

**BIRMINGHAM CITY COMMISSION MINUTES**  
**JULY 24, 2017**  
**NORTH END OF BROOKSIDE AVE.**  
**6:00 P.M.**  
**RECONVENING AT**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CONVENE AT 6:00 P.M. AT THE NORTH END OF BROOKSIDE AVE., BIRMINGHAM MI**

Mayor Mark Nickita called the meeting to order at 6:08 p.m.

Present,            Mayor Nickita  
                         Commissioner Bordman  
                         Commissioner Boutros  
                         Commissioner DeWeese  
                         Commissioner Hoff  
                         Commissioner Sherman  
Absent,             Mayor Pro Tem Harris

Administration: City Manager Valentine, City Clerk Mynsberge, City Attorney Currier, City Engineer O'Meara

DTE Energy: Joe Jacunski, Manager, Regional Planning, Nurah Dababneh, Dan Phillips, Facilitator/Arborist

**PHYSICAL INSPECTION OF PROPOSED DTE ELECTRIC COMPANY OVERHEAD EASEMENT FOR 856 N. OLD WOODWARD.**

Mr. Jacunski explained:

- Trees painted with double white dots are slated for removal.
- The three new pole locations are marked with 3' stakes topped with a pink streamer.
- The crossbars on the poles are 8' wide, requiring a clearing of 10'.
- Existing poles will be top cut under the transformers, not removed.
- One of the new poles will have two transformers; the middle pole will have no transformers.

Commissioner DeWeese asked if DTE was going to clear cut the area. Dan Phillips, Project Manager/Arborist for DTE, stated no unmarked trees will be removed without DTE talking to the City Commission, and marked trees will not be removed if it is possible to leave them in place.

City Manager Valentine explained:

- All trees removed will be replaced with equitable species at 4" caliper.
- The developer will contribute to the cost of tree replacement.
- Locations for replacement trees have not yet been determined.

Commissioner Boutros suggested the area residents should have some say in where replacement trees are located.

Commissioner Sherman advocated for replacing the total caliper of trees removed, so that a 12" caliper tree would be replaced with three 4" caliper trees.

In response to questions about other possible routes for the wires, Mr. Jacunski explained:

- Cannot use a pole across the river because the guy wires would go into existing building.
- 10' round concrete caisson structure would intrude halfway into river to be strong enough to pull enough wire tension
- Underground option would have to go in concrete conduit. The turns are too tight for wires and going underground would require tearing up Old Woodward in front of the existing businesses. The process would take about a year. DTE would have to hand dig around the existing old utilities under the road.
- Going underground would require trenching through the side of the river with trees.
- A 10' turning radius is required for a 90 degree turn with conduit. The change of grade on the subject site would require much more.
- Bringing in wires from the north would remove redundancy.
- Leaving the lines as is would require the developer to remove 30-40% of his building plans.
- The current pole is within 8' of the subject building. Poles must be 10' from a building.

Ms. Dababneh stated DTE has been working on this for a year, and the proposed solution is the only one that keeps the line continuous. Many options were reviewed, and all had issues.

**II. RECESS**

- A. Resolution to recess the meeting and reconvene at the Birmingham Municipal Building, 151 Martin, Birmingham MI at 7:30 p.m.

Mayor Nickita recessed the meeting with instructions that the meeting would reconvene at the Birmingham Municipal Building, 151 Martin, Birmingham, MI at 7:30 p.m.

**III. RECONVENE AT 7:30 P.M. AT MUNICIPAL BUILDING, 151 MARTIN, BIRMINGHAM MI**

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

Mayor Mark Nickita called the meeting to order at 7:33 p.m.

**V. ROLL CALL**

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

Administration: City Manager Valentine, Assistant City Planner Baka, City Clerk Brown, IT Director Brunk, City Attorney Currier, City Planner Ecker, DPS Manager Filipski, Deputy Treasurer Klobucar, City Engineer O'Meara, HR Director Taylor, DPS Director Wood

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

Mayor Nickita announced:

- The Farmer's Market continues on Sundays from 9 AM to 2 PM in Municipal Parking Lot #6 on N. Old Woodward.
- Upcoming Summer Concerts in Shain Park will feature Elvis Tribute Artist, Darrin Hagel, on Wednesday, July 26<sup>th</sup> at 7:00 p.m., and on Wednesday, August 2<sup>nd</sup> at 12:00 Noon, The AnTekes, with classic rock & roll, will perform, followed at 7:00 p.m. that evening with The Sax Maniacs from Detroit, playing soul music.
- Mayor Pro Tem has written article in Latches Oakland County Bar Journal, "How to Guide your client through a commercial mortgage foreclosure by Advertisement."

**VII. 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.

**07-204-17 APPROVAL OF CONSENT AGENDA**

The following item was removed from the Consent Agenda:

- Commissioner Bordman – Items G and K

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Sherman:  
To approve the Consent Agenda, with items G and K removed.

Commissioner Hoff commended City Clerk Brown for the Joint City Commission/Planning Board meeting minutes. City Clerk Brown acknowledged Deputy Cheryl Arft for producing the minutes.

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

- A. Approval of Joint City Commission/Planning Board meeting minutes of June 19, 2017.
- B. Approval of City Commission minutes of July 10, 2017.
- C. Approval of warrant list, including Automated Clearing House payments, of July 12, 2017 in the amount of \$398,676.48.
- D. Approval of warrant list, including Automated Clearing House payments, of July 19, 2017 in the amount of \$2,833,311.83.

- E. Resolution approving the service agreement renewal with Logicalis, Inc. effective August 1, 2017 through June 30, 2018 for City Information Technology services. Further, directing the City Manager to sign the renewal agreement on behalf of the City.
- F. Resolution authorizing the issuance of a purchase order in the amount of \$306,195.46 to DTE Energy, for the removal of existing lights, and the manufacture and installation of 50 new street lights within the Old Woodward Ave. Reconstruction Project area. The work will be charged to account number 401- 901-010-981.0100.
- H. Resolution setting Monday, August 14, 2017 at 7:30 PM for a public hearing to consider the Final Site Plan and Special Land Use Permit for 211 S. Old Woodward to allow for the addition of a theater liquor license for the Birmingham Theater.
- I. Resolution setting Monday, August 14, 2017 at 7:30 PM for a public hearing to consider the approval of the Brownfield Plan and Reimbursement Agreement for 35975 Woodward.
- J. Resolution awarding the 2017 Asphalt Resurfacing Program, Contract #5-17(P), to Florence Cement Co., of Shelby Twp., MI in the amount of \$410,369.70, to be charged to the following accounts:

Local Street Fund	203-449.001-981.0100	\$399,469.70
Sewer Fund	590-536.001-811.0100	\$ 6,000.00
Water Fund	591-537.004-811.0100	\$ 4,900.00
TOTAL		\$410,369.70

And further; approving the appropriation and amendment to the 2017-2018 Local Street Fund budgets as follows:

Local Streets Fund

Revenues:

Draw from Fund Balance	203-000.000-400.0000	\$ 119,470
Total Revenue		\$ 119,470

Expenditures:

EPS-Construction/ Public Improvements	203-449.001-981.0100	\$ 119,470
Total Expenditures		\$ 119,470

The Commission agreed to discuss the items removed from the Consent Agenda at this time.

**07-205-17 GOLF COURSE FERTILIZER/TURF CHEMICALS PURCHASE (ITEM G)**

Commissioner Bordman:

- Commended DPS Director Wood for eliminating Roundup and Glyphosate from the fertilizers and turf chemicals to be used this year.
- Commended Superintendent Grill for the use of organic products.
- Asked for an explanation as to why three companies are being awarded the bid.

DPS Director Wood explained:

- Pricing for these products are the same from the various vendors, based on agency pricing which is determined by the product manufacturer.
- Some of the bidders did not make all of the products available to the City as part of their bid.
- The City selects the vendors from which to purchase its products based on experience with the vendor, customer service, availability of the product, timely product delivery, including the quality of the performance of the vendor.

**MOTION:** Motion by Commissioner Bordman, second by Commissioner DeWeese:  
To approve chemical/fertilizer purchases for Lincoln Hills and Springdale golf courses from Harrell's for \$22,000, Residex Turfgrass for \$22,000 and Great Lakes Turf for \$8,000. The total purchase from all vendors will not exceed a total of \$52,000. Funds will be charged to Springdale Golf Course and Lincoln Hills Golf Course - Operating Supplies, account #s 584/ 597-753.001-729.0000.

VOTE:           Yeas,     7  
                  Nays,     0  
                  Absent, 0

**07-206-17                   FLEIS & VANDENBRINK CONSULTING ENGINEERS CONTRACT RENEWAL (ITEM K)**

Commissioner Bordman was bothered by the length of the extension.

