BIRMINGHAM CITY COMMISSION MINUTES
DECEMBER 15, 2014
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Stuart Lee Sherman, Mayor, called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL:	Present,	Mayor Sherman
		Commissioner Dilgard
		Mayor Pro Tem Hoff
		Commissioner McDaniel
		Commissioner Moore
		Commissioner Nickita
		Commissioner Rinschler
	Absent,	None

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, DPS Director Wood, City Engineer O'Meara, Police Chief Studt, City Planner Ecker,

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

12-295-14 INTRODUCTION OF GUESTS

Bob Borgan, President of the Birmingham Area Senior Coordinating Council (BASCC), introduced Cris Braun, new Executive Director of BASCC.

The Police Chief introduced new police officers Casey Pedersen and Jordan Zale. The Clerk administered the oath.

12-296-14 PROCLAMATIONS

The Commission presented a proclamation to Charles Tallinger in recognition of his forty years of service as an Auxiliary Police Officer.

12-297-14 APPOINTMENT TO THE MULTI MODAL TRANSPORTATION BOARD

MOTION: Motion by Hoff:
To appoint Vionna Adams, 2109 Dorchester, to the Multi Modal Transportation Board to serve the remainder of a one-year term to expire March 24, 2015.

VOTE: Yeas, 7
Absent, None

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.

12-298-14 APPROVAL OF CONSENT AGENDA

MOTION: Motion by McDaniel, seconded by Dilgard:

To approve the consent agenda as follows:

A. Approval of City Commission minutes of December 8, 2014.

B. Approval of warrant list, including Automated Clearing House payments, of December 10, 2014 in the amount of $784,292.93.

C. Resolution approving the purchase of one (1) new 2015 Ford Explorer 4X4 from Signature Ford Lincoln, through the Macomb County extendable purchasing contract #51-13 A.9.c for a total expenditure of $26,521. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

D. Resolution approving the Amendment to the Golf Car Lease Agreement between the City of Birmingham and Pifer, Inc. for an additional $600.00 per car per year or a total increase per year in the amount of $3,600; and further authorizing the Mayor and City Clerk to sign the amended lease documents on behalf of the City. Funds for this lease are contained with the Equipment Rental line item, account # 597-753.002-941.0000.

E. Resolution accepting the resignation of George Stern from the Museum Board, thanking Mr. Stern for his service, and directing the Clerk to begin the process to fill the vacancy.

F. Resolution authorizing the filing of an application for the annual permit for work on state highways and designating Paul T. O'Meara, City Engineer, as the officer authorized to sign permits required by the State of Michigan beginning January 1, 2015, in accordance with the requirements of the application and permit. In his absence, the designated officer shall be Brendan Cousino, Assistant City Engineer.

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

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

12-299-14 MULTI MODAL TRANSPORTATION BOARD 2015 CONSTRUCTION PROJECTS

City Engineer O'Meara explained that the Multi Modal Transportation Board recommended the City proceed with the construction of the local streets and make the ADA handicap improvements where needed. He noted that this will not prohibit the neighborhood connector routes to be built at a later date.

Mayor Pro Tem Hoff questioned the plan for Martin Street near the Baldwin House. Mr. O'Meara explained that the road is currently interrupted by the parking equipment for the Chester Street Parking Structure. The City is currently in the process of trying to obtain the right-of-way. The new office building has donated their right-of-way to the City. Mr. O'Meara

is working with the Baldwin House regarding their portion of the right-of-way. He stated that the road would be two lanes between Southfield and Chester with sidewalks on both sides of the street and street lights.

MOTION: Motion by Rinschler, seconded by Nickita:
To endorse the Multi-Modal Transportation Board's review of the following 2015 construction projects as they relate to the Multi-Modal Transportation Master Plan:

Maryland Blvd. – Southlawn Blvd. to 14 Mile Rd.
Henrietta St. – Northlawn Blvd. to 14 Mile Rd.
Southlawn Blvd. – Bates St. to Pierce St.
Martin St. – Southfield Rd. to Chester St.
Mansfield Rd. – Sheffield Rd. to 14 Mile Rd.
Chester St. – Maple Rd. to Martin St.
Derby Rd. – CN Railroad Bridge to Eton Rd.

and to direct the Engineering Department to proceed with these designs as described.

VOTE: Yeas, 7
Nays, None
Absent, None

City Engineer O'Meara reviewed the discussion by the Multi Modal Transportation Board regarding the neighborhood parking needs on Oak Street. He noted that the Board recommended that four blocks, Suffield to Lakepark, furthest away from the school not have any parking. This would allow the road to be narrowed down to thirty feet and include two lanes of traffic and two bike lanes.

