

**BIRMINGHAM CITY COMMISSION MINUTES**  
**DECEMBER 3, 2018**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Patricia Bordman called the meeting to order at 7:30 PM.

**II. ROLL CALL**

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

Administration: City Manager Valentine, City Attorney Currier, Senior Planner Baka, IT Director Brunk, Police Chief Clemence, Planning Director Ecker, Finance Director Gerber, Assistant to the City Manager Haines, City Clerk Mynsberge

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

**12-315-18 ANNOUNCEMENTS**

- Commissioner DeWeese was one of seven people honored by being recommended to be part of for the US voting delegation to World Master's General Assembly. His appointment garnered more votes than the combined total votes for the remaining six delegates.<sup>1</sup>
- The Santa House will be open for visits from children and patrons can enjoy free horse-drawn carriage rides. For more information on select dates, visit [www.AllinBirmingham.com](http://www.AllinBirmingham.com).
- City Manager Valentine introduced Ben Myers, the City's new HR Manager.

**12-316-18 APPOINTMENTS TO THE HISTORIC DISTRICT COMMISSION**

It was noted the City Commission interviewed Connae Pisani at the last meeting. The Commission interviewed Corinne Barringer, Patricia Lang, Gigi Debbrecht, and Gregg Laviolette.

**MOTION:** Motion by Commissioner DeWeese:

To appoint Gigi Debbrecht to the Historic District Commission, as a regular member, for the remainder of a three-year term to expire September 25, 2021.

VOTE: Yeas, 6

<sup>1</sup> As amended at the December 10, 2018 City Commission meeting.

Nays, 0  
Absent, 0

**MOTION:** Motion by Commissioner Harris:

To appoint Connae Pisani to the Historic District Commission, as a regular member, for the remainder of a three-year term to expire September 25, 2021.

VOTE: Yeas, 3  
Nays, 0  
Absent, 0

**MOTION:** Motion by Commissioner Nickita:

To appoint Patricia Lang to the Historic District Commission, as a regular member, for the remainder of a three-year term to expire September 25, 2021.

VOTE: Yeas, 4  
Nays, 0  
Absent, 0

**MOTION:** Motion by Commissioner Harris:

To appoint Corinne Barringer to the Historic District Commission, as a regular member, for the remainder of a three-year term to expire September 25, 2021.

Noting a vote on the final nomination would not change the outcome, Mayor Bordman announced the appointments of Gigi Debbrecht and Patricia Lang.

**12-317-18 APPOINTMENTS TO THE BOARD OF REVIEW**

The City Commission interviewed current members Elicia Katrib and Cynthia Rose.

**MOTION:** Motion by Commissioner DeWeese:

To appoint Cynthia Rose to the Board of Review as a regular member to serve a three-year term to expire December 31, 2021.

VOTE: Yeas, 7  
Nays, 0  
Absent, 0

**MOTION:** Motion by Mayor Pro Tem Boutros:

To appoint Elicia Katrib to the Board of Review as a regular member to serve a three-year term to expire December 31, 2021.

VOTE: Yeas, 7  
Nays, 0  
Absent, 0

**12-318-18 APPOINTMENT TO THE TRIANGLE CORRIDOR IMPROVEMENT AUTHORITY BOARD**

The City Commission interviewed current member Curtis Hays.

**MOTION:** Motion by Commissioner Harris:

To concur in the Mayor's appointment of Curtis Hays to the Corridor Improvement Authority as the resident member to serve a four-year term to expire December 15, 2022.

VOTE:           Yeas,           7  
                  Nays,           0  
                  Absent,        0

City Clerk Mynsberge administered the Oath of Office to the appointees.

**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.

**12-319-18           APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Commissioner DeWeese:           Item A, Approval of City Commission minutes of November 19, 2018.
- Commissioner Hoff:               Abstained from voting on Warrant #262629 in Item C for her payment for working as an Election Inspector at the November 6, 2018 General Election

**MOTION:**    Motion by Commissioner Sherman, seconded by Commissioner Hoff:  
To approve the Consent Agenda, with Item A removed.

