

**BIRMINGHAM CITY COMMISSION MINUTES**  
**DECEMBER 7, 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 (arrived at 7:31 PM)
	Absent,	None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, DPS Director Wood, Finance Director Gerber, Planner Baka, City Engineer O'Meara, Library Director Koschik, Assistant Library Director Craft

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

**12-288-15 APPOINTMENT TO THE  
CORRIDOR IMPROVEMENT AUTHORITY**

The Commission interviewed JC Cataldo, 271 Chesterfield, for appointment to the Corridor Improvement Authority. The Commission agreed to postpone the appointment of Mr. Cataldo until the membership criteria of the board is confirmed.

**MOTION:** Motion by DeWeese, seconded by Nickita:  
To concur in the Mayor's appointment of Edward A. Fuller, 112 Peabody, to the Corridor Improvement Authority to serve a four-year term to expire December 15, 2019.

**VOTE:** Yeas, 7  
Absent, None

**12-289-15 APPOINTMENT TO THE  
BOARD OF REVIEW**

**MOTION:** Motion by Nickita:  
To appoint Cynthia Rose, 1011 Clark, to the Board of Review to serve a three-year term to expire December 31, 2018.

**MOTION:** Motion by Sherman:

To appoint Ruthie Clevers, 635 W. Frank, to the Board of Review to serve a three-year term to expire December 31, 2018.

VOTE ON NOMINATION OF ROSE:

Yeas, 7  
Absent, None

VOTE ON NOMINATION OF CLEVERS:

Yeas, 7  
Absent, None

**12-290-15 APPOINTMENT TO THE  
PARKS AND RECREATION BOARD**

The Commission interviewed the following applicants for appointment to the Parks and Recreation Board:

1. Tina M. Krizanic, 2450 Northlawn Blvd.
2. Lilly Epstein Stotland, 698 Hanna
3. Amy Pohlod, 912 S. Old Woodward, 1360 Edgewood

**MOTION:** Motion by Bordman:

To appoint Lilly Epstein Stotland, 698 Hanna, to the Parks and Recreation Board to serve the remainder of a three-year term to expire March 13, 2016.

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.

**12-291-15 APPROVAL OF CONSENT AGENDA**

The following item was removed from the consent agenda:

- Item D (Shain Park Electrical Project) by Mayor Hoff

**MOTION:** Motion by Sherman, seconded by DeWeese:

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of November 23, 2015.
- B. Approval of warrant list, including Automated Clearing House payments, of November 25, 2015 in the amount of \$816,050.45.
- C. Approval of warrant list, including Automated Clearing House payments, of December 2, 2015 in the amount of \$402,302.70.
- E. Resolution waiving the formal bidding requirements and approving the emergency purchase repairs to the 2002 Volvo VHD tandem axle dump truck #19 in the amount of \$10,677.26 from the sole source vendor Wolverine Truck to be paid from the Auto Equipment Fund account #641-441.006-933.0200.

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**

**12-292-15 PUBLIC HEARING – SPECIAL LAND USE PERMIT  
ROJO AND SIDECAR, 250-280 EAST MERRILL**

Mayor Hoff opened the Public Hearing to consider a Special Land Use Permit Amendment and Final Site Plan for ROJO and Sidecar, 250-280 E. Merrill at 7:57 PM.

City Planner Baka explained the proposed request from ROJO to expand the operation to a second concept that is 1800 square feet, connected on the interior and sharing a kitchen. There will be a direct connect exception on their liquor license so ROJO and Sidecar would be operating under the same liquor license. He noted that this is not a bistro license, which means that they are not obligated to the same restrictions as a bistro under the ordinance. He noted that the restaurant is proposed to have 75 seats on the inside, 17 of which would be located at a bar, and 16 seats outdoors during the outdoor dining season.

Mr. Baka proposed for Commissioner Bordman that there would be an access point for the servers and patrons to use between ROJO and the new concept.

Mayor Pro Tem Nickita commented on the orientation of food versus bar seats. Dan Lennan, owner of ROJO, explained that the space is long and narrow. When trying to accommodate seating, the long bar worked best. He stated that this will not be a nightclub dancing facility. He stated that he is anticipating a 70% food to 30% beverage ratio. Mr. Lennan noted that the size of the space does not allow for room to stand and drink at the bar.

Commissioner Sherman expressed concern with the plans as it is difficult to read the dimensions of the bar in relation to the seats. Mr. Lennan noted that there are 41 inches from the bar stool to the front of the booth. He noted that they will probably use two-seated fixed barstools to maintain aisles for the servers.

Stuart Jeffares expressed support of this concept.

In response to a question from DeAngello Espree, Mr. Baka confirmed that construction cannot start on the site until the approvals are done. He noted that a demolition permit does not require approval.

David Bloom commented that this looks like a fairly good idea and suggested a restriction be placed on the SLUP to demonstrate the food to liquor percentage.

