

**BIRMINGHAM CITY COMMISSION MINUTES
JULY 28, 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

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, DPS Director Wood, Billing Manager Laing, Public Works Manager Matthews, Assistant City Engineer Cousino, Police Chief Studt, Deputy Police Chief Clemence, Planners Ecker, Chapman, and Puranik

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

07-180-14 INTRODUCTION OF CITY PLANNERS

City Planner Ecker introduced new part-time planners Lauren Chapman and Shalaka Puranik.

07-181-14 APPOINTMENT TO THE PUBLIC ARTS BOARD

MOTION: Motion by Hoff:

To appoint Kara Lividini, 412 Berwyn, as a resident member to the Public Arts Board to serve a three- year term to expire January 28, 2017.

VOTE: Yeas, 7
Absent, None

The Clerk administered the oath to the appointed board member.

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.

07-182-14 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item M (Temporary Relocation of Precinct 9) by Commissioner Hoff

MOTION: Motion by Sherman, seconded by McDaniel:

To approve the consent agenda as follows:

- A. Approval of City Commission meeting minutes of July 14, 2014.
- B. Approval of warrant list, including Automated Clearing House payments, of July 16, 2014 in the amount of \$362,327.19.
- C. Approval of warrant list, including Automated Clearing House payments, of July 23, 2014 in the amount of \$1,139,916.97
- D. Resolution approving the purchase of 31A hot asphalt mix at \$49.00/ton from Barrett Paving Materials Inc. and UPM cold patch at \$112.00/ton from Barrett Paving Materials for fiscal year 2014-2015 to be charged to account #'s 202-449.003-729.0000, 203-449.003-729.0000, 590-536.002-729.0000, and 591-537.005-729.0000.
- E. Resolution setting a public hearing date for August 25, 2014 to consider an application for a Special Land Use Permit Amendment and Revised Final Site Plan for Triple Nickel restaurant at 555 S. Old Woodward.
- F. Resolution awarding the 2014 Asphalt Street Resurfacing Project, Contract #6-13(P), to Florence Cement Company, of Shelby Township, MI in the amount of \$484,269.95 to be charged to the following accounts:

Local Streets Fund	203-449.001-981.0100	\$ 274,698.10
Major Streets Fund	202-449.001-981.0100	\$ 209,564.85
TOTAL		\$ 484,269.95

Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City;
Further, approving the appropriations and budget amendments as follows:

Major Streets Fund

Revenues:

Draw from fund balance #202-000.000-400.0000	\$ 83,000.00
Total Revenue Adjustments	\$ 83,000.00

Expenditures:

Public Improvements #202-449.001-981.0100	\$ 83,000.00
Total Expenditure Adjustments	\$ 83,000.00

- G. Resolution confirming the expenditure of additional funds of \$23,585.84 from the respective Water, Sidewalk and Major Streets Funds in order to proceed with the Road Commission for Oakland County's contract that includes concrete patching of E. Maple Rd. between Woodward Ave. and Adams Rd., based on actual bid prices to be charged as follows:

Water System Fund	591-537.004-811.0000	\$ 9,056.58
General Sidewalk Fund	101-444.001-981.0100	\$ 1,910.37
Major Streets Fund	202-449.001-981.0100	\$ 12,617.89

- H. Resolution approving a request submitted by the Birmingham Bloomfield Chamber, Junior League of Birmingham, and The Community House to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 19, 2014 in downtown Birmingham, contingent upon compliance with all permit and insurance requirements and payment of all fees, and further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

- I. Resolution approving a request submitted by the First Baptist Church of Birmingham to hold the Multi-Cultural Dance & Music Celebration on October 4, 2014 in Shain Park, contingent upon compliance with all permit and insurance requirements and payment of all fees, and further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

- J. Resolution accepting the resignation of Diane Slinger Trabucchi from the Board of Review, thanking Ms. Trabucchi for her service, and directing the Clerk to begin the process to fill the vacancy.
- K. Resolution authorizing the Mayor and City Clerk to execute the Transfer of Ownership and Indemnification Agreement for an eight year old female Dutch Shepherd from the City of Birmingham to Ulrich Schwarz.
- L. Resolution accepting the bid of R.S Contracting, Inc. for painting centerline striping in the amount of \$9,700.00 for the spring 2015 contract; further authorizing and directing the Mayor and City Clerk to sign the agreement on behalf of the city; further awarding the contract for 2014-15 pavement marking handwork to Hart Pavement Striping Corporation in the amount of \$66,400.00 for combined fall 2014 and spring 2015 paintings; further authorizing and directing the Mayor and City Clerk to sign the contract on behalf of the city; further authorizing these budgeted expenditures from account #202-303.001-937.0200.

