



**CITY COMMISSION MEETING AGENDA  
JULY 25, 2016  
7:30 PM**



**Municipal Building, 151 Martin, Birmingham, MI 48009**

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**BIRMINGHAM CITY COMMISSION AGENDA**  
**JULY 25, 2016**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Rackeline J. Hoff, Mayor

**II. ROLL CALL**

Laura M. Pierce, City Clerk

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

***Announcements:***

- The Clerk's Office will be open on Saturday, July 30, 2016 from 9:00 A.M. to 2:00 P.M. to accept and issue absentee ballots for the August election.
- The Primary Election will be held Tuesday, August 2, 2016. The polls will be open from 7:00 A.M. to 8:00 P.M. To confirm your voter registration or locate your precinct, visit [www.michigan.gov/vote](http://www.michigan.gov/vote) or contact the Clerk's Office at 248.530.1880.
- Summer concerts continue at Shain Park on Wednesday, July 27th and Wednesday, August 3<sup>rd</sup> beginning at 7:00 P.M. For more information on scheduled entertainment, visit [www.bhamgov.org/summerconcerts](http://www.bhamgov.org/summerconcerts).
- The Farmer's Market continues in the Municipal Parking Lot #6 on Old Woodward on Sundays through October from 9:00 A.M. to 2:00 P.M.

***Proclamations:***

- Introduction of new Deputy Fire Marshal, Joel Campbell
- Proclamation to Peabody Family

***Appointments:***

- A. Continued interviews for appointment of the Hearing Officer and Alternate Hearing Officer.
  - 1. Alexander Stotland, 698 Hanna
  - 2. Patricia Papadopoulos, 1588 Bennaville
- B. To appoint \_\_\_\_\_ as the Hearing Officer to serve a three-year term to expire June 30, 2019.
- C. To appoint \_\_\_\_\_ as the alternate Hearing Officer to serve a three-year term to expire June 30, 2018.
- D. City Manager's appointment to Birmingham Shopping District – Business Operator or Property Owner Member
  - 1. Amy Pohlod, 912 S. Old Woodward (Bridal Couture)
- E. To concur in the city manager's appointment of \_\_\_\_\_ to the Birmingham Shopping District Board, as the business operator or property owner member, to serve the remainder of a four-year term to expire November 16, 2018.
- F. Administration of oath to the appointed board members.

#### **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.

- A. Approval of warrant list, including Automated Clearing House payments, of July 13, 2016 in the amount of \$908,197.85.
- B. Approval of warrant list, including Automated Clearing House payments, of July 20, 2016 in the amount of \$2,810,980.77.
- C. Resolution approving chemical/fertilizer purchases for Lincoln Hills and Springdale golf courses from Harrell's for \$22,000, Residex Turfgrass for \$22,000 and Great lakes Turf for \$8,000. The total purchase from all vendors will not exceed a total of \$52,000. Funds will be charged to account numbers 584/597-753.001-729.0000.
- D. Resolution approving the amendment to the City of Birmingham Park Rules and Regulations as it pertains to Park Rule #10 and corresponding Birmingham City Code Chapter 78 – Parks and Recreation Article IV. Use of Parks Section 78-82. Closing hours. Language change is as follows:
  - The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.
  - (1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.
  - (2) Adams Park shall be closed from 9:00 p.m. to 8:00 a.m.
  - (3) Springdale Park hours shall coincide with Springdale Golf Course hours and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty.
  - (4) Except as provided in subsections (1), (2) and (3) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
  - (5) All public property not included in subsections (1), (2), (3) and (4) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.
- E. Resolution accepting the resignation of Diane Kowaleski from the Public Arts Board, thanking Ms. Kowaleski for her service, and directing the Clerk to begin the process to fill the vacancy.
- F. Resolution accepting the resignation of Amanda Warner from the Multi-Modal Transportation Board, thanking Ms. Warner for her service, and directing the Clerk to begin the process to fill the vacancy.
- G. Resolution setting Monday, August 22, 2016 at 7:30 PM for a public hearing to consider the amendments to Chapter 126, Zoning, Article 02, Sections 2.23, 2.27, 2.29, 2.31, 2.33, 2.35, 2.37, 2.39, Article 04, sections 4.12, 4.57, 4.67, 4.68, 4.69, 4.70, 4.71, Article 05, Sections 5.10, 5.12, 5.13, and Article 09, Section 9.02.
- H. Resolution approving a request from the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 13 – 14, 2017

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 a request submitted by the Birmingham Bloomfield Chamber, Junior League of Birmingham, and The Community House requesting permission to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 30, 2016 in downtown Birmingham, 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 approving the purchase and installation of Porous Pave by X Tier Inc. to improve connectivity to the Rouge River trail system in the amount not to exceed \$25,000. Further, waiving the normal bidding requirements due to X Tier Inc. being the sole source installer of this product. Funds are available for this project from the Parks – Other Contractual Services account # 101- 751.000-811.0000.

## **V. UNFINISHED BUSINESS**

### **A. Current Planning Issues for Discussion**

#### **(1) Transitional Zoning (TZ2 District)**

Resolution directing staff to work with the Planning Board to prepare a narrative on the recent study of transitional zoning including the following:

- (i) What initiated the transitional zoning study;
- (ii) What options have been considered to date; and
- (iii) A comparison of existing O1 and O2 uses in relation to the proposed TZ2 uses.

And further, directing the Planning Board to review the number and type of uses proposed to be permitted in TZ2, outline the next steps planned, and to conduct a public hearing with sufficient public notice to gather input on the proposed changes and develop a recommendation based on input received that can be forwarded to the City Commission.

#### **(2) Commercial Development Parking Requirements**

Resolution directing the Planning Board to review the parking requirements for private developments, including but not limited to, considering the possible reduction of parking standards for residential units, and considering the impacts of multi-modal transportation options on the required number of parking spaces; and further directing staff to include a discussion on parking requirements in the City-wide master plan update.

#### **(3) Existing Commercial Non-Conforming Buildings**

Resolution reviewing the non-conformance provisions pertaining to commercial buildings to provide specific requirements that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

#### **(4) Definition of Retail**

Resolution directing the Planning Board to study the following:

- (i) To evaluate the success of the red line retail district in Downtown Birmingham to determine if the intended objectives are being met;



- (ii) To study the existing definition of retail in the Zoning Ordinance and recommend any needed amendments to the definition; and
- (iii) To review all retail-related requirements contained in the Zoning Ordinance and recommend any needed amendments.

(5) Dormer Considerations

Resolution directing the Planning Board to review the dormer and habitable attic regulations in the Zoning Ordinance as they relate to current dormer construction trends in residential zoned districts. Specifically, to conduct a detailed public input and review process to:

- (1) Clarify the types of dormers permissible that project from second story roofs enclosing habitable attics;
- (2) Provide recommended width limitations for dormers projecting from second story roofs; and
- (3) Refine the maximum area regulations for habitable attics that would not count as a story.

(6) Planning Board Action List

Resolution directing the Planning Board to revise their 2016-2017 Planning Board Action List to reflect the City Commission's recent and pending directives as of July 11, 2016.

<b>VI. NEW BUSINESS</b>
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- A. Public Hearing to consider amendments to Zoning Ordinance - Glazing
  - 1. Ordinance amending Chapter 126, Zoning, Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.
- B. Resolution authorizing the issuance of the 2016 Unlimited Tax General Obligation Recreation Refunding Bonds for the purpose of refinancing the 2006 Recreation Refunding Bonds and the 2008 Recreation Bonds. (complete resolution in agenda packet)
- C. Ordinance amending Chapter 102, Subdivisions, of the Birmingham City Code to add a new Article V - Combination of Land Parcels to create regulations governing the approval of residential lot combinations in the City of Birmingham.
- D. Resolution altering the bistro selection process for the 2017 calendar year only by limiting one new bistro license to a location in either the Triangle or MX District. (complete resolution in agenda packet)
- E. Resolution approving the license for Right-of-Way Occupancy by a temporary building wall and tie-backs and H-piles.

-OR-

Resolution denying the license for right-of-way occupancy by a temporary building wall and tie-backs and H-piles.

- F. Resolution authorizing a Request for Proposal (RFP) be issued for Birmingham Brand Development;

-AND-

Resolution approving the creation of an Ad Hoc Birmingham Brand Development Committee (BBDC) for the purpose of reviewing and making a recommendation to the City Commission for the rebranding of the City logo; and further, including 1 member of the Parks and Recreation Board, 1 member from the Birmingham Shopping District, 1 member from the Planning Board, (to be appointed by their respective boards), two

members at large in the City, and City Commissioners \_\_\_\_\_ and

- G. Resolution to meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

**(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)**

## **VII. REMOVED FROM CONSENT AGENDA**

## **VIII. COMMUNICATIONS**

- A. Birmingham Theater – Liquor License Request

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

## **X. REPORTS**

- A. Commissioner Reports
1. Notice of intention to appoint members to the Multi-Modal Transportation Board and the Public Arts Board on August 8, 2016.
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
1. Response to cemetery questions, submitted by Clerk Pierce

## **XI. ADJOURN**

## **INFORMATION ONLY**

*NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.*

*Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al [\(248\) 530-1880](tel:248-530-1880) por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).*



## NOTICE OF INTENTION TO APPOINT HEARING OFFICER

At the regular meeting of Monday, May 9, 2016, the Birmingham City Commission intends to appoint the hearing officer to serve a three-year term to expire June 30, 2019 and the alternate hearing officer to serve a two-year term to expire June 30, 2018. The Hearing Officer shall be responsible for hearing disputes to a fee or bill that a property owner or resident of the city shall receive pursuant to the fee collection ordinances (section 1-17).

The hearing officer and alternate shall be residents of the City of Birmingham who have legal, administrative or other desirable qualifications that will aid him or her in the performance of the duties in accordance with provisions of the applicable code. The hearing officer and the alternate hearing office shall serve without compensation.

The hearing officer or alternate shall schedule periodic meetings for hearings as needed.

Interested citizens may submit a form available from the city clerk's office on or before noon on Wednesday, May 4, 2016. These applications will appear in the public agenda for the regular meeting at which time the commission will discuss recommendations, and may make nominations and vote on the appointments.

### Applicant(s) Presented For City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b>
	Applicants shall be residents of the City who have legal, administrative or other desirable qualifications that will aid him or her in the performance of the duties of the hearing officer.
Alexander Stotland	Resident at 698 Hanna Attorney
Patricia Papadopoulos	Resident at 1588 Bennaville Attorney

*NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.*

### SUGGESTED ACTION:

To appoint \_\_\_\_\_ as the Hearing Officer to serve a three-year term to expire June 30, 2019.

To appoint \_\_\_\_\_ as the alternate Hearing Officer to serve a three-year term to expire June 30, 2018.

NOTE: This item was continued from June 27, 2016. Both applicants will be in attendance at the July 25th meeting.



# HEARING OFFICER

Ordinance #2178, Adopted March 28, 2106

Term: 3 years

Appointed by the city commission

Qualifications: The hearing officer and alternate shall be residents of Birmingham who have legal, administrative, or other desirable qualifications that will aid him/her in the performance of their duties. The hearing officer and alternate shall serve without compensation and shall not be elected officials or persons appointed to elective office.

Duties: The hearing officer shall be responsible for hearing disputes to a fee or bill that a property owner or resident of the city shall receive pursuant to any of the fee collection ordinances of the code of the City of Birmingham that specifically relate to: returned check fees by real property owners (section 1-15), the removal of debris from a private property upon a public street, alley, sidewalk, or other public place or right-of-way (section 50-27), false alarms (section 74-31), snow removal (section 98-68), sidewalk repair fees (section 98-62), cross connection inspections (section 114-5), and weed cutting (section 118-68). The alternate hearing officer shall be responsible for hearing disputes in the absence of the hearing officer.

Last Name	First Name	Home Business	Appointed	Term Expires
Home Address		E-Mail		
Vacant			ALTERNATE	6/30/2018
Vacant				6/30/2019



<b>OFFICE USE ONLY</b>	
Meets Requirements?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Will Attend /	Unable to Attend

## APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at [www.bhamgov.org/boardopportunities](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest Hearing Officer

Name Alexander Stotland Phone 248 636 1545

Residential Address 698 Hanna St Email astotland@hertzschram.com

Residential City, Zip Birmingham, 48009 Length of Residence 4 years on Hanna Street, 11 years in Birmingham

Business Address 1760 S Telegraph Rd Occupation Attorney

Business City, Zip Bloomfield Hills, 48302

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied \_\_\_\_\_

I have practiced as an attorney since 1998, and have extensive experience in business, banking and real estate litigation, among other areas. I have participated in dozens of trials, arbitrations and administrative hearings, and would be comfortable interpreting and ruling on applicable law, code, regulation and factual arguments. I have lived in Birmingham since 2005. As a homeowner, avid jogger and dog owner (and walker), I am familiar, interested, and concerned about the condition of Birmingham's sidewalks and properties.

List your related employment experience Hertz Schram PC, Bloomfield Hills, MI, 2011-2016 (Partner)  
Maddin Hauser Wartell Roth & Heller PC, Southfield, Michigan, 2005-2011 (Senior Associate)  
Rand Rosenzweig Smith Radley Gordon & Burstein, LLP, NY, NY, 2000-2005 (Associate)

List your related community activities \_\_\_\_\_

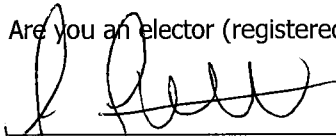
List your related educational experience Hofstra University School of Law, JD 1998; Hofstra University School of Business, BBA 1994; Brooklyn Technical High School, Architecture (1990)

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: \_\_\_\_\_

No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes

  
Signature of Applicant

May 19, 2016  
Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to [lpierce@bhamgov.org](mailto:lpierce@bhamgov.org) or by fax to 248.530.1080. Updated 04/01/16

## ALEXANDER STOTLAND

698 Hanna Street  
Birmingham, Michigan 48009  
[astotland1@gmail.com](mailto:astotland1@gmail.com)  
917-257-6260(c)/248-433-3148(h)

### WORK EXPERIENCE

HERTZ SCHRAM PC

Bloomfield Hills, MI

Partner: Commercial Litigation and Business Torts, Securities, Startups

2/2011 - Present

- Manage litigation involving business torts, non-competition and trade-secret disputes, shareholder and partnership disputes, contract disputes, UCC, trademark, securities fraud, and real estate.
- Counsel business startups, entrepreneurs and small-midsize businesses in numerous business, employee and competition related matters, including structure and intellectual property rights, contracting and business dealings, minimizing risks associated with stakeholder disputes, engaging competitors' employees, and other matters involving business, employees and competition
- Lead trial counsel in various matters before federal and state courts and FINRA panels

MADDIN HAUSER WARTELL ROTH & HELLER, PC

Southfield, MI

Senior Associate: Commercial, Banking, Construction and Real Estate Litigation 7/2005 – 2/2011

- Represented clients in litigation matters including: business torts, non-competition, contract, banking and lending, construction and real estate, including with “first-chair” responsibility
- Advises clients in matters of contract negotiations, employment law, business organization, shareholder and membership disputes
- Strong record of favorable bench, jury and arbitration verdicts

RAND ROSENZWEIG SMITH RADLEY GORDON & BURSTEIN, LLP

New York, NY

Associate: Commercial and Business Litigation

11/2000 – 7/2005

- Represented clients in litigation matters including: employment, non-competition, UCC, bankruptcy, intellectual property and other commercial claims in federal and state courts, including appeals, bench and jury trials with “first-chair” responsibility
- Drafted motions, appellate briefs and pleadings
- Conducted and defended depositions, and managed discovery
- Drafted and negotiated employment, real estate and sale of business agreements

CHAIKIN & CHAIKIN

New York, NY

Associate: Labor & Employment

8/1998 – 11/2000

- Represented international labor union and its trustees, fiduciaries and affiliated ERISA funds, in matters including NLRB proceedings, federal and state litigation, arbitration (100 + hearings), negotiating and drafting collective bargaining agreements
- Represented individual and organizational clients in matters including: ERISA, ADEA, FLSA, FMLA, non-competition and confidentiality agreement litigation, and class-action litigation

### EDUCATION

HOFSTRA UNIVERSITY SCHOOL OF LAW

Hempstead, NY

Dean's List 1997, 1998

J.D. 1998

HOFSTRA UNIVERSITY

Hempstead, NY

Dean's List 1992, 1993, 1994

B.B.A. 1994

Dual Major: International Business, Marketing

### OTHER INFORMATION

**Licensure:** Michigan and New York (State and Federal Courts)

**Professional Recognitions and Participation:** Martindale-Hubbell AV® Preeminent; dbusiness “Top Lawyer” (trade secret law); OCBA - Inns of Court; National Institute of Trial Advocacy (NITA) Advanced Trial Techniques Program

**Other:** Anti-Defamation League (ADL) – Chair of Regional Board (2010-2015) and National Commissioner; Temple Beth-El Executive Board; Franklin Hills Country Club

**Other Languages:** Russian (native)



<b>OFFICE USE ONLY</b>	
Meets Requirements?	<u>Yes</u> No
Will Attend	Unable to Attend

## APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at [www.bhamgov.org/boardopportunities](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest Hearing Officer

Name Patricia Papadopoulos

Phone 248.635.9099

Residential Address 1588 Bennaville

Email liatty00@yahoo.com

Residential City, Zip Birmingham, 48009

Length of Residence 11 years

Business Address \_\_\_\_\_

Occupation Attorney

Business City, Zip \_\_\_\_\_

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied \_\_\_\_\_

After reading the duties of the Hearing Officer, not only am I drawn to this type of role, but my legal and business-related qualifications complement the position. In order to render a determination that is both fair to a fellow City resident, as well as the City, a Hearing Officer needs to prepare for the hearing, possess critical thinking as well as listening skills, know the relevant City Code, and of course be understanding - acumen that I have honed through the years. I would like to become more involved with our City!

List your related employment experience \_\_\_\_\_

During law school, I interned at the State Grievance Dept which hears complaints (mostly ethical) about attorneys. As an attorney, I am an officer of the Court and have heard hundreds of cases through negotiation, mediation, arbitration, hearings, and trials. During my last employment, I served on the company Ethics panel and I have taken continuing education courses.

List your related community activities \_\_\_\_\_

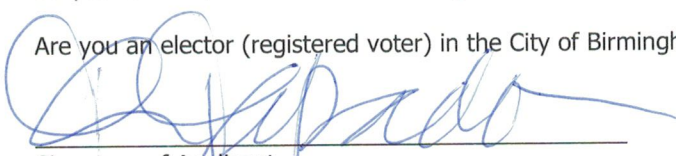
Graduate of the inaugural class of the Birmingham Citizens Academy, volunteer at TCH, Pembroke Elementary (notably the Arbor Day celebration leader in partnership with the City & non-profit ReLeaf Michigan), Women Lawyers of Michigan volunteer events, Church community volunteer events.

List your related educational experience BBA, MBA, JD with internship at the Grievance Dept

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes

  
Signature of Applicant

5-26-16  
Date

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to [lpierce@bhamgov.org](mailto:lpierce@bhamgov.org) or by fax to 248.530.1080. Updated 04/01/16





## MEMORANDUM

City Clerk's Office

**DATE:** July 19, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Laura M. Pierce, City Clerk

**SUBJECT:** Clarification on Ms. Papadopoulos Application

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I was asked to contact Ms. Papadopoulos to clarify several items listed on her application to serve as the Hearing Officer. Below are her responses.

1. Please further define your employment experience by listing your employers and periods employed.
  - Law Office of Patricia Calabro PLLC: 2006-present
  - DTE Energy: 2005-2015
2. Please list the schools you graduated from.
  - Hofstra University, Frank G. Zarb School of Business, NY (BBA)
  - Dowling College, School of Business, NY (MBA)
  - Touro College, Jacob D. Fuchsberg Law Center, NY (JD)
  - Insurance Institute of America, PA (AIC)
3. Please clarify if you are a current member of the State Bar of Michigan.
  - Yes. I am an active member since 2008.
  - I am also licensed in NY & NJ since 2000.



**NOTICE OF INTENTION TO INTERVIEW  
FOR APPOINTMENT TO THE  
BIRMINGHAM SHOPPING DISTRICT BOARD**

At the regular meeting of Monday, June 6, 2016, the Birmingham City Commission intends to interview applicants for appointment to the Birmingham Shopping District Board to serve the remainder of a four-year term to expire November 16, 2017 and to serve the remainder of a four-year term to expire November 16, 2018.

The goal of the shopping district board shall be to promote economic activity in the principal shopping districts of the city by undertakings including, but not limited to, conducting market research and public relations campaigns, developing, coordinating and conducting retail and institutional promotions, and sponsoring special events and related activities. (Section 82-97(a)) The board may expend funds it determines reasonably necessary to achieve its goal, within the limits of those monies made available to it by the city commission from the financing methods specified in this article. (Section 82-97(b)).

The ordinance states that the City Manager will make the appointment with the concurrence of the City Commission.

Interested persons may submit a form available from the city clerk's office. Applications must be submitted to the city clerk's office on or before noon on Wednesday, June 1, 2016. These documents will appear in the public agenda.

Applicant(s) Presented For City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b> Applicants shall be representatives of businesses located in the district.
Amy Pohlod	Owner of Bridal Couture 912 South Old Woodward

*NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.*

**SUGGESTED RESOLUTION:**

To concur in the city manager's appointment of \_\_\_\_\_ to the Birmingham Shopping District Board, as the business operator or property owner member, to serve the remainder of a four-year term to expire November 16, 2018.



# BIRMINGHAM SHOPPING DISTRICT BOARD

Ordinance 1534 - Adopted September 14, 1992

The Board shall consist of 12 members as follows:

- City Manager.
- Resident from an area designated as a principal shopping district.
- Resident from an adjacent residential area.
- A majority of the members shall be nominees of individual businesses located within a principal shopping district who have an interest in property located in the district.
- The remaining members shall be representatives of businesses located in the district.

## 4-Year Terms

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Astrein</b>	<b>Richard</b>	(248) 399-4228	11/16/1992	11/16/2017
13125 Ludlow		(248) 644-1651	Business Operator/Property Owner	
Huntington Woods	48070			
<b>A-Woods</b>	<b>Rachael</b>	(248) 933-5421	12/5/2011	11/16/2019
30485 Red Maple Lane			Business Operator	
Southfield	48076	<i>ra-woods@sbcglobal.net</i>		
123 W. Maple				
Birmingham	48009			
<b>Daskas</b>	<b>Cheryl</b>		11/9/1998	11/16/2018
353 Aspen		(248) 258-0212	Business Operator/Property Owner	
Birmingham	48009	<i>cheryl@tenderbirmingham.com</i>		
271 West Maple				
Birmingham	48009			

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Fehan</b> 833 Hazel Birmingham	<b>Douglas</b> 48009	(248) 705-3000 <i>godug@aol.com</i>	12/14/1992 District Resident	11/16/2016
<b>Hockman</b> PO Box 936 Birmingham	<b>Geoffrey</b> 48012	(248) 431-4800 (248) 433-0713 <i>jeff.hockman.mec@gmail.com</i>	11/16/1992 Business Operator/Property Owner	11/16/2018
<b>Quintal</b> 880 Ivy Lane Bloomfield Hills 112 Peabody St Birmingham	<b>Steven</b> 48304 48009	248-642-0024 <i>steve@fullercentralpark.com</i>	12/8/2003 Member greater than 5% total sq ft in SAD 1.	11/16/2019
<b>Roberts</b> 410 Whippers in Court Bloomfield Hills 273 Pierce Birmingham	<b>William</b> 48304 48009	(248) 463-8606 (248) 646-6395 <i>BR@RobertsRestaurantGroup.com</i>	11/10/1997 Business Operator	11/16/2017
<b>Solomon</b> 588 Stanley Birmingham	<b>Judith</b> 48009	(248) 645-2330 <i>judyfreelance@aol.com</i>	11/22/2010 Resident from Adjacent neighborhood	11/16/2016

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Surnow</b>	<b>Sam</b>	(248) 817-0686	11/23/2015	11/16/2019
411 South Old Woodward, #714 Birmingham	48009	(248) 865-3000 <i>sam@surnow.com</i>	Business Operator/Property Owner Member	
<b>Vacant</b>				11/16/2018
<b>Vacant</b>				11/16/2017
			Business Operator	
<b>Valentine</b>	<b>Joseph</b>	(248) 530-1809	City Manager	
151 Martin Birmingham	48009	<i>jvalentine@bhamgov.org</i>		

RECEIVED BY

JUL 14 2016

CITY CLERK  
CITY OF BIRMINGHAM



**OFFICE USE ONLY**  
Meets Requirements? Yes ☒ No  
Confirmed Interview Date: 7/15/2016  
Will Attend/Unable to Attend ☒

**APPLICATION FOR CITY BOARD OR COMMISSION**

(Please print clearly)

BSD BOARD

Board/Commission of Interest

BOARD MEMBER

Position of Interest

Name Amy Pohlod

Address 1360 FREEWOOD  
BIRMINGHAM, MI 48009

Business 912 S. OLD WOODWARD  
BIRMINGHAM, MI 48009

Phone 248-219-5042

E-mail amypohlod@hotmail.com

Length of Residence 9 years Occupation SELF-OWNER, BRIDALCOUTURE

Reason for interest I WOULD LIKE TO GET MORE INVOLVED IN THE  
COMMUNITY. SPECIFICALLY, THE DOWNTOWN AREA IS OF  
TOP INTEREST AS I LIVE, WORK & OWN A BUILDING DOWNTOWN.

**Related Employment Experience (Please indicate dates)**

- A. ARTHUR ANDERSON - 1997 - 2001 - MANAGING CONSULTANT / AUDIT  
B. HANDLEMAN CO. - 2001 - 2007 - DIRECTOR OF INFORMATION TECH.  
C. BRIDAL COUTURE - OWNER - 2007 - PRESENT

Education: ACCOUNTING - MICHIGAN STATE UNIVERSITY

**Past Experience or Other Relevant Information (City Boards, Churches, Civic or Community Groups, Memberships, Associations, etc. Attach resume or additional page if necessary):**

NONE - WORKING TO GET MORE INVOLVED THROUGH THIS BOARD  
EXPERIENCE

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:

NO.

Are you an elector (registered voter) in the City of Birmingham? YES

Amy Pohlod  
Signature of Applicant

7/15/2016  
Date

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement. Questions regarding this may be directed to the city clerk - 248.530.1880.

**City of Birmingham**  
**Warrant List Dated 07/13/2016**

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243366	*	000855	48TH DISTRICT COURT	100.00
243367	*	000855	48TH DISTRICT COURT	100.00
243368	*	000855	48TH DISTRICT COURT	272,452.00
243369	*	000855	48TH DISTRICT COURT	100.00
243370	*	000855	48TH DISTRICT COURT	100.00
243371	*	000855	48TH DISTRICT COURT	100.00
243372	*	006965	7UP DETROIT	483.10
243373		002284	ABEL ELECTRONICS INC	414.70
243374		008137	ACCUPRODUCTS	70.73
243375		000157	BOB ADAMS TOWING INC.	275.00
243377		005795	ALLIE BROTHERS, INC	879.87
243378		007696	AMERICAN CLEANING COMPANY LLC	1,350.00
243379		MISC	ANITA BIEN	432.00
243381		007479	ASB DISTRIBUTORS	81.70
243382	*	006759	AT&T	115.12
243383	*	006759	AT&T	93.70
243384	*	007216	AT&T	154.00
243385	*	007216	AT&T	114.00
243386		006316	BAHL & GAYNOR, INC	10,216.40
243388		003012	BATTERIES PLUS	9.00
243389	*	008143	PHILLIP G. BAZZO, ESQ P-25243	64,464.00
243390	*	000517	BEIER HOWLETT P.C.	41,910.75
243391		007345	BEVERLY HILLS ACE	75.34
243392		004931	BIDNET	45.54
243393		000522	BIG BEAVER PLUMBING, HEATING INC.	125.00
243396	*	001086	CITY OF BIRMINGHAM	392.15
243397	*	001086	CITY OF BIRMINGHAM	226.30
243398	*	001086	CITY OF BIRMINGHAM	509.65
243399	*	001086	CITY OF BIRMINGHAM	113.60
243401		000542	BLUE WATER INDUSTRIAL	31.50
243402		MISC	BRENDA BADALAMENT	193.50
243404		003907	CADILLAC ASPHALT, LLC	1,312.37
243405		007732	CAPITAL TIRE, INC.	539.20
243406		000571	CAR TRUCKING INC	857.50
243407		002067	CENTRAL PARKING SYSTEM	81.00
243408		002067	CENTRAL PARKING SYSTEM	95.00
243409		000603	CHEMCO PRODUCTS INC	232.00
243412	*	008003	CINIUM RISK MANAGEMENT, LLC	18,500.00
243413		000605	CINTAS CORPORATION	81.51
243414	*	007625	COMCAST	191.39
243415		MISC	CORINE HALE	216.00
243416		005742	CRAIN'S DETROIT BUSINESS	59.00
243417		004386	CYNERGY WIRELESS	240.00



**City of Birmingham**  
**Warrant List Dated 07/13/2016**

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243418		008005	DE LAGE LANDEN FINANCIAL SERVICES	182.44
243419		001563	DEAF & HEARING IMPAIRED SERV INC	1,136.00
243420	*	000177	DELWOOD SUPPLY	1.99
243421		000847	DETROIT SALT COMPANY	28,683.60
243422		005318	DEWOLF & ASSOC	745.00
243423		MISC	DIANE BOROVICH	216.00
243425		001035	DOUGLASS SAFETY SYSTEMS LLC	64.12
243427		000995	DSS CORPORATION	3,500.00
243428	*	000179	DTE ENERGY	6,962.33
243429		007538	EGANIX, INC.	720.00
243431		000207	EZELL SUPPLY CORPORATION	475.29
243432		001223	FAST SIGNS	137.50
243435		008141	FIRE MODULES	1,680.00
243436		007172	GARY KNUREK INC	331.44
243437		006384	GISI	5,000.00
243438		004604	GORDON FOOD	1,286.99
243439		000243	GRAINGER	13.31
243441	*	007473	DONALD GRIER	322.38
243442		000249	GUARDIAN ALARM	224.03
243443		001531	GUNNERS METER & PARTS INC	420.00
243444		001447	HALT FIRE INC	34.52
243446		000331	HUBBELL ROTH & CLARK INC	9,283.89
243449		000342	INTERSTATE BATTERY SYSTEM	89.95
243450		002407	J & B MEDICAL SUPPLY	612.25
243451		003823	JAY'S SEPTIC TANK SERVICE	165.00
243452		MISC	JENNIFER SWANSON	193.50
243453		MISC	JESSICA SCHWARTZ	108.00
243454	*	008100	JILL JACK ENTERPRISES LLC	800.00
243455		003458	JOE'S AUTO PARTS, INC.	47.18
243458		004088	KGM DISTRIBUTORS INC	62.00
243459		MISC	KJERSTIN WALLGREN	193.50
243460		005350	KLM BIKE & FITNESS INC	126.00
243461		004085	KONE INC	104.00
243464		002767	OSCAR W. LARSON CO.	210.00
243467		006817	LEXISNEXIS RISK DATA MANAGEMENT INC	67.10
243468	*	008142	LITTLE FREE LIBRARY	42.45
243470	*	001577	KATE LONG	295.82
243471	*	001171	JIM LOTRIDGE	63.59
243473		003934	MADISON GENERATOR SERVICE INC	169.95
243474		001564	MAGLOCLIN	400.00
243475		007797	MAILFINANCE INC.	288.63
243476		MISC	MARI GABOS	193.50
243477	*	001505	MEADOWBROOK INSURANCE GROUP	4,083.13

# City of Birmingham

## Warrant List Dated 07/13/2016

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243478	*	001505	MEADOWBROOK INSURANCE GROUP	1,110.63
243479	*	003133	MARIO MENDOZA	124.64
243482	*	008099	DAVE MIELKE	1,900.00
243485		001194	NELSON BROTHERS SEWER	1,121.00
243486	*	007856	NEXT	24,952.50
243487		003075	NORTH END ELECTRIC	170.00
243488		001864	NOWAK & FRAUS ENGINEERS	1,515.00
243489		006359	NYE UNIFORM COMPANY	270.75
243490		004110	OAKLAND COMMUNITY COLLEGE	600.00
243491	*	000477	OAKLAND COUNTY	7,172.25
243492		000481	OFFICE DEPOT INC	1,607.10
243495		006625	PACIFIC TELEMANAGEMENT SERVICES	78.00
243496	*	001753	PEPSI COLA	263.04
243498		MISC	POINTE RENOVATIONS LLC	645.00
243499		000487	POM INC	5,989.20
243500		000897	PRINTING SYSTEMS INC	260.56
243501		001062	QUALITY COACH COLLISION LLC	790.04
243502		006729	QUENCH USA INC	120.00
243503		006497	R.N.A. JANITORIAL, INC	2,580.00
243505		000493	ED RINKE CHEVROLET BUICK GMC	4,221.44
243506		000218	ROYAL OAK P.D.Q.	235.82
243507	*	002806	SAM'S CLUB/SYNCHRONY BANK	160.50
243510		004202	SHRED-IT USA	95.91
243511		003785	SIGNS-N-DESIGNS INC	390.00
243512		008073	SITEONE LANDSCAPE SUPPLY, INC	237.41
243514	*	000254	SOCRRA	59,075.00
243515	*	001097	SOCWA	245,281.13
243517		000260	SPARTAN DISTRIBUTORS INC	161.02
243519		005127	SYSTEMATIC FINANCIAL MGMT. L.P.	10,285.29
243520		MISC	TAMARA MANNA	342.00
243522		000275	TIRE WHOLESALERS CO INC	503.88
243523		007587	TRI-COUNTY AQUATICS, INC.	3,600.00
243524		006881	TUUCI, LLC.	1,002.00
243526		007226	VALLEY CITY LINEN	41.35
243527	*	000158	VERIZON WIRELESS	419.45
243528	*	000158	VERIZON WIRELESS	319.25
243529	*	000158	VERIZON WIRELESS	854.56
243530	*	000158	VERIZON WIRELESS	203.06
243531	*	000158	VERIZON WIRELESS	76.02
243532		003925	WIZBANG PRODUCTS CO	885.20
243533		000926	WRIGHT TOOL COMPANY	160.00
243534		007083	XEROX CORPORATION	372.05
243535		007401	XEROX FINANCIAL SERVICES	65.99

**City of Birmingham**  
**Warrant List Dated 07/13/2016**

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
Sub Total Checks:				\$868,128.04
Sub Total ACH:				\$40,069.81
Grand Total:				\$908,197.85

All bills, invoices and other evidences of claim have been audited and approved for payment.



Mark Gerber  
Finance Director/ Treasurer

\*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.

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7/25/2016

**City of Birmingham**  
**7/13/2016**

Vendor Name	Transfer Date	Transfer Amount
Automated Benefit Services, Inc.	7/8/2016	40,069.81
<b>TOTAL</b>		40,069.81

**City of Birmingham**  
**Warrant List Dated 07/20/2016**

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243537		003708	AIRGAS GREAT LAKES	154.42
243538		004657	AKT PEERLESS	475.00
243539		007745	ALL COVERED	1,192.00
243540		000161	ALPHA PSYCHOLOGICAL SERVICE	4,190.00
243541		007479	ASB DISTRIBUTORS	42.90
243542	*	006759	AT&T	67.57
243543	*	006759	AT&T	758.64
243544	*	006759	AT&T	159.94
243549		003012	BATTERIES PLUS	14.95
243550		001103	BCI ADMINISTRATORS INC	808.50
243551		000518	BELL EQUIPMENT COMPANY	1,127.27
243553		002231	BILLINGS LAWN EQUIPMENT	37.54
243554		007624	BIRMINGHAM OIL CHANGE CENTER, LLC	141.92
243556	*	001086	CITY OF BIRMINGHAM	1,177.25
243560		006520	BS&A SOFTWARE, INC	400.00
243562		008152	CARDNO, INC	1,250.00
243563		007259	CENTERLINE INDUSTRIAL FAB, INC	614.00
243566		006244	CHET'S RENT ALL	759.36
243567		000605	CINTAS CORPORATION	136.20
243569		004188	COFFEE BREAK SERVICE, INC.	78.00
243570	*	007625	COMCAST	192.96
243571	*	000627	CONSUMERS ENERGY	231.08
243572		002668	CONTRACTORS CLOTHING CO	674.20
243574		003428	DAVID WACHLER & SONS, INC	175.00
243575		004232	DEARBORN LITHOGRAPH INC	5,383.00
243578		007702	EASY PICKER GOLF PRODUCTS, INC	701.47
243581		006181	FIRST CHOICE COFFEE SERV	124.95
243582		001468	FRED PRYOR SEMINARS/CAREER TRACK	99.00
243583		001023	GABRIEL, ROEDER, SMITH & CO.	4,125.00
243584		007172	GARY KNUREK INC	21.00
243586		005395	GOOSE BUSTERS!	350.00
243587		004604	GORDON FOOD	601.11
243588		000243	GRAINGER	210.77
243591		007722	HARDWOOD DOOR & BEVEL	1,964.50
243592		000261	J.H. HART URBAN FORESTRY	10,866.80
243592	*	000261	J.H. HART URBAN FORESTRY	10,290.21
243594		001415	HORNUNG'S PRO GOLF SALES INC	61.75
243596		000331	HUBBELL ROTH & CLARK INC	4,677.71
243597		000948	HYDROCORP	1,315.00
243598		000344	J.T. EXPRESS, LTD.	2,381.21
243599		MISC	JAMES R VERVISCH	1,050.00
243600		007423	K/E ELECTRIC SUPPLY	3,839.18
243601		000891	KELLER THOMA	1,031.25

**City of Birmingham**  
**Warrant List Dated 07/20/2016**

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243602		004088	KGM DISTRIBUTORS INC	126.00
243603		008147	KIMBALL MIDWEST	374.45
243605		005889	KOMPAN INC	216.00
243606		002438	LAIRD PLASTICS INC	76.80
243607		005550	LEE & ASSOCIATES CO., INC.	8,216.70
243610		008129	M.U.E. INC.	5,850.00
243611		008000	MARXMODA	3,930.78
243612		000888	MCKENNA ASSOCIATES INC	42,973.75
243614	*	003860	MICHIGAN CHANDELIER - SF	2,123.74
243616		008126	MICHIGAN.COM	2,645.80
243620	*	008043	MILARCH NURSERY INC.	1,235.00
243621		007773	MONSTER WORLDWIDE INC	318.00
243622	*	005986	MRWA	20.00
243624		001864	NOWAK & FRAUS ENGINEERS	3,756.00
243625		001686	OAKLAND CO CLERKS ASSOC	10.00
243626	*	000477	OAKLAND COUNTY	367,904.26
243627		006870	OAKLAND COUNTY	75.00
243628	*	003461	OBSERVER & ECCENTRIC	1,324.92
243629		004370	OCCUPATIONAL HEALTH CENTERS	546.50
243631		000481	OFFICE DEPOT INC	597.81
243633	*	001325	P.K. CONTRACTING INC	798.72
243634	*	005794	PAETEC	696.80
243636		001341	PIFER GOLF CARS INC	4,975.00
243637		007979	PRESIDIO INFRASTRUCTURE SOL. LLC	416.25
243640		005379	RED WING SHOES	1,412.39
243641		000286	RESIDEX LLC	216.00
243642		002566	REYNOLDS WATER	75.31
243643		003554	RKA PETROLEUM	9,342.16
243644		000495	ROCHESTER LAWN EQUIPMENT CENTER INC	11.42
243646		007921	ROYAL TRUCK & TRAILER SALES &	69.82
243647		000230	MIKE SAVOIE CHEVROLET INC	350.23
243649		003857	SIGNS BY TOMORROW	1,520.00
243650		008150	SITEIMPROVE, INC	2,488.50
243651	*	000254	SOCRRA	332.51
243652		005787	SOUTHEASTERN EQUIPMENT CO. INC	140.43
243655		000260	SPARTAN DISTRIBUTORS INC	2,694.78
243656		MISC	STETANIA PACIOCCO	216.00
243657		007441	SUREFIRE LLC	1,088.00
243658		007693	TGIB MARKETING, INC.	87.00
243659		003173	TIFFANY FLORIST	126.90
243660		000275	TIRE WHOLESALERS CO INC	256.00
243663		MISC	UPRIGHT FENCE CO	37.50
243664		007226	VALLEY CITY LINEN	43.67

**City of Birmingham**  
**Warrant List Dated 07/20/2016**

Meeting of 07/25/2016

Check Number	Early Release	Vendor #	Vendor	Amount
243665	*	000158	VERIZON WIRELESS	90.12
243666	*	000158	VERIZON WIRELESS	241.88
243667		002582	VULCAN SIGNS, INC.	160.00
243668		001014	WALKER PARKING CONSULTANTS	9,720.00
243669		005231	WALKER RESTORATION CONSULTANTS	2,391.52
243670		007278	WHITLOCK BUSINESS SYSTEMS, INC.	1,737.65
243671		000926	WRIGHT TOOL COMPANY	1,900.00
243672		007083	XEROX CORPORATION	502.05
Sub Total Checks:				\$550,412.73
Sub Total ACH:				\$2,260,568.04
Grand Total:				\$2,810,980.77

All bills, invoices and other evidences of claim have been audited and approved for payment.



Mark Gerber  
Finance Director/ Treasurer

\*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.



**City of Birmingham**  
**ACH Warrant List Dated 7/20/2016**

Vendor Name	Transfer Date	Transfer Amount
Cutwater Asset Management-June	**	3,025.88
Birmingham Schools	7/18/2016	833,451.26
Oakland Couty Treasurer	7/18/2016	1,380,242.09
Automated Benefit Services, Inc.	7/19/2016	43,848.81
<b>TOTAL</b>		2,260,568.04

\*\*Awaiting approval from Commission.

Cutwater Asset Management provides advisory and reporting services for the City's general investments. It was acquired by Bank of New York Mellon, N.A. in January 2015. As a result of the acquisition, they no longer accept checks as payment for services. Once the Commission approves this warrant list, the City will electronically transmit payment. These invoices will start appearing once a month on the ACH Warrant List.



## MEMORANDUM

Department of Public Services

**DATE:** July 14, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Lauren A. Wood, Director of Public Services

**SUBJECT:** Golf Course Fertilizer/Turf Chemicals Purchase

On Tuesday June 28, 2016 the Department of Public Services publicly opened bids entitled "Turf Chemicals". This bid includes fertilizers and turf chemicals used at the municipal golf courses. The request for proposal was entered into the Michigan Inter-governmental Trade Network (MITN) purchasing system. After review of the four bid tabulations from the companies, meeting specifications, the Department of Public Services recommends purchases from these three companies.

<u>Company</u>	<u>City</u>	<u>7/1/16-6/30/17</u>	<u>Bid Amount</u>
Harrell's	New Hudson MI	\$22,000	\$22,000
Residex Turfgrass	South Lyon, MI	\$22,000	\$22,000
Great Lakes Turf	Grand Rapids, MI	\$ 8,000	\$ 8,000
<b>TOTAL</b>			<b>\$52,000</b>

The pricing for these products are the same from the various vendors. This is based on agency pricing which is determined by the product manufacturer. Therefore, the price is identical from the bidders. Some of the bidders did not make all of the products available to the City as part of their bid. The City selects the vendors for which to purchase its products based on experience with the vendor, customer service, availability of the product, including the quality of the performance of the vendor. The quantities of product are determined by the Grounds Superintendent during the golf season. Last year these same three companies were used for the product purchases for a total amount not to exceed of \$50,000.

The Chemical/Fertilizers listing, as attached, are for the 2016 season and funds are available in the operating supplies account for each course. See the attached supplemental information from Bryan Grill, Golf Course Superintendent about the application and uses of the chemicals during the golf season. Based on the actual needs of the golf courses during the season, the total purchases may fluctuate but will not exceed a total of \$52,000.

**SUGGESTED RESOLUTION:**

To approve chemical/fertilizer purchases for Lincoln Hills and Springdale golf courses from Harrell's for \$22,000, Residex Turfgrass for \$22,000 and Great lakes Turf for \$8,000. The total purchase from all vendors will not exceed a total of \$52,000. Funds will be charged to account numbers 584/597-753.001-729.0000.

## Golf Course Chemicals and Fertilizers

Product (Common)	Chem. Name	Signal Word	Classification	Use (Area)	Frequency	Target Pest	Comments
Merit	Imidacloprid	Warning	Insecticide	All turf	As needed	Grubs, Insects	
Acelepryn	Chlorantraniliprole	Warning	Insecticide	All turf	As needed	Grubs, Insects	
Dylox	Trichlorfon	Warning	Insecticide	Tees, Rough	As needed	Grubs, Insects	
Briskway	Azoxystrobin	Warning	Fungicide	Greens	2-3X/year	Various Fungi	
	Azoxystrobin+						
Headway	Propiconazole	Warning	Fungicide	Greens	2-3X/year	Various Fungi	
Affirm	PolyoxinD zinc salt	Caution	Fungicide	Greens	1X/year	Patch Diseases	
Emerald	Boscalid	Warning	Fungicide	Tees, Fairways	1X/year	Dollar Spot	
	Propiconazole+						
Concert	Chlorothalonil	Danger	Fungicide	Tees, Fairways, Greens	3-4X/year	Various Fungi	
Clearys 26/36	Thiophanate Methyl	Warning	Fungicide	All turf	2-3X/year	Various Fungi	
Secure	Fluazinam	Warning	Fungicide	Greens	1-2X/year	Various Fungi	
	Fludioxonil, Propicnazole						
Instrata	Chlorothalonil	Warning	Fungicide	Greens	1X/year	Various Fungi	
				Greens,TeesFairw ays			
Daconil Action	Chlorothalonil	Warning	Fungicide		4-5X/year	Various Fungi	
Tank Defoamer		Caution	Tank Additive				
Sync	Methylacetic acid	Danger	Tank Additive				
25-0-10	Urea Nitrogen, K2O	Warning	Fertilizer	Rough	1-2X/year		
33-0-12	Urea Nitrogen, K2O	Warning	Fertilizer	Tees, Fairways	1X/year		
22-0-11	Urea Nitrogen, K2O		Fertilizer	Rough, Fairways	1X/year		
40-0-0	Urea Nitrogen		Fertilizer	Rough			
14-7-14			Fertilizer	Greens			
	2,4D, Dicamba, Monoethanoleamine						
Millennium Ultra	Salt	Danger	Herbicide	Rough	2-3X/year	Broadleaf weeds	
Roundup Pro	Glyphosate	Caution	Herbicide	Hardscape, Beds	As needed	All Weeds	

Confront	Triclopyr, Clopyralid	Danger	Herbicide	Rough	As needed	Broadleaf weeds
Primo Maxx	Trinexapac	Warning	Growth Regulator	Greens	As needed	
Proxy	Ethephon	Danger	Growth Regulator	Greens	As needed	
TriCure	Surfactant	Warning	Wetting Agent	All turf	As needed	
PK Fight	Potash (K2O)	Warning	Fertilizer	Greens	Every 2 weeks	
Astron	Ca,Mg,B,Cu,Fe,Zn	Danger	Fertilizer	Greens	Every 2 weeks	
Knife Plus	N,S,Cu,Fe,Mn,Mo,Zn	Danger	Fertilizer	Greens	Every 2 weeks	
Power 23-0-0	N	Warning	Fertilizer	Greens	Every 2 weeks	
Power 0-22-28	P2O5, K2O	Warning	Fertilizer	Greens	Every 2 weeks	
Bentgrass seed						
Annual Ryegrass seed						
Aquasphere						



## MEMORANDUM

Department of Public Services

**DATE:** July 15, 2016

**TO:** Lauren Wood, Director

**FROM:** Bryan Grill, Golf Course Superintendent

**SUBJECT:** Chemicals

---

This serves to provide more detail with regard to the Bid Tab for chemical purchases for the golf courses for the 2016/2017 season. The list of chemicals and fertilizer to be purchased is more a prediction than a "set in stone" list. We may not need some of them; we may need something that is not on the list. Environmental situations and new chemicals introduced to the market may dictate what we purchase. The golf courses adhere to Integrated Pest Management (IPM) practices. IPM is *the use of all appropriate and economical strategies to manage pests and their damage to acceptable levels with the least disruption to the environment. Using many different tactics to manage a pest problem tends to cause the least disruption to non-target organisms and the surroundings at the application site.* We don't apply chemicals based on the calendar; we scout the property and determine acceptable threshold levels. In other words, we generally won't spray for a pest if we don't see it. This limits the number of applications we make throughout the year, saving money and limiting the inputs to the environment. For example, we will often pull weeds instead of applying herbicide to kill them. We use organic fertilizers whenever possible. We place signs in visible locations stating what was applied, where it was applied and my contact information if anyone has a question about what was applied.



## MEMORANDUM

Department of Public Services

**DATE:** July 5, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Lauren A. Wood, Director of Public Services

**SUBJECT:** Park Rules and Regulations - Update

---

The Birmingham City Code Chapter 78 – Parks and Recreation Article IV. Use of Parks allows the City Commission to adopt rules and regulations relating to the use of municipal parks and playgrounds. Specifically with regard to Section 78-82 Closing hours, an oversight was recently discovered about the park hours posted on the sign at Springdale Park. Currently, the hours posted are 6:00 AM to 10:00 PM. This is the normal park hours Citywide, but for a few exceptions.

Springdale Park hours are determined by the activity at Springdale Golf Course due to the shared gate and parking area. The park opens for the season when the golf course opens and remains closed throughout the winter months. Additionally, once open for the season, it may on occasion, need to be closed at differing times based upon weather conditions or daylight hours for golf operations. This happens most often in the beginning of golf season; however it may happen on occasion throughout the summer months and is left to the discretion of the City staff on duty. It is important to close the park at the same time as the golf course for the safety of patrons and the security of the golf course clubhouse and maintenance area. The park does remain open for any scheduled park shelter rental, no matter the golf course activity.

