. She explained that the company will provide colored bags for the recycled items. She noted the item would be placed out on regular trash day. The company will pay SOCRRA \$0.01 per pound for the materials collected.

Commissioner Nickita questioned whether there was a demand for this service. He expressed concern that others will pick up the bags for their own needs. He also expressed concern at helping a business that the City has no relation with.

Dorothy Conrad expressed opposition to the program.

The Commission received the Quarton Lake Treatment Plan submitted by DPS Director Wood.

Ms. Wood confirmed for Commissioner Hoff that the chemical treatment of the lily pads would be done with environmentally safe products. She noted that if chemical treatment is the course of action, it will come to the Commission for approval.

The Commission received the Baldwin House Parking Spaces report submitted by Finance Director Ostin.

The Commission recessed to closed session at 10:00 PM.
The Commission reconvened in open session at 11:15 PM.

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| XI. ADJOURN |
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The Mayor adjourned the meeting at 11:15 PM.

Laura M. Pierce
City Clerk