

BIRMINGHAM CITY COMMISSION MINUTES
DECEMBER 10, 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, Assistant City Manager Gunter, City Attorney Currier, IT Director Brunk, Police Chief Clemence, Planning Director Ecker, Assistant Engineer Fletcher, Finance Director Gerber, Police Commander Grewe, Assistant to the City Manager Haines, Building Official Johnson, City Engineer O'Meara, City Clerk Mynsberge

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

12-331-18 ANNOUNCEMENTS

- Mayor Pro Tem Boutros and Commissioner Hoff's birthdays were celebrated.
- The pending retirements of Fire Chief Connaughton and Assistant Fire Chief Donohue were announced.
- City Manager Valentine introduced Assistant Fire Chief Wells, noting he will step into the Interim Fire Chief position.

12-332-18 APPOINTMENTS TO THE BIRMINGHAM SHOPPING DISTRICT BOARD

The Commission interviewed current Board members Amy Pohlod and Geoffrey Hockman.

MOTION: Motion by Commissioner Harris:

To concur with the City Manager's appointment of Amy Pohlod to the Birmingham Shopping District Board, as a member who has an interest in property located in the District, for a four-year term to expire November 16, 2022.

VOTE:	Yeas,	7
	Nays,	0
	Absent,	0

MOTION: Motion by Commissioner Boutros:

To concur with the City Manager's appointment of Geoffrey Hockman to the Birmingham Shopping District Board, as a member representing a business located in the District, for a four-year term to expire November 16, 2022.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

12-333-18 APPOINTMENT TO THE BOARD OF ZONING APPEALS

The City Commission interviewed new applicant Jerry Attia and current alternate member Francis Rodriguez. Applicant Ron Reddy was unable to attend.

MOTION: Motion by Commissioner Boutros:

To appoint Francis Rodriguez to the Board of Zoning Appeals, as a regular member, for the remainder of a three-year term to expire October 10, 2019.

VOTE: Yeas, 6
 Nays, 0
 Absent, 0

Commissioner Sherman nominated Jerry Attia. However, the vote on the nomination for Francis Rodriguez was decisive, therefore Mayor Bordman announced the appointment of Mr. Rodriguez.

12-334-18 APPOINTMENTS TO THE DESIGN REVIEW BOARD

The City Commission interviewed new applicants Alexander Jerome, Patricia Lang, and Gigi Debbrecht.

MOTION: Motion by Commissioner DeWeese:

To appoint Alexander Jerome to the Design Review Board, as an alternate member, for the remainder of a three-year term to expire September 25, 2019.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

MOTION: Motion by Commissioner Boutros:

To appoint Gigi Debbrecht to the Design Review Board, as a regular member, for the remainder of a three-year term to expire September 25, 2021.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

MOTION: Motion by Commissioner Nickita :

To appoint Patricia Lang to the Design Review Board, as a regular member, for the remainder of a three-year term to expire September 25, 2021.

VOTE: Yeas, 7

Nays, 0
Absent, 0

12-335-18 APPOINTMENT TO THE MULTI-MODAL TRANSPORTATION BOARD

The City Commission interviewed new applicant Joe Zane.

MOTION: Motion by Commissioner DeWeese:

To appoint Joseph Zane to the Multi-Modal Transportation Board, as an alternate member, for the remainder of a three-year term to expire October 27, 2019.

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.

12-336-18 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Commissioner Harris: Item H; Term Extension For The Ad Hoc Unimproved Street Study Committee
- Mayor Bordman: Item A; City Commission Meeting Minutes of December 3, 2018

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner DeWeese:

To approve the Consent Agenda, with Items A and H removed.

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

- B. Resolution approving the warrant list, including Automated Clearing House payments, dated December 5, 2018 in the amount of \$318,850.63.
- C. Resolution accepting the resignation of Patricia Lang from the Historic District Study Committee, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.

- D. Resolution accepting the resignation of Gigi Debbrecht from the Historic District Study Committee, thanking her for her service, and directing the City Clerk to begin the process of filling the vacancy.
- E. Resolution awarding the Zoning Ordinance codification services to enCode, in the amount of \$11,610, to be funded from account 101-215.000-15.05200 and further, approving the appropriation and amendment to the 2018-2019 General Fund Budget as presented.
- F. Resolution approving the street light agreement between the City of Birmingham and DTE Energy Co. regarding the installation of street lights at 2010 Cole Ave. Further, directing the Mayor to sign the agreement on behalf of the City. All costs relative to this agreement will be charged to the adjacent owner.
- G. Resolution approving the proposed agreement by DTE Energy to replace forty-seven (47) light fixtures in the Rail District with a City approved product where the City would share in the cost equally with DTE Energy and apply a portion of an existing credit balance totaling \$22,682.43 and DTE would absorb \$22,682.44 for a total project cost of \$45,364.87.
- I. Resolution approving a request from Common Ground to hold the Street Art Fair in Shain Park and on the surrounding streets on September 14 & 15, 2019 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

12-337-18 ITEM H: TERM EXTENSION FOR THE AD HOC UNIMPROVED STREET STUDY COMMITTEE

Commissioner Harris relayed a citizen’s question regarding the possibility of instituting special assessment districts instead of relying on resident petitions for the process of improving a street.