Plus, since Springdale Park hours coincide with the operational hours of Springdale Golf Course the hours posted on the park sign need to reflect the actual hours the park is expected to be open. Both facilities share one property location; including a parking lot and security gate thus causing them to be locked up simultaneously. This is also necessitated by the site remoteness, equipment on the property and security gate used to close the entire property.

Attached is a copy of the Park Rules and Regulations last updated by the City Commission on April 23, 2012. The proposed update to Park Rule #10 of the Park Rules and Regulations has been supported by the Parks and Recreation Board at their June 7, 2016 meeting. Please find the attached approved minutes pertaining to this matter.



Below is the current Park Rule #10 of the Park Rules and Regulations.

10. The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.

- (1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.
- (2) Adams School Park shall be closed from 9:00 p.m. to 8:00 a.m.
- (3) Except as provided in subsections (1) and (2) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
- (4) All public property not included in subsection (1), (2), (3) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.

Below is the proposed language for Park Rule #10 of the Park Rules and Regulations which is recommended to be updated to include Springdale Park as an exception to the normal park hours.

10. The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.

- (1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.
- (2) Adams Park shall be closed from 9:00 p.m. to 8:00 a.m.
- (3) Springdale Park hours shall coincide with Springdale Golf Course hours and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty.
- (4) Except as provided in subsections (1), (2) and (3) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
- (5) All public property not included in subsections (1), (2), (3) and (4) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.

Essentially, the following summarizes the proposed changes. Item (2) removes "School" after Adams. Insert a new (3) Springdale Park hours shall coincide with Springdale Golf Course hours and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty. The current (3) shall become (4) and the current (4) shall become (5). The new number (4) shall read: Except as provided in subsections (1), (2) and (3) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m. The new number (5) shall read: All public property not included in subsections (1), (2), (3) and (4) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m.

Once this modification to the Park Rules and Regulations is approved, the Springdale Park sign will be changed to read: Park closed when gate locked, no later than 10:00 PM. The Department of Public Services, upon approval, will add the modified language to the City of Birmingham Park Sign that is located at Springdale Park.

#### SUGGESTED RESOLUTION:

To approve the amendment to the City of Birmingham Park Rules and Regulations as it pertains to Park Rule #10 and corresponding Birmingham City Code Chapter 78 – Parks and Recreation Article IV. Use of Parks Section 78-82. Closing hours. Language change is as follows: The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.

- (1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.
- (2) Adams Park shall be closed from 9:00 p.m. to 8:00 a.m.
- (3) Springdale Park hours shall coincide with Springdale Golf Course hours and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty.
- (4) Except as provided in subsections (1), (2) and (3) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
- (5) All public property not included in subsections (1), (2), (3) and (4) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.

## Rules and Regulations

1. The use of any facility is at your own risk. The City does not assume responsibility for injury or for any loss, theft or damage to personal items.
2. A person holding a park permit shall maintain such permit in his or her possession at all times while utilizing the municipal facility. Such permit shall be presented by its holder upon request by a City official or employee. A permit does not give its holder exclusive use of the entire park, except for Springdale Shelter.
3. A rental permit is required for reservation of all city facilities which would include rain dates and no refund of the rental fee shall be made due to inclement weather. Park permits may not be assigned or otherwise transferred.
4. All set-up/clean-up must be done by the permit holder.
5. All parks must be maintained and left in a neat and clean condition, with garbage and refuse prepared for proper disposal. The person or entity in whose name the rental permit is issued shall be responsible for leaving the facility in a clean and orderly condition. Further, the permit holder accepts full responsibility for all damage to City property as a result of its activities, ordinary wear and tear excepted. A fee may be assessed should clean up by the City become necessary. This fee shall include, but is not limited to, all labor, equipment and administration expense incurred by the City.
6. Any equipment, valuables, or clothing left in or around the park shelter on closing shall be disposed of by the Department of Public Services.
7. The City reserves first priority with regard to the use of all City Parks. A park permit grants its holder a license to use the specified park and or an area and is revocable by the City. The City may order revocation of a park permit, if warranted at any time, with refund of fees paid. All permits are granted with this understanding.
8. The Director of Public Services may, subject to the approval of the City Manager and the City Commission, establish supplemental regulations for all uses requiring the issuance of a permit for use of municipal facilities, and fees for the use of the various facilities.
9. **No person shall bring into, have in their possession, DRINK, OR CONSUME ANY INTOXICANT OR INTOXICATING BEVERAGE** in any park areas and city owned properties *with the exception of beer and wine sold by the City for consumption at Lincoln Hills Golf Course or Springdale Park, Springdale Park Shelter and Springdale Golf Course in conjunction with golf functions only.*

10. The following city-owned or city-controlled areas shall be closed during the hours specified below. During such hours, no person shall enter into or remain in such property, except those persons whose presence is related to or in connection with a municipal activity or a project or activity which has been licensed to be operated or carried on within such public property, or persons who enter such property for the express purpose of parking or removing a vehicle legally parked upon such property and who, upon entering the parking area, immediately park or remove such vehicle. Such person shall not remain in the park for any other purpose.

(1) Manor Park shall be closed from one hour after sundown to one hour before sunrise.

(2) Adams School Park shall be closed from 9:00 p.m. to 8:00 a.m.

(3) Except as provided in subsections (1) and (2) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.

(4) All public property not included in subsection

(1), (2), (3) of this section shall be closed between the hours of 12:00 midnight and 6:00 a.m. For purposes of this section, public property shall be deemed to be property zoned as public property under the provisions of chapter 126.

11. Leashed dogs are allowed in any public park except in those areas as designated and posted by the Department of Public Services. Dogs are allowed on public property as long as they are restrained by a six foot maximum length chain or leash and under the reasonable control of some person. Owners and walkers of dogs on public property must comply with all City ordinances, including Chapter 18, Article II, pertaining to dogs and cats.

### **Sec. 18-33 Restraint of dogs.**

It shall be unlawful for any owner of any dog to permit the dog to go beyond the premises of such owner unless restrained by a chain or leash and under the reasonable control of some person. (Code 1963, § 9.80(1))

12. Dogs are not permitted in any public playground or in any **other** area designated by the Department of Public Services. These areas shall generally include, but shall not be limited to, areas under and immediately adjacent to play structures and play equipment; sandboxes; the playing surface of ball fields, soccer fields, tennis courts, outdoor ice rinks, golf courses and sledding hills, when such areas are in use; pavilions and stages; fountains; and in areas designated for City permitted events and functions of concentrated use during said event or function.

## Rules and Regulations

13. The owner or walker of a dog is responsible for the collection of all fecal matter and the disposal of such fecal matter in an appropriate waste receptacle in accordance with ordinance Section 18-35.

### **Sec. 18-35 Sanitation.**

(a) It shall be unlawful for any person to permit any animal owned or harbored by him to deposit fecal matter in any place other than the premises where the animal is harbored or kept, unless such fecal matter is immediately collected and removed to the premises where the animal is harbored or kept.

(b) It shall be unlawful for any person to walk any animal on any property not owned by such person, whether public or private, unless such person has an appropriate device for the collection of fecal matter in his immediate possession and an appropriate depository for the transmission of fecal matter to the premises where the animal is harbored or kept.  
(Code 1963, § 9.95; Ord. No. 1586, 4-18-94)

14. The use of loudspeakers or other equipment for the amplification of sound or music is prohibited, unless allowed by permit issued by the City.

15. Smoking is not permitted in any building or structure in City Parks. No person shall ignite or use ground fire or open fire except with the expressed permission of the Department of Public Services, provided however, that this restriction shall not be applicable to the use of barbecue burners or cooking in the picnic area at Springdale Park. No person shall leave the immediate vicinity of any fire, which he/she has started or used without first extinguishing the fire.

16. No person shall obstruct any walk or drive in any public park or playground. No person shall injure, mar or damage, in any manner, any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, or other public property within or pertaining to such parks.

17. No person shall engage in the business of peddling or vending in the city without first obtaining a license from the city clerk.

18. No person shall interfere with any fence constructed in or about any park; or deface, injure, remove, or destroy any tree, shrub, sward, or turf in any park or boulevard; or remove any dirt, sand or earth from any park or boulevard, or otherwise remove, destroy or injure any property therein; or leave or deposit any filth, rubbish, dirt, wastepaper or other refuse in any place in any park or boulevard except in containers provided in parks for that purpose. Dumping or disposal of household or commercial waste transported from off-site to city property is prohibited.

19. No vehicles, except authorized City vehicles, are allowed to be driven across lawns, sidewalks, or any other park surface for any reason.

20. No person shall expose, distribute, place any sign, advertisement, circular notice, or statement, or display any banner, City of Birmingham emblem, or design without written permission from the City.

21. ***Decorations may be attached to the Springdale shelter by means of masking or cellophane tape only.*** There should be no decorations drilled, fastened, or otherwise attached to the shelter with materials such as staples, nails, or tacks.

22. No person shall place or operate any boat propelled by any engine in or upon waters in any park in the city, including the water of Quarton Lake.

23. Fishing in any water park in the City of Birmingham, including Quarton Lake is restricted to minors under the age of fourteen (14) years, and residents' sixty-two (62) years of age and older, subject to State of Michigan fishing licenses regulations.

24. No person shall feed any geese, ducks, birds or other fowl in any City Park or any municipal Golf Course.

25. No person, except an authorized city employee shall injure, kill or capture any wild bird, or disturb any wild bird's nest or the contents thereof.

26. Swimming and/or wading is prohibited in any lake, river, public fountain or public pond in the City of Birmingham.

27. No person shall operate, use, ride, or pull another individual on a wheeled vehicle, on City-owned tennis courts, basketball courts, fountains and stone work ledges. Vehicles not permitted include, but are not limited to in-line skates, skateboards, bicycles, wagons, roller-skates, and scooters.

28. It is unlawful for any person to operate any motorized vehicle, trail bike, all-terrain vehicle, or similar type of sport vehicle anywhere in a park, except for the proper use of golf carts on city golf courses.

29. On-site parking at Barnum Park is limited to 3 hours and is exclusively for use of persons while they are using the Park.

30. Violation of these rules or other posted rules is a misdemeanor punishable by a fine up to \$500, or imprisonment for a term not exceeding 90 days, or both.

# **PARKS AND RECREATION BOARD MEETING MINUTES**

## **June 7, 2016**

Therese Longe, Chairperson, called the meeting to order at 6:30 p.m. at 851 S. Eton.

**MEMBERS PRESENT:** Therese Longe, John Meehan, Ryan Ross, Art Stevens and Bill Wiebrecht

**MEMBERS ABSENT:** Ross Kaplan and Lilly Stotland

**STUDENT REPRESENTATIVES PRESENT:** Nichole McMaster

**ADMINISTRATION:** Lauren A. Wood, Director of Public Services  
Carrie A. Laird, Parks and Recreation Manager and Connie Folk, Recreation Coordinator

**GUESTS:** Cindy Rose

It was moved by Art Stevens, seconded by Bill Wiebrecht that the minutes of the May 3, 2016 regular meeting be approved as submitted.

**Yeas – 5** Therese Longe, John Meehan, Ryan Ross, Art Stevens and Bill Wiebrecht

**Nays – 0**

**Absent-2** Ross Kaplan and Lilly Stotland

### **AGENDA ITEM #1-Amendment and Approval to Parks and Recreation Rules and Regulations**

Carrie stated #10 (3) of the current rules and regulations states that, "Except as provided in subsections (1) and (2) of this section, all City Parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m.

Carrie stated that Springdale Park falls into that category. Carrie stated however, there is a discrepancy with operations. Carrie stated when Springdale Golf Course closes and this happens often at the beginning of the season the clubhouse attendant will often close early because there is no activity on the course. Carrie stated that there is only one entry gate for the clubhouse and park so when the gate is closed for the golf course there is no access for the park.

Carrie stated the department would like to amend the City of Birmingham Park Rules and Regulations to include Springdale as an exception.

Bill stated that additional language should be added to the suggested resolution to include Springdale Park hours shall coincide with Springdale Golf Course and park rentals.

It was moved by John Meehan to modify the suggested resolution, seconded by Art Stevens to support the Department of Public Services amendment to the City of Birmingham Park Rules and Regulations that states Springdale Park hours shall coincide with Springdale Golf Course and park rentals. The closing of the park is up to the discretion of the City of Birmingham Representative on duty.

**Yeas – 5** Therese Longe, John Meehan, Ryan Ross, Art Stevens and Bill Wiebrecht

**Nays – 0**

**Absent -2** Ross Kaplan and Lilly Stotland

**COMMUNICATION/DISCUSSION ITEM #1- 2016 In The Park Summer Concerts**

Connie provided the the 2016 In The Park Summer Concert Schedule

**No action was required by the board.**

**COMMUNICATION/DISCUSSION ITEM #2 – Barnum Park email received**

Connie provided the Parks and Recreation Board an email that was received regarding Barnum Park

**No action was required by the board.**

**COMMUNICATION/DISCUSSION ITEM #3 – Golf Report**

Connie provided the Parks and Recreation Board the Golf Report

**No action was required by the board.**

**COMMUNICATION/DISCUSSION ITEM #4 – Upcoming Department Events**

Connie stated that the Lincoln Hills Fireworks will be held on Sunday, July 3, 2016 and the rain date will be Tuesday, July 5, 2016.

**No action was required by the board.**

**UNFINISHED BUSINESS:**

Lauren stated that there has been no updated on Manor Park.

Lauren stated that in regards to the Floyd project as it relates to the fence she is waiting for information from Community Development and will provide the information to Parks and Recreation Board.

Lauren stated that once information comes available for Poppleton Park and Adams Park the information will be brought back to the Parks and Recreation Board.

**NEW BUSINESS:**

No New Business

**OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA:**

Therese stated that the next meeting will be held on July 12, 2016 at 6:30 pm at DPS

The meeting adjourned at 6:55 p.m.

Connie J. Folk, Recreation Coordinator



Laura Pierce &lt;lpierce@bhamgov.org&gt;

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**Fwd: July 20th PAB Meeting**

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**Jana Ecker** <jecker@bhamgov.org>  
To: Laura Pierce <lpierce@bhamgov.org>

Mon, Jul 18, 2016 at 1:42 PM

FYI

—— Forwarded message ——

From: **Diane Kowaleski** <dfkowal@gmail.com>

Date: Mon, Jul 18, 2016 at 1:11 PM

Subject: Re: July 20th PAB Meeting

To: Sean Campbell &lt;scampbell@bhamgov.org&gt;

Cc: Ava Suchara &lt;asuchara@comcast.net&gt;, Barbara Heller &lt;bheller@dia.org&gt;, Linda Wells &lt;wells4456@comcast.net&gt;, Maggie Mettler &lt;mlmettler@gmail.com&gt;, Phyllis Klinger &lt;pklingerlawfirm@yahoo.com&gt;, Matthew Baka &lt;MBaka@bhamgov.org&gt;, Jana Ecker &lt;Jecker@bhamgov.org&gt;

Sean

I have to officially tell you that I need to resign from the PAB as I am in the process of moving to Phoenix. I still own my home in Birmingham and can attend via conference call. If that is not an option then please accept my resignation. It was a pleasure to serve.

Sent from my iPad

On Jul 18, 2016, at 9:43 AM, Sean Campbell &lt;scampbell@bhamgov.org&gt; wrote:

Can anyone else attend this Wednesday?

On Tue, Jul 12, 2016 at 9:45 AM, Sean Campbell &lt;scampbell@bhamgov.org&gt; wrote:

Hello all,

Please let me know if you are available to meet on July 20th for this month's Public Arts Board meeting so we can determine if we have a quorum.

Thanks,

—

Sean Campbell  
Assistant Planner  
City of Birmingham  
(248) 530-1855

—

Sean Campbell  
Assistant Planner  
City of Birmingham  
(248) 530-1855

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**Jana L. Ecker**

*Planning Director*  
*City of Birmingham*

**SUGGESTED RESOLUTION:**

To accept the resignation of Diane Kowaleski from the Public Arts Board, to thank Ms. Kowaleski for her service, and to direct the Clerk to begin the process to fill the vacancy.

**4E**



Laura Pierce &lt;lpierce@bhamgov.org&gt;

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**Fwd: MMTB**

1 message

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**Paul O'Meara** <pomeara@bhamgov.org>

Wed, Jul 13, 2016 at 3:53 PM

To: Laura Pierce &lt;lpierce@bhamgov.org&gt;

Cc: "Ecker, Jana" &lt;Jecker@bhamgov.org&gt;, Joe Valentine &lt;Jvalentine@bhamgov.org&gt;

Please start the search process for another member of the MMTB. Now we are down to five.

—— Forwarded message ——

From: **Amanda Warner** <awarner@aol.com>

Date: Wed, Jul 13, 2016 at 8:08 AM

Subject: MMTB

To: [jecker@bhamgov.org](mailto:jecker@bhamgov.org), [pomeara@bhamgov.org](mailto:pomeara@bhamgov.org)

Hi Jana and Paul,

(I had hoped to talk to you in person, so forgive the abrupt email!)

Please accept my resignation from the Multi-Modal Transportation Board. As of July 27, I will no longer be a resident of Birmingham.

I am moving to Florida. Yes, it's a shocker for everyone — myself included. I had been doing some networking in the Ft Lauderdale/Boca Raton area in hopes of finding a job so I can have relief for my hands in the winter. As life unfolds, a company reached out to me last month, and I start August 1.

I've truly enjoyed my time on the board. Enjoyment in equal parts of official MMTB business and the conversations we've had off the record.

Warmly,  
Amanda

—

Paul T. O'Meara  
City of Birmingham, MI  
City Engineer

[248-530-1836](tel:248-530-1836)  
[pomeara@bhamgov.org](mailto:pomeara@bhamgov.org)

**SUGGESTED RESOLUTION:**

To accept the resignation of Amanda Warner from the Multi-Modal Transportation Board, to thank Ms. Warner for her service, and to direct the Clerk to begin the process to fill the vacancy.





## MEMORANDUM

Planning Division

**DATE:** July 15, 2016

**TO:** Joseph A. Valentine, City Manager

**From:** Jana L. Ecker, Planning Director

**SUBJECT:** Set a Public Hearing – Outdoor Storage and Display Standards

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Over the past several years, the Planning Board has been studying the outdoor storage and display provisions that apply in zoning districts across the City. In general, the current approach to the regulation of outdoor display, sales and storage throughout the Zoning Ordinance is inconsistent and scattered. The use of inconsistent terms occurs across various sections of the Zoning Ordinance, and varying standards are in place in different zone districts. In addition, the outdoor display, sales and storage standards are located in numerous sections of the Zoning Ordinance, including two different locations in Article 4, Development Standards and also throughout Article 5, Use Specific Standards. Finally, notably absent are definitions for both outdoor storage and outdoor display.

Over several study sessions Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language and to provide definitions for outdoor display and outdoor storage. The Board requested the addition of standards to control the location, size and aesthetics of both outdoor display and storage areas, without imposing extensive and detailed standards.

On July 13, 2016, the Planning Board conducted a public hearing on the proposed amendments to the outdoor storage and display standards, and voted unanimously to update the regulations across all zone districts.

At this time, the Planning Division requests that the City Commission set a public hearing date of **August 22, 2016** to consider the following changes to Chapter 126, Zoning:

1. TO AMEND SECTION 2.23, O2 (OFFICE/COMMERCIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE ACCESSORY PERMITTED USES;
2. TO AMEND SECTION 2.27, B1 (OFFICE-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;
3. TO AMEND SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;

4. TO AMEND SECTION 2.31, B2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;
5. TO AMEND SECTION 2.33, B2C (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;
6. TO AMEND SECTION 2.35, B3 (OFFICE-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;
7. TO AMEND SECTION 2.37, B4 (BUSINESS RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;
8. TO AMEND SECTION 2.39, MX (MIXED USE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES;
9. TO AMEND SECTION 4.12 FN-03, FENCE STANDARDS, TO REMOVE THE OUTDOOR STORAGE FENCE PROVISIONS FROM THIS SECTION;
10. TO AMEND ARTICLE 4, SECTION 4.57, SCREENING STANDARDS, TO ADD SCREENING STANDARDS FOR OUTDOOR STORAGE;
11. TO AMEND SECTIONS 4.67 TO 4.72, STORAGE AND DISPLAY STANDARDS, TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS IN O1, O2, B2, B2B, B2C, B4 AND MX;
12. TO AMEND SECTION 5.10, B2 DISTRICT, B2B DISTRICT, B2C DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS;
13. TO AMEND SECTION 5.12, B4 DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS;
14. TO AMEND SECTION 5.13, MX DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS; and
15. TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD DEFINITIONS FOR OUTDOOR DISPLAY, OUTDOOR STORAGE AND BUILDING FRONTAGE, PRINCIPAL.

Please find attached the staff report presented to the Planning Board, along with the proposed ordinance language and minutes from previous discussions on the topic.

### **Suggested Action:**

To set a Public Hearing for **August 22, 2016** to consider the amendments to Chapter 126, Zoning, Article 02, Sections 2.23, 2.27, 2.29, 2.31, 2.33, 2.35, 2.37, 2.39, Article 04, sections 4.12, 4.57, 4.67, 4.68, 4.69, 4.70, 4.71, Article 05, Sections 5.10, 5.12, 5.13, and Article 09, Section 9.02.



## MEMORANDUM

Planning Division

**DATE:** July 7, 2016

**TO:** Planning Board

**FROM:** Matthew Baka, Senior Planner

**SUBJECT:** Public Hearing to consider amendments to Chapter 126, Zoning, Article 02, Sections 2.23, 2.27, 2.29, 2.31, 2.33, 2.35, 2.37, 2.39, Article 04, sections 4.12, 4.57, 4.67, 4.68, 4.69, 4.70, 4.71, Article 05, Sections 5.10, 5.12, 5.13, and Article 09, Section 9.02 (DEFINITIONS)

On June 8, 2016, the Planning Board set a public hearing for July 13<sup>th</sup>, 2016 to consider adding standards to the Birmingham Zoning Ordinance that will regulate the storage and display of goods and materials on commercial properties in the City. The following memo details the process by which the Board created these proposed standards. The draft ordinance language is also attached for review and consideration.

Over the past several years, the Planning Board has been holding study sessions aimed at creating standards that would regulate outdoor displays and storage to add to the Zoning Ordinance. To commence the study of outdoor display, sales and storage, a review of the current ordinance regulations was conducted in April of 2013. The chart below summarizes the zone districts that specifically permit outdoor display, sales and/or storage and indicate if there are any standards or regulations related to these uses.

Zone District	Outdoor Display Permitted	Outdoor Sales Permitted	Outdoor Storage Permitted	Standards?
O1				N
O2	X	X		N
B1				N
B2	X	X	X	Y
B2B	X	X	X	Y
B2C	X	X	X	Y
B3				
B4	X	X		Y
MX	X	X	X	Y
P				

In general, the current approach to outdoor display, sales and storage throughout the Zoning Ordinance is inconsistent and scattered. The use of inconsistent terms occurs across various sections of the Zoning Ordinance, and varying standards are in place across the different zone districts. In addition, the outdoor display, sales and storage standards are located in numerous

sections of the Zoning Ordinance, including two different locations in Article 4, Development Standards and also throughout Article 5, Use Specific Standards. Finally, notably absent are definitions for any of these terms.

Over several study sessions Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language and to provide definitions for outdoor display and outdoor storage. The Board requested the addition of standards to control the location, size and looks of both outdoor display and storage areas, without imposing extensive and detailed standards. It was also discussed that ice machines, propane storage and similar displays may be best around the side or rear of buildings, and not in the front. Suggestions on the amount of outdoor display ranged from setting a percentage limit of the gross square footage of the floor area of the primary building, to allowing unlimited display but requiring high standards of maintenance and screening. There was also discussion regarding the use of parking spaces for display.

Draft ordinance language was presented at the March 9, 2016 Planning Board meeting that incorporated many of the concepts that had been discussed during previous study sessions. At that time, the Board expressed a desire to simplify the draft ordinance by pushing all storage to the rear or side of buildings with full screening, eliminating any use of parking spaces for displays and requiring design review for any outdoor display regardless of use. It was also suggested that the amount of outdoor display area permitted be a ratio of the principal building frontage, similar to the way that signage is regulated. For the purposes of discussion, draft ordinance language was presented at the April 13, 2016 Planning Board meeting to allow three (3) square feet of display area for each foot of principal building frontage. In addition, the definition of principal building frontage contained in the Sign Ordinance was added to Article 09 of the Zoning Ordinance.

At the April 13, 2016 Planning Board meeting it was requested that staff provide additional examples of how much display area would result from principal building frontage calculations that allow 3/1, 2/1, and 1/1 square feet of display area per linear foot of frontage. In addition, the Planning Board requested that language be added prohibiting ice machines and propane storage in the front open space.

On May 11, 2016, the Planning Division presented several outdoor display scenarios at existing sites to illustrate the potential size of outdoor display areas based on several different ratios being considered for review and discussion. Based on these illustrations, the Planning Board recommended a ratio of 0.5 sq.ft. of outdoor display space per linear foot of building frontage. Board members also requested that site plan and design review be conducted for all gasoline stations and convenience stores. Additional information was also requested from the City Attorney regarding amortization clauses or "sunset clauses" to determine how much notice is required to remove outdoor storage and display areas that have not previously been approved through the site plan and/or design review process. Please see the attached letter from the City Attorney stating that the City does not have the authority to amortize existing outdoor storage or displays.

On June 8, 2016 the Planning Board held a study session to review the latest draft of the outdoor storage ordinance. At that time the Planning Board moved to set a public hearing for July 13, 2016 to consider the proposed standards.

SUGGESTED ACTION

To recommend APPROVAL of the proposed amendments to Chapter 126, Zoning, Article 02, sections 2.23, 2.27, 2.29, 2.31, 2.33, 2.35, 2.37, 2.39, Article 04, sections 4.12, 4.57, 4.67, 4.68, 4.69, 4.70, 4.71, Article 05, Sections 5.10, 5.12, 5.13, and Article 09, Section 9.02 (DEFINITIONS) to the City Commission.

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.23, O2 (OFFICE/COMMERCIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.23 O2 (Office/Commercial) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Kennel\*
- Laboratory – medical/dental\*
- Loading facility – off street\*
- Parking facility – off street\*
- Pharmacy\*
- Outdoor café\*
- **Outdoor display\***
- Commercial or office uses which are customarily incidental to the permitted principal uses of the same lot

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.27, B1 (OFFICE-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.27 B1 (Neighborhood Business) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Alcoholic beverage sales\*
- Kennel\*
- Laboratory – medical/dental\*
- Loading facility – off-street\*
- Outdoor café
- **Outdoor display\***
- Parking facility – off-street\*
- Sign

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.29, B2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.29 B2 (General Business) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Alcoholic beverage sales (off-premise consumption)\*
- Kennel\*
- Laboratory – medical/dental\*
- Loading facility – off-street
- Outdoor café\*
- Outdoor display of goods\*
- ~~Outdoor sales\*~~
- Outdoor storage\*
- Parking facility – off-street
- Retail fur sales cold storage facility
- Sign

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk



ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.31, B2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.31 B2B (General Business) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Alcoholic beverage sales (off-premise consumption)\*
- Kennel\*
- Laboratory – medical/dental\*
- Loading facility – off-street
- Outdoor café\*
- Outdoor display of goods\*
- ~~Outdoor sales\*~~
- Outdoor storage\*
- Parking facility – off-street
- Sign

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.33, B2C (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.33 B2C (General Business) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Alcoholic beverage sales (off-premise consumption)\*
- Kennel\*
- Laboratory – medical/dental\*
- Loading facility – off-street
- Outdoor café\*
- Outdoor display of goods\*
- ~~Outdoor sales\*~~
- Outdoor storage\*
- Parking facility off-street
- Sign

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.35, B3 (OFFICE-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.35 B3 (Business-Residential) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Laboratory – medical/dental\*
- Loading facility – off-street
- Outdoor café\*
- **Outdoor display\***
- Parking facility – off-street
- Parking structure
- Shelter building\*
- Sign
- Swimming pool - public

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.37, B4 (BUSINESS RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.37 B4 (Business-Residential) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Alcoholic beverage sales\*
- Laboratory – medical/dental\*
- Loading facility – off-street
- Outdoor café\*
- Outdoor display of goods\*
- ~~Outdoor sales\*~~
- Parking facility – off-street
- Retail fur sales cold storage facility
- Sign

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 2.39, MX (MIXED USE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.**

**Section 2.39 MX (Mixed Use) District Intent, Permitted Uses, and Special Uses**

**Accessory Permitted Uses**

- Alcoholic beverage sales\*
- Dwelling – accessory\*
- Garage – private
- Greenhouse – private
- Home occupation
- Loading facility – off-street\*
- Outdoor café\*
- Outdoor ~~sales or display of goods~~\*
- **Outdoor storage\***
- Parking facility – off-street\*
- Parking structure\*
- Renting of rooms\*
- Sign
- Swimming pool – private

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 4.12 FN-03, FENCE STANDARDS, TO REMOVE THE OUTDOOR STORAGE FENCE PROVISIONS FROM THIS SECTION.**

**Section 4.12 FN-03**

**~~B2-B2B-B2G~~ Reserved.**

~~The following fence standards apply:~~

- ~~A. Enclosing Outside Storage: Fences are required for the enclosing of areas of outside storage of goods, material or equipment. The fences shall not be less than 6 feet in height above grade.~~
- ~~B. Fence construction: Unchanged.~~

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND ARTICLE 4, SECTION 4.57, SCREENING STANDARDS, TO ADD SCREENING STANDARDS FOR OUTDOOR STORAGE.**

**Section 4.57 SC-04**

This Screening Standards section applies to the following districts:

**O1 O2 B1 B2 B2B B2C B3 B4 MX TZ3**

A. Unchanged.

**B. Screening of Outdoor Storage: All outdoor storage areas shall be fully screened from view on all sides. Screening shall be constructed of materials compatible with the principal building. Wire fences with inserted strips of metal, plastic and similar materials shall not be substituted for the required screening.**

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

**ORDINANCE NO. \_\_\_\_\_**

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTIONS 4.67 TO 4.72, STORAGE AND DISPLAY STANDARDS, TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS IN O1, O2, B2, B2B, B2C, B4 AND MX.**

**Section 4.67 SD-02**

**This Storage and Display Standards section applies to the following districts:**

**O1 O2 B1 B2 B2B B2C B3 B4 MX TZ3**

**The following storage and display standards apply:**

- A. Outdoor Display:** Outdoor display is permitted as an accessory use to a permitted principal use on the same property, subject to the following standards:
- 1. All outdoor displays at gasoline service stations and party stores are required to obtain Site Plan & Design Review approval in accordance with Article 7 of the Zoning Ordinance. Outdoor displays for any other permitted principal uses on a site are required to obtain Design Review Approval in accordance with Article 7 of the Zoning Ordinance;**
  - 2. Outdoor displays shall be permitted only as an accessory use on the same lot as the permitted principal use or Special Land Use, and shall not be operated as a separate business;**
  - 3. Outdoor displays shall not exceed a maximum of 4' in height;**
  - 4. For all buildings, including multi-tenant, the combined area of outdoor displays shall not exceed 0.5 square feet for each linear foot of the width of the building on the side where the primary entrance to the business is located, which may or may not front a street. The Historic District Commission, Design Review Board or Planning Board may designate an alternate horizontal building width;**
  - 5. Outdoor display areas shall be located on concrete, asphalt, or paved areas and shall not be located on or within lawn areas or landscaping areas;**



6. Furniture or shelving used to display goods outside must be made of finished metal or wood or a material of comparable quality and maintained in a good condition;
7. An unobstructed path not less than five feet in width shall be continuously maintained for pedestrian access to all business entrances and no point of access or egress from any building shall be blocked at any time;
8. Propane containers and ice storage containers are not permitted between the building and any frontage line;
9. All outdoor display areas must be kept clean, orderly, and maintained.

**B. Outdoor Storage:** Outdoor storage is permitted as an accessory use to the principle use subject to the following standards:

1. Outdoor storage is permitted on private property in the side and rear open space with administrative approval in accordance with Article 7, Section 7.14.
2. Outdoor storage is prohibited in the front open space or a side open space abutting a side street;
3. Outdoor storage shall not exceed 6' in height and must be screened in accordance with Article 4, Section 4.57;
4. Outdoor storage shall be located on concrete, asphalt, or paver areas and shall not be located on or within lawn areas or landscaping areas;
5. All outdoor storage areas must be kept clean, orderly, and maintained;

#### **Section 4.678 SD-023**

This storage and display Standards section applies to the following district:

O1

~~A. Outdoor Storage: The outdoor storage of goods or materials is prohibited.~~

**AB.** Unchanged.

**BE.** Unchanged.

#### **Section 4.68 SD-03**

This storage and display Standards section applies to the following district:

O2

~~A. Outdoor Storage: The outdoor storage of goods or materials is prohibited.~~

~~B. Outdoor Sales and Display: Outdoor sales and/or display of merchandise is prohibited except it may be permitted for uses requiring a special land use permit.~~

~~Section 4.69 SD-04~~ ~~B2 B2B B2C MX~~

~~A. Outdoor Sales and Display:~~

- ~~1. Customary incidental outside areas for display and sale of products are permitted provided such areas are improved and maintained with a paved surface having a suitable base so as to provide a permanent, durable and dustless surface.~~
- ~~2. The area shall be graded and drained so as to collect and dispose of all surface water accumulated within the area without allowing runoff to flow over abutting public or private property.~~

**Section 4.7069 SD-054 B1**

Unchanged.

**Section 4.7170 SD-065 B3**

Unchanged.

**Section 4.721 SD-076 B4**

~~The following storage and display standards apply:~~

- ~~A. Outdoor Sales and Display: The outdoor display and sale of merchandise regularly offered for sale by the principal use indoors is permitted subject to the following:~~
- ~~1. The display and sale shall take place on private property only and shall not occupy a public right-of-way or any other public property.~~
  - ~~2. The display and sale shall take place on not more than 2 occasions in each calendar year. Each occasion shall involve not more than 3 days.~~
  - ~~3. The display and sale shall be permitted in addition to the limitations set in subsection 2 of this section on days during which there is a general sales event involving several merchants when such event has been approved by the City Commission.~~
- 14.** The City Commission shall have the authority to waive any permit fees, requirements, or licenses in those instances where a community function, sponsored by a charitable, civic or community organization, has been approved by the City Commission.

**Section 4.72 Reserved.**

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 5.10, B2 DISTRICT, B2B DISTRICT, B2C DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS.**

A – I    Unchanged

~~J. Outdoor Display of Goods: The outdoor display of goods is permitted provided such areas are improved and maintained with a paved surface having a suitable base to provide a permanent durable and dustless surface. Such area shall be graded and drained to collect and dispose of all surface water accumulated within the area without flowing the same over abutting public or private property.~~

~~K. Outdoor Sales of Goods: The outdoor sales of goods is permitted provided such areas are improved and maintained with a paved surface having a suitable base to provide a permanent durable and dustless surface. Such area shall be graded and drained to collect and dispose of all surface water accumulated within the area without flowing the same over abutting public or private property.~~

~~L. Outdoor Storage of Goods: The outdoor storage of goods, materials or equipment is permitted provided such storage areas conform to Section 4.12.~~

~~M.~~J.    Unchanged.

~~N.~~K.    Unchanged.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 5.12, B4 DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS.**

A – H    Unchanged

~~I. Outdoor Display of Goods: The outdoor display of goods is permitted provided such areas are improved and maintained with a paved surface having a suitable base to provide a permanent durable and dustless surface. Such area shall be graded and drained to collect and dispose of all surface water accumulated within the area without flowing the same over abutting public or private property.~~

~~J. Outdoor Sales of Goods: The outdoor sales of goods is permitted provided such areas are improved and maintained with a paved surface having a suitable base to provide a permanent durable and dustless surface. Such area shall be graded and drained to collect and dispose of all surface water accumulated within the area without flowing the same over abutting public or private property.~~

~~K. I.~~    Unchanged

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

**ORDINANCE NO. \_\_\_\_\_**

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND SECTION 5.13, MX DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS.**

A – G    Unchanged

~~H. Outdoor Sales of Goods: The outdoor sales of goods is permitted provided such areas are improved and maintained with a paved surface having a suitable base to provide a permanent durable and dustless surface. Such area shall be graded and drained to collect and dispose of all surface water accumulated within the area without flowing the same over abutting public or private property.~~

~~I. Outdoor Storage of Goods: The outdoor storage of goods, material or equipment is permitted and shall be enclosed with a screen wall.~~

~~J.~~ H.    Unchanged

~~K.~~ I.    Unchanged

~~L.~~ J.    Unchanged

~~M.~~ K.    Unchanged

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

ORDINANCE NO. \_\_\_\_\_

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

**TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD DEFINITIONS FOR OUTDOOR DISPLAY, OUTDOOR STORAGE AND BUILDING FRONTAGE, PRINCIPAL.**

**Article 9, Section 9.02**

**Outdoor Display**– The placement of any item(s) outside a building for decorative display and/or accessible to the public for the purpose of sale, rent, lease or exhibit.

**Outdoor Storage** –The storage of any materials not fully enclosed within a building that are directly related to the principal use on the same property, excluding trash containers.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, Clerk

**CITY OF BIRMINGHAM**  
**REGULAR MEETING OF THE PLANNING BOARD**  
**WEDNESDAY, APRIL 10, 2013**  
**City Commission Room**  
**151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held April 10, 2013. Chairman Robin Boyle convened the meeting at 7:30 p.m.

**Present:** Chairman Robin Boyle; Board Members Scott Clein, Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

**Absent:** Student Representative Arshon Afrakhteh

**Administration:** Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**04-62-13**

**STUDY SESSION**

**Outdoor Display and Storage**

Ms. Ecker noted The Planning Board recently added the issue of outdoor sales and storage to the annual Action List, and at the last Planning Board meeting several photos of outdoor storage were passed around for discussion purposes.

To commence the study of outdoor display, sales and storage, Ms. Ecker presented a review of the current ordinance regulations on the subject.

The use of inconsistent terms occurs across various sections of the Zoning Ordinance, and varying standards are in place across the different zone districts. In addition, the outdoor display, sales and storage standards are located in numerous sections of the Zoning Ordinance, including two different locations in Article 4, Development Standards and also throughout Article 5, Use Specific Standards. Finally, notably absent are any definitions for any of these terms.

Thus, Ms. Ecker advised that the Planning Board may wish to consider adopting definitions for the terms outdoor display and/or outdoor sales and outdoor storage. Once the definitions of each have been clarified, ordinance amendments should clearly state in which zone districts each, all or none of these uses are permitted, and clear standards for such uses should be considered. For example, standards for the maximum area for outdoor display, sales or storage could be provided, regulations with regard to the location of such uses on the lot (in the rear, storefront, not blocking pedestrian pathways etc.), screening requirements and aesthetic standards for display fixtures could also be included.

Outdoor display, sales and storage definitions, regulations and information from various cities were provided for the board's review and comment.

Ms. Whipple-Boyce observed that outdoor displays are a problem in the transition areas. There may be a problem of policing as well. Mr. Koseck thought it gets back to whether the merchant cares. The question is how to go about modifying the language of the ordinance to allow displays, but in a controlled manner that would look better. Mr. DeWeese commented the City has paid a lot of attention to buildings, but not much attention to the ancillaries.

Ms. Whipple-Boyce said she doesn't object to displays during business hours because sometimes they are interesting and they draw people. She thought a time restriction would discourage outdoor storage of materials.

Mr. DeWeese thought there is an appropriateness to having some things out on the street. He was interested in defining the standard of what they are trying to achieve, perhaps with a form based approach. There might be a trade-off that would give an incentive to property owners to find it in their self-interest to pay more attention to their display.

Chairman Boyle noted here is a distinction between a display and storage. Also, timing is something to contemplate. He asked staff to continue collecting information and to provide some ordinance language for the board to consider.



**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, APRIL 24, 2013  
City Commission Room**

**151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held April 24, 2013. Vice-Chairperson Gillian Lazar convened the meeting at 7:30 p.m.

**Present:** Chairman Robin Boyle (arrived at 7:56 p.m.); Board Members Scott Clein (arrived at 7:45 p.m.), Carroll DeWeese, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Arshon Afrakhteh

**Absent:** Bert Koseck

**Administration:** Matthew Baka, Sr. Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**04-73-13**

**STUDY SESSION**

**Outdoor Display and Storage**

Ms. Ecker continued the discussion from the last meeting on April 10, 2013 when the Planning Board began considering outdoor display and storage issues around the City. Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language to define outdoor display and outdoor storage. Board members felt that each use should be distinguished by the short-term or long-term nature of the outdoor display, and that limited hours should be considered. In addition, the board requested the addition of standards to control the location, size and looks of both outdoor display and storage areas, without imposing extensive and detailed standards. It was also discussed that ice machines, propane storage and similar displays may be best around the side or rear of buildings, and not in the front. Board members also expressed the need for improved code enforcement for outdoor storage.

Ms. Ecker advised that based on the direction of the Planning Board, draft ordinance language to define and regulate outdoor display and outdoor storage has been provided along with additional regulations and information from various cities.

For all of the zone districts where outdoor display and storage are allowed, special standards have been set up for outdoor display and a separate set of standards for outdoor storage.

Ms. Ecker explained that nothing in the draft ordinance pertains to residential; it is only for commercial and mixed-use districts. The wording does not say anything about appeals. Mr. DeWeese thought an appeal process should be included. Also, that the display must be aesthetically compatible, so there is the flexibility to turn someone down in an egregious situation. Ms. Whipple-Boyce wanted to see some language about height of the display.

In calculating the percentage of space for display, Mr. Clein suggested language to the effect that 20% of the building gross floor area, or not to exceed "x" sq. ft., would be allowed. Also, he thought they may want to be more lenient in requiring businesses to meet their parking requirement before taking up a space for display purposes.

Chairman Boyle said to say that outdoor displays should not be located within handicap accessible parking spaces, and that's all. That way, it leaves the option for someone to take up more spaces.

It was noted that decorative displays in commemoration of national holidays should be allowed and that inflatables are prohibited.

Consensus was that outdoor display permits can be issued for seasonal use. It was thought that if a display is valuable it will be brought in at night by the retailer.

Discussion determined that having temporary and permanent outdoor displays should not require that goods sold on a regular basis must also be displayed within the principal building. They can remain outside.

The language for outdoor storage suggests the storage areas be limited to 10% of the gross floor area of the primary building. Mr. DeWeese suggested having no limits in terms of the percentage of space but include maintenance and shielding requirements.

This discussion will be continued at a future meeting.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, AUGUST 28, 2013  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held August 28, 2013. Chairman Robin Boyle convened the meeting at 7:32 p.m.

**Present:** Chairman Robin Boyle; Board Members Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

**Absent:** Board Member Scott Clein; Student Representative Arshon Afrakhteh

**Administration:** Matthew Baka, Sr. Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**08-149-13**

**STUDY SESSION  
Outdoor Display and Storage**

Ms. Ecker recalled that on April 10, 2013, the Planning Board began the discussion of outdoor display and storage issues around the City. Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language to define outdoor display and outdoor storage. Board members felt that each use should be distinguished by the short-term or long-term nature of the outdoor display and that limited hours should be considered.

On April 24, 2013, the Planning Board continued the discussion on outdoor storage/display and commented on the draft ordinance changes provided by the Planning Dept.

Based on the direction of the Planning Board, staff revised draft ordinance language to define and regulate outdoor display and outdoor storage was presented. The changes that have been made from the previous draft are as follows: The general 20% limit on the display area has been eliminated in favor of allowing the limited use of parking spaces instead. This would allow the business owners to provide unlimited display on private property with the exception of the parking area. The parking would not be counted against the requirement as currently drafted. Display furniture material standards similar to those for outdoor dining have also been added. The outdoor storage section has been revised to prohibit outdoor storage in the front open space, and to only allow long-term storage such as ice machines and propane on the side or rear of buildings.

Discussion determined that sheds are considered accessory structures and would require a permit. Items for storage must be enclosed. Mr. Koseck thought that a temporary outdoor display for sale is fine if it is approved administratively. Ms. Ecker added that seasonal or temporary display areas may occupy three parking spaces or 20% of the parking lot, whichever is more. Mr. Koseck said any permanent fixture on the building exterior should be avoided. Mr. DeWeese felt something that is compatible with the building might be acceptable but it should require administrative review.

Ms. Whipple-Boyce voiced her opinion that moving storage to the rear may create problems in the alleys that the board is working to improve. Anything that can be inside should be. Ms. Ecker agreed to e-mail to the board members an example of outdoor storage requirements that are very rigid and clear-cut. Mr. DeWeese said if someone wanted an exception there might be an option for administrative approval or Planning Board review.

It was agreed to put this item off for one more month.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, JANUARY 22, 2014  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held January 22, 2014. Chairman Robin Boyle convened the meeting at 7:30 p.m.

**Present:** Chairman Robin Boyle; Board Members Carroll DeWeese, Scott Clein, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

**Absent:** Board Member Bert Koseck; Student Representative Arshon Afrakhteh

**Administration:** Matthew Baka, Sr. Planner  
Ken Cooper, Asst. Building Official  
Jana Ecker, Planning Director  
Bruce Johnson, Building Official  
Carole Salutes, Recording Secretary

**01-18-14**

**STUDY SESSION  
Outdoor Storage**

The consensus was that it doesn't make sense to go forward with this matter until after Transitional Zoning has gone to the City Commission.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, JANUARY 27, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on January 27, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Daniel Share

**Absent:** Board Member Gillian Lazar

**Administration:** Matthew Baka, Senior Planner  
John Connaughton, Fire Chief  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

#### **4. Outdoor Storage**

Mr. Baka recalled that on April 10, 2013, the Planning Board began the discussion of outdoor display and storage issues around the City. Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language to define outdoor display and outdoor storage. In general the approach to outdoor display, sales and storage throughout the Zoning Ordinance is inconsistent and scattered. Board members felt that each use should be distinguished by the short-term or long-term nature of the outdoor display and that limited hours should be considered.

On April 24 and August 28, 2013, the Planning Board continued the discussion on outdoor storage/display and commented on the draft ordinance changes provided by the Planning Dept. Suggestions on the amount of outdoor display ranged from setting a percentage limit of the gross square footage of the floor area of the primary building to allowing unlimited display but requiring high standards of maintenance and screening. There was also discussion regarding the use of parking spaces for display and it was suggested that displays in parking spaces not be counted against the parking requirement.

The draft ordinance language presented was intended to reflect the Planning Board's comments. Other factors the board may wish to consider are whether outdoor storage and/or display should be permitted in the O-1, B-1, or B-3 Zones. As currently drafted, neither activity is permitted in those zones.

Mr. Baka thought the board should start by focusing on the outdoor display standards. It may be advisable to put a limit on how high people can store products. Item A (4) in Section 4.65 SD-04 states seasonal or temporary display areas may occupy three parking spaces or 20% of the parking lot, whichever is more.

Mr. Koseck noted that none of the standards will work unless someone is policing them. He thought propane, ice machines, etc. should be pushed around the corner or to the rear. Ms. Whipple-Boyce said gas stations and convenience stores are the main offenders. Maybe the board needs to get more specific about those businesses. Wiper fluid could be sold from the inside of the building. She also thought other items left outside such as picnic tables and barbeques might be addressed. Mr. Share said the outdoor displays should be brought in at night and the various blue beasts kept out of the front.

Mr. Baka indicated he will switch the language in Item A (4) in Section 4.65 to say that temporary display areas may occupy three parking spaces or 20% of the parking lot, whichever is less. Ms. Ecker stated that staff will run several sites through the draft ordinance, and provide pictures of the selected sites from all sides so that the board can evaluate how this ordinance would apply.

There was no discussion from the public at 10:03 p.m.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, MARCH 9, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on March 9, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Lisa Prasad; Student Representative Colin Cusimano

**Absent:** Board Members Bert Koseck, Gillian Lazar; Alternate Board Member Daniel Share

**Administration:** Matthew Baka, Senior Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**03-38-16**

## **2. Outdoor Storage and Display**

Mr. Baka recalled that over several study sessions Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language and to provide definitions for outdoor display and outdoor storage. Board members felt that each use should be distinguished by the short term or long term nature of the outdoor display, and that limited hours should be considered. In addition, the board requested the addition of standards to control the location, size and looks of both outdoor display and storage areas, without imposing extensive and detailed standards.

Continuing discussion from the last study session, the board had requested that staff go out and investigate how some of the proposed regulations would affect some existing sites throughout town. What they found is for the most part the existing conditions are permitted under the ordinance. Mr. Baka presented a PowerPoint that was prepared with photos taken at three sites in Birmingham that currently have outdoor storage and/or display. One idea the board had talked about last time was not to allow any storage in the front open space. Any layout of materials in the front open space might require a Design Review. Under the proposed draft language, outdoor displays must be brought in every night.

Mr. Williams pointed out there is a distinction between outdoor storage and items on display that are for sale. For sale items should have standards set up to regulate their



appearance. Ms. Whipple-Boyce thought part of the problem becomes the amount of display that is put out.

Mr. Baka advised that currently the ordinance allows 20% of the floor area of the building for outdoor storage, or 1,000 sq. ft., whichever is more. Also storage is limited to 6 ft. in height. Ms. Whipple-Boyce thought maybe a Design Review of outdoor displays/storage is what is needed because there are less than ten sites in town to consider.

Mr. Boyle suggested inserting requirements for gas stations that they must submit a site plan that includes all proposed outdoor displays/storage and if more is added they have to come in for Design Review. Ms. Ecker said that can be discussed with the City Attorney to see if he has any objections to singling out this one use.

The board decided that all outdoor storage must not be visible and outdoor display is anything not stored in a box that is on a shelf for sale. Outdoor display should take up no more than 500 sq. ft. or a percentage of the linear building frontage, and height is capped at 4 ft. from grade.