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

- B.    Approval of warrant list, including Automated Clearing House payments dated November 21, 2018 in the amount of \$649,604.90.
- C.    Approval of warrant list, including Automated Clearing House payments dated November 28, 2018, in the amount of \$2,131,613.14.
- D.    Resolution setting a public hearing for January 14th, 2019 to consider a Special Land Use Permit Amendment for 263 Pierce – Elie's Mediterranean Cuisine to reflect an ownership change and to consider authorizing the Chief of Police to sign the MLCC Police Investigation Report associated with the change in ownership.
- E.    Resolution authorizing the IT department to purchase 95 block hours of GIS support from Geographic Information Services, Inc. 2100 Riverchase Center, Suite 105, Birmingham, AL 35244, the total purchase not to exceed \$15,000.00. Funds are available in the IT GIS fund account # 636-228.000-973.0500.

Commissioner DeWeese requested the elimination of a superfluous “would abstain” on page two of the minutes.

Mayor Bordman asked the Clerk’s Office to review the audio for:

- Mayor Bordman’s first bullet point on page twelve and
- Commissioner Nickita’s language on page twelve with regard to the word “bothered”.

Commissioner Hoff noted that Mr. Strader will have the redesign of the trees and bump-outs to the Commission at the December 10, 2018 meeting.

Mayor Bordman noted she spoke with City Manager Valentine about the same issue, and that its delayed submission will not prevent the RFP from being issued.

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Harris:  
To approve the November 19, 2018 Commission meeting minutes as amended.

VOTE:           Yeas,           7  
                   Nays,           0  
                   Absent,        0

<b>V. UNFINISHED BUSINESS</b>
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**12-321-18           BISTRO ORDINANCE AMENDMENTS**

Planning Director Ecker reviewed the item. She explained:

- Bistro licenses require outdoor, street-level dining in order to also have rooftop dining.
- The average number of total seats in a bistro establishment is 98.7 seats combined. The average number of total seats in a Class C establishment is 213.3 seats combined.
- An insufficient seating allowance is the most common reason business owners do not open restaurants in the Triangle and Rail Districts. Business owners commonly believe they need more seating to attract people in order to mitigate the lack of pedestrian traffic in those areas.

Commissioner DeWeese said:

- Bistro licensing should require fewer than 85 seats indoors and 85 seats outdoors for a license holder. Otherwise bistro establishments end up competitive with Class C licenses.
- He would like to see other motivating incentives.

Mayor Bordman noted:

- The largest bistro has 86 outdoor seats: 56 in the public domain, and 30 on private property. The second largest bistro has 70 outdoor seats, and the third largest bistro has 44 outdoor seats. The smallest bistro has 10 outdoor seats, the second smallest has 12 outdoor seats, and the third smallest has 18 outdoor seats.
- The largest quota restaurant has 104 outdoor seats, the second largest has 97, and the third largest has 68 outdoor seats. The smallest quota restaurant has 10 outdoor seats, the second smallest has 12 outdoor seats, and the third smallest has 16 outdoor seats.
- Averages are sometimes deceiving.

Commissioner Hoff questioned the idea that business owners cannot make restaurants work in the Triangle and Rail Districts, noting that because the rents are probably lower, the profitability

would be different. She added that she had a real concern about increasing the size of bistros since some bistro establishments are already much larger than the original intent of the license.

City Attorney Currier confirmed that a legal review of the proposed amendments yielded no concerns.

Discussion ensued with general agreement that the maximum number of seats for bistro licenses should be smaller than that of Class C licenses.

**MOTION:** Motion by Commissioner Nickita, seconded by Commissioner DeWeese:  
To approve an ordinance amendment to Chapter 126, Zoning, Article 9, Section 9.02, Definitions, to amend the definition of bistro to establish a maximum of 65 seats indoors, and 65 seats outdoors for bistros located within the Downtown Overlay District, the Triangle District, and the Rail District.

