

Birmingham City Commission Minutes
April 8, 2024
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/924875112>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor McLain
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner Long
Commissioner Longe

Absent: MPT Schafer

Staff: City Manager Ecker; City Clerk Bingham, Assistant City Manager Clemence, City Engineer Coatta, Planning Director Dupuis, Assistant City Manager Fairbairn, Parking Systems Manager Ford, Finance Director Gerber, Police Chief Grewe, City Attorney Kucharek, Assistant Fire Chief Bertalino

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

Announcements

- Happy Birthday Mayor Pro Tem Schafer

In the absence of the Mayor Pro Tem, the Commission motioned for Commissioner Longe to serve as temporary Mayor Pro Tem for the duration of the meeting.

Appointments

04-091-24 Board of Ethics

Melissa Demorest LeDuc, Esq. was interviewed by the Commission.

MOTION: Nomination by tMPT Longe:

To appoint Melissa Demorest LeDuc, Esq. as a regular member to the Board of Ethics to serve a three-year term to expire June 30, 2024.

VOICE VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-092-24 Cablecasting Board

The Mayor disclosed that she previously served as Chair of the Cablecasting Board. R. David Eick was interviewed by the Commission.

MOTION: Nomination by Commissioner Host:

To appoint R. David Eick to the Cablecasting Board as a regular member to serve a three year term expiring March 30, 2027.

VOICE VOTE: Ayes, Commissioner Baller
 tMPT Longe
 Commissioner Haig
 Commissioner Host
 Mayor McLain
 Commissioner Long

Nays, None

04-093-24 Cablecasting Board

George Abraham was interviewed by the Commission.

MOTION: Nomination by Commissioner Long:
To appoint George Abraham to the Cablecasting Board as a regular member to serve a three year term expiring March 30, 2027.

VOICE VOTE: Ayes, Commissioner Baller
 tMPT Longe
 Commissioner Haig
 Commissioner Host
 Mayor McLain
 Commissioner Long

Nays, None

04-094-24 Ad Hoc Senior/Recreation Center Committee (SCC)

Commissioner Long spoke regarding his interest in serving on the SCC.

Public Comment

David Bloom recommended that two additional members of the public be considered for SCC appointment.

Commissioners' comments were as follows:

- The Commissioners serving on the SCC should focus on keeping the project within budget.
- There was a member of the public that might make a beneficial appointment to the SCC, in addition to the two other members of public recommended by Mr. Bloom. If those three members of the public were not appointed to the SCC, it would still be beneficial if they participated in the SCC via public comment.

MOTION: Nomination by Commissioner Haig:
To appoint Commissioner Long as a regular member from the City Commission to the Ad Hoc Senior/Recreation Center Committee to a serve three-year term to expire March 4, 2027.

VOICE VOTE: Ayes, Commissioner Baller
 tMPT Longe
 Commissioner Haig
 Commissioner Host
 Mayor McLain
 Commissioner Long

Nays, None

CC Bingham swore in the present appointees.

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

Mr. Bloom made a comment regarding Commissioner-public interactions.

George Dilgard made comments regarding the Senior/Recreation Center.

V. CONSENT AGENDA

04-095-24 Consent Agenda

MOTION: Motion by tMPT Longe, seconded by Commissioner Haig:
To approve the Consent Agenda items B, C, D, G, J, and K.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

- A. Resolution to approve the amended City Commission meeting minutes of March 4, 2024.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 4, 2024 in the amount of \$240,511.42.
- F. Resolution to approve the Program Year 2024 High Intensity Drug Trafficking Area (HIDTA) sub recipient agreement between the County of Oakland and the City of Birmingham. Further, to authorize the Mayor to sign the agreement on behalf of the City.
- H. Resolution to direct the Director of Public Services to apply for West Nile Virus Fund Expense Reimbursement.
- I. Resolution to approve the Amended OAKWAY Interlocal Agreement between Participating Political Subdivisions, in addition, to authorize the Mayor and City Manager to sign the agreement on behalf of the City.

04-096-24 Birmingham City Commission Meeting Minutes - March 18, 2024 (Item B)

tMPT Longe removed Item B from the consent agenda and recommended an amendment to the minutes.