Mr. O'Meara explained the Board recommended the installation of a traffic island at Lakepark to slow speeds. The next three blocks would be a two lane road with bike lanes through Suffield. At Suffield it would transition back to a thirty-nine foot road with one lane of parking on the south side which would continue to Chesterfield. The project would stop at the Chesterfield intersection as the school was not able to make a determination on their parking needs in time for the 2015 construction schedule.

Commissioner Rinschler suggested the road be narrowed with no parking lane if there is no clear need for parking or have a thirty-six foot road the entire length instead of narrowing.

Commissioner Nickita supported the thirty foot road width. He questioned to what degree parking is needed and suggested parking be diminished to the lowest level possible.

City Planner Ecker explained that the Board heard a lot of feedback on this issue. She noted the police department did a parking count which showed that parking is hardly used except at the school. She noted that the school parking overflows at various times.

The Commission discussed parking and the width of the road. Commissioner McDaniel stated that it would be a mistake to take the parking away. Commissioner Rinschler stated that another meeting with the school is needed. Mayor Pro Tem Hoff expressed concern with moving forward on the street without the school input. Mayor Sherman expressed concern as the City cannot determine the extent of the parking need until the school determines their parking need.

MOTION: Motion by Rinschler, seconded by Nickita:
To make the road width thirty feet on Oak from Chesterfield to Lakepark and to have the Multi Modal Transportation Board and designers do their best job of putting in the bike lanes.

Mr. O'Meara confirmed for Mayor Sherman that the road could be restriped if parking becomes an issue.

The Commission discussed the traffic island. Mayor Pro Tem Hoff questioned the need for a traffic island if the road is thirty feet. Ms. Ecker explained that it is a traffic calming measure. Commissioner Nickita agreed that it would have a calming effect. Mike Labadie, traffic consultant, expressed support of the thirty foot width. He stated that a traffic island is not necessary; however it identifies the need to slow down. Mayor Sherman added that he would like to look at the traffic island again as they are obtrusive and ugly. Commissioner Nickita noted that there are better ways to build islands.

VOTE: Yeas, 7
Nays, None
Absent, None

Mr. O'Meara noted that the removal of the traffic signal at Chesterfield and Oak should be discussed as the recommendation is to make it a two-way stop.

The Commission agreed that this item should be deferred until the school parking need is determined.

MOTION: Motion by Rinschler, seconded by Nickita:
To defer the discussion on the light at Chesterfield and Oak until the City is able to have a discussion with the schools as the objective is to make the intersection as safe as possible.

VOTE: Yeas, 7
Nays, None
Absent, None

12-300-14 TRANSFER OF FRANCHISES COMCAST TO MIDWEST CABLE

Elaine McClain, Chair of Cable Board, explained the mission of the Cable Board. She explained that transfer from Comcast to Midwest Cable, LLC, which will ultimately become GreatLand Connections, is being examined by the FCC, FTC, and Department of Justice. She noted that the Cable Board recommended the transfer be approved with the seven conditions as listed in the resolution.

Fred Eton, Government Affairs Manager for Comcast, explained that the transfer is a result of the proposed acquisition by Comcast of Time Warner Cable. The acquisition will cause Comcast to become too big as the FCC prescribed that no one operator could have more than 30% of the market in the United States. This would take Comcast past that threshold. He pointed out that the ruling was tossed out by the courts; however Comcast has decided to observe it. He noted that 40% of the GreatLand Connections customers will be in Michigan. He noted that the transfer will only occur if the Time Warner acquisition is approved by the feds. If the

acquisition fails, customers will continue with Comcast. He pointed out that customers will not have to swap cable boxes or change phone numbers, however eventually emails would change.

In response to a question from Mayor Pro Tem Hoff, City Attorney Currier confirmed that the name change to GreatLand Connections will not occur until after the transfer of Comcast to Midwest Cable which is the reason GreatLand Connections is not referenced in the resolution.