Ms. Ecker summarized the discussion. Outdoor display should be limited in square footage, limited in height, allowed in the front with design review. Outdoor storage definitions should be more clear, and only permitted in the rear if screened.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, APRIL 13, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on April 13, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

**Absent:** Alternate Board Members Lisa Prasad, Daniel Share; Student Representative Colin Cusimano

**Administration:** Matthew Baka, Senior Planner  
Sean Campbell, Asst. Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**04-62-16**

**DESIGN REVIEW**

**Outdoor display and storage**

Mr. Baka provided background. He noted that over the past several years, the Planning Board has been holding study sessions aimed at creating standards to add to the Zoning Ordinance that would regulate outdoor displays and storage. They have talked about coming up with a ratio similar to the way the allowable amount of signage is calculated. The square footage of signage is determined by a ratio of 1/1 from the linear footage across the principal building frontage.

Ms. Whipple-Boyce thought it should be required that outdoor display be so many feet away from the entry door.

Ms. Ecker advised that if the board wants all gas stations to come to the Planning Board for outdoor storage review, the ordinance language should specify that as not all existing gas stations currently operate under a Special Land Use Permit ("SLUP"). Other types of establishments would have to get approval from the Design Review Board. The board then discussed at what point display turns into storage. Ms. Ecker defined outdoor display as the placement of any item or items outside of a building for decorative display and that are accessible to the public for the purpose of sale or exhibit. Locked ice and propane containers are therefore outdoor storage as they are not accessible to the public. Board members thought that storage of propane and ice should not be permitted on the front of a building.

Draft language has been written to allow three (3) sq. ft. of display area for each foot of principal building frontage. It was thought that was too much. Consensus was that displays can change without the business having to come back before a board for further review.

Mr. Baka agreed to bring examples next time so the board could see the difference between 1, 2, and 3 sq. ft. of display space for each foot of linear frontage.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, MAY 11, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on May 11, 2016. Vice-Chairperson Gillian Lazar convened the meeting at 7:30 p.m.

**Present:** Board Members Stuart Jeffares, Bert Koseck, Gillian Lazar, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Student Representative Colin Cusimano

**Absent:** Chairman Scott Clein; Board Member Robin Boyle.

**Administration:** Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**05-85-16**

## **2. Outdoor Storage and Display**

Ms. Ecker thought the board is getting close to a determination on this item as well. She summarized what was discussed at the last meeting. The comments were whether ice machines and propane storage should be prohibited in the front and put around on the side or the rear of buildings. Also the board talked about simplifying the draft ordinance, eliminating the use of parking spaces for display, and requiring design review for outdoor display regardless of the use. Accordingly, the draft ordinance language has been amended to reflect the requested changes.

Further, the board had asked for examples of storage based on building frontage.

Board members agreed that ice machines and propane storage should not be between the building and any frontage line on a street. Mr. Share suggested using the term propane containers rather than tanks. Mr. Williams thought the board should only identify those items that they want to prohibit or limit, propane being one. Ms. Whipple-Boyce suggested saying that seasonal goods such as flower displays need to be on a concrete or paved surface.

Ms. Ecker noted a section had been added to the draft ordinance saying all outdoor displays at gasoline service stations are required to obtain Site Plan and Design Review. Any other outdoor displays for other principal uses on a site only have to get Design Review, which costs less. It was noted that convenience stores are offenders also and they should be required to obtain Site Plan and Design Review as well, regardless of the Zone District.

Ms. Ecker presented layouts showing how many square feet would be taken up for storage given a 1 x 1, 2 x 1 and 3 x 1 ratio of the front linear footage. The consensus was to use a .5 x 1 ratio.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Koseck to set a public hearing to June 8, 2016 to discuss outdoor storage and display.**

Discussion considered that the ordinance amendments would only affect any new business or new storage and display unless a sunset provision is added. It was decided that issue should be sent to the City Attorney for his opinion on the use of sunset clauses and how soon a sunset clause could be invoked.

**Ms. Whipple-Boyce and Mr. Koseck withdrew their motion.**

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, JUNE 8, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on June 8, 2016. Chairman Scott Clein convened the meeting at 7:32 p.m.

**Present:** Chairman Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce; Alternate Board Member Daniel Share; Student Representative Colin Cousimano (left at 9 p.m.)

**Absent:** Board Members Robin Boyle, Bryan Williams; Alternate Board Member Lisa Prasad

**Administration:** Matthew Baka, Senior Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**06-99-16**

**STUDY SESSION ITEMS**

**1. Outdoor Storage and Display**

Ms. Ecker recalled that over several study sessions Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language and to provide definitions for outdoor display and outdoor storage. Board members felt that each use should be distinguished by the short term or long term nature of the outdoor display, and that limited hours should be considered. Further, the board requested the addition of standards to control the location, size and looks of both outdoor display and storage areas, without imposing extensive and detailed standards.

Draft ordinance language was presented at the March 9, 2016 Planning Board meeting that incorporated many of the concepts that had been discussed during previous study sessions. At that time, the board expressed a desire to simplify the draft ordinance by pushing all storage to the rear or side of buildings with full screening, eliminating any use of parking spaces for displays and requiring design review for any outdoor display regardless of use. It was also suggested that the amount of outdoor display area permitted be a ratio of the principal building frontage, similar to the way that signage is regulated.

For the purposes of discussion, draft ordinance language was presented at the April 13, 2016 Planning Board meeting to allow three (3) square feet of display area for each foot

of principal building frontage. In addition, the definition of principal building frontage contained in the Sign Ordinance was added to Article 09 of the Zoning Ordinance. It was requested that staff provide additional examples of how much display area would result from various principal building frontage calculations. In addition, the Planning Board requested that language be added prohibiting ice machines and propane storage in the front open space.

On May 11, 2016, the Planning Division presented several outdoor display scenarios at existing sites to illustrate the potential size of outdoor display areas based on a few different ratios being considered for review and discussion. Based on these illustrations, the Planning Board recommended a ratio of 0.5 sq. ft. of outdoor display space per linear foot of building frontage.

Board members also requested that site plan and design review be conducted for all gasoline stations and convenience stores. Additional information was requested from the City Attorney regarding amortization clauses or "sunset clauses" to determine how much notice is required to remove outdoor storage and display areas that have not previously been approved through the site plan and/or design review process.

Accordingly, the draft ordinance language has been amended to reflect the requested changes.

Ms. Ecker advised that staff recommends using the term party store rather than convenience store because there is no definition of convenience store in the ordinance. At the last meeting the board changed propane tanks to propane containers. The board might want to change ice machines to ice storage containers. It was also discussed that these should not be permitted between the building and any frontage line. The letter from the City Attorney has not yet been completed. However, Mr. Currier advised that a sunset clause cannot be written for outdoor storage because the Michigan Zoning Enabling Act does not allow it.

Ms. Whipple-Boyce thought it unfortunate that the two examples that prompted the board to look into storage and display can remain as they are. Where a business owner may have come to the Planning Board for a subtle change, now they may decide not to do so in order to avoid getting hit with these restrictions.

Ms. Ecker noted you have to start somewhere, and if the rules and regulations are not set up to get where you want to go, you will never get there.

**Motion by Mr. Koseck**

**Seconded by Mr. Share to move this to a public hearing on Outdoor Display and Storage on July 13, 2016.**

There was no public to comment on the motion at 9:05 p.m.

**Motion carried, 5-1.**

VOICE VOTE

Yeas: Koseck, Share, Clein, Jeffares, Share

Nays: Whipple-Boyce

Absent: Boyle, Williams



**DRAFT Planning Board Minutes**  
**July 13, 2016**

**PUBLIC HEARING**

**1. To consider the following amendments to Chapter 126, Zoning, of the Code of the City of Birmingham:**

TO AMEND SECTION 2.23, O-2 (OFFICE/COMMERCIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.27, B-1 (OFFICE-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.29, B-2 (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.31, B-2B (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.33, B-2C (GENERAL BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.35, B-3 (OFFICE-RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.37, B-4 (BUSINESS RESIDENTIAL) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 2.39, MX (MIXED USE) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES TO AMEND THE ACCESSORY PERMITTED USES.

TO AMEND SECTION 4.12 FN-03, FENCE STANDARDS, TO REMOVE THE OUTDOOR STORAGE FENCE PROVISIONS FROM THIS SECTION.

TO AMEND ARTICLE 4, SECTION 4.57, SCREENING STANDARDS, TO ADD SCREENING STANDARDS FOR OUTDOOR STORAGE.

TO AMEND SECTIONS 4.67 TO 4.72, STORAGE AND DISPLAY STANDARDS, TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS IN O-1, O-2, B-2, B-2B, B-2C, B-4 AND MX.

TO AMEND SECTION 5.10, B-2 DISTRICT, B-2B DISTRICT, B-2C DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS.

TO AMEND SECTION 5.12, B-4 DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS.

TO AMEND SECTION 5.13, MX DISTRICT, USE SPECIFIC STANDARDS TO AMEND THE OUTDOOR DISPLAY AND STORAGE STANDARDS.

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD DEFINITIONS FOR OUTDOOR DISPLAY, OUTDOOR STORAGE AND BUILDING FRONTAGE, PRINCIPAL.

Chairman Clein opened the public hearing at 7:31 p.m.

Mr. Baka recalled that over several study sessions Planning Board members reviewed the existing ordinance language, and requested staff to prepare draft ordinance language and to provide definitions for outdoor display and outdoor storage. Board members felt that each use should be distinguished by the short term or long term nature of the outdoor display, and that limited hours should be considered. Further, the board requested the addition of standards to control the location, size and looks of both outdoor display and storage areas, without imposing extensive and detailed standards.

After much consideration the Planning Board has drafted proposed ordinance amendments that would do just that. These would apply to the majority of commercial zones in the City with the exception of O-1. Mr. Baka presented a short PowerPoint that illustrated several outdoor display scenarios at existing sites and how they are proposed to be regulated. If there is a shed roof over the top but open sides, it would be considered outdoor display/storage. A ruling from the City Attorney has stated that the Michigan Zoning Enabling Act would not permit the City to phase out the existing non-conformances. However, Code Enforcement can regulate potential nuisance situations.

Mr. Baka explained the current provisions that regulate outdoor storage and display are scattered throughout the whole ordinance. They have now been located and/or replaced with new language in the Storage and Display Standards section of the ordinance and they apply to O-1, O-2, B-1, B-2, B-2B, B-2C, B-3, B-4, MX, TZ-3. He went on to talk about the various standards. Outdoor storage is much less regulated but it is intended to be kept in the back of the building and fully screened.

It was discussed that at Tim Horton's, which is located on an island, the front entrance is considered the rear and outdoor storage would be permitted there with administrative approval. Ms. Ecker clarified that legal, non-conforming uses can continue unless they have stopped for six months.

At 7:50 p.m. no one from the public came forward to provide comment.

Ms. Whipple-Boyce expressed her disappointment that the board could not make changes because the current storage/displays are grandfathered. Mr. Koseck was not sure how much change they will see.

Chairman Clein noted the new ordinance will control new developments or major changes to existing businesses. Mr. Williams wanted to make sure the non-conforming uses are documented. Ms. Ecker stated that staff will attempt to photo catalogue the size and height of existing outdoor displays and storage at locations discussed by the Planning Board.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Boyle to recommend approval of the proposed amendments to Chapter 126, Zoning of the Code of the City of Birmingham as stated above to the City Commission.**

There was no discussion by members of the audience at 8 p.m.

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Whipple-Boyce, Boyle, Clein, Jeffares, Koseck. Lazar, Williams

Nays: None

Absent: None

The public hearing closed at 8 p.m.



## MEMORANDUM

City Clerk's Office

**DATE:** July 19, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Laura M. Pierce, City Clerk

**SUBJECT:** Special Event Application  
Art Birmingham

Attached is a special event application submitted by the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 13 – 14, 2017. The application has been circulated to the affected departments and approvals and comments have been noted.

The following events have either been approved by the Commission or are planned to be held in May and have not yet submitted an application. These events do not pose a conflict with the proposed event.

Event Name	Date	Location
Farmers Market	Sundays	Lot 6
Celebrate Birmingham Hometown Parade	May 21	Shain Park
Lungevity 5K Run/Walk	TBD	Booth Park area

### SUGGESTED RESOLUTION:

To approve a request from the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 13 – 14, 2017 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.

# 17-00010744

**CITY OF BIRMINGHAM  
APPLICATION FOR SPECIAL EVENT PERMIT  
PARKS AND PUBLIC SPACES**

**I. EVENT DETAILS**

- Incomplete applications will not be accepted.
- Changes in this information must be submitted to the City Clerk, in writing, at least three weeks prior to the event

**FEES:**                      **FIRST TIME EVENT:**                      **\$200.00**  
                                 **ANNUAL APPLICATION FEE:**                      **\$165.00**

(Please print clearly or type)

Date of Application June 24, 2016

Name of Event 36th Annual Art Birmingham

Detailed Description of Event (attach additional sheet if necessary) \_\_\_\_\_  
Fine art fair featuring approximately 180 professional, jury-selected artists, art  
~~demonstrations and entertaining art activities for all ages.~~ The event is an annual  
fundraiser for the Birmingham Bloomfield Art Center.  
\_\_\_\_\_  
\_\_\_\_\_

Location In Shain Park and on the streets surrounding the park. (Event map included.)

Date(s) of Event May 13 & 14, 2017 Hours of Event Sat. 10am-6pm; Sun. 10am-5pm

Date(s) of Set-up May 12, 2017 Hours of Set-up 5pm-10pm *WORK WITH CITY  
TO BAG METERS*

Date(s) of Tear-down May 14, 2017 Hours of Tear-down 5pm-9pm *EARLIER*

Organization Sponsoring Event Birmingham Bloomfield Art Center

Organization Address 1516 Cranbrook Road, Birmingham, MI 48009

Organization Phone 248.644.0866

Contact Person Annie VanGelderren, President and CEO

Contact Phone 248.644.0866 ext. 108

Contact Email annievangelderren@bbartcenter.org

## **II. EVENT INFORMATION**

1. Organization Type Non-profit  
(city, non-profit, community group, etc.)
2. Additional Sponsors or Participants (Provide name, address, contact person, status, etc. for all additional organizations sponsoring your event. )  
The Guild of Artists & Artisans, 118 N. Fourth Avenue, Ann Arbor, MI 48104;  
Karen Delhey, Executive Director, 734.662.3382 ext. 303 karen@theguild.org
3. Is the event a fundraiser? ☒ YES ☐ NO  
List beneficiary Birmingham Bloomfield Art Center  
List expected income \$30,000  
Attach information about the beneficiary.
4. First time event in Birmingham? ☐ YES ☒ NO  
If no, describe This will be the 36th Annual Art Birmingham presented by the  
Birmingham Bloomfield Art Center.
5. Total number of people expected to attend per day 35,000+
6. The event will be held on the following City property: (Please list)  
☒ Street(s) Martin, Bates, Henrietta  
☐ Sidewalk(s) \_\_\_\_\_  
☒ Park(s) Shain Park
7. Will street closures be required? ☒ YES ☐ NO
8. What parking arrangements will be necessary to accommodate attendance? Exhibitors and attendees will use city parking structures and lots.

9. Will staff be provided to assist with safety, security and maintenance? ☒ YES ☐ NO  
 Describe Trained staff and temporary workers are on site from move-in through move-out to ensure safety and provide maintenance, professional security is contracted for the event and provides overnight security on Friday and Saturday.
- 
10. Will the event require safety personnel (police, fire, paramedics)? ☒ YES ☐ NO  
 Describe Police and Paramedics
- 
11. Will alcoholic beverages be served? ☐ YES ☒ NO  
 If yes, additional approval by the City Commission is required, as well as the Michigan Liquor Control Commission.
12. Will music be provided? ☐ YES ☒ NO  
☐ Live ☐ Amplification ☐ Recorded ☐ Loudspeakers  
 Time music will begin \_\_\_\_\_  
 Time music will end \_\_\_\_\_  
 Location of live band, DJ, loudspeakers, equipment must be shown on the layout map.
13. Will there be signage in the area of the event? ☒ YES ☐ NO  
 Number of signs/banners Approximately 10 portable A-frames  
 Size of signs/banners 21"x36"  
 Submit a photo/drawing of the sign(s). A sign permit is required.
14. Will food/beverages/merchandise be sold? ☒ YES ☐ NO
- Peddler/vendor permits must be submitted to the Clerk's Office, at least two weeks prior to the event.
  - All food/beverage vendors must have Oakland County Health Department approval.
  - Attach copy of Health Dept approval.
  - There is a \$50.00 application fee for all vendors and peddlers, in addition to the \$10.00 daily fee, per location. A background check must be submitted for each employee participating at the event.

**LIST OF VENDORS/PEDDLERS**

(attach additional sheet if necessary)

<b>VENDOR NAME</b>	<b>GOODS TO BE SOLD</b>	<b>WATER HOOK- UP REQUIRED?</b>	<b>ELECTRIC REQUIRED?</b>
TBD			



### **III. EVENT LAYOUT**

- Include a map showing the park set up, street closures, and location of each item listed in this section.
- Include a map and written description of run/walk route and the start/finish area

1. Will the event require the use of any of the following municipal equipment?  
(show location of each on map)

EQUIPMENT	QUANTITY	COST	NOTES
Picnic Tables		6 for \$200.00	A request for more than six tables will be evaluated based on availability.
Trash Receptacles	33	\$4.00 each	Trash box placement and removal of trash is the responsibility of the event. Additional cost could occur if DPS is to perform this work.
Dumpsters	4	\$200.00 per day	Includes emptying the dumpster one time per day. The City may determine the need for additional dumpsters based on event requirements.
Utilities (electric)	___ # of vendors requiring utilities	Varies	Charges according to final requirements of event.
Water/Fire Hydrant		Contact the Fire Department.	Applicant must supply their own means of disposal for all sanitary waste water. Waste water is NOT allowed to be poured into the street or on the grass.
Audio System		\$200.00 per day	Must meet with City representative.
Meter Bags / Traffic Cones / Barricades	# to be determined by the Police Department.		

2. Will the following be constructed or located in the area of the event? ☐ YES ☐ NO  
(show location of each on map) NOTE: Stakes are not allowed.

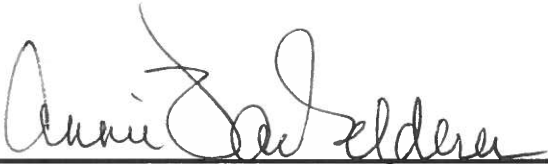
TYPE	QUANTITY	SIZE
Tents/Canopies/Awnings (A permit is required for tents over 120 sq ft)	160	10'x10'
Portable Toilets	10	
Rides		
Displays		
Vendors		
Temporary Structure (must attach a photo)		
Other (describe)		

## **SIGNATURE OF APPLICANT REQUIRED**

EVENT NAME 36th Annual Art Birmingham  
EVENT DATE May 13 & 14, 2017

The Birmingham City Commission shall have sole and complete discretion in deciding whether to issue a permit. Nothing contained in the City Code shall be construed to require the City Commission to issue a permit to an applicant and no applicant shall have any interest or right to receive a permit merely because the applicant has received a permit in the past.

As the authorized agent of the sponsoring organization, I hereby agree that this organization shall abide by all conditions and restrictions specific to this special event as determined by the City administration and will comply with all local, state and federal rules, regulations and laws.



Signature

6-22-16

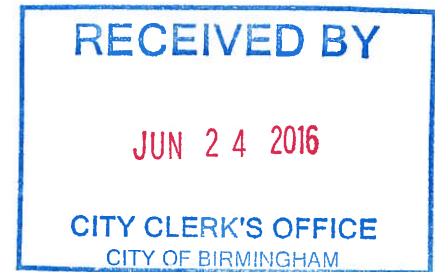
Date

## **IV. SAMPLE LETTER TO NOTIFY ANY AFFECTED PROPERTY/BUSINESS OWNERS**

- Organizer must notify all potentially affected residential property and business owners of the date and time this application will be considered by the City Commission. *(Sample letter attached to this application.)*
- Attach a copy of the proposed letter to this application. The letter will be reviewed and approved by the Clerk's Office. The letter must be distributed at least two weeks prior to the Commission meeting.
- A copy of the letter and the distribution list must be submitted to the Clerk's Office at least two weeks prior to the Commission meeting.
- If street closures are necessary, a map must be included with the letter to the affected property/business owners.

June 24, 2016

Birmingham City Commission Members  
c/o City Clerk  
City of Birmingham  
151 Martin St.  
Birmingham MI 48009



Dear City Commissioners,

Greetings from the Birmingham Bloomfield Art Center. We have requested an appearance at the July 25 meeting to seek approval for our 36<sup>th</sup> annual fine art fair, Art Birmingham, in 2017.

While presenting the required documents, we also wanted to let you know what concessions we made in 2016, after meeting with Joe Valentine, Birmingham Police, John Heiney (Birmingham Shopping District), the Birmingham Library, several retailers, and The Community House:

- We changed street closure to 5pm instead of 3pm, which pushed artist move-in times to start at 6pm. Not all cars obeyed the "no parking after 5pm" posted signs and at 9pm we were still working with the police to remove cars parked in artist spots.
- We prohibited artists (except those who are handicapped) from parking at street meters. This was communicated to artists in every mailing and packet, as well as information provided on-site at the fair. We recorded all artists' license plates as they moved in; in subsequent monitoring of the surrounding streets we required the few offending cars to move, which was done in minutes. We hired extra personnel to monitor the parking lot south of Shain Park and installed additional signage.
- We specifically included the City of Birmingham and the stores and restaurants in our marketing to encourage fair-goers to visit the shops and restaurants downtown, including the Townsend Hotel and Community House Mother's Day brunch.
- To accommodate Community House event traffic, we re-designed the move-in plan to line up and enter on Chester Street instead of lining up on Bates Street; we worked with The Community House to ensure that parking and access went smoothly during their Sunday activities.

As a proud member of the community for almost 60 years and continuing this art fair tradition for more than 30 years, we at the BBAC feel strongly that we are part of the fabric of life in Birmingham. We serve the people by offering affordable, expertly taught classes, workshops and camps; by providing more than a dozen art exhibits each year that are free and open to the public; and participating actively in city gatherings such as the Farmer's Market and Winter Market. We enhance the quality of life with our outreach programming that is open to seniors, busy families, and people with cognitive and physical challenges. And every year we co-host the Cultural Arts Awards as part of our involvement with the Birmingham-Bloomfield Cultural Council.

This past Mother's Day, we took time to survey some of the adults and children who came to Art Birmingham in Shain Park. Here are some of the comments:

- I like Art Birmingham on Mother's Day due to the fact it gives children the chance to freely express themselves and enjoy the pleasure of art. (adult)
- It is tradition for my daughter, granddaughter and me! (adult)

- I like that you go to the art fair on Mother's day because it's very fun and you get to make crafts. (8 yrs old)
- It's always a great way to spend the day with family and we look forward to it every year. (adult)
- It brings people and business to Birmingham; exposure for Michigan artists; a great outing for families and couples and singles; a perfect adjunct to every Mother's Day celebration! (adult)
- I like art fairs any time of year but especially on Mother's Day weekend – it gives me somewhere special to go and feel beautiful. (adult)
- What better way to celebrate Mother's Day with your child! (adult)
- Me and my mom have come every year of my life and I always get her a gift. (9-3/4 yrs old)

In closing, we respectfully request positive consideration of our application for the 36<sup>th</sup> annual Art Birmingham the weekend of May 13-14, 2017.

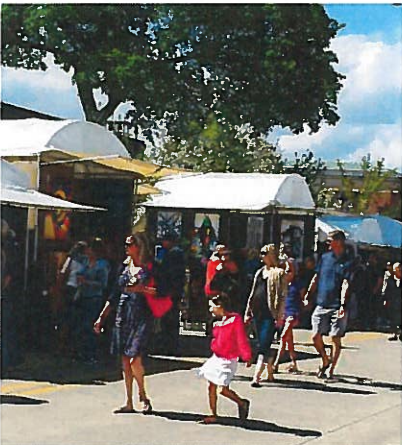
Sincerely,

A handwritten signature in blue ink, appearing to read "Annie VanGelder". The signature is fluid and cursive, with a large initial "A" and "V".

Annie VanGelder, President & CEO



ART BIRMINGHAM 2016



**The Birmingham Bloomfield Art Center** has been providing “art for all” since 1957 and is a regional non-profit art center committed to promoting the visual arts. The BBAC’s mission is “to connect people of all ages and abilities with visual arts education, exhibitions, and other creative experiences.” Each year more than 6,000 students from pre-K to seniors take advantage of visual arts classes and workshops at the BBAC. The art center campus features nine classroom studios, four galleries with free exhibits open to the public, outreach programs, camps, special events, and art classes for all ability levels.

## EDUCATION

More than 500 classes and workshops are offered each year at the BBAC for adults and youth as young as three years old. Curriculum includes painting, drawing, ceramics, jewelry and metalsmithing, printmaking, sculpture, weaving, book arts, and more, and student artists range from the novice to the notable. There are always introductory or sampler classes for those with artistic desire who may not know exactly what they want to pursue.

## EXHIBITIONS

- There are five distinct gallery spaces at the BBAC, each with a new exhibit about every eight weeks, and all are free and open to the public. Exhibiting artists range from “master” to emerging, and media includes painting, sculpture, fiber, and more. The BBAC is committed to providing its students with authentic exhibiting experience, and dedicates one gallery to adult student shows. The newest and fifth gallery is expressly dedicated to the work of ArtAccess participants and the youngest student artists.
- The annual Michigan Fine Arts competition is one of the BBAC’s signature shows. This juried, all-media exhibit attracts more than 600 entries from artists in Michigan, Ohio, Illinois, Indiana and Wisconsin. The art is all work completed within the past year.

## OUTREACH

Since 2008, BBAC ArtAccess programs support the art center’s vision of “art for all” by striving to provide the transformative power of art to those who may have limited access, bringing meaningful hands-on experiences to those otherwise lacking the means to create and connect to the world of visual arts.

- **Meet Me @ the BBAC** - In 2013, the BBAC launched a new access program based on *Meet Me at MoMA*, created by The Museum of Modern Art (NYC), offering interactive gallery and art-making sessions for individuals with early- and mid-stage Alzheimer’s or dementia along with their caregivers.
- **ArtBridge: Bridging High School to College to Careers in Visual Arts** - Aiming to help young people realize their educational and artistic career aspirations, ArtBridge is a comprehensive program that prepares motivated students by confirming and building their skills, making sure art fundamentals are well covered, providing college selection guidance and mentoring, and assisting with digital portfolio preparation. Thanks to funding from the JPMorgan Chase Foundation, each year dozens of motivated Detroit students considering art as a career participate in this program for no cost.
- **Studio 1** - Addresses visual art education for special needs populations of all ages including historically underserved individuals and groups with unique physical, emotional, or developmental needs. By working with partner organizations, those who serve people with special needs of many kinds, the BBAC promotes multiple levels and cross-sectors of collaboration.
- **Sundays @ the Center** - Focusing on multi-generational programming, we offer monthly drop-in workshops, with two options for authentic art-making, led by an artist instructor. The cost is nominal and all materials are provided.
- **Seniors @ the Center** - Also offered monthly are drop-in visual art workshops that correspond to this age group, designed to teach a genuine art project each time. The cost per person is nominal, and participants range from individuals to groups from assisted living facilities.



June 20, 2016

### Hold Harmless Agreement

To the fullest extent permitted by law, **The Guild of Artists & Artisans** and any entity or person for whom **The Guild of Artists & Artisans** are legally liable, agree to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this contract. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

Karen Delhey

Executive Director

Date: June 20, 2016

**T H E   G U I L D   O F   A R T I S T S   &   A R T I S A N S**

**118 N. Fourth Avenue • Ann Arbor, MI 48104-1402  
734.662.3382 • Fax: 734.662.0339 • info@theguild.org • www.theguild.org**

## HOLD-HARMLESS AGREEMENT

To the fullest extent permitted by law, the **Birmingham Bloomfield Art Center, Inc.** and any entity or person for whom the **Birmingham Bloomfield Art Center, Inc.** is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this activity/event. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

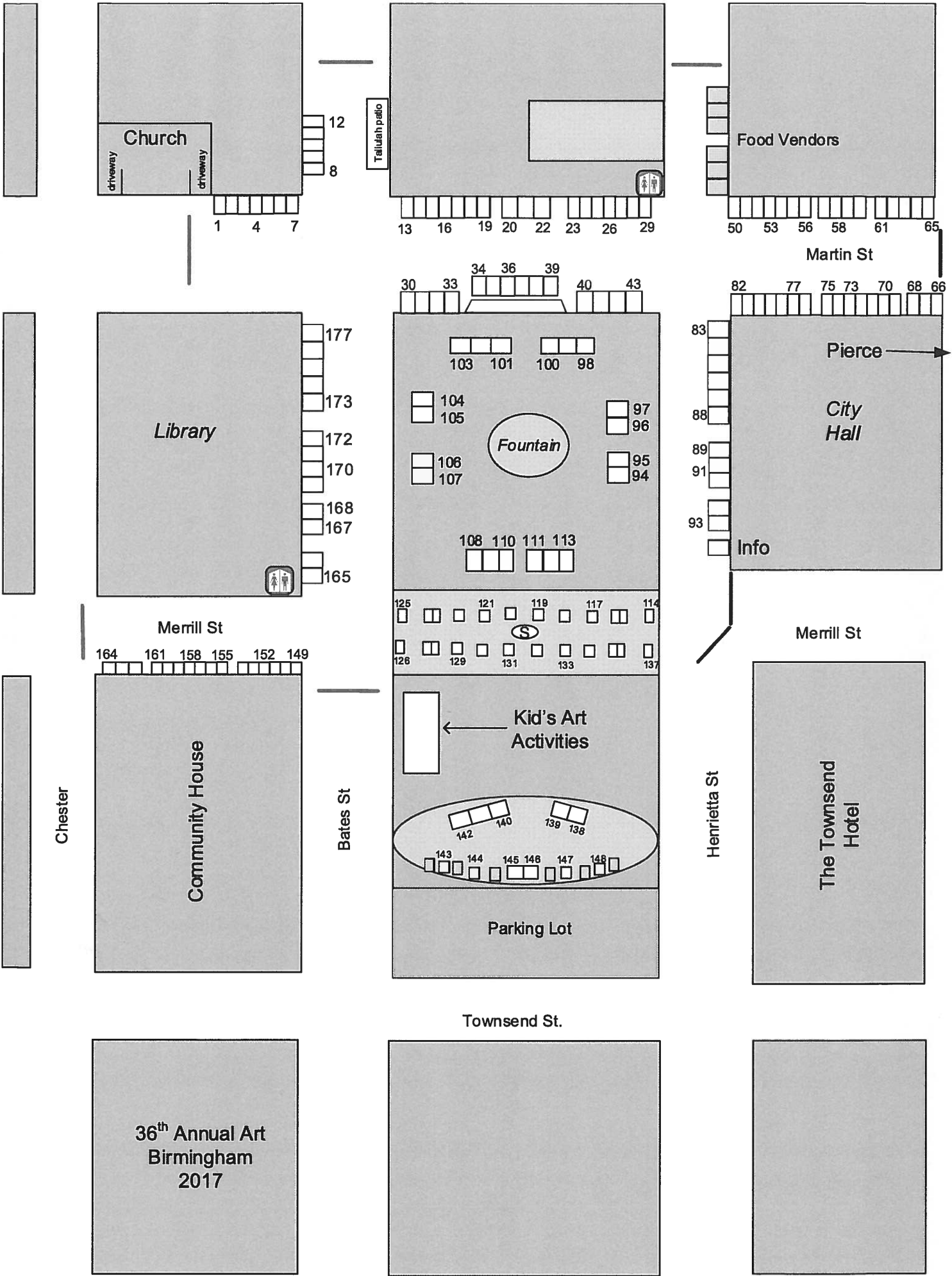


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Annie VanGeldereren

June 22, 2016







2017 Art Birmingham Participating Artist,

This letter is to inform you that artist parking is restricted to Parking Structures and Oversize Lots **ONLY**. Any artist vehicles that are found parked at street meters will be ticketed and towed. Those artists will also be unable to participate in future Birmingham Art Fairs.

Maps are included within your packet to indicate available parking structures and lots.

We thank you for your cooperation.

Sincerely,

---

T H E   G U I L D   O F   A R T I S T S   &   A R T I S A N S

118 N. Fourth Avenue • Ann Arbor, MI 48104-1402  
734.662.3382 • Fax: 734.662.0339 • [info@theguild.org](mailto:info@theguild.org) • [www.theguild.org](http://www.theguild.org)



**SPECIAL EVENT REQUEST  
NOTIFICATION LETTER**

**DATE:** 7/1/2016

**TO:** Principal Shopping District Members, Downtown Birmingham Residents,  
Interested Parties and Property Owners

The Birmingham City Code requires that we receive approval from the Birmingham City Commission to hold the following special event. The code further requires that we notify any property owners or business owners that may be affected by the special event of the date and time that the city commission will consider our request so that an opportunity exists for comments prior to this approval.

**EVENT INFORMATION**

**NAME OF EVENT:** 36th Annual Art Birmingham  
**LOCATION:** In and around Shain Park (layout enclosed)  
**DATES/TIMES OF EVENT:** Saturday, May 13, 2017, 10am – 6pm and  
Sunday, May 14, 2017, 10am – 5pm

**BRIEF DESCRIPTION OF EVENT/ACTIVITY:** A fine art fair featuring the handmade artwork of approximately 160 jury-selected artists. Now in its 36th year, the fair is a key annual fundraiser for the highly respected Birmingham Bloomfield Art Center (BBAC) whose "Art for All" vision delivers arts education and exhibitions to the community it serves. **If you experience any issues during the event, please contact the Birmingham Police Department at 248.530.1889.**

**DATES/TIMES OF SET UP:** Friday, May 12, 2017, street closings at 5pm with move-in completed by 9pm  
**DATES/TIMES OF TEAR DOWN:** Sunday, May 14, 2017, from 5pm to 9pm

**DATE/TIME OF CITY COMMISSION MEETING:** July 25, 2016

The city commission meets in room 205 of the Municipal Building at 151 Martin at 7:30PM. **A complete copy of the application to hold this special event is available for your review at the city clerk's office (248.530.1880).** To receive updates on special events held in the city log on to [www.bhamgov.org/enotify](http://www.bhamgov.org/enotify).

**EVENT ORGANIZER:** Birmingham Bloomfield Art Center  
**ADDRESS:** 1516 S. Cranbrook, Birmingham, MI 48009  
**PHONE:** 248.644.0866

**Attachment:**  
Art Birmingham layout/map

## DEPARTMENT APPROVALS

EVENT NAME 2017 Art Birmingham

LICENSE NUMBER #17-00010744

COMMISSION HEARING DATE July 25, 2016

NOTE TO STAFF: Please submit approval by **July 5, 2016**

DATE OF EVENT: May 13-14, 2017

DEPARTMENT	APPROVED	COMMENTS	PERMITS REQUIRED (Must be obtained directly from individual departments)	ESTIMATED COSTS (Must be paid two weeks prior to the event. License will not be issued if unpaid.)	ACTUAL COSTS (Event will be invoiced by the Clerk's office after the event)
<b>BUILDING</b> 101-000.000.634.0005 248.530.1850		1 Tents in excess of 200 square feet and canopies over 400 square feet require permits. 2. All tents/canopies must be flame resistant with certification. 3. No smoking inside any tent or canopy. Signs to be posted. 4. Tents or canopies must be secured with sandbags, weights, or water ballast. 5. Tents and canopies must be located per the approved layout.		\$316.16	
<b>FIRE</b> 101-000.000-634.0004 248.530.1900	LKB	1. No Smoking in any tents or canopy. Signs to be posted. 2. All tents and Canopies must be flame resistant with certificate on site. 3. No open flame or devices emitting flame, fire or heat in any tents. Cooking devices shall not be permitted within 20 feet of the tents. 4. Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed.	None	\$80 Fire Inspection	

		<ol style="list-style-type: none"> <li>5. Clear Fire Department access of 12 foot aisles must be maintained, no tents, canopies or other obstructions in the access aisle unless approved by the Fire Marshal.</li> <li>6. Pre-event site inspection required.</li> <li>7. All food vendors are required to have an approved 5lbs. multi-purpose (ABC) fire extinguisher on site and accessible. Provide protective barriers between hot surfaces and the public.</li> <li>8. Cords, hoses, etc. shall be matted to prevent trip hazards.</li> <li>9. Exits must be clearly marked in tents/structures with an occupant load over 50 people.</li> <li>10. Paramedics will respond from the fire station as needed. Dial 911 for fire/rescue/medical emergencies.</li> <li>11. A permit is required for Fire hydrant usage.</li> <li>12. Do Not obstruct fire hydrants or fire sprinkler connections on buildings.</li> </ol>			
<b>POLICE</b> <b>101-000.000.634.0003</b> 248.530.1870	SG	Personnel and Barricades		\$1,500	
<b>PUBLIC SERVICES</b> <b>101-000.000-634.0002</b> 248.530.1642	Carrie Laird 6/28/2016	Trash boxes, set-up, barricade placement, dumpsters		\$2,000	
<b>ENGINEERING</b> <b>101-000.000.634.0002</b> 248.530.1839	A.F.	Maintain 5' clearance on all sidewalks for pedestrian access route. No pavement damage allowed for tents or other structures.	None	\$0	

<b>INSURANCE</b> 248.530.1807	Pending	Hold Harmless on file; need COIs	None	0	0
<b>CLERK</b> <b>101-000.000-614.0000</b> 248.530.1803	LP	Notification letters mailed by applicant on <b>7/5/16</b> . Notification addresses on file in the Clerk's Office. Evidence of required insurance must be on file with the Clerk's Office no later than <b>4/27/17</b> .	Applications for vendors license must be submitted no later than <b>4/27/17</b>	\$165 (pd)	
				<b>TOTAL DEPOSIT REQUIRED</b>  <b>\$3,896.16</b>	<b>ACTUAL COST</b>

**FOR CLERK'S OFFICE USE**

Deposit paid \_\_\_\_\_

Actual Cost \_\_\_\_\_

Due/Refund\_\_\_\_\_



## MEMORANDUM

City Clerk's Office

**DATE:** July 19, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Laura M. Pierce, City Clerk

**SUBJECT:** Special Event Request  
Halloween Parade & Pumpkin Patch

Attached is a special event application submitted by the Birmingham Bloomfield Chamber, Junior League of Birmingham and The Community House requesting permission to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 30, 2016 in downtown Birmingham.

The application has been circulated to the affected departments and approvals and comments have been noted.

The following event has been approved by the Commission to be held in October.

Event Name	Date	Location
Farmers Market	Sundays	Lot 6

### SUGGESTED RESOLUTION:

To approve a request submitted by the Birmingham Bloomfield Chamber, Junior League of Birmingham, and The Community House requesting permission to hold the annual Halloween Parade and Pumpkin Patch on Sunday, October 30, 2016 in downtown Birmingham, 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.

16-00010743



**151 Martin Street, P.O. Box 3001  
Birmingham, MI 48012  
248/530-1880  
248/530-1080 FAX**

## **APPLICATION FOR SPECIAL EVENT PERMIT PARKS AND PUBLIC SPACES**

Date of Application	2016
Name of Event	80 <sup>th</sup> Annual Halloween Parade & 23 <sup>rd</sup> Annual Pumpkin Patch
Detailed Description of Event	The Pumpkin Patch is an afternoon for families to partake in Halloween activities and games. After the Patch families march in costume in the parade.
Location	Sunday, October 30, 2016 Streets surrounding Shain Park
Dates/ Hours of set-up & Tear down:	<b>Patch 1-4 and Parade 4-4:30 p.m.</b> <b>Patch:</b> Set up 9:00 a.m. Tear Down 4:00 p.m. <b>Parade:</b> Set up 3:00 p.m. Tear Down 5:00 p.m.
Organization Name:	Birmingham Bloomfield Chamber Jr. League of Birmingham & The Community House
Organization Address:	Chamber: 725 S. Adams, Suite 130 League: 460 N. Old Woodward
Organization Ph	Chamber: (248) 430-7688 League: (248) 952-7098
Contact Person/Ph	Andrea Foglietta-Chamber (248) 430-7688 Sarah Kochis (248) 952-7098
Contact Fax Number	Chamber (248) 644-0286 League (248) 203-9847



**On-Site Manager**

**Patch: Sarah Ambrose (248) 203-9847**

**Parade: Andrea Kaczmarek (586)216-1897**

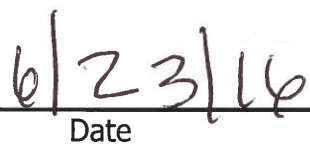
**(CHANGES IN THIS INFORMATION MUST BE SUBMITTED TO THE CITY CLERK PRIOR TO THE EVENT.)**

---

The city commission shall have sole and complete discretion in deciding whether to issue a permit. Nothing contained in the city code shall be construed to require the commission to issue a permit to an applicant and no applicant shall have any interest or right to receive a permit merely because the applicant has received a permit in the past.

As the authorized agent of the sponsoring organization, I hereby agree that this organization shall abide by all conditions and restrictions specific to this special event as determined by the city administration and will comply with all local, state and federal rules, regulations and laws.

  
Signature

  
Date

## ***II. EVENT INFORMATION***

1. Organization Type                      Birmingham Bloomfield Chamber and Junior League of  
Birmingham – Civic organization  
(city, non-profit, community group, etc.)
2. Additional Sponsors or Participants (Provide name, address, contact person, status, etc.  
for all additional organizations sponsoring your event. Attach an additional page if  
necessary.)                      There will be sponsors that will help offset  
activities, permit and refreshments.  
A list will be provided closer to the event.
3. If the event is a fundraiser, list beneficiary and expected income.  
Not a fundraiser. Community event for families.
4. First time event in Birmingham? If no, describe  
No, 80<sup>th</sup> Annual Parade and 23<sup>rd</sup> Annual Patch  
  
Outside Birmingham? If no, describe  
Streets surrounding Shain Park
5. Total number of people expected to attend per day  
1,000 – 2,500 weather permitting
6. What parking arrangements will be necessary to accommodate attendance?  
None, parking at Chester and Pierce parking decks
7. Is amplification of music or speakers anticipated? No
8. Will a volunteer staff be provided to assist with safety, security and maintenance?  
Fire truck will lead parade and volunteers will assist with safety and security at the Patch  
and Parade.
9. Will alcoholic beverages be served? No
10. Will food/beverages/merchandise be sold? No

- Peddlers and vendors must obtain a peddler's license from the clerk's office and be listed in this application by the event organizer.
- Peddler/vendor permits must be obtained at least 48 hours prior to beginning of event and must submit a photo with the application.
- All food/beverage vendors must have Oakland County Health Department approval. Attach copy of Health Dept approval.
- There is a \$20.00 application/investigation fee for all vendors and peddlers, in addition to the \$10.00 daily fee, per location.

VENDOR NAME	GOODS TO BE SOLD

### **III. EVENT LAYOUT**

1. Will the event require the use of any of the following municipal equipment? Include a map showing the location of each item.

- Picnic tables                      Quantity: Zero
- Trash Receptacles      Quantity 8 PSD boxes (to be dropped off on site will coordinate w Connie Folk)
- Dumpsters                      Quantity 2      (corner of Bates & Martin and Chester & Merrill)
- Audio System                      None
- Barricades                      Quantity TBD by police department
- Meter Bags                      Quantity TBD by police department
- Traffic Cones                      Quantity TBD by police department

Other/Instructions

2. Will the event require safety personnel (police, fire, paramedics)? \_\_\_\_\_

Describe                      Police are needed in streets for closing and traffic control during parade. Fire truck to lead parade beginning at Bates and Martin Street.

3. Will street closures be necessary? If yes, include a detailed map. Indicate the date and time for closing and re-opening including set-up and tear-down.

\*Closing:                      Sunday, October 30 at 9 a.m. Merrill closed between Bates and Chester between the Community House and Baldwin Library

\*Re-opening:      Sunday, October 30 at 5 p.m.

*\*The ingress and egress of St. James Church must be maintained.\**

Begin at corner of Martin and Bates and travel North on Bates to Maple. East on Maple to S. Old Woodward, right on Merrillwood to Merrill, right on Pierce, left on Martin and will end at the corner of Bates and Martin. (See map for detailed parade route.) AFTER PARADE cider and seasonal snacks will be provided by Whole Foods Market.

4. Will the event require any public utility connections? Yes, electrical for sponsor tables.  
Fire hydrant usage requires a permit from the fire department. All electrical/fire permits must be obtained within seven (7) days of commission approval of the event.
- Electrical (note the location of boxes to be used on the map)
  - Water/Fire Hydrant (Applicant must supply their own means of disposal for all sanitary waste water. Waste water is NOT allowed to be poured into the street or on the grass.)
  - Telephone
  - Ground
  - Other \_\_\_\_\_  
Describe
5. Will there be signage in the area of the event? Please describe.  
TBD under the tent for Pumpkin Patch and TBD for sponsors (*Sign permits and a photo may be required*)
6. Will the following be constructed or located in the area of the event? Attach a plan of the proposed layout. Include the square foot area and photograph or drawing of any temporary structure or display.

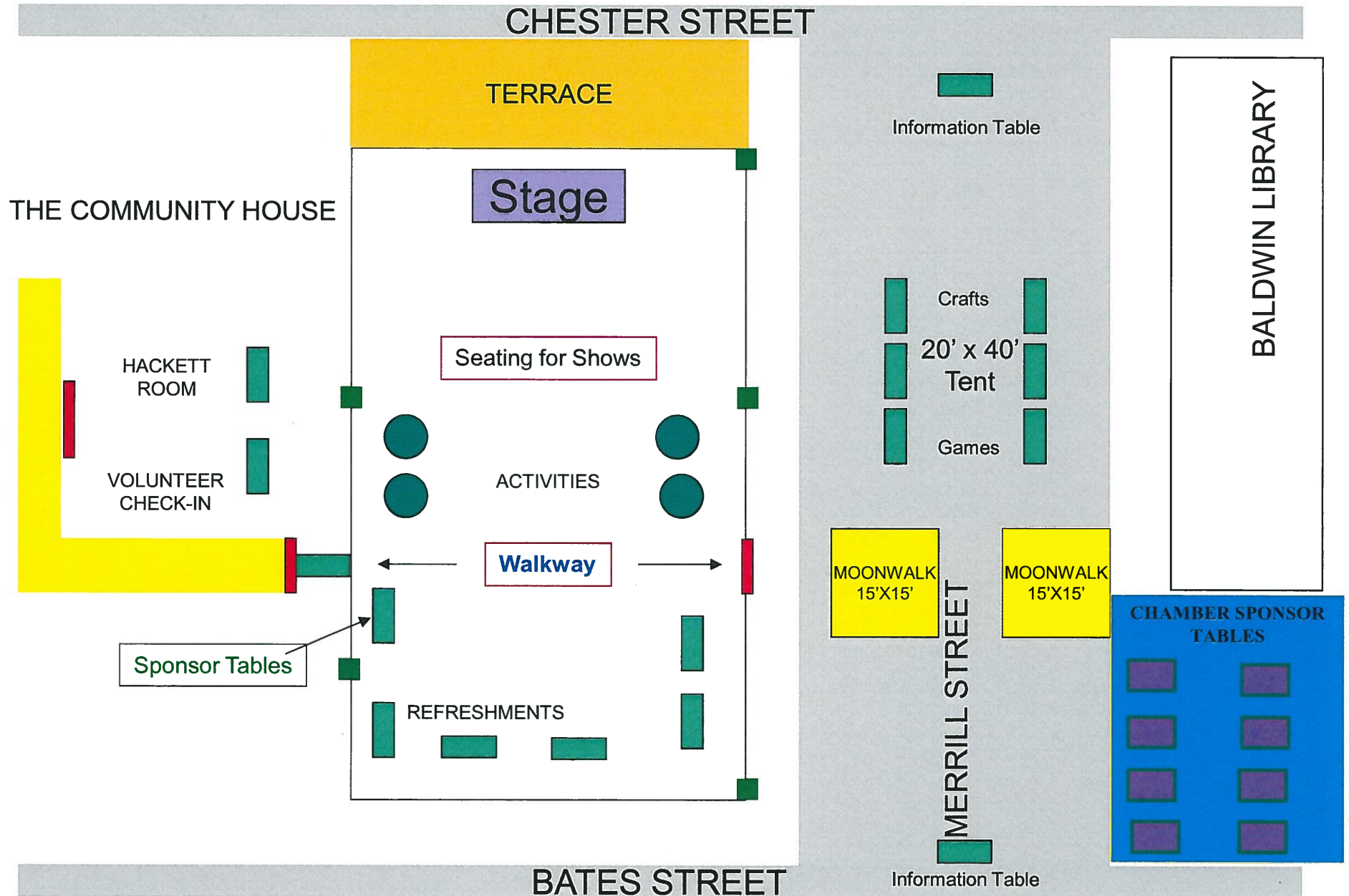
	Number	Size
○ Booths	_____	_____
○ Tents*	<u>1</u>	<u>20x40</u> for Pumpkin Patch
○ Awnings*	_____	_____
○ Canopies*	_____	_____
○ Tables	<u>TBD</u>	<u>6 or 8 ft tables</u>
○ Portajohns	_____	_____
○ Rides	_____	_____
○ Displays	_____	_____
○ Other	_____	_____

See attached map.