Commissioner Hoff:

- Pointed out the company is only paid if the City uses them.
- Commented the company has led the Commission through the restriping of Maple Road and will lead the Commission through the conversation tonight about the S. Eton crossing project.
- Did not understand the reluctance to continue the contract for five and a half months when the City has been using the contractor for at least two and a half years.
- Said she was in favor of starting the bid process, but keeping Fleis & Vandenbrink in place in the meantime.

City Manager Valentine explained:

- The contract expired without the City's realization.
- Fleis & Vandenbrink are used for Multi-Modal Transportation Board (MMTB) reviews.
- The contract will be put out for bid as quickly as possible, but noted a bid process typically takes five months.
- The Commission can terminate the contract with 30 days' notice.

City Manager Valentine confirmed for Mayor Pro Tem Harris that the renewal is at the same rate as the original contract.

Mayor Nickita stated:

- The contract is way over due to be bid out, and six months is excessive for the renewal period.
- The Commission made it clear in prior conversations with staff that it intended to bid out this contract.
- He will agree with the renewal because there is a 30 day termination clause.

Commissioner Sherman requested clarification on the fee schedule. City Attorney Currier verified the contract extension maintains the fees outlined in the current contract.

Commissioner Sherman requested the City confirm that work performed since the contract expiration has been billed under the old fee schedule. He commented that the Commission is effectively setting a month-to-month contract because of the 30 day termination clause.

Mayor Pro Tem Harris said he would agree with the contract extension because of the 30 day termination clause.

**MOTION:** Motion by Mayor Pro Tem Harris, second by Commissioner Hoff:

To approve the contract extension with Fleis & Vandenbrink consulting engineers until January 31, 2018 for traffic engineering services. Further, to direct the Mayor and the City Clerk to sign the agreement on behalf of the City.

VOTE:           Yeas,       6  
                  Nays,       1 (Bordman)  
                  Absent,     0

**V. UNFINISHED BUSINESS**

**07-207-17           856 N. OLD WOODWARD AVE. DTE ENERGY LINE RELOCATION**

City Engineer O'Meara's updated staff report to City Manager Valentine, dated July 19, 2017, notes, in part:

*The referenced vacant property, directly south of the southeast corner of Oak St., has been vacant for nearly 30 years. The former building, destroyed by fire occupied only a portion of the site. The current owner, known as FLS Properties #5, LLC, has obtained final site plan approval from the Planning Board for the construction of four-story mixed-use building, including two levels of underground parking. Final construction drawings are currently under review.*

*Overhead electric wiring feeding many other properties to the north and south currently obstruct the full use of the property, and must be relocated if it is to be redeveloped to its full potential. The applicant has worked with DTE Energy Co., the two immediate property owners to the north, and City staff to finalize a relocation plan that accomplishes the goal of relocating the overhead wiring closer to the east property line, as well as entirely away from the north property line. In order to relocate the wires in such a manner that construction can proceed, DTE Energy has developed a relocation plan that moves a section of the wiring south of the subject property from its current location further east. Since the relocation involves City property, approval must be obtained from the City Commission.*

Issues relevant in this case.

- A. *The existing overhead wires obstruct both the north and east ends of the property. The wires are considered primary in the DTE Energy system, meaning that they cannot just be ended and re-routed elsewhere, rather, they need to continue north and south of this area on some path to ensure proper redundancy both to this new building, and all of the other existing buildings in the immediate corridor.*
- B. *The existing pole labeled A1 on the drawing, while not in direct conflict with the new building, is situated such that the entire relocation south of the property becomes warranted. Specifically, the wires south of the building cannot remain in place because if a new alignment started north of pole A1, a guy wire would have to extend further north to properly support the remaining wires and poles further south. With the building proposed immediately north of pole A1, there is no room available to create tension for the wires and poles to the south, if they were to remain.*
- C. *Once the determination was made that a relocation is required, DTE Energy identified three poles that should be relocated, given their current close proximity to the Rouge River (the bases of the poles are situated immediately adjacent to the*

*west bank of the river). Extending the relocation south to the north edge of Parking Lot #6 (at pole #4), the remaining lines further south can then be tensioned with a guy wire without being potentially undermined from the adjacent river bank.*

*D. Relocating the lines further east will impact existing trees on a City owned floodplain/natural area. Given its low topography and classification as a floodplain, approving an easement in this area does not represent an impediment to future development of the property. The main focus, then, would be damage to the existing natural environment, particularly in the form of mature trees. In order to avoid such damage, DTE Energy was asked to consider all possible options that could avoid this relocation. The following was considered:*

- Relocation from Parking Lot #6 property directly out to the N. Old Woodward Ave. right-of-way could be considered. Moving the wiring to an important, very visible right-of-way would require an underground installation. Further, given other existing underground utilities in the area, DTE Energy indicated that the wires would have to be moved to the west side of the right-of-way, while feeding each of the existing buildings being fed on the east side via underground connections. While such an effort would improve the overall aesthetics of the area, it would be prohibitively expensive, being roughly estimated at \$2 million (the proposal now being suggested is estimated at about \$220,000, which will be a 100% developer expense).*
- Attempting to locate a source for power relocation to the west of Old Woodward Ave. through existing backyard feeds does not address the issue of feeding the existing buildings to the south.*
- Likewise, attempting to locate a source for power relocation to the east of Woodward Ave. power lines (currently in backyards) again does not address the issue of feeding existing buildings to the south.*

#### Summary

*After much analysis and discussion involving all involved parties, it appears that the only feasible solution to removing the encumbrance from 856 N. Old Woodward Ave. will involve the relocation of overhead electric utilities on to adjacent City property currently being maintained as a natural floodplain buffer between commercial and residential areas. The proposed design moves the poles in an area of relatively low visibility, remains economically feasible, and allows redevelopment of this property that has remained vacant for nearly thirty years.*

Joe Jacunski, Manager, Regional Planning for DTE, reported DTE has been working on the project for a year going through a dozen designs. The project was taken to peer review where the proposed plan was identified as best solution. Mr. Jacunski thanked City Engineer O'Meara and City Planner Ecker for suggestions which saved ten trees. The proposed solution includes moving the lead to the other side of river to avoid the new building construction and locating the lead to minimize the impact on existing trees.

In response to questions from Commission DeWeese regarding replacement of trees, City Manager Valentine explained:

- From City property 14 trees will be removed.
- The 14 trees will be replaced with the same species, oak and maple, at a minimum of 4" caliper.
- Tree replacement cost will be approximately \$12,000.
- The developer has agreed to pay \$7,000 of that cost.

- Homeowners could be consulted on location of replacement trees.

Commissioner Bordman made the following points:

- The new development could not be built because of the difficulty of accessing electrical power.
- In order to make it possible to develop the property, a plan was designed to move the electrical lines across the river onto City property.
- The City would then grant an easement on City property in order for the development to proceed.
- The relocation of electrical lines will result in the loss of 14 mature trees.
- Relocating the lines does not benefit the City directly, except in a long vacant property being redeveloped.
- The developer benefits greatly because he can rebuild on the property as he wants.
- Replacing 14 trees with 14 trees of 4" caliper is insufficient since many of the 14 trees being removed are substantially larger than 4" caliper.
- The City should not pay any of the costs associated with replacing the removed trees.
- The proposed project is substantial, and because the City is giving up property the developer should be paying more than \$7,000 for 4" caliper trees.
- She will not approve the proposal as proposed.

Commissioner Sherman stated the removed trees should be replaced caliper inch per caliper inch, and the City should not be picking up the tab. Both the property being given up and the trees being removed have value.

Commissioner Hoff commented:

- The trees being removed should be replaced, but the replacement trees, because they will not be as big or as tall as the existing trees, are not going to provide the barrier between residential and business, which is the residents' concern.
- DTE say it is not possible to bring power from the north, but she is concerned if there is not another option.

Mayor Pro Tem Harris, noting the staff report affirmed the developer has obtained final site plan approval, asked why this issue surfaced late in game and was not part of the site plan review.

City Manager Valentine explained when the development process started a different plan was anticipated. When the developer went to DTE after receiving site plan approval, DTE could not relocate the wires as per the plan under current regulations. City Manager Valentine agreed site plan approval should perhaps be contingent on utility approval.

Commissioner Boutros remarked:

- He would like to figure out a way to move the project forward.
- Thanked DTE for cooperating in developing a proposal which reduced the number of trees to be removed from 50 to 14.
- He would like residents to be given a choice as to where the replacement trees are planted. Taking the wires underground is not just a matter of money, it is also a matter of digging up Old Woodward for 8 months to a year.
- A decision has to be made, and he believes if the City, DTE, and the developer are doing what is best for the City, he favors project.
- He understands the objections of the residents.



