

BIRMINGHAM CITY COMMISSION MINUTES
NOVEMBER 9, 2015
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Stuart Lee Sherman, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

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

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Assistant to the City Manager Haines, Building Official Johnson, Finance Director Gerber, IT Manager Gemmell, City Engineer O'Meara, Fire Chief Connaughton, Police Chief Studt, Deputy Police Chief Clemence, City Planner Ecker, DPS Director Wood, Human Resource Manager Taylor, Library Director Koschik

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

**11-257-15 RECOGNITION OF OUTGOING COMMISSIONERS
GEORGE DILGARD, TOM MCDANIEL, SCOTT MOORE,
AND GORDON RINSCHLER**

State Representative McCready and County Commissioner Taub presented proclamations to the outgoing Commissioners and Mayor Sherman presented a gift on behalf of the City to the outgoing Commissioners in recognition of their service.

11-258-15 OATH OF OFFICE – LIBRARY BOARD

The Clerk administered the oath of office to Library Board Members James Suhay, Robert Tera, and David Underdown.

11-259-15 OATH OF OFFICE – CITY COMMISSION

The Clerk administered the oath of office to City Commissioners Patty Bordman, Pierre Boutros, Carroll DeWeese, and Andrew Harris.

11-260-15 ORGANIZATION OF THE CITY COMMISSION

MOTION: Motion by DeWeese, seconded by Bordman:

To nominate Mayor Sherman as the temporary chair of City Commission for purposes of conducting the Mayor and Mayor Pro Tem election.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by Nickita, seconded by DeWeese:
To nominate Mayor Pro Tem Hoff as Mayor.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by Hoff, seconded by Bordman:
To nominate Commissioner Nickita as Mayor Pro Tem.

VOTE: Yeas, 7
Absent, None

The Clerk administered the oath to Mayor Hoff and Mayor Pro Tem Nickita.

Mayor Hoff presented a gift on behalf of the City to outgoing Mayor Sherman.

The meeting was recessed at 8:23 PM

The Mayor reconvened the meeting at 8:41 PM.

**11-261-15 APPOINTMENTS TO THE RETIREMENT BOARD, RETIREES
HEALTH CARE FUND COMMITTEE, CORRIDOR IMPROVEMENT
AUTHORITY, AND FOUNDATION FOR BIRMINGHAM SENIOR
RESIDENTS.**

MOTION: Motion by DeWeese, seconded by Harris:
To appoint Rackeline Hoff, Mayor, to the Retirement Board.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by Harris, seconded by DeWeese:
To appoint Mark Nickita, Mayor Pro Tem, to the Retirement Board.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by Sherman, seconded by DeWeese:
To appoint Rackeline Hoff, Mayor, to the Retirees Health Care Fund Committee.

VOTE: Yeas, 7
Absent, None

MOTION: Motion by DeWeese, seconded by Boutros:
To concur in the Mayor's appointment of Commissioner Sherman to the Triangle District Corridor
Improvement Authority.

VOTE: Yeas, 7

Absent, None

MOTION: Motion by DeWeese, seconded by Harris:
To concur in Mayor's appointment of Mayor Hoff to the Foundation for Birmingham Senior Residents.

VOTE: Yeas, 7
Absent, None

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.

11-262-15 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item E (PSD 2015 holiday promotional TV campaign funding) by Commissioner Harris
- Item D (expansion of wireless services grant) by Commissioner Bordman
- Item F (2015 Invasive Species Removal Project) by Commissioner Bordman

Mr. Valentine confirmed for Commissioner DeWeese that the new Commissioners are able to vote on the minutes.

MOTION: Motion by Sherman, seconded by DeWeese:

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of October 26, 2015.
- B. Approval of warrant list, including Automated Clearing House payments, of October 28, 2015 in the amount of \$1,121,116.86.
- C. Approval of warrant list, including Automated Clearing House payments, of November 4, 2015 in the amount of \$723,028.01.
- G. Resolution setting a public hearing date for December 7, 2015 to consider an application for a Special Land Use Permit Amendment and Final Site Plan for ROJO and Sidecar at 250 - 280 E. Merrill, under common ownership, operating under one Class C Liquor License, owned by Rojo Five, LLC.
- H. Resolution accepting the resignation of Patricia Bordman from the Parks and Recreation Board, thanking Ms. Bordman for her service, and directing the Clerk to begin the process to fill the vacancy.

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

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

11-263-15

PUBLIC HEARING OF NECESSITY

VILLA AVENUE PAVING FROM ADAMS TO COLUMBIA

Mayor Hoff opened the Public Hearing to consider declaring necessity for Villa Ave. paving, from Adams Rd. to Columbia Ave at 8:47 PM.