Mayor Pro Tem Boutros said that perhaps bistro licenses could allow a few more outdoor seats than indoor seats in the Triangle and Rail Districts as an incentive.

Commissioner Hoff said 65 seats outdoors seemed too many for a bistro license.

Discussion continued with most Commissioners agreeing that 65 seats outdoors may be too high.

Commissioner Nickita specified that 65 seats outdoors would be an absolute maximum, since most bistro license holders have much fewer than 65 seats outdoors. He added that keeping 65 seats outdoors as the maximum allows the Commission to deal with any anomalies that may arise in specific restaurant applications.

Commissioner Hoff said she would like fewer than 65 outdoor seats in the downtown area.

Mayor Bordman confirmed:

- 65 outdoor seats would include the allowance for rooftop seating.
- Nothing in the ordinance would allow for greater than 65 outdoor seats at this time.

VOTE:           Yeas,           5  
                  Nays,           2 (Hoff, Boutros)  
                  Absent,        0

**VI. NEW BUSINESS**

**12-322-18           2019 COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION  
                          – PUBLIC HEARING**

Mayor Bordman opened the public hearing at 8:50 p.m.

Finance Director Gerber presented the item.

Blanca Fauble, HAVEN Director of Development, described the services offered by HAVEN for survivors of domestic violence and sexual assault.

Cris Braun, NEXT Executive Director, described the services offered by NEXT for the Birmingham area 55+ community.

There being no further comments from the public, Mayor Bordman closed the public hearing at 9:03 p.m.

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Sherman:  
To authorize the Finance Director to complete the 2019 Program Year Community Development Block Grant application and conflict of interest certification and to authorize the mayor to sign the application 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  
2019
1. Public Services – Yard Services \$ 6,786.30
  2. Public Services – Senior Services 3,300.00
  3. Remove Architectural Barriers –  
Retrofit Adams Fire Station entrance doors to  
comply with ADA standards 23,534.70
- TOTAL \$ 33,621.00

Commissioner Harris suggested Ms. Fauble re-address the possibility of increasing the City's financial support for HAVEN when the current contract between the City and HAVEN expires.

ROLL CALL VOTE:   Ayes:           Mayor Bordman  
  Mayor Pro Tem Boutros  
  Commissioner DeWeese  
  Commissioner Harris  
  Commissioner Hoff  
  Commissioner Nickita  
  Commissioner Sherman

                                  Nays:           None

**12-323-18                   48<sup>th</sup> DISTRICT COURT FY 2019 BUDGET AND MICHIGAN  
INDIGENT DEFENSE COMMISSION**

Louise Patton, Court Administrator, presented the FY 2019 Budget and outlined Birmingham's allocation.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner DeWeese:  
To receive the 2019 proposed budget from the 48<sup>th</sup> District Court, to approve the budget as submitted; and further, to authorize the 48<sup>th</sup> District Court to administer the Michigan Indigent Defense Commission Program on behalf of the City.

VOTE:           Yeas,           7  
                  Nays,           0  
                  Absent,        0

**12-324-18                   JUNE 30, 2018 AUDIT PRESENTATION**

Finance Director Gerber introduced Douglas Bohrer and Tim St. Andrew of Plante Moran who presented the 2018 Audit.

**12-325-18                    SCULPTURE DONATION**

Planning Director Ecker presented the item.

Jim Robb clarified the 8’ height is from ground level. Ms. Ecker confirmed the sculpture will be placed on a pedestal of some type.

**MOTION:**     Motion by Mayor Pro Tem Boutros, seconded by Commissioner Hoff:  
To approve the Public Art Board’s recommendation to accept the sculpture donation of James Miller-Melburg’s Michigan Spring on behalf of his representative James D. Robb and to have it installed on the southwest corner of the lawn of The Birmingham Public Library.

VOTE:            Yeas,                7  
                      Nays,                0  
                      Absent,              0

**12-326-18                    DAS/SMALL CELL ORDINANCE AND LICENSE AGREEMENT**

City Manager Valentine presented the item.