MOTION: Motion by McDaniel, seconded by Nickita:
To adopt the resolution of consent to the transfer of control of the City of Birmingham franchises from Comcast to Midwest Cable, LLC in the manner described in the Agreement and Plan of Merger dated April 25, 2014, subject to the Conditions Precedent and Conditions Subsequent:

WHEREAS, Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington (Comcast) is a current cable franchisee for the Local Franchising Authorities within the Birmingham Area Cable Board (BACB); and,

WHEREAS, Comcast and Midwest Cable submitted an application on June 17, 2014 for Franchising Authority Consent to the transfer of control of the cable television franchise; and,

WHEREAS, the Local Franchising Authority is relying upon such information as contained in the FCC Form 394 application, documents, and additional information provided by Comcast and acted upon the application and such information for Franchising Authority Consent. The Local Franchising Authority intends to consent to the transfer of control subject to the acceptance of the terms and conditions set forth herein with the hope that such consent is in the best interest of the Local Franchising Authority.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Local Franchising Authority does hereby consent to the transfer of control of the Franchisee from Comcast to Midwest Cable, LLC in the manner described in the Agreement and Plan of Merger dated April 25, 2014, subject to the following conditions precedent and conditions subsequent:

Conditions Precedent

a) The written representation by Comcast that it will promptly notify the Local Franchising Authority, in writing, of any change in service or operation in the cable system serving the Local Franchising Authority's community and/or change in the personnel directly responsible for the operation of the cable system in contemplation of, or as a result of consummation of the Agreement and Plan of Merger; and,

b) The prompt and proper remediation of all existing defaults, if any, under the current Cable Franchise Agreement with Local Franchising Authority, pursuant to PA 480 of 2006 or other applicable law, as may be specified in writing by the Local Franchising Authority; and, the representation in writing by Comcast that it has no knowledge of any defaults except those that are identified by it; and,

c) The Transferee agrees in writing to accept and be bound by the lawful terms and conditions of the Franchise Agreement and the cable regulatory ordinances, pursuant to PA 480 of 2006 or other applicable law. This Resolution is without prejudice to the right of the Local Franchising Authority, Comcast, and Transferee to take positions with respect to what constitutes applicable state law; provided, however, that in all instances, the Transferee will assume all lawful obligations of such franchise.

d) All prior written agreements between the Franchisee and the Local Franchising Authority and any of the Local Franchising Authority's member communities, apart from the Franchise Agreement, shall remain in full force and effect, until such time as proper

written notice is provided to change such terms and conditions and the Transferee shall cause the same to be honored by the Franchisee.

e) The written representation by Comcast that all franchise fees that are currently due the Local Franchising Authority have been paid in full and on time.

Conditions Subsequent

a) The Local Franchising Authority's approval shall be voidable if the Agreement and Plan of Merger is not consummated by August 31, 2015, or such Agreement is terminated prior to that time without the same having been consummated; and,

b) The Transaction itself does not require any rate increases. To the extent that rate changes are made in the future, Midwest Cable will provide customers and the LFAs with reasonable notice of any such changes.

Grant of Consent

The Local Franchising Authority's grant of consent to the transfer of Comcast, to Midwest Cable, LLC pursuant to the Agreement and Plan of Merger dated April 25, 2014 shall be effective immediately subject to the above conditions, and further requires Comcast to notify the Local Franchising Authority promptly upon the closing of the transaction described in the aforementioned Agreement and Plan of Merger. The Local Franchising Authority is hereby authorized to enter into, execute and deliver in the name of the Local Franchising Authority a certificate along with such other documents as may be necessary evidencing this Resolution without further act or Resolution of the governing body.

VOTE: Yeas, 7
Nays, None
Absent, None

12-301-14 BROWNFIELD REVOLVING LOAN FUND DISCUSSION

Mayor Sherman explained that the issue relates to a proposal placed in a Brownfield Development Plan requesting the City establish a revolving fund which is contrary to the current policy.

The Commission agreed that the policy should not be changed.

12-302-14 CLOSED SESSION REQUEST
ATTORNEY/CLIENT PRIVILEGE COMMUNICATION

MOTION: Motion by Nickita, seconded by McDaniel:
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

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

12-303-14 CLOSED SESSION REQUEST
LAND ACQUISITION

MOTION: Motion by McDaniel, seconded by Rinschler:
To meet in closed session to discuss land acquisition pursuant to Section 8(d) of the Open Meetings Act.

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

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

12-304-14 COMMISSIONER REPORTS

The Commission intends to appoint members to the Museum Board on January 12, 2015.

12-305-14 CITY STAFF REPORTS

The Commission received the Maple Rd. & Chester St. Landscape Improvements report submitted by City Engineer O'Meara.

City Manager Valentine noted that the Water Resources Commissioner will be attending the January 26th Commission meeting. Commissioner Rinschler suggested the public be made aware that the Water Resources Commissioner will be attending the Commission meeting. Commissioner McDaniel suggested the Commission discuss the issues at the January 12th prior to the visit by the Water Resources Commissioner.

The Commission recessed to closed session at 9:34 PM.
The Commission reconvened in open session at 10:13 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 10:13 PM.

Laura M. Pierce
City Clerk