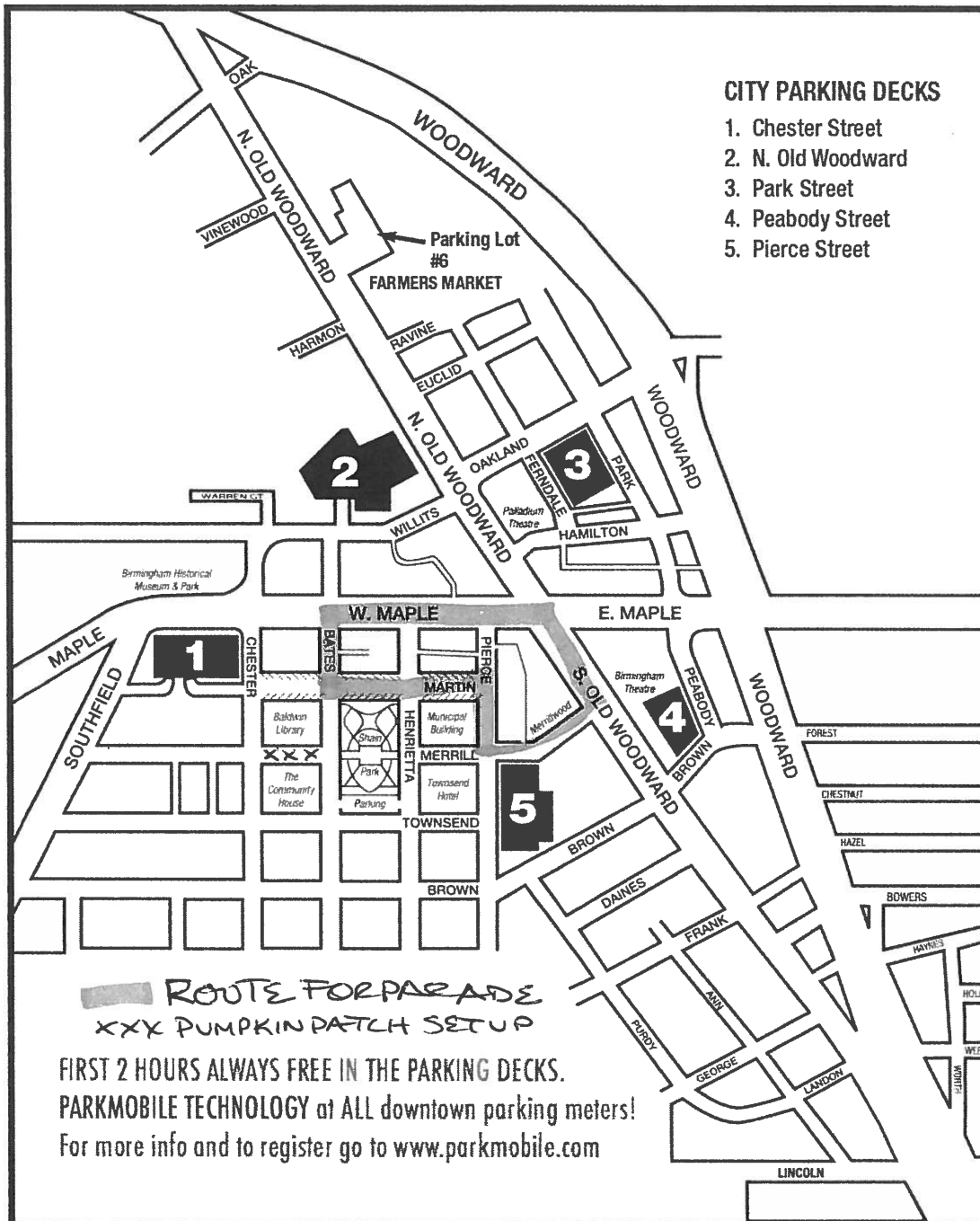
(\*NOTE: A building permit for a tent/awning/canopy over 120 square feet is required from the community development department - 248.530.1850)

**\*PLEASE NOTE: NO STAKES OF ANY KIND ALLOWED**

# PUMPKIN PATCH 2016 LAYOUT



It's All  
**BIRMINGHAM**  
The Shopping District





## **NOTIFICATION**

June 24, 2016

To: Property/Business Owner

The Birmingham City Code requires that we receive approval from the Birmingham City Commission to hold the following special event. The code further requires that we notify any property owners or business owners that may be affected by the special event of the date and time that the city commission will consider our request so that the opportunity exists for comments prior to this approval.

**NAME OF EVENT:** 80<sup>th</sup> Annual Parade and 23<sup>rd</sup> Annual Patch

**LOCATION:** Streets surrounding Shain Park

**DESCRIPTION OF EVENT:** Family Halloween activities, games and parade.

**DATES/TIMES:** Set-up Sunday, October 30, 2016 at 9 a.m.

Pumpkin Patch Hours: 1 – 4 p.m. Parade Hours: 4 – 4:15 p.m.

Tear down: Sunday, October 30, 2016 5 p.m.

**DATE/TIME OF CITY COMMISSION MEETING:** Monday, July 25, 2016 at 7:30 p.m.

The city commission meets in room 205 of the Municipal Building at 151 Martin. A complete copy of the application to hold this special event is available at the city clerk's office (248) 530-1880. To receive updates on special events held in the city log on to [www.bhamgov.org/enotify](http://www.bhamgov.org/enotify).

**EVENT ORGANIZER:** Birmingham Bloomfield Chamber 725 S. Adams, Suite 130  
Birmingham MI 48009 (248) 430-7688





## HOLD-HARMLESS AGREEMENT

"To the fullest extent permitted by law, the **Birmingham Bloomfield Chamber** and any entity or person for whom the **Birmingham Bloomfield Chamber** is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this activity/event. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of the City of Birmingham, its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham."

Applicant's signature

## DEPARTMENT APPROVALS

EVENT NAME Halloween Parade & Pumpkin Patch

LICENSE NUMBER #16-00010743

COMMISSION HEARING DATE July 25, 2016

NOTE TO STAFF: Please submit approval by June 30, 2016

DATE OF EVENT: October 30, 2016

DEPARTMENT	APPROVED	COMMENTS	PERMITS REQUIRED (Must be obtained directly from individual departments)	ESTIMATED COSTS (Must be paid two weeks prior to the event. License will not be issued if unpaid.)	ACTUAL COSTS (Event will be invoiced by the Clerk's office after the event)
<b>BUILDING</b> 101-000.000.634.0005 248.530.1850			Need tent permit	\$128.19	
<b>FIRE</b> 101-000.000-634.0004 248.530.1900	LKB	<ol style="list-style-type: none"><li>1. No Smoking in any tents or canopy. Signs to be posted.</li><li>2. All tents and Canopies must be flame resistant with certificate on site.</li><li>3. No open flame or devices emitting flame, fire or heat in any tents. Cooking devices shall not be permitted within 20 feet of the tents.</li><li>4. Tents and Canopies must be properly anchored for the weather conditions, no stakes allowed.</li><li>5. Pre-event site inspection required.</li><li>6. All food vendors are required to have an approved 5lbs. multi-purpose (ABC) fire extinguisher on site and accessible.</li><li>7. Cords, hoses, etc. shall be matted to prevent trip hazards.</li></ol>	None	\$40 Fire Inspection	

		8. Exits must be clearly marked in tents/structures with an occupant load over 50 people. 9. Paramedics will respond from the fire station as needed. Dial 911 for fire/rescue/medical emergencies. 10. A permit is required for Fire hydrant usage. 11. Do Not obstruct fire hydrants or fire sprinkler connections on buildings.			
<b>POLICE</b> 101-000.000.634.0003 248.530.1870	SG	Personnel and Barricades		\$0	
<b>PUBLIC SERVICES</b> 101-000.000-634.0002 248.530.1642	Carrie Laird 6/27/2016	Additional costs could occur for trash pick-up.		\$500	
<b>ENGINEERING</b> 101-000.000.634.0002 248.530.1839	A.F.	No damage to any pavement allowed for tents, inflatables, stages, etc... Maintain 5' clear pedestrian access route on all sidewalks	None	\$0	
<b>INSURANCE</b> 248.530.1807	CA		None	0	0
<b>CLERK</b> 101-000.000-614.0000 248.530.1803	LP	Notification letters mailed by applicant on <b>June 24, 2016</b> Notification addresses on file in the Clerk's Office. Evidence of required insurance is on file with the Clerk's Office.	Applications for vendors license must be submitted no later than <b>10/14/16</b> .	\$165 (pd)	
				<b>TOTAL DEPOSIT REQUIRED</b>  <b>\$668.19</b>	<b>ACTUAL COST</b>



## MEMORANDUM

Department of Public Services

**DATE:** July 15, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Lauren A. Wood, Director of Public Services

**SUBJECT:** Trail Improvement Project

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In 2013, the Department of Public Services completed an improvement project to a section of the chip trail along the Rouge River. The section of trail was located between Booth Park and Willits Street and continually washed away when the river flooded. Approximately 120 feet x 7 feet of woodchip trail was replaced with "Porous Pave". See attached pictures A, B, C and D. This product has proven to work well in this setting and we would like to continue to use it in appropriate applications.

The targeted area for this application of Porous Pave is located at Lower Baldwin Park, the South side of Maple Rd, across from Baldwin Street. Currently, there is no connection to the Linden Park/Maple trail system at this point. There is only a large grass area between the bridge to the trail to Linden Park and the sidewalk along Maple Road. This area is highlighted in the Trail Master Plan as a potential connectivity improvement. See attached pictures E, F, & G. This new addition to the trail system will be approximately 200 feet x 5 feet, the same width as the sidewalk in the park, and will connect at the point where the sidewalk comes in from Maple Road across from Baldwin and run up to the bridge to the trail. A small part of this project will also include an area on the other side of the bridge that continually washes out.

This proposed project was brought to the Parks and Recreation Board at the July 12, 2016 Parks and Recreation Board Meeting for their endorsement for which they approved at this meeting.

We chose Porous Pave for this project because we have been completely satisfied with it in the test section of trail between Booth Park and Willits Street. Additionally, we are again installing this in a flood plain adjacent to the river. A benefit of this product is that there is no permit required through the MDEQ. Other notable features about the product are as follows:

- Porous Pave is poured like concrete but made out of recycled tires mixed with a stone type of substance that allows water to flow through it, not off of it. It comes in a wide variety of colors including close to the same color as the chip trail. The material is not as smooth as asphalt, skateboarders do not like it.
- Highly permeable-allows large amounts of rainwater to pass through into the ground while providing a hard surface.
- Flexible- 50% rubber content allows Porous Pave to remain flexible which eliminates cracking, especially in freezing climate freeze/thaw.

- Durable- can be used in parking lots and driveways. Strong enough to drive on when installed 2" thick.
- Comes in a variety of colors. "Cypress" is the selected color, a close match to the existing chip trail. See Picture H.

Michigan State University uses Porous Pave for some of their pathways. See attached Pictures I, J. Grand Rapids, South Haven (Picture K), and Royal Oak have also used this product in a variety of applications.

Porous Pave requires that a certified contractor prepare the site and install the product. X Tier Inc. is a certified installer of Porous Pave and is the only qualified contractor for installation of this product in the Southeast Michigan area. Therefore, I am recommending that X Tier Inc. complete this project as a sole source vendor and further that the normal bidding requirements are waived. The work involves excavation and base prep for the new Porous Pave walkway, trucking of material to the City DPS yard, installation of compacted stone base and Geo-mesh underlayment, installation of the new Porous Pave walkway, and complete lawn restoration with topsoil and seed for a total project cost not to exceed \$25,000. The money has been budgeted in Parks – Other Contractual Services account # 101-751.000-811.0000.

#### SUGGESTED RESOLUTION:

To approve the purchase and installation of Porous Pave by X Tier Inc. to improve connectivity to the Rouge River trail system to the City Commission for approval in the amount not to exceed \$25,000. Further, to waive the normal bidding requirements due to X Tier Inc. being the sole source installer of this product. Funds are available for this project from the Parks – Other Contractual Services account # 101-751.000-811.0000.

### Booth Park Trail Before



A



B

### Booth Park Trail After



C



D



**Proposed Location for Porous Pave**



E



F



Linden Trail



G



H

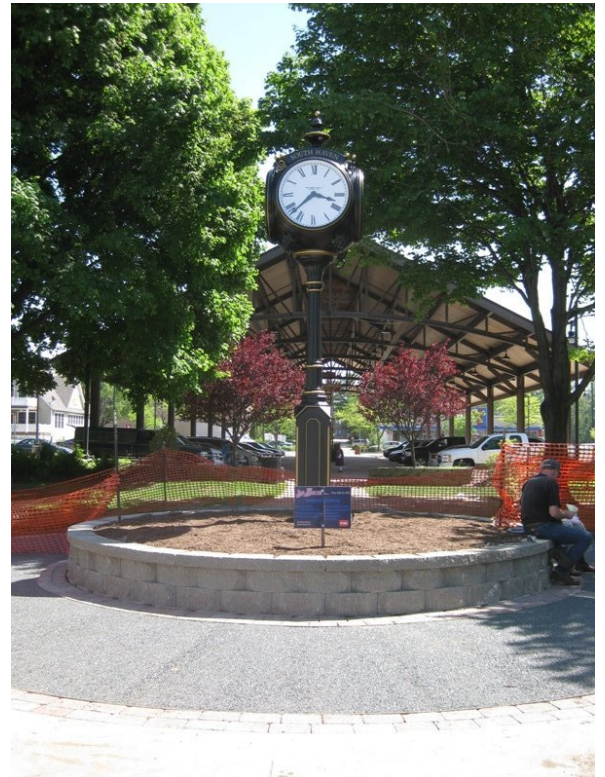




I



J



K

# PROPOSAL/CONTRACT



P.O. Box 111  
Clarkston, Michigan 48347  
Phone: 248-956-1118  
Fax: 248-382-1480  
Email: [john@xtierinc.com](mailto:john@xtierinc.com)  
Estimator: John Hodgkin

DATE	2/7/16	<b><i>Revised 6/11/16</i></b>
CUSTOMER NAME	City Of Birmingham Carrie Laird	
ADDRESS	851 South Eaton	
CITY	Birmingham Mi	
	<a href="mailto:claird@bhamgov.org">claird@bhamgov.org</a>	
PHONE	(248) 765-9131	

## Porous Paver Projects

### A) Maple road path park project:

**\$25,000.00**

#### 5' x 200' walking path

Site preparation: Excavation and base prep for new Porous Paver walkway  
Excavate apx 12" of soil to allow for proper base installation and 2" of porous paver  
Labor and machine time included. Trucking of disposal included (in town disposal)  
Disposal to be provided by the City (apx 75 yards total to be hauled to municipality lot)  
Delivery and installation of compacted stone base and Geo-mesh underlayment  
Installation of porous paver walkway (apx 2" for commercial /municipal application)  
Complete lawn restoration (Seed and EZ straw). Topsoil delivered and installed  
Municipal seed mix for sun & shade (ongoing irrigation to be provided by City)

***\*Optional Trucking Credit available: Trucking provided by the City.***

If trucking for haul out / disposal is provided, a credit of \$90/ hour will be applied to the above total

**\$90 / Hour**

#### 6' x 10' Landing for bridge (opposite side)

**Included w/Package**

Site preparation: Excavation and base prep for new Porous Paver landing  
Excavate apx 12" of soil to allow for proper base installation and 2" of porous paver  
Labor and hand digging and hauling included. Trucking of disposal included (in town disposal)



## MEMORANDUM

Planning Division

**DATE:** July 5, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Jana L. Ecker, Planning Director  
Bruce R. Johnson, Building Official

**SUBJECT:** Current Planning Issues for Discussion

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On June 20, 2016, the City Commission and the Planning Board conducted a joint meeting to discuss current planning issues. The joint meeting was a workshop format, and as such, no formal direction was provided at the meeting. Based on the discussion conducted at the joint meeting, the City Commission may wish to provide direction on each of the following topics. Please note that both an updated lot consolidation process and an updated public project review process are currently being prepared, and will be presented under separate cover when complete.

### **(1) Transitional Zoning (TZ2 District)**

#### **Background:**

In September 2015, the City Commission held a continued public hearing on the transitional zoning proposals for many properties that had been identified as transitional properties given their location on major streets, and their proximity to both commercial and single family uses. After much discussion and public input, the City Commission took action to create the TZ-1 and TZ-3 zoning classifications, and rezoned several properties into each of these zone districts. However, the City Commission referred the portion of the ordinance related to TZ-2 back to the Planning Board, along with those properties that had been recommended for rezoning to the new TZ-2 zone district.

The Planning Board has since conducted further study on the proposed TZ-2 zone district intent, development standards and permitted uses. The Planning Board remains committed to their previous recommendations on the intent and development standards for the proposed TZ-2 district, but conducted a further review of the permitted uses recommended in TZ-2. The Planning Board also evaluated each use proposed for TZ2 in relation to the uses permitted in TZ1 and TZ3 to ensure a graduated use system was proposed. Consensus at the Planning Board level was reached on which uses should be permitted in each of the transitional zoning district.

**Suggested Action:**

To direct staff to work with the Planning Board to prepare a narrative on the recent study of transitional zoning including the following:

- (i) What initiated the transitional zoning study;
- (ii) What options have been considered to date; and
- (iii) A comparison of existing O1 and O2 uses in relation to the proposed TZ2 uses.

And further, to direct the Planning Board to review the number and type of uses proposed to be permitted in TZ2, outline the next steps planned, and to conduct a public hearing with sufficient public notice to gather input on the proposed changes and develop a recommendation based on input received that can be forwarded to the City Commission.

**(2) Commercial Development Parking Requirements****Background:**

Currently, parking is required to be provided for all commercial uses on properties that are not located within a Parking Assessment District ("PAD"). Many commercial uses fall under the office or retail classification, which requires one parking space / 300 sq.ft. of building space. Other common commercial uses include medical office space, which requires one parking space / 150 sq.ft. of floor area, restaurants, which require one parking space / 75 sq.ft., and barber shops, beauty salons and tanning salons which require two off-street parking spaces per service chair, booth or bed, or 1 off-street parking space per 300 sq.ft. of floor area, whichever is greater.

The availability of parking is an ongoing concern, particularly in the downtown area where demand is high. The need to increase the parking requirements has been raised to alleviate parking concerns. However, increasing the parking requirements for commercial uses may resolve parking issues in some areas of the City, but will not alleviate parking problems in the downtown area as most of the CBD is within the Parking Assessment District. All properties located within the PAD are not required to provide any off-street parking on site, regardless of use as they have paid into the public parking system.

At the same time, a desire to reduce or eliminate parking standards has also been raised in order to reduce the cost of development, thus reducing the amount charged for the sale or lease of building space. The Planning Board has discussed this issue several times over the past 10 years, and has reduced the parking requirements for senior living options, and removed the parking requirement for outdoor dining areas. Both of these decisions were made to encourage senior living developments and outdoor dining options in the City, and this strategy has successfully attracted both as desired.

**Suggested Action:**

To direct the Planning Board to review the parking requirements for private developments, including but not limited to, considering the possible reduction of parking standards for residential units, and considering the impacts of multi-modal transportation options on the

required number of parking spaces; and further to direct staff to include a discussion on parking requirements in the City-wide master plan update.

### **(3) Existing Commercial Non-Conforming Buildings**

#### **Background:**

Currently, the City has several legal, non-conforming commercial buildings throughout the downtown. Concerns often arise with regards to the non-conforming height and bulk of these buildings, and the desire to make improvements or changes to these buildings. Recently, the owners of 555 S. Old Woodward expressed a desire to renovate and potentially expand the existing building, by replacing the exterior building curtain wall system, adding new residential units along S. Old Woodward, as well as adding an addition to the south of the existing residential tower for new retail space and residential units. It was determined that many of the proposed renovations and additions were not permitted as the building was legal non-conforming, and non-conformities could not be increased without seeking numerous variances from the Board of Zoning Appeals. The Planning Board began discussions regarding options to render the existing building at 555 S. Old Woodward as a legal, conforming building that could then be renovated and expanded. Planning Board members discussed addressing other non-conforming buildings with ordinance amendments and to review proposed ordinance amendments within the spirit, vision and context of the entire downtown, and not to create a new zoning classification around a specific building.

In addition to the 555 S. Old Woodward building, the Merrillwood Building and Birmingham Place are also legal non-conforming buildings with regards to their height and bulk. The Planning Board and the City Commission discussed ordinance amendments that would allow the renovation or expansion of non-conforming buildings such as these to ensure their relevance and viability in the future.

#### **Suggested Action:**

To review the non-conformance provisions pertaining to commercial buildings to provide specific requirements that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.

### **(4) Definition of Retail**

Over the past decade, there has been an ongoing desire by City Boards and Commissions to review the current definition of retail to ensure that we are encouraging true retail downtown, and not allowing office and other service uses to dominate.

One of the key issues exists around the definition of "Retail Use" in the Zoning Ordinance. Many people would like the Retail Use definition to be more specific in terms of what types of businesses are permitted, while others believe the current definition is sufficient and already allows the right mix of uses to occur organically downtown. The existing definition for Retail Use and the related definitions are stated in Article 9, section 9.02 of the Zoning Ordinance as follows:

**Retail Use:** Any of the following uses: artisan, community, commercial, entertainment (including all establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development), bistro or restaurant uses.

**Artisan Use:** Any premises used principally for the repair, manufacture, and sale of domestic furniture, arts, and crafts. The work must take place entirely within an enclosed building using only hand-held and/or table-mounted manual and electric tools.

**Community Use:** Premises used principally for education, worship, cultural performances, and gatherings administered by nonprofit cultural, educational, and religious organizations; premises used principally for local, state, and federal government, administration, provision of public services, education, cultural performances, and gatherings.

**Commercial Use:** Premises used generally in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services.

**Office:** A building or portion of a building wherein services are performed, including professional, financial (including banks), clerical, sales, administrative, or medical services.

As defined in Article 9, retail uses include the direct sale of products from the premises, but also include restaurants, entertainment and personal services. Both the Planning Board and the Birmingham Shopping District Board have expressed concern with this definition, and have considered alternative definitions for retail to tighten the definition of retail to include only shops which sell products, not financial, real estate or other such services. On the other hand, many property owners have concerns about tightening up the definitions as they desire the flexibility to lease space to a wider range of users to avoid vacancy.

### **Suggested Action:**

To direct the Planning Board to study the following:

- (i) To evaluate the success of the red line retail district in Downtown Birmingham to determine if the intended objectives are being met;
- (ii) To study the existing definition of retail in the Zoning Ordinance and recommend any needed amendments to the definition; and
- (iii) To review all retail-related requirements contained in the Zoning Ordinance and recommend any needed amendments.

### **(5) Dormer Considerations**

#### **Background:**

Over the past couple of years, residents have questioned the number of stories within recently constructed homes. The concern is that some of the homes appear to be three stories in height when the Zoning Ordinance allows only two. The ordinance does limit the number of stories in all single-family districts to two, but also allows a portion of the attic to be habitable. Habitable



attics are typically located behind dormers projecting from the roof of the home. Dormers are utilized to provide windows and additional ceiling height within the habitable attic. Article 9, section 9.02 of the Zoning Ordinance defines dormer and habitable attic as follows:

**Dormer:** A subunit of a main structure interrupting a roof slope of the main roof structure with its own walls and roof, and characterized by the roof shape of the dormer including but not limited to: flat, deck, hipped, shed, gabled, inset, arched, segmental, and eyebrow style roofs.

**Habitable Attic:** An attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet, 4 inches above the attic floor is not more than one-third of the area of the next floor below.

The Zoning Ordinance does not regulate the maximum width of dormers on single-family homes. The Building Department has been applying the regulations of the detached garage limits (50% of the elevation) to regulate dormer size, but there is no language in the ordinance to limit dormers on houses. The increased width of these dormers on smaller lots began when the Building Code lowered the minimum ceiling height from 7.5 feet to 7 feet about fifteen years ago. That change lowered the minimum code ceiling height to less than the 7 feet, 4 inch limitation in the ordinance definition and effectually increased the allowable area for habitable attics. In theory, a habitable attic with a ceiling height between 7 feet and 7 feet, 4 inches is not limited in area. The Building Department has been strongly encouraging the living space of the habitable attic be limited to 1/3 of the second floor to follow the intent of the Zoning Ordinance.

### **Suggested Action:**

To direct the Planning Board to review the dormer and habitable attic regulations in the Zoning Ordinance as they relate to current dormer construction trends in residential zoned districts. Specifically, to conduct a detailed public input and review process to:

- (1) Clarify the types of dormers permissible that project from second story roofs enclosing habitable attics;
- (2) Provide recommended width limitations for dormers projecting from second story roofs; and
- (3) Refine the maximum area regulations for habitable attics that would not count as a story.

### **(6) Planning Board Action List**

#### **Background:**

In March of each year the Planning Division prepares an Annual Report to the City Commission outlining the activities of several boards and commissions over the previous year, as well as an action list of identified priority items for consideration over the coming year. In addition, the action lists outline the actions taken to date on each item. From this list, the Planning Board as well as the City Commission has the opportunity to evaluate the Planning Board's goals and objectives, and make any needed amendments based on current priorities.

**Suggested Action:**

To direct the Planning Board to revise their 2016-2017 Planning Board Action List to reflect the City Commission's recent and pending directives as of July 11, 2016.



	TOPIC	STUDY SESSION	PUBLIC HEARING	STATUS	NOTES
1	Review dormer and habitable attic regulations in SF zones				As directed by the City Commission on 7-11-2016
2	Consider outdoor storage and display standards	4/10/13 4/24/13 6/12/13 8/14/13 8/28/13 1/22/14	7/13/16 PB	In Progress	Develop standards for outdoor storage and displays
3	Glazing Standards	8/28/2013, 3/11/2015, 4/22/2015, 10/14/2015	9/11/13, 9/25/13, 1/27/14, 11/11/2015 PB, 11/23/15 CC	In Progress	CC approved changes to the Triangle Overlay and Article 04 of the Z. O. on 11.23.15 to be consistent with the DB Overlay by measuring Glazing between 1 and 8 feet above grade. Further changes to be considered at future study sessions.
4	Height in MX district	6/22/2016	7/27/2016		Allow 10' height for rooftop mechanical equipment
5	Zoning Transition Overlay (TZ2)	2/27/13, 4/10/13 4/24/13, 5/8/13 5/22/13, 6/12/13 7/24/13, 8/28/13 9/11/13, 11/13/13 1/8/14, 3/12/14 10/8/14, 2/25/15 4/08/15, 5/15/15	10/9/13 2/26/14 4/9/14 4/23/14 6/24/15 PB 08/24/15 CC	In Progress	CC approved rezoning of parcels to the TZ1 and TZ3 zoning classification on 8.24.15. TZ2 sent back to the Planning Board for further study of permitted uses.
6	Parking Requirements				As directed by the City Commission on 7-11-2016
7	Definition of Retail				As directed by the City Commission on 7-11-2016
8	Address allowable changes for commercial non-conforming buildings				As directed by the City Commission on 7-11-2016
9	Consider looking at principal uses allowed and add flexibility("and other similar uses")				
10	Potential residential zoning changes: MF & MX garage doors, garage house standards, dormers	1/22/2014, 11/14/14, 1/28/15, 2/11/15	3/11/2015	In Progress	Ordinance Amendment recommended for approval to City Commission at PH
11	S. Woodward Avenue Gateway Plan (Woodward Corridor Lincoln to 14 Mile Road)	2/27/08 9/24/08 10/20/08 (PB/CC) 2/10/09 (LRP) 10/17/2011 (Joint with CC) 1/22/2012 (LRP) 4/24/13 5/8/13		In Progress	LSL/Hamilton Anderson contracted to lead master plan process - Subcommittee formed to guide master plan process in 2013 - Charette held in May of 2013 Draft plan received from LSL early in 2014 - Project postponed in summer of 2014 due to staff shortage and pending projects
12	Sustainable Urbanism – Green building standards, impervious surface, solar and wind ordinances, deconstruction, geothermal, native plants, low impact development etc.	2/09/2005 7/11/2007 8/08/2007 9/12/2007 1/9/2008 9/10/08 1/14/09 1/28/09 2/10/09 (LRP) 5/13/09 8/12/09 11/11/09 1/23/10 (LRP) 5/12/2010 6/9/10	2/25/09 (PB - Solar) 1/13/10 (PB-Wind) 2/10/10 (PB-Wind) 6/14/2010 (CC-Wind)	Solar ordinance completed; Wind ordinance completed	Incentive option in Triangle District  Guest speakers in LEED Certification, Pervious Concrete, LED Lighting, Wind Power, Deconstruction  Sustainability website & Awards  Native plant brochure
13	Regional Planning Projects	6/12/13 10/9/13 11/13/13 2/1/14 (LRP)		Ongoing	Woodward Complete Streets and Woodward Alternatives Analysis

<b>14</b>	Wayfinding			On Hold	Implement way finding plan
<b>15</b>	Southern Downtown Overlay Gateway	5/13/2015, 6/10/2015, 7/08/2015, 9/09/2015, 9/30/2015		In Progress	Consideration of a new D5 overlay zone requested by the owners of the 555 Building
<b>16</b>	Medical Marijuana	2/25/2015		On Hold	

**BIRMINGHAM CITY COMMISSION /  
PLANNING BOARD JOINT WORKSHOP SESSION MINUTES  
JUNE 20, 2016  
DPS FACILITY, 851 SOUTH ETON  
7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Rackeline J. Hoff, Mayor called the meeting to order at 7:30 PM.

**II. ROLL CALL**

ROLL CALL:	Present,	Mayor Hoff Commissioner Bordman Commissioner Boutros Commissioner DeWeese Commissioner Harris Mayor Pro Tem Nickita Commissioner Sherman
	Absent,	None
ROLL CALL OF PLANNING BOARD:		
	Present,	Mr. Clein, Chairperson Ms. Boyce Mr. Boyle Mr. Jeffares Mr. Koseck Ms. Lazar Ms. Prasad, alternate member (arrived at 7:32 PM) Mr. Share, alternate member Mr. Williams

Administration: City Manager Valentine, City Attorney Studt, Deputy Clerk Arft, City Engineer O'Meara, City Planner Ecker, Assistant City Planner Baka, Building Director Johnson

**III. ITEMS FOR DISCUSSION**

City Manager explained the meeting format. The city-wide master plan will be discussed, followed by discussion on various issues facing the city regarding land use. No action is anticipated this evening on any of the items. We envision there will be a consensus-driven discussion at the end as to which items are to be brought back to the City Commission to act on formally and provide direction on those issues for the Planning Board.

Public participation will be included as each item is concluded.

A short presentation outlining each item will be made by staff.

Mayor Hoff noted that they hope to have interaction here and gain consensus on how to prioritize the many issues. Through the discussion tonight we will try to prioritize and give the Planning Board some direction on next steps.

**A. City-wide Master Plan Update**

Assistant Planner Baka noted that the most recent comprehensive master plan was completed and adopted in 1980. Since that time, there have been sub-area plans and overlay plans that have been implemented and are essentially master plan updates, including the 2016 plan in 1996, the Eton Road corridor plan in 1999, and the Triangle plan in 2007. Also the Alleys and Passageways plan was done in 2012, and the Multi-Modal plan in 2013. All of those have been used to guide development throughout Birmingham. The discussion has been whether it is time to do a comprehensive master plan update. It has been suggested that with the sub-area plans being fairly recent, generally it is thought it may not be necessary to overhaul the master plan but tie all of the plans together in a way that creates a consistent and comprehensive guide for the future development. The 1980 plan contains outdated demographic and statistical information. The projections were for 20 years out.

Staff provided a sample RFP of the types of things thought to be important to include in the plan, and certainly, public participation is at the top of the list. If the Commission and Planning Board wants to move in that direction, staff would pursue a formal RFP and begin the process.

Mayor Hoff noticed much information to be updated is objective data and she is not certain why we need an outside consultant for that.

Mr. Valentine said part of the reason is the need for a process facilitated by an outside consultant. He agreed that the data analysis is certainly something staff could do, but the public involvement process is more defined, and that process needs to be driven by a hired consultant to insure all public input that is desired is included in the process.

She confirmed that this is scheduled for the 2016-17 budget. She noted that this is not as much a discussion topic, since we are going to move forward.

Ms. Bordman said that she was disappointed after reading the sample RFP and the memo. She did not think it asked for new ideas especially in the residential areas. She did not see a place for this visionary look at the plan.

Ms. Ecker noted that this would be addressed, but this is not going to be a comprehensive master plan. If Birmingham was a community that did not have any sub-area plans or any master plans, then a comprehensive master plan would be needed. She does not envision that we would start from scratch because Birmingham has been consistent in knowing where it wants to go in the different commercial areas. It is more fine tuning some of the areas that have almost been left out by the sub-area plans, such as the residential neighborhoods and the some of the sensitive zones between the residential neighborhoods in downtown.

Mr. Koseck said master plans should be about discovery, gathering information and analyzing information and presenting it. He would like to find someone who has creativity and can help the city connect the dots after analyzing the information. He thinks it requires a specific and unique expertise. In his opinion, the 2016 plan was very successful. He does not think a one day workshop with the public will gather enough information. The influence should be equally shared by people who live in and who have businesses in the community. He said the Planning board references the plan often. He does not want to shortchange the design piece, and suggested giving at least another day or two of workshops.

Mr. Clein agreed that more public engagement is needed and ask for a detailed public engagement plan.

Mr. Boyle thought the 1980 plan did not connect with the public until the vision was completed and presented. He agrees that we need public involvement in the planning process and let the staff and consultants keep the process moving to end up with a product acceptable with everyone in the city.

Commissioner Harris asked if this RFP mirrors the RFP issued 20 years ago for the 2016 plan since he understands it was considered to be successful. Ms. Ecker said that neither she nor Mr. Baka were employed with the city in 1996 when the 2016 plan was written and she has been unable to locate the RFP. She said the last direction staff received from the previous commission was to update the data and pull all the sub-area plans together. She agrees that the 2016 plan was more involved.

Mr. Jeffares said he views this as a strategic plan of our city. He agreed that the Planning Board relies on the plan in every decision that is made. His opinion that there have been several sea changes and doing something like this may not capture the changes. He referenced plans for electric vehicles in the near future and planning for it in the city. He thinks we need to be more all encompassing and stretching a bit more on this.

Commissioner DeWeese missed vision and direction as to where we want to go and how we get there. Residents have a vision of how neighborhoods should be and how the city acts in regard to that. It is all about integration and the perspective. He thinks we need a broader scope and to pay more attention to the vision that people have. He noted the trend in the community for big homes on small lots, and may be coming more narrow in terms of economic perspective due to need for more wealth in order to live here. We need a community consensus of what we want the community to be, and he thinks this was missing. He wants to see a document that gives us a direction and vision. It may be implied, but it was not explicit.

Commissioner Nickita thinks the RFP has to be carefully drafted. He thinks it is a matter of the right consultant to help orchestrate the very solid planning efforts that have been successfully implemented. Also, to look at the gaps that have not been looked at for many years and put it all together. He thinks we can find a consultant if we clearly define the expectations. He thinks someone needs to recognize what the city has brought to the table already, and then orchestrate it with the neighborhoods and seam it together.

Mr. Williams noted that the plans that have been approved are basically touching on commercial areas as they impact the residential areas. He would like to focus on the neighborhood input and that is different from what the city has done in the past. He said the master plan is not comprehensive as it pertains to some of the neighborhoods and some of the transitional areas but more importantly from a future planning standpoint of how the neighborhoods fit into the dynamics of the entire city. We cannot sit back and pretend that an outside entity will be successful at getting the input of the residents. That is up to the Planning Board and City Commission to reach out to the residents.

Mr. Jeffares agreed that the plans that have been implemented are good and need to be looked at now with a vision to the future to make sure they will continue to work. This plan could have a dramatic effect on the neighborhoods.

Mr. Valentine expected to hear comments about the process by which the plan is updated. Staff will go back and rework it based on the comments made and show everyone another draft for any other comments and then move forward with the process.

Ms. Ecker explained for Ms. Prasad that what generally happens in the RFP process is to advertise and invite proposals. In the past, a steering committee or a board or committee has been used to review the proposals along with staff. A number of top candidates are selected and will be invited to interview with the committee and the City Commission and a final consultant is chosen. Mr. Valentine confirmed that this would be done in the fiscal year beginning July 1. It will go through the process at this level to make certain that what is wanted in the RFP is included. It may be this fall or later.

Ms. Ecker stated the selection process would be included in the RFP. This evening was a review of the scope of service.

Mayor Hoff asked for public comments.

Paul Reagan, 997 Purdy, expressed concern about buffers contained in the master plan, emphasis by the city on commercial planning only, at the expense of neighborhoods. He is fearful for property values of homes. He stated that this process has to be neighborhood-centric when moving forward.

DeAngelo Espree, 505 E. Lincoln, asked if there is any plan for a common meeting place for all residents. Ms. Ecker said the master plan does not have a specific recommendation to provide a community center, but over the years there have been many discussions with the expansion of the YMCA and the Barnum property, but nothing has so far moved forward. It was noted there has been no discussion about expanding or adding another Department of Public Services building, nor is there a present need.

Mayor Hoff summarized that the comments heard tonight will be incorporated into a new proposed RFP which will come back to the commission.

## **B. Transitional Zoning (TZ2 District)**

Ms. Ecker summarized the transitional zoning issues already adopted. She noted the Planning Board has been studying TZ2 district properties. The board is looking for some direction from the City Commission as to what they would like to see and also share what the board has done so far. She said the uses are always the biggest issue. The board has come up with a new proposal and would like the commission to weigh in.

Some uses in TZ2 have been eliminated, shifted around as to which are allowed as of right, and which are allowed as a special land use permit only, and looking at them clearly in relation to TZ1, TZ2 and TZ3. There was some concern that maybe there was a big jump from TZ1 to TZ2 and not a graduated system that would make it a seamless transition from TZ1 to TZ2 to TZ3 so there was a clear differentiation and it moved the most uses to TZ3. If adopted, TZ1 and TZ3 zones which were already adopted, may need to be adjusted.

Mr. Jeffares added that parking requirements were considered carefully. Ms. Ecker said the main focus has been with uses.

Mayor Hoff said traditionally the special land uses are the ones that we want to control the most. She noticed that quite a few special land uses especially in TZ2 have been eliminated and she asked where they have been moved. Ms. Ecker confirmed that some have been moved to other categories. Originally, the board made all of the food-related uses in a special land use permit category. Since then, the board decided the better demarcation would be parking and traffic and the impact to the neighborhood.

Mayor Hoff asked if the food uses have been moved to commercial permitted uses. Ms. Ecker noted that food uses have been moved there in some cases, but not all. Bank or credit union with a drive-thru have been removed due to the traffic and circulation issue for the neighborhood.

Ms. Boyce said they realized that other ordinances are in place that define noise, smell, and dumpsters, so there are other controls over those uses. Parking is more challenging. It was felt that controls are in place already to be able to put something like a bakery as a permitted use in TZ2 rather than as a special land use.

Commissioner DeWeese said part of the issue here is a different vision of the residents among themselves. Some like a more urban vision, while others that do not want them close to their homes. He has not heard complaints about the layout and structure, but has heard people complain about the uses. He thinks it would be better to have fewer permissible uses in the beginning. He said the basic notion is that it is a buffer for residential areas. He is leery about special land uses, and feels the public does not trust the special land use process. The cost burden of a special land use permit is high in both time and money to a small business owner. We want to find the uses that are acceptable, minimize the use of special land use permits and begin with fewer uses and add more in the future, if appropriate.

Commissioner Harris asked whether TZ2 should just apply in certain areas or be available generally for applicants. Ms. Ecker said there was some discussion about that and they are looking for some input from the commission in that regard. The biggest problems fall into the TZ2 category.

Mayor Hoff noted that the commission did designate specific properties for TZ1 and TZ3. Ms. Ecker agreed, and said that was the original proposal for TZ2 as well, so the board is looking for specific feedback from the commission: should they continue to study the specific properties and determine if TZ2 is a good fit, or present the TZ2 ordinance and let the commission decide to create the district and let people apply individually to come in. The Planning Board has not had a public hearing on it yet, so it is still in the draft stage.

Commissioner Sherman noted that the comments received at the commission's TZ2 public hearing were concerns about uses in the TZ2 area. The idea was to restrict the uses more than they were, and move things to areas where we could control them or add them in later. This draft expands the uses in the area, and reduces the controls rather than increases them. He does not think this has met the objective of what was suggested by the commission. If these areas are designed to protect the neighborhoods, then they need to be looked at from neighborhood side. He suggested fewer uses with more controls that can be relaxed as time goes on if appropriate. He expected to see more under SLUPs, far fewer uses and far less intense uses.

Mr. Boyle asked Commissioner Sherman for specifics. Commissioner Sherman used a delicatessen or specialty food shop as an example. Look at the definition and how is the food prepared or is it packaged. The dry cleaner was originally a special land use and now it is a permitted use. He said things that were agreed to at the time were fine as a special land use and wanted to look at the things that were there that could be done without special land use. Instead, things have been taken out of special land use and made them permitted uses. From

a neighborhood standpoint, we are trying to create a buffer and calm the area between downtown and the neighborhood.

Mr. Williams said they also took things that were in the special land use permit designation and eliminated them entirely, and there are more of those than were added. Of those things that have been eliminated, does the commission agree that some of these should be brought back in. The previous commission was generally unspecific.

Ms. Boyce said it is helpful to go back and look at what is permitted in O1 and O2. When she compares the list side by side, the new one has a lot less permitted uses.

Mr. Clein requested more specific direction. Mayor Hoff agreed with him, and the new commission has not discussed each of the new uses.

Commissioner Nickita said it is important to recognize why it was done in the first place. The fundamental issue is to recognize there was a lot of inconsistencies, edge conditions with no controls, inappropriate uses in the perimeter transitional zone. The effort so far has organized and recognized the gaps and issues and inconsistencies and pulled it all together. Now it is a matter of refining it. When we talk about this, we want to make sure we are up to speed on the accomplishment and value of what has been done. He encouraged the commission to have a dialog on that level. The land use is only one discussion.

Commissioner Harris agreed that the new commission would be helped by seeing the comparisons to O1 and O2, and in that way the degree of change can be assessed.

Commissioner DeWeese would like the board to consider there may be some areas where some of the uses are acceptable because they are not right next to residences. He said we still need to do the follow-up.

Commissioner Boutros said we agree we need to move forward and identify first if we need TZ2. If we do, we have identified lots in the area and we need to determine whether these are the final lots, or are we going to open it to even more. We need to determine the reasons why a use should not be there.

Commissioner DeWeese suggested a study session to discuss the reasons as to why this is being done, and what is being done. Then the commission can provide a policy direction, and have the board come back with the details.

Mayor Hoff stated we already approved TZ1 and TZ3. We just have to fine tune TZ2. We already have the reasons for the transition zones. She is hearing that the questions are about the uses, and perhaps we need to have the comparison discussions.

Commissioner Bordman asked is the plan to review the uses.

Mr. Valentine suggested the commission wants to look at the direction this is headed, so that when it goes back to the board, it can continue to do the work that the commission is expecting the board to do.

Commissioner Bordman has listened to the board comments and their thought process about the impact on the neighborhoods of parking and have eliminated the negative impact of



parking. The board carefully thought about what the residents would like to have that would not have a negative impact on the neighborhood. She is highly satisfied with the work done on these uses. She thinks they are compatible with a buffer zone transition area. We ought to concentrate whether we want the document as it is and apply it to specific places, or if we want this document as it is and let the owner apply for this zoning. She thinks that is the commission's decision.

Mr. Valentine said in terms of process, the commission can draft the ordinance, but that's not the role of the commission. The function is to provide the input that the planning board is looking for so they can provide the recommendation to the commission in vetting this all out. As opposed to putting specifically what you want, you could bypass the Planning Board, but that is not the intent. The intent is to give the Planning Board the direction so they can finish the work they have started with the clarity and expectation that you are expecting.

City Attorney Studt stated that the political decision is the commission's. The Planning Board is the body of experts to guide the commission to where the commission wants to go.

Mayor Hoff hears a difference of opinion here. Commissioner Sherman expressed an opinion that is different. She thinks the commission needs to discuss and decide where we go. Mr. Valentine agreed, and said the commission would review it and then provide direction to Planning Board to work out the final details so the commission can then approve it based on a recommendation.

Ms. Lazar asked would a public hearing yield more information to assist the commission. We are considering the importance of the public opinion, and then it can be furnished to the commission. It is an impact on the neighborhoods and we are trying to be sensitive to needs.

Mr. Williams commented that what is missing is the history of the review of O1 and O2 and the types of uses that began years ago. He suggested a narrative to combine with the charts for the public hearing.

Ms. Boyce would like the commission to dive into this more. General direction has not worked so far.

Mr. Koseck thinks most of the issues can be agreed on, if properly presented along with O1 and O2 discussion.

Mayor Hoff requested clarity on agreement where the public hearing should be held.

Commissioner Sherman agrees that it would be good for new commissioners to have the history of this and the comments summarized as part of the narrative for review. The Planning Board and Commission can each have their discussion before a public hearing and get some consensus. The Commission can send some additional direction based on that to the Planning Board so they can finish their work. Ms. Ecker could update her narrative to include what the public comments were and the Commission discussion before presenting it.

Mr. Williams suggested including what the properties are now and what is permitted now and what they would be. Mayor Hoff stated that was presented previously to the Commission.

Commissioner Boutros suggested what people want to know is what might be there. He said not everyone is going to agree. He is unsure that more information is what is needed.

Mayor Hoff suggested that the packet of materials should be some of the information and would be part of the narrative.

Commissioner Bordman thinks it would be an exhaustive waste of time. The board has spent a huge amount of time on this with considerations that she would apply. She does not see anything on the list of uses that is highly burdensome. She does not want to argue with fellow commissioners about the individual uses. We would be spending hours as the Planning Board did debating with each other about the uses. She suggested to have a public hearing so we can get public input, come back to the Commission to decide if we want to apply this to specific property or leave it as an option for property owners.

Mr. Share said the board should have a public hearing, after which the board will make a recommendation to the Commission. The commission can make its decision.

Commissioner DeWeese thinks it would be useful for commission to get the packet as well to become familiar.

Paul Reagan, 997 Purdy, commented that the history is important and neighborhoods have pushed back hard. The concern is intensive uses with cars, and property values. It's about keeping the encroachment of intensive commercial properties from moving into the neighborhoods.

### **C. Private Development Parking Requirements**

Mr. Valentine stated the intent of these items is not to debate them in general but to have the conversation whether or not these issues should be coming back for further discussion.

Ms. Ecker said two different concerns have been heard over the years. Parking standards for all commercial uses of properties that are not located within a Parking Assessment District (PAD) are in the ordinance. The two central issues for discussion are: 1. Should we have minimum standards and if so, should we change the minimum standards, and 2. Should we have a maximum standard and state that we do not want more parking lots like Adams Square. As for the PAD, on-site parking is not required, except for residential uses. Do we want to provide more public parking throughout the city or not. A different kind of development happens when inside the PAD.

Ms. Ecker commented that those in the PAD have already paid in through special assessment when the parking deck was built.

Mr. Boyle suggested that parking is a feature of the city, and of land use and would like it included in the master plan.

Mr. Williams said we hear all the time there is not enough parking. He agrees city wide, parking has to be dealt with in the master plan.

Ms. Boyce said we should be focusing on the requirement on parking in residential development which drives the price of the residential units, so we are ending up with fabulous million dollar properties in town, but they are not available to everyone who would like to be in the

downtown. One dictates the other and needs to be included in the master plan and discuss where we want the city to be.

Commissioner Nickita said the city has done better than most cities in terms of how we have dealt with parking and how it has driven development. Now there are changes in how people use parking. Because of parking and the parking standards, we cannot get what we want to do in the city core. At the same time, we advocate for significant amount of walkability, increased mobility in terms of non-motorized transportation, and mass transit. There are all kinds of drivers and changes, and we should try to get on top of this as opposed to letting it just happen. He suggested taking an aggressive move of examining the current circumstances in parking and seeing how we can incorporate those as much as possible. He does not think we can do it in the master plan. He thinks that this takes a higher level of involvement, and we may want to consider incorporating some level of dialogue with a parking consultant that understands these complexities and include that into the discussion to drive the way we address our other plans and incorporate that into our master plan. There are many aspects, including future recognition of how things are going to evolve.

Mr. Boyle feels parking standards should be included in the master plan. Discussion continued.

Mark Johnson, non-resident, said the biggest problem is lack of multi modal transportation and suggested the city study alternate ways to move around the city. Currently, everyone must use their car. Study ways to move around the city at the same time the parking issues are discussed.

#### **D. Existing commercial non-conforming buildings**

Ms. Ecker described the issue as being several properties that are non-conforming with regards to height, bulk and mass. She provided some history of the buildings in question.

After discussion regarding maintenance and renovations that might be permitted, the number of variances that would be required, it was agreed that the discussion should be continued at the Planning Board level, with direction from the Commission.

There were no public comments.

#### **E. Definition of retail**

Ms. Ecker described the issue as the city's definition of retail in the ordinance, and people who would like the definition to be more specific. She said this comes up at the shopping district level. The retailers downtown want to see more retail. For the most part, the general public wants to see an active retail type use whether it is retail or restaurant. There is some debate on what percentage of each. The building owners have a different view.

Commissioner Nickita thinks this is long overdue for discussion. He feels it needs to be re-examined and cleaned up.

The consensus is to continue discussion on the definition of retail.

There were no public comments.

#### **F. Dormer considerations**

Building Director Johnson provided background on this issue. Recently, some houses appear to be three stories tall. The ordinance allows two stories in height for single family residential. It also allows a habitable attic. Dormers are utilized to give some additional height in the living space in the attic. Changes in the code over the years permitted an attic that realistically could be 100% habitable space and meet the requirements of the zoning ordinance and the residential code. Most complaints come from the neighborhoods with smaller size lots.

Commissioner DeWeese said feedback he has received indicates there is no consensus on this from the public. He prefers waiting until we go through the master plan process with residents.

Commissioner Nickita said the Building Department is having trouble legislating this. He said the department needs us to intervene soon and not wait for the master plan process to act.

Commissioner Bordman said it bothers her that the department is put in a bad position because the director does not have direction from the city to manage these requests. We need to have something developed so that the department can be consistent from project to project.

