

**BIRMINGHAM CITY COMMISSION MINUTES
 SEPTEMBER 22, 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 7:31 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, Police Chief Studdt, DPS Director Wood, City Engineer O'Meara, City Planner Ecker

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

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

09-224-14 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item F (Freight Elevator at the Library) by Commissioner Hoff
- Item H (Tennis Facility Lease) by Dorothy Conrad

MOTION: Motion by Sherman, seconded by McDaniel:

To approve the consent agenda as follows:

- A. Approval of City Commission meeting minutes of September 8, 2014.
- B. Approval of warrant list, including Automated Clearing House payments, of September 10, 2014 in the amount of \$2,805,529.45.
- C. Approval of warrant list, including Automated Clearing House payments, of September 17, 2014 in the amount of \$23,859,059.84.
- D. Resolution approving the purchase of (23) Fluidmesh wireless radios in the amount of \$45,710 from Abel Electronics; further authorizing this expenditure from account number #265-302.001-971.0100, and further approving the appropriation and amendment to the 2014-15 Law and Drug Enforcement budget as follows:

Law & Drug Enforcement Fund

Revenues:

Draw from Fund Balance	<u>\$45,710</u>
(Account #265-000.000-400.0000)	
Total Revenues	\$45,710

Expenditures:

Machinery and Equipment	<u>\$45,710</u>
(Account #265-302.001-971.0100)	
Total Expenditures	\$45,710

- E. Resolution setting a public hearing for October 13, 2014 to consider the Final Site Plan & Design and a Special Land Use Permit at 33588 Woodward to allow the operation of a Shell gasoline station with a convenience store and a Dunkin Donuts store on site.
- G. Resolution approving the purchase of the Henderson BrineXtreme from Knapheide Truck Equipment Company for a total expenditure of not to exceed \$92,625.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

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

The Commission agreed to consider Item H, Tennis Facility Lease, at this time.

09-225-14 TENNIS FACILITY LEASE AMENDMENT

Dorothy Conrad questioned whether the plans for Kenning Park were considered in the contract. Mr. Valentine confirmed that the Kenning Park master plan does not include any changes to this site. He explained the termination provisions included in the contract.

MOTION: Motion by Rinschler, seconded by Hoff:

To approve the amended and restated Tennis Facility Lease Dated May 11, 1998 incorporating prior amendments and amending the insurance provisions to clarify the full property insurance obligations by the racquet club. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

VOTE: Yeas, 7
 Nays, None
 Absent, None

V.	UNFINISHED BUSINESS
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**09-226-14 CONTINUATION OF PUBLIC HEARING OF NECESSITY
 HAMILTON ALLEY RECONSTRUCTION**

Mayor Moore opened the continuation of the Public Hearing of Necessity for the Hamilton Alley Reconstruction at 7:38PM.

City Engineer O'Meara explained that the Commission requested staff to look at the feasibility of reconstructing the pavement in the Hamilton Alley. The pavement would be modeled after the Willits Alley pavement with the sawcut concrete pattern and exposed aggregate strips. He explained that there were concerns from the property owners with the dumpsters and the quality of the job.

Mr. O'Meara confirmed for Commissioner Hoff that the estimated cost of the project would be assessed. He noted that it is anticipated that sewer improvements will be needed, which would be paid for out of the sewer fund.

Mr. O'Meara confirmed for Commissioner McDaniel that if brushed concrete was used, it would be approximately 60% of the cost. Commissioner McDaniel noted that it is primarily a service alley and if the cost can be cut, it should be seriously considered.

Commissioner Dilgard noted that at a minimum, the number of storm drains should be increased.

Melvin Kaftan, East Maple, expressed concern with the impact on trash pick-up and length of the project as sewer work would add time to the project.

Tim Holmes, 400 Hamilton, commented on the flooding in the alley. He noted that it is a service alley and expressed his objection with the location of the dumpsters in the alley across from his building.

Anthony Garth, 300 Hamilton Common Wealth Café, pointed out that it is not a walking alley. He suggested postponing this project for further research.

John Melstrom, 400 Hamilton, expressed support of the project. He noted it is a service alley and commented that he is unable to get to his parking due to the congestion in the alley. He stated that the enforcement of the dumpsters needs to be addressed. Mr. Valentine confirmed

for Commissioner Hoff that Code Enforcement should be contacted if there is an issue with the dumpsters.

