

BIRMINGHAM CITY COMMISSION MINUTES
AUGUST 25, 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 Kucharek, Clerk Pierce, Deputy Police Chief Clemence, Billing Manager Laing, City Planner Ecker, City Engineer O'Meara, PSD Special Event Coordinator Rondello

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

08-201-14 RECOGNITION OF GUESTS FROM RITTO, JAPAN

Mayor Moore recognized Seisho Yamamoto from Ritto, Japan and Eiko Nishida from Otsu, Japan. Mayor Moore presented a gift to Mr. Yamamoto for Ritto, Japan, the Sister City of Birmingham.

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.

08-202-14 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Sherman, seconded by Nickita:

To approve the consent agenda as follows:

- A. Approval of City Commission meeting minutes of August 11, 2014.
- B. Approval of warrant list, including Automated Clearing House payments, of August 13, 2014 in the amount of \$2,404,971.78.
- C. Approval of warrant list, including Automated Clearing House payments, of August 20, 2014 in the amount of \$6,398,221.93.
- D. Resolution approving the request submitted by the Birmingham Bloomfield Chai Center to place a Sukkah and hold a family event in Shain Park on October 13, 2014, contingent upon compliance with all permit and insurance requirements and payment of

all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

- E. Resolution approving a request from the Principal Shopping District to place the Santa House in Shain Park from November 26, 2014 to December 24, 2014, contingent upon compliance with all permit and insurance requirements and payment of all fees, and, further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- F. Resolution approving a request from the Principal Shopping District to hold the Winter Markt, in Shain Park and surrounding streets from December 5 - 7, 2014 and allowing the use of a temporary liquor license in Shain Park for this event, 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.
- G. Resolution approving a request from the Principal Shopping District to hold the Tree Lighting on November 26, 2014, 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.
- H. Resolution approving a request submitted by Our Shepherd Lutheran Church to place a Nativity scene in Shain Park from November 26, 2014 to December 31, 2014, 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 authorizing funding for the 2014 dredging work planned as a part of the Quarton Lake Annual Maintenance Dredging Project, 2013-2017, to Restoration Dredging, Inc., of Bloomfield Hills, MI, in the amount of \$51,810.50, charged to account number 101-751.0000-935.0000.

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, 1, Hoff from warrant #229072 (reimbursement)

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

**08-203-14 PUBLIC HEARING OF CONFIRMATION
 INSTALLATION OF SIDEWALK
 508 WEST LINCOLN**

Mayor Moore opened the Public Hearing of Confirmation for the installation of city sidewalk on the west side of Stanley Avenue, adjacent to 508 W. Lincoln Avenue at 7:46 PM.

Billing Manager Laing recommended confirmation of the roll and explained that the billing would be made at a date closer to construction.

The Mayor closed the Public Hearing at 7:47 PM.

MOTION: Motion by Sherman, seconded by Nickita:

To confirm Special Assessment Roll No. 862, to defray the cost of construction of new sidewalks on Stanley Boulevard-Wallace Street to West Lincoln Avenue:

WHEREAS, Special Assessment Roll, designated Roll No. 862, 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-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 08-195-14 provided it would meet this 25th day of August, 2014 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this August 25th, 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. 862 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 full without interest or penalties within the sixty (60) day billing period, or in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of four and a quarter percent (4.25%) on all unpaid installments.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-204-14 PUBLIC HEARING – SPECIAL LAND USE PERMIT AMENDMENT
 TRIPLE NICKEL RESTAURANT, 555 SOUTH OLD WOODWARD**

Mayor Moore opened the Public Hearing to consider a Special Land Use amendment and Final Site Plan revision for Triple Nickel Restaurant, 555 South Old Woodward at 7:48 PM.

City Planner Ecker explained that the amendment includes changing the name from Crush to Triple Nickel, extending the opening date to April, 2015 and several design changes to the exterior.

Ron Rea, of Ron and Roman Architecture, explained the design changes and reason for the name change.

Mayor Moore closed the Public Hearing at 8:02 PM.

MOTION: Motion by Nickita, seconded by Sherman:

To approve the Special Land Use Permit Amendment and Revised Final Site Plan for Triple Nickel restaurant at 555 S. Old Woodward:

WHEREAS, The New 555 Commercial LLC filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food and drink establishment in the

B-3 zone district in accordance Article 2, Section 2.37 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on S. Old Woodward

WHEREAS, The land is zoned B-3, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan for 555 S. Old Woodward;

WHEREAS, The Planning Board on July 9, 2014 reviewed the application for a Special Land Use Permit, Final Site Plan and recommended approval of the application with the following conditions:

- 1) The Planning Board designates the Bowers elevation as the principal building frontage for signage purposes;
- 2) Applicant provides specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
- 3) Applicant replace EFIS with the materials presented on July 9, 2014;
- 4) Applicant replace sliding windows on the building frontage consistent with the comments made on July 9, 2014 of their intent;
- 5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development Liquor License under the new name Triple Nickel and extending the time frame to open the restaurant;
- 6) Applicant meets Fire Dept. requirements.

