

BIRMINGHAM CITY COMMISSION MINUTES
DECEMBER 5, 2016
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mark Nickita called the meeting to order at 7:30 PM

II. ROLL CALL

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

Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft, DPS Director Wood, Police Chief Clemence, Finance Director Gerber, 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.

12-353-16 APPOINTMENT TO THE BIRMINGHAM SHOPPING DISTRICT BOARD

City Manager explained that this is a City Manager's appointment and Mr. Fehan has been one of the initial members of the BSD Board and is interested in continuing as a member.

MOTION: Motion by Hoff, seconded by Sherman:

To concur in the City Manager's appointment of Douglas Fehan to the Birmingham Shopping District Board, as the resident member, to serve a four-year term to expire November 16, 2020.

VOTE: Yeas, 7
 Nays, None
 Absent, None

12-354-16 APPOINTMENT TO THE BOARD OF REVIEW

MOTION: Motion by Sherman:

To appoint Leland Feiste to the Board of Review to serve a three-year term to expire December 31, 2019.

VOTE: Yeas, 7
 Nays, None
 Absent, None

MOTION: Motion by DeWeese:

To appoint Kathleen Devereaux to the Board of Review to serve a three-year term to expire December 31, 2019.

VOTE: Yeas, 7
 Nays, None
 Absent, None

City Manager Valentine confirmed for Commissioner DeWeese that a position remains open on this board as an alternate member.

12-355-16 APPOINTMENT TO THE TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY

City Manager Valentine explained that Mr. Cantrick is currently a member of the authority and is interested in continuing his service.

MOTION: Motion by Bordman, seconded by Boutros:

To concur in the Mayor's appointment of G.A. "Kip" Cantrick, Jr. to the Corridor Improvement Authority to serve a four-year term to expire December 15, 2020.

VOTE: Yeas, 7
 Nays, None
 Absent, None

Commissioner Hoff noted that there will be a vacancy on this board which will be posted at a future date.

12-356-16 APPOINTMENT TO THE PUBLIC ARTS BOARD

Mayor Nickita explained that this appointment is to fill a vacancy on the board which expires January 28, 2017. He added that the Commission previously interviewed MaryAnn Schlie and Heather Duggan for the position on the board. Mr. Eddleston is present tonight for his interview.

MOTION: Motion by Harris:

To appoint Jason Eddleston to the Public Arts Board to serve the remainder of a three-year term to expire January 28, 2017.

MOTION: Motion by Sherman:

To appoint MaryAnn Schlie to the Public Arts Board to serve the remainder of a three-year term to expire January 28, 2017.

VOTE ON NOMINATION OF EDDLESTON:

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

Mr. Eddleston was appointed.

Ms. Schlie was not appointed.

The Acting 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.

12-357-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Item A (Minutes of November 14, 2016) by Commissioner Hoff.
- Item F (Purchase and planting of trees) by Commissioner Bordman.

MOTION: Motion by Sherman, seconded by DeWeese:

To approve the Consent Agenda as follows, removing Item A, Item F and excluding warrant 246526 for Commissioner Hoff (election inspector payment), and paying special note to the service rendered by Victor Saroki and thanking him for his service

- B. Approval of warrant list, including Automated Clearing House payments, of November 23, 2016 in the amount of \$764,134.84.
- C. Approval of warrant list, including Automated Clearing House payments, of November 30, 2016 in the amount of \$357,941.01.
- D. Resolution approving purchase of multi-function printer from Xerox, using MiDEAL extendable contract, in an amount not to exceed \$9,280.00 and charging the purchase against the 636-228-000-971.0100, Machinery & Equipment account.
- E. Resolution approving the 2016 Michigan Medical Marijuana Operation and Oversight Grant Subrecipient Agreement between the City of Birmingham and Oakland County. Further, authorizing the Mayor and City Manager to sign the agreement on behalf of the City.
- G. Resolution authorizing the City Manager to sign the Proposal and Scope of Work for Technical Services, to enlist the services of Data Partner Inc. for the installation and configuration of the brocade network infrastructure utilizing pricing for installation services under MiCTA Contract 134AN-TISA2013-0416 at a cost not to exceed \$7,200.00. Funds are available in the IT Network Upgrade fund account #636-228.000-973.0400.
- H. Resolution accepting the resignation of Victor Saroki from the Triangle District Corridor Improvement Authority, thanking Mr. Saroki for his service, and directing the Acting Clerk to begin the process to fill the vacancy.