Commissioner Nickita commented that there is a need to have more than a functional alley and noted there is opportunity for further exploration of the alley.

Mayor Pro Tem Sherman noted that there are two different types of alleys and they should not be treated the same. He commented that the sewers and dumpster issue should be addressed. He noted that this may not be the best timing for this project.

Jim Nash, 300 Hamilton, Common Wealth Café, noted that it is a narrow alley and impossible to keep the dumpster area completely clean as they are filled and dumped daily. He expressed that he would be willing to donate his time to look into this further.

City Planner Ecker confirmed for Commissioner Nickita that any alley design project is required to go before the Planning Board where these issues would be vetted.

The Mayor closed the Public Hearing at 8:27 PM.

The Commission discussed the available options and timeframe of the project.

MOTION: Motion by McDaniel, seconded by Rinschler:
To declare necessity for the Hamilton Alley reconstruction.

In response to a question from Commissioner Hoff, Ms. Ecker confirmed that the Planning Board would discuss other factors such as crosswalks in addition to sewer and pavement.

The Commission agreed to withdraw the motion. MOTION WITHDRAWN

MOTION: Motion by McDaniel, seconded by Dilgard:
That the City Commission understands and believes that the Hamilton alley is in immediate need of design and infrastructure improvements to be done within the next calendar year and directing the Planning Board and Administration to review this project and return to City Commission with recommendations.

Commissioner Nickita suggested the Architectural Review Committee review the alley plan in addition to the Planning Board.

Mr. Valentine confirmed for Commissioner McDaniel that there has been sufficient direction to investigate the sewer.

VOTE: Yeas, 7
Nays, None
Absent, None

VI. NEW BUSINESS

09-227-14 PUBLIC HEARING TO CONSIDER THE VACATION OF HAZEL ST. FROM WOODWARD AVE. TO ELM ST.

Mayor Moore opened the Public Hearing to consider the vacation of Hazel St. from Woodward Ave. to Elm St. at 8:53 PM.

City Engineer O'Meara explained that the street was vacated two years ago in accordance with the master plan for the triangle district. The property owner is willing to expend the funds for the underground utility work so the right-of-way can be vacated without a public utility over it. Mr. O'Meara pointed out the concern from a resident regarding a screen wall. Mr. O'Meara confirmed that there was no obligation on the property owner to change the screen wall.

Fred Lavery, 444 Lakepark and owner of the affected properties, explained that the only issue has been getting the utility issues solved and hopes to have the project done before the building season ends this year. He noted that if the Triangle District Plan is fully implemented, these properties will be redeveloped and the pedestrian easement would have to be dealt with in a different way.

The Mayor closed the Public Hearing at 9:01PM.

MOTION: Motion by Rinschler, seconded by Nickita:

To authorize the vacation of Hazel St., from Woodward Ave. to Elm St., contingent upon an easement for pedestrian ingress/egress being retained over the northerly six feet and the southerly six feet of said right-of-way, and subject to the site plan as submitted by the adjoining property owner, Greentree Investment Co.

VOTE: Yeas, 7
Nays, None
Absent, None

**09-228-14 TRANSPORTATION ENGINEERING CONSULTANT
FOR THE MULTI-MODAL TRANSPORTATION BOARD**

City Engineer O'Meara explained with the creation of the Multi-Modal Transportation Board, it was an appropriate time to look at a transportation engineer to take on the new multi-modal concepts. He explained that the Board concluded that both firms were qualified; however Fleis & Vandenbrink has had more history with the City through Mike Labadie who will be a good resource.

In response to a question from Commissioner Hoff, Mr. O'Meara confirmed that the anticipated funds to be spent annually is more than previous as there will be more involved than what the Traffic and Safety Board had needed from the consultant.

Commissioner Nickita expressed his discomfort with the discrepancy between the scores and the final decision on the consultant. Mayor Pro Tem Sherman agreed that the decision is inconsistent with the scores.

Commissioner Hoff expressed concern with the number of members on the board as not every position is filled and the board is having trouble meeting quorum. Mayor Moore suggested staff review the membership requirements.

