

BIRMINGHAM CITY COMMISSION MINUTES
NOVEMBER 23, 2015
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Rackeline J. Hoff, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

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

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Fire Chief Connaughton, Deputy Treasurer Klobucar, Police Chief Studt, Deputy Police Chief Clemence, Police Commander Grewe, PSD Director Heiney, IT Director Gemmell, City Engineer O'Meara, City Planner Ecker, Building Official Johnson

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

Mayor Hoff announced that New Business Item C regarding the bumpout policy has been removed from the agenda.

11-271-15 INTRODUCTION OF NEW POLICE OFFICERS

Police Chief Studt introduced four new police officers:

- Michael Manzo
- Seth Barone
- Stefan Syts
- David Buttigieg

11-272-15 APPOINTMENT TO THE BOARD OF ZONING APPEALS

The Commission interviewed Jason Canvasser, 369 Kimberly St. and Michael S. Xenos, 1116 Washington Blvd for appointment to the Board of Zoning Appeals.

MOTION: Motion by Sherman:

To appoint Jason Canvasser, 369 Kimberly St., as an Alternate Member to the Board of Zoning Appeals to serve the remainder of a three-year term to expire February 17, 2017.

VOTE: Yeas, 7

Absent, None

11-273-15 APPOINTMENT TO THE HOUSING BOARD OF APPEALS

MOTION: Motion by Nickita:

To appoint Chris McLogan, 612 N. Glenhurst, to serve the remainder of a three-year term on the Housing Board of Appeals to expire May 4, 2017.

VOTE: Yeas, 7
Absent, None

11-274-15 APPOINTMENT TO THE PRINCIPAL SHOPPING DISTRICT BOARD

MOTION: Motion by Sherman, seconded by DeWeese:

To concur in the City Manager's appointment of Sam Surnow, 320 Martin, Steven Quintal, 112 Peabody, and Rachael A-Woods, 123 West Maple to the Principal Shopping District Board as the business operator or property owner members to serve four-year terms to expire November 16, 2019.

VOTE: Yeas, 7
Absent, None

The Clerk administered the oath to the appointed Board members.

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.

11-275-15 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item N (purchase of Citymap and upgrade of GIS software) by Commissioner Boutros

MOTION: Motion by Nickita, seconded by Bordman:

To approve the consent agenda as follows:

- A. Approval of the City Commission minutes of November 9, 2015.
- B. Approval of warrant list, including Automated Clearing House payments, of November 11, 2015 in the amount of \$1,346,373.42.
- C. Approval of warrant list, including Automated Clearing House payments, of November 18, 2015 in the amount of \$906,350.70.
- D. Resolution setting a Public Hearing for December 14, 2015 to consider the following amendments to Chapter 126, Zoning:
 1. To amend Article 03, section 3.09 to specify that the required 70% glazing is between 1' and 8' above grade on the ground floor in the Triangle District; and
 2. To amend Article 04, section 4.83 WN-01 (window standards) to specify that the required 70% glazing is between 1' and 8' above grade on the ground floor and to prohibit blank walls longer than 20' from facing the street in all commercial zone districts.

- E. Resolution setting a Public Hearing for December 7, 2015 for the 2016 Community Development Block Grant Program.
- F. Resolution approving the Emergency Management Performance Grant, Work Agreement for the fiscal year 2016. Further, directing the Mayor to sign the agreement on behalf of the City.
- G. Resolution authorizing the filing of an application for the annual permit for work on state highways and designating Paul T. O'Meara, City Engineer, as the officer authorized to sign permits required by the State of Michigan beginning January 1, 2016, in accordance with the requirements of the attached application and permit. In his absence, the designated officer shall be Austin W. Fletcher, Assistant City Engineer.
- H. Resolution accepting the resignation of Stuart Bordman from the Multi-Modal Transportation Board, thanking Mr. Bordman for his service, and directing the Clerk to begin the process to fill the vacancy.
- I. Resolution accepting the resignation of Carroll DeWeese from the Planning Board, thanking Mr. DeWeese for his service, and directing the Clerk to begin the process to fill the vacancy.
- J. Resolution accepting the resignation of Andrew Harris from the Library Board, thanking Mr. Harris for his service, and directing the Clerk to begin the process to fill the vacancy.
- K. Resolution accepting the resignation of Mike Kennedy from the Ad Hoc Parking Development Committee, thanking Mr. Kennedy for his service, and directing the Clerk to begin the process to fill the vacancy.
- L. Resolution accepting the resignation of Pam DeWeese from the Greenwood Cemetery Advisory Board, thanking Ms. DeWeese for her service, and directing the Clerk to begin the process to fill the vacancy.
- M. Resolution approving the Amendment to Contract #2015-0212 with the Michigan Department of Transportation to extend the term of the agreement through September 30, 2016, for removal of the Birmingham train station, and authorizing the Mayor to sign the Amendment to the contract.