Ms. Boyce thinks the Planning Board can clean it up so there are no questions.

Mr. Boyle thinks we need the discussion with the public as well, and not just regulate this without their input.

Mr. Koseck said this is not a master plan issue, and the department needs some direction. This helps people who design as well.

Mr. Williams suggested bringing some representatives from the neighborhoods also.

Mayor Hoff said this issue will be placed on the Planning Board action list.

There were no public comments.

#### **G. Lot consolidation process**

Mr. Johnson provided background on the issue. He indicated that the city code and zoning ordinance lack regulations for lot combinations. There has been an increase in non-typical combination inquiries, which have been denied because they are inconsistent with how the block was intended to develop based on its layout and standard zoning principles for front, rear and side open spaces. Some have been approved by the BZA after being denied.

Commissioner Nickita said this goes to the master plan, and is being driven by the development community. He thinks it is an inappropriate way of city building. In the meantime, we should have a stopgap circumstance that allows the city control. At the very least, he suggested we immediately take a look at the possibility of incorporating some type of review as done in lot splits, and apply it to lot combinations in a similar manner. Then follow up with the discussion in the master plan.

The consensus was that it has to be dealt with now, and will come back to the Commission.

#### **H. Planning Board Action List Review**

It was agreed that the Action List be amended following City Commission review and discussion.

#### **I. Public Facilities Review Process**

Ms. Ecker said there was a lot of discussion when the fire station went through the public review process. In the past, a courtesy review was done because all of the city properties are zone PP (Public Property) and are not required to follow the same standards that other properties owned privately. Concerns were raised about noticing, public hearings, the process, who had input, what type of standards we would apply. She has offered a review process for discussion purposes.

Ms. Ecker said the Library (Phases 2 and 3) may be renovated potentially. Mr. Valentine said this public facility review process would be more for external type changes, not interior renovations.

Mayor Hoff said she does not think this has the immediacy of the other issues, but does think it is a good idea.

Mr. Jeffares said he does not want to lose track and wait too long to discuss this process.

Mayor Hoff said maybe this is something that staff can do and then go to the Commission, and not to Planning Board.

Mr. Valentine said we have a solid framework for a process that we created going through the fire station project.

There were no public comments.

<b>V. ADJOURN</b>
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The meeting adjourned at 10:17 PM

/ca

**NOTICE OF PUBLIC HEARING**  
**BIRMINGHAM CITY COMMISSION**  
**AMENDMENT TO ZONING ORDINANCE**

Meeting - Date, Time, Location:	Monday, July 25, 2016, 7:30 PM Municipal Building, 151 Martin Birmingham, MI 48009
Nature of Hearing:	<p>To consider an amendment to the Zoning Ordinance, Chapter 126, to amend:</p> <ul style="list-style-type: none"> <li>• TO AMEND ARTICLE 04 DEVELOPMENT STANDARDS, SECTION 4.90, WN-01 (WINDOW STANDARDS) TO ALTER THE REQUIRED GLAZING ON COMMERCIAL BUILDINGS.</li> <li>• TO AMEND ARTICLE 07 ARCHITECTURAL DESIGN REQUIREMENTS, SECTION 7.05, REQUIREMENTS.</li> </ul> <p>A complete copy of the proposed ordinance amendment may be reviewed at the City Clerk's Office.</p>
City Staff Contact:	Jana Ecker 248.530.1841 <a href="mailto:jecker@bhamgov.org">jecker@bhamgov.org</a>
Notice:	Publish: July 3, 2016
Approved minutes may be reviewed at:	City Clerk's Office

Should you have any statement regarding the above, you are invited to attend the meeting or present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.



## MEMORANDUM

Planning Division

**DATE:** July 14, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Matthew Baka, Senior Planner

**APPROVED:** Jana L. Ecker, Planning Director

**SUBJECT:** Public Hearing to consider amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 (WINDOW STANDARDS) and Article 07, section 7.05 (ARCHITECTURAL DESIGN REQUIREMENTS)

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At the November 23, 2015 City Commission meeting, a public hearing was held to consider proposed amendments to the current window standards in the Zoning Ordinance. The purpose of these amendments was to reduce the recurring need for applicants to seek variances from the Board of Zoning Appeals due to difficulty meeting those requirements. The amendment that was proposed at that time was to apply the standard of measuring the percentage of glazing on a site used in the Downtown Overlay Zone to both the Triangle Overlay Zone and to the general development standards for the rest of the city. This requirement is to calculate the amount of glazing on a commercial property by measuring between 1 and 8 feet above grade. At the end of the public hearing, the proposed amendments were adopted by the City Commission.

At that time it was acknowledged that additional changes needed to be made beyond what was proposed and it was determined that there should be further study on certain aspects of the standards before additional changes were recommended. Since that time, the Planning Board has held several study sessions on the subject of window standards.

On June 8, 2016, the Planning Board conducted a public hearing on the proposed changes to the glazing standards contained in Article 4 and 7 as noted above. The Planning Board voted unanimously to recommend approval of the proposed amendments to the City Commission. The Planning Board is now recommending approval of several minor changes to the standards contained in Article 04 of the Zoning Ordinance, as well as the elimination of additional standards in Article 07 that are in conflict with other areas of the Zoning Ordinance. The proposed changes would add a requirement to have at least 30% glazing on rear elevations with a public entrance, increase the amount of glazing permitted on upper floors, prohibit blank walls longer than 20' on all elevations facing a park, plaza or parking lot, and would also provide the reviewing board with the flexibility to allow adjustments to the amount of glazing under specific conditions.

On June 27<sup>th</sup>, 2016 the City Commission set a public hearing to consider the proposed amendments to the Zoning Ordinance. Please find attached the staff report presented to the Planning Board, along with the proposed ordinance language and minutes from previous discussions on the topic.

**Suggested Action:**

To approve the proposed amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.





# MEMORANDUM

Planning Division

**DATE:** June 1, 2016

**TO:** Planning Board

**FROM:** Jana Ecker, Planning Director

**SUBJECT:** Public Hearing to consider amendments to Chapter 126, Zoning, Article 04, Section 4.90 WN-01 (WINDOW STANDARDS) and Article 07, section 7.05 (ARCHITECTURAL DESIGN REQUIREMENTS)

At the November 11, 2015 Planning Board meeting the Board held a public hearing to discuss proposed amendments to the current window standards in the Zoning Ordinance. The purpose of these amendments was to reduce the recurring need for applicants to seek variances from the Board of Zoning Appeals due to difficulty meeting those requirements. At that time it was acknowledged that additional changes needed to be made beyond what is currently proposed and it was determined that there needs to be further study on certain aspects of the standards before additional changes can be recommended. It was decided however, that the standard of measuring the percentage of glazing on a site should be consistently measured between 1 and 8 feet above grade. Accordingly, the Planning Board recommended approval of the proposed amendments to the City Commission, which were later adopted by the Commission. Since that time, the Planning Division has held several study sessions on the subject of window standards.

## **Background**

Over the past several years the Planning Board has performed site plan reviews where the Planning Board expressed support for the proposed design but the applicant has been forced to pursue variances because they were not able to meet the window standards contained in the Zoning Ordinance. Accordingly, the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the intent of the window standards remains in place. The intent of the glazing requirements has been to activate the streets and public spaces of Birmingham by creating an interactive relationship between the pedestrians and the buildings in commercial areas.

There are currently four sections of the Zoning Ordinance that regulate the amount of glazing, or windows, that are required in various commercial areas. Those sections are as follows:

## **Downtown Overlay**

Article 03 section 3.04(E):

4. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70% of its portion of the facade, between one and eight feet from

the ground. The wood or metal armature (structural elements to support canopies or signage) of such storefronts shall be painted, bronze, or powder-coated.

6. The glazed area of a facade above the first floor shall not exceed 35% of the total area, with each facade being calculated independently.

7. Glass shall be clear or lightly tinted only. Opaque applications shall not be applied to the glass surface.

### **Triangle Overlay District**

Article 03 section 3.09:

#### **B. Windows and Doors:**

1. Storefront/Ground Floor. Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed and painted. No less than 70% of the storefront/ground floor facade between 1 and 8 feet above grade shall be clear glass panels and doorway. Glass areas on storefronts shall be clear, or lightly tinted. Mirrored glass is prohibited. Required window areas shall be either windows that allow views into retail space, working areas or lobbies, pedestrian entrances, or display windows set into the wall. Windows shall not be blocked with opaque materials or the back of shelving units or signs. The bottom of the window must be no more than 3 feet above the adjacent exterior grade.

### **All other Commercial zones**

Article 04 section 4.90:

The following window standards apply on the front facade and any facade facing a street, plaza, park or parking area:

**A. Storefront/Ground Floor Windows:** Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:

1. No less than 70% of the storefront/ground floor facade between 1 and 8 feet above grade shall be clear glass panels and doorway.
2. Glass areas on storefronts shall be clear or lightly tinted in neutral colors. Mirrored glass is prohibited.
3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
4. Windows shall not be blocked with opaque materials or furniture, products, signs, blank walls or the back of shelving units.
5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.
6. Blank walls of longer than 20 feet shall not face a public street.

**B. Upper Story Windows:** Openings above the first story shall be a maximum of 50% of the total facade area. Windows shall be vertical in proportion.

In addition, there is an obscure section of the Zoning Ordinance that includes an additional provision that also regulates the amount of glazing required on commercial buildings. This section of the code only requires 50% clear glazing at street level.

Article 07 section 7.05, Architectural Design Review:

## **7.05 Requirements**

- B. A minimum of 50% of that portion of the first floor facade of a building with a commercial use(s) on the first floor and that faces a public street, private street, public open space or permanently preserved open space shall contain clear glazing.

### **Potential changes**

During recent site plan reviews where variances have been pursued, the subject properties have all been located outside of the overlay zones. Accordingly, the focus of the study sessions up to this point has been on the standards contained in Article 04 section 4.90, which affect all areas not within an overlay zone. The Board has discussed creating a waiver that is contingent on a set of criteria that would allow the Planning Board, Historic District Commission, or Design Review Board to alter the glazing requirements under certain circumstances. The Planning Board developed a list of criteria that must be met in order to qualify for the modification of the standards. The draft language of the waiver criteria is attached for your review.

Another potential change that was discussed at the previous Planning Board study session was combining the provisions of Article 04 and Article 07 into one set of standards that requires 70% glazing on the facades that face the street and then reducing the requirement to 50% on secondary facades that face parking areas and open space. At the last study session the Planning Board discussed an error that was discovered by staff in the Zoning Ordinance that has a significant effect on how the existing language is enforced. The definition of façade was inadvertently altered when the Zoning Ordinance was reformatted in 2005. The current definition of façade reads as follows:

**Facade:** The vertical exterior surface of a building that is set parallel to a **setback line**.

However, prior to the reformatting of the Zoning Ordinance the definition of facade read as follows:

**Facade** means the vertical exterior surface of a building that is set parallel to a **frontage line**.

The change from frontage line to setback line significantly alters what is considered a façade as a frontage line is defined as follows:

**Frontage line:** all lot lines that abut a public street, private street, or permanently preserved or dedicated public open space.

With this discovery the window standards would only be enforced on facades as defined in the Zoning Ordinance prior to the reformatting. As this is a clerical error, it will be corrected. This eliminates glazing required on non-street facing facades and will reduce the number of variance requests but will still provide glazing on elevations of buildings that face the street.

Accordingly, the Planning Division is of the opinion that this clerical error correction would bring the regulations back in line with the original intent of the window standards. This would eliminate the need for creating definitions for primary and secondary facades as discussed at previous study sessions. As a result of this discovery, the Planning Board decided to eliminate the draft language that delineated between facades that face a street and those that do not. However, the Board did determine that building elevations that have a public entrance should contain some element of glazing. Accordingly, the Board directed staff to draft a provision that requires 30% glazing on those elevations that have a public entrance but do not face a frontage line. In addition, the Planning Division recommends adding Article 4, section 4.90(C) to prevent blank walls in most situations, and would also recommend the removal of Article 7, Processes, Permits and Fees, section 7.05(B), Architectural Design Review, as it is out of place in this location, and would be best addressed in Article 4, Development Standards – Window Standards, as noted above.

On May 11, 2016, the Planning Board discussed the proposed amendments to the glazing standards, and voted unanimously to set a public hearing for June 8, 2016. No changes have been made to the proposed language since that time. Draft ordinance language is attached for your review, along with relevant meeting minutes.

**Suggested Action:**

To recommend to the City Commission approval of the proposed changes to Article 04, Section 4.90 WN-01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 04 DEVELOPMENT STANDARDS, SECTION 4.90, WN-01 (WINDOW STANDARDS) TO ALTER THE REQUIRED GLAZING ON COMMERCIAL BUILDINGS.

Article 04, section 4.90 WN-01 shall be amended as follows:

**4.90 WN-01**

This Window Standards section applies to the following districts:

O1, O2, P, B1, B2, B2B, B2C, B3, B4, MX, TZ3

The following window standards apply ~~on the front façade and any façade facing a street, plaza, park or parking area:~~

- A. Storefront Windows: Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:
  - 1. No less than 70% of a storefront/groundfloor façade between 1 and 8 feet above grade shall be clear glass panels and doorway.
  - 2. Glass areas on storefronts shall be clear, or lightly tinted in neutral colors. Mirrored glass is prohibited.
  - 3. Required window areas shall be either pedestrian entrances, windows that allow views into retail space, working areas or lobbies. Display windows set into the wall may be approved by the Planning Board.
  - 4. Windows shall not be blocked with opaque materials or furniture, products, signs, blank walls or the back of shelving units.
  - 5. The bottom of the window shall be no more than 3 feet above the adjacent exterior grade.
  - 6. ~~Blank walls of longer than 20 feet shall not face a public street.~~
- B. ~~Upper Story Windows: Openings above the first story shall be a maximum of 50% of the total façade area. Windows shall be vertical in proportion.~~ **Ground floor building elevations: Building elevations on the ground floor that do not face a frontage line but contain a public entrance shall be no less than 30% glazing between 1 and 8 feet above grade.**
- C. **Blank walls of longer than 20 feet on the ground floor shall not face a plaza, park, parking area or public street.**

- D. Upper Story Windows: Openings above the first story shall be a maximum of 50% of the total façade area. Windows shall be vertical in proportion.**
- E. To allow flexibility in design, these standards may be modified by a majority vote of the Planning Board, Design Review Board, and/or Historic District Commission for architectural design considerations provided that the following conditions are met:**
- a. The subject property must be in a zoning district that allows mixed uses;**
  - b. The scale, color, design and quality of materials must be consistent with the building and site on which it is located;**
  - c. The proposed development must not adversely affect other uses and buildings in the neighborhood;**
  - d. Glazing above the first story shall not exceed a maximum of 70% of the façade area;**
  - e. Windows shall be vertical in proportion.**

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, City Clerk

**ORDINANCE NO. \_\_\_\_\_**

**THE CITY OF BIRMINGHAM ORDAINS:**

AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 07 ARCHITECTURAL DESIGN REQUIREMENTS, SECTION 7.05, REQUIREMENTS.

Article 07, section 7.05 shall be amended as follows:

**7.05 Requirements**

(See architectural design checklist on Site Plan Review application).

A. Building materials shall possess durability and aesthetic appeal.

~~B. A minimum of 50% of that portion of the first floor facade of a building with a commercial use(s) on the first floor and that faces a public street, private street, public open space or permanently preserved open space shall contain clear glazing.~~

**BE.** The building design shall include architectural features on the building facade that provide texture, rhythm, and ornament to a wall.

**CE.** Colors shall be natural and neutral colors that are harmonious with both the natural and man-made environment. Stronger colors may be used as accents to provide visual interest to the facade.

**DE.** The building design shall provide an interesting form to a building through manipulation of the building massing. This can be achieved through certain roof types, roof lines, and massing elements such as towers, cupolas, and stepping of the building form.

**EF.** These architectural elements shall be arranged in a harmonious and balanced manner.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 to become effective 7 days after publication.

\_\_\_\_\_  
Rackeline J. Hoff, Mayor

\_\_\_\_\_  
Laura Pierce, City Clerk

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, OCTOBER 24, 2012  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held October 24, 2012. Chairman Robin Boyle convened the meeting at 6:30 p.m.

**Present:** Chairman Robin Boyle; Board Members Scott Clein, Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams;

**Absent:** Student Representative Kate Leary

**Administration:** Matthew Baka, Planning Specialist  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**10-180-12**

**FINAL SITE PLAN REVIEW**

**995 S. ETON** (postponed from the meeting of October 10, 2012)

**Saretsky, Hart, Michaels & Gould Law Firm**

**Two-story addition to building in existing outdoor courtyard**

Ms. Ecker highlighted the proposal. The site located at 995 S. Eton is a one-story building that currently houses a law office. The petitioner intends to build a two-story addition at the southeast corner of the building (facing Cole Ave.) at the location of an existing outdoor courtyard. The addition will add 1,043 sq. ft. for a total of 5,423 sq. ft. The existing parking lot will remain, though new plantings are proposed to buffer the addition from the parking lot. The applicant proposes an aluminum and glass façade with swinging window treatments for the addition. The applicant is also proposing the installation of a new rooftop mechanical unit on the existing roof with mechanical screening to match existing screens. The existing site is zoned MX, Mixed Use. The law office is a permitted use within this district.

The increase in square footage increases the applicant's parking requirement by three spaces. The applicant intends to convert one barrier-free parking spot to an unrestricted parking spot, and seeks to utilize two on-street parking spaces on Eton St. toward their parking requirement in exchange for making improvements in the right-of-way. ***In order to count these spaces, the applicant will be required to obtain approval from the City Commission. If approval is not granted, the applicant will be required to obtain a variance from the Board of Zoning Appeals ("BZA") or enter into a shared parking agreement that must be approved by the Planning Board.***

The second level of the south elevation on Cole St. does not meet the glazing requirements of the MX District. The applicant has agreed to reduce the amount of glazing on the second floor



of the addition to comply with the maximum 50 percent glazing requirement. ***If the glazing requirement is not met, a variance will be required from the BZA.***

***All exterior design changes to the existing building will also be reviewed by the Design Review Board.***

Mr. Roman Bonaslowski from Ron & Roman Architects was present for the applicant. With regards to the parking along Eton, if the Engineering Dept. believes there is a problem with the tightness of Cole as it resolves itself on Eton, he suggested the opportunity exists to make modifications on the south side of Eton if they believe it is too tight of a condition. Secondly, if there is opportunity to find 50 percent glazing going up from the top of the existing parapet they would prefer to have the glass up there or have it continue behind the louvers. It seems reasonable to add an additional tree on Cole. He requested that lighting not be a street improvement along Eton until there is a determination of what is happening along the entire Eton Corridor, and an understanding on how that street lighting can work.

Mr. Miles Hart from the law firm said their employee base is not growing. They need more space to spread out and into offices in order to have better working conditions. They don't have an issue with parking.

Mr. Williams thought the glazing on the second floor adds interest to the building. Mr. DeWeese agreed. To him it looks better if the top and bottom windows are the same size and the second floor is defined as starting at the top of the existing building.

There were no comments from the public at 8:55 p.m.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. DeWeese to approve the Final Site Plan and Design Review for 995 S. Eton, Saretsky, Hart, Michaels & Gould Law Firm, with the following conditions:**

- 1. Applicant obtain approval of the City Commission for the use of two parking spaces on S. Eton or obtain a parking variance from the BZA;**
- 2. Applicant submit details for administrative approval for all landscaping, plant material, the location of the Knox box, and a recalculated glazing requirement on the south and east elevations that incorporates calculating the second floor glazing from the line of the existing building's roofline. A tree will be added on Cole.**
- 3. Applicant replace non cut-off light fixtures with cut-off fixtures to bring the site into compliance with the current ordinance;**
- 4. Applicant obtain approval from the Design Review Board for the proposed addition.**

Members of the public had no final comments at 9 p.m.

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Whipple-Boyce, DeWeese, Boyle, Clein, Koseck, Lazar, Williams

Nays: None  
Absent: None

## **10-183-12**

### **MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

- a. Communications (none)
- b. Administrative Approvals
  - 335 E. Maple Rd. – To slightly re-design the proposed storefront at grade level to include an additional entrance door for the office component of the building.
  - 953 S. Eton – Install five ton condenser on roof/"Lamsl" painted to match building. Height of unit: 33 in.; height of screening: 41 in.
- c. Draft Agenda for the Regular Planning Board Meeting on November 14, 2012
  - Park St. re-zoning application;
  - Max and Erma's space for Stoney Creek Steakhouse; and
  - 550 W. Merrill, School Administration Building, for office use.
- d. Other Business
  - 2013 Bistro Update – The City Commission has sent three bistros for the Planning Board to look at: What Crepe?, Birmingham Sushi, and Crush.
  - Mr. Baka thought it might be useful in the future to give this board the flexibility to vary from the glazing requirement. Board members also agreed that applicants should not be required to appear before two boards for their reviews.

**PLANNING BOARD MINUTES  
FEBRUARY 27, 2013**

**PUBLIC HEARING**

**1. TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:**

**TO AMEND ARTICLE 04 DEVELOPMENT STANDARDS, SECTION 4.83, WN-01 (WINDOW STANDARDS) TO ALLOW DESIGN FLEXIBILITY AS PERMITTED BY THE PLANNING BOARD, DESIGN REVIEW BOARD OR HISTORIC DISTRICT COMMISSION.**

Chairman Boyle opened the public hearing at 7:38 p.m.

Mr. Baka recalled that on October 24, 2012 the Planning Board approved a two-story addition to the office building at 995 S. Eton. However, the applicant was forced to revise the architectural design of the addition in order to meet the window standards established in the Zoning ordinance. At that time, it was discussed whether the Ordinance could be amended to give the reviewing City board the authority to allow architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

On January 9, 2013 the Planning Board conducted a study session to discuss a draft ordinance amendment aimed at allowing the reviewing board the flexibility to modify the window standards. At that time, there was discussion regarding limiting the amendment to the upper stories of a building. Accordingly, the Planning Board set a public hearing for February 27, 2013 to review the draft ordinance.

Mr. Baka said that consideration of window standards normally would only go to one or two relevant boards. Mr. Koseck thought that requiring an applicant to appear before two boards adds confusion. The board's consensus was that either board could make the call.

No one from the public wished to speak on this matter at 7:45 p.m.

**Motion by Mr. DeWeese**

**Seconded by Mr. Clein to recommend approval to the City Commission to amend Article 04, Section 4.83 Wn-01(Window Standards) to encourage flexibility in design. These standards may be waived by a majority vote of the Planning Board or Design Review Board and the Historic District Commission, when required, for architectural design considerations.**

**Motion carried, 7-0.**

**VOICE VOTE**

Yeas: DeWeese, Clein, Boyle, Koseck, Lazar, Whipple-Boyce, Williams

Nays: None

Absent: None

**CITY COMMISSION MINUTES  
MAY 6, 2013**

**05-148-13                                      PUBLIC HEARING – ZONING ORDINANCE  
AMENDMENT WINDOW STANDARDS**

The Mayor opened the Public Hearing at 7:40 PM to consider an amendment to the Zoning Ordinance, Chapter 126, Article 04 Development Standards, Section 4.83, WN-01 (Window Standards).

Mr. Baka explained that the Planning Board requested a modification to the ordinance to allow some flexibility regarding window standards due to a recent site plan review. Mr. Currier recommended the Planning Board develop effective standards for when the second floor window requirements could be waived.

The Mayor closed the Public Hearing at 7:42 PM. The Commission took no action.

**PLANNING BOARD MINUTES  
AUGUST 14, 2013**

**STUDY SESSION  
Glazing Standards**

Ms. Ecker noted that on October 24, 2012 the Planning Board approved a two-story addition to the office building at 995 S. Eton. However, the applicant was forced to revise the architectural design of the addition in order to meet the window standards established in the Zoning Ordinance. At that time, several members of the Planning Board expressed support for the proposed design. It was discussed whether the Ordinance could be amended to authorize the reviewing City Board to give architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

On January 9, 2013 the Planning Board conducted a study session to discuss a draft ordinance amendment aimed at allowing the reviewing Board the flexibility to modify the window standards. At that time, there was discussion regarding limiting the amendment to the upper stories of a building. Accordingly, the Planning Board set a public hearing for February 27, 2013 to review the draft ordinance amendment.

On February 27, 2013 the Planning Board recommended approval to the City Commission.

On May 6, 2013 the City Commission reviewed the ordinance amendment and sent it back to the Planning Dept. The City Attorney asked for more specific requirements to be added that would allow the Planning Board to waive the glazing requirements on the upper levels.

The Planning Board reviewed the revised ordinance and changed the wording as follows:

" . . . To encourage flexibility in design these standards may be waived by a majority vote of the Planning Board and/or Historic District Commission for architectural design considerations. . . "

b. The scale, color, design and quality of materials of upper stories must be consistent with the building and site; and

c. The proposed development must not adversely affect other uses and buildings in the neighborhood.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Clein to schedule a public hearing on Glazing Standards for September 11, 2013.**

**Motion carried, 5-0.**

**VOICE VOTE**

Yeas: Whipple-Boyce, Clein, Boyle, DeWeese, Williams

Nays: None

Absent: Koseck, Lazar

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, SEPTEMBER 25, 2013  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held September 25, 2013. Chairman Robin Boyle convened the meeting at 7:32 p.m.

**Present:** Chairman Robin Boyle; Board Members Scott Clein, Carroll DeWeese, Bert Koseck (arrived at 7:35 p.m.), Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Arshon Afrakhteh

**Absent:** None

**Administration:** Matthew Baka, Sr. Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**09-168-13**

**PUBLIC HEARING**

**Glazing Standards** (rescheduled from September 11, 2013)

**TO CONSIDER AN AMENDMENT TO CHAPTER 126, ZONING, ARTICLE 04, SECTION 4.83 WN-01 (WINDOW STANDARDS) TO ALLOW DESIGN FLEXIBILITY AS APPROVED BY THE PLANNING BOARD, DESIGN REVIEW BOARD AND/OR HISTORIC DISTRICT COMMISSION**

Chairman Boyle opened the public hearing at 7:37 p.m.

Mr. Baka advised that the Planning Board has been discussing whether the ordinance could be amended to give the reviewing City Board the authority to give architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

After several meetings on this topic, the Planning Board, at their August 14, 2013 meeting, held a study session detailing ordinance changes to the Glazing Standards and requested staff to set a public hearing date to consider amendments to Chapter 126, Article 04, section 24.83 B.

Mr. Williams received confirmation that the City Attorney is happy with the suggested ordinance amendments. Ms. Ecker verified that if a proposal goes before two different City boards, the Planning Board and the Historic District Commission ("HDC"), the HDC determination would take priority.

Chairman Boyle observed this is an example of the City listening to applicants and developers.

At 7:43 p.m. there were no comments from members of the audience.

**Motion by Mr. Williams**

**Seconded by Mr. DeWeese to recommend approval by the City Commission to amend Article 04, Section 4.83 WN-01 (Window Standards) to allow design flexibility as permitted by the Planning Board, Design Review Board, and/or Historic District Commission.**

There were no final comments from the audience at 7:44 p.m.

**Motion carried, 7-0.**

ROLLCALL VOTE

Yeas: Williams, DeWeese, Boyle, Clein, Koseck, Lazar, Whipple-Boyce

Nays: None

Absent: None

The chairman formally closed the public hearing at 7:45 p.m.

**BIRMINGHAM CITY COMMISSION MINUTES**  
**JANUARY 27, 2014**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

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**01-15-14 PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDMENT TO  
CHAPTER 126, ARTICLE 04, SECTION 4.83 WN-01**

Mayor Pro Tem Sherman opened the Public Hearing to consider an ordinance amendment to Chapter 126, Article 04, Section 4.83 WN-01 at 8:44 PM.

Planner Ecker explained that the proposed ordinance amendment was the subject of a public hearing on September 25, 2013, after a request from the City Commission to add more specific criteria in order to waive the current 50% glazing requirement on upper level windows.

Planner Ecker explained that the Planning Board does not want to change the glazing standards for the first floor windows, which is 70% in the downtown area as well as in the triangle district; the change would apply to the upper levels only. There are no window glazing guidelines in the Rail District.

In response to Commission discussion regarding the amount of flexibility in the proposed ordinance, Planner Ecker noted that the Planning Board wanted to be able to respond to design changes in the marketplace and to prevent the glazing requirements from getting in the way of a good development.

Commissioner Nickita suggested the ordinance be more flexible in the rail district, less so in the triangle district, and more restrictive in the downtown district. Commissioner Dilgard suggested changing "to encourage flexibility", to "to allow flexibility".

Mayor Pro Tem Sherman closed the Public Hearing at 8:57 PM.

The commissioners took no action on the proposed ordinance amendment, and directed staff to review the discussion with the Planning Board.



**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, APRIL 22, 2015  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on April 22, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Stuart Jeffares; Student Representative Andrea Laverty (left at 9:30 p.m.)

**Absent:** Board Member Robin Boyle, Alternate Board Member Daniel Share; Student Representative Scott Casperson

**Administration:** Matthew Baka, Senior Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**04-80-15**

**STUDY SESSION  
Glazing Standards**

Mr. Baka explained that as a result of applicants having to revise their architectural designs in order to meet the window standards established in the Zoning Ordinance, members of the Planning Board have discussed whether the ordinance could be amended to give the reviewing City Board the authority to allow architects more creativity and flexibility when composing their designs by allowing variation from the window requirements.

After many prior meetings and review by the City Commission, the Planning Board at their March 11, 2015 meeting conducted a study session to continue discussion on improving the window standards. There was consensus that the 70% glazing requirement should be limited to between 1 and 8 ft. above grade in all zones and districts. It was also agreed that the current requirements of section 4.83 WN are problematic as they have required excessive glazing on several recent projects which has resulted in multiple variance requests to the Board of Zoning Appeals.

Although no specific modification standards were recommended over others, the Planning Board clearly indicated that the intent of the ordinance was to engage pedestrians in commercial zones. The board directed the Planning Dept. to review the various ways of accomplishing that intent. Accordingly, revised draft ordinance language is presented for the consideration of the Planning Board.

In order to provide consistency throughout the ordinance, the Planning Staff recommends amending the first floor standards in the Triangle District and Section 4.83 to require 70% glazing between 1 and 8 ft. above grade.

Mr. Baka advised that the window standards apply on the front façade and any façade that includes the primary entrance where the façade faces a street, plaza, park or parking area. Blank walls are not permitted on elevations with public entrances.

It was concluded that a definition of "blank wall" is needed. Ms. Whipple-Boyce thought that some flexibility should be written into the ordinance. Say that blank walls are not permitted on elevations, period. Mr. Koseck thought this matter needs another layer of study so they don't end up with a bunch of windowless buildings or uninterrupted walls that don't make for good architecture. Mr. Baka clarified that what is being discussed does not apply in the Downtown or the Triangle. It only applies in areas that are more likely to have a stand-alone building. Ms. Lazar thought the board needs definite parameters to work with.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, OCTOBER 14, 2015  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on October 14, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce; Alternate Board Member Stuart Jeffares

**Absent:** Board Member Bryan Williams; Alternate Board Member Daniel Share; Student Representatives Scott Casperson, Andrea Laverty

**Administration:** Matthew Baka, Senior Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**10-201-15**

**STUDY SESSION**

**1. Window Glazing Standards**

Mr. Baka recalled that on October 24, 2012 several members of the Planning Board discussed whether the ordinance could be amended to permit the reviewing City board the authority to give architects more creativity and flexibility when composing their designs by allowing variation from the window requirements. Since that time several study sessions and public hearings have been held to examine this topic.

At their meeting on January 27, 2014 the City Commission suggested that the ordinance amendment recommended by the Planning Board be modified to allow the proposed flexibility in the MX District but to have more restrictive requirements in the Downtown and Triangle District.

The first-floor glazing standards are inconsistent throughout the zones. The result of this difference is that outside of the Downtown Overlay a significantly larger amount of glazing is needed to satisfy the requirement. Therefore, the Planning Division recommends as a starting point amending the first-floor window standards in all districts in section 4.83, the General Standards, to require 70% glazing between 1 and 8 ft. above grade on any facade facing a street, plaza, park, or parking area. Blank walls of longer than 20 ft. shall not face a public street. It is believed that the addition of these provisions to these two areas of the City will significantly decrease the frequency of variance applications while still achieving the intent of the standards. Also, the Planning Division recommends amendments to Article 3, section 3.09(b)(1) to make the glazing standards consistent in the Triangle Overlay District.

The board discussed that unique circumstances might allow flexibility in design to modify the standards. They decided to come back to that later after a little more thought.

Board members concluded that consideration of the Downtown Overlay would be a separate issue.

The consensus was to amend Article 04, section 4.83 WN-01 A and B and strike C. Further, amend Article 03, Section 3.09 b (1) Commercial/Mixed Use Architectural Requirements in the MX District as presented.

**Motion by Mr. Boyle**

**Seconded by Mr. DeWeese to send this matter to a public hearing on November 11, 2015.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Boyle, DeWeese, Clein, Jeffares, Koseck, Lazar, Whipple-Boyce

Nays: None

Absent: Williams

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, NOVEMBER 11, 2015  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on November 11, 2015. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Bert Koseck, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Members Stuart Jeffares, Daniel Share

**Absent:** Board Member Gillian Lazar; Student Representatives Scott Casperson, Andrea Lavery

**Administration:** Matthew Baka, Senior Planner  
Sean Campbell, Asst. Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**11-220-15**

**PUBLIC HEARINGS**

**1. TO AMEND ARTICLE 03 SECTION 3.09 (B) (1) TO REQUIRE GLAZING IN THE TRIANGLE DISTRICT BETWEEN 1 FT. AND 8 FT. ABOVE GRADE ON THE GROUND FLOOR;**

**AND**

**TO AMEND ARTICLE 04, SECTION 4.83 WN-01 (WINDOW STANDARDS) TO SPECIFY THAT THE REQUIRED 70% GLAZING IS BETWEEN 1 AND 9 FT. ABOVE GRADE ON THE GROUND FLOOR IN ALL ZONE DISTRICTS**

Chairman Clein opened the public hearing at 7:34 p.m.

Mr. Baka recalled that at the October 14, 2015 Planning Board meeting the board discussed the issues related to the current window standards and the recurring need for applicants to seek variances from the Board of Zoning Appeals ("BZA"). Although it was acknowledged that additional changes need to be made beyond what is currently proposed, it was determined that there should be further study on certain aspects of the standards before additional changes can be recommended. It was decided however, that the standard of measuring the percentage of glazing on a site

should be consistently measured between 1 and 8 ft. above grade. Accordingly, the Planning Board set a public hearing for November 11, 2015 to consider amendments to the window standards contained in the Zoning Ordinance.

The first floor glazing standards are inconsistent throughout the zones. In the Downtown Overlay the 70% requirement is only applied between 1 and 8 ft. above grade. In the

Triangle District and window standards of section 4.83, the 70% requirement is applied to the entire first floor. The result of this difference is that outside of the Downtown Overlay it requires a significantly larger amount of glazing to satisfy the requirement. A lot of developments are having a hard time meeting this standard. In order to provide consistency throughout the ordinance and still achieve the pedestrian and public interaction intended by the standards, the Planning Division recommends amending the first floor standards in the Triangle District and Section 4.83 to require 70% glazing between 1 and 8 ft. above grade. Staff believes that the addition of this provision to these two sections will significantly decrease the frequency of variance applications, while still achieving the intent of the standards.

The other proposed standard to be added to section 4.83 is that blank walls of longer than 20 ft. shall not face a public street.

There were no comments from the public at 7:36 p.m.

**Motion by Mr. Boyle**

**Seconded by Mr. Williams to accept the amendments to the Zoning Ordinance as follows:**

***Article 04, section 4.83 WN-01***

- A. Storefront/Ground Floor Windows:** Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed. The following standards apply:
- 1. No less than 70% of the storefront/ground floor facade between 1 and 8 ft. above grade shall be clear glass panels and doorway.**
  - 6. Blank walls of longer than 20 ft. shall not face a public street.**

***Article 03, section 3.09 (b) (1)***

**B. Windows and Doors**

- 1, Storefront/Ground Floor, Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed and painted. No less than 70% of the storefront/ground floor facade between 1 and 8 ft. above grade shall be clear glass panels and doorway.**

No one from the audience wished to comment at 7:37 p.m.

**Motion carried, 7-0.**

**VOICE VOTE**

Yeas: Boyle, Williams, Clein, Jeffares, Koseck, Share, Whipple-Boyce

Nays: None

Absent: Lazar

The chairman closed the public hearing at 7:38 p.m.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, MARCH 9, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on March 9, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Lisa Prasad; Student Representative Colin Cusimano

**Absent:** Board Members Bert Koseck, Gillian Lazar; Alternate Board Member Daniel Share

**Administration:** Matthew Baka, Senior Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**03-39-16**

**3. Glazing**

Mr. Baka advised that over the past several years the Planning Board has performed site plan reviews where the board expressed support for the proposed design but the applicant has been forced to pursue variances because they were not able to meet the window standards contained in the Zoning Ordinance. Accordingly, the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the objective of the window standards remains in place. The intent has been stated as the activation of the streets and public spaces of Birmingham by creating an interactive relationship between pedestrians and the users of the buildings in commercial areas.

During the study sessions held previously, the Board has discussed creating a waiver that is contingent on a set of criteria that would allow the Planning Board to waive the glazing requirements under certain circumstances. The City Commission has been hesitant to embrace this approach due to the subjective nature of such criteria. Accordingly, in previous study sessions the Planning Board developed a list of requirements that must be met in order to qualify for the exemption.

Another potential change that staff would like the Planning Board to discuss is combining the provisions of Article 04 and Article 07 into one set of standards that requires 70% glazing on the facades that face the street and then reducing the requirement to 50% on secondary facades that face parking areas and open space.

Mr. Baka recalled the Planning Board has been talking about glazing for quite a long time. The origination of the glazing requirements came from the Downtown Overlay Zone and/or the 2016



Plan where 70% glazing is required between 1 ft. and 8 ft. above grade. In the downtown that is just along the storefronts. When the Triangle Plan was created in 2006, glazing standards were also added. Then there were additions made to Article 4, the Development Standards which would apply to all commercial properties outside of the two Overlays. Last fall, an amendment was completed to make the three criteria consistent in that they were all being measured between 1 ft. and 8 ft. The Triangle and the General Commercial areas did not have that, so staff was forced to measure glazing for the whole facade which made it difficult for people to comply.

Right now section 4.90 dealing with all other commercial zones states that window standards requiring 70% glazing apply on the front facade and any facade facing a street, plaza, park, or parking area. The board has been talking about altering the language so that the requirements are not quite as difficult to meet. Staff has come up with a way to give this body the authority to waive those requirements if they see fit and has developed a list of requirements that must be met in order to qualify for the exemption:

To allow flexibility in design, these standards may be modified by a majority vote of the Planning Board, Design Review Board, and/or Historic District Commission for architectural design considerations provided that the following conditions are met:

- a. The subject property must be in a zoning district that allows mixed uses.
- b. The scale, color, design and quality of materials of upper stories must be consistent with the building and site on which it is located.
- c. The proposed development must not adversely affect other uses and buildings in the neighborhood.

Ms. Whipple-Boyce along with other members suggested adding the following:

- d. No less than 50% glazing between 1 ft. and 8 ft. above grade on the secondary facades that don't face a public or private street. Note that the primary facade faces the street and contains the address.

Mr. Baka advised that current standards for upper story windows say that openings above the first story shall be a maximum of 50% of the total facade area. Windows shall be vertical in proportion. It was discussed that current office design calls for expansive use of glazing on the upper floors. Board members considered allowing no more than 70% glazing on the upper floors. Chairman Clein suggested coming back next time with the language that was discussed for the first floor along with language that says that the second story can have no more than 70% glazing.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, APRIL 13, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on April 13, 2016. Chairman Scott Clein convened the meeting at 7:30 p.m.

**Present:** Chairman Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams

**Absent:** Alternate Board Members Lisa Prasad, Daniel Share; Student Representative Colin Cusimano

**Administration:** Matthew Baka, Senior Planner  
Sean Campbell, Asst. Planner  
Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**04-61-16**

**STUDY SESSION**

**Glazing**

Mr. Baka recalled that the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the intent of the window standards remains in place. The intent of the glazing requirements has been to activate the streets and public spaces of Birmingham by creating an interactive relationship between the pedestrians and the buildings in commercial areas.

Since the last study session an error was discovered in the Zoning Ordinance that has a significant effect on how the existing language is enforced. However, the Planning Division is of the opinion that this clerical error correction would bring the regulations back in line with the original intent of the window standards. This would eliminate the need for creating definitions for primary and secondary facades as discussed at the last study session. It will reduce the amount of glazing required on non-street facing facades and will reduce the number of variance requests, but will still provide glazing on elevations of buildings that face the street. The question is whether the board wants to add more requirements for non-street facing facades.

Board members decided to strike 4.90 WN-01 (C) (e) that states glazing on the ground floor facade shall not be reduced to less than 50% between 1 and 8 ft. above grade.

Discussion considered whether glazing should be required on buildings where a public entrance not on the frontage line is in the back. It was thought there must be a minimum of 30% glazing between 1 and 8 ft. above grade.

Mr. Baka agreed to write out the changes for the board to see one more time before this topic goes to a public hearing.

**CITY OF BIRMINGHAM  
REGULAR MEETING OF THE PLANNING BOARD  
WEDNESDAY, MAY 11, 2016  
City Commission Room  
151 Martin Street, Birmingham, Michigan**

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Minutes of the regular meeting of the City of Birmingham Planning Board held on May 11, 2016. Vice-Chairperson Gillian Lazar convened the meeting at 7:30 p.m.

**Present:** Board Members Stuart Jeffares, Bert Koseck, Gillian Lazar, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Student Representative Colin Cusimano

**Absent:** Chairman Scott Clein; Board Member Robin Boyle.

**Administration:** Jana Ecker, Planning Director  
Carole Salutes, Recording Secretary

**05-84-16**

**STUDY SESSION ITEMS**

**1. Glazing**

Ms. Ecker recalled the only changes from the last meeting were:

(1) That the board determined they would like minimum glazing required on any façade that has a public entrance, even if it is not in the front. That alteration was made to Article 4.90 WN-01 (B) Ground floor building elevations that now states "Building elevations on the ground floor that do not face a frontage line but contain a public entrance shall be no less than 30% glazing between 1 and 8 feet above grade." However, if the façade is on a frontage line and faces the street, 70% glazing is required.

(2) Also (C) Blank walls of longer than 20 ft. on the ground floor shall not face a plaza, park, parking area or public street.

For Chairperson Lazar, Ms. Ecker explained that Article 4.90 WN-01 (B) (5) means the bottom part of the window has to be in the pedestrian zone, which is no more than 3 ft. above the adjacent exterior grade.

**Motion by Mr. Williams**

**Seconded by Ms. Whipple-Boyce to set a public hearing for June 8, 2016 to consider the proposed changes to Article 04, Section 4.90 WN -01 and Article 07, Section 7.05 of the Zoning Ordinance to amend the glazing standards.**

At 7:40 p.m. there was no public to comment on the motion.

**Motion carried, 7-0.**

ROLLCALL VOTE

Yeas: Williams, Lazar, Jeffares, Koseck, Share, Whipple-Boyce

Nays: None

Absent: Boyle, Clein

**Planning Board Minutes**  
**June 8, 2016**

**PUBLIC HEARING**

**1. To consider amendments to Article 04, section 4.90 WN-01 and Article 07, section 7.05 of the Zoning Ordinance to amend the glazing standards**

Chairman Clein opened the public hearing at 7:40 p.m.

Mr. Baka recalled that the Planning Board has been holding study sessions on this topic to explore ways that the ordinance requirements can be altered so that fewer variances are sought but the intent of the window standards remains in place. The intent of the glazing requirements has been to activate the streets and public spaces of Birmingham by creating an interactive relationship between the pedestrians and the buildings in commercial areas. The Planning Board decided that the standard of measuring the percentage of glazing on a site should be consistently measured between 1 and 8 ft. above grade in all zoning districts. Accordingly, the board recommended approval of the proposed amendments to the City Commission, which were later adopted by the Commission. Since that time, the Planning Division has held several study sessions on the subject of window standards.

At the last study session the Planning Board discussed an error in the Zoning Ordinance that was discovered by staff and that has a significant effect on how the existing language is enforced. The definition of facade was inadvertently altered when the Zoning Ordinance was reformatted in 2005. The reformatting changed the definition of facade to the vertical exterior surface of a building that is set parallel to a setback line which is all four sides of the parcel; rather than a frontage line which is elevations that front on a public street. The change from frontage line to setback line significantly alters what is considered a facade.

This discovery eliminated a lot of the need to make drastic changes to the window standards. However, the board did determine that building elevations that have a public entrance should contain some element of glazing on elevations that are not on a frontage line. Accordingly, the board directed staff to draft a provision that requires 30% glazing between 1 and 8 ft. on those elevations. In addition, the Planning Division recommends adding Article 4, section 4.90 (C) to prevent blank walls longer than 20 ft. in most situations, and would also recommend the removal of Article 7, Processes, Permits and Fees, section 7.05 (B), Architectural Design Review, as it is out of place in this location, and would be best addressed in Article 4, Development Standards – Window Standards.

Also a section has been added to allow flexibility in architectural design considerations. These standards may be modified by a majority vote of the Planning Board, Design Review Board, and/or Historic District Commission provided certain conditions are met.

Discussion brought out that the ordinance dictates which board an applicant will appear before.

On May 11, 2016, the Planning Board discussed the proposed amendments to the glazing standards, and voted unanimously to set a public hearing for June 8, 2016. No changes have been made to the proposed language since that time.

There were no comments from the public on the proposed amendments at 7:52 p.m.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Share to recommend to the City Commission approval of the proposed changes to Article 04, section 4.90 WN-01 and Article 07, section 7.05 of the Zoning Ordinance to amend the glazing standards.**

No one from the audience wished to discuss the motion at 7:53 p.m.

**Motion carried, 6-0.**

VOICE VOTE

Yeas: Whipple-Boyce, Share, Clein, Jeffares, Koseck, Lazar

Nays: None

Absent: Boyle, Williams

The chairman closed the public hearing at 7:53 p.m.



## MEMORANDUM

Finance Department

**DATE:** July 18, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Mark Gerber, Finance Director/Treasurer

**SUBJECT:** Refinancing of Bonds

Enclosed is a bond analysis reviewed by the City's municipal finance advisor, Bendzinski & Company, whereby the City could save over \$950,000 by refinancing the following two bond issues: 2006 Recreation Refunding Bonds and the 2008 Recreation Bonds. These savings were calculated after deducting bond issuance costs. Below is a brief summary of the analysis. The detailed analysis is on Page 4 of the bond analysis.

Current Bond Debt Service Payments	Refinanced Bond Debt Service Payments	Total Debt Service Savings	Present Value of Debt Service Savings
\$13,621,090	\$12,596,193	\$1,024,897	\$964,941

Below is a brief history of these bond issues and what improvements were purchased with them.

### 2006 Recreation Refunding Bonds

The 2006 Recreation Refunding Bonds were issued in December 2006 and were a partial refinancing of the of the 2002 \$15,700,000 Parks Bonds which were issued in December 2002. These bonds were used to pay for park improvements such as acquisition of the Barnum Park property, improvements at Quarton Lake, park improvements at Booth Park, addition of a skate park, and purchase of property at Roeper School.

### 2008 Recreation Bonds

These bonds were issued in May 2008 and were used for park improvements at Barnum and Shain Parks.

Enclosed is a report from the City's bond counsel, Miller Canfield Paddock and Stone, PLC, which will provide more information on the refinancing and a suggested resolution the City Commission needs to adopt if it wishes to proceed with the refinancing. Patrick McGow from Miller Canfield Paddock and Stone, PLC, will be at the Commission Meeting on July 25<sup>th</sup> to discuss the refinancing and answer any questions the Commission or public may have.

### **Suggested Action:**

To adopt a resolution authorizing the issuance of the 2016 Unlimited Tax General Obligation Recreation Refunding Bonds for the purpose of refinancing the 2006 Recreation Refunding Bonds and the 2008 Recreation Bonds.



Founded in 1852  
by Sidney Davy Miller

# MILLER CANFIELD

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FLORIDA: Tampa

ILLINOIS: Chicago

NEW YORK: New York

OHIO: Cincinnati

CANADA: Windsor

CHINA: Shanghai

MEXICO: Monterrey

POLAND: Gdynia

Warsaw • Wrocław

July 18, 2016

Via Email

Mr. Joseph A. Valentine  
City Manager  
City of Birmingham  
151 Martin Street  
P.O. Box 3001  
Birmingham MI 48012-3001

Re: City of Birmingham 2016 Unlimited Tax General Obligation Recreation  
Refunding Bonds

Dear Joe:

I have enclosed a Resolution Authorizing Issuance of 2016 Unlimited Tax General Obligation Recreation Refunding Bonds for consideration for approval by the City Commission at its meeting on July 18th. This Resolution relates to the refinancing of the City's 2008 Unlimited Tax General Obligation Recreation Bonds and 2006 Unlimited Tax General Obligation Recreation Refunding Bonds which financed or refinanced various recreation projects of the City as part of the City's voter-approved ballot proposal in November 2001 (together, the "Prior Bonds").

The enclosed Resolution authorizes the issuance of Bonds in an amount not to exceed \$11,600,000 to refinance the Prior Bonds. The Bonds are payable from a debt millage levy and will be secured by the City's pledge of its unlimited tax full faith and credit, just like the Prior Bonds. The City has the ability to achieve interest cost savings by issuing new bonds to take advantage of lower interest rates in today's bond market.

The Resolution has been prepared based on the bond specifications prepared by Bendzinski & Co., as the City's financial advisor. The Resolution sets forth the terms of the Bonds, the form of Bonds, and provides for a negotiated sale of the Bonds to an underwriter to be selected after receipt of proposals. The Resolution authorizes various City officials (City Manager and Finance Director) to take the necessary actions to issue, sell and deliver the Bonds, including the selection of an Underwriter and finalizing the terms of the Bonds upon sale and sign the Sale Order and Bond Purchase Agreement.

