BIRMINGHAM CITY COMMISSION MINUTES
FEBRUARY 23, 2015
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 Planners Ecker and Baka, City Engineer O'Meara, Police Chief Studt, Deputy Police Chief Clemence, Finance Director Gerber

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

02-29-15 INTRODUCTION OF GUEST
SENATOR KNOLLENBERG

State Senator Marty Knollenberg discussed the state budget and the ballot proposal regarding road funding. He noted that if the proposal passes, the revenue would not be available until October 1st. He confirmed for Mayor Sherman that a Plan B is in the works should the proposal not pass.

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.

02-30-15 APPROVAL OF CONSENT AGENDA

MOTION: Motion by Hoff, seconded by Rinschler:

To approve the consent agenda as follows:

A. Approval of City Commission minutes of February 9, 2015.

B. Approval of warrant list, including Automated Clearing House payments, of February 11, 2015 in the amount of $1,376,773.67.

C. Approval of warrant list, including Automated Clearing House payments, of February 18, 2015 in the amount of $1,772,024.97.

D. Resolution accepting the resignation of Darlene Gehringer from the Historic District Commission and Design Review Board, thanking Ms. Gehringer for her service, and directing the Clerk to begin the process to fill the vacancy.

E. Resolution approving a request from the City of Birmingham to hold the In the Park Concerts on Wednesday evenings from June, 2015 through August, 2015 and the Band Jam on June 12, 2015 in Shain Park, 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.

F. Resolution approving the purchase of one (1) new Toro 648 Aerifier from Spartan Distributors, through the State of Michigan extendable purchasing contract #071B0200329 for a total expenditure of $23,445.77. Funds for this purchase are available in the Equipment Fund account #641-441.006-971.0100.

G. Resolution approving the purchase of four (4) new Toro Workman MD Utility Vehicles from Spartan Distributors, through the State of Michigan extendable purchasing contract #071B0200329 for a total expenditure of $31,276.88. Spartan Distributors will purchase the four (4) used Toro Workman HDX vehicles from the City of Birmingham in the amount of $30,000. Funds for this purchase are available in the Equipment Fund, account #641.441.006-971.0100.

H. Resolution approving the purchase of two (2) Toro 3150 riding greens mowers from Spartan Distributors, through the State of Michigan extendable purchasing contract #071B0200329 for a total expenditure not to exceed $67,977.62. Funds for this purchase are available in the equipment fund account #641-441.006-971.0100.

I. Resolution approving the 2015 annual flower purchase from Gardens & Beyond/Croswell Greenhouse in the amount not to exceed $18,088.50. Funds are available from the General Fund – Property Maintenance – Operating Supplies account #101-441.003-729.0000.

J. Resolution setting a public hearing date for March 30, 2015 to consider the Final Site Plan and Special Land Use Permit at 2200 Holland, Mercedes-Benz, to construct a warehouse building over 6,000 sq. ft.

K. Resolution approving the agreement with Kone, Inc. in the amount not to exceed $122,800.00 to perform the Baldwin Public Library Freight Elevator Renovation. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the city, and further approving the appropriation and amendment to the 2014-2015 General Fund budget as follows:

Revenue:		
Draw from Fund Balance	#101-000.000-400.0000	$122,800
Total Revenue Adjustment		$122,800
Expenditure:		
City Property Maintenance- Library	#101-265.002-977.0000	$122,800
Total Expenditure Adjustment		$122,800

L. Resolution awarding the 2015 Concrete Sidewalk Repair Program, Contract #7-15(SW) to RDC Construction Services, LLC, of Southfield, MI, in the amount of $311,578.50, to be charged to the various accounts as detailed in the report; and further approving the appropriations and budget amendments as follows:

Major Street Fund

Revenues:		
Draw from fund balance	#202-000.000-400.0000	$ 15,000
Total Revenue Adjustments		$ 15,000
Expenditures:		
Public Improvements	#202-449.001-981.0100	$ 15,000
Total Expenditure Adjustments		$ 15,000

Water Fund

Revenues:

