BIRMINGHAM CITY COMMISSION MINUTES
OCTOBER 13, 2014
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Stuart Lee Sherman, Mayor Pro Tem, called the meeting to order at 7:32 PM.

II. ROLL CALL

ROLL CALL: Present, Mayor Pro Tem Sherman
Commissioner Dilgard
Commissioner Hoff
Commissioner McDaniel
Commissioner Nickita
Commissioner Rinschler
Absent, Mayor Moore

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Building Official Johnson, PSD Director Heiney, Police Chief Studt, City Engineer O'Meara, City Planner Ecker

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

10-234-14 PROCLAMATIONS

The Commission recognized David Conlin for his service on the Board of Zoning Appeals.

The Commission recognized Dorothy Conrad recipient of the First Citizen award.

The Commission recognized the Birmingham Bloomfield Symphony Orchestra celebrating its 40th anniversary.

The Commission congratulated Commissioner Nickita on receiving the Detroit Chapter of the American Institute of Architect Prestigious Gold Medal in recognition of notable contributions to the AIA Detroit Chapter and outstanding achievement of professional endeavors.

10-235-14 APPOINTMENT TO THE BOARD OF ZONING APPEALS

The Commission interviewed the following individuals for appointment to the Board of Zoning Appeals:

1. Randolph Judd, 1592 Redding
2. Rachel Loughrin, 1604 Mansfield
3. Peter Lyon, 1498 Yosemite
4. Kevin Hart, 2051 Villa
5. Michael Minna, 857 Redding

MOTION: Motion by Hoff:
To appoint Randolph Judd, 1592 Redding, as a member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2017.

MOTION: Motion by Rinschler:
To appoint Kevin Hart, 2051 Villa, as a member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2017.

MOTION: Motion by McDaniel:
To appoint Rachel Loughrin, 1604 Mansfield, as a member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2017.

MOTION: Motion by Dilgard:
To appoint Peter Lyon, 1498 Yosemite, as a member to the Board of Zoning Appeals to serve a three-year term to expire October 10, 2017.

VOTE ON NOMINATION OF JUDD:
Yeas, 6
Absent, 1 (Moore)

VOTE ON NOMINATION OF HART:
Yeas, 6
Absent, 1 (Moore)

VOTE ON NOMINATION OF LOUGHRIN:
Yeas, 3 (McDaniel, Rinschler, Sherman)
Absent, 1 (Moore)

VOTE ON NOMINATION OF LYON
Yeas, 3 (Dilgard, Hoff, Nickita)
Absent, 1 (Moore)

The Commission agreed to notice for the alternate position and then appoint the regular member and alternate member at the same meeting.

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.

10-236-14 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Nickita, seconded by Rinschler:
To approve the consent agenda as follows:

A. Approval of City Commission/Parks and Recreation Board workshop minutes of September 15, 2014.
B. Approval of City Commission meeting minutes of September 22, 2014.
C. Approval of warrant list, including Automated Clearing House payments, of September 24, 2014 in the amount of $1,790,695.33.
D. Approval of warrant list, including Automated Clearing House payments, of October 1, 2014 in the amount of $6,991,038.21.
E. Approval of warrant list, including Automated Clearing House payments, of October 8, 2014 in the amount of $493,275.77.

F. Resolution approving the appointment of election inspectors for the November 4, 2014 General Election pursuant to MCL 168.674(1) and authorizing the City Clerk to make revisions as needed.

G. Resolution setting a public hearing date for October 27, 2014 to consider the Brownfield Plan for 400 S. Old Woodward (former Green's Art Supply).

H. Resolution receiving the petition submitted by Mr. Anthony Long requesting the paving of Cummings Street from Chapin Ave. to E. Fourteen Mile Rd., and setting a public hearing of necessity for the improvement proposed herein on November 10, 2014 and setting a public hearing to confirm the roll on November 24, 2014.

I. Resolution approving the Commercial Natural Gas Purchase contract with Constellation NewEnergy- Gas Division, LLC for natural gas purchases from December 1, 2014 thru November 30, 2015 at a rate not to exceed $4.95/Mcf. Further directing the Mayor and City Clerk to sign the agreement on behalf of the City.