There are some blanks in the Resolution in the form of the Bond that do not need to be completed at or prior to adoption, but will instead be completed in the final Bond form once the

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Mr. Joseph Valentine

-2-

July 18, 2016

final terms been determined. This Resolution is the only action item required by the City Commission relating to the Refunding Bonds. The City Manager and Finance Director are authorized to proceed with the sale of the Bonds so long as the City achieves net present value savings through the refunding of the Prior Bonds.

I plan on attending the Commission meeting to discuss the refunding. If you or anyone copied on this letter have any questions, please give me a call.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By:

  
Patrick F. McGow

Enclosure

cc: Mark Gerber, Finance Director  
Robert J. Bendzinski  
Jeffrey Aronoff, Esq.

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**RESOLUTION AUTHORIZING ISSUANCE OF  
2016 UNLIMITED TAX GENERAL OBLIGATION  
RECREATION REFUNDING BONDS**

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**CITY OF BIRMINGHAM**  
County of Oakland, State of Michigan

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Minutes of a regular meeting of the City Commission of the City of Birmingham, County of Oakland, State of Michigan, held on July 25, 2016, at 7:00 p.m., Eastern Daylight Time.

PRESENT: Members \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Members \_\_\_\_\_  
\_\_\_\_\_

The following preamble and resolution were offered by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

WHEREAS, the City of Birmingham, County of Oakland, State of Michigan (the "City") has previously issued its 2006 Unlimited Tax General Obligation Recreation Refunding Bonds in the original principal amount of \$8,920,000 (the "2006 Bonds") to refinance a portion of the City's 2002 Unlimited Tax General Obligation Bonds which were originally issued to pay the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including land acquisition, facilities acquisition and related site improvements in the City (the "Recreation Projects"); and

WHEREAS, the City has previously issued its 2008 Unlimited Tax General Obligation Bonds in the original principal amount of \$4,000,000 (the "2008 Bonds", together with the 2006 Bonds are referred to as the "Prior Bonds") to pay part of the cost of the Recreation Projects; and

WHEREAS, the City has been advised that it may achieve interest costs savings through the refunding of the Prior Bonds; and

WHEREAS, the Revised Municipal Finance Act, Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), permits the City to refund and advance refund all or part of the outstanding securities of the City; and

WHEREAS, it is the determination of the City Commission that the City should issue refunding bonds in the principal amount of not to exceed Eleven Million Six Hundred Thousand Dollars (\$11,600,000) to refund all or a portion of the Prior Bonds to achieve interest cost savings for the benefit of the taxpayers of the City.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization of Refunding Bonds; Bond Terms, Bonds of the City designated 2016 UNLIMITED TAX GENERAL OBLIGATION RECREATION REFUNDING BONDS (the "Bonds") are authorized to be issued in the aggregate principal sum of not to exceed Eleven

Million Six Hundred Thousand Dollars (\$11,600,000) for the purpose of paying the costs of refunding all or a portion of the Prior Bonds, including the costs incidental to the issuance, sale and delivery of the Bonds.

The issue shall consist of bonds in fully-registered form of the denomination of \$5,000, or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, numbered consecutively in order of registration. The Bonds will be dated as of the date of delivery or such other date as determined at the time of sale by the City Manager or Finance Director (each, an "Authorized Officer"), be payable on October 1<sup>st</sup> in the years 2017 to 2028, inclusive, in the annual amounts determined at the time of sale and may be subject to redemption in the manner and at the times and prices to be determined at the time of sale.

The Bonds shall bear interest at a rate or rates to be determined at the time of sale, payable on April 1, 2017 and semi-annually thereafter by check or draft mailed by the Transfer Agent (as hereinafter defined) to the registered owner of record as of the 15th day of the month prior to the payment date for each interest payment. The record date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the City to conform to market practice in the future.

2. Execution of Bonds; Book-Entry-Only Form. The Bonds of this issue shall be executed in the name of the City with the facsimile signatures of the Mayor and Clerk of the City and shall have the seal of the City, or a facsimile thereof, printed or impressed on the Bonds. No Bond shall be valid until authenticated by an authorized officer or representative of the Transfer Agent. The principal of the Bonds shall be payable at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan, as registrar and transfer agent for the Bonds (the "Transfer Agent").

The Bonds may be issued in book-entry-only form through the Depository Trust Company in New York, New York ("DTC") and the Authorized Officers are authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Bonds in book-entry-only form and to make such changes in the Bond form within the parameters of this resolution as may be required to accomplish the foregoing.

Unless waived by any registered owner of Bonds to be redeemed, official notice of redemption shall be given by the Transfer Agent on behalf of the City. Such notice shall be dated and shall contain at a minimum the following information: original issue date; maturity dates; interest rates; CUSIP numbers, if any; certificate numbers (and in the case of partial redemption) the called amounts of each certificate; the redemption date; the redemption price or premium; the place where Bonds called for redemption are to be surrendered for payment; and that interest on Bonds or portions thereof called for redemption shall cease to accrue from and after the redemption date.

In addition, further notice shall be given by the Transfer Agent in such manner as may be required or suggested by regulations or market practice at the applicable time, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed herein.

3. Transfer of Bonds. The Transfer Agent shall keep the books of registration for

this issue on behalf of the City. Any Bond may be transferred upon such registration books by the registered owner of record, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Transfer Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer.

4. Debt Retirement Fund; Defeasance of Bonds. The City Treasurer is hereby authorized to open a separate depository account with a bank or trust company designated 2016 UNLIMITED TAX GENERAL OBLIGATION RECREATION REFUNDING BONDS DEBT RETIREMENT FUND (the "Debt Retirement Fund"), the moneys to be deposited into the Debt Retirement Fund to be specifically earmarked and used solely for the purpose of paying principal of and interest on the Bonds as they mature. All proceeds from taxes levied for the Debt Retirement Fund shall be deposited into the Debt Retirement Fund as collected. Commencing with the year 2017, there shall be levied upon the tax rolls of the City for the purpose of the Debt Retirement Fund each year, in the manner required by the provisions of Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), an amount sufficient so that the estimated collection therefrom will be sufficient to promptly pay, when due, the principal of and interest on the Bonds becoming due prior to the next annual tax levy; provided, however, that if at the time of making any such annual tax levy there shall be surplus moneys on hand in the Debt Retirement Fund for the payment of principal of and interest on the Bonds, then credit therefor may be taken against such annual levy for the Debt Retirement Fund.

In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay the principal of and interest on the Bonds when due, shall be deposited in trust, this Resolution shall be defeased and the owners of the Bonds shall have no further rights under this Resolution except to receive payment of the principal of and interest on the Bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange Bonds as provided herein.

5. Use of Proceeds. The proceeds of the Bonds shall be used to pay the costs of issuance of the Bonds and to secure payment of the Prior Bonds as provided in this paragraph. Upon receipt of the proceeds of sale of the Bonds, the accrued interest, if any, shall be deposited in the Debt Retirement Fund for the Bonds. From the proceeds of the Bonds there shall next be set aside a sum sufficient to pay the costs of issuance of the Bonds in a fund designated 2016 UNLIMITED TAX GENERAL OBLIGATION RECREATION REFUNDING BOND ISSUANCE FUND (the "Issuance Fund"). Moneys in the Issuance Fund shall be used solely to pay expenses of issuance of the Bonds. Any amounts remaining in the Issuance Fund after payment of issuance expenses shall be transferred to the Debt Retirement Fund for the Bonds.

The balance of the proceeds of the Bonds together with any moneys transferred by the City at the time of sale of the Bonds from the debt retirement funds for the Prior Bonds and any other available funds of the City, shall be held as cash or invested in direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America or other obligations the principal of and interest on which are fully secured

by the foregoing (the “Escrow Fund”) and used to pay principal of and interest on the Prior Bonds to be refunded (the “Refunded Bonds”). The Escrow Fund shall be held by a bank or trust company to be selected as escrow agent (the “Escrow Agent”) pursuant to an escrow agreement (the “Escrow Agreement”) which shall irrevocably direct the Escrow Agent to take all necessary steps to call for redemption the Refunded Bonds, including publication and mailing of redemption notices, on any call date, as specified by the City. The investments held in the Escrow Fund shall be such that the principal and interest payments received thereon will be sufficient, without reinvestment, to pay the principal of and interest on the Refunded Bonds as they become due pursuant to maturity or the call for redemption required by this paragraph. Following establishment of the Escrow Fund, any amounts remaining in the debt retirement funds for the Prior Bonds shall be transferred to the Debt Retirement Fund for the Bonds. Each of the Authorized Officers is hereby authorized to select and appoint a bank or trust company qualified to serve as Escrow Agent and to negotiate the terms of and execute and deliver an Escrow Agreement on behalf of the City. Each Authorized Officer is authorized and directed to purchase or cause to be purchased, Escrow Securities, including United States Treasury Obligations – State and Local Government Series (SLGS), in an amount sufficient to fund the Escrow Fund.

6. Bond Form. The Bonds shall be in substantially the following form with such changes as may be required to conform to the final terms of the Bonds established by the Sale Order::

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF OAKLAND

**CITY OF BIRMINGHAM**

2016 UNLIMITED TAX GENERAL OBLIGATION  
RECREATION REFUNDING BOND

<u>Interest Rate</u> <u>CUSIP</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>
Registered Owner:	October 1, 20____	_____, 1, 2016
Principal Amount:		Dollars

The City of Birmingham, County of Oakland, State of Michigan (the "City"), acknowledges itself to owe and for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America, unless redeemed prior to maturity, on the Maturity Date specified above with interest thereon until paid from the Date of Original Issue specified above or such later date to which interest has been paid, at the Interest Rate per annum specified above (computed on the basis of a 360 day year consisting of twelve 30-day months), first payable on April 1, 2017 and semiannually thereafter. Principal of this bond is payable at the designated corporate trust office of the Bank of New York Mellon Trust Company, Detroit, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner not less than sixty (60) days prior to any interest payment date (the "Transfer Agent"). Interest on this bond is payable to the registered owner of record as of the 15th day of the month preceding the interest payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed by the Transfer Agent to the registered owner of record at the registered address. For prompt payment of this bond, both principal and interest, the full faith, credit and resources of the City are hereby irrevocably pledged.

This bond is one of a series of bonds aggregating the principal sum of \$\_\_\_\_\_, issued for the purpose of refunding all or part of the City's outstanding 2006 Unlimited Tax General Obligation Recreation Refunding Bonds and 2008 Unlimited Tax General Obligation Recreation Bonds.

[Insert redemption provisions]

This bond is transferable only upon the registration books of the City kept by the Transfer Agent by the registered owner of record in person, or by the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in

exchange therefor as provided in the resolution authorizing this bond and upon the payment of the charges, if any, therein prescribed.

This bond is payable out of the City's Debt Retirement Fund for this issue and in order to make such payment, the City is required each year to levy taxes on all taxable property within the boundaries of the City for such payment without limitation as to rate or amount. It is hereby certified and recited that all acts, conditions and things required by law to be done, precedent to and in the issuance of this bond and the series of bonds of which this is one, exist and have been done and performed in regular and due form and time as required by law, and that the total indebtedness of the City, including this bond and the series of bonds of which this is one, does not exceed any constitutional, statutory or charter debt limitation.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City, by its City Commission, has caused this bond to be signed in the name of the City by the facsimile signatures of its Mayor and City Clerk and a facsimile of its corporate seal to be printed hereon, all as of the Date of Original Issue.

CITY OF BIRMINGHAM  
County of Oakland  
State of Michigan

By: \_\_\_\_\_  
Its: Mayor

(SEAL)

By: \_\_\_\_\_  
Its: City Clerk

(Form of Transfer Agent's Certificate of Authentication)

#### CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned resolution.

Bank of New York Mellon Trust  
Company, Detroit, Michigan  
Transfer Agent

By: \_\_\_\_\_

Authorized: \_\_\_\_\_



DATE OF REGISTRATION:

7. Negotiated Sale. The City Council has considered the option of selling the Bonds through a competitive sale and a negotiated sale, and pursuant to the requirements of Act 34, determines that a negotiated sale of the Bonds will allow more flexibility in accessing the municipal bond market, and to price and sell the Bonds at the time that is expected to best achieve the most advantageous interest rates and costs to the City, and will provide the City with greater flexibility in structuring bond maturities and adjusting terms for the Bonds.

8. Bond Purchase Agreement; Delegation to Authorized Officer; Sale Order. The Authorized Officers are each hereby authorized to select an underwriter for the Bonds (the "Underwriter"), negotiate the sale of the Bonds with the Underwriter, negotiate and execute a Bond Purchase Agreement, execute a Sale Order specifying the final terms of the Bonds and take all other necessary actions required to effectuate the sale, issuance and delivery of the Bonds within the parameters authorized in this resolution.

9. Adjustment of Bond Terms. The Authorized Officers are each hereby authorized to adjust the final bond details as set forth herein to the extent necessary or convenient to complete the sale of the Bonds and in pursuance of the forgoing are each authorized to exercise the authority and make the determinations pursuant to Sections 315(1)(d) of Act 34, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, date of issuance, interest payment dates, redemption rights and other matters within the parameters established by this resolution; *provided* that the principal amount of Bonds issued shall not exceed the principal amount authorized in this resolution, the interest rate per annum on the Bonds shall not exceed six percent (6.00%) per annum, the Bonds shall be sold at a price not less than 98.00% of their par value, the underwriter's discount shall not exceed 0.5% of the par amount of the Bonds and the refunding of the Prior Bonds shall result in net present value savings to the City.

10. Tax Covenant. The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exemption of the interest on the Bonds from general federal income taxation (as opposed to any alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds.

11. Continuing Disclosure Undertaking. The City agrees to enter into an undertaking for the benefit of the holders and beneficial owners of the Bonds pursuant to Rule 15c2-12 of the U.S. Securities and Exchange Commission and the Authorized Officers are each hereby authorized to execute such undertaking prior to delivery of the Bonds.

12. Authorization of other Actions. The Authorized Officers are each hereby authorized and directed to (a) approve the circulation of a preliminary official statement describing the Bonds and to deem the preliminary official statement "final" for purposes of Rule 15c2-12 of the SEC; (b) approve the circulation of a final official statement describing the Bonds and to execute the same on behalf of the City; (c) obtain ratings for the Bonds; and (d) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Bonds.

13. Bond Counsel. Miller, Canfield, Paddock and Stone, P.L.C. is hereby approved as bond counsel for the Bonds, notwithstanding periodic representation in unrelated matters of parties or potential parties to the transaction contemplated by this resolution, including the Underwriter.

14. Financial Advisor. The City hereby appoints Bendzinski & Co. as financial advisor with respect to the Bonds.

15. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES:       Members       \_\_\_\_\_

\_\_\_\_\_

NAYS:       Members       \_\_\_\_\_

\_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
Laura Pierce  
City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Birmingham, County of Oakland, State of Michigan, at a regular meeting held on July 25, 2016, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Laura Pierce  
City Clerk

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**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

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**Report**

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**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Refunding Summary**

**Dated 11/02/2016 | Delivered 11/02/2016**

	<b>2016 Ref Series 2008 Recreation Bonds</b>	<b>2016 Ref Series 2006 Recreation - Refunding Bonds</b>	<b>Issue Summary</b>
<b>Sources Of Funds</b>			
Par Amount of Bonds.....	\$2,360,000.00	\$7,775,000.00	\$10,135,000.00
Reoffering Premium.....	459,927.25	853,402.75	1,313,330.00
<b>Total Sources.....</b>	<b>\$2,819,927.25</b>	<b>\$8,628,402.75</b>	<b>\$11,448,330.00</b>
<b>Uses Of Funds</b>			
Total Underwriter's Discount (0.850%).....	20,060.00	66,087.50	86,147.50
Costs of Issuance.....	23,285.64	76,714.36	100,000.00
Deposit to Current Refunding Fund.....	2,775,707.83	8,484,400.36	11,260,108.19
Rounding Amount.....	873.78	1,200.53	2,074.31
<b>Total Uses.....</b>	<b>\$2,819,927.25</b>	<b>\$8,628,402.75</b>	<b>\$11,448,330.00</b>

**Flow of Funds Detail**

State and Local Government Series (SLGS) rates for.....	7/06/2016	7/06/2016	7/06/2016
Date of OMP Candidates.....			
Primary Purpose Fund Solution Method.....	Net Funded	Net Funded	Net Funded
Total Cost of Investments.....	\$2,775,707.83	\$8,484,400.36	\$11,260,108.19
Interest Earnings @ 0.485%.....	26,792.17	1,743.36	28,535.53
Total Draws.....	\$2,802,500.00	\$8,486,143.72	\$11,288,643.72

**PV Analysis Summary (Net to Net)**

Net PV Cashflow Savings @ 1.293%(Bond Yield).....	223,484.54	741,456.08	964,940.62
Contingency or Rounding Amount.....	873.78	1,200.53	2,074.31
Net Present Value Benefit.....	\$224,358.32	\$742,656.61	\$967,014.93
Net PV Benefit / \$11,030,000 Refunded Principal.....	8.629%	8.810%	8.767%
Net PV Benefit / \$10,135,000 Refunding Principal.....	9.507%	9.552%	9.541%

**Bond Statistics**

Average Life.....	7.905 Years	3.964 Years	4.882 Years
Average Coupon.....	4.3364803%	4.0000000%	4.1268793%
Net Interest Cost (NIC).....	1.9787996%	1.4454807%	1.6465835%
Bond Yield for Arbitrage Purposes.....	1.2925329%	1.2925329%	1.2925329%
True Interest Cost (TIC).....	1.7716642%	1.3506211%	1.5108710%
All Inclusive Cost (AIC).....	1.8933059%	1.5932835%	1.7073012%

2016 Ref Series 2006 & 20 | Issue Summary | 7/7/2016 | 9:37 AM

**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Pricing Summary**

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	YTM	Call Date	Call Price	Dollar Price
10/01/2017	Serial Coupon	4.000%	0.680%	1,070,000.00	103.019%	-	-	-	1,102,303.30
10/01/2018	Serial Coupon	4.000%	0.780%	1,050,000.00	106.104%	-	-	-	1,114,092.00
10/01/2019	Serial Coupon	4.000%	0.890%	1,320,000.00	108.925%	-	-	-	1,437,810.00
10/01/2020	Serial Coupon	4.000%	1.010%	1,310,000.00	111.445%	-	-	-	1,459,929.50
10/01/2021	Serial Coupon	4.000%	1.140%	1,285,000.00	113.628%	-	-	-	1,460,119.80
10/01/2022	Serial Coupon	4.000%	1.270%	1,270,000.00	115.505%	-	-	-	1,466,913.50
10/01/2023	Serial Coupon	4.000%	1.360%	1,455,000.00	117.363%	-	-	-	1,707,631.65
10/01/2024	Serial Coupon	4.000%	1.460%	275,000.00	118.917%	-	-	-	327,021.75
10/01/2025	Serial Coupon	4.000%	1.560%	275,000.00	120.230%	-	-	-	330,632.50
10/01/2026	Serial Coupon	4.000%	1.670%	275,000.00	121.205%	-	-	-	333,313.75
10/01/2027	Serial Coupon	5.000%	1.790%	275,000.00	129.039%	c 2.021%	10/01/2026	100.000%	354,857.25
10/01/2028	Serial Coupon	5.000%	1.830%	275,000.00	128.620%	c 2.248%	10/01/2026	100.000%	353,705.00
Total	-	-	-	\$10,135,000.00	-	-	-	-	\$11,448,330.00

**Bid Information**

Par Amount of Bonds.....	\$10,135,000.00
Reoffering Premium or (Discount).....	1,313,330.00
Gross Production.....	\$11,448,330.00
Total Underwriter's Discount (0.850%).....	\$(86,147.50)
Bid (112.108%).....	11,362,182.50
Total Purchase Price.....	\$11,362,182.50
Bond Year Dollars.....	\$49,477.26
Average Life.....	4.882 Years
Average Coupon.....	4.1268793%
Net Interest Cost (NIC).....	1.6465835%
True Interest Cost (TIC).....	1.5108710%

**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service Schedule**

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
11/02/2016	-	-	-	-	-
04/01/2017	-	-	170,066.94	170,066.94	-
06/30/2017	-	-	-	-	170,066.94
10/01/2017	1,070,000.00	4.000%	205,450.00	1,275,450.00	-
04/01/2018	-	-	184,050.00	184,050.00	-
06/30/2018	-	-	-	-	1,459,500.00
10/01/2018	1,050,000.00	4.000%	184,050.00	1,234,050.00	-
04/01/2019	-	-	163,050.00	163,050.00	-
06/30/2019	-	-	-	-	1,397,100.00
10/01/2019	1,320,000.00	4.000%	163,050.00	1,483,050.00	-
04/01/2020	-	-	136,650.00	136,650.00	-
06/30/2020	-	-	-	-	1,619,700.00
10/01/2020	1,310,000.00	4.000%	136,650.00	1,446,650.00	-
04/01/2021	-	-	110,450.00	110,450.00	-
06/30/2021	-	-	-	-	1,557,100.00
10/01/2021	1,285,000.00	4.000%	110,450.00	1,395,450.00	-
04/01/2022	-	-	84,750.00	84,750.00	-
06/30/2022	-	-	-	-	1,480,200.00
10/01/2022	1,270,000.00	4.000%	84,750.00	1,354,750.00	-
04/01/2023	-	-	59,350.00	59,350.00	-
06/30/2023	-	-	-	-	1,414,100.00
10/01/2023	1,455,000.00	4.000%	59,350.00	1,514,350.00	-
04/01/2024	-	-	30,250.00	30,250.00	-
06/30/2024	-	-	-	-	1,544,600.00
10/01/2024	275,000.00	4.000%	30,250.00	305,250.00	-
04/01/2025	-	-	24,750.00	24,750.00	-
06/30/2025	-	-	-	-	330,000.00
10/01/2025	275,000.00	4.000%	24,750.00	299,750.00	-
04/01/2026	-	-	19,250.00	19,250.00	-
06/30/2026	-	-	-	-	319,000.00
10/01/2026	275,000.00	4.000%	19,250.00	294,250.00	-
04/01/2027	-	-	13,750.00	13,750.00	-
06/30/2027	-	-	-	-	308,000.00
10/01/2027	275,000.00	5.000%	13,750.00	288,750.00	-
04/01/2028	-	-	6,875.00	6,875.00	-
06/30/2028	-	-	-	-	295,625.00
10/01/2028	275,000.00	5.000%	6,875.00	281,875.00	-
06/30/2029	-	-	-	-	281,875.00
Total	\$10,135,000.00	-	\$2,041,866.94	\$12,176,866.94	-

**Yield Statistics**

Bond Year Dollars.....	\$49,477.26
Average Life.....	4.882 Years
Average Coupon.....	4.1268793%
Net Interest Cost (NIC).....	1.6465835%
True Interest Cost (TIC).....	1.5108710%
Bond Yield for Arbitrage Purposes.....	1.2925329%
All Inclusive Cost (AIC).....	1.7073012%

**IRS Form 8038**

Net Interest Cost.....	1.2642460%
Weighted Average Maturity.....	5.034 Years

2016 Ref Series 2006 & 20 | Issue Summary | 7/ 7/2016 | 9:37 AM

**Fifth Third Securities, Inc.**

Public Finance - Investment Banking (AV)

**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service Comparison**

Date	Total P+I	Existing D/S	Net New D/S	Old Net D/S	Savings	Fiscal Total
11/02/2016	-	-	(2,074.31)	-	2,074.31	-
04/01/2017	170,066.94	7,100.00	177,166.94	223,395.00	46,228.06	-
06/30/2017	-	-	-	-	-	48,302.37
10/01/2017	1,275,450.00	207,100.00	1,482,550.00	1,578,395.00	95,845.00	-
04/01/2018	184,050.00	3,600.00	187,650.00	197,950.00	10,300.00	-
06/30/2018	-	-	-	-	-	106,145.00
10/01/2018	1,234,050.00	203,600.00	1,437,650.00	1,537,950.00	100,300.00	-
04/01/2019	163,050.00	-	163,050.00	172,405.00	9,355.00	-
06/30/2019	-	-	-	-	-	109,655.00
10/01/2019	1,483,050.00	-	1,483,050.00	1,602,405.00	119,355.00	-
04/01/2020	136,650.00	-	136,650.00	144,670.00	8,020.00	-
06/30/2020	-	-	-	-	-	127,375.00
10/01/2020	1,446,650.00	-	1,446,650.00	1,564,670.00	118,020.00	-
04/01/2021	110,450.00	-	110,450.00	116,825.00	6,375.00	-
06/30/2021	-	-	-	-	-	124,395.00
10/01/2021	1,395,450.00	-	1,395,450.00	1,521,825.00	126,375.00	-
04/01/2022	84,750.00	-	84,750.00	88,975.00	4,225.00	-
06/30/2022	-	-	-	-	-	130,600.00
10/01/2022	1,354,750.00	-	1,354,750.00	1,483,975.00	129,225.00	-
04/01/2023	59,350.00	-	59,350.00	61,325.00	1,975.00	-
06/30/2023	-	-	-	-	-	131,200.00
10/01/2023	1,514,350.00	-	1,514,350.00	1,646,325.00	131,975.00	-
04/01/2024	30,250.00	-	30,250.00	30,000.00	(250.00)	-
06/30/2024	-	-	-	-	-	131,725.00
10/01/2024	305,250.00	-	305,250.00	330,000.00	24,750.00	-
04/01/2025	24,750.00	-	24,750.00	24,000.00	(750.00)	-
06/30/2025	-	-	-	-	-	24,000.00
10/01/2025	299,750.00	-	299,750.00	324,000.00	24,250.00	-
04/01/2026	19,250.00	-	19,250.00	18,000.00	(1,250.00)	-
06/30/2026	-	-	-	-	-	23,000.00
10/01/2026	294,250.00	-	294,250.00	318,000.00	23,750.00	-
04/01/2027	13,750.00	-	13,750.00	12,000.00	(1,750.00)	-
06/30/2027	-	-	-	-	-	22,000.00
10/01/2027	288,750.00	-	288,750.00	312,000.00	23,250.00	-
04/01/2028	6,875.00	-	6,875.00	6,000.00	(875.00)	-
06/30/2028	-	-	-	-	-	22,375.00
10/01/2028	281,875.00	-	281,875.00	306,000.00	24,125.00	-
06/30/2029	-	-	-	-	-	24,125.00
Total	\$12,176,866.94	\$421,400.00	\$12,596,192.63	\$13,621,090.00	\$1,024,897.37	-

**PV Analysis Summary (Net to Net)**

Gross PV Debt Service Savings.....	964,940.62
Net PV Cashflow Savings @ 1.293%(Bond Yield).....	964,940.62
Contingency or Rounding Amount.....	2,074.31
Net Present Value Benefit.....	\$967,014.93
Net PV Benefit / \$11,030,000 Refunded Principal.....	8.767%
Net PV Benefit / \$10,135,000 Refunding Principal.....	9.541%

**Refunding Bond Information**

Refunding Dated Date.....	11/02/2016
Refunding Delivery Date.....	11/02/2016

2016 Ref Series 2006 & 20 | Issue Summary | 7/7/2016 | 9:37 AM

**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Summary Of Bonds Refunded**

Issue	Maturity	Type	of Bond	Coupon	Maturity Value	Call Date	Call Price
Dated 10/01/2015   Delivered 10/01/2015							
Series 2008 Recreation Bonds	10/01/2019	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2020	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2021	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2022	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2023	Term 1	Coupon	3.750%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2024	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2025	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2026	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2027	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2028	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Subtotal	-	-	-	-	\$2,600,000	-	-
Dated 10/01/2015   Delivered 10/01/2015							
Series 2006 Recreation - Refunding Bonds	10/01/2017	Serial	Coupon	3.800%	1,155,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2018	Serial	Coupon	3.850%	1,140,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2019	Serial	Coupon	3.900%	1,230,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2020	Serial	Coupon	3.950%	1,220,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2021	Serial	Coupon	4.000%	1,205,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2022	Serial	Coupon	4.000%	1,195,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2023	Serial	Coupon	4.000%	1,285,000	12/02/2016	100.000%
Subtotal	-	-	-	-	\$8,430,000	-	-
Total	-	-	-	-	\$11,030,000	-	-



**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service To Maturity And To Call**

Date	Refunded Bonds	Interest to Call	D/S To Call	Principal	Interest	Refunded D/S	Fiscal Total
11/02/2016	-	-	-	-	-	-	-
12/02/2016	8,430,000.00	56,143.72	8,486,143.72	-	-	-	-
04/01/2017	-	50,625.00	50,625.00	-	216,295.00	216,295.00	-
06/30/2017	-	-	-	-	-	-	216,295.00
10/01/2017	-	50,625.00	50,625.00	1,155,000.00	216,295.00	1,371,295.00	-
04/01/2018	-	50,625.00	50,625.00	-	194,350.00	194,350.00	-
06/30/2018	-	-	-	-	-	-	1,565,645.00
10/01/2018	2,600,000.00	50,625.00	2,650,625.00	1,140,000.00	194,350.00	1,334,350.00	-
04/01/2019	-	-	-	-	172,405.00	172,405.00	-
06/30/2019	-	-	-	-	-	-	1,506,755.00
10/01/2019	-	-	-	1,430,000.00	172,405.00	1,602,405.00	-
04/01/2020	-	-	-	-	144,670.00	144,670.00	-
06/30/2020	-	-	-	-	-	-	1,747,075.00
10/01/2020	-	-	-	1,420,000.00	144,670.00	1,564,670.00	-
04/01/2021	-	-	-	-	116,825.00	116,825.00	-
06/30/2021	-	-	-	-	-	-	1,681,495.00
10/01/2021	-	-	-	1,405,000.00	116,825.00	1,521,825.00	-
04/01/2022	-	-	-	-	88,975.00	88,975.00	-
06/30/2022	-	-	-	-	-	-	1,610,800.00
10/01/2022	-	-	-	1,395,000.00	88,975.00	1,483,975.00	-
04/01/2023	-	-	-	-	61,325.00	61,325.00	-
06/30/2023	-	-	-	-	-	-	1,545,300.00
10/01/2023	-	-	-	1,585,000.00	61,325.00	1,646,325.00	-
04/01/2024	-	-	-	-	30,000.00	30,000.00	-
06/30/2024	-	-	-	-	-	-	1,676,325.00
10/01/2024	-	-	-	300,000.00	30,000.00	330,000.00	-
04/01/2025	-	-	-	-	24,000.00	24,000.00	-
06/30/2025	-	-	-	-	-	-	354,000.00
10/01/2025	-	-	-	300,000.00	24,000.00	324,000.00	-
04/01/2026	-	-	-	-	18,000.00	18,000.00	-
06/30/2026	-	-	-	-	-	-	342,000.00
10/01/2026	-	-	-	300,000.00	18,000.00	318,000.00	-
04/01/2027	-	-	-	-	12,000.00	12,000.00	-
06/30/2027	-	-	-	-	-	-	330,000.00
10/01/2027	-	-	-	300,000.00	12,000.00	312,000.00	-
04/01/2028	-	-	-	-	6,000.00	6,000.00	-
06/30/2028	-	-	-	-	-	-	318,000.00
10/01/2028	-	-	-	300,000.00	6,000.00	306,000.00	-
06/30/2029	-	-	-	-	-	-	306,000.00
Total	\$11,030,000.00	\$258,643.72	\$11,288,643.72	\$11,030,000.00	\$2,169,690.00	\$13,199,690.00	-

**Yield Statistics**

Base date for Avg. Life & Avg. Coupon Calculation.....	11/02/2016
Average Life.....	4.891 Years
Average Coupon.....	3.9529734%
Weighted Average Maturity (Par Basis).....	4.891 Years
Weighted Average Maturity (Original Price Basis).....	4.888 Years

**Refunding Bond Information**

Refunding Dated Date.....	11/02/2016
Refunding Delivery Date.....	11/02/2016

2016 Ref Series 2006 & 20 | Issue Summary | 7/ 7/2016 | 9:37 AM

**Fifth Third Securities, Inc.**

Public Finance - Investment Banking (AV)

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**\$10,135,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Current Refunding Escrow**

Date	Principal	Rate	Interest	Receipts	Disbursements	Cash Balance
11/02/2016	-	-	-	1.19	-	1.19
12/02/2016	8,484,400.00	0.250%	1,743.36	8,486,143.36	8,486,143.72	0.83
04/01/2017	44,822.00	0.290%	5,803.12	50,625.12	50,625.00	0.95
10/01/2017	43,486.00	0.410%	7,138.98	50,624.98	50,625.00	0.93
04/01/2018	43,648.00	0.470%	6,976.32	50,624.32	50,625.00	0.25
10/01/2018	2,643,751.00	0.520%	6,873.75	2,650,624.75	2,650,625.00	-
Total	\$11,260,107.00	-	\$28,535.53	\$11,288,643.72	\$11,288,643.72	-

**Investment Parameters**

Investment Model [PV, GIC, or Securities].....	Securities
Default investment yield target.....	Unrestricted
Cash Deposit.....	1.19
Cost of Investments Purchased with Bond Proceeds.....	11,260,107.00
Total Cost of Investments.....	\$11,260,108.19
Target Cost of Investments at bond yield.....	\$11,213,201.83
Actual positive or (negative) arbitrage.....	(46,906.36)
Yield to Receipt.....	0.4846463%
Yield for Arbitrage Purposes.....	1.2925329%
State and Local Government Series (SLGS) rates for.....	7/06/2016

**\$2,360,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service Schedule**

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
11/02/2016	-	-	-	-	-
04/01/2017	-	-	41,347.50	41,347.50	-
06/30/2017	-	-	-	-	41,347.50
10/01/2017	-	-	49,950.00	49,950.00	-
04/01/2018	-	-	49,950.00	49,950.00	-
06/30/2018	-	-	-	-	99,900.00
10/01/2018	-	-	49,950.00	49,950.00	-
04/01/2019	-	-	49,950.00	49,950.00	-
06/30/2019	-	-	-	-	99,900.00
10/01/2019	180,000.00	4.000%	49,950.00	229,950.00	-
04/01/2020	-	-	46,350.00	46,350.00	-
06/30/2020	-	-	-	-	276,300.00
10/01/2020	180,000.00	4.000%	46,350.00	226,350.00	-
04/01/2021	-	-	42,750.00	42,750.00	-
06/30/2021	-	-	-	-	269,100.00
10/01/2021	175,000.00	4.000%	42,750.00	217,750.00	-
04/01/2022	-	-	39,250.00	39,250.00	-
06/30/2022	-	-	-	-	257,000.00
10/01/2022	175,000.00	4.000%	39,250.00	214,250.00	-
04/01/2023	-	-	35,750.00	35,750.00	-
06/30/2023	-	-	-	-	250,000.00
10/01/2023	275,000.00	4.000%	35,750.00	310,750.00	-
04/01/2024	-	-	30,250.00	30,250.00	-
06/30/2024	-	-	-	-	341,000.00
10/01/2024	275,000.00	4.000%	30,250.00	305,250.00	-
04/01/2025	-	-	24,750.00	24,750.00	-
06/30/2025	-	-	-	-	330,000.00
10/01/2025	275,000.00	4.000%	24,750.00	299,750.00	-
04/01/2026	-	-	19,250.00	19,250.00	-
06/30/2026	-	-	-	-	319,000.00
10/01/2026	275,000.00	4.000%	19,250.00	294,250.00	-
04/01/2027	-	-	13,750.00	13,750.00	-
06/30/2027	-	-	-	-	308,000.00
10/01/2027	275,000.00	5.000%	13,750.00	288,750.00	-
04/01/2028	-	-	6,875.00	6,875.00	-
06/30/2028	-	-	-	-	295,625.00
10/01/2028	275,000.00	5.000%	6,875.00	281,875.00	-
06/30/2029	-	-	-	-	281,875.00
Total	\$2,360,000.00	-	\$809,047.50	\$3,169,047.50	-

**Yield Statistics**

Bond Year Dollars.....	\$18,656.78
Average Life.....	7.905 Years
Average Coupon.....	4.3364803%
Net Interest Cost (NIC).....	1.9787996%
True Interest Cost (TIC).....	1.7716642%
Bond Yield for Arbitrage Purposes.....	1.2925329%
All Inclusive Cost (AIC).....	1.8933059%

**IRS Form 8038**

Net Interest Cost.....	1.5388593%
Weighted Average Maturity.....	8.045 Years

2016 Ref Series 2006 & 20 | 2016 Ref Series 2008 Recr | 7/ 7/2016 | 9:37 AM

**Fifth Third Securities, Inc.**

Public Finance - Investment Banking (AV)

**\$2,360,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service Comparison**

Date	Total P+I	Existing D/S	Net New D/S	Old Net D/S	Savings	Fiscal Total
11/02/2016	-	-	(873.78)	-	873.78	-
04/01/2017	41,347.50	7,100.00	48,447.50	57,725.00	9,277.50	-
06/30/2017	-	-	-	-	-	10,151.28
10/01/2017	49,950.00	207,100.00	257,050.00	257,725.00	675.00	-
04/01/2018	49,950.00	3,600.00	53,550.00	54,225.00	675.00	-
06/30/2018	-	-	-	-	-	1,350.00
10/01/2018	49,950.00	203,600.00	253,550.00	254,225.00	675.00	-
04/01/2019	49,950.00	-	49,950.00	50,625.00	675.00	-
06/30/2019	-	-	-	-	-	1,350.00
10/01/2019	229,950.00	-	229,950.00	250,625.00	20,675.00	-
04/01/2020	46,350.00	-	46,350.00	46,875.00	525.00	-
06/30/2020	-	-	-	-	-	21,200.00
10/01/2020	226,350.00	-	226,350.00	246,875.00	20,525.00	-
04/01/2021	42,750.00	-	42,750.00	43,125.00	375.00	-
06/30/2021	-	-	-	-	-	20,900.00
10/01/2021	217,750.00	-	217,750.00	243,125.00	25,375.00	-
04/01/2022	39,250.00	-	39,250.00	39,375.00	125.00	-
06/30/2022	-	-	-	-	-	25,500.00
10/01/2022	214,250.00	-	214,250.00	239,375.00	25,125.00	-
04/01/2023	35,750.00	-	35,750.00	35,625.00	(125.00)	-
06/30/2023	-	-	-	-	-	25,000.00
10/01/2023	310,750.00	-	310,750.00	335,625.00	24,875.00	-
04/01/2024	30,250.00	-	30,250.00	30,000.00	(250.00)	-
06/30/2024	-	-	-	-	-	24,625.00
10/01/2024	305,250.00	-	305,250.00	330,000.00	24,750.00	-
04/01/2025	24,750.00	-	24,750.00	24,000.00	(750.00)	-
06/30/2025	-	-	-	-	-	24,000.00
10/01/2025	299,750.00	-	299,750.00	324,000.00	24,250.00	-
04/01/2026	19,250.00	-	19,250.00	18,000.00	(1,250.00)	-
06/30/2026	-	-	-	-	-	23,000.00
10/01/2026	294,250.00	-	294,250.00	318,000.00	23,750.00	-
04/01/2027	13,750.00	-	13,750.00	12,000.00	(1,750.00)	-
06/30/2027	-	-	-	-	-	22,000.00
10/01/2027	288,750.00	-	288,750.00	312,000.00	23,250.00	-
04/01/2028	6,875.00	-	6,875.00	6,000.00	(875.00)	-
06/30/2028	-	-	-	-	-	22,375.00
10/01/2028	281,875.00	-	281,875.00	306,000.00	24,125.00	-
06/30/2029	-	-	-	-	-	24,125.00
Total	\$3,169,047.50	\$421,400.00	\$3,589,573.72	\$3,835,150.00	\$245,576.28	-

**PV Analysis Summary (Net to Net)**

Gross PV Debt Service Savings.....	223,484.54
Net PV Cashflow Savings @ 1.293%(Bond Yield).....	223,484.54
Contingency or Rounding Amount.....	873.78
Net Present Value Benefit.....	\$224,358.32
Net PV Benefit / \$2,600,000 Refunded Principal.....	8.629%
Net PV Benefit / \$2,360,000 Refunding Principal.....	9.507%

**Refunding Bond Information**

Refunding Dated Date.....	11/02/2016
Refunding Delivery Date.....	11/02/2016

2016 Ref Series 2006 & 20 | 2016 Ref Series 2008 Recr | 7/ 7/2016 | 9:37 AM

**\$2,360,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Summary Of Bonds Refunded**

Issue	Maturity	Type	of Bond	Coupon	Maturity Value	Call Date	Call Price
Dated 10/01/2015   Delivered 10/01/2015							
Series 2008 Recreation Bonds	10/01/2019	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2020	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2021	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2022	Term 1	Coupon	3.750%	200,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2023	Term 1	Coupon	3.750%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2024	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2025	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2026	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2027	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Series 2008 Recreation Bonds	10/01/2028	Term 2	Coupon	4.000%	300,000	10/01/2018	100.000%
Subtotal	-			-	\$2,600,000	-	-
Total	-			-	\$2,600,000	-	-

**\$2,360,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service To Maturity And To Call**

Date	Refunded Bonds	Interest to Call	D/S To Call	Principal	Interest	Refunded D/S	Fiscal Total
04/01/2017	-	50,625.00	50,625.00	-	50,625.00	50,625.00	-
06/30/2017	-	-	-	-	-	-	50,625.00
10/01/2017	-	50,625.00	50,625.00	-	50,625.00	50,625.00	-
04/01/2018	-	50,625.00	50,625.00	-	50,625.00	50,625.00	-
06/30/2018	-	-	-	-	-	-	101,250.00
10/01/2018	2,600,000.00	50,625.00	2,650,625.00	-	50,625.00	50,625.00	-
04/01/2019	-	-	-	-	50,625.00	50,625.00	-
06/30/2019	-	-	-	-	-	-	101,250.00
10/01/2019	-	-	-	200,000.00	50,625.00	250,625.00	-
04/01/2020	-	-	-	-	46,875.00	46,875.00	-
06/30/2020	-	-	-	-	-	-	297,500.00
10/01/2020	-	-	-	200,000.00	46,875.00	246,875.00	-
04/01/2021	-	-	-	-	43,125.00	43,125.00	-
06/30/2021	-	-	-	-	-	-	290,000.00
10/01/2021	-	-	-	200,000.00	43,125.00	243,125.00	-
04/01/2022	-	-	-	-	39,375.00	39,375.00	-
06/30/2022	-	-	-	-	-	-	282,500.00
10/01/2022	-	-	-	200,000.00	39,375.00	239,375.00	-
04/01/2023	-	-	-	-	35,625.00	35,625.00	-
06/30/2023	-	-	-	-	-	-	275,000.00
10/01/2023	-	-	-	300,000.00	35,625.00	335,625.00	-
04/01/2024	-	-	-	-	30,000.00	30,000.00	-
06/30/2024	-	-	-	-	-	-	365,625.00
10/01/2024	-	-	-	300,000.00	30,000.00	330,000.00	-
04/01/2025	-	-	-	-	24,000.00	24,000.00	-
06/30/2025	-	-	-	-	-	-	354,000.00
10/01/2025	-	-	-	300,000.00	24,000.00	324,000.00	-
04/01/2026	-	-	-	-	18,000.00	18,000.00	-
06/30/2026	-	-	-	-	-	-	342,000.00
10/01/2026	-	-	-	300,000.00	18,000.00	318,000.00	-
04/01/2027	-	-	-	-	12,000.00	12,000.00	-
06/30/2027	-	-	-	-	-	-	330,000.00
10/01/2027	-	-	-	300,000.00	12,000.00	312,000.00	-
04/01/2028	-	-	-	-	6,000.00	6,000.00	-
06/30/2028	-	-	-	-	-	-	318,000.00
10/01/2028	-	-	-	300,000.00	6,000.00	306,000.00	-
06/30/2029	-	-	-	-	-	-	306,000.00
Total	\$2,600,000.00	\$202,500.00	\$2,802,500.00	\$2,600,000.00	\$813,750.00	\$3,413,750.00	-

**Yield Statistics**

Base date for Avg. Life & Avg. Coupon Calculation.....	11/02/2016
Average Life.....	7.875 Years
Average Coupon.....	3.9315632%
Weighted Average Maturity (Par Basis).....	7.875 Years
Weighted Average Maturity (Original Price Basis).....	7.876 Years

**Refunding Bond Information**

Refunding Dated Date.....	11/02/2016
Refunding Delivery Date.....	11/02/2016

2016 Ref Series 2006 & 20 | 2016 Ref Series 2008 Recr | 7/ 7/2016 | 9:37 AM

**\$2,360,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Escrow Fund Cashflow**

Date	Principal	Rate	Interest	Receipts	Disbursements	Cash Balance
11/02/2016	-	-	-	0.83	-	0.83
04/01/2017	44,822.00	0.290%	5,803.12	50,625.12	50,625.00	0.95
10/01/2017	43,486.00	0.410%	7,138.98	50,624.98	50,625.00	0.93
04/01/2018	43,648.00	0.470%	6,976.32	50,624.32	50,625.00	0.25
10/01/2018	2,643,751.00	0.520%	6,873.75	2,650,624.75	2,650,625.00	-
Total	\$2,775,707.00	-	\$26,792.17	\$2,802,500.00	\$2,802,500.00	-

**Investment Parameters**

Investment Model [PV, GIC, or Securities].....	Securities
Default investment yield target.....	Bond Yield
Cash Deposit.....	0.83
Cost of Investments Purchased with Bond Proceeds.....	2,775,707.00
Total Cost of Investments.....	\$2,775,707.83
Target Cost of Investments at bond yield.....	\$2,736,164.33
Actual positive or (negative) arbitrage.....	(39,543.50)
Yield to Receipt.....	0.5172519%
Yield for Arbitrage Purposes.....	1.2925329%
State and Local Government Series (SLGS) rates for.....	7/06/2016

**\$7,775,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service Schedule**

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
11/02/2016	-	-	-	-	-
04/01/2017	-	-	128,719.44	128,719.44	-
06/30/2017	-	-	-	-	128,719.44
10/01/2017	1,070,000.00	4.000%	155,500.00	1,225,500.00	-
04/01/2018	-	-	134,100.00	134,100.00	-
06/30/2018	-	-	-	-	1,359,600.00
10/01/2018	1,050,000.00	4.000%	134,100.00	1,184,100.00	-
04/01/2019	-	-	113,100.00	113,100.00	-
06/30/2019	-	-	-	-	1,297,200.00
10/01/2019	1,140,000.00	4.000%	113,100.00	1,253,100.00	-
04/01/2020	-	-	90,300.00	90,300.00	-
06/30/2020	-	-	-	-	1,343,400.00
10/01/2020	1,130,000.00	4.000%	90,300.00	1,220,300.00	-
04/01/2021	-	-	67,700.00	67,700.00	-
06/30/2021	-	-	-	-	1,288,000.00
10/01/2021	1,110,000.00	4.000%	67,700.00	1,177,700.00	-
04/01/2022	-	-	45,500.00	45,500.00	-
06/30/2022	-	-	-	-	1,223,200.00
10/01/2022	1,095,000.00	4.000%	45,500.00	1,140,500.00	-
04/01/2023	-	-	23,600.00	23,600.00	-
06/30/2023	-	-	-	-	1,164,100.00
10/01/2023	1,180,000.00	4.000%	23,600.00	1,203,600.00	-
06/30/2024	-	-	-	-	1,203,600.00
Total	\$7,775,000.00	-	\$1,232,819.44	\$9,007,819.44	-

**Yield Statistics**

Bond Year Dollars.....	\$30,820.49
Average Life.....	3.964 Years
Average Coupon.....	4.0000000%
Net Interest Cost (NIC).....	1.4454807%
True Interest Cost (TIC).....	1.3506211%
Bond Yield for Arbitrage Purposes.....	1.2925329%
All Inclusive Cost (AIC).....	1.5932835%

**IRS Form 8038**

Net Interest Cost.....	1.0859325%
Weighted Average Maturity.....	4.049 Years



**\$7,775,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service Comparison**

Date	Total P+I	Net New D/S	Old Net D/S	Savings	Fiscal Total
11/02/2016	-	(1,200.53)	-	1,200.53	-
04/01/2017	128,719.44	128,719.44	165,670.00	36,950.56	-
06/30/2017	-	-	-	-	38,151.09
10/01/2017	1,225,500.00	1,225,500.00	1,320,670.00	95,170.00	-
04/01/2018	134,100.00	134,100.00	143,725.00	9,625.00	-
06/30/2018	-	-	-	-	104,795.00
10/01/2018	1,184,100.00	1,184,100.00	1,283,725.00	99,625.00	-
04/01/2019	113,100.00	113,100.00	121,780.00	8,680.00	-
06/30/2019	-	-	-	-	108,305.00
10/01/2019	1,253,100.00	1,253,100.00	1,351,780.00	98,680.00	-
04/01/2020	90,300.00	90,300.00	97,795.00	7,495.00	-
06/30/2020	-	-	-	-	106,175.00
10/01/2020	1,220,300.00	1,220,300.00	1,317,795.00	97,495.00	-
04/01/2021	67,700.00	67,700.00	73,700.00	6,000.00	-
06/30/2021	-	-	-	-	103,495.00
10/01/2021	1,177,700.00	1,177,700.00	1,278,700.00	101,000.00	-
04/01/2022	45,500.00	45,500.00	49,600.00	4,100.00	-
06/30/2022	-	-	-	-	105,100.00
10/01/2022	1,140,500.00	1,140,500.00	1,244,600.00	104,100.00	-
04/01/2023	23,600.00	23,600.00	25,700.00	2,100.00	-
06/30/2023	-	-	-	-	106,200.00
10/01/2023	1,203,600.00	1,203,600.00	1,310,700.00	107,100.00	-
06/30/2024	-	-	-	-	107,100.00
Total	\$9,007,819.44	\$9,006,618.91	\$9,785,940.00	\$779,321.09	-

**PV Analysis Summary (Net to Net)**

Gross PV Debt Service Savings.....	741,456.08
Net PV Cashflow Savings @ 1.293%(Bond Yield).....	741,456.08
Contingency or Rounding Amount.....	1,200.53
Net Present Value Benefit.....	\$742,656.61
Net PV Benefit / \$8,430,000 Refunded Principal.....	8.810%
Net PV Benefit / \$7,775,000 Refunding Principal.....	9.552%

**Refunding Bond Information**

Refunding Dated Date.....	11/02/2016
Refunding Delivery Date.....	11/02/2016

**\$7,775,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Summary Of Bonds Refunded**

Issue	Maturity	Type	of Bond	Coupon	Maturity Value	Call Date	Call Price
Dated 10/01/2015   Delivered 10/01/2015							
Series 2006 Recreation - Refunding Bonds	10/01/2017	Serial	Coupon	3.800%	1,155,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2018	Serial	Coupon	3.850%	1,140,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2019	Serial	Coupon	3.900%	1,230,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2020	Serial	Coupon	3.950%	1,220,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2021	Serial	Coupon	4.000%	1,205,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2022	Serial	Coupon	4.000%	1,195,000	12/02/2016	100.000%
Series 2006 Recreation - Refunding Bonds	10/01/2023	Serial	Coupon	4.000%	1,285,000	12/02/2016	100.000%
Subtotal	-			-	\$8,430,000	-	-
Total	-			-	\$8,430,000	-	-

**\$7,775,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Debt Service To Maturity And To Call**

Date	Refunded Bonds	Interest to Call	D/S To Call	Principal	Interest	Refunded D/S	Fiscal Total
11/02/2016	-	-	-	-	-	-	-
12/02/2016	8,430,000.00	56,143.72	8,486,143.72	-	-	-	-
04/01/2017	-	-	-	-	165,670.00	165,670.00	-
06/30/2017	-	-	-	-	-	-	165,670.00
10/01/2017	-	-	-	1,155,000.00	165,670.00	1,320,670.00	-
04/01/2018	-	-	-	-	143,725.00	143,725.00	-
06/30/2018	-	-	-	-	-	-	1,464,395.00
10/01/2018	-	-	-	1,140,000.00	143,725.00	1,283,725.00	-
04/01/2019	-	-	-	-	121,780.00	121,780.00	-
06/30/2019	-	-	-	-	-	-	1,405,505.00
10/01/2019	-	-	-	1,230,000.00	121,780.00	1,351,780.00	-
04/01/2020	-	-	-	-	97,795.00	97,795.00	-
06/30/2020	-	-	-	-	-	-	1,449,575.00
10/01/2020	-	-	-	1,220,000.00	97,795.00	1,317,795.00	-
04/01/2021	-	-	-	-	73,700.00	73,700.00	-
06/30/2021	-	-	-	-	-	-	1,391,495.00
10/01/2021	-	-	-	1,205,000.00	73,700.00	1,278,700.00	-
04/01/2022	-	-	-	-	49,600.00	49,600.00	-
06/30/2022	-	-	-	-	-	-	1,328,300.00
10/01/2022	-	-	-	1,195,000.00	49,600.00	1,244,600.00	-
04/01/2023	-	-	-	-	25,700.00	25,700.00	-
06/30/2023	-	-	-	-	-	-	1,270,300.00
10/01/2023	-	-	-	1,285,000.00	25,700.00	1,310,700.00	-
06/30/2024	-	-	-	-	-	-	1,310,700.00
Total	\$8,430,000.00	\$56,143.72	\$8,486,143.72	\$8,430,000.00	\$1,355,940.00	\$9,785,940.00	-

**Yield Statistics**

Base date for Avg. Life & Avg. Coupon Calculation.....	11/02/2016
Average Life.....	3.970 Years
Average Coupon.....	3.9660720%
Weighted Average Maturity (Par Basis).....	3.970 Years
Weighted Average Maturity (Original Price Basis).....	3.968 Years

**Refunding Bond Information**

Refunding Dated Date.....	11/02/2016
Refunding Delivery Date.....	11/02/2016

**\$7,775,000**  
*City of Birmingham*  
*County of Oakland, State of Michigan*  
*2016 Refunding Bonds*

**Current Refunding Escrow**

Date	Principal	Rate	Interest	Receipts	Disbursements	Cash Balance
11/02/2016	-	-	-	0.36	-	0.36
12/02/2016	8,484,400.00	0.250%	1,743.36	8,486,143.36	8,486,143.72	-
Total	\$8,484,400.00	-	\$1,743.36	\$8,486,143.72	\$8,486,143.72	-

**Investment Parameters**

Investment Model [PV, GIC, or Securities].....	Securities
Default investment yield target.....	Unrestricted
Cash Deposit.....	0.36
Cost of Investments Purchased with Bond Proceeds.....	8,484,400.00
Total Cost of Investments.....	\$8,484,400.36
Target Cost of Investments at bond yield.....	\$8,477,037.50
Actual positive or (negative) arbitrage.....	(7,362.86)
Yield to Receipt.....	0.2467006%
Yield for Arbitrage Purposes.....	1.2925329%
State and Local Government Series (SLGS) rates for.....	7/06/2016



## MEMORANDUM

Planning Division

**DATE:** July 18, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Jana L. Ecker, Planning Director

**SUBJECT:** Lot Consolidation Approval Process Changes

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A lot combination occurs when an owner of two or more platted lots next to each other chooses to combine them into one parcel of land. Property owners typically combine lots to increase recreational open space, construct a detached garage, or add onto their existing home.