MOTION: Motion by Commissioner Harris, seconded by Commissioner Nickita:
To extend the term of the Ad Hoc Unimproved Street Study Committee through December 2019.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

12-338-18 ITEM A: CITY COMMISSION MEETING MINUTES OF DECEMBER 3, 2018

Mayor Bordman asked that the minutes be amended to include further details of:

- Commissioner DeWeese’s appointment to the US voting delegation of the World Master’s General Assembly.
- Assistant to the City Manager Haines’ questions for Factory Detroit regarding ownership of the potential logo and Factory Detroit’s intent regarding the three logo designs.

Mayor Bordman also said Assistant to the City Manager Haines was not tasked with clarifying the timeline in the logo discussion with Factory Detroit.

Commissioner Hoff said one of the questions discussed at the meeting was Factory Detroit's claim that they would complete the City's logo process in six weeks. She asked that the reference to timing not be removed as a result, and suggested the language be changed from "timeline" to "timeframe".

Mayor Bordman reiterated that the other two questions should be added to the minutes of the logo discussion, and said she did not understand that timing was one of the issues to be questioned.

MOTION: Motion by Mayor Bordman, seconded by Mayor Pro Tem Boutros:
To approve the City Commission meeting minutes of December 3, 2018 as amended.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

V. UNFINISHED BUSINESS

12-339-18 GREENWOOD CEMETERY PAYMENT PLAN POLICY

City Clerk Mynsberge presented her memo dated December 10, 2018.

Commissioner Hoff was not in favor of the contractor holding payments, and retaining any interest generated from those payments, until plot(s) on a payment agreement are paid in full.

City Clerk Mynsberge clarified for Commissioner Hoff:

- Previous materials showed 16 payment plans in effect, but one has recently been paid off, leaving only 15 contracts in place.
- The length of terms for the current 15 contracts were determined by the contractor and will remain as is. The proposed policy limits any future contracts to a maximum of 24 months.

Commissioner DeWeese stated:

- Eliminating payment plans would be contrary to the City's policy of providing first class customer service. He sees no downside for the City in offering payment plans.
- Limiting a payment plan to 24 months is wise.
- The contractor is going to bear the extra work, not the Clerk's Office, and it makes it a nice clean separation having such a policy in place, so he will be supporting the amendment to the Operational Procedures as proposed.
- The proposed policy gets rid of a number of inconsistencies, and puts control in the City's hands.
- When a down payment is made it is basically a reservation for a spot. The customer does not own the plot until it is paid in full, and it is clear that if a customer has to use one of the plots, 20% of the cost of the remaining plots must be paid within a period of two to three months, which seems reasonable. Therefore he sees no downside to the policy as presented.

Commissioner Sherman remarked:

- The City's portion of payments should be remitted probably quarterly or semi-annually.
- He is not in favor of the contractor holding payments until the end of a payment plan. If that provision were changed he would be supportive of policy.

- Payment arrangements are appropriate in this industry. It's a fairly common practice, and he does not know why the City would not offer payment plans.
- The proposed plan addresses the rest of the issues that have been raised.
- For him, it comes down to when payment is made to the Perpetual Care Fund.

City Clerk Mynsberge commented the Perpetual Care Fund's investment earnings are currently approximately 5%. Over the course of 24 months the interest on the City's \$2,250 share is approximately \$112, which could be considered a nominal fee for the administration of the plan. The contractor sends out payment books, monthly statements, the accounting, and keeps in close contact with the purchasers.

City Manager Valentine explained the idea is that the contractor can do it cheaper and more efficiently than the City can do it, so it is a better deal for the City in the long run. Weighing what is given up against what is gained the City is benefitting from the arrangement.

Commissioner Sherman responded:

- The City has a contract with Elmwood to provide these services.
- Elmwood initially offered payment plans without the City's agreement.
- He would feel differently if the split was opposite – the City getting 25% and the contractor getting 75% - but the City gets three-fourths of each sale and he believes that should go into the Perpetual Care Fund sooner rather than later.
- Investment return rates could exceed 5%.