- Having learned on site what DTE has considered, and emphasizing the developer needs to replace every tree, he would like to move this project moving forward.

Commissioner DeWeese noted the Commission could accept the proposed resolution with the provision that the developer agrees to pay \$25,000 of the tree replacement costs and agrees to replace a minimum of 14 trees, but the Commission could also request tree replacement be based on inch for inch replacement.

Mr. Jacunski explained:

- Bringing lines from the north would put 900 residents and businesses at risk of outages.
- The expectation is that if a lengthy repair is needed, DTE provides a duplicate source of power in order for residents not to be without electricity for an extended period of time.
- Therefore, the line must continue through to the south to back up the line from the north.
- The switching capabilities are used often.

Mr. Jacunski clarified for Mayor Nickita that DTE is not normally responsible for tree replacement.

Mayor Nickita noted:

- DTE's site plans are deficient, and suggested DTE needs to work on providing better plans.
- The project involves public land, and the Commission as stewards of it, must be careful not to use public land for anything which does not benefit the City.
- He is in favor of development of the subject site, but, although the site plan has been agreed to by the Planning Board and is in concurrence with the City's master plan, the Commission has to proceed cautiously because the project affects property which is basically City park land.
- If the City is adjusting its park land, the Commission has to be assured the City is receiving benefit.

Developer Frank Simon, FLS Properties #5, LLC, noted:

- The development site is very challenging, and soil testing has revealed it is more highly contaminated than anticipated.
- He would like to move the project forward and turn what has been an eyesore for many years into a gem in that part of Birmingham.
- He is willing to contribute to tree replacement and, although he is already way above budget, will be happy to work out a reasonable arrangement which makes sense with the City, but he can't agree to an unknown.

Commissioner Sherman calculated approximately 200 caliper inches of trees are slated to be removed, which, on an inch per inch basis, will require replacement by 50 4" caliper trees. He suggested postponing the issue until August 14<sup>th</sup>, and have Mr. Simon and the City negotiate an agreement on replacement of trees, which will become part of the Commission's resolution.

Commissioner DeWeese expressed support of postponing a decision until an agreement is negotiated that is inclusive and provides a proper visual blockage from both sides of the river.

Drew Dettling presented several points:

- The project should go back to the Planning Board.

- Replacement of trees should be inch for inch as opposed to number of trees.
- It is clear that approval of the proposed resolution benefits DTE and helps the developer, but he believes the City is valuing green space and trees less than other City land.
- There is no precedent in the City to use public land to support private development.
- He requests the work start no earlier than after the Dream Cruise.
- The proposal creates visual eyesore at eye level from his house.
- The green space is already a sparse barrier when the leaves have fallen.
- He believes DTE will come back in the future to remove more trees and/or limbs because they pose danger to the lines, resulting in a clear cut 50' stretch.
- He favored using the west side for relocating the poles.
- He requested the Commission reject the proposed easement.

Ben Gill remarked:

- He was a developer for a time and sometimes was required, as part of site plan approval, to replace trees on site or pay into a fund for tree replacement.
- The area is better used as a rough natural area, and perhaps the City could put down wood chips and benches.
- Before a site plan is approved, every tree should be accounted for and agreed upon.
- He is in favor of development, but feels the City might get a different answer from a private contractor than from a corporation.
- He hopes the City is firm with all involved to obtain what the City wants.
- Asked that the residents could see the tree replacement plan before it is approved.

Sam Ball, representing his daughter who lives on Brookside, noted:

- He is an electrical engineer.
- The project being discussed is to benefit the developer who is building the City's tax base, but the public would have to give up property.
- There are ways to possibly relocate the lines differently, such as putting lines underground from poles A1 to A5, or going around the property with a trench.

Mr. Jacunski explained:

- This is a main line with 900 customers, so the support system is the same as outside a substation.
- The options suggested would require poles in Parking Lot No. 6 and more poles on Oak.
- The lines could not be put under the river, but would have to go around the front to Old Woodward, requiring a 10' easement for conduit and 20' easement for manholes, resulting in a greater loss of trees from the necessary trench through the wooded side of the river.
- Three cable poles are required and must be accessible by a bucket truck, and there is not sufficient room behind the commercial buildings for conduit.

Commissioner Sherman asked that staff be directed to negotiate an agreement with the developer pursuant to the discussion held and bring it back to the Commission when it is done. He also noted species besides oak and maple are involved and those species should be matched in the replacement trees to maintain diversity.

No action was taken.

**VI. NEW BUSINESS**

**07-208-17 RESOLUTION FOR CONFIRMING S.A.D. # 879 – 2017-2018  
CAPESEAL**

Deputy Treasurer Klobucar reported:

- S.A.D. No. 879, for purposes of public street maintenance improvements, would specially benefit the following properties:

<b>Larchlea</b>	Lincoln to Maple
<b>Westchester</b>	Lincoln to Maple
<b>Berwyn</b>	Midvale to Avon
<b>Radnor</b>	Maple to Berwyn
<b>Avon</b>	Radnor to S. Glenhurst
<b>Bryn Mawr</b>	Cranbrook to Radnor
<b>Puritan</b>	Maple to Pine
<b>Willow Lane</b>	Midland to Raynale
<b>Fairfax</b>	Raynale to Suffield

- Comments during the hearing of confirmation are limited to those questions specifically addressing the assessment roll pursuant to Section 94-9 of the City Code.
- The hearing declaring the necessity of the Special Assessment District was held at the City Commission meeting of July 10th, 2017.

Mayor Nickita opened the public hearing at 8:52 p.m.

Commissioner Hoff commented the proposal calls for one payment, although sometimes assessments are payable in multiple payments. Deputy Treasurer Klobucar confirmed the subject assessment would be payable in one payment.

Brittney Johnson requested an explanation of the \$8 difference in rates listed in the notification letter to residents.

DPS Manager Filipski explained the actual cost is based on the actual dimensions of the street and the scope of work being done, and indicated residents may contact the Department of Public Services for an exact cost. It was estimated the cost for Ms. Johnson's property is \$1523.03.

Mayor Nickita closed the public hearing at 8:57 p.m.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Bordman:  
To ratify and confirm Special Assessment Roll No. 879, and instruct the City Clerk to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement. Further, that special assessments shall be payable in one (1) payment as provided in Section 94-10 of the Code of the City of Birmingham at five and a quarter percent (5.25%) annual interest.  
*Formal resolution appended to minutes as Attachment A.*

VOTE:           Yeas,       7  
                  Nays,       0  
                  Absent,    0

**07-209-17****PUBLIC HEARING FOR REVISED WINDOW STANDARDS**

Senior Planner Baka noted the definitions of glazing, based on industry standards, are:

Clear	82% visible light transmittance (VLT)
Lightly tinted	70% visible light transmittance (VLT)

Mayor Nickita opened the public hearing at 9:06 p.m.

Discussion ensued regarding the amended regulation, "Windows shall not be blocked with opaque materials or the back of shelving units or signs". Senior Planner Baka explained:

- Current use of opaque materials will be grandfathered, meaning what is being done now may continue.
- Specific references to things such as chairs were removed because they are covered under the term "opaque materials".
- Blinds are allowed only on upper stories, not on the first floor, but blinds currently in place will be grandfathered.

Commissioner DeWeese was in support of the regulation, noting it is in line with our intent, and said he would like to see more enforcement of current blockages.

Concerns were expressed about businesses affected by glare with the rising or setting of the sun.

Mayor Nickita had an objection to businesses, such as Starbucks, which keep the blinds closed all day making the business appear closed.

Doug Fehan suggested first floor opaque coverings from the bottom up to 4' would be helpful for hiding undesirable items such as employees' dirty shoes and lunches.

Mayor Pro Tem Harris felt the language in 4.90 should be clearer to explain the exception is allowed by a majority vote of any of the three applicable boards.

Commissioner Bordman, noted 4.90 A.2. is the only place that allows lightly tinted glazing in neutral colors, which is inconsistent.

Mayor Nickita closed public hearing at 9:16 p.m.

The Commission discussed the regulation pertaining to opaque materials:

- Mayor Nickita asked if the wording "opaque materials" is too vague and if some specifics, such as furniture, should be included.
- Senior Planner Baka indicated the discussion was that anything you cannot see through is opaque.
- Commissioner Hoff did not feel furniture and products should be considered as opaque materials, noting that if a business is selling furniture or other products those items should be displayed in the windows.
- Commissioner Hoff, noting the importance of blinds to protect patrons from the glare of the rising or setting sun, suggested regulating how long blinds can be down.
- Mayor Nickita reiterated the problem with businesses, such as Starbucks, leaving screens down all day resulting in the store appearing closed.

