

BIRMINGHAM CITY COMMISSION MINUTES
NOVEMBER 12, 2018
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Andrew M. Harris called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present:	Mayor Harris Mayor Pro Tem Bordman Commissioner Boutros Commissioner DeWeese Commissioner Sherman
	Absent:	Commissioner Hoff Commissioner Nickita

Administration: City Manager Valentine, City Attorney Currier, Senior Planner Baka, IT Director Brunk, Communications Director Byrne, Police Chief Clemence, Planning Director Ecker, Finance Director Gerber, Building Official Johnson, Deputy Treasurer Klobucar, City Engineer O'Meara, City Clerk Mynsberge, BSD Director Tighe, DPS Director Wood

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

11-296-18 ORGANIZATION OF THE CITY COMMISSION

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Bordman:
To nominate Mayor Harris as the temporary chair of the City Commission for purposes of conducting the Mayor and Mayor Pro Tem election.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Boutros:
To nominate Mayor Pro Tem Bordman as Mayor.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

MOTION: Motion by Commissioner Harris, seconded by Mayor Bordman:
To nominate Commissioner Boutros as Mayor Pro Tem.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

The Clerk administered the oath of office to Mayor Bordman and Mayor Pro Tem Boutros.

Mayor Bordman made a presentation melding her family's history with the history of Birmingham.

Mayor Pro Tem Boutros expressed his gratitude and recognized his family.

Mayor Bordman presented a gift on behalf of the City to outgoing Mayor Harris.

Commissioner Harris thanked the City Manager and City Department Heads, his colleagues on the Commission, and recognized his family.

The meeting was recessed at 7:51 p.m.

INTERMISSION

Mayor Bordman reconvened the meeting at 8:04 p.m.

11-297-18 APPOINTMENTS TO THE RETIREMENT BOARD, RETIREES HEALTH CARE FUND COMMITTEE, TRIANGLE DISTRICT CORRIDOR IMPROVEMENT AUTHORITY, AND FOUNDATION FOR BIRMINGHAM SENIOR RESIDENTS.

MOTION: Motion by Commissioner DeWeese:
To appoint Patty Bordman, Mayor, to the Retirement Board.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

MOTION: Motion by Commissioner DeWeese:
To appoint Pierre Boutros, Mayor Pro Tem, to the Retirement Board.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

MOTION: Motion by Commissioner DeWeese:
To appoint Patty Bordman, Mayor, to the Retirees Health Care Fund Committee.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Harris:
To concur in the Mayor's appointment of Commissioner Sherman to the Triangle District Corridor Improvement Authority.

VOTE: Yeas, 5
 Nays, 0

Absent, 2

MOTION: Motion by Commissioner Harris, seconded by Mayor Pro Tem Boutros:
To concur in the Mayor's appointment of Commissioner Hoff to the Foundation for Birmingham Senior Residents.

VOTE: Yeas, 5
Nays, 0
Absent, 2

11-298-18 RESOLUTION AUTHORIZING THE NEW MAYOR TO SIGN THE CITY'S EMERGENCY ACTION GUIDE ON BEHALF OF THE CITY

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Boutros:
To authorize the Mayor to sign the City's Emergency Action Guide on behalf of the City.

VOTE: Yeas, 5
Nays, 0
Absent, 2

IV. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

11-299-18 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Harris:
To approve the Consent Agenda as submitted.

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

- A. Approval of City Commission minutes of October 29, 2018.
- B. Approval of warrant list, including Automated Clearing House payments dated October 24, 2018 in the amount of \$2,835,969.79.
- C. Approval of warrant list, including Automated Clearing House payments dated October 31, 2018, in the amount of \$410,053.28.
- D. Approval of warrant list, including Automated Clearing House payments dated November 7, 2018, in the amount of \$591,584.63.
- E. Resolution adopting the Performance Resolution for Governmental Agencies with the Michigan Department of Transportation (MDOT) and authorizing City Engineer, Paul O'Meara and Assistant City Engineer, Austin Fletcher, to apply to MDOT for the necessary permit work within the State Highway Right-of-Way on behalf of the City of Birmingham.

- F. Resolution authorizing the IT department to purchase the Security Subscription, Support and License renewals for the Palo Alto Firewall and Traps Server and endpoint clients from AmeriNet. The purchase price not to exceed \$26,578.63. Funds are available in the IT Network Upgrade fund account #636-228.000-973.0400.
- G. Resolution setting Monday, December 3, 2018 at 7:30 PM for a public hearing to consider the Program Year 2019 Community Development Block Grant Program.

V. UNFINISHED BUSINESS

None.

VI. NEW BUSINESS

11-300-18 PUBLIC HEARING TO CONSIDER CONFIRMATION OF SPECIAL ASSESSMENT DISTRICT (SAD) NUMBERS 884, 885, 886, AND 887 - FUNDING FOR PRINCIPAL SHOPPING DISTRICT

Mayor Bordman opened the public hearing at 8:10 p.m.