MOTION: Motion by tMPT Longe, seconded by Commissioner Host:
To approve the City Commission meeting minutes of March 18, 2024.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-097-24 Warrant List Dated 03/21/2024 (Item C)

Mayor McLain removed Item C from the consent agenda and noted two payments to the 48th District Court.

MOTION: Motion by Mayor McLain, seconded by Commissioner Baller:
To approve the warrant list, including Automated Clearing House payments, dated March 21, 2024 in the amount of \$1,430,987.28.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host

Mayor McLain
Commissioner Long

Nays, None

04-098-24 Warrant List Dated 03/28/2024 (Item D)

Mayor McLain removed Item D from the consent agenda and noted two payments to the 48th District Court.

MOTION: Motion by Mayor McLain, seconded by Commissioner Long:
To approve the warrant list, including Automated Clearing House payments, dated March 28, 2024 in the amount of \$942,661.05.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-099-24 Museum Board Member Caroline Ashleigh (Item G)

Commissioner Long removed Item G from the consent agenda and recommended the Commission request an advisory opinion on the matter.

MOTION: Motion by Commissioner Long, seconded by tMPT Longe:
To request an Advisory opinion from the Ethics Board to determine whether or not Ms. Ashleigh is creating an irreconcilable conflict of interest and unable to serve on a voluntary board when she is in the position of being a Plaintiff in a multi-Plaintiff cited lawsuit against the City and potentially acting in a position which is adverse and in conflict to the City's best interest.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-100-24 Parking Lot No. 6 Floodwall Phase 1 Professional Design Engineering Services Agreement (Item J)

Commissioner Haig removed Item J from the consent agenda. Staff answered informational questions from the Commission.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host:
To approve an agreement for Parking Lot No. 6 Floodwall Phase 1 Professional Design Engineering Services with Anderson Eckstein & Westrick, Inc. addition, to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance requirements;

AND

To approve the appropriation and amendment to the Capital Project Funds – Streambank Improvement as follows:

Revenues:		
Appropriation from Fund Balance	403.0-000.000-400.0000	<u>\$4,340</u>
Expenses:		
Capital Projects Fund – Capital Outlay	403.0-901.018-981.0100	\$4,340

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-101-24 Lead and Copper Monitoring Program Services Agreement (Item K)

Commissioner Baller removed Item K from the consent agenda. Staff answered informational questions from the Commission.

MOTION: Motion by Commissioner Baller, seconded by tMPT Longe:
To approve an agreement for Lead and Copper Monitoring Services with Hydrocorp, LLC. In addition, to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance requirements. Funding for this program has been budgeted in the Water and Service Maintenance Fund, account #591.0-545.000-811.000;

AND

To approve the appropriation and amendment of the fiscal year 2023-2024 budget as follows:

Water Service and Maintenance Fund:

Revenues:		
591.0-000.000-400.0000	Draw from Net Position	<u>\$10,500</u>
Total Revenue		\$10,500
Expenditures:		
591.0-545.000-811.0000	Other Contractual Service	<u>\$10,500</u>
Total Expenses		\$10,500

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

VI. CITY MANAGER’S REPORT

VII. UNFINISHED BUSINESS

Motion from February 5, 2024 to Discuss Amending Ethics Ordinance

CM Kucharek presented the item and answered questions from the Commission.

Commissioners’ comments were as follows:

- Eligible residents were encouraged to apply to serve on City boards and committees.
- At this point in time, expanding the eligibility criteria for serving on the Board of Ethics was not necessary since a resident filled the vacant position.
- More intensive advertising of board and committee vacancies would likely yield more applications.

VIII. NEW BUSINESS

04-102-24 Parks & Recreation Bond Authorizing Resolution

FD Gerber presented the item. Staff and representatives from Bendzinski & Co. answered questions from the Commission.

MOTION: Motion by Commissioner Long, seconded by tMPT Longe:
To approve the bond authorizing resolution for the 2024 unlimited tax general obligation bonds as submitted by bond counsel.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-103-24 Ad Hoc Senior/Recreation Center Committee Progress

CM Ecker presented the item. Staff answered questions from the Commission.