- Commissioner Boutros felt the ordinance has to take into consideration the fact that the sun can jeopardize products and suggested something is needed to protect the display of products being sold. He felt it was a separate issue from advertising in windows.
- Mayor Nickita noted when ordinances are examined precedent is considered. He suggested if a product is jeopardized by the sun, the product does not belong in the window. He agreed that screening for restaurants might be different. He said he was comfortable adopting the proposed ordinances.

Mayor Pro Tem Harris requested Article 04, Section 4.90 E. be clarified to denote that a modification to the standards does not necessarily require approval by all three boards listed, just by those boards required to review the request. Commissioner DeWeese requested further clarification that modification to the standards must be approved by a majority of the board members appointed and serving, rather than just by a majority of those board members in attendance at the meeting. \*City Attorney Currier confirmed that approval must be by a majority of members appointed and serving. (\*As amended on August 14, 2017.)

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

To approve the following Zoning Ordinance amendments with additional changes to Article 04 Development Standards, Section 4.90, WN-01 as noted under "c." below:

- Article 03 Downtown Overlay District, Section 3.04(e) Architectural Standards to require clear glazing at the first floor façade;
- Article 03 Triangle Overlay District, Section 3.09, commercial/mixed use architectural requirements to require clear glazing at the first floor façade;
- Article 04 Development Standards, Section 4.90, WN-01 (Window Standards) to alter the required glazing on commercial buildings, with the following additional changes:
  - Under A.2. delete the words "in neutral colors";
  - Revise the language of E. to read: "To allow flexibility in design, these standards may be modified by a majority vote of *those appointed and serving on the appropriate reviewing body, including the Planning Board, Design Review Board, and/or Historic District Commission* for architectural design considerations provided that the following conditions are met:
- Article 07 Architectural Design Requirements, Section 7.05, Requirements, to remove inconsistent provisions; and
- Article 9, Section 9.02, Definitions, to add definitions for clear glazing and lightly tinted glazing.

VOTE:           Yeas,       7  
                   Nays,       0  
                   Absent,   0

**07-210-17                   RECOMMENDATION BY THE AD HOC BIRMINGHAM BRAND DEVELOPMENT COMMITTEE (BBDC) FOR A NEW BIRMINGHAM CITY LOGO**

Assistant to the City Manager Haines reported:

- The Ad Hoc BBDC is comprised of one member from the Parks and Recreation Board, one member from the Birmingham Shopping District (BSD), one member from the Planning Board, two City Commissioners, and two at-large members drawn from different neighborhoods.
- The goal of the rebranding initiative is to establish a new brand (logo) that communicates Birmingham's image in a positive, evolving and refreshing way.

- McCann Detroit was selected on October 17, 2016 to design a new city logo using the process determined by the City, which included McCann conducting three stakeholder meetings, which took place December 13, 14 and 15th, 2016, designed to gather input about Birmingham from three core stakeholder groups, one representing residents, a second representing business owners, and a third representing current board or committee members.
- During these meetings, participants were asked a series of questions such as what Birmingham means to them, and what makes Birmingham different from other cities.
- McCann presented their first designs to the Ad Hoc Committee on January 30, 2017, and the Committee held a total of nine public meetings, evaluating more than 50 logo designs.
- The Committee directed McCann to focus on specific words to use as logo guideposts which included: Timeless/Classic, Distinctive/Unique, Fresh, Clean, Sophisticated/Refined, and to focus on the iconic historic side of Birmingham for inspiration.
- The Committee narrowed their logo selection down to three, and voted to recommend Logo #1 as their preferred recommendation, with Logo 2 and 3 as alternates in order of preference.
  - Logo #1 uses an icon modelled after the Marshall Frederick's sculpture in Shain Park, along with the words "Birmingham" and "A Walkable City" tagline beneath the icon.
  - Logo #2 uses the words only of Birmingham, with an elongated R, and tagline.
  - Logo #3 uses a square icon resting above the word Birmingham, and includes the tagline.

McCann Detroit representative Susan Stallings explained the process of public input and development of the final three logo designs by Ad Hoc BBDC. Ms. Stallings described the inspiration for each of the three final logos:

- Logo # 1 is inspired by Birmingham resident Marshall Frederick's "Freedom of the Human Spirit" sculpture. The distinctive icon captures the essence and energy of this focal point of Shain Park. When combined with a classic font for the city name, and balanced with the simple tagline, this logo embodies the modern yet timeless nature of the city itself. This logo is versatile. The elements can be used together, separately or arranged differently, depending upon the specific application.
- Logo #2 uses a classic font that has been customized to represent the distinctive, unique nature of the city. It has a fresh, sophisticated feel that lends itself to numerous applications.
- Logo #3 uses an icon that represents the downtown as the center of the city surrounded by its neighborhoods. When combined with a classic serif font in upper and lowercase, it creates a clean, approachable look for the city. The elements can be used together, separately or arranged differently, depending upon the specific application.

Commissioner Bordman asked what a city logo is, what it is supposed to do, who the intended audience is, and if a brand is effective without an icon.

Ms. Stallings explained a logo is a branded identity, is not just for visitors, and can be effective without an icon if it is customized.

Doug Fehan, member of the Ad Hoc BBDC, reported:

- The AD Hoc BBDC included architects, marketing and advertising professionals, an artist and a calligraphy expert.

- The Committee had spirited conversations, considered 50 iterations, and met all criteria set.
- He characterized the work of the Committee as exhaustive.
- Logo #1 creates the image of the City, and, like the Nike swoosh, will become known through branding and use.

Peter Hollinshead, member of the Ad Hoc BBDC, thanked Ms. Stallings for an excellent presentation and her wonderful work with the committee throughout the process. He explained:

- A logo and a graphic identity for a governmental body should be a device that reaches not only visitors and outsiders but also residents and users of City services.
- It should draw on things that will resonate with those audiences.
- The Committee worked to avoid a logo that was dated or trendy.

Commissioner DeWeese felt Logo #3 was too complicated because it requires explanation of the square. He said Logo #1 may have captured the spirit of the City, noting it represents something unique about Birmingham.

Commissioner Hoff commended McCann Detroit for their leadership. She was not certain Logo #1 was the best for Birmingham and commented that she personally does not believe the logo is right yet.

Mayor Pro Tem Harris said he prefers Logo #1 and indicated initial ignorance of what the icon is does not detract from the logo.

Commissioner Boutros echoed Mayor Pro Tem Harris' statements, and said he personally prefers Logo #1 from a design standpoint. He questioned why the typeface is not sans serif which is more modern. Ms. Stallings explained the feeling of most people was that the modern look of sans serif would eventually date the logo, so a combination of styles was used to make the logo more approachable.

Mayor Nickita commented on the thorough approach to the development of the logos. He noted the majority of icons and logos use imagery which is meant to be ultimately identified with a product.

**MOTION:** Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Harris: To approve Logo # 1 as the preferred logo by the Ad Hoc BBDC as the new Birmingham city logo.

Commissioner Sherman agreed with Commissioner Hoff that none of the three are ready to be the Birmingham logo. He said they are a starting point, but are not an ending point, and commented that none of the three logos made him think "Birmingham".

Commissioner Bordman said she attended a few of the Committee meetings, knows how hard the members worked on the project, recognizes they are very attached to the results, and she extended the City's appreciation. She commented that she does not understand the icon on Logo #1 and does not support it. She thinks neither of the other two logos really depict Birmingham. Commissioner Bordman agreed with Commissioners Hoff and Sherman that the three logos presented don't do what they need to do.

Commissioner Sherman stated he does not want a split decision on the City's logo.

Mayor Nickita was comfortable with Logo #1, but agreed a unified agreement by the Commission was preferred.

Brief discussion ensued regarding options for next steps.

Commissioner DeWeese strongly supported an icon in the logo. He stated he will vote against his own motion because the Commission should be unified in the decision. Commissioner DeWeese commented the logo needs to be something people will accept and identify with.

Commissioner Deweese moved to withdraw his motion. Mayor Pro Tem Harris did not support the motion to withdraw.

VOTE:           Yeas,        2 (Harris, Boutros)  
                  Nays,        5 (Bordman, DeWeese, Hoff, Nickita, Sherman)  
                  Absent,     0

Motion failed.

Mark Canavan, McCann Detroit, explained that identity of a logo is a day-forward process, meaning a logo gains meaning with every touchpoint and is meant to grow over 10 or 20 years.

Mayor Nickita asked what the next step is that will help build consensus, stating he wants to build on momentum, not falter. He asked if meeting with McCann Detroit or taking City Manager Valentine's suggestion of workshops should be the next step.