Draw from net assets	#591-000.000-400.0000	$ 66,000
Total Revenue Adjustments		$ 66,000

Expenditures:

Other Contractual Services	#591-537.004-811.0000	$ 7,000
Other Contractual Services	#591-537.005-811.0000	$ 59,000
Total Expenditure Adjustments		$ 66,000

M. Resolution awarding the 2015 Local Streets Paving Project, Contract #2-15(P), to DiPonio Contracting, Inc., of Shelby Twp., MI, in the amount of $2,859,049.00, to be funded as follows:

Sewer Fund	590-536.001-981.0100	$ 771,438.36
Acacia Drain (Birmingham)	590-536.001-981.0100	$ 100,156.00
Acacia Drain (Beverly Hills)	590-536.001-981.6900	$ 236,050.77
Water Mains Fund	591-537.004-981.0100	$ 549,270.00
Local Streets Fund	203-449.001-981.0100	$ 880,547.30
Cummings St. Assessment	203-449.001-981.7000	$ 321,586.57
TOTAL		$2,859,049.00

Further, approving the appropriations and budget amendments as follows:

Local Street Fund

Revenues:

Draw from Fund Balance	#203-000.000-400.0000	$321,590
Total Revenue Adjustments		$321,590

Expenditures:

Cummings St. Public Improvements	#203-449.001-981.7000	$321,590
Total Expenditure Adjustments		$321,590

N. Resolution setting a public hearing of necessity for the installation of lateral sewers within the 2015 Local Streets Paving Program area, with a voluntary option being made available for those properties on the long side of Henley Dr. and Putney Dr. on March 16, 2015 at 7:30 PM. If necessity is declared, setting a public hearing to confirm the roll for the installation of lateral sewers in the 2015 Local Streets Paving Project Program area on March 30, 2015.

O. Resolution authorizing the Chief of Police to sign the Road Commission for Oakland County traffic control device cost agreement for the intersection of 14 Mile/Saxon and Southfield for signal modernization planned for the 2016-17 fiscal year.

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

02-31-15 PUBLIC HEARING – SPECIAL LAND USE PERMIT AMENDMENT ETON ACADEMY, 1755 & 1775 MELTON

Mayor Sherman opened the Public Hearing at 7:40 PM to consider an amendment to the Special Land Use Permit for 1755 & 1775 Melton, Eton Academy.

City Planner Baka explained the proposal to expand the existing school, add a one-story addition, and make minor changes to the front of the former church building which would include a screenwall to provide a restricted path between the two buildings. He noted that a plan has been created for better circulation during pick up and drop off times.

Mr. Baka confirmed for Mayor Pro Tem Hoff that the walkway between the two buildings is not enclosed.

Robert Hewer, architect for the project, discussed the circulation plan and the landscape plan for pedestrian access.

The Mayor closed the Public Hearing at 7:50 PM.

MOTION: Motion by McDaniel, seconded by Rinschler:
To approve the Final Site Plan and Special Land Use Permit Amendment at 1755 & 1775 Melton to allow the expansion of the Eton Academy into the former St. Columban Church building:

WHEREAS, Eton Academy filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to expand the Eton Academy by renovating the former St. Columban Church for use as additional classrooms and offices and adding an addition to connect the school and former Church as well as modify the parking lot to improve student safety in a R-2 (Single Family Residential) zoning district in accordance Article 2, Section 2.01 and 2.21 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment and Revised Final Site Plan being sought is located on the south side of the existing Eton Academy;

WHEREAS, The land is zoned R-2, which permits the use of a school with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit Amendment to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan for Eton Academy;

WHEREAS, The Planning Board on January 14, 2015 reviewed the application for a Special Land Use Permit Amendment and Revised Final Site Plan and recommended approval of the application;

WHEREAS, The Birmingham City Commission has reviewed Eton Academy's Special Land Use Permit Amendment and Revised Final Site Plan application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED,The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and Eton Academy's

application for a Special Land Use Permit Amendment and Revised Final Site Plan at 1755 and 1775 Melton is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit Amendment and Revised Final Site Plan is granted subject to the following conditions:

1. Eton Academy shall abide by all provisions of the Birmingham City Code; and

2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Eton Academy and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Eton Academy to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit Amendment.