Commissioners' comments were as follows:

- While the mandate to create a facility for Next was both more clear and a higher priority, the mandate for creating a community center was less clear. The City should clarify residents' interest in investing in a community center.
- A proposed budget range should be clarified as soon as possible.
- Next made a financial contribution to this project as well.
- The community center aspect of this project was envisioned from the beginning since Next does not require the entirety of the building.
- It was also envisioned, and remains a possibility, that the community center aspect might be maintained by the YMCA with YMCA services.
- The facility could also help meet the present demand for meeting rooms and spaces for community activities.
- Since the entire tax base would be supporting the facility, it was envisioned that at least part of the facility would be available for the entire community's use.
- A budget cannot be devised until it is more clear what the intended building uses would be.
- The first goal should say community/senior center, as opposed to senior/community center.
- Alternatively, it would be more appropriate to leave the first goal as referencing a senior/community center in order to acknowledge that Next contributed funding and that the senior center aspect of the project is a priority.
- If the SCC believes that the project timeline should be extended at any point, it should communicate that belief to the Commission.
- It might be more appropriate to seek architects with different specialties to propose different options for the facility.
- Going through an RFQ process first for architects will be beneficial. It will be difficult for architects to answer an RFP without knowing the budget of the project.

Public Comment

Daniel Share, Chair of the SCC, commented on the SCC's work thus far.

Cris Braun, Director of Next, commented on the timing of Next's tenancy at Midvale and the timing of the YMCA's tenancy at 400 E. Lincoln.

Kelly Stubbe, Executive Director of the Birmingham YMCA, commented on the YMCA's continued operations in the City.

MOTION: Motion by Commissioner Long, seconded by tMPT Longe:
To approve the vision statement, goals and objectives, and the project timeline for the senior/recreation center as recommended by the Ad Hoc Senior/Recreation Center Committee for the planning and development of a senior/recreation center at 400 E. Lincoln.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe

Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

04-104-24 Advisory Parking Committee (APC) Letter of Concerns

CM Ecker presented the item. Staff answered questions from the Commission.

Commissioners' comments were as follows:

- It might be appropriate to revise the APC's responsibilities and goals.
- The Commission values the APC's work.
- It was beneficial that the APC was communicating their concerns to the Commission. The City would benefit from an engaged, knowledgeable, and thorough APC.
- The APC and Commission should receive regular reporting on parking. Any proposed changes to parking operations should be commented on by the APC.
- The City Attorney should propose revised language to reflect changes to the APC's responsibility and goals.
- There are sometimes conflicting interests between certain APC members and proposals brought before the APC. Any revision of the APC's responsibility, goals, and composition should take that dynamic into consideration.

MOTION:

Motion by Commissioner Long, seconded by Commissioner Host:

To direct appropriate City staff to amend or revise the APC's role in the City of Birmingham's parking system, and to present those revised guidelines to the Commission once work has been done with the APC and staff for Commission review and make comment. In regards to review by resolution or ordinance, leave that decision or recommendation to City staff or the City Attorney and bring that along with the new proposal.

Commissioners' comments were as follows:

- This process should be used as a template for other boards and committees that may need to update their guiding documentation as well.
- The APC and Commission should receive regular reports on parking system maintenance, improvements, operations, usage, and financials.
- The APC should provide comment on all changes regarding the physical plan, technology, pricing, and other parking and parking enforcement policies.
- Any parking matters being brought to the Commission should be accompanied by a recommendation from the APC.
- It would be beneficial for the APC and staff to work together on their proposed changes to the APC's role, with the understanding that the final decision regarding the APC's role would rest with the Commission.
- The APC's recommendations should be data-driven.

Public Comment

Kevin Kozlowski, member of the APC, spoke in support of a delineation of responsibilities between the APC and the Parking Systems Manager.

Al Vaitas, Chair of the APC, commented regarding the APC's work and spoke positively of PSM Ford.

The Commission motioned in favor of calling the question.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

Cameras for City Vehicles

CM Ecker presented the item. Staff answered questions from the Commission.