Mayor Bordman:

- Indicated the contractor is receiving payment for the work they do under the payment plan.
- Noted money in the Perpetual Care Fund gains interest and accumulates over time which will help accomplish many projects in the cemetery. The money should come to the City, as Commissioner Sherman suggested, quarterly or so.
- Suggested that in the event someone could not complete their payment plan, the person should have the option of transferring their money to cover one (or more) plot, and then 50% of the remaining balance on account would be forfeited.

City Clerk Mynsberge confirmed that all money paid on a payment plan can be applied to a plot needed for burial. The customer will then be given a grace period to pay enough on the account to cover 20% of the remaining plot(s).

Commissioner Harris said:

The policy needs to be clear on the point just explained by City Clerk Mynsberge.

The Commission should see the payment plan agreement to ensure it comports with the payment plan adopted.

Commissioner DeWeese noted:

- No one has expressed opposition to having payment plans for cemetery plots.
- Suggested the staff address the comments made and bring the proposed policy back to the Commission as soon as feasible.
- Encouraged a policy that is compassionate and works for the interests of the City.
- Referring to the question of when the City's portion of plots sold under payment plans should be remitted, suggested there may be other options.

Commissioner Nickita said he concurs with the general comments made, and agreed with Commissioner Harris that the Commission needs to see the contract being used for payment plans.

City Manager Valentine confirmed staff will address the comments made and bring the policy back to the Commission for consideration.

**12-340-18 MAPLE ROAD RECONSTRUCTION SOUTHFIELD ROAD TO
WOODWARD AVENUE, TREE AND PLANTER ALIGNMENT**

Commissioner Sherman shared concerns that information is coming to the Commission incomplete. He said this issue also occurred during the Old Woodward project.

Mayor Bordman reiterated her opposition to zelkova trees.

Commissioners DeWeese and Sherman stated that they did not recall approving zelkovas at the last meeting.

Planning Director Ecker said:

- She would return to the record for the November 19, 2018 Commission meeting and double-check the question of tree approval.
- The tree alignment chosen for the mid-block crossings can also be applied to the intersections with the bump-outs.

Commissioner Nickita stated the Commission had asked staff for clarification at their November 19, 2018 meeting regarding:

- How the streets would look with all the trees aligned; and,
- If the trees are all aligned, how other features of the intersections would be changed, such as landscaping, benches, extra space for pedestrians, and ramps.

Commissioner Nickita further commented:

- He was surprised that no information regarding proposed intersection feature changes had been submitted in the agenda materials.
- He would rather have all the information instead of addressing this issue piecemeal.

Commissioner DeWeese agreed with Commissioners Nickita and Sherman, adding that features such as benches should be approved once seen in-context as part of a plan. He noted the absence of plans that contextualized the recommended features.

Commissioner Sherman suggested postponing until staff returned with the requested information.

City Manager Valentine confirmed there would be time to clarify the plans for the space between the curb and the sidewalk.

Mayor Bordman requested a more complete picture of staff proposals for each of the places that are currently an issue: the Henrietta intersection, the crosswalks, and the tree types.

City Manager Valentine asked Mr. Strader and Ms. Wolfe if they had any questions.

Commissioner Nickita said he would like to see plans for a seating option and the landscape condition once the trees are aligned.

12-341-18 CITY LOGO ADVANCEMENT FOLLOW UP REGARDING FACTORY DETROIT

Assistant to the City Manager Haines reported that contact was made with Factory Detroit, who agreed to adhere to all terms laid out in the City's RFP. As a result, Assistant to the City Manager Haines recommended that the Commission accept Factory Detroit's proposal.

Commissioner Hoff confirmed that the \$5,000 fee includes up to 8 meetings. The additional charge of \$500 per meeting is for meetings over 8.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Nickita:
To accept the proposal from Factory Detroit to provide logo branding services in an amount not to exceed \$5,000, charged to Account #101-299.000-729.0000, and further, to authorize the Mayor to sign the agreement on behalf of the City.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

VI. NEW BUSINESS

12-342-18 PARKING LOT #6 REHABILITATION/EXPANSION

Assistant City Manager Gunter reviewed the item.

Assistant City Manager Gunter confirmed:

- The landscaping standards in option one were aspirational, not binding.
- Bicycle racks will be installed at Parking Lot #6.
- The primary goal for the Advisory Parking Committee was to maximize parking, given the current demand.

Commissioner DeWeese said:

- Either option would involve a considerable amount of landscaping.
- Option one would facilitate the farmer's market more than option two, because option two breaks up the positioning of the vendors. Therefore option one would be more appropriate.
- With all the planned work, the cost of each space works out to about \$37,000. Without any environmental work or fixing of the parking lot, the cost of each space works out to be nearly \$6,000 per space.
- The City has put effort into encouraging walking, cycling, and other modes of transportation to limit the need for parking lots.