WHEREAS, The CONTRACT provides for the final design/demolition and restoration of the relocated Birmingham passenger rail platform at the Intermodal Transit Facility; and

WHEREAS, the parties desire to extend the CONTRACT term to provide sufficient time for the City to perform the services;

NOW THEREFORE, the parties agree that the CONTRACT exists and that the same is amended as follows:

1. In order to extend the term of the CONTRACT by nine (9) months, Section 18 of the CONTRACT is amended as follows:
 "This contract will be in effect from August 28, 2015, through September 30, 2016. No PROJECT work may begin until the CITY received a written notification to proceed from MDOT."
2. All other provisions of the CONTRACT, except as herein amended, remain in full force and effect as originally set forth.
3. The CITY waives any and all claims it has or may have against the DEPARTMENT that arise out of the need to amend and/or extend the CONTRACT.
4. This amendatory Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the CITY and the DEPARTMENT and upon adoption of a resolution approving said Amendatory Contract and authorizing the signature(s) thereto of the respective representative of the CITY, a certified copy of which resolution will be sent to the DEPARTMENT with this Amendatory Contract, as applicable.

IN WITNESS WHEREOF, the parties have caused this Amendatory Contract to be awarded.

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

11-276-15 PURCHASE OF CITYMAP REPLACEMENT AND UPGRADE OF GIS SOFTWARE

IT Director Gemmell confirmed for Commissioner Boutros that the price is fixed and there is no monthly maintenance charge.

MOTION: Motion by Boutros, seconded by Nickita:
To approve purchase of Citymap replacement and upgrade of ESRI GIS software and awarding project to GISI in an amount not to exceed \$30,950.00 and charging the purchase against account #636-228.000-973.0400 Network Upgrade, and further, waiving the normal bidding requirements.

VOTE: Yeas, 7
 Nays, None
 Absent, None

V. UNFINISHED BUSINESS
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11-277-15 MULTI-MODAL TRANSPORTATION BOARD RECOMMENDATION SOUTH ETON ROAD CORRIDOR FROM VILLA TO LINCOLN

City Engineer O'Meara explained that the Commission had asked the Multi-Modal Transportation Board (MMTB) to look at the South Eton Road Corridor to determine if there were ways to create more parking on the street to help address parking issues. The MMTB recommended to leave the parking as is because there is no other layout that would create additional parking; install sharrows to encourage vehicles to understand that bikes may be in the area; use demarcated parking lanes which makes the road feel more narrow and reduce speeds; improve the sight distance by giving all the streets on the west side of Eton from Villa and Cole additional clearance zone; and improve the pedestrian crossings with bumpouts at Villa, Bowers, and Cole.

In response to a question from Mayor Hoff regarding bumpouts, City Manager Valentine clarified that the location of the bumpouts is being discussed, not the condition, scale and size by which they will be installed.

Mayor Pro Tem Nickita questioned if there had been calculations on the current parking configuration and what it would be with the additional yellow curb. Mr. O'Meara explained that it would be about four spaces lost.

Commissioner Sherman questioned the parking demand in the rail district – what it is currently and what it is as it is being developed. He expressed concern and suggested returning this

item to staff or appoint a small committee to figure out the parking needs in the rail district before deciding what to do on the west side of Eton.