At the joint meeting of the City Commission and Planning Board on June 20, 2016, the group discussed several current planning issues, including the existing lot consolidation trends. There was general consensus to conduct a review of the existing lot consolidation process.

### **Existing Lot Consolidation Process**

The process currently begins with the owner meeting with Building Department staff to discuss purchasing a neighboring lot and to verify that their plans to use the property will meet City requirements before they actually purchase the lot. An application is then submitted along with certified surveys of each individual lot and one of the combined parcel with the new property description.

Upon receipt of an application for consolidation, the Building Official currently verifies that the proposed combination will not create any code or ordinance nonconformities with any existing buildings and structures. The Treasurer's Office verifies that there are no outstanding fees, taxes, and/or special assessments owed to the City. Treasury staff updates the City's assessing records and sends the combination information to Oakland County Equalization to complete the combination process and issue a new parcel ID number.

Currently, the City Code and the Zoning Ordinance provide detailed requirements for separating previously combined lots, but do not contain specific regulations or provisions pertaining to lot combinations. The existing process outlined above is the result of longstanding City policy.

Based on recent lot consolidation requests, there is a growing trend toward non-typical combination inquiries. Whereas requests to combine lots have historically consisted of two lots side by side and facing the same street being combined into one lot, recently numerous requests have been made to combine back-to-back lots in the interior of a block, or to combine

corner lots with two or more abutting interior lots, sometimes even including a lot on the side street directly behind the corner lot. At this time, there are no limits on the number of lots that can be combined.

### **Proposed Lot Consolidation Process**

The City Commission may wish to consider formalizing a lot consolidation process, using a process similar to the review of lot splits.

Chapter 102, Subdivisions, of the City Code governs the creation, separation and combination of parcels of land within the City. Currently, Article IV outlines the lot split review process that requires review and approval of the proposed split by the City Commission, with specific standards established for lot size, maintaining the character of the neighborhood, and standards for approval.

Please find attached draft ordinance language that proposes a new Article V of Chapter 102, Subdivisions, to establish a similar application and review process for lot consolidations. The proposed amendments include a formal review and approval by the City Commission, establishes standards for the maximum lot width and lot area of combined parcels, requires an analysis of the character and existing rhythm and development pattern of the neighborhood, and provides specific standards to be met for approval.

### **Suggested Action:**

To adopt an ordinance to amend Chapter 102, Subdivisions, of the Birmingham City Code to add a new Article V - Combination of Land Parcels to create regulations governing the approval of residential lot combinations in the City of Birmingham.

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 102, SUBDIVISIONS, OF THE CODE OF THE CITY OF BIRMINGHAM, TO ADD A NEW ARTICLE V, COMBINATION OF LAND PARCELS, TO CREATE REGULATIONS GOVERNING THE APPROVAL OF RESIDENTIAL LOT COMBINATIONS IN THE CITY OF BIRMINGHAM.

THE CITY OF BIRMINGHAM ORDAINS:

Chapter 102, Subdivisions, is hereby amended to add the following Article V, Combination of Land Parcels:

**ARTICLE V. - COMBINATION OF LAND PARCELS**

**Sec. 102-80. - Approval required.**

It shall be unlawful for any person to combine any platted or unplatted parcel or tract of land, except in accordance with the provisions of this chapter, unless the combination is approved by the city commission. No building or occupancy permits shall be issued by the building department for the use of any lot or parcel of land which has resulted from a combination, without the approval required by this article.

**Sec. 102-81 – Hearing**

The city commission shall hold a public hearing at which the proposed combination is considered, notice of which hearing shall be given 15 days prior to the hearing to the owner of land located within 300 feet of lots formed or changed by the combination as the owners of such land appear upon the tax assessment rolls of the city.

**Sec. 102-82. - Required submissions.**

An applicant for a combination of platted or unplatted land shall submit an application on forms provided by the city planning department and shall also provide each of the following:

- (1) A plan or drawing drawn to scale by a registered engineer or surveyor showing the land to be combined, including dimensions, and also adjoining property for at least 500 feet in all directions so as to adequately portray the relationship of the property to be combined and adjoining properties. All

existing buildings and structures shall be located on the plan or drawing, as well as the proposed building envelope, with front, side and rear setbacks clearly marked thereon.

(2) Such additional information as may be required by the city planning department to enable the city to make a determination.

#### **Sec. 102-83. - Standards for approval.**

An unplatted or platted parcel or tract of land shall not be combined with another parcel unless the city commission finds that all of the following conditions have been met:

(1) The combination will result in lots or parcels of land consistent with the character of the area where the property is located, [chapter 126](#) of this Code for the zone district in which the property is located, and all applicable master land use plans.

(2) All residential lots formed as a result of a combination shall be a maximum width of no more than twice the average lot width of all lots in the same zone district within 300 feet on the same street.

(3) All residential lots formed as a result of a combination shall be a maximum area of no more than twice the average lot area of all lots in the same zone district within 300 feet on the same street.

(4) The combination will result in building envelopes on the combined parcels that will allow for the placement of buildings and structures in a manner consistent with the existing rhythm and pattern of development within 500 feet in all directions in the same zone district.

(5) Any due or unpaid taxes or special assessments upon the property have been paid in full.

(6) The combination will not adversely affect the interest of the public or the abutting property owners. In making this determination, the city commission shall consider, but not be limited to the following:

a. The location of proposed buildings or structures, the location and nature of vehicular ingress or egress so that the use or appropriate development of adjacent land or buildings will not be hindered, nor the value thereof impaired.

b. The effect of the proposed combination upon any floodplain areas, wetlands and other natural features and the ability of the applicant to develop a buildable site on the resulting parcel without unreasonable disturbance of such natural features.

c. The location, size, density and site layout of any proposed structures or buildings as they may impact an adequate supply of light and air to adjacent properties and the capacity of essential public facilities such as



police and fire protection, drainage structures, municipal sanitary sewer and water, and refuse disposal.

**Sec. 102-84 – Conditions of Approval**

The city commission may impose conditions on the approval of an application for lot consolidation, including but not limited to, the location and placement of the building envelope, and a determination of the front and rear property lines. If either of these are imposed as a condition of approval, they must be illustrated and recorded with the City and/or County as part of the lot combination process.

Ordained this \_\_\_\_ day of, \_\_\_\_\_2016 to become effective upon publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, City Clerk

**Joint City Commission / Planning Board Meeting**  
**June 20, 2016**

**G. Lot consolidation process**

Mr. Johnson provided background on the issue. He indicated that the city code and zoning ordinance lack regulations for lot combinations. There has been an increase in non-typical combination inquiries, which have been denied because they are inconsistent with how the block was intended to develop based on its layout and standard zoning principles for front, rear and side open spaces. Some have been approved by the BZA after being denied.

Commissioner Nickita said this goes to the master plan, and is being driven by the development community. He thinks it is an inappropriate way of city building. In the meantime, we should have a stopgap circumstance that allows the city control. At the very least, he suggested we immediately take a look at the possibility of incorporating some type of review as done in lot splits, and apply it to lot combinations in a similar manner. Then follow up with the discussion in the master plan.

The consensus was that it has to be dealt with now, and will come back to the Commission.



## MEMORANDUM

Planning Division

**DATE:** July 20, 2016  
**TO:** Joseph A. Valentine, City Manager  
**FROM:** Jana L. Ecker, Planning Director  
**SUBJECT:** Bistro Selection

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In accordance with Chapter 10, Alcoholic Liquors, the City Commission is authorized to issue up to two bistro licenses each calendar year. This review process is governed by a resolution approved by the City Commission on September 11, 2011, which established bistro application deadlines and review procedures.

Over the past several years the City Commission has expressed a desire to attract bistros to both the Triangle District and the Rail District (MX District), in an effort to encourage a mix of uses in these areas that will attract people and activate storefronts and the streetscape. Despite the desire to attract bistros to these areas, the last several years there have been no applicants that came forward to apply for bistros in the Triangle District or the Rail District. A map showing the location of approved bistro establishments is attached for your review. As the map illustrates, numerous applicants continue to be approved for bistro licenses in the downtown.

Accordingly, the City Commission may wish to consider passing a resolution for the bistro selection process for the 2017 calendar year to specifically require at least one of any new bistro applications to be located in the Triangle District or Rail District. This would send a strong message to applicants regarding the City's intentions for the Triangle and Rail Districts, and would also assist in limiting the number of new bistros downtown. A draft resolution is attached for your review and consideration to alter the bistro selection process for the 2017 calendar year only.

**Suggested Action:**

To adopt a resolution to alter the bistro selection process for the 2017 calendar year only by limiting one new bistro license to a location in either the Triangle or MX District.

# Bistros of Birmingham 2015

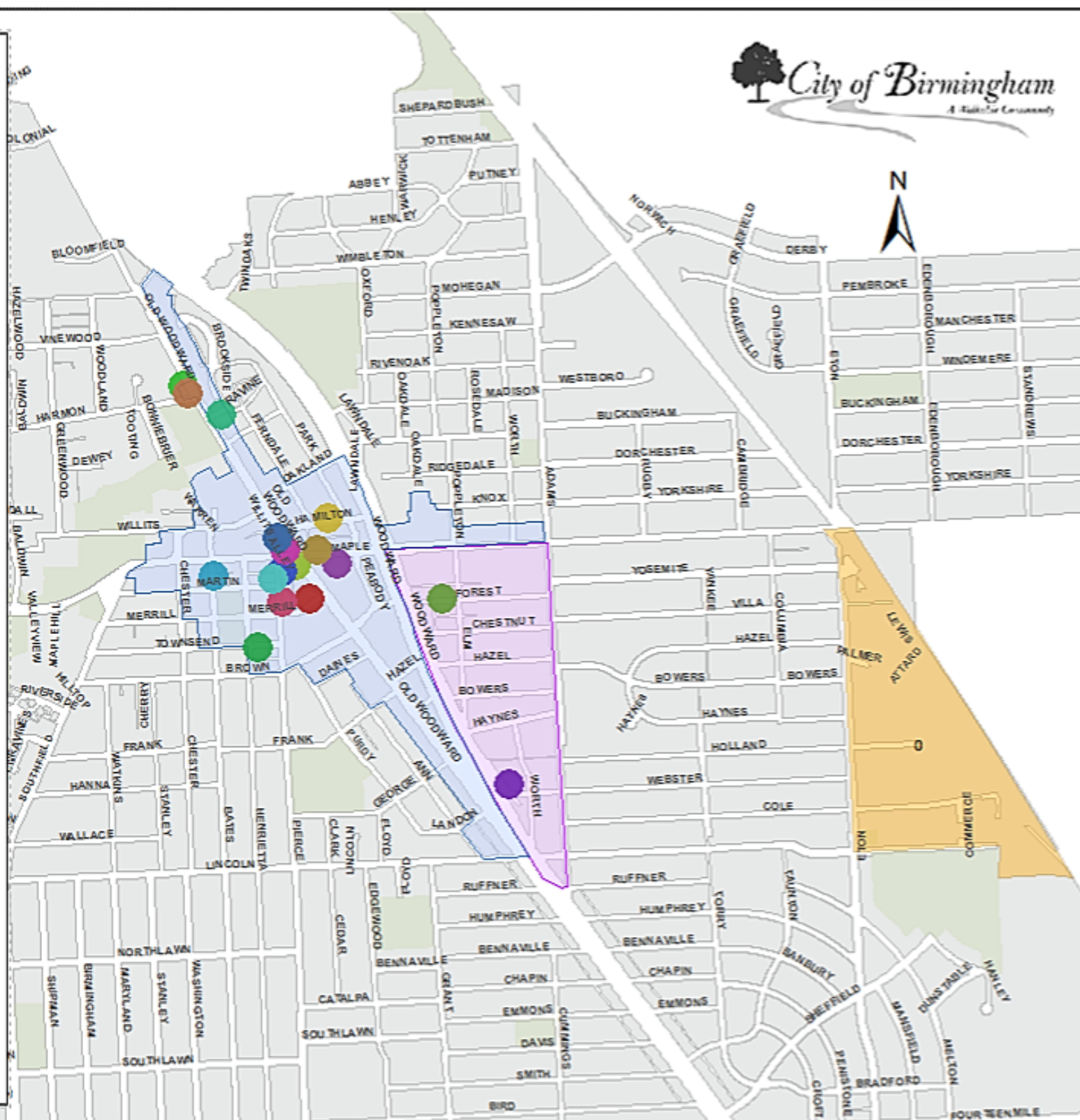
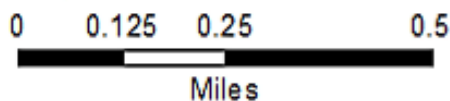
## Establishments

- |   |  |
|---|--|
|  Bella Piatti                   |  La Strada Caffè              |
|  Birmingham Sushi Café          |  Luxe Bar & Grill             |
|  Bistro Joe's                   |  Mad Hatter Café              |
|  Cafe' Via                      |  Market North End             |
|  Churchill's Bistro & Cigar Bar |  Salvatore Scallopini         |
|  Cosi                           |  Social Kitchen & Bar         |
|  Elie's Mediterranean Grill/Bar |  Tallulah Wine Bar and Bistro |
|  Forest Grill                   |  Toast                        |
|   |  Townhouse                    |

## Districts Permitting Bistros

- |   |
|---|
|  Rail District     |
|  Triangle District |
|  Downtown          |

Coordinate System: State Plane  
Coordinate System Michigan South  
Zone 2113 Projection: Lambert  
Conformal Conic, Units: International  
Feet, Datum: NAD83  
Data Sources: Oakland County GIS  
Utility, City of Birmingham  
Updated: December 1, 2015



**RESOLUTION TO ALTER THE BISTRO  
APPLICATION PROCESS FOR 2017  
July 25, 2016**

**WHEREAS**, the City Commission established a definition for bistros in Chapter 126, Zoning, of the City Code;

**WHEREAS**, the operation of bistros is permitted with a valid Special Land Use Permit within defined areas of the City in accordance with Chapter 126, Zoning, of the City Code,

**WHEREAS**, the Birmingham City Commission further approved amendments to Chapter 10, Alcoholic Liquors, to establish a policy and conditions to allow the City Commission the ability to approve a request to transfer a liquor license into the City in excess of the city's quota licenses if an applicant is establishing a bistro,

**WHEREAS**, Chapter 10, Alcoholic Liquors, establishes criteria for selecting qualified bistro applicants, and provides limitations on the influx of new bistro liquor licenses,

**WHEREAS**, the Birmingham City Commission passed a resolution dated September 11, 2011 to establish a bistro application and review process,

**NOW, THEREFORE, BE IT RESOLVED**, The Birmingham City Commission adopts the following limitation for bistro approvals for the calendar year 2017 only, in addition to the review standards previously established:

1. If one or more bistro license is approved by the City Commission for the 2017 calendar year, at least one bistro license must be approved for a location in the Triangle District or the MX – Mixed Use Zone District.

**BE IT FURTHER RESOLVED**, Except as herein specifically provided, all bistro applicants and their 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 resolution, and as they may be subsequently amended.

I, Laura Pierce, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and, correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on July 25, 2016.

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Laura Pierce, City Clerk

## EXISTING BISTRO REGULATIONS

### Chapter 10, Alcoholic Liquors Article II, Licenses, Division 4, Bistro Licenses

#### **Sec. 10-82. - Limitations on the numbers of bistro licenses.**

- (a) Maximum number of bistro licenses. The city commission may approve a maximum number of license transfers for bistro licenses per calendar year as follows:

(1) *Existing establishments.* A maximum of six bistro licenses may be approved in the first year after the passage of this amendment, and a maximum of two bistro licenses may be approved each calendar year thereafter to applicants whose establishments have been continuously operating as a restaurant or food service business in the city for at least five years prior to applying for the license transfer. In addition to the usual criteria used by the city commission for liquor license requests, the commission shall consider the following non-exclusive list of criteria to assist in the determination of which of the existing establishment applicants, if any, should be approved:

- a. The applicant's demonstrated ability to finance the proposed project.
- b. The applicant's track record with the city including responding to city and/or citizen concerns.
- c. Whether the applicant has an adequate site plan to handle the bistro liquor license activities.
- d. Whether the applicant has adequate health and sanitary facilities.
- e. The establishment's location in relation to the determined interest in the establishment of bistros in the overlay district and the Triangle district.
- f. The extent that the cuisine offered by applicant is represented in the city.
- g. Whether the applicant has outstanding obligations to the city (i.e., property taxes, utilities, etc.).

(2) *New establishments.* Two bistro licenses may be approved each calendar year to applicants who do not meet the definition of existing establishments as set forth in subsection (a)(1). In addition to the usual criteria used by the city commission for liquor license requests, the commission shall consider the following non-exclusive list of criteria to assist in the determination of which of the new establishment applicants, if any, should be approved:

- a. The applicant's demonstrated ability to finance the proposed project.
- b. The applicant's track record with the city including responding to city and/or citizen concerns.
- c. Whether the applicant has an adequate site plan to handle the bistro liquor license activities.
- d. Whether the applicant has adequate health and sanitary facilities.
- e. The establishment's location in relation to the determined interest in the establishment of bistros in the overlay district and the Triangle district.
- f. The extent that the cuisine offered by applicant is represented in the city.

g. Whether the applicant has outstanding obligations to the city (i.e., property taxes, utilities, etc.).

- (b) Application deadlines and review procedures for bistro licenses shall be established by resolution of the city commission.
- (c) Annual review of need. Every year for the first three years after the passage of this amendment, and every three calendar years thereafter, the city commission shall perform a review of the previously approved bistro license(s), if any, and the impact of those decisions on the city. A time for public comment shall be provided. Based on the city commission review and comment by the public, the city commission shall determine whether they will consider applications for license transfers for existing establishments and/or new establishments, up to the maximum in each category.
- (d) If any new transfers of licenses for bistros are to be considered, the city commission shall set a schedule setting forth when all applicants must submit their application and supporting documentation, when interviews may be conducted and a timeframe within which a decision will be anticipated.

(Ord. No. 1929, 4-16-07; Ord. No. 2065, 8-22-11)

Ordained this \_\_\_\_ day of, \_\_\_\_\_ 2016 to become effective upon publication.

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Rackeline J. Hoff, Mayor

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Laura Pierce, City Clerk

## **EXISTING BISTRO REVIEW PROCESS**

### **RESOLUTION TO ESTABLISH BISTRO APPLICATION DEADLINES AND REVIEW PROCEDURES SEPTEMBER 12, 2011**

**WHEREAS**, the City Commission established a definition for bistros in Chapter 126, Zoning, of the City Code;

**WHEREAS**, the operation of bistros is permitted with a valid Special Land Use Permit within defined areas of the City in accordance with Chapter 126, Zoning, of the City Code,

**WHEREAS**, the Birmingham City Commission further approved amendments to Chapter 10, Alcoholic Liquors, to establish a policy and conditions to allow the City Commission the ability to approve a request to transfer a liquor license into the City in excess of the city's quota licenses if an applicant is establishing a bistro,

**WHEREAS**, the amendments to Chapter 10, Alcoholic Liquors, established criteria for selecting qualified bistro applicants, and provided limitations on the influx of new bistro liquor licenses,

**NOW, THEREFORE, BE IT RESOLVED**, The Birmingham City Commission adopts the following review process and schedule for future bistro applications:

1. All bistro applications for the upcoming calendar year must be submitted for initial review on or before October 1st of the preceding year.
2. Beginning January 1, 2012, all bistro applications submitted for initial review must contain only the following information in 5 pages or less:
  - A brief description of the bistro concept proposed, including type of food to be served, price point, ambience of bistro, unique characteristics of the operation, if any, and an explanation of how this concept will enhance the current mix of commercial uses in Birmingham;
  - Proposed location, hours of operation and date of opening;
  - Name of owner/operator and outline of previous restaurant experience; and
  - Evidence of financial ability to construct and operate the proposed bistro.
3. All bistro applications received by the deadline will be reviewed by the City Commission within 30 days of the deadline for prioritization based on the proposed bistro concept, proposed location within the City, potential impact on the City, and the capability of the proposed owner/operator. Each applicant will be given a time limit to present their concepts to the City Commission.



4. The City Commission will prioritize all initial applications received, and will direct the top applications to the Planning Board for a detailed site plan and design review and Special Land Use Permit review.

5. All bistro applications forwarded to the Planning Board for detailed review must be supplemented with additional information as required for site plan and design review, including a site plan, elevation drawings, floor plan, landscaping plan, photometric plan and material samples. Additional information as required for review of the bistro as a SLUP includes sample menus, interior design details, evidence of financial capability, as well as any other information requested by the Planning Board.

6. All detailed applications directed to the Planning Board from the City Commission must be received within 90 days of the City Commission's initial review. All detailed applications will then be reviewed during public hearings conducted during a single Planning Board meeting.

7. All bistro applications will be evaluated by the Planning Board based on the criteria set forth in Chapter 10, Alcoholic Liquors, Division 4, Selection Criteria, and up to two applications will be recommended for approval to the City Commission. All applications will be assigned a priority ranking by the Planning Board.

8. All bistro applications reviewed by the Planning Board will be forwarded to the City Commission for a detailed review and approval/denial in the order of the ranking assigned by the Planning Board.

9. The City Commission will conduct public hearings to review the selected bistro applications and determine which, if any, bistros to approve for the calendar year, up to a maximum of two approvals.

10. In the event that two bistro approvals are not granted as a result of the fall review period, the City will accept additional bistro applications for the current calendar year on or before April 1st.

11. All bistro applications received in this second round will be reviewed and ranked by the Planning Board using the same review process noted in steps 2 through 9 above.

**BE IT FURTHER RESOLVED**, Except as herein specifically provided, all bistro applicants and their 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 resolution, and as they may be subsequently amended.

I, Laura Broski, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and, correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on September 12, 2011.

July 21, 2016

Mr. Joseph A. Valentine, City Manager  
**City of Birmingham**  
151 Martin Street, P.O. Box 3001  
Birmingham, MI 48012-3001

**Re: Proposed License for Right-of-Way Occupancy by Temporary Building Wall  
Tie-Backs and H-Piles**

Dear Mr. Valentine:

Attached you will find a proposed contract between the City and Brookside Development Group with respect to the development of the project at 369-397 North Old Woodward. The Brookside Development Group will be constructing an underground parking facility with 38 spaces in excess of those spaces required for the development purposes alone. They are requesting from the City the ability to have temporary building wall tie-backs and H-piles to support the foundation of the two story underground garage. This sort of construction has been used in other locations and will be entirely underground. However, the tie-backs will be encroaching on City property underneath what may be the future Bates Street extension, parts of North Old Woodward and property to the north of the development owned by the City. After the foundation is set, they will cut the tie-backs at 84 inches below grade, and leave them in place, thereby facilitating their development. In addition to the initial consideration of additional parking spaces, they have agreed to be specially assessed for 100% of all of the streetscape improvements adjacent to the southerly property line to the back of the new curb of Bates Street, in the event the expansion of Bates Street is undertaken.

They are requesting this matter be reviewed by the City Commission and approved at its next upcoming meeting.

Very truly yours,

**BEIER HOWLETT, P.C.**

Timothy J. Currier  
Birmingham City Attorney

TJC/jc

**PROPOSED RESOLUTION**

**RESOLUTION TO APPROVE THE LICENSE FOR RIGHT-OF-WAY OCCUPANCY BY A TEMPORARY BUILDING WALL AND TIE-BACKS AND H-PILES.**

**OR**

**RESOLUTION TO DENY THE LICENSE FOR RIGHT-OF-WAY OCCUPANCY BY A TEMPORARY BUILDING WALL AND TIE-BACKS AND H-PILES.**

**LICENSE FOR RIGHT-OF-WAY OCCUPANCY  
BY TEMPORARY BUILDING WALL TIE-BACKS AND H PILES**

**THIS AGREEMENT** is made on the \_\_\_\_ day of \_\_\_\_\_, 2016 between the City of Birmingham, a Michigan municipal corporation, 151 Martin Street, Birmingham, Michigan, ("City"), and Brookside Development Group, LLC a Michigan Limited Liability Company, whose address is 27777 Franklin Road, Suite 200, Southfield, MI 48034 ("Licensee").

**WHEREAS**, the Brookside Development project is being developed by Brookside Development Group and is located at 369-397 N. Old Woodward; and,

**WHEREAS**, Brookside Development Group applied for and received final site plan approval for the project on March 23, 2016; and,

**WHEREAS**, Brookside Development Group is providing two (2) floors of underground parking with 38 spaces in excess of those spaces required for the development; and,

**WHEREAS**, the City believes it is in the best interest of the community for such additional parking spaces to be available; and,

**WHEREAS**, the City, therefore, believes it is also in the best interest of the City to enter into a License Agreement for the occupancy of the public property by temporary building wall tie-backs and H piles.

**NOW, THEREFORE**, in consideration of the permission to install and maintain building wall tie-backs and H piles to be owned and used by Licensee at City right-of-way locations sited as described below and in the manner shown by the approved construction drawings, Licensee agrees to the following conditions:

1. Licensed Premises (hereafter "The Premises"):

The building wall tie-backs and H piles shall be located within the following areas and as described more specifically on the approved construction drawings:

Within the public property adjacent to the eastern property line, southerly property line and portions of the northerly and westerly property lines of 369-397 N. Old Woodward.

The building wall tie-backs shall be located, constructed and maintained on and in the Premises at a location below the roadway and below any existing utility corridors, shall be disconnected at each H pile and cut off eighty-four

inches (84") below surface grade at the time of completion of foundation work with the disconnected and cut off section being removed and the remainder will be abandoned in place upon completion of foundation work. The H piles shall be located, constructed and maintained on and in The Premises as shown on the attached drawing. Those H piles located on City property shall be cut off eighty-four inches (84") below surface grade at the time of completion of the foundation work and then abandoned in place. No departure shall be made at any time from the foregoing except upon permission in writing granted by the City.

This License shall not be deemed or construed as transferring to Licensee any real property interest in the Premises or any right in the nature of any real estate or real property interest in land, in whole or in part, irrespective of any expenditure by Licensee in connection with the construction and maintenance of the tie-backs.

2. Serviced Property.

The property serviced by the licensed use is located at the street address of 369-397 N. Old Woodward. Parcel ID number: 08-19-25-376-086.

3. Use.

Licensee may use the Premises only as follows:

- A. Licensee must comply with all applicable laws, regulations, and ordinances.
- B. Licensee must comply with the requirements of "Miss Dig" as set forth in MCL §460.718. The provisions of Paragraph 3.B. shall survive the duration of this license as provided for in Section 4.
- C. License is intended for use of Licensee only. Use by any other occupant of the serviced property or of any other property is not a permissible use.
- D. License is not transferable to successors or assigns except that Licensee, with the written permission of the City (which will not be unreasonably withheld), may transfer use to a parent entity or an entity under common control with Licensee, provided no entity other than an authorized transferee or Licensee owns or occupies the serviced property.

4. Duration.

- A. Except as otherwise provided, this License will last for two (2) years unless one or more of the following events occurs, in which case the City may terminate this License early by providing written notice to that effect to Licensee:
  - 1. Licensee breaches the conditions of use.
  - 2. Licensee fails to pay any license fee when due.
- B. Except as otherwise provided, upon termination of this License or upon the removal or abandonment of the building wall tie-backs and H piles in accordance with Section 6.E. hereof, all rights of the Licensee shall cease and terminate, and this instrument shall become and be null and void, without any liability on the part of either party to the other party except only as to any liability accrued prior thereto.
- C. If Licensee wants to renew or extend the term of this License beyond the original termination date, Licensee shall ask the City for such renewal or extension at least sixty (60) days before the termination date. The City will consider renewal of the license or extension of the duration upon terms and conditions prevailing at the time of the expiration of the current term. Licensee agrees that during the term of any such renewal or extension, if Licensee's use conflicts with an existing or proposed City use of the Premises, the City may terminate the license on six (6) months' notice. Where feasible, the City will consider a request by Licensee to relocate the building wall tie-backs to a location not conflicting with the City's existing or proposed use.

5. Fee.

Licensee shall pay fees as follows:

- A. The License Application Processing and Review Fee, permit fees and inspection fees as required by the Schedule of Fees established by the City.

6. Installation and Maintenance Requirements.

Licensee agrees to the following installation and maintenance requirements:

- A. The Premises shall be used for H piles and building wall tie-back

purposes only.

- B. Any area disturbed during building wall tie-back or H pile installation or any maintenance activity shall be restored or repaired at completion of building construction to a condition as good or better than existing immediately prior to the installation or maintenance activity.
- C. Proper traffic control, where and when applicable, shall be maintained in accordance with current Public Services Department's Standard Specifications during all construction or maintenance activity.
- D. The work of constructing, maintaining, and cutting off the building wall tie-backs, and the work of constructing, maintaining and cutting off the H piles, shall be done so as to not interfere with the proper and safe use or operation of City right-of-way and public property by the public and under the following general conditions:
  - 1. Licensee agrees to take reasonable precautions to minimize damage to the Premises, and any other property, real or personal of the City and shall at all times be obligated to maintain properly the Premises.
  - 2. Licensee and/or Licensee's Contractor's access to and ingress and egress from the Premises will occur during the normal business and construction hours, unless the City provides prior authorization for access outside of normal business and construction hours.
  - 3. Licensee shall provide the City with a minimum of forty-eight (48) hours' notice prior to the commencement of any construction or maintenance activity and such notice may be given in writing, fax or telephone addressed to:

City of Birmingham Building Official  
151 Martin Street  
Birmingham, MI 48009  
Telephone: (248) 530-1842  
Facsimile: (248) 530-1282

- 4. If Licensee desires or is required by any regulatory body duly constituted and appointed in compliance with the laws of Michigan and having jurisdiction in the premises, to revise, add to or alter in any manner whatsoever the building wall tie-backs, Licensee shall submit plans to the City and/or any other necessary party and obtain written approval before any work or alteration of the building wall

tie-backs is performed and the terms and conditions of this License with respect to the original construction shall apply thereto.

- E. The H-piles and building wall tie-backs will be abandoned in place, but will be cut and removed to eighty-four inches (84)" below surface grade upon completion of the foundation as described in Section 1 above.
- F. A PDF version and an AutoCAD electronic file of the "as built" plans of the building wall tie-back installation shall be submitted to the City within thirty (30) days after the building wall tie-backs have been installed.
- G. All costs and expenses in connection with the construction, maintenance, repair, relocation and/or removal of the building wall tie-backs shall be borne by the Licensee.
- H. The Licensee shall be specially assessed for 100% of all streetscape improvements adjacent to its southerly property line to the back of the new curb of Bates Street in the event an expansion of Bates Street is undertaken.

7. Reimbursement/Indemnification/Insurance.

Licensee agrees to the following:

- A. To the extent permitted by law, defend, hold harmless and indemnify the City from all claims or suits of any nature arising from or the City may be subjected to by reason or on account of the installation, maintenance, relocation, removal or use of the building wall tie-backs in City right-of-way. The provisions of Paragraph 7.A. shall survive the termination of this License.
- B. Licensee shall furnish the City with certificates of insurance evidencing insurance coverage for the following:
  - 1. Worker's Compensation Insurance in accordance with all applicable state and federal statutes.
  - 2. Commercial General Liability Insurance. There shall be no added exclusions or limiting endorsements to restrict the policy coverage for Products and Completed Operations Hazard and for Explosion, Collapse and Underground Hazards. Further, the following minimum limits of liability are required: \$1,000,000 each occurrence as respect bodily injury liability or property damage liability, or both combined;



\$2,000,000 per job general aggregate; \$1,000,000 personal and advertising injury; and \$2,000,000 products and completed operations aggregate.

3. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages. Coverage shall include all owned vehicles, all non-- owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each accident as respects bodily injury liability or property damage liability, or both combined.
  4. Additional insured. Commercial general liability insurance and motor vehicle liability insurance as described above shall include an endorsement stating the following shall be Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage be primary.
  5. Documentation acceptable to the City Attorney showing the insurance is in effect shall be filed with the City prior to any on-site work.
8. Warranties.
- A. The Licensee warrants that it is the owner of the serviced property.
  - B. During the term of the license, the Licensee and condominium association warrant that they will not allow the use of The Premises to be used by any person or entity except Licensee and the condominium association.
  - C. The signatory below warrants that he/she has full authority to enter into this agreement on behalf of Licensee.
9. Other Permits Required.
- Licensee at its sole risk, cost and expense shall obtain all permits and approvals which may be necessary or appropriate and Licensee shall assume all cost and expense and responsibility in connection with said permits and approvals, without any liability whatsoever on the part of the City.

10. Miscellaneous

- A. Terminology. As used in this License, the term "Licensee" shall include the contractors and agents of Brookside Development Group. Brookside Development Group's related parties, common owners and the condominium association.
- B. Governing Law. This License and the rights and obligations of the parties hereunder shall be construed, governed and enforced in accordance with the laws of the State of Michigan.
- C. Severability. If any term, obligation or condition of this License or the application thereof to any person or circumstance shall be held invalid or unenforceable to any extent by a final judgment or award which shall not be subject to change by appeal, then the remainder of this License or the application of such term or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant and condition of this License shall be valid and be enforced to the fullest extent permitted by law. Furthermore, each agreement, obligation or other provision of this License is and shall be deemed and construed as a separate and independent obligation of the party bound by, undertaking or making the same, and not dependent on any other provision of this License unless expressly so provided.
- D. Waiver. The waiver by the non-breaching party of any breach of any term, covenant, obligation or condition here contained by the breaching party shall not be deemed to be a waiver of any subsequent breach of the same or a waiver of any other term, covenant, obligation or condition herein contained. Neither party shall be deemed in breach of this License unless the non-breaching party gives the breaching party notice specifying what would otherwise be the breach and the breaching party does not effect a cure within thirty (30) days.
- E. Third Party Beneficiary. Nothing contained in this License shall be construed as to confer upon any other party the rights of a third party beneficiary. No other persons or entities may enforce it for their benefit, nor shall they have any claim or remedy for its breach.
- F. Assignability. The Licensee shall not, without the prior written consent of the Licenser, which consent shall not be unreasonably withheld, delayed or conditioned, the Assignor's interest in this License or to sublet the whole, portion or any portions of the licensed premises except when the assignment of the License is pursuant to the sale of the

building. Notwithstanding the foregoing, the Licensors consent shall not be required in order for the Licensee to enter into leases or other agreements with third parties with respect to the improvements constructed in connection with the project provided that such leases and/or agreements do not permit such third parties to violate the terms of the License. Promptly after entering into such a lease or other agreement, Licensee shall provide written notice thereof to the Licensors.

- G. Entire Agreement. The entire agreement between the City and Licensee with respect to Licensee's license of the Premises is set forth in this License and there are no understandings, agreements, or representations of any kind between the parties, verbal or otherwise, with respect to Licensee's license of the Premises other than as set forth herein. No change or modification of any of the terms, obligations or provisions of this license shall be valid unless in writing and signed by the parties. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns.

For the City of Birmingham, A Michigan  
Municipal Corporation

For Brookside Development Group LLC  
A Michigan Limited Liability Company

By: \_\_\_\_\_  
Rackeline J. Hoff  
Its: Mayor

By: \_\_\_\_\_  
Its: Managing Member

By: \_\_\_\_\_  
Laura M. Pierce  
Its: Clerk

Approved as to substance:

\_\_\_\_\_  
Bruce R. Johnson, Building Official

\_\_\_\_\_  
Mark Gerber, Finance Director

Approved as to form:

\_\_\_\_\_  
Timothy J. Currier, City Attorney

\_\_\_\_\_  
Joseph A. Valentine, City Manager



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/8/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> VTC Insurance Group 37000 Grand River Avenue PO Box 2999 Farmington Hills MI 48335		<b>CONTACT NAME:</b> Michele Weinstein <b>PHONE (A/C No. Ext):</b> (248)471-0970 <b>FAX (A/C No.):</b> (248)471-0641 <b>E-MAIL ADDRESS:</b> mweinstein@gswins.com	
<b>INSURED</b> Frank Rewold & Son Inc 333 East Second Street Rochester MI 48307		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Amerisure Insurance Co. INSURER B: Amerisure Partners Ins. Co. INSURER C: Allied World Assurance Co. (Us) INSURER D: Amerisure Mutual Ins Co. INSURER E: Travelers Prop Cas Co. of AM INSURER F:	

**COVERAGES**

CERTIFICATE NUMBER: 15/16Liab/UpdtdCPL/PL

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CPP2072740	10/1/2015	10/1/2016	MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CA2072738	10/1/2015	10/1/2016	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				PROPERTY DAMAGE (Per accident) \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CU2072818	10/1/2015	10/1/2016	EACH OCCURRENCE \$ 10,000,000
E	<input checked="" type="checkbox"/> EXCESS LIAB	<input type="checkbox"/>	<input type="checkbox"/>				AGGREGATE \$ 10,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$ 0	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	ZUP15S58612	10/1/2015	10/1/2016	OCC/AGG \$ \$5M / \$5M
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/>	N/A	WC 2072815	10/1/2015	10/1/2016	E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
A	Installation Floater			CPP2072740	10/1/2015	10/1/2016	Limit: 500,000
C	Prof Liab/Contr Poll Liab			03100777	04/3/2016	04/3/2017	Prof Liab \$2,000,000 / CPL 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Brookside Mixed Use Development - North Old Woodward Ave., Birmingham, MI Where required by written contract, Alden Development Group, LLC, Brookside Development Group, LLC, Christopher J. Longe, AIA Architecture and Planning (Architect) and W. Keith Owen, Owen Architects Collaborative, LLC is additional insured on the General Liability policy with respects to liability arising out of ongoing and completed operations performed by the named insured and with respects to the auto liability coverage. Where required by written contract, additional insured coverage provided under the General Liability, Auto Liability and Umbrella Liability applies on a primary and noncontributory basis. General Liability,

**CERTIFICATE HOLDER****CANCELLATION**

Alden Development Group, LLC c/o Matthew Shiffman 27777 Franklin Road, Ste 200 Southfield, MI 48034	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Alan Chandler/MLW <i>Alan P. Chandler</i>

## COMMENTS/REMARKS

Auto Liability, Workers Compensation and Umbrella Liability policies include waiver of subrogation on behalf of additional insured as required by written contract and where allowed by law.



## MEMORANDUM

City Manager's Office

**DATE:** July 22, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Joellen Haines, Assistant to the City Manager

**SUBJECT:** Request to create an Ad Hoc Birmingham Brand Development Committee (BBDC) and issue RFP for Brand Development

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At the City Commission meeting of May 11, 2015, it was suggested the City review its branding and image in regards to updating its graphics and logo. The Commission agreed. During the January 16, 2016 Long-Range Planning Meeting, the City Commission was in support of rebranding the City logo, and Mayor Hoff suggested this initiative move forward once the Commission completed its goal setting, which was done on February 8, 2016.

The process proposed to move this initiative forward is to issue a Request for Proposal (RFP) for Birmingham Brand Development, where a firm will be selected to gather input from various stakeholder groups from the community, work closely with a committee formed by the City, and then present the firm's branding recommendations to the committee. The process further requires the creation of an Ad Hoc Birmingham Brand Development Committee (BBDC).

The BBDC would be comprised of: one member from the Parks and Recreation Board, one member from the Birmingham Shopping District (BSD), one member from the Planning Board, two City Commissioners, and two at-large members drawn from different neighborhoods. The seven-person Committee would work with the branding firm to filter information and ideas gathered during the stakeholder groups branding discovery meetings to make their final recommendations to the City Commission for a new City logo.

Consistent with City Commission Goals to encourage citizen involvement for the common good, input will be gathered from branding discovery meetings with three core stakeholder groups; one group from the business community, another representing the residential and neighborhood community, and a final drawing from existing boards and committee members. The RFP specifies that the firm will conduct at least three branding discovery meetings with stakeholders designated by the City.

The goal of the rebranding initiative is to establish a new brand (logo) that communicates Birmingham's image in a positive, evolving and refreshing way.

### SUGGESTED RESOLUTION:

To authorize a Request for Proposal (RFP) be issued for Birmingham Brand Development;

AND,

To approve the creation of an Ad Hoc Birmingham Brand Development Committee (BBDC) for the purpose of reviewing and making a recommendation to the City Commission for the rebranding of the City logo; and further, to include 1 member of the Parks and Recreation Board, 1 member from the Birmingham Shopping District, 1 member from the Planning Board, (to be appointed by their respective boards), two members at large in the City, and City Commissioners \_\_\_\_\_ and \_\_\_\_\_.



**REQUEST FOR PROPOSALS  
For BIRMINGHAM BRAND DEVELOPMENT SERVICES**

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Sealed proposals endorsed “**BIRMINGHAM BRAND DEVELOPMENT SERVICES**”, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; **until August 19, 2016 at 4 p.m.**, after which time bids will be publicly opened and read.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to update and refresh the current Birmingham brand logo. This work must be performed as specified accordance with the specifications contained in the Request For Proposals (RFP).

The RFP, including the Specifications, may be obtained online from the Michigan Inter-governmental Trade Network at <http://www.mitn.info> or at the City of Birmingham, 151 Martin St., Birmingham, Michigan, ATTENTION: Marianne Gamboa, Public Relations Specialist.

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the City until an agreement has been executed.

<b>Submitted to MITN:</b>	July 27, 2016
<b>Deadline for Submissions:</b>	August 19, 2016
<b>Contact Person:</b>	Marianne Gamboa, Public Relations Specialist P.O. Box 3001, 151 Martin Street Birmingham, MI 48012-3001 Phone: (248) 530-1812 Email: <a href="mailto:mgamboa@bhamgov.org">mgamboa@bhamgov.org</a>





## REQUEST FOR PROPOSALS For BIRMINGHAM BRAND DEVELOPMENT SERVICES

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## INTRODUCTION

For purposes of this request for proposals the City of Birmingham will hereby be referred to as “City” and the private firm will hereby be referred to as “Contractor.”

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to create a design concept to update and refresh the Birmingham brand logo for all its media needs. This would include creating vector-based graphics of the new logo that can be integrated with all City communication avenues, including official letterhead, memorandum, email communication, business cards, community newsletters, press releases, flags, banners, and signage. The Contractor will create Website header/footer graphics incorporating the newly designed logo and integration into online ads and social media networks such as Facebook, Twitter, LinkedIn, etc. The Contractor will also create a Style Guide that shows how the brand identity should be used in different contexts and communication avenues.

The City of Birmingham strives to cultivate a safe, healthy and dynamic city which promotes an environment for people of all ages to live, work, shop and play in the community. The approximately 5 square mile City is home to more than 20,000 people and is located approximately 20 miles north of downtown Detroit in the southeastern portion of Oakland County. The City of Birmingham has a historic downtown nestled inside a thriving retail shopping district, all surrounded by beautiful golf courses, quaint parks and convenient parking structures. Birmingham offers a variety of experiences from sports facilities to entertainment and fine dining. The City boasts pedestrian-friendly shopping and an innovative Farmer’s Market available during the summer months. Additionally, Birmingham hosts numerous art fairs, bike races, park concert series, and year-round events to draw in visitors from all over the country.

The scope of work for the Contractor will include participation in at least three branding discovery meetings with Birmingham stakeholder groups designated by the City. The Contractor will create three design concepts for a new City logo to incorporate ideas representing the different aspects and personality of the City, and then present these designs for review and discussion by a committee designated by the City for Birmingham brand development.

This work must be performed as specified accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP).

During the evaluation process, the City reserves the right where it may serve the City’s best interest to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a firm will be completed by November 30, 2016. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

## REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide a design concept to update and refresh the Birmingham brand logo for all its communication and media needs. This would include creating vector-based graphics of the new logo that can be integrated with all City communication avenues and social media,

## INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than August 19, 2016 at 4 p.m. to:

City of Birmingham  
Attn: City Clerk  
151 Martin Street  
Birmingham, Michigan 48009

One (1) original and seven (7) copies of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, **“BIRMINGHAM BRAND DEVELOPMENT SERVICES”**. Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

## INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the bidder must be completed on the attached forms contained herein (see Contractor's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.
2. Any request for clarification of this RFP shall be made in writing and delivered to: Marianne Gamboa, Public Relations Specialist, City of Birmingham, 151 Martin Street, Birmingham, Michigan, 48009, or to [mgamboa@bhamgov.org](mailto:mgamboa@bhamgov.org). Such request for clarification shall be delivered, in writing, no later than 2 days prior to the deadline for submissions.
3. All proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to respondents and general information sections. All proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the RFP format by the respondent.

