BIRMINGHAM CITY COMMISSION MINUTES
JULY 27, 2015
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

Mayor Sherman called the meeting to order at 6:30 PM at Greenwood Cemetery.

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

The City Commission met at Greenwood Cemetery to view a mock layout of the green space proposed to be used for new graves in order to gain an understanding of the visual impact of using the space. Members of the Greenwood Cemetery Advisory Board were in attendance as well.

Mayor Sherman recessed the meeting at 6:40 PM.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Stuart Lee Sherman, Mayor, reconvened the meeting 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, Interim Fire Chief Connaughton, Police Chief Studt, Deputy Police Chief Clemence, Finance Director Gerber, Billing Manager Laing, Assistant City Engineer Fletcher, City Planner Ecker, Planner Baka, Special Event Coordinator Rondello, Assistant to the Manager Haines

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

07-156-15 INTRODUCTION OF GUEST
MIKE MCCREADY, STATE REPRESENTATIVE

State Representative Mike McCready presented an update on recent legislation and state funding.

07-157-15 APPOINTMENT OF FIRE CHIEF JOHN CONNAUGHTON

MOTION: Motion by Hoff, seconded by Nickita:
To confirm the Manager's appointment of Assistant Fire Chief John Connaughton as Fire Chief, and to direct the Clerk to administer the oath of office to Chief Connaughton.

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.

07-158-15 APPROVAL OF CONSENT AGENDA

The following item was removed from the consent agenda:

- Item J (removal of stop signs) by Mayor Sherman at the request of a resident

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

A. Approval of City Commission minutes of July 13, 2015.

B. Approval of warrant list, including Automated Clearing House payments, of July 15, 2015 in the amount of $1,076,574.92.

C. Approval of warrant list, including Automated Clearing House payments, of July 22, 2015 in the amount of $974,975.49.

D. Resolution approving the purchase of one (1) new 2016 Ford AWD Police Interceptor Utility from Gorno Ford, through the State of Michigan extendable purchasing contract #3905-0016 for a total expenditure of $29,147.00. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

E. Resolution approving the agreement with Hubbell, Roth, & Clark, Inc. to prepare bidding documents for the demolition of the Birmingham Train Station located at the end of Villa Ave., at a cost of $14,000, charged to account #401-901.014-981.0100.

F. Resolution approving a request from the Principal Shopping District to place the Santa House in Shain Park from November 25 to December 24, 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.

G. Resolution approving a request from the Principal Shopping District to hold the Tree Lighting on November 25, 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.

H. Resolution approving a request from the Principal Shopping District to hold the Winter Markt, in Shain Park and surrounding streets from December 4 - 6, 2015 and to allow the use of temporary liquor licenses in Shain Park for this event, 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.

I. Resolution approving the purchase of one (1) new 2015 Ford Fusion S from Gorno Ford, of Woodhaven, MI, using State of Michigan MiDeal Cooperative Contract #3905-0004 for a total expenditure of $17,659.00. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

K. Resolution authorizing the City Manager to cast a vote, on the City's behalf, for the six incumbent members of the Michigan Municipal League Workers' Compensation Fund Board of Trustees for two terms, beginning October 1, 2015.

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

07-159-15 REMOVAL OF STOP SIGNS ON NORTHLAWN AT PLEASANT STREET

The Commission agreed to consider Item J at this time.

Malcolm Hendy, resident, expressed support for removing the stop sign at Pleasant and recommended that the road be improved.

Mayor Sherman explained the procedure to improve a road begins by circulating a petition in the neighborhood to confirm the neighbors are in support of an improved road.

MOTION: Motion by Rinschler, seconded by Dilgard:
To remove the two stop signs on Northlawn at Pleasant Street.

VOTE: Yeas, 7
Nays, None
Absent, None

V. UNFINISHED BUSINESS

07-160-15 CONTINUED PUBLIC HEARING TO CONSIDER A LOT REARRAGEMENT AT 1530 PILGRIM

Mayor Sherman noted that the petition was withdrawn by the applicant.

The Commission took no action.

07-161-15 GREENWOOD CEMETERY RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT

Mayor Pro Tem Hoff commented that the Historic Cemeteries Preservation Guide focused on the preservation and conservation of historic cemeteries, not the expansion. She pointed out that the standards in the guide refer to minimal change to materials, features, spaces, and spatial relationships. She expressed concern that the proposal will change the spatial relationship. She noted that there is no reference to new burials in the Greenwood Cemetery Advisory Committee recommendations. She stated that it is her understanding that the reclamation process has changed from what the Commission was initially told. She suggested that the graves identified be used when there is need for a burial and to begin the reclamation process under the clerk's supervision and that the Historic District Study Committee could be utilized to assist in the process.