The McCann Detroit representatives indicated time is needed to think about the next step. Mayor Nickita felt it would probably be worthy of the effort to have McCann Detroit put together some suggestions for how to move forward to create consensus.

Commissioner Boutros favored focusing on refining Logo #1.

Commissioners Hoff and Bordman expressed interest in showing the logos to other people to gauge reactions. Commissioner Bordman wondered if receiving reactions from others would crystalize her thoughts and help her determine if one of the logos is the right one.

No action was taken.

**07-211-17                   S. ETON RD. CORRIDOR – MAPLE RD. TO LINCOLN AVE. MULTI-MODAL TRANSPORTATION BOARD RECOMMENDATIONS**

City Engineer O'Meara's report to City Manager Valentine, dated July 19, 2017, is excerpted in regard to four suggested changes on the first block of S. Eton Rd.:

*The Ad Hoc Rail District Committee identified four suggested changes on the first block of S. Eton Rd. They are as follows:*

- 1. Relocate the west side curb for the entire block from its current location to a point three feet closer to the center of the road. Relocating the curb takes the extra space currently available on the one southbound lane of S. Eton Rd., and makes it available for an enhanced 8 ft. wide sidewalk (up from the existing 5 ft.). The recommendation came from the fact that the current sidewalk is the main*



walking path for residents who live to the southwest, and wish to walk to other areas east of the railroad tracks. Second, since the current sidewalk is directly adjacent to the traffic lane, the wider pavement would help make the block more pedestrian friendly.

2. **Install an island within the S. Eton Rd. crosswalk.** The original design from the Rail District Committee was sized to accommodate trucks that need up to a 40 ft. turning radius. This was based on the usual convention in the City that most trucks are of this size, or smaller. The island as designed would reduce the distance for pedestrians to have to cross the road unprotected from traffic. Although the traffic signal is timed so that most pedestrians can easily cross on one signal cycle, if for some reason they have to stop in the middle, they would be able to do so. The revised plan attached to this package depicts an island that is able to accommodate trucks with a 50 ft. turning radius.
3. **Install an enlarged pedestrian waiting area adjacent to the handicap ramp on the southeast corner of Maple Rd.** Since additional right-of-way exists in this area, the additional concrete is a relatively low cost improvement that will help make the area more pedestrian friendly.
4. **Install sharrows for bicycles on both the north and southbound lanes.** Several board members expressed concern that it is unfortunate that the City is designing improved biking facilities both north and south of this area, and yet the biking environment on this block could use more improvement. Due to the limited right-of-way, and the clear need to maintain three traffic lanes, no separate bike lane facility can be recommended in this area at this time.

As noted above, three businesses represented at the June 1 public hearing took issue with designing this intersection to a 40 ft. truck turning radius standard. The business people present reminded the Board that Maple Rd. & S. Eton Rd. are the only legal roads that can be used by large trucks to get in and out of the Rail District. (Other routes, such as E. Lincoln Ave. and S. Eton Rd. south to 14 Mile Rd. have restrictions on through truck traffic.) Of particular concern was Adams Towing, which stated they regularly drive larger trucks through the intersection, and that when towing an extremely long vehicle, such as a school bus, even the existing intersection is too small. Bolyard Lumber and Downriver Refrigeration, also represented at the June 1 meeting, made similar representations that they either own and operate, or have deliveries from third parties that regularly use larger trucks.

The Board asked staff to survey all businesses in the district to better understand the frequency of this type of traffic. Over 90 Rail District businesses were sent an email asking for input by answering a short survey about the number and size of trucks that were regularly used by their business. A total of 17 businesses responded. The MMTB reviewed the results at their meeting of July 20, 2017. In order to get as much feedback about this issue as possible, staff invited the three business people that attended the public hearing to come back and discuss the matter further at their July 20 meeting. The following conclusions were drawn:

- When entering the district, trucks with a turning radius in excess of 50 ft. would generally have to enter Eton Rd. heading eastbound only. Attempting to make a left on to Eton Rd. westbound is already not feasible for most of these trucks, due to the height limitations imposed by the adjacent railroad bridge. If the intersection is designed for trucks with a 50 ft. turning radius, trucks will be able to enter the

*district from Maple Rd., heading from either direction (assuming that they can clear the railroad bridge).*

- *When exiting the district, most trucks already make a left turn on to westbound Maple Rd. Making a right turn is difficult or impossible for most large trucks even today, again due to the height and size of the railroad bridge.*
- *With input from F&V, the Board concluded that trucks that require a 62 ft. turning radius are not frequent in this area. Those choosing to use these large trucks will have to use Maple Rd. to the west to enter and exit the area, which they likely already do today, due to the height and location of the adjacent railroad bridge. Designing the intersection for the largest trucks would make the installation of any island impractical.*

*To summarize, the southwest corner of the intersection is being moved in to provide a larger sidewalk area. Moving it any further, however, would restrict the important right turn movement from Maple Rd. on to Eton Rd. Installing the modified island shown on the revised plan takes advantage of the space in the intersection that is not generally used, and will improve the pedestrian crossing for those crossing Eton Rd. on the south side of Maple Rd.*

In response to a question from Commissioner Bordman, City Engineer O'Meara explained:

- The third drawing is the only one being recommended, and the width of the island at the widest point, on the Maple Road frontage, is approximately 11'.
- The island shown in the first two drawings is the same, and is approximately 15' long on the Maple Road frontage.
- The design with the larger island does not accommodate 50' trucks.

Mayor Nickita commented:

- The primary concern for this construction season is the Maple/S. Eton intersection.
- The rest of the street is planned for next season.
- The goal is to accommodate the expected increase in pedestrian traffic when Whole Foods opens, and to provide safety for pedestrians.

In response to questions from Mayor Nickita regarding the deadline for the City Commission to approve the project for the current construction season, City Engineer O'Meara noted:

- The work was bid as a part of the City's 2017 Concrete Sidewalk Program.
- The contractor will be here through all of August.
- It will be tight if the Commission doesn't approve the project until August 14, but he believes the project can still be completed this year.
- Parts 2 and 3 of the S. Eton Road plans require further study.

Mayor Nickita stated the Commission did not receive the drawings from the City Clerk's office until 3:00 today, and it would be inappropriate for the Commission to move forward without having had adequate time to study the drawings.

Commissioner DeWeese asked for better scale in the drawings, and Mayor Nickita asked for the three options to be labeled.

Commission Sherman:

- Received confirmation from City Engineer O'Meara that the majority of the truck traffic is coming from the west and making a right turn onto Eaton.

- Suggested not allowing trucks heading west to make a left turn on that section of Eton, which solves a lot of issues and concerns, because the intersection would only be dealing with automobiles as opposed to 50' trucks.

Mayor Nickita received consensus from the Commission to postpone the decision on the intersection until the August 14, 2017 Commission meeting, but to move forward with discussion with the City's traffic consultant and the public in attendance.

Commissioner Hoff supported having the drawings identified such as version 1, 2, and 3, and asked for some dimensions on the drawings, too, stating they are very hard to read.

Commissioner Sherman pointed out there is a scale on the upper corner of the drawings. Commissioner DeWeese commented the scale cannot be read unless the Commission receives engineering-sized drawings.

Mayor Nickita, addressing traffic consultant Mike Labadie from Fleis & Vandenbrink, stated:

- The key issue is pedestrian safety.
- The subject intersection has no pedestrian relief in the long distance from curb to curb.
- A notable increase in pedestrian traffic will ensue when Whole Foods opens.
- He would like Mr. Labadie to address whether the criteria for the design is pedestrian safety or accommodating trucks.

Mr. Labadie explained there is only one option, and the three different drawings show three different truck sizes.

City Engineer O'Meara clarified the first two drawings show the original 40' truck turning radius, but the recommendation from the Multi-Modal Transportation Board (MMTB) recommends 50' trucks be accommodated because there is enough turning radius.

Mayor Nickita again stated pedestrian safety is priority number one, and asked:

- How will access, which is very important for people who live, work and play in the district, and safety be accommodated while also accommodating the needs of business owners.
- Has the MMTB thoroughly discussed and studied all the options.

Mr. Labadie affirmed the MMTB has studied the options, and commented:

- The two components, truck movements and improving pedestrian movement, or making pedestrians safer by shortening the distance in which they are exposed to traffic, are competing with each other.
- There is the minimum room necessary for a 50' truck to get through the intersection with a pedestrian island.
- The island should not be thought of as a refuge island, because there is going to be a big change at the signal operation when Whole Foods opens which will provide adequate time for pedestrians to cross the intersection.
- The pedestrian island is not needed, and he would hope pedestrians would not use it as a refuge.
- The idea to address the two competing interests is to have both truck and car movements slowed and to encourage more careful driving.
- It can't be made narrower because the trucks won't fit.