Commissioner Harris noted that the limited charge of the Multi-Modal Transportation Board is to implement the plan. He questioned whether the instruction exceeded that charge, how to address the issue and who is responsible for coming back with the data.

Larry Bertollini, 1275 Webster, commented on the importance of a bike loop as South Eton should be in the plan, however it is not the easiest street to maneuver. He noted that a parking count should be taken to determine a reasonable layout of cars.

Communications received from the following individuals expressing concern with the Multi-Modal Transportation Board recommendations regarding South Eton.

- Alice Thimm
- Larry Bertollini
- Jerry Yaldao

Mayor Pro Tem Nickita suggested the Planning Department take the lead and have the Planning Board review this as there are capacity and development issues. He pointed that the Multi-Modal Transportation Plan includes the bike loop as it is part of implementing the plan.

The Commission discussed creating a committee to address this topic with a representative from the Multi-Modal Transportation Board, Advisory Parking Committee and Planning Board.

MOTION: Motion by Sherman, seconded by Nickita:

For staff to return with the makeup of a committee for the purpose of looking at parking capacity in the rail district, the zoning issues, the shared parking, on-street parking in district and incorporating the Multimodal concept of bike lanes in the area and how best to integrate it explicit to the rail district and to look at it as an integrated approach.

Cindy Chiara, 1622 South Eton, suggested a traffic study be done further south on Eton as the issues are trickling down the street to the Sheffield/Eton area.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VI. NEW BUSINESS

11-278-15 PUBLIC HEARING OF CONFIRMATION SPECIAL ASSESSMENT DISTRICT VILLA AVENUE FROM ADAMS ROAD TO COLUMBIA AVENUE

Mayor Hoff opened the Public Hearing of Confirmation for Special Assessment District – Villa Ave., from Adams Rd. to Columbia Ave. at 8:33 PM.

Hearing no public comment, the Mayor closed the Public Hearing at 8:34 PM.

MOTION: Motion by Sherman, seconded by Nickita:

To confirm Special Assessment Roll No. 872, to defray the cost of paving Villa Avenue, from Adams Rd. to Columbia Avenue:

WHEREAS, Special Assessment Roll, designated Roll No. 872, has been heretofore prepared 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
WHEREAS, Commission Resolution No. 11-263-15 provided it would meet this 23rd day of November, 2015 for the sole purpose of reviewing the assessment roll, and
WHEREAS, at said hearing held this November 23rd, 2015, 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. 872 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 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

**11-279-15 369-397 N. OLD WOODWARD AVE.
 INCLUSION IN THE PARKING ASSESSMENT DISTRICT**

City Engineer O'Meara explained that the plan includes constructing a building with two levels of underground parking, one floor of commercial at street level and three floors of residential. If allowed into the parking district, the development would build 75 parking spaces on-site and would be charged for all future parking assessments. If not in the district, both levels would be dedicated to parking for a total of 96 spaces. He noted that the amount charged is based on past precedent based on the square footage now proposed.

Chris Long, architect for the development, confirmed for Commissioner Bordman that there are 26 units on four floors. He stated that there is parking for residential plus additional parking for the retail component.

Commissioner DeWeese expressed support of the project, but concern with the amount charged to buy into the parking system. He stated the number is too low and suggested a policy be developed to address this.

Commissioner Sherman noted that the idea behind the parking district is shared parking and it does not make sense to charge one developer for the full cost of the space.

Mayor Pro Tem Nickita noted that there is an established way this has been calculated. He expressed concern with changing the calculation midstream.

Mr. Valentine explained that this is a unique situation. He clarified that the methodology used was based on the cost of the structure, then allocated as a percentage to those in the district. Over time, each structure had its own assessment and those assessments were different. This is a blended rate of all those assessments into the parking system today. He noted that going

forward, the City can certainly look at it. It has always been contemplated that any new structures going in would then be allocated in an entirely different calculation as the dynamics downtown have changed.

MOTION: Motion by Nickita, seconded by Sherman:
To accept the recommendation of the Advisory Parking Committee to include the property known as 369-397 N. Old Woodward Ave. into the Parking Assessment District, upon payment of a one-time inclusion fee of \$29,682.