ROLL CALL VOTE: Yeas, Commissioner Sherman
Commissioner DeWeese
Commissioner Hoff
Commissioner Boutros
Commissioner Bordman
Mayor Pro Tem Harris
Mayor Nickita
Nays, None
Abstention, 1, Hoff (from Warrant 246526 for payment as an election inspector)

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

12-358-16 GREENWOOD CEMETERY – REQUEST FOR EXEMPTION TO RULES & REGULATIONS – FLUSH MARKER SECTION

Acting Clerk Arft explained that Section F-North is a section in which only flush markers are permitted. Mr. Paul Robertson asked the Greenwood Cemetery Advisory Board for permission to construct an upright monument on the two plots that he owns in the section. She explained that Mr. Robertson purchased the plots several years ago in a private sale, and at the time of the purchase, he was unaware of the flush marker restriction. He learned about it after his wife passed, and he is asking for permission to erect an upright monument in the section.

City Manager Valentine noted that the regulation at issue is in regard to the section of the cemetery that stipulates that all markers shall be set flush. Research has been done to find the history to explain the reason for the restriction. He said we have been able to determine that in 1971, regulations were adopted by the City Commission and that restriction was included at that time. It also was included in subsequent communications between staff that managed the cemetery in 1990 that the restriction was placed in Section F North to facilitate maintenance by the Department of Public Service.

Acting Clerk Arft added that over the years there have been other requests to construct upright monuments in Section F North, all of which have been denied. Mayor Nickita confirmed it is a relatively small area. Commissioner DeWeese noted that it is in the north area of the cemetery where the land drops off next to the river.

Mayor Pro Tem Harris clarified that this regulation was in place from 1990 to August 2015.

Commissioner Bordman said the letter distributed to the City Commission by the Acting Clerk seems to indicate that two other individuals had upright monuments in this section. Acting Clerk Arft said there are no upright monuments in Section F North. She added that she has not visited the particular section in question personally, but has received confirmation from city staff that there are no upright monuments in the section. City Manager Valentine noted that photos were provided with Mr. Robertson's request, and Acting Clerk Arft said the monuments visible there are located in the adjacent section.

Commissioner Hoff said the photos indicate there are upright monuments very close to the flush markers. She asked what the outcome was of the Stenger family's request.

Commissioner Bordman also expressed concern whether or not there are upright monuments in Section F North, and suggested tabling this item until someone can confirm visually there are no upright monuments.

Commissioner Boutros said there have been previous requests regardless of the individual who is here tonight, and said there will be more in the future. He said it seems the rationale behind the regulation was a staff-driven request because of maintenance. City Manager Valentine clarified that it was at the time. City Manager Valentine added that since that time, the maintenance of the entire cemetery has been contracted out so the city is no longer doing that

work. The condition that existed at the time the regulation was put in place may not be analogous to what we have today.

Commissioner Boutros agreed, and believes it would not have a big impact on how we maintain the cemetery today, as opposed to 1971 when the regulation was in place.

Mayor Nickita said there does not seem to be a determined policy or directive from the cemetery board to give direction to what would be the intention for the long term. He would like the board to give the commission the insight and recommendations, and the commission does not have that relative to the general approach to this. The board has provided their recommendation as to this issue, but he is talking about the larger vision for the area.

Commissioner Hoff reviewed the survey that was taken by our contractor prior to taking over the cemetery management. One of the questions asked was what the preference would be for a full burial memorial, and an upright monument was definitely the majority. She said when we passed the flush marker restriction, it was her understanding that we passed it because the flush markers were going to go in the historic sections primarily in between the existing gravesites, many of them with markers. What we were approving was flush markers in those areas, and she said this section was not mentioned. She said section F North is in the rear of the cemetery where a monument would not block something. She expressed concern about the topography there, and if it can hold an upright marker.

Commissioner Sherman said that this regulation has been in place for 40 years and has nothing to do with Sections B and C and what the commission discussed. The regulation pre-dates the commission's discussion on adding plots in the cemetery. The issue appears to be what does the rest of the section look like. The pictures presented appears to show that everything is flush, and his concern is how they are going to interact, and how will that section then appear. Because this is such an old regulation, we have to take into account the rest of the section. If this were something we just adopted, and we were making a change to it, and no one had been affected previously, it is an easier decision. This becomes a more difficult decision, and because it has been around so long, it is presumed that people would be able to go back and look at the regulations. He has no issue with an elevated monument, provided it is not going to look unusual in the space. He would like to know where it is exactly and what the appearance will be with it.

Commissioner Bordman said this regulation has been in place a long time, and apparently other people have been told they could not erect upright monuments in that section. If there are already monuments there, that would undermine the reason for refusing another request. That is why she thinks this should be tabled, and allow someone to look at the section and determine if it is all flush markers or if there are any upright monuments.

