BIRMINGHAM CITY COMMISSION MINUTES
JUNE 1, 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, Assistant Fire Chief Connaughton, City Engineer O'Meara, Assistant City Engineer Fletcher, Police Chief Studt, Deputy Police Chief Clemence, Finance Director Gerber, Planners Ecker and Baka

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

06-114-15 APPOINTMENT TO THE BOARD OF ETHICS

MOTION: Motion by Hoff:
To appoint John J. Schrot, Jr., 1878 Fairway Drive, to serve a three-year term on the Board of Ethics to expire June 30, 2018.

VOTE: Yeas, 7
Nays, None
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.

06-115-15 APPROVAL OF CONSENT AGENDA

MOTION: Motion by McDaniel, seconded by Rinschler:
To approve the consent agenda as follows:
A. Approval of City Commission minutes of May 11, 2015.
B. Approval of City Commission minutes of May 18, 2015.

C. Approval of warrant list, including Automated Clearing House payments, of May 20, 2015 in the amount of $1,671,830.24.

D. Approval of warrant list, including Automated Clearing House payments, of May 27, 2015 in the amount of $978,532.32.

E. Resolution setting a public hearing date of June 29, 2015 to consider the approval of the Brownfield Plan and Reimbursement Agreement for 33588 Woodward, Shell Gas Station with Dunkin Donuts.

F. Resolution approving purchase of two Getac rugged vehicle mount computers from HP, using a MiDeal extendable contract, in an amount not to exceed $8,438.46 and charging the purchase against the 636-228.000-971.0100 Machinery & Equipment account.

G. Resolution approving the purchase and installation of new pedestrian signals for the intersection of Pierce Street and Southlawn Boulevard from the Road Commission for Oakland County in the amount of $6,813.93; further waiving the normal bidding requirements and authorizing expenditure from account number 202-449.001-981.0100.

Revenues:		
Draw from Fund Balance	101-000.000-400.0000	$ 6,813.93
Total Revenue Adjustments		$ 6,813.93
Expenditures:		
Public Improvements (Major Streets)	202-449.001-981.0100	$ 6,813.93
Total Expenditure Adjustments		$ 6,813.93

H. Resolution appointing Joseph Valentine as the City representative and Lauren Wood as the alternate representative to the Board of Trustees of the Southeastern Oakland County Resource Recovery Authority for the fiscal year beginning July 1, 2015.

I. Resolution approving a request submitted by the Seaholm Cross Country Team to hold Birmingham Harriers 5K Run/Walk on August 2, 2015, 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.

J. Resolution setting a public hearing date for June 29, 2015 to consider the rezoning the property at 2100 E. Maple from O-1 Office to B-2 General Business.

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

06-116-15 CONTINUED PUBLIC HEARING TO CONSIDER A LOT REARRAGEMENT AT 1530 PILGRIM

Mayor Sherman opened the continued Public Hearing to consider the proposed lot rearrangement at 1530 Pilgrim at 7:33 PM.

MOTION: Motion by Hoff, seconded by Dilgard:
To postpone this item to June 29th.

VOTE: Yeas, 7
Nays, None
Absent, None

VI. NEW BUSINESS

06-117-15 PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE PERMIT AMENDMENT AT 735 FOREST

Mayor Sherman opened the Public Hearing to consider the Final Site Plan and Special Land Use Permit (SLUP) Amendment at 735 Forest at 7:34 PM.

City Planner Ecker explained that City ordinance requires City Commission approval on any SLUP where there is a service of alcohol involved. The owner of Forest Grill would like to sell their license and the establishment. The new owners are not proposing any interior, site plan or name changes. She noted that this is a transfer of ownership only from the current owner Bendyl LLC to Forest Grill 2 LLC.

Police Chief Studt confirmed for Mayor Pro Tem Hoff that the background investigation found everything satisfactory.

Kelly Allen, representing the applicant and Forest Grill explained the conditional license issued by the MLCC. She noted that City Commission approval is needed before the MLCC will grant the liquor license.