The Mayor closed the Public Hearing at 8:35 PM.

**MOTION:** Motion by DeWeese, seconded by Nickita:

To accept the recommendation of the Planning Board and approving the 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. provided that they meet the requirements of the Historic District Commission:

WHEREAS, ROJO and Sidecar have together filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate two food and drink establishments under common ownership, both serving alcoholic liquors, as required in Article 6, section 6.02(5) of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the south side of E. Merrill between Pierce and S. Old Woodward;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits food and drink establishments serving alcoholic liquors with a Special Land Use Permit;

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

WHEREAS, The Planning Board on October 28, 2015 reviewed the application for Final Site Plan and Special Land Use Permit Amendment and recommended approval of the expansion of the SLUP for 250 E. Merrill, ROJO, to include the vacant space at 280 E. Merrill for use as Sidecar Slider Bar with the following conditions:

1. The applicant obtains an Outdoor Dining Permit from the City of Birmingham;
2. The applicant provides a trash receptacle in the outdoor dining area; and
3. The applicant provides dimensions of the proposed sign to verify Sign Ordinance compliance.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on October 28, 2015;

WHEREAS, The applicant will appear before the Historic District Commission for review and approval of the exterior change proposed in the Central Business District historic district;

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

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that the ROJO and Sidecar application for a Special Land Use Permit Amendment authorizing the operation of two food and drink establishments, under common ownership, serving alcoholic liquors with a Class C liquor license with a Direct

Connect Endorsement at 250 – 280 E. Merrill in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit Amendment is granted to expand the SLUP for 250 E. Merrill, ROJO, to include the vacant space at 280 E. Merrill for use as Sidecar Slider Bar with the following conditions:

1. The applicant obtains an Outdoor Dining Permit from the City of Birmingham;
2. The applicant provides a trash receptacle in the outdoor dining area;
3. The applicant provides dimensions of the proposed sign to verify Sign Ordinance compliance;
4. ROJO and Sidecar shall abide by all provisions of the Birmingham City Code;
5. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;
6. The hours of operation for all outdoor dining shall cease at 2:00 a.m.;
7. ROJO and Sidecar shall provide for the removal of disposable materials resulting from the operations and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
8. ROJO and Sidecar shall enter into a contract with the City outlining the details of the operation of the proposed restaurants; and
9. The applicant shall appear before the Historic District Commission for review and approval of the exterior changes.

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

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

MAY IT BE FURTHER RESOLVED that ROJO and Sidecar, which will do business at 250 – 280 E. Merrill, Birmingham, Michigan, 48009, are located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that ROJO and Sidecar are recommended for operation of two restaurants, under common ownership, serving alcoholic liquors, with a Class C Liquor License with a Direct Connect Endorsement, at 250 – 280 E. Merrill, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**12-293-15**

**PUBLIC HEARING TO CONSIDER THE ALLOCATION OF THE  
2016 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

Mayor Hoff opened the Public Hearing to consider the allocation of 2016 Community Development Block Grant Funds at 8:42 PM.

Hearing no public comment, the Mayor closed the Public Hearing at 8:42 PM.

**MOTION:** Motion by Sherman, seconded by Nickita:

To authorize the Finance Director to complete the 2016 Program Year Community Development Block Grant application, sub-recipient agreement and conflict of interest certification and authorizing the mayor to sign the application, sub-recipient agreement and conflict of interest certification and other documents resulting from this application on behalf of the City and submit them to Oakland County. The project(s) to be included in the application and the respective allocations of Community Development Block Grant Funds are as follows:

**APPROVED 2016**

1. Public Services – Yard Services	\$6,100
2. Public Services – Senior Services	3,300
3. Minor Home Repair	8,500
4. Remove Architectural Barriers – Retrofit police entrance and doors to comply with ADA standards	<u>13,436</u>
TOTAL	\$31,336

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

**12-294-15 BALDWIN PUBLIC LIBRARY REQUEST FOR PROPOSAL (RFP)  
ADULT SERVICES SECTION**

City Manager Valentine explained that the City and Library worked together to develop the RFP to solicit bids to finalize the construction documents necessary to advance the project.

**MOTION:** Motion by Sherman, seconded by DeWeese:

To authorize the issuance of the Request for Proposals provided on December 7, 2015 for the renovation of the Adult Services section of the Baldwin Public Library, with the necessary funds to be paid by the Library.

Commissioner Sherman pointed out that just because this is moving forward does not mean that it will be funded this year. He noted that the City is looking for the overall plan, including Phases 2 & 3 to get an idea on the total cost of the project and budget accordingly. He stated that he would like to see this move forward.

Library Director Koschik confirmed for Mayor Hoff that the RFP is specific to the adult services section of the Library which is Phase 1 of the proposal.

In response to a question from Commissioner Harris, Mr. Koschik explained that Phase 2 & 3 would be presented to the City Commission at the Long Range Planning Session. He noted that the phases would be highly conceptual with cost estimates.