Mayor Nickita asked if a study has been conducted on the number of trucks coming from the east and making a left turn at the intersection, and if it is known that it is not a problem for trucks to come from the west to turn. Mayor Nickita confirmed for Mr. Labadie that he would like traffic counts separated by trucks and size of trucks.

Commissioner Sherman noted:

- It appears there is not a lot of truck traffic coming from the east going west and making a left turn.
- Restricting trucks from making a left turn would mean the island could be designed without concern for the radius of trucks.
- We are designing the intersection to make it more pedestrian friendly and safer.
- The issue that remains is if trucks can make a right turn onto Eton, are pedestrians safe and have we made this intersection more user friendly.

Mayor Nickita stated the central island can be designed to accommodate an occasional left turn by using rolling curbs rather than solid curbs. He asked again if the MMTB has explored these options so that safety is maximized for pedestrians on this corner and the concerns of the business community and the public are still addressed.

Mr. Labadie confirmed that is exactly what the MMTB has done. Mayor Nickita disagreed, saying the result doesn't support it. He indicated he'll get into the questions at the next meeting.

Commissioner Bordman supported no left turn by trucks of a certain size, but expressed concern about smaller trucks that can easily make the turn.

Mayor Pro Tem Harris:

- Echoed Mayor Nickita and Commissioner Sherman's remarks, but also cautioned that consideration has to be given to beer trucks, UPS trucks and other types of trucks that can fit and make the turn.
- Said he wants to hear more data and more analysis.
- Received confirmation from City Engineer O'Meara that the proposed crosswalk markings will be consistent with the new policy.

Commissioner DeWeese commented:

- He would like to see a limit on the size of trucks allowed to make a turn, suggesting a limit of 40' or 50' and, noting that some people may cheat, suggested it be built to handle 45'-50' trucks.
- The precedent has already been set in the decisions made for downtown where our fire truck has make turns in a certain direction.
- Expectations for the subject intersection have been applied to the City's fire department.

Commissioner Hoff said that, in addition to trucks, she is very concerned with the amount of traffic and the safety of pedestrians because there will be a big increase in traffic when Whole Foods opens in November. City Engineer O'Meara indicated the intersection would be built in late August.

Jake Bolyard, Bolyard Lumber, explained his business utilizes trucks that are in excess of 68' and the project as proposed is going to prohibit deliveries and impact his business tremendously.

Commissioner Sherman pointed out trucks have to be able to get through the intersection coming from the west. Mayor Pro Tem Harris asked the maximum length of a truck that would be allowed heading east on Maple going south on Eton. City Engineer O'Meara replied a 62' truck is barely clearing on a right turn, so left turns can be banned but we still have to deal with right turns.

Mr. Bolyard noted his trucks cannot go east because of the bridge and estimated his business has six to eight trucks per day. He confirmed for Commissioner Hoff trucks can make it to the business with the way the intersection is currently configured. He verified for Commissioner Hoff that the island is the deterrent.

Mayor Nickita explained if the island has a rolling curb trucks can drive over it and requested a drawing showing a radius for westbound 62' trucks.

Brian Bolyard said he has been attending the MMTB meetings and has the same problem as the Commission understanding the drawings. He noted the need for an updated drawing with a westbound 62' truck to show the effect on the turning radius.

Commissioner DeWeese requested, for the next meeting, a clear understanding of how the transition for bicycles in the second block will work both in theory and in practice, and a report on the safety of the configuration.

The Commission requested the action item be moved to the next meeting agenda.

No action taken.

**07-212-17                    361 E. MAPLE – HISTORIC DESIGNATION REMOVAL REQUEST**

Senior Planner Baka reported:

- The owner of the property located at 361 E. Maple has requested that the City Commission consider removing the historic designation of their building as a contributing historic resource within the City of Birmingham.
- The property owner has submitted an application to the Planning Board requesting to demolish the building as part of a redevelopment proposal.
- The process for removing designation from a property or structure as a contributing historic resource is outlined in section 127-5 of the City Code.
- The first step in the process towards considering eliminating the historic designation of this property is for the City Commission to pass a resolution directing the Historic District Study Committee to commence with the creation of a study committee report as outlined in section 127-4 of the City Code.

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Boutros:  
To adopt the resolution directing the Historic District Study Committee to prepare a study committee report for 361 E. Maple as outlined in section 127-4 of the City Code. *Formal resolution appended to minutes as Attachment B.*

VOTE:            Yeas,        7  
                     Nays,        0  
                     Absent,     0

**07-213-17                    REQUEST FOR CLOSED SESSION – PERFORMANCE EVALUATION**

City Manager Valentine requested the City Commission meet in closed session to consider his personnel evaluation pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976).

The Commission was in favor of postponing the City Manager's evaluation until the next meeting, because of the lateness of the hour.

No action taken.

**VII. REMOVED FROM CONSENT AGENDA**

These items were discussed earlier in the agenda.

**VIII. COMMUNICATIONS**

None.

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

None.

**X. REPORTS**

**07-214-17 COMMISSIONER REPORTS**

The Commission will appoint members to the Advisory Parking Committee, Design Review Board, and Historic District Commission on Monday, August 14, 2017.

**COMMISSIONER COMMENTS**

Commissioner Bordman requested that Commission members read the Board of Ethics' Advisory Opinion 2016-03, and asked that a resolution be drafted to address the advisory opinion's warnings appointing commissioners to the boards of non-profit organizations, as well as cautions about fundraising activities. She said clarification is needed as to what commissioners are expected to do, and to prepare advising non-profit organizations of the City's position. Responding to a comment from Commissioner Hoff, Commissioner Bordman explained the Board of Ethics believes a commissioner's fiduciary duty to the City as an elected official trumps their fiduciary duty as a member of a board of directors of another organization. Instead of a commissioner being appointed to a non-profit organization's board, a non-voting liaison position should be created, which protects the commissioner against personal liability. Commission Bordman reiterated her request that the guidance of the Opinion be followed to create a resolution for the Commission's edification and for non-profit organizations.

Commissioner Bordman referenced a wonderful letter of thanks from the Pontiac City Council and the Waterford Fire Department for assistance rendered by the City of Birmingham.

Mayor Pro Tem Harris indicated his neighbors and friends have expressed interest in the City having a splash pad, something that should be noted as part of the master planning process with the Recreation Board.

**07-215-17 ADVISORY BOARDS, COMMITTEES, COMMISSIONS' REPORTS AND AGENDAS**

The Commission received Advisory Opinion 2016-03, submitted by the Board of Ethics.

**XII ADJOURN**

Mayor Nickita adjourned the meeting at 11:52 p.m.

---

J. Cherilynn Mynsberge, City Clerk

**RESOLUTION CONFIRMING AND CERTIFYING SPECIAL  
ASSESSMENT ROLL NO. 879**

Moved by: Commissioner Hoff, seconded by Commissioner Bordman:

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property to be assessed, and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction and

Commission Resolution 07-192-17 provided it would meet this 24th day of July, 2017 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this July 24th, 2017, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham,

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 879 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED,

that special assessments shall be payable in one (1) payment as provided in Section 94-10 of the Code of the City of Birmingham at five and a quarter percent (5.25%) annual interest.

Parcel Number	Address	Total
19-26-201-003	1633 Quarton Rd.	\$28.68
19-26-201-004	1595 Fairfax Ave.	\$1,246.03
19-26-201-010	1465 Fairfax Ave.	\$1,382.56
19-26-201-011	1427 Fairfax Ave.	\$1,327.30
19-26-201-013	1493 Fairfax Ave.	\$1,210.28
19-26-202-001	1490 Fairfax Ave.	\$1,101.93
19-26-202-002	1444 Fairfax Ave.	\$956.74
19-26-202-003	1420 Fairfax Ave.	\$984.91
19-26-204-010	1393 Fairfax Ave.	\$1,053.17
19-26-204-011	1365 Fairfax Ave.	\$975.16
19-26-204-012	1333 Fairfax Ave.	\$1,246.03
19-26-204-013	1289 Fairfax Ave.	\$1,246.03
19-26-204-014	1261 Fairfax Ave.	\$1,300.21
19-26-204-015	1221 Fairfax Ave.	\$1,300.21
19-26-204-016	1195 Fairfax Ave.	\$866.81
19-26-204-017	1165 Fairfax Ave.	\$866.81
19-26-204-018	1141 Fairfax Ave.	\$866.81
19-26-204-019	1129 Fairfax Ave.	\$832.13