J. Resolution approving the Lighting Agreements with Essco of Birmingham, and Merrillwood Building, granting permission for the City for holiday lighting to be placed over Merrill Street during the 2014 holiday season, and further directing the Mayor and the City Clerk to sign the agreement on behalf of the City.

K. Resolution approving the agreement with Steel Equipment Company in the amount not to exceed $6,200.00 to furnish all materials, equipment, including accessories and incidentals necessary for the installation of a new ADA Door Operator; further authorizing this expenditure from the Community Development Block Grant Fund account number 248-690.000-836.0100; further authorizing the mayor to sign the agreement on behalf of the City; and further approving the appropriation and amendment to the fiscal year 2014-2015 budget as follows:

Community Development Block Grant Fund

Revenues:	
Draw from Fund Balance	$6,200
(Account #248-000.000-400.0000)	
Total Revenues	$6,200
Expenditures:	
Barrier Free Improvements	$6,200
(Account #248-690.000-836.0100)	
Total Expenditures	$6,200

ROLL CALL VOTE:	Yeas,	Commissioner Dilgard
		Commissioner Hoff
		Commissioner McDaniel
		Commissioner Nickita
		Commissioner Rinschler
		Mayor Pro Tem Sherman
	Nays,	None
	Absent,	1, Mayor Moore
	Abstentions,	None

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

10-237-14 PUBLIC HEARING FOR SPECIAL LAND USE PERMIT SHELL GAS STATION, 33588 WOODWARD AVE

Mayor Pro Tem Sherman opened the Public Hearing at 7:57 PM to consider the Final Site Plan & Design and a Special Land Use Permit at Shell Gas Station, 33588 Woodward Ave (formerly Citgo).

City Planner Ecker explained that staff is requesting the Public Hearing be postponed to October 27th to allow for additional information to be added the notice regarding the proposed 24-hour operation to ensure that everyone fully understands the nature of what is being applied for at that location.

Commissioner Hoff requested the resolution include the 24-operation wording.

MOTION: Motion by Rinschler, seconded by Hoff:
To continue the Public Hearing to October 27, 2014.

Mayor Pro Tem Sherman closed the Public Hearing at 8:00 PM.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Moore)

10-238-14 INITIAL SCREENING OF BISTRO APPLICANTS - 2015

Mayor Pro Tem Sherman announced that the application from The Park, 189 West Maple, was withdrawn.

The City Commission heard proposals from the following bistro applicants:

- The Factory Bistro, 2010 Cole
- SHO, 100 Townsend

In response to a question from Commissioner Hoff, Linda Mayer, attorney representing SHO, explained that if the bistro was approved, the Townsend Hotel would drop that space from the hotel's liquor license and the applicant would apply for a separate license.

Steve Kalczynski, representing the Townsend Hotel, confirmed that the owners are on board with the concept.

The Commission discussed the market study which shows the retail mix in the downtown. Commissioner Rinschler pointed out that SHO would not affect the retail mix.

The Commission expressed concern with the state of the building where The Factory Bistro would be located on Cole. Commissioner Hoff expressed disappointment that the Vicari Restaurant Group was not in attendance for any questions related to The Factory Bistro.

MOTION: Motion by Hoff, seconded by Dilgard:
To direct the following bistro applications, in the priority order below, to the Planning Board for full site plan and design review and Special Land Use Permit review:

1. SHO, 100 Townsend
2. The Factory Bistro, 2010 Cole

The Commission requested staff work with Mr. Keilani to address the concern with the building on Cole.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Moore)

10-239-14 PARKING STUDY UPDATE FOR THE TRIANGLE DISTRICT

City Engineer O'Meara presented an update on the parking study for the Triangle District area. He explained that the parking environment and demands of the buildings north of Maple between Woodward and Adams have changed since the creation of the Corridor Improvement Authority. The Corridor Improvement Authority will be discussing the potential to expand the district to include the commercial buildings on the north side of Maple.