WHEREAS, The applicant has agreed to comply with the conditions of approval recommended by the Planning Board;

WHEREAS, The Birmingham City Commission has reviewed The New 555 Commercial LLC's Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that The New 555 Commercial LLC's application for a Special Land Use Permit Amendment and Revised Final Site Plan at 555 S. Old Woodward is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

- 1) The Bowers elevation is deemed as the principal building frontage for signage purposes;
- 2) Applicant provides specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
- 3) Applicant replace EFIS with the materials presented on July 9, 2014;
- 4) Applicant replace sliding windows on the building frontage consistent with the comments made on July 9, 2014 of their intent;
- 5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development Liquor License under the new name Triple Nickel and extending the time frame to open the restaurant;
- 6) Applicant meets Fire Dept. requirements;

- 7) The New 555 Commercial LLC shall abide by all provisions of the Birmingham City Code; and
- 8) The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, The New 555 Commercial LLC and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of The New 555 Commercial LLC to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that The New 555 Commercial LLC is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises, subject to final inspection.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-205-14 SPECIAL EVENT REQUEST
 JUDSON CENTER GALA**

Cameron Hosner, president of the Judson Center, presented the request to place a tent on Merrill Street to expand the event from inside the Townsend Hotel.

MOTION: Motion by McDaniel, seconded by Rinschler:
 To approve a request from the Judson Center to place a tent on Merrill Street in conjunction with Judson Center Gala on November 8, 2014 and allowing the use of a temporary liquor license for this event, 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.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**08-206-14 SPECIAL EVENT REQUEST
 IMATTER FOR KIDS RUN/WALK**

Erica Kohler, program director, and Bob Shenefelt, founder of iMatter for Kids presented the request to hold a fun run/walk on the sidewalks in Birmingham. The event will start and end in Booth Park. Mr. Shenefelt explained that the organization is a 501c3 which is not a part of the school district.

MOTION: Motion by Sherman, seconded by Dilgard:
 To approve a request submitted by iMatter for Kids requesting permission to hold a fun run/walk to begin in Booth Park on October 19, 2014, 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.

VOTE: Yeas, 7

Nays, None
Absent, None

**08-207-14 SET PUBLIC HEARING – VACATION OF HAZEL ST
FROM WOODWARD AVE TO ELM ST.**

City Engineer O'Meara explained that the Commission previously approved a vacation of this block of Hazel with the condition that there be a fifty foot public utility easement. The request is to remove easement currently in place. He noted that the utility companies would be notified if the public hearing is set.

MOTION: Motion by McDaniel, seconded by Rinschler:
To set a public hearing on September 22, 2014, to consider the vacation of Hazel St., from Woodward Ave. to Elm St., subject to a 50 ft. wide ingress/egress easement for pedestrians being retained.

VOTE: Yeas, 7
Nays, None
Absent, None

08-208-14 2015 CITY COMMISSION MEETING SCHEDULE

Commissioner Hoff suggested changing the proposed regular meeting dates in June to June 1st and 29th as it would allow one week between meetings. The Commission agreed.

MOTION: Motion by Hoff, seconded by McDaniel:
To approve the proposed schedule of regular City Commission meetings for 2015 as amended.

VOTE: Yeas, 7
Nays, None
Absent, None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

08-209-14 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA
Dorothy Conrad commended Larry at the water department for his effort in assisting with her water shut-off.

X. REPORTS

08-210-14 COMMISSIONER COMMENTS
Mayor Moore commented on the Bike Fest.

08-211-14 CITY STAFF REPORTS
The Commission received a report that the Historical Museum will be receiving the Quest for Excellence Award for "Best New Experience" from the Michigan Museums Association.

The Commission received a report regarding the Holiday Tree submitted by DPS Director Wood.

Commissioner Hoff expressed her disappointment with the lighting issues on the tree. Mr. Valentine confirmed for Commissioner McDaniel that DPS is working on the issue. He noted that this year, the lights are on the same circuit.

XI. ADJOURN

The Mayor adjourned the meeting at 8:37 PM.

Laura M. Pierce
City Clerk