Mayor Pro Tem Harris asked if we are able to investigate Section F North, and determine that there are upright monuments there, can we determine if they were placed before 1971. Acting Clerk Arft confirmed that our records reflect monument construction.

Commissioner DeWeese said if there are monuments that are not flush, he would like to know that history as well.

The applicant, Paul Robertson explained that when the need arose to use the graves he had purchased, he was told by the funeral director that the section was a flush marker only section.

He said it is difficult when at the cemetery to determine where you are, and he does believe that the markers are all flush in that section. He thinks the section was added later to the cemetery. It has a slight downward grade, but that is not a problem. He guessed that it was a money-saving decision to allow only flush markers. He said the cemetery board did not have a reason for the restriction. He explained the design of his proposed monument.

Mayor Pro Tem Harris asked when Mr. Robertson discovered the restriction. Mr. Robertson said he discovered it when his wife passed last year. He said there is no question that the restriction is printed on the deed. He said after visiting the section three or four times before purchasing it privately, he had no idea it was a flush monument only section. Mr. Robertson confirmed that he had no discussion with the seller about the restriction.

Commissioner Hoff expressed concern that other people have been denied, and that may cause problems and should be considered.

Commissioner DeWeese said that everyone in that section should be informed of the opportunity to do it. He is supportive of Commissioner Bordman's suggestion to postpone a decision until we have more information and context. He is uncomfortable with proceeding tonight.

Mayor Pro Tem Harris agrees with those comments and asked whether we can dig deeper into the rationale, and if it is a policy we no longer need, perhaps it is prudent to re-visit the regulations.

City Manager Valentine said the rationale given in 1990 as being a maintenance issue may allow for additional consideration.

Mayor Nickita said the larger issue is will there be another applicant down the road. He agrees that the board should look at this issue in the larger context, and provide clarity to what we will do if these requests come up again.

City Manager Valentine asked if the commission would want to exclude sections B and C because those have already been reviewed and considered.

Commissioner DeWeese said in the historical areas, there definitely is a reason for flush markers only on the new graves created in those areas.

Commissioner Sherman said he is uncertain that this needs to go back to the cemetery board, as the questions are what is the layout of this area currently, are the stones all flat, or are monuments there. He also questioned how many graves are in the section. He would like a staff report.

Commissioner Bordman said this is actually two different requests. The first is the immediate need for Mr. Robertson's request, and the second is further direction to the cemetery board for an overall look.

Commissioner Hoff agrees that this is a separate issue, and we also want to know if there are monuments there, and when the section was created.

Mayor Pro Tem Harris clarified if this is direction to staff or GCAB. Mayor Nickita said there are two different issues, one for staff and the broader question we have is more a cemetery board issue.

Mayor Pro Tem wondered if this issue could be incorporated with the cemetery board's action list.

Mayor Nickita restated that relative to Mr. Robertson's request, staff is directed to bring back more information to better understand the situation. The commission is not asking for anything from the cemetery board at the moment.

Commissioner Bordman said the assumption is there have been more requests, but when did they occur and who made them. If we make a change for Mr. Robertson, those people will need to be contacted as well.

Commissioner DeWeese requested that if there were any monuments installed in the section, what were the circumstances of how that occurred.

Commissioner Sherman suggested that the topic could be discussed during the Long Range Planning.

Commissioner Hoff said the commission was told that there were no other gravesites in any of the sections, except the ones that were approved for flush markers. She said that this is our first knowledge of specific requirements in Section F North. Otherwise, everything else is filled, except for the new graves in Sections B, C, D, K, L and O where flush markers are required. She said people who own lots in other sections can install monuments.

Mayor Nickita suggested any restrictions should be reviewed and verified.

Commissioner Hoff asked what would be needed if the commission decided to allow markers in Section F North. City Manager Valentine stated Section VI, Flush Memorial – F North only would have to be amended. He said he believes that when this became part of the Rules and Regulations in 1971, this may have been the newest section of the cemetery, and that is why Section F North has its own specific section in the Rules and Regulations delineating what is permitted in that section of the cemetery. He noted that no other section is mentioned specifically in the regulations other than F North.

Mayor Pro Tem Harris commented to the extent possible, he would like to know the level of demand for elevated monuments compared to availability.

Commissioner DeWeese suggested that since there is no immediate rush on this, long range planning is appropriate. He thinks it is a question of looking at priorities and ahead to the future.

No action was taken at this time, pending further information discussed.