Commissioner Rinschler found that the visual impact of the proposed graves did not change the character of the cemetery as the markers will be flush with the road. He stated that the City has a historic cemetery that it wants to preserve the character of and this proposal does not alter the character. He commented that the reclamation would not be an overnight availability of the graves as there would still be a legal process to go through and it is not a task that would be given to volunteers. He expressed support of the original proposal to sell the 82 graves plus the 530 graves, but phasing in the sale of the graves.

The Commission questioned the reclamation process. George Stern, chairperson of the Greenwood Cemetery Advisory Board (GCAB), explained that HB 4890 was enacted effective January 1, 2015 and is a process of 120 days plus 60, and then the graves are yours. It is about a six month process by the time it is done.

Commissioner Nickita commented on the visual impact and how it would affect the green space. He suggested in the initial implementation, to recommend a more staggered orientation in a less dense condition and slowly it will be more integrated over time.

Commissioner McDaniel agreed with phasing in the sale of graves in Sections B & C and agreed that the visual impact is minimal. He pointed out that the object is to develop a perpetual care fund over time.

Pam DeWeese, 932 Purdy, expressed support of staggering the graves. She noted that funds from the perpetual care fund could be used for a columbarium as well as maintenance. She expressed support of starting with the sale of half of the graves.

Ron Buchanan, 1280 Suffield, suggested a proviso be set up for Sections B & C that 12 or 20 graves in each green space row remain vacant so that green space is infused into each one of those rows. Random patterns would be established based on what the sales were.

George Stern, 1090 Westwood and chair of the GCAB, asked to coordinate with the City Commission on procedure. He stated that his impression is that there is a great deal of demand for graves in the cemetery. He noted that there is no limit to the number of graves an individual can purchase. He expressed concern with the restriction of sales according to the lot resale policy.

Commissioner Rinschler questioned Mr. Stern's comment on restricting the number of graves that could be purchased. He suggested the GCAB be tasked with determining this number.

MOTION: Motion by Rinschler, seconded by McDaniel:
To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

- and –

To follow the proposed schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

- and -

That the new grave spaces in Section B & C be initially limited to 240 and that the GCAB be chartered with figuring out the correct arrangement of those and that it be revisited after all 240 are sold.

- and -

To charge the GCAB to recommend a number of grave sites per inquiry for the Clerk to use as a guideline for the initial selling.

Commissioner McDaniel commented on reserving graves for current and former residents with some flexibility as appropriate. City Attorney Currier stated that the sale of graves cannot be limited to residents only.

Mr. Stern noted that other cemeteries have separate rate schedules for residents and non-residents. He requested direction on whether the GCAB should study a separate rate schedule for residents and non-residents. The Commission suggested the GCAB explore this option.

Mayor Sherman commented on the reclamation process. City Attorney Currier explained that the Cemetery Regulation Act is the Act that was amended by HB4890. He noted that there was no modification to the public cemetery section of the statue. He noted that Section 456.530 of the Cemetery Regulation Act states that this Act does not apply to municipal corporations. He stated that he would like to do more research on this item. The Commission agreed to request a legal opinion for this item.

MOTION: Motion by Rinschler, seconded by McDaniel:
To postpone the motion.

VOTE: Yeas, 7
Nays, None
Absent, None

VI. NEW BUSINESS

07-162-15 PUBLIC HEARING TO CONSIDER LOT REARRANGEMENT 1173 LATHAM AND 1221 LATHAM

Mayor Sherman opened the Public Hearing to consider a lot rearrangement, 1173 Latham and 1221 Latham at 8:48 PM.

Planner Baka explained that the property owners at 1173 Latham are seeking approval to purchase a portion of 1221 Latham which would add 467 square feet to the property.

The Mayor closed the Public Hearing at 8:52 PM.

MOTION: Motion by Dilgard, seconded by Nickita:
To approve the proposed lot rearrangement of 1173 Latham and 1221 Latham.

VOTE: Yeas, 7
Nays, None
Absent, None

07-163-15 PUBLIC HEARING OF RECONFIRMATION
HAMILTON ALLEY – HAMILTON AVENUE TO PARK STREET

Mayor Sherman opened the Public Hearing to reconfirm Special Assessment Roll No. 864, for construction of new concrete pavement on Hamilton Alley-Hamilton Avenue to Park Street at 8:52 PM.