MOTION: Motion by Rinschler, seconded by McDaniel:

To approve the agreement between the City of Birmingham and Fleis & Vandenbrink to act as the City's Transportation Engineering Consultant to the Multi-Modal Transportation Board, for a period of two years, with a one year renewal option.

City Planner Ecker confirmed that the Board was divided in the decision on an engineer. Mr. Labadie's involvement and history with the City seemed to be the tipping point for the decision.

Dorothy Conrad expressed disappointment with the final decision on the engineer.

VOTE: Yeas, 5
Nays, 2 (Nickita, Sherman)
Absent, None

**09-229-14 2014 PAVEMENT MAINTENANCE PROGRAM
CHANGE ORDER #1**

City Engineer O'Meara explained the asphalt deterioration on Stanley and noted the contractor has agreed to do the work at the current contract prices. He confirmed for Commissioner McDaniel that the City would receive a one year warranty on the work.

MOTION: Motion by McDaniel, seconded by Sherman:

To authorize Change Order #1 to the 2014 Pavement Maintenance Program (Contract #8-14(P)), which will address premature asphalt surface deterioration on the northbound lane of Stanley Blvd. between Lincoln Ave. and 14 Mile Rd., at an estimated cost of \$16,430. Further, to approve the 2014-2015 appropriations and budget amendment as follows:

Revenues:

Draw from Fund Balance (Account #203-000.000-400.0000)	<u>\$16,430</u>
Total Revenue Adjustments	\$16,430

Expenditures:

Local Streets Fund Capital Improvements (Account #203-449.001-981.0100)	<u>\$16,430</u>
Total Expenditure Adjustments	\$16,430

VOTE: Yeas, 7

Nays, None
Absent, None

**09-230-14 ORDINANCE AMENDMENT – CHAPTER 118
GRASS AND NOXIOUS WEEDS**

Mayor Moore explained that the amendment will bring the ordinance consistent with State law.

MOTION: Motion by Sherman, seconded by Hoff:
To adopt an ordinance amending Part II of the City Code, Chapter 118, Vegetation, Article IX. Grass and Noxious Weeds, Section 118-68. Work Done at Owners' Expense to reflect the deletion of the hearing officer provision and the addition of the civil appearance before a District Court Judge so that Section 118-68 and section 118-69 are consistent with each other.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VII. REMOVED FROM CONSENT AGENDA

**09-231-14 BALDWIN PUBLIC LIBRARY
FREIGHT ELEVATOR**

In response to a question from Commissioner Hoff, Mr. Valentine explained that the funds are to develop bid specifications in order to design the technical components for the parts necessary to repair the freight elevator.

MOTION: Motion by Hoff, seconded by McDaniel:
To approve the professional service agreement, for the freight elevator at the Baldwin Public Library, with National Elevator Consultants, Inc. to perform items B through E in the their proposal of July 26, 2014 in an amount not to exceed \$10,600 and to direct the Mayor and City Clerk to sign the agreement on behalf of the City and further; to approve the appropriation and amendment to the fiscal year 2014-2015 budget as follows:
General Fund

Revenue:		
Draw from Fund Balance		
(Account #101-000.000-400.0000)		<u>\$10,600</u>
Total Revenue Adjustment		\$10,600
Expenditure:		
City Property Maintenance-Library		
(Account #101-265.002-971.0100)		<u>\$10,600</u>
Total Expenditure Adjustment		\$10,600

VOTE: Yeas, 7
 Nays, None
 Absent, None

VIII. COMMUNICATIONS

09-232-14 COMMUNICATIONS

The Commission received a letter from Stuart and Hilary Borman, 811 Shirley, regarding West Maple.

The Commission received the informational news release from the Great Lakes Water Authority.

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

X. REPORTS

09-233-14 COMMISSIONER COMMENTS

Mr. O'Meara presented an update on the Lincoln construction schedule as requested by Commissioner Nickita. Mr. Valentine confirmed that the issue is with the subcontractors used by the contractor.

Mr. Valentine confirmed for Commissioner Hoff that recommendations regarding the cemetery will be brought to the Commission within the next few meetings.

The Commission briefly discussed the Great Lakes Water Authority.

XI. ADJOURN

The Mayor adjourned the meeting at 9:46 PM.

Laura M. Pierce
City Clerk