MAY IT BE FURTHER RESOLVED that Eton Academy is recommended for Special Land Use Permit Amendment and Revised Final Site Plan to expand the Eton Academy by renovating the former St. Columban Church for use as additional classrooms and offices and adding an addition to connect the school and former Church as well as modify the parking lot to improve student safety at 1755 & 1775 Melton, subject to final inspection.

VOTE: Yeas, 7
Nays, None
Absent, None

02-32-15 PUBLIC HEARING – SPECIAL LAND USE PERMIT AMENDMENT GRIFFIN CLAW, 563 & 575 SOUTH ETON

Mayor Sherman opened the Public Hearing at 7:51 PM to consider an amendment to the Special Land Use Permit for 563 & 575 S. Eton, Griffin Claw.

City Planner Baka presented the proposal to construction an accessory building for additional storage space, expand the outdoor seating area, and add a new entrance feature to the back of the building. He noted that the proposal will reduce the number of parking spaces by eighteen, however the establishment will still be in compliance with the parking requirement with the seventy-eight remaining parking spaces. Mr. Baka confirmed that the ordinance does not require additional parking spaces for outdoor dining.

The Commission discussed the parking situation. Commissioner Moore suggested the ordinance regarding parking requirements be reviewed specific to outdoor dining.

Norm LePage, owner, suggested ideas to mitigate the parking issues in the neighborhood. He explained that emphasis will be placed on using the back door entrance. He noted that there is an agreement with Robot Garage to use each other's parking at the off-times. He suggested table tents be placed on the tables and a sign at the entrance of the parking lot to inform

patrons that parking is available at the Robot Garage. He noted that he is in discussion with Whistle Stop to utilize their parking.

The Commission discussed on-street parking and striping the parking on Palmer Street. The Commission suggested the employees be required to park in the Big Rock parking structure.

Sara Jacobs, Robot Garage, expressed support of the proposal.

Brian Renner, Bowers, noted that the Robot Garage has signage for their parking only. He noted that the parking is worse in the spring and summer. He commented on the limited amount of parking in the Eton Corridor.

Ron Glaser, Webster, expressed concern with the proposal and parking on Eton Street.

Barbara McIntosh, Bowers, noted that the employees were supposed to park in the structure eighteen months ago. She suggested valet parking be used. She noted that she will be requesting permit parking on Bowers as the parking situation is bad.

The Mayor closed the Public Hearing at 8:55 PM.

Dan Soretta commented on the noise in the neighborhood from a private party at the restaurant last year. He expressed concern that the outdoor seating would cause additional disturbance in the neighborhood.

The Commission agreed that the conditions for shared parking, signage, and location of employee parking be incorporated into the Special Land Use Permit.

MOTION: Motion by Hoff, seconded by Rinschler:
To approve the Final Site Plan and Special Land Use Permit Amendment at 563 & 575 S. Eton, Griffin Claw Brewery, to construct an accessory building, expand the outdoor dining area, build a canopy over the loading dock and add a new entrance feature to the back of the building; subject to the following conditions:

- that there is signage for shared parking not limited to the Robot garage;
- develop signage to direct patrons to shared parking;
- if needed Griffin Claw personnel to direct patrons to shared parking;
- mandate that employees park in the parking structure at Big Rock;
- and to stripe Palmer to maximize parking.