In response to a question from Paul Reagan, Mayor Sherman explained that bistro licenses are transferrable with City Commission approval.

The Mayor closed the Public Hearing at 7:38 PM.

MOTION: Motion by Rinschler, seconded by McDaniel:
To approve the Final Site Plan and Special Land Use Permit Amendment at 735 Forest allowing the transfer in ownership of the restaurant and the accompanying liquor license from Bendyl, LLC to Forest Grill 2, LLC:

WHEREAS, Forest Avenue Bistro filed an application pursuant to Article 7, Section 7.34 of Chapter 126, Zoning, of the City Code to operate a restaurant as a bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the north side of Forest Street between Woodward and Elm;

WHEREAS, The land is zoned MU-3 and MU-5, and is located within the Triangle Overlay District, which permits bistros 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 Planning Board on April 22, 2009 reviewed the application for Revised Final Site Plan Review and a Special Land Use Permit Amendment and recommended approval with the following conditions:

1. The applicant submit all venting information required for the retail space if required, as well as all screening details and apply for administration approval prior to installation or obtain a variance from the BZA;
2. The applicant provide street lights and hanging planters required by the Triangle Overlay District;
3. The applicant comply with the requirements of the Sign Ordinance for all signage or obtain a variance from the BZA; and,
4. The applicant comply with the requests of City Departments.

WHEREAS, The applicant has submitted amended plans with elevation drawings and specification sheets, which indicate the new required streetscape requirements within the Triangle District;

WHERAS, The applicant will have new retail space to be located on the first floor along Forest directly west of the existing lobby;

WHEREAS, The applicant has committed to comply with all other conditions for approval as recommended by the Planning Board on April 22, 2009;

WHEREAS, The owner of Forest Avenue Bistro, Bendyl, LLC is now requesting approval of the Birmingham City Commission to allow the transfer in ownership of the restaurant and the accompanying liquor license from Bendyl, LLC to Forest Grill 2, LLC;

WHEREAS, The Birmingham City Commission has reviewed Forest Avenue Bistro 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 Forest Avenue Bistro application for a Special Land Use Permit authorizing the operation of a bistro at 735 Forest Avenue in accordance with Chapter 10, Alcoholic Liquors, 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. Approval of the Design Review Board for all signage;

3. Forest Avenue Bistro shall abide by all provisions of the Birmingham City Code;

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

5. The hours of operation for outdoor dining shall cease at 12:00 a.m.;

6. Forest Avenue Bistro 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;

7. Forest Avenue Bistro enter into a contract with the City outlining the details of the proposed bistro option, and enter into an outdoor dining license agreement with the City.

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, Forest Avenue Bistro 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 Forest Avenue Bistro 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

06-118-15 PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE PERMIT AT 2483 W. MAPLE

Mayor Sherman opened the Public Hearing to consider the Final Site Plan and Special Land Use Permit (SLUP) at 2483 W. Maple – Dearborn Federal Credit Union Financial at 7:38 PM.

City Planner Baka explained the request to demolish the existing gas station and construct a one-story bank with a drive through. The site is currently zoned B-1 and bank is a permitted use in that zone, however a drive-in requires a SLUP. He explained the layout of the site and explained that all the signage meets the ordinance requirements. He confirmed that the applicant is still assessing whether environmental cleanup will be needed and noted that the applicant has agreed to do all the cleanup on site.

Mark Winnik, representing DFCU Financial, explained that the drive-thru hours will be 10:00 AM – 5:00 PM on Monday, Tuesday, Wednesday, and Friday and 10:00 AM – 6:00 PM on Thursday and 10:00 AM – 2:00 PM on Saturday.

Ms. Ecker confirmed for Commissioner McDaniel that the applicant has submitted a Brownfield Plan which is going through the Brownfield Redevelopment Process. The City has identified some issues where there may be some contamination on the City property that is leased from the City.

The Mayor closed the Public Hearing at 7:49 PM.