Commissioner DeWeese encouraged visitors to the downtown area to ride a moped, bicycle, or to walk whenever possible to decrease costs to the City.

Commissioner Nickita:

- Shared concern that the City does not adhere to the landscaping guidelines it requires private developers to follow.
- Suggested the City install the landscaping elements on the south side of the lot as shown in option two since they would be more visible and useful to pedestrians, and

eliminate the other suggested islands from option two. He said it would allow for a few more spaces in option two.

- Said the landscaping elements should not impede the farmer's market set-up since all the stands are individual tents. He added the City should consider trees in the landscaping elements to provide shade and enhance the farmer's market as well.

Assistant City Manager Gunter acknowledged sensitivity to the Commission's concerns, adding that each space made available in Parking Lot #6 is critically important to the parkers visiting 280 N. Old Woodward since the City is unable to offer valet services in the area. She continued:

- In option one, the goal is to replace trees one-for-one. Once rendered, the engineering plans can be brought back to the Commission to provide more specificity.
- Lot #6 currently has 142 spaces.
- The Architectural Review Committee's feedback was incorporated into option one.
- The Advisory Parking Committee recommends funding this project through the Parking Enterprise Fund.

City Manager Valentine explained there would be a special assessment when the City rebuilds the N. Old Woodward parking structure, so the APC decided to specially assess the property owners near Lot #6 and the N. Old Woodward structure only once.

Commissioner Sherman noted:

- Both options increase parking spaces.
- Agreement with Commissioner Nickita that the City's lack of adherence to its own landscaping guidelines for private developers puts the City in a difficult position.
- Trees help establish place in open parking lots. The Commission needs to balance the needs of the area and the needs of the entire City.

Al Vaitas, Chair of the Advisory Parking Committee, stated that every parking space is essential in Lot #6. He noted:

- The enhanced landscaping in the back was thought to balance out the lack of landscaping elements in the lot.
- The City's landscaping requirements have not been adhered to in other City parking lot projects.

City Engineer O'Meara confirmed that the City's landscape guidelines were not adhered to with Lot #7.

City Manager Valentine confirmed that the river would remain accessible.

Subsequent to further discussion the Commission created a hybrid option for Lot #6.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Nickita: To authorize City staff to proceed with the final design and bidding of Parking Lot #6 based on Preliminary Concept plan Option #1 as amended to include the three landscaping islands with trees on the west side of the lot nearest Old Woodward and the three landscaping islands with trees midway on the southern leg of the lot.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

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

12-343-18 COMMISSIONER REPORTS

The City Commission will appoint two regular members to the Historic District Study Committee on January 14, 2019.

12-344-18 CITY STAFF

Annual Perpetual Care Fund Investment Report

Finance Director Gerber submitted the Annual Perpetual Care Fund Investment Report.

2017 Annual Report of the Greenwood Cemetery Advisory Board

Commissioner DeWeese said he would like more focus on encouraging plot purchases in areas other than Sections A, B, and C of the cemetery. He noted those areas are the most sensitive parts of the cemetery.

Commissioner Hoff said there were many good suggestions in the 2017 Annual Report, including establishing a baseline for the cemetery. She said she would like to see the HDSC and Friends of the Museum involved. She also said ground-penetrating radar to establish the records should be part of establishing the baseline.

City Clerk Mynsberge said the GCAB plans to discuss the process of establishing a baseline in-depth at their February 2019 meeting. In 2018 the GCAB put together a list in terms of where the Board wants to go for the Master Planning process. In February 2019, the Board will be reviewing:

- Quotes for ground-penetrating radar;
- Examples of the results from GPR;
- Whether GPR will help the GCAB reach their goals; and
- The results of a field study of the cemetery done by Birmingham DPS and Elmwood within the last four years.

City Clerk Mynsberge clarified that the City maintains records of plots sold and unsold in the cemetery. The GCAB will also be reviewing these records and determining whether it will help to pursue GPR in order to confirm these records.

City Manager Valentine noted that the GCAB spent time going out to bid for a consultant for a cemetery Master Plan. The GCAB has since changed approach and the new goals for February 2019 are an articulation of their newer efforts.

Mayor Bordman drew the Commission to Part Four, page three of the report. Noting that the report describes the City maintaining grave markers from before 1875, Mayor Bordman

suggested that the date should advance as time advances. One option she suggested is going by the definition of 'antique', defined as 100 years prior to the current date.

Parking Utilization Report

Assistant City Manager Gunter submitted the Parking Utilization Report.

XI. ADJOURN

The meeting was adjourned at 9:40 p.m.

J. Cherilynn Mynsberge, City Clerk