WHEREAS, Griffin Claw Brewing Company filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to construct an accessory building to provide additional storage, expand the outdoor seating, build a canopy over the loading dock for weather protection and add a new entrance feature to the back of the building;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the east side of S. Eton Street, between Palmer and Holland Streets, in Birmingham;

WHEREAS, The land is zoned MX, and is located within the Rail District, which allows an eclectic mix of small scale commercial, light industrial and residential uses;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving

recommendations on the Site Plan and Design from the Planning Board for the proposed Special Land Use Permit Amendment;

WHEREAS, The Planning Board on January 14, 2015 voted to recommend approval of the applicant's request for Final Site Plan and a Special Land Use Permit Amendment to the City Commission for the Griffin Claw Brewing Company at 563 & 575 S. Eton with the following conditions:

1) The applicant complies with the comments/suggestions made by the various departments and addresses the width of the parking lot access lane in front of the barrel house, subject to administrative approval.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on January 14, 2015;

WHEREAS, The Birmingham City Commission has reviewed the Griffin Claw Brewing Company's Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that the Griffin Claw Brewing Company application for a Special Land Use Permit Amendment to construct an accessory building to provide additional storage, expand the outdoor seating, build a canopy over the loading dock for weather protection and add a new entrance feature to the back of the building at 563 & 575 S. Eton Street is hereby approved.

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

1. Griffin Claw Brewing Company shall abide by all provisions of the Birmingham City Code;

2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;

3. The hours of operation for outdoor dining shall cease at 11:00 p.m. Sunday through Thursday; and

4. Griffin Claw Brewing Company shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Griffin Claw Brewing Company and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Griffin Claw Brewing Company to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

In response to a question from Mayor Pro Tem Hoff, Norm LePage stated that he agrees to the conditions that were verbalized.

VOTE: Yeas, 7
Nays, None
Absent, None

The Commission agreed to direct the Multi-Modal Transportation Board to review the parking situation in this area.

Alice Cole, Hazel, stated that she has previously contacted the Police Department regarding the noise.

The Commission received communications expressing concern with the proposal from the following individuals:

- Jason Folt, 1989 Bowers
- Brian Renner, 1971 Bowers
- Jerry Yaldoo

02-33-15 PUBLIC HEARING – SPECIAL LAND USE PERMIT AMENDMENT SHELL GAS STATION, 33588 WOODWARD AVE

Mayor Sherman opened the Public Hearing at 9:20 PM to consider an amendment to the Special Land Use Permit for 33588 Woodward, Shell Gas Station.

City Planner Ecker explained that the applicant submitted a brownfield plan seeking reimbursement of funds for the cleanup of the site. The brownfield plan showed some significant contamination on site. The cleanup proposed still left some contamination issues of soil and vapor. After reviewing the plan, the city attorney suggested language be inserted into the Special Land Use Permit (SLUP) that deals with the cleanup of the site. She stated that the concern is the contamination of site and how far it has flowed off site.

Jeff Haynes, City Attorney, explained that MDEQ had flagged this site as a more serious site amongst those they have seen and have committed funds to do further investigation. The applicant has agreed to do soil gas testing to determine if there are vapors coming off of the contamination that would be a problem inside the building. He stated that the SLUP conditions require contaminated soil be removed from the site and a system to remove the vapors be installed if it is found to be necessary. This would be done concurrent with the construction.

In response to a question from Commissioner Rinschler, Mr. Haynes explained that the proposed excavation in the brownfield plan was not going to be sufficient to remedy the major problems of the site. The current owner, under the current law is not liable for cleanup. It was advantageous to talk with the owner about increasing the scope of the remediation and using TIF funds. He confirmed that the language in the SLUP binds the current owner. He noted that the owner has agreed to this.

Ann Jamison, AKT Peerless, explained that if the MDEQ does not identify a viable liable party and additional contamination is identified offsite, the refined petroleum fund can be utilized by the MDEQ. If any contamination is found off-site, the current owner under his due care obligations will clean up his portion and the state could step in and address anything that had

potentially gone off-site. She explained for Commissioner McDaniel that the next step is to get vertical and horizontal schematics.

The Mayor closed the Public Hearing at 9:41 PM.