MOTION: Motion by Moore, seconded by Nickita:
To approve the Final Site Plan and Special Land Use Permit at 2483 W. Maple, DFCU Financial, to construct a financial institution with a drive-through:

WHEREAS, DFCU Financial filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to construct a financial institution with a drive through facility;

WHEREAS, The land for which the Special Land Use Permit is sought is located at south east corner of W. Maple and Cranbrook Rd., in Birmingham;

WHEREAS, The land is zoned B1, which allows a mix of office and small scale commercial uses, including banks;

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;

WHEREAS, The Planning Board on May 13, 2015 voted to recommend approval of the applicant's request for Final Site Plan and a Special Land Use Permit to the City Commission for the construction of a DFCU Financial building with a drive-through facility at 2483 W. Maple the following condition;

1. Compliance with the requirements of the City Departments.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on May 13, 2015;

WHEREAS, The Birmingham City Commission has reviewed DFCU Financial's Special Land Use Permit 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 DFCU Financial's application for a Special Land Use Permit to construct a financial institution with a drive through facility at 2483 W. Maple 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. DFCU Financial 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 applicant complies with the requirements of the City Departments.

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, DFCU Financial 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 DFCU Financial 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

06-119-15 WEST MAPLE ROAD RESURFACING PROJECT CRANBROOK RD TO SOUTHFIELD RD

City Planner Ecker explained that the West Maple project was originally included in the Multi-Modal Plan. The Multi-Modal Transportation Board reviewed an inventory and analysis of the existing environment including speed data, traffic accident data, and crash analysis data. The Board also discussed opportunities for improvements that could be made to the corridor under the complete streets philosophy such as bulbouts, cross walks, pedestrian crossing islands, bike lanes, road diet, traffic circle, etc. The Board also reviewed case studies and examples of where this had been done in other cities on similar type roads.

The Board identified objectives for the West Maple project which include to improve the safety for vehicular and pedestrian traffic, to lower the average speed of vehicular traffic, to reduce the amount of vehicles swerving to avoid cars making turns, to make it easier to turn onto West Maple from adjacent side-streets, to reduce traffic congestion at Southfield Road, to provide safe and convenient pedestrian crossings and maintain the existing sidewalks. In addition, any proposed change would not make existing conditions worse and would not increase cut through traffic in the surrounding neighborhoods.

Mike Labadie, Fleis and VandenBrink, explained that at Maple and Cranbrook, Birmingham owns just the east leg of the intersection and the Road Commission owns the other three legs. The traffic signal at Cranbrook, controlled by the Road Commission, is at a different cycle length than the traffic signals at Chesterfield, Lakepark, Southfield and Chester.

Mr. Labadie explained the factors studied for this project included daily traffic volumes, peak hour turning movement counts, level of service at intersections, crash data, vehicular speed data, gap analysis, traffic queuing, sight distance analysis.

Mr. Labadie noted that no changes would be made to the Maple and Cranbrook intersection. He confirmed for Commissioner Rinschler that with the proposed project, the number of cars going through the intersection would remain the same. Mayor Pro Tem Hoff noted that the 1000 feet east of the intersection will remain the same four lanes. Mr. Labadie confirmed that no traffic lights will be removed. He presented traffic patterns of a four and three lane road using a simulated traffic program.

Mr. Labadie confirmed for Mayor Pro Tem Hoff that the improvements could be made to the Chester, Southfield, and Maple intersection regardless of the number of lanes on Maple. He confirmed for Commissioner Nickita that the simulated traffic program was the same capacity of traffic on both the four lane and three lane models.

Commissioner Rinschler pointed out that the connection between the capacity and the speed is that when the road is reduced to one lane, you match the capacity of the one lane with the capacity of the intersection. Mr. Labadie noted that there is a significant distribution of the peak hour traffic and there are no high volume intersections that cross Maple until the very end.

Commissioner Moore pointed out that this is counter-intuitive. He read the summary which states that all intersections will continue to operate at the current level of service or higher.

The improvements will significantly reduce accident rates and accident severity, eliminate sideswipe accident, reduce speeds, provide a consistent speed for traffic, increase the gaps in the traffic through the use of platooning, reduce congestion particularly in the area of Southfield Road, and enhance pedestrian conditions and crossing throughout the corridor. There would not be an increase in cut-through traffic.