Commissioners' comments were as follows:

- If staff believe there to be an added value to backup cameras on older vehicles, backup cameras should be added. Cameras facing out could also be beneficial though 360-degree cameras would not be necessary.
- When initially raising this topic, the addition of interior-facing cameras that would record the drivers was not contemplated.
- Installing backup cameras might result in insurance savings.
- This topic represented overreach by the Commission. If desired by staff, a request for vehicle cameras should be brought to the Commission.
- The addition of exterior-facing cameras was not essential.

Commission Items for Future Discussion

Commission Discussion On Items From A Prior Meeting

1. City Commission Room Cameras

The Mayor provided a summary of the topic.

2. Ad Hoc Environmental Sustainability Committee Report

Jess Newman, chair of the AHESC, commented on the AHESC's work.

04-105-24 Closed Session Pursuant to MCL § 15.268 Sec. 8(1)(a) and (e) of the Open Meetings Act

CM Ecker requested that her performance evaluation occur in closed session, which is allowable under MCL § 15.268 Sec. 8(1)(a).

It was noted that the remainder of the agenda would be completed before entering into closed session.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To meet in closed session to discuss the periodic personnel evaluation of City Manager Ecker and to discuss pending litigation regarding Yasamin Aziz, et al v City of Birmingham, Oakland County Circuit Court Case No. 2024-206496-NZ, Honorable Phyllis C. McMillen pursuant to MCL § 15.268 Sec. 8(1)(a) and (e) of the Open Meetings Act respectively.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

The Commission entered into closed session at 11:24 p.m. and returned from closed session at 12:28 a.m.

04-106-24 Action Resulting from Closed Session

MOTION: Motion by Commissioner Baller, seconded by Commissioner Haig:
To engage in a proposal for legal services that has been given by Audrey Forbush from Plunkett Cooney, that the Commission agree and allow the City Manager to sign a legal service agreement for defense of the last lawsuit that was filed regarding the case of Yasamin Aziz, et al v City of Birmingham, Oakland County Circuit Court Case No. 2024-206496-NZ before the Honorable Phyllis C. McMillen.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT Longe

Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Long

Nays, None

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

A. Shirley & Arlington Letters

Commissioner Baller recused himself due to his residence in the project area and left the room at 10:54 p.m.

Jim Mirro commented on Shirley and Arlington.

Staff provided guidance during the discussion.

Commissioners' comments were as follows:

- Regarding the proposed sewer and water updates and road improvements for Arlington and Shirley, the City Engineer should request bid proposals for plans calling for full excavation and road reconstruction and plans calling for Horizontal Directional Drilling (HDD) and cape seal repair. Upon receipt of these bids, the City Engineer should present to the Commission a detailed comparison of cost, time, and bidder qualifications, and make a recommendation of the City's preferred way to proceed.
- It would be beneficial for options to be explored.
- Soliciting bids for HDD would require Staff to design the project in two separate ways and to bid each proposal. It would also require changes to the prior enabling motion of the project.
- Staff has previously indicated why HDD would not be appropriate for this particular project.
- The prior enabling motion for this project prioritizes the health, safety, and welfare of the community.
- Some residents may continue to be frustrated if they feel that the City has inadequately explored opportunities for cost savings.

Commissioner Baller rejoined the meeting at 11:20 p.m.

X. REPORTS

A. Commissioner Reports

1. Notice of intention to appoint to the Parks And Recreation Board

B. Commissioner Comments

The Mayor said she attended two different centenarians' birthdays and met a third centenarian. She noted that Birmingham was recognized as a Tree City for 2023. She noted that she and CM Ecker met with State Representative Haley Stevens regarding the senior/recreation center and other projects in the community.

C. Advisory Boards, Committees, Commissions' Reports and Agendas

1. Cable Board Report Update

D. Legislation

E. City Staff

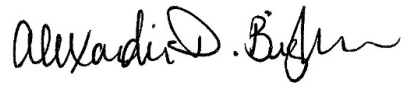
1. Police Department Annual Report

Commissioners Baller and Haig acknowledged PC Grewe for the report.

INFORMATION ONLY

XI. ADJOURN

The Commission motioned to adjourn at 12:30 a.m.



Alexandria Bingham, City Clerk



Laura Eichenhorn, City Transcriptionist