Deputy Treasurer Klobucar reviewed her memo to City Manager Valentine dated November 5, 2018.

With no further comments from the Commission or public, Mayor Bordman closed the public hearing at 8:10 p.m.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Boutros: To adopt a resolution ratifying and confirming Special Assessment Roll No. 884 for fiscal year 2018-2019, Special Assessment Roll No. 885 for fiscal year 2019-2020, Special Assessment Roll No. 886 for fiscal year 2020-2021 and Special Assessment Roll No. 887 for fiscal year 2021-2022, funding for the Principal Shopping District, and to instruct the City Clerk to endorse said rolls, showing the date of confirmation thereof, and certifying said assessment rolls to the City Treasurer for collection. Further, that for each year of such assessments, special assessments shall be payable in one (1) installment as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of six and a quarter percent (6.25%) on all due unpaid installments. *(Formal resolution appended to these minutes as Attachment A.)*

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

11-301-18 PLANNING BOARD ACTION LIST

Planning Director Ecker covered the proposed process to address needed amendments to the Planning Board's Action List between annual reviews.

Commissioner DeWeese said he was in favor but suggested all seven commissioners be present when determining the action list.

Planning Director Ecker explained a decision was not urgent.

Commissioner Harris opined that there was no harm in delaying section A and moving forward with section B.

Commissioner Sherman questioned the move of renovation of commercial properties from #2 to #6 on the list. Planning Director Ecker explained the items higher on the list are almost completed.

Commissioner Sherman noted that the meeting had a quorum, this issue was discussed at the Commission-Planning Board joint meeting, and he would prefer to move it forward.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Harris:
To approve the Revised 2018-2019 Planning Board Action List as submitted.

AND

To establish a process to address needed amendments to the Planning Board's Action List between annual reviews. (*Formal resolution appended to these minutes as Attachment B.*)

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

11-302-18 HISTORIC DISTRICT STUDY COMMITTEE (HDSC) ACTION LIST

Senior Planner Baka reviewed his memo to City Manager Valentine dated November 2, 2018, noting there is no budget for some of the items, so funds transfers may be required.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Boutros:
To approve the 2018 HDSC Action List as submitted.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

11-303-18 MOPED PARKING – OLD WOODWARD

Planning Director Ecker reviewed her memo to City Manager Valentine dated October 31, 2018, explaining that the MMTB discussed whether or not to charge for the spaces, but forwarded the recommendation without fees during the first year.

City Manager Valentine explained that not charging for spaces offers incentive to use mopeds instead of cars, opening up parking spaces for other drivers.

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Harris:
To approve the Multi-Modal Transportation Board's recommendation to add moped parking and to direct City Staff to begin work on implementing moped parking on Old Woodward between Brown Street and Oakland Avenue.

AND

To provide a report back to the City Commission in one year on the status and usage of the designated moped parking.

VOTE: Yeas, 5
 Nays, 0
 Absent, 2

11-304-18 MARIHUANA ORDINANCE

City Manager Valentine explained staff has been working with the City Attorney's office in anticipation of the passage of Proposal 18-1. The City is currently opted-out of medical marihuana dispensaries through Public Act 281 of 2016. In order to opt-out of the new law, the City must adopt an ordinance prohibiting recreational marihuana establishments.

City Manager Valentine confirmed:

- Personal use is still permitted under state law. This proposed ordinance only prohibits commercial activity within the City limits.
- If this ordinance is not passed, a retail marihuana establishment would go through the City's application process like any other retail business in order to maintain a license to operate.

Commissioners Sherman and DeWeese stated it would be prudent to pass this ordinance for now, understanding it could always be changed in the future.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese: To adopt the Amendment to Chapter 26. – Business to add Article XII. – Marihuana Establishments Prohibited, as follows:

"The City Code, Part **II**, Chapter 26. Businesses shall be amended to add Article XII.- Marihuana Establishments Prohibited, shall read as follows:

CHAPTER 26 - BUSINESSES

ARTICLE XII. - MARIHUANA ESTABLISHMENTS PROHIBITED.

Sec. 426-500 - Marihuana Establishments Prohibited.

Marihuana establishments as defined in Section 3 of the Michigan Regulation and Taxation of Marihuana Act, and as it may hereafter be amended from time to time, are completely prohibited within the City limits of the City of Birmingham, as provided for in Section 6 of the Act."

VOTE: Yeas, 4
 Nays, 1 (Harris)
 Absent, 2

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

11-305-18 COMMISSIONER REPORTS

The City Commission will appoint two regular members to the Board of Review on December 3, 2018.

The City Commission will appoint a member who is a District resident and a member who has an ownership or business interest in property located in the District to the Triangle District Corridor Improvement Authority on December 3, 2018.

- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation

11-306 -18 CITY STAFF

The Commission received the parking utilization report submitted by Assistant City Manager Gunter.