MOTION: Motion by McDaniel, seconded by Dilgard:
To approve the installation of ADA ramps at all corners and crossings; the enhancement of higher use bus stops (concrete pad, benches, shelters etc.); and the addition of enhanced technology in the existing signals to control and optimize signal cycle lengths and timing.

The following individuals spoke on the coordination of the traffic signals.
Lou Baughman, 117 Arlington
Irene Schmidt, 2437 Windemere

VOTE: Yeas, 7
Nays, None
Absent, None

MOTION: Motion by McDaniel, seconded by Moore:
To approve crosswalk marking improvements to be made at the signalized intersections; congestion relief improvements between Southfield Rd. and Chester St. including a right turn lane for eastbound traffic at Southfield Rd. and dual left turn lanes between Southfield Rd. and Chester St.; installation of marked crosswalks at the Chesterfield Ave. and Lakepark Dr. traffic signals; and the removal of low use bus stops.

In response to a question from Mayor Sherman regarding the length of the test, Mr. Labadie confirmed that six months is sufficient to gather data on speed, congestion, and cut-through traffic, but not crash testing.

The following individuals spoke on congestion on Maple.
Greg Menson, resident on Pleasant St.
Larry Spilkin, 788 Hazelwood

The following individuals spoke on the bus stops:
Bill Dow, 1347 Yorkshire
Rosemary Hall, 1220 Buckingham
DeAngello Espree, 505 E. Lincoln

VOTE: Yeas, 7
Nays, None
Absent, None

MOTION: Motion by McDaniel, seconded by Dilgard:
To accept the Multi-Modal Transportation Board recommendation and direct a trial reconfiguration of West Maple Road as soon as possible to evaluate the resulting safety enhancements resulting from restriping the road from four to three lanes with a center turn lane, incorporating a right turn lane for eastbound traffic at Southfield and dual left turn lanes

between Southfield and Chester. Further to study the following measures with conditions that existed prior to the reconfiguration including average speeds, average daily traffic crash rates, cut through traffic during the PM peak hour on South Glenhurst, Larchea, Chesterfield, Pleasant, Pilgrim, Arlington, Shirley, Baldwin, and Lakepark, and the Level of Service at the Southfield and Chester intersections, as well as at the three churches.

Commissioner Nickita commented that further study is needed in regards to a crosswalk at Baldwin. Commissioner Dilgard suggested including a study of the church driveways.

The following individuals spoke in opposition of the proposed project:
Jim Mirro, 737 Arlington
John Lazar, 515 Pleasant
Karen Schoenberg, 888 Puritan
Lionel Finkelstein, 577 Arlington
Laura Smith, 218 Arlington
Paul Taros, 1288 Bird
Bill Dow, 1347 Yorkshire
Greg Appel, 1610 Buckingham
Dan Devine, resident of Bloomfield Township
Margaret Dumouchel, 720 Glenhurst
Charles Schwartz, 432 Arlington
Bob McNutt, 300 Shirley
Loretta Mirro, 737 Arlington
Barry Meier, 663 Shirley
Rosemary Hall, 1220 Buckingham
Lauren Buttazzoni, resident
Lou Baughman, 117 Arlington
Irene Schmidt, 2437 Windemere
Shelby Szygenda, 445 Arlington
Dave Lurie, 755 Lakeview

The following individuals spoke in support of the proposed project:
JC Cataldo, 271 Chesterfield
Mike Clawson, 139 Pilgrim
Chuck Doraty, resident
Johanna Slanga, 1875 Winthrop
Stuart Jeffares, 1381 Birmingham Blvd

The following individuals commented on the proposed project:
Cheryl Daskas, 353 Aspen
Julie Fielder, resident of Bloomfield Village
Greg Moore, 1431 Pilgrim
Greg Benson, 584 Pleasant
Larry Spilkin, 788 Hazelwood

Commissioner Rinschler expressed support of the project and stated that this a unique opportunity to make the street safer with a test that has virtually no risk.