19-26-205-001	1378 Fairfax Ave.	\$1,330.55
19-26-205-002	1356 Fairfax Ave.	\$1,354.39
19-26-205-003	1340 Fairfax Ave.	\$1,137.68
19-26-205-004	1280 Fairfax Ave.	\$1,137.68
19-26-205-005	1252 Fairfax Ave.	\$1,137.68
19-26-205-006	1222 Fairfax Ave.	\$866.81
19-26-205-007	1194 Fairfax Ave.	\$866.81
19-26-205-008	1170 Fairfax Ave.	\$866.81
19-26-205-009	1150 Fairfax Ave.	\$866.81
19-26-205-010	1130 Fairfax Ave.	\$897.14
19-26-277-008	1095 Willow Lane	\$1,004.86
19-26-277-009	1077 Willow Lane	\$1,004.86
19-26-277-010	1053 Willow Lane	\$1,004.86
19-26-277-011	1025 Willow Lane	\$1,004.86
19-26-277-012	1001 Willow Lane	\$1,522.03
19-26-278-001	1084 Willow Lane	\$1,621.17
19-26-278-002	1066 Willow Lane	\$1,098.65
19-26-278-003	1000 Willow Lane	\$1,499.25
19-26-454-020	419 Puritan Ave.	\$935.15
19-26-454-021	385 Puritan Ave.	\$935.15
19-26-454-022	367 Puritan Ave.	\$935.15
19-26-454-023	339 Puritan Ave.	\$935.15
19-26-454-024	319 Puritan Ave.	\$935.15
19-26-454-025	287 Puritan Ave.	\$935.15
19-26-454-026	263 Puritan Ave.	\$935.15
19-26-454-027	245 Puritan Ave.	\$935.15
19-26-454-028	211 Puritan Ave.	\$935.15
19-26-454-029	183 Puritan Ave.	\$935.15
19-26-454-030	165 Puritan Ave.	\$935.15
19-26-454-034	133 Puritan Ave.	\$800.37
19-26-454-035	473 Puritan Ave.	\$899.38
19-26-454-036	Vacant	\$926.39
19-26-476-003	416 Puritan Ave.	\$935.15
19-26-476-004	384 Puritan Ave.	\$935.15
19-26-476-005	364 Puritan Ave.	\$935.15
19-26-476-006	340 Puritan Ave.	\$935.15
19-26-476-007	316 Puritan Ave.	\$935.15
19-26-476-008	286 Puritan Ave.	\$935.15
19-26-476-009	256 Puritan Ave.	\$935.15
19-26-476-010	236 Puritan Ave.	\$935.15
19-26-476-011	212 Puritan Ave.	\$935.15
19-26-476-028	184 Puritan Ave.	\$876.70
19-26-476-029	146 Puritan Ave.	\$1,502.
19-26-476-030	476 Puritan Ave.	\$1,045.
19-26-476-031	452 Puritan Ave.	\$946.84

19-35-101-003	2471 Radnor Dr.	\$1,758.
19-35-101-004	2453 Radnor Dr.	\$1,521.
19-35-101-005	2435 Radnor Dr.	\$1,519.
19-35-101-006	2401 Radnor Dr.	\$2,377.
19-35-101-011	2400 Devon Ln.	\$495.99
19-35-102-010	500 Bryn Mawr	\$1,405.
19-35-102-013	300 Bryn Mawr	\$1,292.
19-35-102-014	334 Bryn Mawr	\$1,236.
19-35-102-015	366 Bryn Mawr	\$1,242.
19-35-102-019	444 Bryn Mawr	\$1,264.
19-35-102-020	488 Bryn Mawr	\$1,616.
19-35-102-021	Vacant	\$983.70
19-35-102-025	394 Bryn Mawr	\$1,967.
19-35-102-026	420 Bryn Mawr	\$983.70
19-35-103-001	2371 Radnor Dr.	\$3,012.
19-35-103-006	365 Bryn Mawr	\$1,124.
19-35-103-007	405 Bryn Mawr	\$1,405.
19-35-103-008	411 Bryn Mawr	\$843.18
19-35-103-009	425 Bryn Mawr	\$1,335.
19-35-103-010	449 Bryn Mawr	\$1,194.
19-35-103-015	525 Bryn Mawr	\$1,682.
19-35-103-018	340 Wellesley Dr.	\$702.57
19-35-103-032	457 Bryn Mawr	\$1,194.
19-35-103-034	333 Bryn Mawr	\$1,686.
19-35-103-037	463 Bryn Mawr	\$1,410.
19-35-103-038	505 Bryn Mawr	\$2,026.
19-35-103-039	275 Bryn Mawr	\$1,363.
19-35-103-040	311 Bryn Mawr	\$885.33
19-35-104-001	325 Wellesley Dr.	\$724.49
19-35-104-014	320 Berwyn Rd.	\$2,058.
19-35-104-017	420 Berwyn Rd.	\$868.69
19-35-104-018	444 Berwyn Rd.	\$856.45
19-35-104-019	468 Berwyn Rd.	\$978.80
19-35-104-023	560 Berwyn Rd.	\$1,449.
19-35-104-025	348 Berwyn Rd.	\$2,071.
19-35-104-026	412 Berwyn Rd.	\$978.80
19-35-104-028	490 Berwyn Rd.	\$1,760.
19-35-104-029	540 Berwyn Rd.	\$1,391.
19-35-105-001	2368 Radnor Dr.	\$1,315.
19-35-105-013	2338 Radnor Dr.	\$2,436.
19-35-105-014	2300 Avon Ln.	\$1,498.
19-35-105-015	2276 Avon Ln.	\$2,497.
19-35-105-016	2234 Avon Ln.	\$1,997.
19-35-105-017	2210 Avon Ln.	\$1,331.

19-35-105-018	2200 Avon Ln.	\$1,331.
19-35-105-019	2180 Avon Ln.	\$1,331.
19-35-105-020	2154 Avon Ln.	\$1,415.
19-35-105-021	2130 Avon Ln.	\$1,581.
19-35-105-022	2120 Avon Ln.	\$666.83
19-35-106-006	2259 Avon Ln.	\$3,367.
19-35-106-007	2215 Avon Ln.	\$2,032.
19-35-106-008	290 Berwyn Rd.	\$2,512.
19-35-107-001	215 Berwyn Rd.	\$1,613.
19-35-107-002	243 Berwyn Rd.	\$856.45
19-35-107-003	271 Berwyn Rd.	\$1,101.
19-35-107-004	285 Berwyn Rd.	\$1,101.
19-35-107-005	293 Berwyn Rd.	\$978.80
19-35-107-006	317 Berwyn Rd.	\$978.80
19-35-107-007	345 Berwyn Rd.	\$1,070.
19-35-107-011	447 Berwyn Rd.	\$1,075.
19-35-107-012	465 Berwyn Rd.	\$1,094.
19-35-107-013	497 Berwyn Rd.	\$1,447.
19-35-107-014	543 Berwyn Rd.	\$966.57
19-35-107-015	575 Berwyn Rd.	\$1,362.
19-35-107-016	212 Argyle St.	\$541.41
19-35-107-030	377 Berwyn Rd.	\$1,547.
19-35-107-031	395 Berwyn Rd.	\$734.10
19-35-107-032	425 Berwyn Rd.	\$734.10
19-35-127-031	2061 Avon Ln.	\$2,164.
19-35-128-018	120 Westchester Way	\$989.77
19-35-128-019	142 Westchester Way	\$778.98
19-35-128-020	164 Westchester Way	\$778.98
19-35-128-021	186 Westchester Way	\$778.98
19-35-128-022	220 Westchester Way	\$778.98
19-35-128-023	250 Westchester Way	\$778.98
19-35-128-024	262 Westchester Way	\$830.91
19-35-128-025	272 Westchester Way	\$1,207.
19-35-128-026	300 Westchester Way	\$1,162.
19-35-128-027	342 Westchester Way	\$1,150.
19-35-128-028	386 Westchester Way	\$1,150.
19-35-128-029	400 Westchester Way	\$767.17
19-35-128-030	440 Westchester Way	\$1,062.
19-35-128-031	466 Westchester Way	\$708.16
19-35-128-032	498 Westchester Way	\$1,062.
19-35-128-035	540 Westchester Way	\$1,298.
19-35-128-036	574 Westchester Way	\$708.16
19-35-128-037	596 Westchester Way	\$741.21
19-35-128-038	510 Westchester Way	\$826.19

