BIRMINGHAM CITY COMMISSION MINUTES
AUGUST 10, 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 Moore
Commissioner Nickita
Commissioner Rinschler
Absent, Commissioner McDaniel

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Public Relations Specialist Gamboa, Billing Manager Laing, DPS Director Wood, IT Manager Gemmell, Deputy Treasurer Klobucar, City Engineer O'Meara, Police Chief Studt, Deputy Police Chief Clemence, Commander Busen

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

08-170-15 PRESENTATION OF CITY MOBILE APP AND POLICE DEPARTMENT FACEBOOK PAGE

Public Relations Specialist Gamboa presented the mobile app for the City website. Deputy Police Chief Clemence introduced the new webpage specific to the West Maple Road trial. Commander Busen introduced the Police Department Facebook page.

08-171-15 APPOINTMENT TO THE BOARD OF REVIEW

MOTION: Motion by Hoff:
To appoint Michael Steinberger, 2849 Buckingham, as an alternate member, to the Board of Review to serve the remainder of a three-year term to expire December 31, 2017.

VOTE: Yeas, 6
Absent, 1 (McDaniel)

The Clerk administered the oath to the appointed board member.

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.

08-172-15 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item G (Birmingham Bloomfield Art Center interior alterations) by Mayor Pro Tem Hoff
- Item L (RFP for the Downtown Parking System Expansion Projects Parking Development Consultant Services) by Mayor Pro Tem Hoff

MOTION: Motion by Rinschler, seconded by Dilgard:

To approve the consent agenda as follows:

A. Approval of City Commission minutes of July 27, 2015.

B. Approval of warrant list, including Automated Clearing House payments, of July 29, 2015 in the amount of $395,599.27.

C. Approval of warrant list, including Automated Clearing House payments, of August 5, 2015 in the amount of $5,540,910.18.

D. Resolution approving a request from the Piety Hill Chapter, National Society Daughters of the American Revolution to hold the Veteran's Day Wreath Laying Ceremony and aerial fly over on November 11, 2015 at 11:00 AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

E. Resolution approving a request submitted by the Memorial Day Committee to hold the Memorial Day Ceremony and aerial fly over on May 30, 2016 at 10:00 AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

F. 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.

H. Resolution approving purchase of UPS service life extending parts and labor from Emerson Network Power, Liebert Services, in an amount not to exceed $7,896.75 and charge the purchase against the 636-228.000-933.0600 Computer Maintenance account.

I. Resolution waiving the formal bidding requirements and approve the purchase of two Henke FV-14 loader plows as a sole source purchase from Southeastern Equipment Co., Inc. in the amount not to exceed $47,000.00. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.

J. Resolution awarding the contract to All-American Arena Products, of Little Canada, MN for the replacement of floor matting inside the Birmingham Ice Arena in the amount not to exceed $29,885.00, to be funded from Capital Projects Fund account #401-901.001-977.0000. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of all required insurances.

K. Resolution approving the Contract for Interim Skating Director with Jill Kolaitis, as presented. Further, authorizing the Mayor and City Clerk to sign the Contract on behalf of the City of Birmingham upon receipt of all required insurances.

M. Resolution approving the agreement with Kone, Inc. in the amount not to exceed $261,254.00 to perform the Peabody Street Parking Structure Elevator Renovation Project Contract # 13-15(PK) and directing the Mayor and City Clerk to sign the agreement on behalf of the City, and further charging this work to account #585-538.004-977.0000. Further, approving the appropriations and budget amendments as follows:

Automobile Parking System

Revenues:		
Draw from Net Position	585-000.000-400.0000	$36,254
Expenses:		
Building Improvements	585-538.004-977.0000	$36,254

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

08-173-15 BIRMINGHAM BLOOMFIELD ART CENTER (BBAC) INTERIOR ALTERATIONS

The City Commission agreed to consider this item at this time.

Mayor Pro Tem Hoff expressed support of the interior renovations to be ADA barrier free compliant, but requested an explanation of how it will be done and how this will affect the length of the lease. City Manager Valentine explained that the lease will still expire in 2050.

Annie VanGelderen, President and CEO of the BBAC, explained that the concrete floor will be brought down to one level to make it even to the gallery shop and the doorway will be expanded.

MOTION: Motion by Hoff, seconded by Dilgard:
To consent to the interior alterations requested by the Birmingham Bloomfield Art Center to provide for ADA/barrier free compliance pursuant to the current lease provisions.

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

V. UNFINISHED BUSINESS

08-174-15 GREENWOOD CEMETERY RULES AND REGULATIONS FEE SCHEDULE AND SALE OF GRAVE SPACES

Mayor Sherman noted that the Commission received information from the City Attorney explaining that the statute in question on the reclamation does not apply to municipal cemeteries.