Commissioner Moore commented that it is the obligation of the Commission to study the level of service and safety.

Commissioner Dilgard expressed concern with the safety of Maple Road and pointed out that the current design is not conducive to the needs. He commended the Multi-Modal Transportation Board on the work done on this project.

Commissioner Nickita expressed support of the test project and noted that the numbers indicate that the proposed project will not create congestion.

Mayor Pro Tem Hoff agreed that this is a unique situation where the City can do something on a temporary basis. She noted that if it does not work, the road will go back to four lanes.

Mayor Sherman commented that there is no real downside of this project as it can go back to four lanes. He noted the Commission is looking at what is in the best long term interest of the community as a whole.

VOTE: Yeas, 7
Nays, None
Absent, None

The Commission received numerous communications in support and in opposition to the proposed project.

06-120-15 BUDGET APPROPRIATIONS AND AMENDMENTS FISCAL YEAR 2014-2015

MOTION: Motion by Rinschler, seconded by McDaniel:
To approve the appropriations and amendments to the fiscal year 2014-2015 budget as follows:

General Fund:

Revenues:		
Property Taxes	101-000.000-402.0004	$ 25,000
Other Revenue	101-000.000-678.0000	375,000
Total Revenue Adjustments		$ 400,000
Expenditures:		
General Government	101-191.000-702.0001	$ (4,000)
	101-299.000-923.0000	(70,000)
Engineering & Public Service	101-751.000-811.0000	(16,220)
Transfers Out	101-136.000-999.9999	74,000
	101-999.000-999.4010	16,220
	101-999.000-999.0591	400,000
Total Expenditure Adjustments		$ 400,000

Major Streets Fund:

Expenditures:		
Street Cleaning	202-449.004-941.0000	$ (10,000)
Street Trees	202-449.005-819.0000	10,000

Total Expenditure Adjustments		$ -0-

Local Streets Fund:

Expenditures:		
Street Cleaning	203-449.004-941.0000	$ 10,000
Snow & Ice Control	203-449.006-941.0000	(10,000)
Total Expenditure Adjustments		$ -0-

Solid Waste Fund:

Expenditures:		
Miscellaneous	226-191.226-802.0100	$ 100
Equipment Rental	226-582.000-941.0000	(100)
Total Expenditure Adjustments		$ -0-

Debt Service Fund:

Revenues:		
Property Taxes	308-000.000-402.0001	$ 1,450
Expenditures:		
Paying Agent Fees	308-906.005-996.0000	$ 1,450

Capital Projects Fund:

Revenues:		
Transfers from Other Funds	401-901.013-699.0101	16,220
Expenditures:		
Buildings	401-901.013-977.0000	16,220

Water Fund:

Revenues:		
Draw from Net Position	591-000.000-400.0000	($750,000)
Transfers from Other Funds	591-000.000-699.0101	$ 400,000
	591-000.000-699.0590	350,000
Total Revenue Adjustments		$ -0-

Sewer Fund:

Revenues:		
Draw from Net Position	590-000.000-400.0000	$ 350,000
Expenses:		
Transfers Out	590-999.000-999.0591	$ 350,000

VOTE: Yeas, 7
Nays, None
Absent, None

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS

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

06-121-15 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

David Bloom suggested inviting the residents back to a Commission meeting in two, four, and six months to get feedback on the West Maple project.

Tom Lynch, 1580 West Lincoln, expressed concern with the lack of proactive enforcement on non-compliant development projects. He expressed concern with the speeds on Lincoln and suggested a police officer monitor the speed.

Paul Reagan commented on the discussion regarding West Maple. He noted that a lot of what he is seeing is a little bit too much development.

Helen Caribbean, Puritan, expressed concern with traffic on Maple.

X. REPORTS

06-122-15 COMMISSIONER REPORTS

The Commission intends to appoint members to the Museum Board, Greenwood Cemetery Advisory Board and Historic District Study Committee on July 13, 2015.

XI. ADJOURN

The Mayor adjourned the meeting at 11:10 PM.

Laura M. Pierce
City Clerk