19-35-129-002	145 Westchester Way	\$708.75
19-35-129-003	173 Westchester Way	\$877.76
19-35-129-004	181 Westchester Way	\$826.19
19-35-129-005	215 Westchester Way	\$826.19
19-35-129-006	233 Westchester Way	\$826.19
19-35-129-007	255 Westchester Way	\$708.16
19-35-129-008	271 Westchester Way	\$708.16
19-35-129-009	299 Westchester Way	\$708.16
19-35-129-010	307 Westchester Way	\$1,062.
19-35-129-011	347 Westchester Way	\$1,062.
19-35-129-012	367 Westchester Way	\$708.16
19-35-129-013	389 Westchester Way	\$708.16
19-35-129-014	415 Westchester Way	\$708.16
19-35-129-015	431 Westchester Way	\$708.16
19-35-129-016	459 Westchester Way	\$708.16
19-35-129-017	477 Westchester Way	\$708.16
19-35-129-018	499 Westchester Way	\$708.16
19-35-129-019	515 Westchester Way	\$708.16
19-35-129-020	531 Westchester Way	\$708.16
19-35-129-021	565 Westchester Way	\$708.16
19-35-129-022	573 Westchester Way	\$708.16
19-35-129-023	599 Westchester Way	\$708.16
19-35-129-025	142 Larchlea Dr.	\$732.85
19-35-129-026	160 Larchlea Dr.	\$736.32
19-35-129-027	208 Larchlea Dr.	\$736.32
19-35-129-030	264 Larchlea Dr.	\$946.70
19-35-129-031	286 Larchlea Dr.	\$631.13
19-35-129-032	314 Larchlea Dr.	\$631.13
19-35-129-035	360 Larchlea Dr.	\$841.51
19-35-129-039	474 Larchlea Dr.	\$841.51
19-35-129-040	492 Larchlea Dr.	\$841.51
19-35-129-041	518 Larchlea Dr.	\$1,051.
19-35-129-042	550 Larchlea Dr.	\$1,051.
19-35-129-043	590 Larchlea Dr.	\$1,051.
19-35-129-044	438 Larchlea Dr.	\$786.29
19-35-129-045	450 Larchlea Dr.	\$686.36
19-35-129-046	220 Larchlea Dr.	\$946.70
19-35-129-047	328 Larchlea Dr.	\$841.51
19-35-129-048	390 Larchlea Dr.	\$841.51
19-35-129-049	1821 W. Maple Rd.	\$1,760.
19-35-130-001	Vacant	\$340.32
19-35-130-003	Vacant	\$631.13
19-35-130-006	265 Larchlea Dr.	\$946.70
19-35-130-007	287 Larchlea Dr.	\$631.13

19-35-130-008	331 Larchlea Dr.	\$1,262.
19-35-130-009	355 Larchlea Dr.	\$631.13
19-35-130-010	369 Larchlea Dr.	\$631.13
19-35-130-011	395 Larchlea Dr.	\$631.13
19-35-130-012	403 Larchlea Dr.	\$631.13
19-35-130-013	433 Larchlea Dr.	\$631.13
19-35-130-014	455 Larchlea Dr.	\$631.13
19-35-130-015	479 Larchlea Dr.	\$631.13
19-35-130-016	501 Larchlea Dr.	\$946.70
19-35-130-017	527 Larchlea Dr.	\$946.70
19-35-130-018	555 Larchlea Dr.	\$946.70
19-35-130-019	575 Larchlea Dr.	\$946.70
19-35-130-020	231 Larchlea Dr.	\$946.70
19-35-130-021	145 Larchlea Dr.	\$736.32
19-35-130-022	159 Larchlea Dr.	\$736.32
19-35-178-018	612 Westchester Way	\$850.50
19-35-178-019	664 Westchester Way	\$885.20
19-35-178-020	698 Westchester Way	\$885.20
19-35-178-021	732 Westchester Way	\$885.20
19-35-178-022	748 Westchester Way	\$944.21
19-35-178-023	760 Westchester Way	\$885.20
19-35-178-024	784 Westchester Way	\$1,003.
19-35-178-025	820 Westchester Way	\$944.21
19-35-178-026	866 Westchester Way	\$1,144.
19-35-178-027	910 Westchester Way	\$1,180.
19-35-178-028	938 Westchester Way	\$1,180.
19-35-178-029	956 Westchester Way	\$944.21
19-35-178-030	988 Westchester Way	\$944.21
19-35-178-031	1000 Westchester Way	\$944.21
19-35-178-032	1040 Westchester Way	\$944.21
19-35-178-033	1900 W. Lincoln St.	\$416.56
19-35-179-001	619 Westchester Way	\$1,416.
19-35-179-004	695 Westchester Way	\$708.16
19-35-179-005	739 Westchester Way	\$1,003.
19-35-179-006	767 Westchester Way	\$767.17
19-35-179-007	783 Westchester Way	\$708.16
19-35-179-008	811 Westchester Way	\$708.16
19-35-179-009	821 Westchester Way	\$708.16
19-35-179-010	835 Westchester Way	\$708.16
19-35-179-011	851 Westchester Way	\$708.16
19-35-179-012	897 Westchester Way	\$1,062.
19-35-179-013	925 Westchester Way	\$1,062.
19-35-179-014	945 Westchester Way	\$719.96
19-35-179-017	999 Westchester Way	\$826.19

19-35-179-020	608 Larchlea Dr.	\$631.13
19-35-179-021	632 Larchlea Dr.	\$683.73
19-35-179-022	700 Larchlea Dr.	\$894.11
19-35-179-023	708 Larchlea Dr.	\$946.70
19-35-179-028	826 Larchlea Dr.	\$683.73
19-35-179-029	840 Larchlea Dr.	\$683.73
19-35-179-030	852 Larchlea Dr.	\$894.11
19-35-179-031	898 Larchlea Dr.	\$894.11
19-35-179-032	930 Larchlea Dr.	\$946.70
19-35-179-033	950 Larchlea Dr.	\$946.70
19-35-179-034	982 Larchlea Dr.	\$715.29
19-35-179-035	1006 Larchlea Dr.	\$715.29
19-35-179-036	1056 Larchlea Dr.	\$778.40
19-35-179-037	1880 W. Lincoln St.	\$537.13
19-35-179-039	1800 W. Lincoln St.	\$482.08
19-35-179-040	665 Westchester Way	\$1,062.
19-35-179-041	959 Westchester Way	\$932.41
19-35-179-042	732 Larchlea Dr.	\$946.70
19-35-179-043	768 Larchlea Dr.	\$1,262.
19-35-179-044	1045 Westchester Way	\$1,062.
19-35-180-001	621 Larchlea Dr.	\$631.13
19-35-180-002	653 Larchlea Dr.	\$631.13
19-35-180-003	675 Larchlea Dr.	\$631.13
19-35-180-004	695 Larchlea Dr.	\$631.13
19-35-180-005	719 Larchlea Dr.	\$946.70
19-35-180-006	753 Larchlea Dr.	\$946.70
19-35-180-007	799 Larchlea Dr.	\$946.70
19-35-180-008	827 Larchlea Dr.	\$946.70
19-35-180-010	883 Larchlea Dr.	\$788.92
19-35-180-011	925 Larchlea Dr.	\$788.92
19-35-180-012	939 Larchlea Dr.	\$915.14
19-35-180-013	955 Larchlea Dr.	\$978.26
19-35-180-014	1005 Larchlea Dr.	\$946.70
19-35-180-015	1055 Larchlea Dr.	\$946.70
19-35-180-016	1784 W. Lincoln St.	\$482.76
19-35-180-018	855 Larchlea Dr.	\$1,033.
		\$282,82

VOTE:        Yeas,        7  
                  Nays,         0  
                  Absent,      0

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and, correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on July 24, 2017.

---

J. Cherilynn Mynsberge, City Clerk

RESOLUTION  
361 E. MAPLE  
HISTORIC DESIGNATION ELIMINATION REQUEST  
JULY 24, 2017

Moved by: Commissioner DeWeese, seconded by Commissioner Boutros:

**WHEREAS**, the owner of the Property located at 361 E. Maple have requested that their property be removed as a contributing resource in the Central Business District Historic District within the City of Birmingham,

**WHEREAS**, The land for which the Historic designation is sought is located on the north side of Maple between Park and N. Old Woodward Ave.,

**WHEREAS**, Section 127-5 of the City Code, Historic Districts, requires that the City Commission pass a resolution directing the Historic District Study Committee to prepare a Study Committee Report;

**WHEREAS**, The Birmingham City Commission has reviewed the request of the property owner and has found that a Study Committee Report to determine the historic merit of the structure at 361 E. Maple is warranted;

**NOW, THEREFORE, BE IT RESOLVED**, The Birmingham City Commission directs the Historic District Study Committee to prepare a Study Committee Report as outlined in section 127-4 of the City Code for the property located at 361 E. Maple:

VOTE:	Yeas,	7
	Nays,	0
	Absent,	0

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and, correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on July 24, 2017.

\_\_\_\_\_  
J. Cherilynn Mynsberge, City Clerk