City Clerk Pierce explained that the Greenwood Cemetery Advisory Board (GCAB) held a meeting in August to discuss the requests from the City Commission. She explained that the Board recommended that the number of graves allowed to be sold per inquiry not be limited. Members of the Board felt that by limiting the number of graves allowed to be purchased would unintentionally penalize large families. In addition, the Board did not want to limit the number

of graves allowed to be purchased to the number originally requested when added to the Interest List as circumstances may have changed for that individual.

Ms. Pierce explained that the GCAB also recommended that there not be a staggering pattern. There are many graves in the cemetery that were sold many years ago and still do not have markers on them. It was noted that the staggering pattern of the markers would naturally happen as burials occur over time.

Ms. Pierce explained that the GCAB was split as to whether a flat rate or tiered fee schedule should be implemented. Some members did not want to penalize non-residents and some were concerned with adding an additional fee on top of the high cost for a grave. Other members thought the fee should be doubled for non-residents. She noted that staff has found that there would be a procedural difficulty in determining who is actually a resident as there are many variables to consider.

The Commission discussed the recommendations from the GCAB. Commissioner Rinschler expressed support of the recommendation to not limit to the number of graves allowed to be purchased. Commissioner Nickita stated that his concern is the potential for speculation and noted that it is problematic to restrict a large family.

Mayor Pro Tem Hoff stated that she does not object to not limiting the number of graves to be sold. As far as the stagger pattern in Sections B & C, she maintained her position that she is not in favor of selling graves in Sections B & C.

Commissioner Nickita commented on the organic nature of the cemetery and noted that once the cemetery is completely filled, there would be no stagger pattern to the markers, it would be rigidly laid out.

Commissioner Rinschler agreed with the GCAB recommendation to not do the stagger pattern. He suggested the sale should be limited to 240 to have some break and a review point. Commissioner Dilgard concurred.

Commissioner Moore commented on resident versus non-resident fees. He stated that the question is whether there are costs incurred by taxpayers that are not incurred by non-resident who either own or will own plots in the cemetery. Once the perpetual care fund is established, everyone pays into that fund and there should not be discrimination or difference. If there are no costs or if they are diminimus, then there should not be a two-tiered system. Commissioner Moore stated that it is a minor issue because the contractor is taking care of the day to day maintenance of the cemetery.

George Stern, 1090 Westwood and chair of the GCAB, commented that this is a classic business problem of allocation of demand under conditions of limited supply. He expressed concern with an allocation formula. He suggested that the law on reclamation exempts both religious institutions and municipalities. He stated that he is a member of an association of religious institutions who voluntarily waived the exemption in order to reclaim plots in the timeframe in the bill and suggested the Commission may want to look at this in the future.

Ron Buchanan, 1280 Suffield, suggested a stagger pattern of selling only 12 of the 24 graves per row to minimize the visual effect of this.

Mayor Sherman suggested not waiting until all 240 graves are sold to revisit this. It should come back for review after selling 200 graves, with 40 left to sell.

AMENDMENT TO MAIN MOTION: Motion by Rinschler, seconded by Dilgard:
To amend the original motion to change 240 to 200 "revisited when 200 are sold" and to eliminate the final "and" which is the resolution relative to a number of grave sites per inquiry.

Mayor Pro Tem Hoff stated that there are 132 other spaces that have been identified and she would like to see those sold before Section B & C. She expressed opposition to selling graves in Sections B & C. She expressed concern that money is a big factor in this decision. She expressed concern that the final report of the GCAB does not include a recommendation to find new spaces. The Committee had recommended that the City identify the unsold unused burial spaces and to commence with reclamation.

In response to a question from Mayor Pro Tem Hoff, City Manager Valentine confirmed that the perpetual care fund has been established. The money resulting from the sale of graves to date is in the perpetual care fund. He confirmed for Mayor Pro Tem Hoff that the City has received a legal opinion that the Cemetery could not be classified as a park.

Mayor Sherman noted that in the GCAC report, one of the directives to the Committee was to prepare recommendations regarding whether or not to plan for the development of new burial spaces within the existing cemetery and if so the best method for doing so. The GCAB recommendations included the closing of the roadway and the installation of columbaria. The green space in Sections B & C was not identified until after the Committee had met. It would have been contemplated in the original report if the space had been identified at that point.

VOTE AMENDMENT TO THE MAIN MOTION:
Yeas, 5
Nays, 1 (Hoff)
Absent, 1 (McDaniel)

MAIN MOTION:
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 when 200 are sold.

VOTE ON THE MAIN MOTION:
Yeas, 5
Nays, 1 (Hoff)
Absent, 1 (McDaniel)

Commissioner Rinschler noted that he is comfortable that there could still be an open discussion on whether there is a need for a limit based on what the Clerk sees in terms of demand. The Commission directed staff to continue studying the number of graves.

Commissioner Dilgard and Commissioner Rinschler expressed their comfort in leaving the fees the same for residents and non-residents. Mayor Sherman agreed. Commissioner Nickita expressed that he wants to be sensitive to residents, but the circumstance of residents changes quite a bit. He suggested it be monitored and if it starts to omit residents or becomes a problem, then it should be reviewed. City Manager Valentine stated that this information will be included with the annual report of the GCAB.