MOTION: Motion by Rinschler, seconded by Moore:
To approve an amendment to the Special Land Use Permit to add environmental cleanup provisions to the Special Land Use Permit resolution for 33588 Woodward – Shell Gas Station:

WHEREAS, a Citgo gasoline station with a convenience store was previously in operation on the site until January 2014, operated under a valid Special Land Use Permit,

WHEREAS, B5 Investment LLC has now applied for a Special Land Use Permit, to operate a gasoline service station with 24 hour operation, along with a convenience store operating with an SDM liquor license and a Dunkin Donuts store on site at 33588 Woodward,

WHEREAS, The land for which the Special Land Use Permit is sought is located at the southeast corner of Woodward Ave. and Chapin Ave.,

WHEREAS, The land is zoned B-2B General Business, which permits a gasoline service station with a convenience store with a Special Land Use Permit,

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use,

WHEREAS, The applicant now requests a Special Land Use Permit to allow for the redevelopment of the site, including the construction of a new gas pump canopy with LED lighting, expansion and repair of the existing building, signage changes, as well as pedestrian improvements on the site, such application having been filed pursuant to Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

WHEREAS, The Planning Board reviewed the proposed Special Land Use Permit on August 27, 2014 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;
2. The applicant addresses all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on August 27, 2014,

WHEREAS, The Birmingham City Commission has reviewed the B5 Investments LLC Special Land Use Permit application as well as the standards for such review as set forth in Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

NOW, THEREFORE, BE IT RESOLVED, That the previous Special Land Use Permit in effect for the operation of the former Citgo gasoline station at 33588 Woodward is hereby terminated.

BE IT FURTHER RESOLVED, The Birmingham City Commission finds the standards imposed on B5 Investments LLC under the City Code have been met, subject to the conditions below and B5 Investments LLC's application for a Special Land Use Permit to operate a gasoline service station with 24 hour operation, along with a convenience store operating with an SDM liquor license and a Dunkin Donuts store on site at 33588 Woodward, is hereby approved, subject to the attached site plan, and subject to the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;
2. The applicant addresses all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

The City requires (1) removal of all soil containing contaminant constituent concentrations exceeding the Part 201/Part 213 Csat criteria "soil saturation concentration screening levels" from Table 2. Soil Residential Part 201 General Cleanup Criteria and Screening Levels/Part 213 Risk-based Screening Levels, dated December 30, 2013, as amended, identified in the Baseline Environmental Assessment dated December 23, 2013, prepared by PM Environmental, or in subsequent investigations or reports (a) at the site, and (b) at properties adjacent to or near the site, verified by an environmental consultant acceptable to the City, and (2) implementation of other presumptive remedies, if necessary, including, but not limited to, vapor intrusion remedies, as approved by Michigan Department of Environmental Quality (MDEQ), that are protective of applicable indoor air inhalation concentrations, both concurrent with proposed construction at the site.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, the B5 Investments LLC Company and its heirs, successors and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of B5 Investments LLC to comply with all the ordinances of the City, may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7
Nays, None
Absent, None

02-34-15 2014 LIQUOR LICENSE REVIEW AND 2015 LIQUOR LICENSE RENEWALS

City Clerk Pierce explained that there are thirty-two establishments operating with a Class C liquor license, one establishment operating with a Class B Hotel License and one establishment operating with a micro-brewery license. She explained that City staff and the Oakland County Health Department, performs annual inspections on each establishment.

She noted that the establishments where violations were found received notification of the violation. Staff will continue to work with these establishments to clear up any outstanding violations. Ms. Pierce explained that the Commission may approve the renewal of all the licenses or set a Public Hearing to consider the objection to the renewal of one or more licenses based on specific reasons as stated in the City Code.

The Commission discussed the establishments with year round outdoor dining. Mayor Pro Tem Hoff pointed out that those operating only half of the year are at a disadvantage to those operating a full year.

The Commission expressed concern with the establishments which are delinquent in their water and tax bills and have made no attempt to make a payment. Mayor Sherman noted that one establishment has not fully complied with the terms of the Special Land Use Permit. Ms. Ecker confirmed that the establishment did contact her and they are researching lighting in order to be compliant.