12-359-16 PUBLIC HEARING TO CONSIDER THE ALLOCATION OF 2017 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Commissioner Bordman noted that this is a Federal Housing and Urban Development Grant, and under Section 570.611, Conflict of Interest, Title 24 of the Housing and Urban Development

	Mayor Pro Tem Harris
	Mayor Nickita
Nays,	None
Absent,	None
Abstention,	1 (Bordman, due to conflict of interest-NEXT Board)

Commissioner Bordman returned to the meeting at 8:36 PM.

12-360-16 PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 114 OF THE CITY CODE.

City Manager Valentine explained that the City Commission was presented with a Storm Water Utility Fee Apportionment Report prepared by the engineering firm of Hubbell, Roth & Clark (HRC) in response to a legal challenge of the city's storm water billing methodology. He noted that Birmingham, along with several other cities received class action lawsuits beginning in 2014 challenging the billing methodology used for storm water charges. As a result of a court order, Birmingham was required to have a new methodology in place by January 1, 2017.

HRC was tasked with the creation of a new billing methodology for storm water charges that complied with several criteria established under the Bolt v. City of Lansing lawsuit challenging storm water charges. HRC worked with city staff, the city attorney and in concert with pending legislation (HB 5991) intended to address this issue on a state-wide level being developed by State Representative Mike McCready, the Michigan Municipal League and the Oakland County Water Resource Commissioner's office. The new methodology developed in the Storm Water Utility Fee Apportionment Report addresses the criteria of the Bolt case and comports with the pending legislation.

Using this new methodology and the pending legislation that has been recently introduced by State Representative McCready, the city attorney has prepared a Storm Water Utility Ordinance that incorporates these components and is recommended for adoption by the City Commission.

Hubbell, Roth and Clark representative Jim Surhay, explained that the HRC report contains the Executive Summary, Background, General Methodology, Single Family Methodology, Non-single Family Residential Methodology, Apportionment, and Administrative Recommendations. The Appendix includes Figures, the Apportionment Roll, and Low Impact Development Guidelines and Details. The List of Figures includes the Major Drainage District Map, Single Family Residential Parcel Map, and Non-Single Family Residential Parcel Map.

He explained how storm water enters the sewers. Birmingham is a mostly combined sewer community, so most of the flow in the sewers during wet weather is from surface run-off that gets to catch basins and inlets in the streets. Inflow also occurs from homes that have foundation drains, footing connections and yard drains. Infiltration occurs through the pipes themselves from cracks and defects and manhole structures that occur with age of those structures. Some runoff will be intercepted by trees and plants and never reach the ground, or will be collected in pools and puddles and eventually evaporate. Some is absorbed by the soil itself and some will infiltrate into the soil so it will exceed what can be absorbed and infiltrate to the ground water table. The remainder becomes surface run-off and has to be addressed.

Primarily run-off comes from impervious surfaces, or areas that do not allow infiltration, such as roofs and pavements. Also, pervious areas such as lawns and planting areas will also generate some run-off to a lesser extent. Run-off co-efficients are developed that describe that relationship showing what percentage of rainfall that occurs will generate run-off.

The General Methodology categorized type of properties, defining the standard unit, determining the run-off potential for those properties and equating that run-off potential to equivalent storm water units. The categories are Single-family residential (SFR) and Non-single family residential parcels. The SFR parcels are 91% of the parcels by number in the city, and 72% by area.

The SFR parcels were split into six categories based on lot size. Each parcel's average development characteristics determine how it would generate run-off.

Non-single family parcels include all two family parcels, multi-family residential, condominium properties, public properties, schools, churches, commercial, office and parking lots. There are 719 non-single family residential parcels. For these properties, the unique parcel by parcel characteristics are reviewed.

The formula for the Run-off Potential for each property equals $0.9 \times [\text{Impervious Area}] + 0.15 \times [\text{Total area} - \text{Impervious Area}]$. The .9 and .15 are the run-off co-efficients that are used for impervious surfaces and pervious surfaces, respectively. This part of the formula is one part of the engineering calculations that we would use when determining flows in the sewers and determining run-off.

The areas were measured for each of the properties starting with the county tax data records for the city, and included all the parcel identification numbers and their associated area. For the metes and bounds parcels, the public road right-of-way was deducted to adjust the size of the parcel so the road was not being considered part of the property. The impervious area was based on SEMCOG's GIS data provided to all communities that are members. An aerial survey was conducted to determine the impervious area of tree cover and other physical data for the city's benefit. The larger parcels consisted of an independent visual check of current aerials and assessed the data received from the SEMCOG aerials.

This method attempts to apportion the storm water charges that are part of the sewer fee and have them be proportional to how that sewage is generated, based on run-off potential from that property. An assumption is made that rainfall falls across the city in equal amounts to all the parcels.