Mayor Sherman explained that the Public Hearing is being held as a result of the bids coming in different than anticipated and the roll must be reconfirmed because it is more than 25% of the original roll.

Billing Manager Laing explained that the billing for the project would be done at a date closer to the end of construction. Mayor Pro Tem Hoff pointed out that this is an increase to most of the property owners of almost 45% over what was initially proposed.

In response to a question by Melvin Kaftan, 369 E. Maple, regarding the cost for the project, Assistant City Engineer Fletcher explained that the cost for all the paving components were considerable higher than the original estimate. Commissioner Nickita pointed out that it is really the overall challenge of the site, not the materials.

City Manager Valentine confirmed for Mr. Kaftan that a letter will be sent to the tenant along the alley with details regarding the project.

The Mayor closed the Public Hearing at 9:00 PM.

MOTION: Motion by Rinschler, seconded by Dilgard:
To reconfirm Special Assessment Roll No. 864, to defray the cost of the construction of new concrete pavement on Hamilton Alley-Hamilton Avenue to Park Street:

WHEREAS, Special Assessment Roll, designated Roll No. 864, has been heretofore prepared by the Billing Manager for collection, and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party- in-interest of property to be assessed, and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction and

Commission Resolution 12-287-14 provided it would meet the 12th day of January, 2015 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this January 12th, 2015 and at the hearing held this July 27th, 2015, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham,

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 864 be in all things ratified and reconfirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof pursuant to Section 94-12, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of four and a quarter percent (4.25%) on all unpaid installments.

VOTE: Yeas, 7
Nays, None
Absent, None

07-164-15 HAMILTON ALLEY PAVING PROJECT AWARD

Assistant City Engineer Fletcher explained that bids were received for the project. The low bidder did not submit the pre-qualifications prior to the bid opening, but did submit it with the bid. The references were checked and the recommendation is to award the project to Merlo Construction.

Mr. Fletcher confirmed for Mayor Pro Tem Hoff that the references were checked as well as his other projects and found no issue with this contractor. He noted that the contractor is going to perform most of the work himself. Commissioner Dilgard noted that since subcontractors are not being used, he is cutting out some of that margin which could further explain the lower bid.

City Manager Valentine noted that the bidding process that the City uses allows for the clarification of errors or omissions. The omission of the document would be provided for as part of the process up to the point the bid was submitted.

Geri Kaftan, 369 E. Maple, expressed concern with accessing her home quickly, easily, and safely as possible during the construction project.

City Manager Valentine confirmed for Ms. Kaftan that a letter will be sent to clarify the parking and dumpster arrangements.

DeAngello Espree, resident, expressed concern with the bidding procedure.

MOTION: Motion by McDaniel, seconded by Nickita:
To award the Hamilton Alley Paving Project, Contract #9-15(P), to Merlo Construction Co., of Milford, MI, in the amount of $325,880.00 to be funded as follows:

Sewer Fund	590-536.001-981.0100	$85,095.00
Hamilton Alley Special Assessment	101-444.002-985.7100	$240,785.00
TOTAL		$325,880.00

Further, to approve the appropriations and budget amendments as follows:
Sewer Fund

Revenues:		
Draw from Net Assets	590-000.000-400.0000	$85,095.00
Total Revenue Adjustments		$85,095.00
Expenditures:		
Public Improvements	590-536.001-981.0100	$85,095.00
Total Expense Adjustments		$85,095.00
General Fund		
Revenues:		
Draw from Fund Balance	101-000.000-400.0000	$240,785.00
Total Revenue Adjustments		$240,785.00
Expenditures:		
Public Improvements	101-444.002-985.7100	$240,785.00
Total Expenditure Adjustments		$240,785.00

VOTE: Yeas, 7
Nays, None
Absent, None

07-165-15 PUBLIC HEARING OF NECESSITY REPLACEMENT OF SEWER LATERALS HAMILTON ALLEY PAVING PROJECT

Mayor Sherman opened the Public Hearing of Necessity for replacement of sewer laterals within limits of Hamilton Alley Paving Project at 9:11 PM.

Assistant City Engineer Fletcher explained that as common practice with all road projects, any sewer that is over fifty years old is replaced. This affects six buildings and is estimated to cost $210 - $360 depending on the length of the lead.

The Mayor closed the Public Hearing at 9:13 PM.