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

**07-183-14 BELLA PIATTI, LLC LIQUOR LICENSE
 TRANSFER OF OWNERSHIP**

Commissioner Hoff expressed concern with the transfer of ownership of bistros as it was not the intent of the ordinance. The Commission agreed that a policy discussion needs to take place regarding the transfer of ownership of bistros.

MOTION: Motion by Rinschler, seconded by McDaniel:
 To approve the request of Bella Piatti, LLC to transfer 50% membership interest from Robert VanHelleMont to Antonino Cutraro resulting in Antonino Cutraro owning 100% of Bella Piatti, LLC. Furthermore, pursuant to Birmingham City Ordinance, authorizing the City Clerk to complete the Local Approval Notice at the request of Bella Piatti, LLC transferring a 50% membership interest from Robert VanHelleMont to Antonino Cutraro resulting in Antonino Cutraro owning 100% of Bella Piatti, LLC.

Mayor Pro Tem Sherman noted that this is not an indication that any other license would be transferred accordingly. Mr. Valentine confirmed that this topic would be returned for further discussion.

VOTE: Yeas, 7
 Nays, None

Absent, None

**07-184-14 MOHEGAN & KENNESAW PAVING PROJECT
CHANGE ORDER - OXFORD DRIVE EXTENSION**

Assistant City Engineer O'Meara explained that property owners requested their street be improved instead of capeseal. He confirmed that the property owners agreed to pay the assessed amount.

MOTION: Motion by Sherman, seconded by Rinschler:

To approve Change Order No. 1 to the Mohegan & Kennesaw Paving Project, Contract #2-14(P), to DiPonio Contracting, of Shelby Township, MI to perform the Oxford Drive extension for the estimated amount of \$20,761.38 to be charged at the current contract unit prices and charged to the Local Streets Fund Account #203-449.001-981.0100; further approving the billing of the costs for this road improvement in the estimated amount of \$4,120 to the adjacent property owners (parcels 19-25-257-012 & 19-25-258-001). Invoices are to be paid within thirty (30) days, with 1% added per month after the due date. Unpaid invoices are transferred to the next City tax roll with additional interest and penalties.

VOTE: Yeas, 7
Nays, None
Absent, None

**07-185-14 PUBLIC HEARING OF CONFIRMATION
2014 CAPESEAL PROGRAM**

Mayor Moore opened the Public Hearing of Confirmation for the 2014 Capeseal Program at 7:48 PM.

Billing Manager Laing recommended confirmation of the roll. She confirmed that several streets opted out of the capeseal program and were removed from the roll.

The Mayor closed the Public Hearing at 7:53 PM.

MOTION: Motion by Rinschler, seconded by Nickita:

To confirm Special Assessment Roll No. 861, to defray the cost of public street maintenance of all properties fronting and/or siding on the improvement within the 2014 Capeseal Program:

WHEREAS, Special Assessment Roll, designated Roll No. 861, has been heretofore prepared by the Billing Manager for collection, and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party 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 07-167-14 provided it would meet this 28th day of July, 2014 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this July 28th, 2014, 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. 861 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, special assessments shall be payable in one (1) payment as provided in Section 94-10 of the Code of the City of Birmingham at four and a quarter percent (4.25%) annual interest on all unpaid installments.

VOTE: Yeas, 7
 Nays, None
 Absent, None

Sue Marx, 970 Oak, protested the capeseal on her street.