The equivalent storm water concept attempts to define a standard unit, which is the SFR Class B, which is the most numerous. The run-off potential was determined for the average of those types of parcels, and in this case, was 4,317 square feet. The Equivalent Storm Water Unit (ESWU) was then calculated for each of the six SFR categories. The ESWU will be assigned to all the parcels within that class regardless of how each was developed. The unique characteristics of the Non-single family residential parcels, were considered and used to calculate the run-off potential to determine their individual ESWU value.

To determine the share of the Apportionment for each of two major Drainage Districts, Evergreen-Farmington and South Oakland, the ESWU values were summed up for all the parcels within each one, and the percentage share of the total amount is determined.

Discussions were included in the report for the city regarding credits and methods for reducing fees that might be employed. Credits will be used by the city to reduce an individual's storm water utility fee. Any measure to be considered has to reduce the amount of storm water that enters the sewer system. Some of the suggestions include rain gardens or bio-swales, dry-wells or infiltration trenches, porous pavement, cisterns, and disconnecting footing drains. Any of the measures that rely on infiltration will require an evaluation on each particular site for the ability of the soil to allow percolation of the storm water, and will vary from site to site depending on soil conditions and existing groundwater table. The property owner is responsible for applying for the credits, and also for certifying that they are continually used and maintained and performing as designed to reduce the amount of storm water that is entering the sewer.

Finance Director Gerber described how the new methodology will impact the bills. Currently, storm water costs are included as a component of the overall sewer rate charged to all users of the water and sewer system. The amount a user of the system pays for storm water is dependent on the amount of water that is consumed based on a water meter reading. The water rate will remain the same for the same amount of consumption, the sewer rate will be lower because the storm water portion is taken out of the sewer rate, and the meter charge will remain the same. The quarterly storm water fee will be included with the bill.

City Attorney Currier said Birmingham was not the only city that faced this litigation as a result of the Bolt case. The court order required new methodology for storm water run-off. He explained that the last year has been spent drafting an ordinance to comply with the court order, and develop the new methodology which establishes proportionality among all of the citizens with respect to water, sewer, and storm water usages, and also to create a user fee that is proportional to actual usage. There has been a very large refund to citizens as a result of the Wolf case settlement, and the methodology has been changed and is being recommended for adoption.

Mayor Nickita opened the Public Hearing at 8:55 PM.

Dan Shecter expressed his concern about additional costs, not being permitted to add a fee to recover the costs, and the risk management fund and sewer fund.

Jonathon Hofley expressed concern about storm water costs and credits.

Peter Lyon expressed concern about accuracy and the methodology.

Mayor Nickita closed the Public Hearing at 9:05 PM.

Commissioner Hoff noted that there is a structure for appeal within the proposed ordinance which will consist of three members appointed by the city, and asked when the board would be established. Mr. Valentine said the Appeals Board will be established after adoption of the Storm Water ordinance.

Commissioner Sherman said no ordinance is going to be perfect, and this is what is being ordered as a result of the Wolf case.

MOTION: Motion by Sherman, seconded by DeWeese:

To amend part II of the City Code, Chapter 114 Utilities, adding Article VI. Storm Water to add Division 6. Storm Water Utility Fee.

Commissioner DeWeese said this is a big change in the right direction and can be tweaked for the future. He said the city is committed to an on-going process of re-evaluation for the whole as well as for specific properties.

Commissioner Hoff said she has been hearing from concerned residents about their water bills for watering, lawn maintenance, and irrigation systems. Mr. Valentine said the storm water piece will be charged differently now. It will be broken out of the sewer charge and shown as a separate line item cost on the water bill.

Commissioner Hoff said the storm water is different than the water used to water the lawn. It is important for people to understand the difference.

Mayor Pro Tem Harris said there will now be a stronger correlation between the water meter rate and the actual bill because the storm water will be part of this formula, whereas the sewer and water will still be tied to usage.

Mayor Nickita said the city has moved forward with this since becoming aware of this. We are under deadline as it must be in place by the end of the year. We can refine and enhance it over time to strengthen what we are doing tonight.

City Manager Valentine said it is a reallocation of how it has been done. Certain properties are going to be advantaged and others will be disadvantaged by the change. It is a result of having to put in a system that is looking at the problem in totality based on our two sewage districts. It does not look at individual parcels, so it is not perfect, and it will not make everyone happy. It does comply with the law.

VOTE: Yeas, 7
 Nays, None
 Absent, None

12-361-16 AMENDMENT TO SCHEDULE OF FEES, CHARGES, BONDS AND INSURANCE-SEWER RATES.

City Manager Valentine explained this sets the fee portion to accompany the methodology adopted in the Storm Water Utility ordinance tonight.