MOTION: Motion by Nickita, seconded by Dilgard:
To declare necessity for the installation of lateral sewers within the Hamilton Alley Paving Project. The Public Hearing to consider confirming the roll for the installation of lateral sewers in the Hamilton Alley Paving Project will be held on August 10, 2015:

WHEREAS, The City Commission has passed Ordinance No. 1906, to establish and adopt requirements and procedures for the replacement of sewer lateral lines when the City street is open for repairs or reconstruction; and

WHEREAS, The City Commission is of the opinion that replacement of sewer laterals not meeting current criteria as a part of the planned road paving project is declared a necessity; and

WHEREAS, formal bids have been received and the actual cost per foot for replacement of the sewer laterals has been determined,

RESOLVED, that all sewer laterals not meeting current criteria located within the limits of the following alley shall be replaced as a part of the paving project on the S. Hamilton Alley, between Hamilton Ave. and Park St., therefore be it

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, of which 100% of the contractor's charge to replace sewer lateral (calculated at the rate of $30 per linear foot) shall be charged to the adjoining property owners benefiting from the sewer lateral,

RESOLVED, that there be a special assessment district created and special assessments levied in accordance with benefits against the properties within such assessment district, said special assessment district shall be all properties, within the following district:

> "Assessor's Plat No. 21"
> Lots 14, 15, 20, 25, 26, the southerly 58.09 ft. of lot 28 (as measured on the N. Old Woodward Ave. frontage), lots 29-32 inclusive, the westerly
> 26.13 ft. of lot 33.

RESOLVED, that the Commission shall meet on Monday, August 10, 2015, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the replacement of sewer laterals within the S. Hamilton Alley Paving Project.

VOTE: Yeas, 7
Nays, None
Absent, None

07-166-15 RESIDENTIAL PERMIT PARKING ON BOWERS STREET BETWEEN COLUMBIA AND SOUTH ETON

Deputy Police Chief Clemence explained that the City received a petition requesting residential permit parking on Bowers Street between Columbia and South Eton. 83% of the residents were in favor of permit parking. This item was discussed by the Multi-Modal Transportation Board and found that the infringement on the neighborhood came from employees and patrons of the Robot Garage and Griffin Claw.

Mayor Pro Tem Hoff expressed support, but questioned the signage promised at Griffin Claw. Ms. Ecker explained that a complaint was received that an employee was parking on the street which was taken care of. She confirmed that there is signage on the table tents at all the tables, and fliers, and on the Robot Garage.

Brian Renner, 1971 Bowers, explained the difficulty in navigating the street due to the congestion and parking spillover from Griffin Claw and the Robot Garage.

MOTION: Motion by Rinschler, seconded by McDaniel:
To approve the installation of Residential Permit Parking for Bowers Street between Columbia and S. Eton at all times. Further, directing the Chief of Police and the City Clerk to sign the traffic control order on behalf of the City establishing Residential Permit Parking on Bowers Street between Columbia and S. Eton at all times.

Commissioner Rinschler noted that the issue is that there is not enough parking assigned within the ordinance for businesses. He suggested an assessment of the zoning and parking ratios be done.

VOTE: Yeas, 7
Nays, None
Absent, None

07-166-15 PUBLIC HEARING TO CONSIDER REPROGRAMMING 2013 CDBG FUNDS

Mayor Sherman opened the Public Hearing to consider reprogramming remaining program year 2013 CDBG Funds at 9:31 PM.

Hearing no public comment, the Mayor closed the Public Hearing at 9:32 PM.

MOTION: Motion by Hoff, seconded by Nickita:
To authorize the Finance Director to submit a request along with the public hearing advertisement and City Commission resolution to Oakland County to reprogram the remaining Community Development Block Grant (CDBG) program year 2013 funds in the amount of $16,898.00 from the Remove Architectural Barrier project – Retrofit Adams Fire Station doors to ADA standards to the Remove Architectural Barriers project – Installation of a new ADA compliant lift at City Hall.

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

07-167-15 CLOSED SESSION REQUEST ATTORNEY/CLIENT PRIVILEGE COMMUNICATION

MOTION: Motion by Nickita, seconded by Hoff:
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,	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

07-168-15 COMMUNICATIONS

The Commission received a communication from Brad Host regarding 404 Park St rezoning.

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

X. REPORTS

07-169-15 CITY STAFF REPORTS

The Commission received the Fourth Quarter Investment report submitted by Finance Director Gerber.

The Commission received the Holiday Tree report submitted by DPS Director Wood.

The Commission recess to closed session at 9:34 PM.
The Commission reconvened in open session at 9:50 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 9:50 PM

Laura M. Pierce
City Clerk