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

**11-280-15 CREATION OF THE NEIGHBORHOOD CONNECTOR ROUTE
PHASE 1**

City Engineer O'Meara presented the recommendation to create neighborhood connector routes designed to encourage bike riding throughout the City. He explained that the Multi-Modal Transportation Board (MMTB) recommended "Share the Road" signs as opposed to the traditional arrow-type bike signs as the bicyclist are now using GPS. He noted that the bike symbol could be used at each turn.

Commissioner Bordman expressed concern with moving forward on this until the South Eton Corridor is fully discussed. She stated that she would like to see striping of bike lanes.

The Commission discussed the directional signage and sharrows. Mayor Pro Tem Nickita noted that sharrows are the fundamental baseline. He suggested exploring the idea of installing signs only at the turns. Commissioner Sherman stated that he would like to see the location of the sharrows.

Herb Knowles, 329 West Brown, suggested notifying residents that their street may be part of the bike path.

The Commission agreed to bring this item back with a diagram of the sign design and the reduced number of signs. In addition to notify residents of affected streets who are not currently on the bike path.

**12-281-15 RESIDENTIAL PERMIT PARKING
BATES STREET BETWEEN BROWN AND FRANK**

Commander Grewe presented the request for residential permit parking on Bates Street between Brown and Frank. He noted that 84% of the residents signed the petition and the Multi-Modal Transportation Board endorsed the petition as well.

Mayor Pro Tem Nickita suggested a study be done to determine the actual parking capacity of the street to identify the reality of the situation in terms of numbers.

MOTION: Motion by Sherman, seconded by DeWeese:
To approve the installation of Residential Permit Parking for Bates Street between Brown and Frank at all times. Further, to direct the Chief of Police and the City Clerk to sign the traffic

control order on behalf of the City establishing Residential Permit Parking on Bates Street between Brown and Frank at all times.

Commissioner Bordman expressed concern with the amount of residential permit parking and noted that it is unfriendly to those who visit. She suggested limiting the life for permit parking.

Herb Knowles, 329 West Brown, explained the difficulty of parking in front of his house being so close to the downtown and with the current two-hour time limit.

Mayor Pro Tem Nickita stated that permit parking has consistently concerned him. He stated that there should be set criteria used to determine when permit parking is allowed and encouraged that a study be done to determine the real demand. The Commission concurred.

VOTE: Yeas, 7
 Nays, None
 Absent, None

**11-282-15 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

**11-283-15 CLOSED SESSION REQUEST
 ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

MOTION: Motion by Sherman, seconded by Nickita:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

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

Abstention, None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

11-284-15 COMMISSIONER REPORTS

The Commission intends to appoint members to Library Board, Ad Hoc Parking Development Committee, Greenwood Cemetery Advisory Board, Multi-Modal Transportation Board and Planning Board on December 14, 2015.

11-285-15 LEGISLATION

The Commission received the legislation update from the Michigan Department of Transportation.

11-286-15 CITY STAFF REPORTS

The Commission received the First Quarter Budget and Investment Report submitted by Finance Director Gerber.

The Commission received addendum to special event request for the Winter Markt submitted by Clerk Pierce.

The Commission received addendum to special event request for the Menorah Display submitted by Clerk Pierce.

The Commission recessed to closed session at 10:07 PM.
The Commission reconvened in open session at 10:41 PM.

**11-287-15 APPROVAL OF SETTLEMENT
WOLF V CITY OF BIRMINGHAM**

City Manager Valentine explained that the City was served with a class-action lawsuit that was filed against several cities in Michigan regarding how storm water costs have been allocated to the rate users. City Attorney Currier presented the history on the case. He noted that the City will change the storm water charge method by changing the ordinance. He noted that there is no liability being admitted by the City in the settlement agreement.

MOTION: Motion by Harris, seconded by DeWeese:
To approve the settlement and authorize mayor and clerk to sign the same.

VOTE: Yeas, 7
Nays, None
Absent, None

XI. ADJOURN

The Mayor adjourned the meeting at 10:45 PM.

Laura M. Pierce
City Clerk