Commissioner DeWeese noted that this report has each property identified specifically.

MOTION: Motion by DeWeese, seconded by Boutros:
To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in sewer rates and the addition of a storm water utility fee as outlined in the report dated November 21, 2016, to be effective for bills on or after January 1, 2017.

Eric Fris expressed concern about condominium common area fees.

Mayor Nickita noted that a board will be created that is able to review these issues to get clarity. City Manager Valentine added that the Finance Department can be contacted as well.

VOTE: Yeas, 7
 Nays, None
 Absent, None

12-362-16 RECOMMENDATION OF MMTB – OAK ST

City Engineer O'Meara explained in 2014 began to look at Oak Street between Glenhurst and Lakepark, hoping to remove and replace all pavement from the 1930 era. A design was developed for the area. The block in front of Quarton Elementary School had some needs with respect to how the school functions for its student drop-off each morning and afternoon. That safety issue that is ongoing there today required some creativity. A proposal was crafted and the MMTB worked with the school board to advance it. The school board was not ready to move as quickly as the city, so the decision was made to cut out that part of the project in 2015 and move on with the rest of the project. In 2016, Oak Street was rebuilt from Chesterfield to the east. The MMTB would like to address the remaining block as a 2017 project. The school board agreed to a plan as to how that would be addressed.

Some of the highlights include narrowing Oak to a two lane street with parking on the north side in front of the homes existing there. There would be enough room to have a two lane drop off area that is separated from the road by a median across the entire frontage of the school. That would also be used as the entrance to their parking lot that exists today. The median is proposed to be 7 or 8 feet wide at its west end to allow it to be large enough that drivers could make u-turns from westbound Oak Street into the parking area, as well as to allow eastbound traffic to make a simple right turn as is done today. The right lane of the two lane area would be used for parents to stop and unload or pick up children and then return to the left lane to proceed out, making a right turn only to eliminate a backup in the area. Mr. O'Meara said the school feels it is best solution for the area and is ready to move forward, and an agreement with the school district is presented tonight for consideration by the commission.

Subsequent to the School Board approval, the finalized plan was returned to the Multi-Modal Transportation Board (MMTB) for a final review. When the Board reviewed this plan in 2014, there were discussions about installing bike lanes both in front of the school and to the west of the school, and this question was never fully resolved. The City has since constructed Oak St. to the east with bike lanes, and plans to implement a neighborhood connector route loop that will direct Oak St. bike traffic south on Chesterfield Ave. As explained in the attached MMTB documents, the plan agreed to by the School Board does not leave sufficient space for bike lanes (parking on the north side is an important component of the package).

Plans depicting two options were prepared for the MMTB. Option A leaves Oak St. to the west of the school in its present form. Option B uses the existing wide street to install bike lanes for a block and one half (to the City's westerly limit). Option A features bump outs at the N. Glenhurst Dr. intersection, considered appropriate given the large number of students crossing from the neighborhood walking to and from school. If Option B is implemented, the intersection would be reconstructed similar to its present form, and existing parking in this area would be eliminated. The MMTB agreed unanimously that Option A was the preferable choice for the following reasons: 1) Installing bump outs at the Glenhurst Dr. intersection would be beneficial to pedestrians and students using this area; and 2) Given the neighborhood connector route being implemented, plus the lack of bicycle facilities to the west of this area, there does not appear to be much benefit to installing bike lanes to the west of the school.

City Manager Valentine noted that this solution is a significant improvement and makes it a safer environment for children, while taking into context our opportunities for improving the road through our multi-modal means. The resulting agreement utilizes part of the school's property in order to build and facilitate this project and worked with the city on that. It was really a cooperative effort with Birmingham Public Schools.

Commissioner Hoff asked what happened to the traffic light. Mr. O'Meara confirmed the traffic light will remain.

Commissioner Hoff asked will children have to cross the lanes. Mr. O'Meara said they will be encouraged to cross at the Glenhurst intersection as they hopefully do today, walk in front of the tennis courts, and the city sidewalk will curve down to walk right past the front door. She confirmed the sidewalk will be closer to the school.

Commissioner Bordman asked about the timing on construction starting and ending times. Mr. O'Meara said they are planning for the 10 week summer window in 2017.

Commissioner DeWeese noted that this Option A plan is no disadvantage for bikes and is a huge improvement in safety for everyone else.

MOTION: Motion by DeWeese, seconded by Bordman:
To accept the recommendation of the Multi-Modal Transportation Board, approving the conceptual plans for the reconstruction of Oak St. between Glenhurst Dr. and Chesterfield Ave. in 2017.