City Engineer O'Meara explained that a petition was received to consider paving Villa which represented a majority of the residents. He noted that the recommendation is to design the project in the current fiscal year and construction in the next fiscal year. He noted that 60% of the affected residents are in favor of the project.

In response to a question from Commissioner DeWeese regarding a concern from a resident on a fixed income, Mr. O'Meara explained that if the resident qualified as having a low income, she could postpone the assessment until the property is sold. Mayor Hoff noted that another option for the resident is to contact the Foundation for Birmingham Senior Residents which provide loans for individuals with a low income.

Mayor Hoff noted that she spoke to a resident at 1219 Villa who is opposed to the project. The water main was replaced last year and the resident incurred a lot of costs.

Rick Wyatt, 1467 Villa, expressed opposition to project.

The following individuals expressed support of the project:

Brandon Reinkensmeyer, 1316 Villa

John Cheek, 1523 Villa

Bob Weed, 1649 Villa, had questions regarding the assessment. Mr. Valentine suggested Mr. Weed contact the Finance Director.

The Commission received a letter from Charlotte Harvey, 1583 Villa, appealing the amount of the special assessment.

The Mayor closed the Public Hearing at 9:02 PM.

MOTION: Motion by Nickita, seconded by Sherman:

To declare necessity for paving Villa Ave. from Adams Rd. to Columbia Ave. and further, the public hearing of confirmation will be held on November 23, 2015:

WHEREAS, The City Commission has received the petition submitted by Mr. Dan Miarka requesting the paving of Villa Ave. from Adams Rd. to Columbia Ave.; and

WHEREAS, The City Commission is of the opinion that construction of the improvement herein is declared a necessity; and

WHEREAS, The City Commission has not declared it practicable to cause estimates of cost thereof and plans to be made at this time, now therefore be it,

RESOLVED, that there be constructed an improvement to be hereinafter known as:

VILLA AVE. – ADAMS RD. TO COLUMBIA AVE.

consisting of the construction of a 26 foot wide concrete pavement (face to face) with integral curb and gutter, be it further

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, eighty-five percent (85%) of the estimated cost be levied against the assessment district, and fifteen percent (15%) of the estimated cost be charged against the City at large, be it further

RESOLVED, that there be a special assessment district created and special assessments levied in accordance with benefits against the properties within such assessment district, said special assessment district shall be all properties, both public and private, within the following district:

"Birmingham Villa Subdivision"

Lots 73 to 109 inclusive, plus the southerly 8 ft. of the adjacent vacated alley, the vacated Dixie Ave. right-of-way adjacent to lots 95, 96, 123, and 124, lots 110 to 146 inclusive, including the 9.5 ft. wide vacated alley along the southern boundary of this subdivision, but excluding the northerly 9.5 ft. of these lots taken for Villa Ave. right-of-way, and the vacated Yankee Ave. right-of-way adjacent to lots 135 and 136. be it further

RESOLVED, that the Commission shall meet on Monday, November 23, 2014, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the paving of Villa Ave. from Adams Rd. to Columbia Ave.

VOTE: Yeas, 7
Nays, None
Absent, None

11-264-15 AGREEMENT WITH ACACIA PARK CSO DRAIN DISTRICT

City Engineer O'Meara explained that about a year ago the Oakland County Water Resources Commissioner's Office and the City met to discuss the County sewer, which services Catalpa, was failing in some areas. The agreement was made for the City to step in and build that project. As winter progressed the other part of the pavement was collapsing. In September, the City Commission authorized that the sewer, pavement, and water main be replaced on Catalpa between Edgewood and Grant. Oakland County agreed to refund 70% of the City's cost once the work was finished.

In response to a question from Commissioner Harris, Mr. O'Meara explained that any additional work needed would be part of this agreement.

MOTION: Motion by Sherman, seconded by Nickita:

To approve the agreement with the Acacia Park CSO Drain Drainage District to reimburse the City the district's share of the costs of replacing the Acacia Drain located on Catalpa Dr. between Edgewood Ave. and Grant St., as authorized under Change Order #1 to Contract #2-15(P), the 2015 Local Streets Paving Program.

VOTE: Yeas, 7
Nays, None
Absent, None

11-265-15 CLOSED SESSION REQUEST PENDING LITIGATION

MOTION: Motion by Nickita, seconded by Sherman:

To meet in closed session to review pending litigation regarding Wolf v City of Birmingham pursuant to Section 8(e) of the Open Meetings Act.