Mayor Sherman stated that emails have been received regarding reclamation. He noted that this is not reclamation. The City looking to provide burial spaces for people who would like to be buried in Greenwood while protecting the rights of the current owners. The overriding concern is preserving the rights of the owners.

VI. NEW BUSINESS

08-175-15 PUBLIC HEARING OF CONFIRMATION REPLACEMENT OF SEWER LATERALS HAMILTON ALLEY PAVING PROJECT

Mayor Sherman opened the Public Hearing of Confirmation for the replacement of sewer laterals within limits of the Hamilton Alley Paving Project at 8:31 PM.

Billing Manager Laing recommended adoption of the special assessment roll #867 to defray the cost of sewer laterals over a ten year period. She explained that the billing for the project would be done at a date closer to the end of construction.

The Mayor closed the Public Hearing at 8:32 PM.

MOTION: Motion by Hoff, seconded by Nickita:
To confirm Special Assessment Roll No. 867, to defray the cost of installing new sewer laterals within the Hamilton Alley Paving Project limits:

WHEREAS, Special Assessment Roll, designated Roll No. 867, 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 07-164-15 provided it would meet this 10th day of August, 2015 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this August 10th, 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. 867 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, 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, 6
Nays, None
Absent, 1 (McDaniel)

08-176-15 NORTHEAST INTERCEPTOR SEWER IMPROVEMENTS PARKING LOT #6 EASEMENT

Mayor Sherman explained that the City received an easement document from the Oakland County Water Resource Commissioner's Office to do some work on the Evergreen Farmington Sewage Disposal System which runs through Parking Lot #6.

City Engineer O'Meara explained that the Drain Commissioner's Office will have to realign a sewer that is under Parking Lot #6. He explained the project and noted that there is some damage anticipated in North Old Woodward where the sewer run ends.

Mayor Sherman questioned if the County will be restoring Old Woodward to the manner in which it was built and the sides where the new asphalt is poured will be sealed to make sure there will not be damage caused by water. Mr. O'Meara confirmed that is the expectation.

Mr. O'Meara confirmed for Mayor Pro Tem Hoff that the County is paying for the entire project. She noted that there would be eighty spaces out of commission during the project. Mr. O'Meara explained that the Parking Committee will discuss this issue.

Commissioner Nickita noted that this will be disruptive to the parking and the Farmers Market.

MOTION: Motion by Nickita, seconded by Moore:
To approve the easement document presented by the Oakland County Water Resources Commissioner's office to allow the construction of a modification to the Northeast Interceptor, a part of the Evergreen-Farmington Sewage Disposal System, to be constructed between March and May, 2016.

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

08-177-15 2016 CITY COMMISSION MEETING SCHEDULE

Mayor Sherman suggested moving the October workshop session to September 19th and the last meeting in October to October 27th so as to not conflict with religious holidays in October.

MOTION: Motion by Moore, seconded by Hoff:
To approve the proposed schedule of regular City Commission meetings for 2016 as amended

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

08-178-15 CLOSED SESSION REQUEST
PERSONNEL EVALUATION

The Commission agreed to meet in closed session to consider a personnel evaluation as requested by the City Manager pursuant to Section 8(a) of the Open Meetings Act (Act 267 of 1976).

VII. REMOVED FROM CONSENT AGENDA

08-179-15 DOWNTOWN PARKING SYSTEM EXPANSION PROJECTS
PARKING DEVELOPMENT CONSULTANT SERVICES RFP

Mayor Pro Tem Hoff stated that this is an important issue that will affect many people and requested the City Engineer to provide an update.

City Engineer O'Meara explained that the Request for Proposal has been written and the City will be looking for architects to team up with an urban design professional and a parking consultant to meet with the Parking Development Committee three times and the City Commission to create massing studies with four options to explore regarding two parking sites, North Old Woodward and Pierce, which could be expanded upon or potentially demolished and completely replaced. He noted that these would be conceptual plans.

Commissioner Nickita explained this involves urban design issues, architectural issues, costs, incorporating a developer of some sort, and land control. This RFP is to get as much of the envelope of the issues clear in order to make a solid decision to move forward.

MOTION: Motion by Hoff, seconded by Nickita:
To endorse the Request for Proposals (RFP) for the Downtown Parking System Expansion Projects Parking Development Consultant Services to work with the Ad Hoc Parking Development Committee (AHPDC), and directing City staff to solicit proposals at this time.

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

VIII. COMMUNICATIONS

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

X. REPORTS

08-180-15 COMMISSIONER REPORTS

The Commission intends to appoint members to the Advisory Parking Committee, Historic District Commission and Design Review Board on September 21, 2015.

The Commission recessed to closed session at 8:50 PM.
The Commission reconvened in open session at 10:00 PM.

XI. ADJOURN

The Mayor adjourned the meeting at 10:00 PM.

Laura M. Pierce
City Clerk