City Attorney Currier noted that the City adopted the State’s formula in the ordinance in order to stay up-to-date.

City Manager Valentine confirmed:

- The MML and SEMCOG are in opposition to the State legislation.
- The proposed ordinance allows for greater City control of where and how the DAS/small cells are positioned.

**MOTION:**     Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Boutros:  
To adopt the recommended Amendment to Chapter 30 Article 10 of the Birmingham City Code.

VOTE:            Yeas,                7  
                      Nays,                0  
                      Absent,              0

**12-327-18                    CITY LOGO ADVANCEMENT PROCESS**

Assistant to the City Manager Haines presented the item.

Assistant to the City Manager Haines explained:

- The firms were not interviewed and clarified for Commissioner Hoff the scoring was done by City staff.
- She would be comfortable with a logo designed by any of the five firms. She noted that Factory Detroit is based in Royal Oak, the owner lives in Birmingham, and the two municipal references provided said Factory Detroit was able to pull together various groups to satisfactory conclusion.

Mayor Bordman said she was not comfortable with Factory Detroit owning the design.

Commissioner Hoff said all five companies seemed to have stronger marketing plans than logo designs.

Assistant to the City Manager Haines verified for Commissioner Nickita that the three designs presented by Factory Detroit are illustrative, not proposals.

Commissioner Nickita addressed the ownership aspect, noting that it is not uncommon for a creative group to own the product. The City would have an agreement to use it in a certain way.

Mayor Bordman said the RFP specifies that all ownership rights will be transferred to City.

Mayor Bordman suggested the Commission postpone until next week to give Assistant to the City Manager Haines an opportunity to ~~clarify~~ ask Factory Detroit about the proposed timeline, design ownership, and concept questions regarding whether the three designs submitted Factory Detroit were illustrative or proposals<sup>2</sup>.

The Commission was in agreement to postpone.

**12-328-18                      REQUEST FOR CLOSED SESSION**

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

To meet in closed session in accordance with Section 8(h) of the Open Meetings Act.

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

City Manager Valentine stated the City did not anticipate any action following the closed session.

**VII.    REMOVED FROM CONSENT AGENDA**

Items removed from the Consent Agenda were addressed earlier in the meeting.

**VIII.    COMMUNICATIONS**

None

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

None

**X.      REPORTS**

**12-329-18                      COMMISSIONER REPORTS**

The City Commission will appoint two alternate members to the Storm Water Utility Appeals Board on January 14.

The City Commission will appoint three members to the Public Arts on January 14, 2019.

B.     Commissioner Comments

<sup>2</sup> *As amended at the December 10, 2018 Commission Meeting.*



Commissioner Nickita addressed pedestrian issues at the Oakland, Willits, and Old Woodward intersection. He said it is the worst intersection for walkability, and that the problems were not sufficiently improved by the Old Woodward reconstruction.

City Manager Valentine said he would contact the City's traffic consultant to address issues with said intersection.

Commissioner DeWeese noted the City is in a strong financial position, and should look at reducing the fund balance slightly to address liabilities.

City Manager Valentine replied that this would be best explored during the City's budget discussion.

Commissioner Sherman said the City is aggressive with funding its liabilities. His concerns with the Court were that the Court was not aggressive enough.

Commissioner Hoff recognized a successful Winter Markt. She also stated that Birmingham was identified as the twelfth safest city in Michigan by Statewise.

**12-330-18 CITY STAFF**

City Attorney Currier reported that the Oakland Circuit Court upheld the Board of Zoning Appeals' November 17, 2017 and June 12, 2018 decisions to deny appeals from Catalyst Development Co. 8, LLC and Woodward Brown Associates, LLC regarding preliminary and final site plan approvals granted by the Planning Board.

<b>XI. ADJOURN</b>
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Mayor Bordman adjourned the meeting to closed session at 10:28 p.m.

Mayor Bordman reconvened the regular meeting at 11:09 p.m.

The meeting was adjourned at 11:09 p.m.

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J. Cherilynn Mynsberge, City Clerk