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

VII. REMOVED FROM CONSENT AGENDA

**11-266-15 EXPANSION OF WIRELESS SERVICES GRANT
 AT THE HISTORICAL MUSEUM**

Commissioner Bordman questioned how the exterior wireless service would enhance the mission of the Museum. IT Manager Gemmell explained that there was an interest by the Museum to extend the wireless to the outside grounds for purposes of providing the public access through Wi-Fi in order to see historical information from the website or provide barcoding type information about the area.

Commissioner Bordman questioned whether the City has established a set of criteria for deciding when funds would be spent for expansion of the wireless service. City Manager Valentine explained that the installation and expansion of this project has been completely funded by a grant. Mr. Valentine further explained that criteria for Wi-Fi are essentially the ability to do so such as electricity and a physical structure to house the equipment.

MOTION: Motion by Nickita, seconded by DeWeese:

To approve expenditure of remaining balance of Birmingham Area Cable Board grant awards to the City of Birmingham for expansion of wireless services to the park grounds of the City of Birmingham Historical Museum & Park and award project to Netch in an amount not to exceed \$48,792.35 to be funded as follows:

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|-----------------|----------------------|-------------|
| Network Upgrade | 636-228.000-973.0400 | \$48,792.35 |
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Further, approving the appropriations and budget amendments as follows:

Computer Equipment Fund

Revenues:

| | | |
|-------------------|----------------------|-------------|
| Cable Board Grant | 636-000.000.588.0000 | \$31,488.18 |
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|------------------------|----------------------|-------------|
| Draw from Fund Balance | 636-000.000-400.0000 | \$17,304.77 |
|------------------------|----------------------|-------------|

| | | |
|-------|--|-------------|
| Total | | \$48,792.35 |
|-------|--|-------------|

Expense:

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|-----------------|----------------------|-------------|
| Network Upgrade | 636-228.000-973.0400 | \$48,792.35 |
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VOTE: Yeas, 7
 Nays, None
 Absent, None

11-267-15 2015 HOLIDAY PROMOTIONAL TV CAMPAIGN FUNDING

Commissioner Harris questioned why the City did not budget the requested amount of \$25,000. City Engineer O'Meara explained that it was unclear at the budget time if the City wanted to endorse a higher level of spending.

MOTION: Motion by Harris, seconded by Nickita:

To authorize the expenditure of \$25,000 from the Automobile Parking System fund promotion account (Account No. 585-538.001-901.0300) to assist the PSD in creating their proposed 2015 holiday promotional TV campaign.

VOTE: Yeas, 7
Nays, None
Absent, None

11-268-15 2015 INVASIVE SPECIES REMOVAL PROJECT

Commissioner Bordman objected to the use of the chemical glyphosate for this project. She noted that the World Health Organization has declared it as a carcinogenic.

DPS Director Wood explained that the City has taken a proactive approach to treating invasive species. She explained that this is the preferred method to eliminate the invasive species is a specific spot treatment application done by licensed applicators and protective equipment. She noted that it is not a mass application. She confirmed that it has been used before.

Commissioner Boutros questioned whether there are any other products that would be just as effective and less carcinogenic. Ms. Wood explained that these are the preferred chemicals for this treatment used by the experts from DEQ and the MSU Extension.

Commissioner Sherman commented on the manner in how this treatment is applied using spot treatment versus broadcast treatment and what is known as to how the chemicals are used, he moved the suggested resolution.

MOTION: Motion by Sherman, seconded by Nickita:

To approve the contract for the Invasive Species Removal Project 2015 to Cardno for a total project cost not to exceed \$13,000.00. Funds are available from the Parks - Other Contractual Service account #101-751.000-811.0000 in the amount of \$12,100.00 and in the Hunter House - Other Contractual Service account #101-804.001-811.0000 in the amount of \$900.00 for these services. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of all required insurances.

VOTE: Yeas, 6
Nays, 1 (Bordman)
Absent, None

City Manager Valentine stated that the next time this is brought forward staff will look into alternative options in the specs so the chemicals that are of concern can be evaluated in terms of looking at something else and whether the effectiveness of those other chemicals would be better used or more cost effective.

VIII. COMMUNICATIONS

11-269-15 COMMUNICATIONS

The Commission received a communication from the Oakland County Road Commission regarding improvements to Big Beaver from Woodward Avenue to Adams Road.

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

X. REPORTS

11-270-15 COMMISSIONER REPORTS

The Commission intends to appoint members to the Corridor Improvement Authority, Board of Review and Parks and Recreation Board on December 7, 2015.

The Commission recessed to closed session at 9:36 PM.
The Commission reconvened in open session at 10:05 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 10:05 PM.

Laura M. Pierce
City Clerk