Jonathon Hofley expressed concern about current and future costs.

Mayor Pro Tem Harris clarified that the school district has agreed to pay a portion of the construction costs. The ongoing costs of maintaining that easement for the intended purposes will be solely the responsibility of the city.

City Manager Valentine clarified that under the easement agreement, the city will handle the ongoing repair and replacement of the concrete.

City Attorney Currier said the city addressed the safety issue with this agreement. Mayor Nickita asked if this sets a precedent going forward on other projects. Mr. Currier said it is not a precedent.

VOTE: Yeas, 7
 Nays, None
 Absent, None

MOTION: Motion by Harris, seconded by DeWeese:
To authorize the Mayor and City Clerk to sign the Intergovernmental Agreement between Birmingham Public Schools and the City authorizing the construction of a parent drop off lane within the Oak St. right-of-way and an easement to be dedicated by the School District for this purpose.

VOTE: Yeas, 7
 Nays, None

Absent, None

12-363-16 QUARTON ROAD STORAGE SEWER PROJECT

City Engineer O'Meara explained that the city has been working with the Oakland County Water Resources Commissioner's office on various sewer projects that will occur to the north of us on the Evergreen-Farmington sewer. The projects undertaken by the OCWRC earlier this year in the areas of Municipal Parking Lot #6 and Springdale Golf Course were considered Phase I projects. The significant project that occurred at the intersection of Adams Rd. and Wattles Rd. to the north of Birmingham was also a Phase I project. This is the last Phase I project to be undertaken by the OCWRC. Mr. O'Meara explained the need for the project to address a known capacity deficiency in the County sewer system. The point of failure has been identified as a manhole in the Redding Rd. and Lakeside Dr. intersection. The construction impact will be next summer, resulting in the Quarton closure at the Lakeside Dr. intersection for about two weeks, and is expected to occur in approximately June. All four lanes of Woodward are being planned to remain open the majority of the time, and an effort will be made to be essentially finished before Dream Cruise in August.

The city's share is estimated to be 0.2% of the total drainage area, which is about \$11,000.

Commissioner Hoff suggested the estimated cost be included in the resolution. City Manager Valentine noted that the amount and percentage is included by reference in Exhibit B of the contract. Mr. O'Meara confirmed that the city would be responsible for overages on a percentage basis.

MOTION: Motion by Hoff, seconded by Bordman:

To approve the contract between the County and the Municipalities relating to the acquisition and construction of the Evergreen Farmington Sewage Disposal System North Evergreen Interceptor Quarton Road Storage Improvements (the "Contract"), which Contract provides that the City will pay its share of the cost of the Project in cash; that for the making of such payment thereunder the City will pledge its full faith and credit and limited taxing power; and for other matters relating to the Project and the acquisition, construction, financing and operation thereof, all under and pursuant to Act No. 342, Public Acts of Michigan, 1939, as amended. Further, approving the preliminary plans for the Project, and the estimates of the cost and period of usefulness thereof, as contained in Exhibits A and B to the Contract. Further, authorizing and directing the Mayor and the City Clerk to execute and deliver the Contract for and on behalf of the City. Further, authorizing and directing the City Clerk to publish the notice hereunto attached in the Birmingham Eccentric and so as to be prominently displayed therein.

John Hofley asked about lifespan of this project.

VOTE: Yeas, 7
 Nays, None
 Absent, None

12-364-16 2017 ANNUAL REVIEW OF FEE SCHEDULE

City Manager Valentine explained the fee schedule is the way the city adjusts the fees and charges provided for under ordinance. A review is provided by staff and a recommendation for potential changes is included which will be effective for January 2017.

MOTION: Motion by Sherman, seconded by Boutros:
To amend the Schedule of Fees, Charges, Bonds and Insurance, Engineering Department/Department of Public Service section, and Building Department section, as stated in the report and adopting the revised Public Records Policy.

VOTE: Yeas, 7
Nays, None
Absent, None

12-365-16 CLOSED SESSION – ATTORNEY/CLIENT PRIVILEGE COMMUNICATION

MOTION: Motion by Boutros, seconded by Hoff:
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 Boutros
Commissioner Hoff
Commissioner Sherman
Commissioner DeWeese
Commissioner Bordman
Mayor Pro Tem Harris
Mayor Nickita
Nays, None
Absent, None

VII. REMOVED FROM CONSENT AGENDA

**12-366-16 CITY COMMISSION MINUTES
NOVEMBER 14, 2016**

Commissioner Hoff suggested changing the word on page 6 from “contest” to “context”. On page 7, change the word from “changing” to “doing”. On page 8, change the word “experiences” to “experienced”.