**07-186-14 OAK STREET RECONSTRUCTION
PAVEMENT RECONFIGURATION**

Assistant City Engineer O'Meara explained that the Multimodal Transportation Board is ready to begin the public input process for Oak Street. Before presenting the options to the public, City Commission input is needed as there are ongoing maintenance costs if a boulevard is given as an option.

The Commission discussed the cost and maintenance issue when adding a boulevard and the benefits of narrowing the streets to calm traffic.

MOTION: Motion by McDaniel, seconded by Nickita:
To endorse the option of a crossing island on Oak Street at Lakepark Dr. for further consideration by the Multi-Modal Transportation Board, to be presented to the residents along that route for further public comment before a final decision is made.

Johanna Slanga, 1875 Winthrop and member of Multimodal Transportation Board, pointed out that Oak is a major street to move residents to the Farmers Market and Quarton Lake.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**07-187-14 ORDINANCE AMENDMENT
GRASS AND NOXIOUS WEEDS FEES**

City Attorney Currier explained that the ordinance amendment would provide for a municipal civil infraction for a violation of the noxious weeds and grass ordinance due to a decision by the U.S. District Court. The individual would have to pay for the grass cutting and the fine. He further explained the process to appeal.

MOTION: Motion by Rinschler, seconded by McDaniel:
To adopt an ordinance amendment to Part II of the City Code, Chapter 118, Vegetation, Article IX. Grass and Noxious Weeds, to Add a New Section 118-69. Fines.

-AND-

To amend the Fee Schedule for the Department of Public Services to add a municipal civil infraction fine for the violation of the Grass and Noxious Weeds Section 118.66-118.68.

Dorothy Conrad expressed disappointment with the ordinance as she prefers the Hearing Officer.

VOTE: Yeas, 7
Nays, None
Absent, None

07-188-14 CITY MANAGER EMPLOYMENT AGREEMENT

MOTION: Motion by Hoff, seconded by Sherman:

To approve the agreement between the City of Birmingham and Joseph A. Valentine for employment of the City Manager in accordance with the terms and conditions of the contract and further directing the Mayor and City Clerk to sign the agreement on behalf of the City.

VOTE: Yeas, 7
Nays, None
Absent, None

VII. REMOVED FROM CONSENT AGENDA

07-189-14 TEMPORARY RELOCATION OF PRECINCT 9 FOR AUGUST 5, 2014 ELECTION

Commissioner Hoff announced that Precinct 9 will be temporarily relocated to Derby Middle School due to construction of the Kenning Park Parking Lot.

MOTION: Motion by Hoff, seconded by Dilgard:

To approve the temporary relocation of Precinct 9 from the Ice Arena to the Derby Middle School for the August 5, 2014 Primary Election. Further, directing the Clerk to notify, via first class mail, all registered voters in Precinct 9 of the temporary relocation.

VOTE: Yeas, 7
Nays, None
Absent, None

VIII. COMMUNICATIONS

07-190-14 COMMUNICATIONS

The Commission received a communication from Harry Kokkinakis, 398 Golfview Blvd, regarding West Maple.

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

X. REPORTS

07-191-14 COMMISSIONER REPORTS

The Commission intends to appoint to the Board of Review on August 11, 2014.

07-192-14 COMMISSIONER COMMENTS

In response to a question from Commissioner McDaniel, Mr. Valentine confirmed that the cemetery recommendations are expected to be before the Commission in the next few months.

Commissioner Rinschler expressed concern with daytime valet. Mr. Valentine confirmed that there will be a moratorium of daytime valet until the parking study is complete.

Mayor Pro Tem Sherman commended the Principal Shopping District on the successful Day on the Town event.

07-193-14 CITY STAFF REPORTS

The Commission received the 2014 Fireworks Staff Report submitted by Fire Chief Metz.

The Commission received the report regarding Fence Regulations, Section 4.11 of the Birmingham Zoning Ordinance, submitted by City Attorney Currier.

City Attorney Currier explained that when the zoning ordinance was reformatted, the fence regulations in R1A was unintentionally left out of the ordinance. He stated that the ordinance will be corrected administratively.

XI. ADJOURN

The Mayor adjourned the meeting at 8:53 PM.

Laura M. Pierce
City Clerk