Mr. O'Meara explained the vision is to have two public parking facilities in the triangle area - one on the north end and the other on the south end. He noted that it is appropriate to bring the 2007 parking study up-to-date based on what has happened in the seven years as the information is old.

The Commission discussed the boundaries of the Triangle District.

Commissioner Sherman explained that in order to properly calculate the size of the TIF needed, the City will need to have a better handle on the amount of parking needed.

MOTION: Motion by McDaniel, seconded by Rinschler:
To approve the amendment to a previous agreement and related proposal directing LSL Planning to update the parking study section of the Development and Tax Increment Financing Plan for the Triangle District at a cost of $6,500, and authorizing the Mayor and Clerk to sign the amendment. Further, approving the 2014-2015 appropriation and budget amendment as follows:

Revenues:		
Draw from Fund Balance	251-000.000-400.0000	$6,500
Total Revenue Adjustments		$6,500
Expenditures:		
Other Contractual Services	251-729.000-811.0000	$6,500
Total Expenditure Adjustments		$6,500

VOTE: Yeas, 6
Nays, None
Absent, 1 (Moore)

10-240-14 GREENWOOD CEMETERY ORDINANCE AMENDMENTS

City Manager Valentine presented the ordinance amendments for the creation of the perpetual care fund for the cemetery and to establish a standing cemetery board to assist with the long term needs of the cemetery.

Commissioner McDaniel expressed concern with the amount of interest earned on the perpetual care fund. Mr. Currier explained the restrictions the Municipalities have on the investment of funds.

Commissioner Hoff questioned whether the ordinance should state the source of the funds. Mr. Valentine stated that the intent of the ordinance is that the revenues generated from the cemetery would go back to the cemetery. Commissioner Hoff suggested the ordinance should include where the funds are coming from.

In response to a question from Commissioner Hoff, Mr. Valentine confirmed that Elmwood Cemetery would do the administrative work for the reclamation under the City's direction and control. He confirmed that Elmwood Cemetery would receive a percentage of the proceeds from the sale of the burial sites under the agreement.

Dorothy Conrad suggested changing the heading of Section 34-30 to clarify the establishment of a cemetery board. The Commission agreed to change the heading of Section 34-30 to Establishment of Greenwood Cemetery Advisory Board.

Pam DeWeese expressed support of the Cemetery Board.

George Stern suggested the cemetery board work with staff regarding exempting cemeteries from Public Act 20.

Mr. Valentine confirmed for Ron Buchanan that Elmwood Cemetery would take direction from the City Manager through the advisory recommendations of the board for any actions administrative in nature.

MOTION: Motion by Rinschler, seconded by Nickita:
To adopt an ordinance amending Part II of the City Code Chapter 34 Cemeteries, Article II., Greenwood Cemetery to add section 34-29 Perpetual Care Fund.

- AND -

To adopt an ordinance amending Part II of the City Code Chapter 34 Cemeteries, Article II., Greenwood Cemetery to add section 34-30 Establishment of the Greenwood Cemetery Advisory Board as amended.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Moore)

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

10-241-14 COMMUNICATIONS

The Commission received the following communications:

- Brian & Mary Connolly, 843 Arlington, regarding West Maple
- Barbara & Lawrence Kunkler, 619 Shirley, regarding West Maple
- Janice Petcoff, 968 Arlington, regarding West Maple
- Marianne & Alan Schwartz, 416 Hawthorne, regarding West Maple
- Terry Thomas, 235 Linden, regarding West Maple
- Jeff Wilmot,147 Linden, regarding West Maple

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

X. REPORTS

10-242-14 COMMISSIONER REPORTS

The Commission intends to appoint members to the Principal Shopping District Board on November 24, 2014.

10-243-14 COMMISSIONER COMMENTS

The Commission discussed the decision of the Planning Board to not replace a member while on sabbatical as there could be quorum issues. The Commission requested staff proceed with an ordinance amendment to allow for an alternate member on the Planning Board.

XI. ADJOURN

The Mayor adjourned the meeting at 9:24 PM.

Laura M. Pierce
City Clerk