MOTION: Motion by Hoff, seconded by DeWeese:
To approve the minutes of November 14, 2016, as amended.

VOTE: Yeas, 7
Nays, None
Absent, None

Commissioner Hoff asked about the October 27, 2016 minutes that were requested to be amended and returned for approval. They will be brought back to the commission for approval on December 12, 2016.

12-367-16 2016 TREE PLANTING PROJECT - WOODWARD (NORTH OF OAKLAND)

Commissioner Bordman requested clarification on the size of the trees to be planted in the location. City Manager Valentine explained that these are for the Woodward median as part of our annual transplant program. This one is unique because of the participation from MDOT to fund half the cost of the tree purchase.

She also expressed concern about the tree species, and a replacement guarantee. She said these trees are balled and burlapped, and there is a big issue whether the burlap is removed upon planting, because if the burlap is not removed, the trees will eventually die. ~~which may cause the trees to die.~~

Mr. Valentine noted that we have a tree list of acceptable trees. He will direct Director Wood to prepare a response to Commissioner Bordman's concerns and questions, and requested that this item be approved tonight, so that the trees can be planted in a timely fashion.

Mayor Nickita suggested that all of the standards be included in the future.

MOTION: Motion by Bordman, seconded by DeWeese:

To approve the purchase and planting of fifty-three (53) trees from KLM Landscape for the 2016 Woodward North of Oakland tree planting project for a total project cost not to exceed \$12,310.00; further authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of all required insurances. Funds are available from the Major Streets Fund-Forestry Service Contract account #202-449.005-819.0000 in the amount of \$6,155 and the Major Streets Fund-Operating Supplies account #202-449.005-729.0000 in the amount of \$6,155 for these services.

VOTE: Yeas, 7
 Nays, None
 Absent, None

VIII. COMMUNICATIONS

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

X. REPORTS

12-368-16 COMMISSIONER REPORTS

The Commission intends to appoint members to the Public Arts Board on January 9, 2017.

12-369-16 COMMISSIONER COMMENTS

Commissioner Harris noted that he has received a number of complaints on what is believed to be a dangerous condition at Woodward and Oak. He has walked it himself recently, and he agrees it is dangerous. He understands the city does not have jurisdiction over that area, and wondered if the commission might discuss it in the future.

City Manager Valentine said he has spoken with MDOT about this crossing, and they have a plan for changing crossings on a state-wide level. The crossings that are planned for 2019 include Maple and 14 Mile, based on prior discussions with the city going back about five years. Signal modification is the focus which effectively improves the crosswalk in the intersection. He indicated the issue of Oak and other intersections and how to include them on the list. MDOT's response was when it begins the next bid process, MDOT will come to the city for its requests. The alternative is to improve it on our own at the city's own cost. At this time, no improvements are included on the MDOT list for Oak and Woodward.

Commissioner Harris suggested the city investigate all options; we have to consider either paying for it ourselves, or adjusting the state's priorities.

Commissioner Bordman shares the same concern, and encouraged the city to write a stern letter to the state because of the unsafe condition. There is a traffic light; there is no crosswalk. We expect the state to address and correct the unsafe condition.

Mayor Nickita said he and the City Manager have had discussions about this unsafe condition. He explained that Woodward Avenue is a state road under the state's control. It runs through our city, and if it is a concern for us and our residents for the use that we have, the city needs to make it clear to the state that it needs to be addressed. He believes our discussion would be whether to wait for the state to go through their process, or be more proactive and pay the cost ourselves. He suggested that long range planning or the budget discussions would be the place to discuss this.

Commissioner DeWeese would like the city to look at it and others that have this need.

Commissioner Bordman said there is a difference between an improvement to a traffic signal and putting a crosswalk where there is none. It should be evaluated by the state in a different manner.

City Manager Valentine said he will stress her concerns with the state. He noted the state has a more regimented approach in dealing with our crossings.

Commissioner Bordman believes a letter from our City Attorney notifying MDOT that there is a safety concern will get a certain kind of attention that is not available otherwise.

Mayor Nickita said we need to evaluate the best way to deal with this issue.

City Manager Valentine said getting MDOT to actually make changes is going to be a long-term proposition, and he believes there are things the city can do locally to mitigate some of the safety concerns, including changing the crosswalk patterns along Woodward Avenue to make them more visible.

Mayor Nickita agreed, and suggested long range planning for a report providing options to pursue and strategies to implement.

The Commission recessed to closed session at 10:17 PM.
The Commission reconvened in open session at 11:10 PM.

XI. ADJOURN

The meeting adjourned at 11:10 PM.

Cheryl Arft
Acting City Clerk