The Commission received the memo regarding the Collector Streets Paving Project, Contract #2-19(P) submitted by Planning Director Ecker, Police Commander Grewe, and City Engineer O'Meara.

XI. ADJOURN

There being no further business, Mayor Bordman adjourned the meeting at 8:37 p.m.

RESOLUTION #11-300-18

**RATIFICATION AND CONFIRMATION OF
SPECIAL ASSESSMENT ROLL
884 FOR FISCAL YEAR 2018-2019,
885 FOR FISCAL YEAR 2019-2020,
886 FOR FISCAL YEAR 2020-2021,
887 FOR FISCAL YEAR 2021-2022,
FUNDING FOR THE PRINCIPAL SHOPPING DISTRICT**

WHEREAS, Special Assessment Roll, designated Roll No. 884 for fiscal year 2018-2019 has been heretofore prepared for collection and Roll No. 885 for fiscal year 2019-2020, Roll No. 886 for fiscal year 2020-2021, and Roll No. 887 for fiscal year 2021-2022 shall be prepared for collection in the respective years; and

WHEREAS, the City Commission has established rates for fiscal years 2018-2019, 2019-2020, 2020-2021 and 2021-2022 included in District 1 at \$0.494 per square foot for the first floor and \$0.346 per square foot for the floors second and above and included in District 1A at \$0.247 for the first floor and \$0.173 per square foot for the floors second and above, respectively, and with a maximum amount to be determined; and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code to each owner or party-in-interest of property to be assessed; and

WHEREAS, Commission resolution 10-290-18 provided it would meet this 12th day of November, 2018 for the sole purpose of reviewing the assessment roll; and

WHEREAS, at said hearing held this November 12, 2018 all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham.

NOW, THEREFORE, BE IT RESOLVED that Special Assessment Roll No. 884 for fiscal year 2018- 2019 has been heretofore prepared for collection and Roll No. 885 for fiscal year 2019-2020 Roll No. 886 for fiscal year 2020-2021 and Roll No. 887 for fiscal year 2021-2022 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said rolls, showing the date of confirmation thereof, and to certify said assessment rolls to the City Treasurer for collection.

BE IT FURTHER RESOLVED, that for each year of such assessments, special assessments shall be payable in one (1) installment as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of six and a quarter percent (6.25%) on all due unpaid installments.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Boutros: To adopt a resolution ratifying and confirming Special Assessment Roll No. 884 for fiscal year 2018-2019, Special Assessment Roll No. 885 for fiscal year 2019-2020, Special Assessment Roll No. 886 for fiscal year 2020-2021 and Special Assessment Roll No. 887 for fiscal year 2021-

2022, funding for the Principal Shopping District, and to instruct the City Clerk to endorse said rolls, showing the date of confirmation thereof, and certifying said assessment rolls to the City Treasurer for collection. Further, that for each year of such assessments, special assessments shall be payable in one (1) installment as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of six and a quarter percent (6.25%) on all due unpaid installments.

VOTE:	Yeas,	5
	Nays,	0
	Absent,	2

RESOLUTION 11-301-18

ESTABLISHING A PROCESS TO ADDRESS NEEDED AMENDMENTS TO THE PLANNING BOARD ACTION LIST BETWEEN ANNUAL REVIEWS.

WHEREAS, The City of Birmingham strives to operate in a strategic manner to ensure the needs of the community are addressed in accordance with policy directives of its elected officials; and

WHEREAS, There are several City boards and commissions that serve in this supporting capacity to recommend various actions, improvements and policy changes; and

WHEREAS, The Birmingham Planning Board serves in this role and operates under their Planning Board Action List which is reviewed and approved by the City Commission each year; and

WHEREAS, The City Commission and the Planning Board have discussed at their October 15, 2018 joint workshop the need to clarify a process for miscellaneous items that arise in between reviews of the Planning Board Action List.

NOW, THEREFORE, BE IT RESOLVED, that the Birmingham City Commission wishes to outline a process for the Planning Board to follow in addressing miscellaneous items that arise in between reviews of the Planning Board Action List which warrant some urgency in obtaining action; and

BE IT FURTHER RESOLVED, that the process to initiate changes to the Planning Board Action List between annual reviews shall consist of the following:

1. Topics which can be undertaken by the Planning Board without modification to the Planning Board Action List shall include:
 - a. Clarification of existing ordinance language in order to act on pending applications, including but not limited to preliminary and final site plan approval, SLUPs, regulated uses, rezoning and community impact studies.
2. Topics which must receive approval by the City Commission for modification to the Planning Board Action List shall include:
 - a. Topics which establish or change policy under ordinance
 - b. The creation of new ordinance sections.

Topics requiring Commission approval shall be requested by a majority vote of the Planning Board and be advanced through their staff liaison.

3. Questions on whether a topic complies with Article 1 or 2 of this section shall be directed to the City Manager for determination.

BE IT FINALLY RESOLVED, that the City Commission hereby adopts this Resolution and directs a copy be shared with the Planning Board for their use.