Mayor Pro Tem Nickita expressed that he is cautiously supportive in moving this ahead. Mr. Koschik confirmed that it is design development and construction drawings, but would not go beyond that. Mayor Pro Tem Nickita expressed concern of designing Phase 1 without understanding Phases 2 & 3.

Mayor Hoff expressed strong support of moving forward with the RFP and getting the construction drawings as Phase 1 is a positive step in moving forward. She reiterated her previous statement that if Phase 1 is implemented, the public will see the results which may generate support for future improvements.

Commissioner DeWeese expressed support because with concrete drawings, the City will have concrete costs and a future direction. He expressed his preference to an incremental approach.

Commissioner Harris expressed support and noted that the Library is doing the right thing by taking this one phase at a time.

Commissioner Bordman expressed support of Phase 1 as the Library is in need of renovation.

Commissioner Boutros expressed support of Phase 1. He stated that he would like to see the maximum cost on the three phases in general so the public is aware of the cost.

Frank Pisano, Library Board, stated that the first phase will be a big benefit to the community and enhance what is currently there. He noted that the Library has a millage not to exceed 1.47 and is currently running at a 1.1. There is money that has not been allocated over the past few years that could have gone toward this project.

David Bloom suggested that one area that could use improved communication is to have more involvement from City staff or City Commission attend the Library Building Committee meetings.

VOTE:           Yeas, 7  
                  Nays, None  
                  Absent, None

**12-295-15                   RESTORATION OF SEWER SERVICE  
                                  2479 RADNOR DRIVE**

City Engineer O'Meara explained that when the developer abandoned the sewer at the credit union project, the house to the east of the project became plugged up. It was determined that that house was tied to the abandoned sewer. He stated that the plan is to lay out a new sewer to wrap around the front of the house to the county sewer. He stated that there will be very little damage to the street and lawn. He stated that it is anticipated that the work will be completed on Wednesday.

**MOTION:**     Motion by Sherman, seconded by Nickita:

To concur with the City Manager's authorization of an emergency expenditure in the amount of \$8,950 to restore sewer service to 2479 Radnor Dr., charged to account number 591-536.001-981.0100.

Mr. O'Meara confirmed for Mayor Pro Tem Nickita that only one house was affected.

VOTE:           Yeas, 7  
                  Nays, None  
                  Absent, None

**12-296-15                   CITY COMMISSION GOAL SETTING WORKSHOP  
                                  JANUARY 9, 2016**

**MOTION:**    Motion by DeWeese, seconded by Bordman:  
To set a special meeting date of the City Commission for January 9, 2016 from 8:00 a.m. to noon for the purpose of conducting a goal setting workshop.

City Manager Valentine confirmed that the workshop will be held at the DPS Facility.

VOTE:           Yeas, 7  
                  Nays, None  
                  Absent, None

**VII.   REMOVED FROM CONSENT AGENDA**

**12-297-15                   SHAIN PARK ELECTRICAL PROJECT  
                                  EMERGENCY PURCHASE**

In response to a question from Mayor Hoff regarding the timing of the project, DPS Director Wood explained the current status of the project and noted that it is anticipated that this project will be completed by the end of the year.

**MOTION:**    Motion by Nickita, seconded by Sherman:  
To confirm the City Manager's authorization for the emergency expenditure to install a 2" electrical conduit beneath Martin Street for the purpose of an electrical upgrade to Shain Park by DVM Utilities in the amount of \$9,800.00 to be paid from the Capital Projects Fund account #401-751.001-981.0100, pursuant to Sec. 2-286 of the City Code.

VOTE:           Yeas, 7  
                  Nays, None  
                  Absent, None

**VIII.   COMMUNICATIONS**

**12-298-15                   COMMUNICATIONS**

The Commission received a communication from the Oakland County Board of Commissioners regarding the City of Birmingham Corridor Improvement Authority tax capture.

City Manager Valentine explained how Oakland County handles the tax increment financing plans. He noted that it is expected to be implemented July 1, 2016.

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

**X. REPORTS**

**12-299-15 COMMISSIONER REPORTS**

The Commission intends to appoint members to the Public Arts Board on January 11, 2016.

**12-300-15 COMMISSIONER COMMENTS**

Mayor Hoff noted that Jim Harkins from the 48<sup>th</sup> District Court has offered to arrange a tour of the court for the Commissioners. Mr. Valentine will contact Jim Harkins and coordinate a tour.

**12-301-15 CITY STAFF REPORTS**

The Commission received the First Quarter Financial Reports submitted by Finance Director Gerber.

City Manager Valentine stated that this will be resubmitted at the next meeting due to a formatting error.

In response to a question from Mayor Hoff, Mr. Gerber explained the capture of taxes under the Brownfield Redevelopment Authority.

**XI. ADJOURN**

The Mayor adjourned the meeting at 9:21 PM.

Laura M. Pierce  
City Clerk