MOTION: Motion by Hoff, seconded by Rinschler:
To set a public hearing for 7:30 PM on Monday, March 16, 2015 in the City Commission Room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009, to consider whether to file an objection with the Michigan Liquor Control Commission to the renewal of the license for consumption of intoxicating liquor on the premises currently held by the owners/operators of Bistro Joe's, 34244 Woodward, for the following reasons: Licensee's failure to timely pay its taxes or other monies due the city. (Section 10-40(7)); with the understanding that the Public Hearing would be cancelled if the licensee is no longer delinquent.
Further, to direct the City Manager to notify the owners/operators of Bistro Joe's, in writing, that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing, that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at the hearing.

VOTE: Yeas, 7
Nays, None
Absent, None

MOTION: Motion by Hoff, seconded by Rinschler:
To set a public hearing for 7:30 PM on Monday, March 16, 2015 in the City Commission Room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009, to consider whether to file an objection with the Michigan Liquor Control Commission to the renewal of the license for consumption of intoxicating liquor on the premises currently held by the owners/operators of Cosi, 101 North Old Woodward, for the following reasons: Licensee's failure to timely pay its taxes or other monies due the city. (Section 10-40(7)); with the understanding that the Public Hearing would be cancelled if the licensee is no longer delinquent.
Further, to direct the City Manager to notify the owners/operators of Cosi, in writing, that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing, that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at the hearing.

VOTE: Yeas, 7

Nays, None
Absent, None

MOTION: Motion by Hoff, seconded by Nickita:
To set a public hearing for 7:30 PM on Monday, March 16, 2015 in the City Commission Room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009, to consider whether to file an objection with the Michigan Liquor Control Commission to the renewal of the license for consumption of intoxicating liquor on the premises currently held by the owners/operators of Dick O'Dow's, 160 West Maple, for the following reasons: Licensee's failure to timely pay its taxes or other monies due the city. (Section 10-40(7)); with the understanding that the Public Hearing would be cancelled if the licensee is no longer delinquent.
Further, to direct the City Manager to notify the owners/operators of Dick O'Dow's, in writing, that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing, that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at the hearing.

VOTE: Yeas, 7
Nays, None
Absent, None

MOTION: Motion by Hoff, seconded by Dilgard:
To set a public hearing for 7:30 PM on Monday, March 16, 2015 in the City Commission Room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009, to consider whether to file an objection with the Michigan Liquor Control Commission to the renewal of the license for consumption of intoxicating liquor on the premises currently held by the owners/operators of Social Kitchen & Bar, 225 East Maple, for the following reasons: Licensee's failure to comply with the terms of its liquor license or any conditions imposed by the city commission or the liquor control commission at the time of issuance or transfer of the license (Section 10-40(5)) and Licensee's failure to comply with all standards and plans established and approved by the city commission at the time of original approval or transfer of the license. (Section 10-40(6))
Further, to direct the City Manager to notify the owners/operators of Social Kitchen & Bar, in writing, that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing, that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at the hearing.

VOTE: Yeas, 7
Nays, None
Absent, None

MOTION: Motion by Rinschler, seconded by Hoff:
To approve the renewal for the 2015 licensing period, of all Class B and Class C liquor licenses for which a current year application was received, except for the license(s) held by Bistro Joe's, Cosi, Dick O'Dow's, and Social Kitchen & Bar, for which a public hearing has been set.

VOTE: Yeas, 7
Nays, None
Absent, None

02-35-15 CLOSED SESSION REQUEST
PENDING LITIGATION

MOTION: Motion by Nickita, seconded by Rinschler:
To meet in closed session to review pending litigation regarding Mary Haney v City of Birmingham pursuant to Section 8(e) 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

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

X. REPORTS

02-36-15 COMMISSIONER REPORTS

The Commission intends to appoint members to the Historic District Commission and Design Review Board on March 16, 2015.

02-37-15 CITY STAFF REPORTS

The Commission received the Second Quarter Investment Report submitted by Finance Director/Treasurer Gerber.

The Commission received the Second Quarter Financial Report, submitted by Finance Director/Treasurer Gerber.

The Commission recessed to closed session at 10:08 PM.
The Commission reconvened in open session at 10:28 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 10:28 PM.

Laura M. Pierce
City Clerk