4. The contract will be awarded by the City of Birmingham to the most responsive and responsible bidder with the lowest price and the contract will require the completion of the work pursuant to these documents.
5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.
6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and email. The company shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.
7. All work completed by vendor shall be original, and shall not violate any copyright laws.
8. All ownership rights to original art files and design concepts shall be transferred to the City of Birmingham upon completion of project.
9. During the evaluation process, the City of Birmingham reserves the right where it may serve the City of Birmingham's best interest to request additional information or clarification, or to allow corrections of errors or omissions. At the discretion of the City of Birmingham, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

## **EVALUATION PROCEDURE AND CRITERIA**

The evaluation panel will consist of City staff and any other person(s) designated by the City who will evaluate the proposals based on, but not limited to, the following criteria:

1. Ability to provide services as outlined.
2. Related experience and creative approach with similar projects; include contractor background. Provide a brief history of your organization.
3. Quality and completeness of proposal.
4. Qualifications of personnel assigned to the project.
5. References
6. Overall Costs

## **TERMS AND CONDITIONS**

1. The City reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems best. The City reserves the right to award the contract to the next most qualified Contractor if the successful Contractor does not execute a contract within ten (10) days after the award of the proposal.
2. The City reserves the right to request clarification of information submitted and to request additional information of one or more Contractors.
3. The City reserves the right to terminate the contract at its discretion should it be determined that the services provided do not meet the specifications contained herein. The City may terminate this Agreement at any point in the process upon notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay Contractor for services rendered to the time of notice, subject to the contract maximum amount.
4. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.
5. The cost of preparing and submitting a proposal is the responsibility of the Contractor and shall not be chargeable in any manner to the City of Birmingham.
6. Payment will be made within thirty (30) days after invoice is received and accepted by the City. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

7. The Contractor will not exceed the timelines established for the completion of this project.
8. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

## **CONTRACTOR'S RESPONSIBILITIES**

Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
  - a. Bidder's Agreement (Attachment B - p. 17)
  - b. Cost Proposal (Attachment C - p. 18)
  - c. Iran Sanctions Act Vendor Certification Form (Attachment D - p. 19)
  - d. Agreement (p. 11 – **only if selected by the City**).
2. Provide a description of completed projects that demonstrate the firm's ability to complete projects of similar scope, size, and purpose, and in a timely manner, and within budget.
3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work (p. 10).
4. The Contractor will be responsible for any changes necessary for the project to be approved by the City of Birmingham.
5. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.
6. Provide a list of sub-contractors and their qualifications, if applicable.
7. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for projects for similar services.
8. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

## **CITY RESPONSIBILITY**

1. The City will provide a designated representative to work with the Contractor to coordinate both the City's and Contractor's efforts and to inspect and verify any work performed by the Contractor.

2. The City will provide access to the City of Birmingham during regular business hours or during nights and weekends as approved by the City's designated representative.

## **SETTLEMENT OF DISPUTES**

The successful bidder agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 17 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

## **INSURANCE**

The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 12 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

## **CONTINUATION OF COVERAGE**

The Contractor also agrees to provide all insurance coverages as specified. Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

## **EXECUTION OF CONTRACT**

The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

## **INDEMNIFICATION**

The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 13 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

## **CONFLICT OF INTEREST**

The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 14 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

## **EXAMINATION OF PROPOSAL MATERIALS**

The submission of a proposal shall be deemed a representation and warranty by the Contractor that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

## **PROJECT TIMELINE**

August 19, 2016 - 4:00 p.m.	Proposals due to City Clerk's Office, Birmingham
September 12, 2016	Contract awarded
November 30, 2016	Project completion

The Contractor will not exceed the timelines established for the completion of this project.

## **SCOPE OF WORK**

The Contractor shall perform the following services in accordance with the requirements as defined and noted herein:

1. The Contractor will create a design concept for a new logo and use the existing color scheme, to produce a new logo which encompasses the character of the City based on input from three different stakeholder groups determined by the City.
2. The Contractor will conduct at least three branding discovery sessions with designated stakeholder groups determined by the City of Birmingham to seek input for the new logo design.
3. The Contractor will draw conclusions from the discovery sessions to develop a brand identity that captures Birmingham's character. The design should represent the community's diverse atmosphere to establish an identity that will effectively communicate Birmingham's brand to the public in a positive, evolving and refreshing way.
4. The Contractor will develop at least three branding themes, and provide accompanying materials for review by Birmingham committee members and city officials. The contractor will create sample templates of primary communication tools incorporating the use of the new logo.
5. The Contractor will present the three branding themes to the Ad Hoc Birmingham Brand Development Committee (BBDC) for review and feedback, and make modifications based on their comments and input. The Contractor will make a final presentation to the City Commission following direction from the BBDC.



6. To summarize, the Contractor should expect to conduct at least 3 branding discovery sessions, 1-2 presentations to the BBDC, and 1 presentation to the City Commission for final approval.
7. Once the design is approved, the Contractor will develop specific brand standards for use on various media, including print and online web use, and deliver an electronic and printed Birmingham Logo Style Guide, for standardized use by the City.
8. The Birmingham Logo Style Guide will outline specific uses, both in print and in web applications, and will be a reference for all city staff on use of the logo. The guide will identify fonts, colors, logos (b&w, color, etc.), positioning of elements in various media, image/asset recommendations, and how to use the logo in existing media outlets.
9. The design concept for the logo will be high resolution, sector-based and easily integrated for use in all City of Birmingham communication avenues, to include but not limited to such items as letterhead, envelopes, memorandum, email communication, business cards, community newsletters, signage, press releases, as well as online or social media communication avenues such as Facebook, Twitter, YouTube, etc.

In addition, the Contractor shall adhere to the following guidelines:

1. All work completed by vendor shall be original, and shall not violate any copyright laws.
2. All ownership rights to original art files and design concepts shall be transferred to the City of Birmingham upon completion of project.
3. During the evaluation process, the City of Birmingham reserves the right where it may serve the City of Birmingham's best interest to request additional information or clarification, or to allow corrections of errors or omissions. At the discretion of the City of Birmingham, firms submitting proposals may be requested to make oral presentations as part of the evaluation.
4. This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.

**ATTACHMENT A - AGREEMENT**  
**For BIRMINGHAM BRAND DEVELOPMENT SERVICES**

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This AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and \_\_\_\_\_, Inc., having its principal office at \_\_\_\_\_ (hereinafter called "Contractor"), provides as follows:

**WITNESSETH:**

**WHEREAS**, the City of Birmingham, through its City Manager's Office, is desirous of having Contractor provide a design concept to update and refresh the Birmingham brand logo for all its communication and media needs.

**WHEREAS**, the City has heretofore advertised for bids for the procurement and performance of services required to provide a design concept to update and refresh the Birmingham brand logo for all its communication and media needs, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

**WHEREAS**, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to provide a design concept to update and refresh the Birmingham brand logo for all its communication and media needs.

**NOW, THEREFORE**, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to provide a design concept to update and refresh the Birmingham brand logo for all its communication and media needs. and the Contractor's cost proposal dated \_\_\_\_\_, 2016 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.
2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed \_\_\_\_\_, as set forth in the Contractor's \_\_\_\_\_, 2016 cost proposal.
3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.
4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or

marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

- A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.
- C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.
- E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of

Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

F. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

H. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right

to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham  
Attn: Joellen Haines  
City Manager's Office  
151 Martin Street  
Birmingham, MI 48009  
(248) 530-1807

CONTRACTOR

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds \$1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

**IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.**

**WITNESSES:**

**CONTRACTOR**

\_\_\_\_\_

By:\_\_\_\_\_

Its:

**CITY OF BIRMINGHAM**

\_\_\_\_\_

By:\_\_\_\_\_

Rackeline J. Hoff  
Its: Mayor

\_\_\_\_\_

By:\_\_\_\_\_

Laura Pierce  
Its: City Clerk

Approved:

\_\_\_\_\_  
Joseph A. Valentine, City Manager  
(Approved as to substance)

\_\_\_\_\_  
Mark Gerber, Director of Finance  
(Approved as to financial obligation)

\_\_\_\_\_  
Timothy J. Currier, City Attorney  
(Approved as to form)

\_\_\_\_\_  
Joellen L. Haines, Assistant to the City  
Manager (Approved as to substance)

**ATTACHMENT B - BIDDER'S AGREEMENT**  
**For BIRMINGHAM BRAND DEVELOPMENT SERVICES**

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In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.
2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

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<b>PREPARED BY</b> <b>(Print Name)</b>	<b>DATE</b>
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<b>TITLE</b>	<b>DATE</b>
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<b>AUTHORIZED SIGNATURE</b>	<b>E-MAIL ADDRESS</b>
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<b>COMPANY</b>
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<b>ADDRESS</b>	<b>PHONE</b>
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<b>NAME OF PARENT COMPANY</b>	<b>PHONE</b>
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<b>ADDRESS</b>
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**ATTACHMENT C - COST PROPOSAL**  
**For BIRMINGHAM BRAND DEVELOPMENT SERVICES**

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**In order for the bid to be considered valid, this form must be completed in its entirety.** The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

COST PROPOSAL	
<b>TOTAL BID AMOUNT</b>	<b>\$</b>

Firm Name\_\_\_\_\_

Authorized signature\_\_\_\_\_ Date\_\_\_\_\_

**ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM**  
**For BIRMINGHAM BRAND DEVELOPMENT SERVICES**

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Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

---

**PREPARED BY**  
**(Print Name)**

---

**DATE**

---

**TITLE**

---

**DATE**

---

**AUTHORIZED SIGNATURE**

---

**E-MAIL ADDRESS**

---

**COMPANY**

---

**ADDRESS**

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**PHONE**

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**NAME OF PARENT COMPANY**

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**PHONE**

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**ADDRESS**

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**TAXPAYER I.D.#**



## MEMORANDUM

Office of the City Manager

**DATE:** July 19, 2016  
**TO:** City Commission  
**FROM:** Joseph A. Valentine, City Manager  
**SUBJECT:** Request for Closed Session  
Attorney-Client Privilege

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It is requested that the city commission meet in closed session pursuant to Section 8(h) of the Open Meetings Act to discuss an attorney/client privilege communication.

**SUGGESTED RESOLUTION:**

To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

**(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)**



July 11, 2016

Birmingham City Commission  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48009

Re: The Birmingham Theatre Liquor License Request

Dear Birmingham City Commission:

The Birmingham Theatre would like to request permission to obtain from the City a movie theatre-only Class C License.

This license will be used by the Birmingham Theatre to service the adult patrons attending movies or a movie-related event. Having a license at the Birmingham Theatre would allow us to be competitive in a very challenging market. Today most movie theatres have licenses and operating without a license puts the theatre at a disadvantage. Our area has numerous licensed theatres: the Emagine, Maple, Emagine Royal Oak, MJR Troy, Star John R, to name just a few, enabling them to serve their customers and private events. We feel it is very important to provide our patrons with every amenity in order to ensure the continued operation of the Birmingham Theatre.

Our theatre has been consistently serving Birmingham residents since 1927 and we are doing everything possible to improve the quality of the entertainment experience. We have recently invested considerable capital into the theatre in order to bring it to the highest of standards. This was accomplished by reducing the seating capacity from 1150 to 625 seats. We have removed and replaced all seating from Theatres 1, 2 and 3 and replaced them with larger, electric recliners popular in the newest theatres. Re-designing the concession areas, improving the ticketing process and allowing patrons to book online from our new theatre app. This app also allows the ability for patrons to reserve their seats in advance. Numerous other cosmetic improvements have been undertaken and are now complete,

Hopefully the City will be able to find a way through a SLUP or some other mechanism to allow this "theatre-only" license. This would also enable the City to place whatever controls they feel appropriate on this newly-created license.

BIRMINGHAM

JUN 11 2016

CITY MANAGER'S OFFICE

Should the Birmingham Theatre cease to operate, whatever consideration was given relating to a license would be returned to the City.

Thank you for your consideration in this matter.

Sincerely,



— Edward A. Fuller



## NOTICE OF INTENTION TO APPOINT TO THE MULTI-MODAL TRANSPORTATION BOARD

At the regular meeting of Monday, August 8, 2016, the Birmingham City Commission intends to appoint two members to the Multi-modal Transportation Board to serve the remainder of three-year terms to expire March 24, 2019 and March 24, 2017.

Interested citizens may submit an application available at the city clerk's office or online at [www.bhamgov.org/boardopportunities](http://www.bhamgov.org/boardopportunities). Applications must be submitted to the city clerk's office on or before noon on Wednesday, August 3, 2016. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

In so far as possible, the seven member committee shall be composed of the following: one pedestrian advocate member; one member with a mobility or vision impairment; one member with traffic-focused education and/or experience; one bicycle advocate member; one member with urban planning, architecture or design education and/or experience; and two members at large from different geographical areas of the city. Applicants must be electors or property owners in the City of Birmingham.

### Duties of the Multi-modal Transportation Board

The purpose of the Multi-Modal Transportation Board shall be to assist in maintaining the safe and efficient movement of motorized and non-motorized vehicles and pedestrians on the streets and walkways of the city and to advise the city commission on the implementation of the Multi-Modal Transportation Plan, including reviewing project phasing and budgeting.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
In so far as possible, members shall represent, <ul style="list-style-type: none"><li>• one member with traffic-focused education and/or experience</li><li>• one member with urban planning, architect, design experience</li></ul> Members must be electors (registered voter) or property owners of the City of Birmingham.	8/3/16	8/8/16

*NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.*



# MULTI-MODAL TRANSPORTATION BOARD

Resolution No. 02-31-14

The purpose of the Multi-Modal Transportation Board shall be to assist in maintaining the safe and efficient movement of motorized and non-motorized vehicles and pedestrians on the streets and walkways of the city and to advise the city commission on the implementation of the Multi-Modal Transportation Plan, including reviewing project phasing and budgeting.

In so far as possible, the seven member committee shall be composed of the following: one pedestrian advocate member; one member with a mobility or vision impairment; one member with traffic-focused education and/or experience; one bicycle advocate member; one member with urban planning, architecture or design education and/or experience; and two members at large from different geographical areas of the city. Board members shall be electors or property owners in the city.

Term: Three years.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Adams</b>	<b>Vionna</b>	(202) 423-7445	12/15/2014	3/24/2018
2109 Dorchester Birmingham	48009	<i>vionnajones@gmail.com</i>	Member at large from different geographical areas of the city.	
<b>Edwards</b>	<b>Lara</b>	(734) 717-8914	4/28/2014	3/24/2017
1636 Bowers Birmingham	48009	<i>lmedwards08@gmail.com</i>	Member at large from different geographical areas of the city.	
<b>Folberg</b>	<b>Amy</b>	(248) 890-9965	12/14/2015	3/24/2017
1580 Latham Birmingham	48009	<i>amy.folberg@gmail.com</i>	Member at large from different geographical areas of the city.	

Last Name	First Name	Home Business	Appointed	Term Expires
Home Address		E-Mail		
<b>Lawson</b>	<b>Andy</b>	(586) 944-6701	4/28/2014	3/24/2018
1351 E. Maple			Pedestrian Advocate Member	
Birmingham	48009	<i>andlawson@deloitte.com</i>		
<b>Surnow</b>	<b>Michael</b>	(248) 865-3000	4/13/2015	3/24/2019
320 Martin St. #100			Bicycle Advocate Member	
Birmingham	48009	<i>michael@surnow.com</i>		
<b>Vacant</b>				3/24/2019
			Traffic-Focus Education/Experience Member	
<b>Warner</b>	<b>Amanda</b>	248-719-0084	5/5/2014	3/24/2017
671 E. Lincoln			Urban Planning/Architecture/Design Member	
Birmingham	48009	<i>awarner@aol.com</i>		





## NOTICE OF INTENTION TO APPOINT TO PUBLIC ARTS BOARD

At the regular meeting of Monday, August 8, 2016 the Birmingham City Commission intends to appoint members to the Public Arts Board as follows: two members to serve the remainder of a three-year term to expire January 28, 2017 and one member to serve the remainder of a three-year term to expire January 28, 2019.

In so far as possible, the members shall represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board, or the Planning Board. At least four members of the Board shall be residents of the City of Birmingham.

The objectives of the Public Arts Board are to enrich the City's civic and cultural heritage; to promote a rich, diverse, and stimulating cultural environment in order to enrich the lives of the City's residents, business owners, employees, and all visitors; and to establish an environment where differing points of view are fostered, expected, and celebrated by providing the opportunity for such expression through the display of public art.

Interested citizens may apply for this position by submitting an application available from the city clerk's office. Applications must be submitted to the city clerk's office on or before noon on Wednesday, August 3, 2016. These applications will appear in the public agenda for the regular meeting at which time the commission will discuss recommendations, and may make nominations and vote on the appointments.

*All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.*

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members shall, in so far as possible, represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board, or the Planning Board.  At least four members of the Board shall be residents of the City of Birmingham.	8/3/16	8/8/16



## PUBLIC ARTS BOARD

City Code - Chapter 78, Article V

Terms - 3 years

Members - At least 4 members shall be residents of the City of Birmingham. The remaining members may or may not be residents of Birmingham. In so far as possible, the members shall represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the HDDRC, the Parks and Recreation Board, or the Planning Board.

Objectives -

- to enrich the City's civic and cultural heritage;
- to promote a rich, diverse, and stimulating cultural environment in order to enrich the lives of the City's residents, business owners, employees, and all visitors;
- to establish an environment where differing points of view are fostered, expected, and celebrated by providing the opportunity for such expression through the display of public art.

Last Name	First Name	Home Business	Appointed	Term Expires
Home Address		E-Mail		
<b>Heller</b>	<b>Barbara</b>	(248) 540-1310	1/28/2002	1/28/2018
176 Linden		(313) 833-7834	Resident Member	
Birmingham	48009	<i>bheller@dia.org</i>		
<b>Klinger</b>	<b>Phyllis</b>	(248) 594-4240	3/18/2013	1/28/2018
1844 Bowers			Resident Member	
Birmingham	48009	<i>pklingerlawfirm@yahoo.com</i>		
<b>Kowaleski</b>	<b>Diane</b>	248-594-1974	4/23/2012	1/28/2017
750 Hazelwood			Resident Member	
Birmingham	48009	<i>dfkowal@gmail.com</i>		
<b>Mettler</b>	<b>Maggie</b>	(248) 703-8006	1/12/2015	1/28/2019
544 Wallace				
Birmingham	48009	<i>mlmettler@gmail.com</i>		

Last Name	First Name	Home Business		
Home Address		E-Mail	Appointed	Term Expires
<b>Suchara</b>	<b>Ava</b>	(248) 645-1319	2/8/2016	12/31/2016
2160 Fairway			Student Representative	
Birmingham	48009	<i>asuchara@comcast.net</i>		
<b>Vacant</b>				1/28/2017
<b>VACANT</b>				1/28/2019
<b>Wells</b>	<b>Linda</b>	(248) 647-1165	2/11/2013	1/28/2019
588 Cherry Ct.			Resident Member	
Birmingham	48009	<i>lawells126@gmail.com</i>		



## **MEMORANDUM**

City Clerk's Office

**DATE:** July 21, 2016

**TO:** Joseph A. Valentine, City Manager

**FROM:** Laura M. Pierce, City Clerk

**SUBJECT:** Supplemental Information Regarding the  
Greenwood Cemetery Discussion

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The Greenwood Cemetery 2015 Annual Report and Contractor Update were presented at the July 11, 2016 City Commission meeting.

The attached report has been assembled to address comments made at that meeting. Staff responses are noted in blue. Responses from the City Attorney are noted in green.

## COMMENTS FROM THE COMMISSION

Under the contract, the contractor is responsible for the upkeep in the cemetery. Does this include the repair of the historical markers?

No. Section IV of the Rules and Regulations states: "The City shall maintain the integrity of damaged historical markers, prior to January 1, 1875, through the perpetual care fund."

### Concerns with the Grave Interest List & Sale of the Graves

- What is the frequency of names being added to the list?
- Why is it taking so long to make it through the list and sell the graves? It seems like a slow and inefficient pace.

In June, 2015, when this was initially presented to the Commission, there were 146 names on the Grave Interest List. This list has grown to over 300 names. The contractor has contacted everyone on the original interest list. Not all of the families purchased a grave. As new inquiries are received the contractor providing service to them.

The process begins with an informational telephone call. If the family continues to be interested in space, the contractor will schedule time to meet at the cemetery. Once they meet and the family has seen what their options are, they take time to discuss it. Sometimes this results in space selection. Other times the family wants to take time to consider their options. If they have not selected space, but remain interested, this usually results in an additional meeting at the cemetery. Once a family has selected space, the contractor will email or mail them the prepared documents with the appropriate instructions. Once payment is received along with the signed documents, the contractor updates all of the records, creates a deed to be mailed, and performs the banking.

Service Fees/Installations/Foundations - The Contractor receives 100% of the service fees. The memo says that they are performed by the contractor at no cost to the City. Previously the City received this money and it should be included in what the contractor is earning from the contract.

In order to clarify why the contractor receives 100% of the services fees, the burial process, which is handled by the contractor, is listed below:

1. Receives the burial call from the funeral home
2. Review of records
3. Manager lays out the grave
4. Field Survey to verify the space
5. Employees excavate the grave
6. Set up funeral equipment.
7. Attend service
8. Lowering of casket/vault
9. Remove funeral equipment
10. Close the grave
11. Repair the grave over time

12. Update records

13. Banking

Once a quarter, the City receives the list of burials. The Clerk's Office then updates the City records.

## COMMENTS FROM GEHRINGER

The payment plan was done without the knowledge or approval of the GCAB or CC. It is not part of the contract.

The payment plan is a standard practice offered at all cemeteries operated by the contractor. The Contractor offers a 0% interest payment plan for individuals interested in purchasing graves. Individuals have the option of a twenty-four month plan, however most individuals are opting for a twelve month plan. Once the payment plan is fulfilled, the City will receive its 75% portion. Burials cannot be done until the payment plan is paid in full.

The Agreement with the Elmwood cemetery makes reference to the compensation to be paid to Elmwood in paragraph 2. Paragraph 2 indicates that the contractor will receive 100% of the income and internment services, the sale of second rights of internment, foundations and memorial installations and other miscellaneous service fees as approved by the City. Additionally, the contractor shall receive 25% of the proceeds from the sale of new or reclaimed grave spaces. The contract is silent as to whether this must be immediate cash payment or can be done on installments. The contract further makes reference in paragraph 7 that the agreement shall be governed and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The contract provides that all services provided for shall be in accordance with and in full compliance with all local, state and federal laws and regulations. The Cemetery Regulations as established by the City Commission make reference to the Schedule of Fees and Charges with respect to the Greenwood Cemetery, which is established by the City Commission by resolution from year to year. That section of fees and charges under the Clerk's office indicates that all of the fees and charges have been approved by the City Commission. It also does not specify whether the sales have to be on an immediate cash basis or can be on an installment basis.

The contractor charges interest at their other cemeteries. Why not Greenwood?

The contractor provides payments over time as a community service to people on fixed incomes and of lesser means. The contractor does not charge interest at any cemetery operated by Elmwood.

In regards to the Lot Resale Policy - thinks the contractor should share in the 50% repurchase price.

The Rules and Regulations state "All graves returned to the City shall receive 50% of the original purchase price from the Greenwood Cemetery Perpetual Care Fund."

The contractor receives 25% of the sale price which is offset by the work done to sell the graves and process the paperwork. If a grave is sold back to the City, the contractor also does the work to put that grave back on the available list.

Can a grave purchased prior to October, 2014 be sold back to the City or does it have to be sold privately? How much would the City buy it back for since it may/may not have been the most recent sale.

The contract states that the contractor is entitled to 25% of all sales.

Yes, the contract states that the contractor is entitled to 25% of all sales. Additionally, the contractor shall receive 25% of the proceeds from the sale of new or reclaimed grave spaces. This includes graves that are bought back in accordance with the lot resale policy that are resold. With respect to graves purchased prior to October 2014, they may be sold back to the City, but they are not required to be by the resale policy. The cost which the graves would be repurchased by the City has not been determined by the City Commission at this time.



## COMMENTS ON CONTRACTOR'S REPORT

My name is George Stern. I reside at 1090 Westwood Drive. I appear today as a private citizen, not as a member of any Board or Committee.

My first comment refers to page 3, paragraph 4 where it states "City staff researched the opportunity to invest these funds with the Community Foundation for Southeast Michigan, however, due to the fact that these funds are public funds, state law would prohibit this kind of investment". While I would never want to see the Funds given to the Community Foundation, as the money is forever theirs; the City may never have any portion of it back nor borrow against it. Furthermore, the CFSM had a negative return greater than 3% last year and performance was in the bottom quartile of all endowments and foundations. Performance was also in the lowest quartile the year before, and was barely above the bottom 10% the year before that. Nevertheless, the Commission should know that the comment is just not accurate. Public Act 422 of 2014, effective December 30, 2014 amends Public Act 215 of 1937 to: "Allow a municipality to establish an endowment and perpetual care fund for a municipally owned cemetery as part of an agreement with a community foundation".

The statement made by staff was in reference to the current perpetual care funds being received by the City. As much as the City has formed the Greenwood Perpetual Care Fund under Public Act 215 of 1937, these funds are public funds and must be invested in accordance with applicable laws, specifically PA 20 of 1943 and the newly created PA 13 of 2016. As stated by Mr. Stern, Public Act 422 allows a municipality to establish an endowment and perpetual care fund with a community foundation if there is an agreement. As there is no agreement with the Community Foundation for Southeast Michigan, investment of the perpetual care funds with the Foundation would not be in compliance with state law.

My main point is that I suggest you accept this report only with conditions. It is an introduction to a report, not a report that would allow you to assess the worth of the current contractor. As Mrs. Gehringer pointed out, the report contains 33 months of statistical information though the current contractor was employed for just 31 of those months.

The City Commission approved the agreement with the contractor on June 24, 2013. Copies of the records were given to the contractor in mid-July, 2013. This is 33 months.

Almost all the sales and income are for the last 6 months of 2015, although the lawn expense is for three years.

The grave sales did occur in the last six months of 2015 as the City Commission approved the sale of the newly designated graves in August, 2015.

Let me give you my assessment of what the report would look like if it matched the GCAB Annual Report for 2015.

The report should start by reiterating from page 6 of the GCAB Annual Report that the Contractor was paid a sales commission on grave sales of \$61,750 in 2015 and is owed \$10,500 when the City is finally paid on sales sold on deferred payment. In my opinion, based on 32

years selling cemetery plots, this amounts to payments to the contractor of approximately \$770 per man hour.

The contractor receives 25% of the sale of each grave. A total of 103 graves were sold in 2015 which totals \$61,750 for an average amount of \$600/grave ( $\$61,750/103 = \$600$ ). This does not take into consideration the labor costs of the contractor to meet, several times, with the individuals at the cemetery and process the paperwork.

Note that nowhere in any report is there any mention of the number of sales of "Additional Right to Burial of Cremated Remains" for which the Contractor is paid a 100% sales commission on the \$750 fee.

The financial information provided to the Commission includes "service fees, installations, and additional rights of burial" as one section. The contractor does receive 100% of the fee for the "additional rights of burial" per the contract.

In 2014, one "additional rights of burial" was purchased. In 2015, five "additional rights of burial" were purchased.

My tally from the Contractor's Quarterly Reports, is that for the year 2015, the Contractor performed 9 full casketed interments at \$1,200 each (on which the contractor in my opinion makes an 83% profit) and 16 cremation interments at \$750 each (on which the contractor, in my opinion, makes a 97% profit) for a total additional income of \$22,300.

The City and Contractor disagree with Mr. Stern's financial analysis.

The contractor performs the work for the burials, therefore the contractor retains the fees charged for those services per the contract. The City Commission sets the fees charged for the cemetery services.

In order to clarify the work done for each burial, the process is listed below:

1. Receives the burial call from the funeral home
2. Review of records
3. Manager lays out the grave
4. Field Survey to verify the space
5. Employees excavate the grave
6. Set up funeral equipment.
7. Attend service
8. Lowering of casket/vault
9. Remove funeral equipment
10. Close the grave
11. Repair the grave over time
12. Update records
13. Banking

Once a quarter, the City receives the list of burials. The Clerk's Office then updates the City records.

In addition, the Contactor erects monuments. The number does not appear in any of these reports and is no longer reported to the Cemetery Board. Based on the 14 monuments reported by the Contractor as installed in the second half of 2014, I assume the Contractor erected at least 24 monuments in 2015 at a minimum of \$250 for an additional \$6,000.

The contractor does not erect monuments. The contractor pours foundations for memorials which include monuments and markers. Twelve foundations were poured in 2014 and eleven were poured in 2015 as stated in the report.

The fee for foundations is set by the City Commission. The current fee is \$125.00 per lineal foot.

In summary, in my opinion, the Contractor earned a minimum of \$107,300 in 2015 and probably much more. From the staff report, you will see lawn care cost \$15,000 per year plus maybe \$10,000 in clerical cost for a profit to the Contractor of over \$80,000 in this one year. I also believe there are additional profit opportunities available to the City if it took over operation of the Cemetery.

The City and Contractor disagree with Mr. Stern's financial analysis.

I strongly urge the Commission to reject this report and request a financial accounting.

July 11, 2016

## COMMENTS TO CITY COMMISSION 7.11.16

My name is George Stern. I live at 1090 Westwood. I appear today as a private citizen, not as a member of any Board or Committee. I have five points I wish to make regarding the GCAB 2015 Annual Report.

POINT 1. Page 3, fourth paragraph, first sentence reads: "The CGAB recommended the City offer the graves located in the green space of Sections B, C, D, K, L and O for sale with several conditions". This is the same language approved by the Cemetery Board and by you last August. In my opinion, you did not realize you were approving a new Cemetery Regulation with regard to sections other than B and C, specifically: Under section VI, Monuments, Grave Markers and Foundations, Flush Marker Section – Areas Plotted after January 1, 2015, paragraph a. "On grave spaces in Sections B, C, D, K, L and O, all memorials on new lots plotted after January 1, 2015, must be installed at lawn level". You will see this notation following a double asterisk on page 4 of the report. Also note that apparently monuments are allowed in sections G and E even if plotted after January 1, 2015 and all 25 of such plots have been sold.

The GCAB recommended the revisions to the Cemetery Rules and Regulations. Those revisions were presented to the City Commission for adoption in 2015. Monuments are not allowed in Sections B, C, D, K, L, O.

Section 4, FLUSH MEMORIAL SECTION – AREAS PLOTTED AFTER JANUARY 1, 2015, (a): "On grave spaces in Sections B, C, D, K, L, and O, all memorials on new lots plotted after January 1, 2015, must be installed at lawn level. Memorials can be individual markers measuring 24" x 12" x 4" or 16" x 24" x 4" or companion memorials over two (2) graves measuring 48" x 12" x 4"."

Monuments are allowed in all other sections, except F-North and the above. Monuments are only permitted on two adjoining side by side graves under one ownership. No more than one monument shall be erected on any lot.

Please look at the map on page 5. You will notice that all of the new grave sales are in the lanes previously reserved for walking. A few weeks ago, I attended a seminar in cemetery design and showed this map to the speaker. She was appalled! She told me that what we had done was to establish walking lanes whereby persons visiting the cemetery are being invited to walk on the graves in these lanes. She told me that this practice is banned in the Muslim community but is bad design for every community. She said there is no need for walking lanes in these small areas.

Previously there was green space between the Lots in Sections B, C, and A. The newly designated graves in Sections B & C are in the area where the green space was. These graves now abut the graves in the Lots located in Sections B & C. Section A is the only Section with green space between the Lots. In all other areas of the cemetery, the graves/lots abut each other.



In my opinion it was the intention of the Commission in passing this regulation to maintain the historic look of sections B and C only, not create walking lanes on graves in the other sections. I suggest that you specifically ask the Cemetery Board to revisit this regulation as to its application to sections other than B and C.

It was the intention of the Commission to maintain the historic look of the cemetery. This is why only flush markers are allowed in the newly designated grave areas. The GCAB and the Historic District Commission agreed with the use of lawn-level markers in the newly designated grave areas.

Walking lanes were not created in the newly designated grave areas. The "green spaces" were eliminated allowing for additional burials.

POINT 2. Page 6, footnotes to the Third and Fourth Quarter "(Does not include graves currently on a payment plan)". In my opinion, the institution of a payment plan by the contractor violates both Michigan law and the City Code. I consulted with an attorney who told me that I could be personally liable as a member of the Cemetery Board for not bringing this violation to the attention of the City Manager if not the Commission. I was told that a municipality has a great deal of latitude in setting Rules and Regulations but that any new practice, such as this, must be included in the Rules and Regulations of the Municipality.

A question was posed at the meeting as to whether there was a violation of Michigan law or City ordinance with respect to the payment plan being used by Elmwood Cemetery for the sale of graves. A review of the contract does not indicate whether the sales have to be cash or can be on a payment plan. The contract says that the sales have to occur in accordance with the rules and regulations of the cemetery. The cemetery rules and regulations do not indicate whether sales have to be in cash or on an installment basis. The rules and regulations refer to the Schedule of Fees and Charges established by the City Commission. A review of the fees and charges established by the City Commission again show that there is no indication as to whether the sales have to be in cash or whether they can be installments. All three documents are silent as to the method of sale. The contract, the rules and regulations, and the Schedule of Fees and Ordinances do not describe the method that is required to be used with respect to the sale of plots in Greenwood Cemetery. Therefore, there is not a violation of Michigan law or City ordinance by the use of installment sales by Elmwood Cemetery. It could be argued that the sale on an immediate cash basis would also be a violation because there is no provision describing the methodology of the sale.

I suggest that the City specifically ask the Cemetery Board to discuss and report to the Commission whether the City should have a regulation permitting payment for graves over a period of time. And if so, whether such payment might include interest, should there be a time limit for payment, should burial be allowed if payment is not made in full on the specific grave for burial or for all the graves reserved, and should specific spaces be reserved from purchase by others during the period of deferred payment. You will see the critical importance of this last point in my fifth point.



On July 8<sup>th</sup>, the GCAB was presented with language to amend the Rules and Regulation to add a section for the option of a payment plan.

The following motion was approved by the GCAB:

"To advise the City Commission that the contractor is offering a deferred payment plan to purchase space at Greenwood Cemetery. We find no such regulation in the City regulations and/or contract and ask the City Commission to clarify the legality of such deferred payment plan."

Further, you will note that 11 of the 14 sales on deferred payment are made to non-residents.

Of the fourteen sales that occurred on the payment plan, three were residents who purchased a total of six graves and four were non-residents who purchased a total of eight graves.

Please see POINT 3. NON RESIDENTS

#### POINT 3. NON RESIDENTS.

You will note on this page 6, that 60 of the 89 graves (2/3<sup>rds</sup>) were sold to non-residents. In the fourth quarter, 40 of 49 graves (over 80%) were sold to non-residents. In my opinion, we are doing a disservice to citizens of Birmingham by offering this precious and rare commodity to non-residents at the same enticing price as offered to residents. A survey by the City Manager showed that 60% of municipalities in Michigan require that non-residents pay a higher price than residents. My own survey disclosed that this differential is often double. The attorney I talked with told me that a municipality does not have to sell graves to non-residents as long as resident is defined in the City Ordinance much as resident is defined for passes to the golf courses. Possibly the same definition could be used for both purposes.

103 graves were purchased in 2015. Of those, 43 graves were purchased by residents and 60 graves were purchased by non-residents.

We are unable to respond to Mr. Stern's own survey as he did not provide the data to be reviewed.

As stated by Mr. Stern, the proposition that the municipality does not have to sell graves to non-residents is correct. If we restricted the sale of graves to residents only, Greenwood Cemetery would lose its tax exemption pursuant to State Tax Commission Bulletin No. 19 of 2000 (see attached), which supports the finding in *Balogh v City of Flat Rock*, 152 Mich App, 517 (1985), which states that in order for a park to be exempt from property taxation, it must be open to the public without restriction, not just a limited group such as residents of the governmental unit. There is also an Attorney General Opinion regarding the same which is AG Opinion 5690 of 1979-1980. Currently, Greenwood Cemetery is tax exempt and is open to the public as is required to secure that exemption.

Additionally, I recently reported on June 9, 2016 regarding discounts on parking fees for residents, or charging higher rates for non-residents for certain services which has been upheld in *Oakland County v Detroit*, 81 Mich App 308 (1978) and *Detroit v Highland Park*, 326 Mich 78



(1949). The Court held in *Atlas Valley Golf and Country Club v Village of Goodrich*, 227 Mich App 14 (1997), that a local unit of government can charge non-residents a higher rate as long as the difference represents the indirect costs that the residents pay consistent with the *Highland Park* and *Oakland County* cases cited above. In simplest terms, the residents pay property taxes to support the services being provided, non-residents do not pay property taxes to support those services, and, therefore, they may be charged a higher rate to use those services. The higher rate to non-residents, therefore, has to reasonably represent the difference between what the residents pay for the rates and property taxes and what a non-resident would pay only through rates. Currently, the golf courses charge a higher rate for non-resident passes because the golf courses are being supported by property taxes. On the other hand, the parking system is being supported strictly by user fees, and there is no tax support for the parking system. Therefore, higher rates for non-residents is not possible for that service. Presently, Greenwood Cemetery is not being supported by property taxes, but solely by user fees, and, therefore, the differential rate would not be appropriate.

The Cemetery Board did look at this issue and was deadlocked as to a recommendation to the Commission. I suggest you ask the Board to relook at differential pricing.

The GCAB did review this issue at a special meeting held on August 3, 2015. The following motions were made:

MOTION: Moved by Peterson, seconded by Stern:  
To recommend a two-tier system for residents and non-residents.

VOTE: Ayes: 2 (Peterson, Stern)  
Nays: 3 (Desmond, Schreiner, Thurber)  
Absent: 2 (DeWeese, Gehringer)

Motion fails.

MOTION: Moved by Desmond, seconded by Ms. Thurber:  
To recommend the fee schedule remain the same for residents and non-residents.

VOTE: Ayes: 3 (Desmond, Schreiner, Thurber)  
Nays: 2 (Peterson, Stern)  
Absent: 2 (DeWeese, Gehringer)

Motion fails.

#### POINT 4. Page 8. Status of the Perpetual Care Fund

You will note that the Fund earned \$217.59 in 2015, a return of .8%. In the report on the Contractor which follows presentation of this Annual Report, you will note that PA 13 allows the City to invest in more market oriented instruments as of May 16th. I believe the City might expect the same 4% return it expects on its Pension Funds and I ask the Commission to urge staff to move quickly.



As mentioned by City Manager, Joe Valentine, the Finance Director/Treasurer will be submitting a recommendation on investing perpetual care funds to the City Commission in the near future.

#### POINT 5. Reclamation of Abandoned Spaces

On page 2 of the report, Section 1.A.3 you will see that the Cemetery Board is charged "As to how to respond to future demand for cemetery services". From page 6, you will see that 103 grave spaces were sold in 2015, 94 (91%) in the last six months of the year. From page 4, you will see that 25 were in sections G and E which allow monuments and that 34 of the 78 spaces were in sections other than B and C where purchasers might have thought they could install monuments. In any case, nearly 80% of the spaces not in sections B and C, sold in just 6 months.

The majority of graves (94) were sold in the last six months of the year because the City Commission authorized the sale of the newly designated graves on August 10, 2015.

The graves sold in Sections G & E are not limited to flush markers only. Memorials on these graves would include upright markers, flush markers, or monuments if the owner owns two adjoining side by side graves under one ownership. However, monuments are not allowed on the cremation only grave spaces and those located directly along the road.

All graves sold by the City after October 1, 2014 are subject to the Lot Resale Policy. In addition, all memorials on new lots plotted after January 1, 2015, must be installed at lawn level in Sections B, C, D, K, L, and O.

The contractor discusses the grave restrictions with every individual interested in purchasing a grave at Greenwood during their meetings at the cemetery. Every buyer is required to sign the "Lot Resale Policy Acknowledgement" document. Every deed states that the graves are subject to the Lot Resale Policy and that "Lawn Level Markers Only" are allowed.

As of January 1<sup>st</sup> of this year, there were just 16 spaces left not in sections B and C and I would not be surprised to learn that these spaces have now been sold. During the first quarter of this year, 26 spaces were sold but, because we have an antiquated laserfiche record keeping system, I can't tell you where.

As of January 1<sup>st</sup>, there were 16 graves available in Sections other than B & C. Of the 26 graves sold in the first quarter of 2016, 14 graves were in Section B, 8 graves were in Section C, and 4 were in Section K.

The City Clerk's Office receives a list of the graves sold in each quarter as well as the deeds. The Laserfiche system is used to store the deeds and paperwork from the sale of the graves only. In addition to placing the documents in the Laserfiche system, the Clerk's Office also updates the cemetery records with the sale information.

Note: In Section K, after further review of the area, the contractor was able to reconfigure the area and accommodate two additional spaces.



You will see in the report on the contractor that follows that there are over 300 names on the interest list, nearly double that of a year ago, and I believe new names are being added every

Section	Number of Graves Identified	Number of Graves Sold in 2015	Number of Graves Sold in 2016 as of 3/31/16	Number of Graves Remaining
B	408	33	14	361
C	72	11	8	53
D	8	6	0	2
K*	18	14	4	0
L	16	8	0	8
O	10	6	0	4
<b>TOTAL</b>	<b>530</b>	<b>78</b>		<b>428</b>

week. Some of the interested parties desire more than one grave.

In June, 2015, when this was initially presented to the Commission, there were 146 names on the Grave Interest List. This list has grown to over 300 names. The contractor has contacted everyone on the original interest list. Not all of the families purchased a grave. As new inquiries are received the contractor providing service to them.

One thought might be to remove the pavement between sections K and L and use the space for burials. This action would create 70 spaces for an expenditure of \$12,000. You might ask the Cemetery Board to revisit this possibility.

Per the Michigan Historic Preservation Manual, pg 140: "The circulation pattern of roads and pathways in the cemetery should remain as originally laid out." If this guideline is followed, that would eliminate the possibility of removing the roadway.

In addition, the Greenwood Cemetery Advisory Committee discussed removing the road as well. The Committee had received negative feedback from individuals who currently own the graves who specifically purchased their graves along the roadway.

As I reported to you last year, a new State law (PA215, Section 456.537) went into effect as of January 1, 2015 that would allow a municipality to reclaim lots abandoned for sixty years. It is meant to supplement existing PA46 which deals with neglect. Mrs. Pierce reported to the Historic District Commission that as of 2009, there were 200 to 300 graves that had not had any activity in 50 years. Pa 215, Section 10, 456.530 specifically states: "...a municipal corporation may pass ordinances necessary for regulating that municipal corporation's cemeteries". In my opinion, lots could be available for resale in approximately six months. You can assure all current lot owners that merely sending a letter to the City Clerk giving a current address starts a new 60-year clock so public concern should be minimal. I urge you to adopt this State law and charge the Cemetery Board with recommendations as to its implementation.

It was reported that a new State law MCL §456.537 (see attached) would allow a municipality to reclaim lots abandoned for sixty years. The statute itself is the Cemetery Regulations Act which is intended to regulate private cemeteries and specifically exempts cemeteries owned and

operated by the municipal corporations, churches and religious institutions pursuant to MCL §456.530 (see attached). This Act does recognize that a municipal corporation may pass ordinances necessary to regulate that municipal corporation's cemeteries. The question is, therefore, one for the Commission as to whether they wish to pass any additional regulations with respect to Greenwood Cemetery. At the present time, the cemetery is governed by Public Act 46 of 1931 (see attached) which applies solely to public cemeteries and does provide for the reclamation of neglected graves pursuant to MCL 128.12. The proceedings described in that section of the State Act provide for the reclamation of a grave after seven (7) years of neglect which can be demonstrated by the establishment of the maintenance fee that goes unpaid for those seven (7) years.

The Cemetery Regulation Act (Act 251 of 1968) requires that the person possessing the right to the space or the person's authorized representative has not provided the cemetery owner or operator with an updated address for purposes of contacting that person anytime during the last 60 years. The process is complicated and does not give finality because of the owners' right to reinstatement (MCL §456.537(5)). Public Act 46 has no similar provision.

Thank you for allowing me to address you this evening. Are there any questions I might answer?



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## LOCAL GOVERNMENT

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## State Tax Commission Bulletin No. 19 of 2000

DATE: November 28, 2000

TO: Assessors, Equalization Directors

FROM: State Tax Commission (STC)

RE: **EXEMPTION FOR PARKS OWNED BY LOCAL UNITS OF GOVERNMENT**

Section 7m of the General Property Tax Act provides the following:

Property owned by, or being acquired pursuant to, an installment purchase agreement by a county, township, city, village, or school district used for public purposes and property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity comprised solely of, or which is wholly owned by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the state and is used to carry out a public purpose itself or on behalf of a political subdivision or a combination is exempt from taxation under this act. Parks shall be open to the public generally. This exemption shall not apply to property acquired after July 19, 1966, unless a deed or other memorandum of conveyance is recorded in the county where the property is located before December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of the acquisition before December 31 of the year of acquisition.

Section 7x of the General Property Tax Act provides the following:

Land dedicated to the public and used as a park open to the public generally; any monument ground or armory belonging to a military organization which is not used for gain or any other purpose; and all property owned by a nonprofit corporation organized to take title to property previously owned by the state when the property owned by that corporation is leased to the state are exempt from taxation under this act. As used in this subdivision, "public" means all the residents of this state.

It has come to the attention of the State Tax Commission that there are parks owned by local units of government which have been granted exemptions from taxation even though nonresidents are not allowed to use the parks.

It is the position of the State Tax Commission that, in order for a park to be exempt from property taxation, it must be open to the public without restriction, not just to a limited group such as residents of the governmental units and their guests. This position is supported by Attorney General Opinion No. 5690 of 1979-1980 and by the Court of Appeals decision in *Balogh v. City of Flat Rock*, 152 Mich App 517 (1985).

The State Tax Commission therefore directs that assessors shall NOT grant exemptions to public parks owned by local units of government unless they are open to the public without restriction. "Public" is defined in section 7x as "all the residents of this state."

It has also come to the attention of the State Tax Commission that some local units have established differential admission fees for entrance to public parks such that non-residents pay a higher fee than residents. It is the opinion of the State Tax Commission that differential admission fees do NOT cause a park to lose its exempt status provided that the fee for non-residents is reasonable.

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**CEMETERY REGULATION ACT (EXCERPT)**  
**Act 251 of 1968**

**456.530 Commissioner; auditing trust funds; registration of cemeteries; exemptions.**

**Sec. 10.**

(1) The commissioner shall institute and maintain a system of auditing trust funds required by this act and of registering each cemetery authorized to be created, maintained, and operated in this state, as well as any other cemetery operating under state law or local ordinance. A cemetery owned and operated by a municipal corporation, church, or religious institution is exempt from this act. However, a municipal corporation may pass ordinances necessary for regulating that municipal corporation's cemeteries.

(2) A cemetery for earth interment of 10 acres or less in size, which is owned and operated entirely and exclusively by an existing nonprofit entity and in which a burial has taken place before September 15, 1968, is exempt from the fee provisions of this act, shall have the trust fund required by this act audited at the discretion of the commissioner, and is exempt from the endowment care trust fund requirements of section 16, except for the report requirements if the cemetery maintains endowment and perpetual care trust funds.

**History:** 1968, Act 251, Eff. Sept. 15, 1968 ;-- Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978 ;-- Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982 ;-- Am. 1982, Act 289, Imd. Eff. Oct. 7, 1982 ;-- Am. 2004, Act 22, Eff. Jan. 1, 2005 ;-- Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009

**Compiler's Notes:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

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**CEMETERY REGULATION ACT (EXCERPT)**  
**Act 251 of 1968**

**456.537 Right to possess space within cemetery; presumption of abandonment; certification; notice; record; remedies; transfer; sale; contract; publication on internet website; exception; intent of section; definitions.**

**Sec. 17.**

(1) A person possessing a right to a space within a cemetery is presumed to have abandoned the right if all of the following apply:

(a) During the past 60 years, the person possessing the right to the space or the person's authorized representative has not provided the cemetery owner or operator with an updated address for purposes of contacting the person.

(b) During the past 60 years, the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed possession of the right in any of the following ways:

(i) Requesting an interment or notifying the cemetery owner or operator of an interment under the right to the space.

(ii) Requesting the installation of a memorial or notifying the cemetery owner or operator of the installation of a memorial under the right to the space.

(iii) Indicating or requesting a transfer of the right to the space to another person.

(iv) Making a payment to the cemetery owner or operator relating to the right to the space.

(v) Affirming in writing the possession of the right to the space.

(c) A memorial has not been installed at the cemetery under the right to the space.

(d) Remains have not been interred at the cemetery under the right to the space.

(2) If, after a right to a space is presumed to be abandoned under subsection (1), all of the following requirements are met, the cemetery owner or operator may under subsection (4) certify the right as abandoned:

(a) The cemetery owner or operator posts on the space for 120 consecutive days a written notice of intent to certify the right to the space as abandoned.

(b) If the cemetery owner or operator has a mailing address for the person possessing the right to the space or the person's authorized representative, the cemetery owner or operator sends to that address a written notice of intent to certify the right to the space as abandoned. The notice shall be sent by certified mail with a return receipt requested.

(c) If any of the following conditions apply, the cemetery owner or operator publishes once a week for 2 consecutive weeks a notice of intent to certify the right to the space as abandoned in a newspaper circulated in the county in which the cemetery is located:

(i) The cemetery owner or operator does not have a mailing address for the person possessing the right to the space or the person's authorized representative.

(ii) Whether or not a written notice mailed under subdivision (b) is returned as undeliverable, the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed the person's possession of the right within 60 days after the notice was mailed.

(d) If publication is required under subdivision (c), 60 days have elapsed since the cemetery owner or operator published the second notice and the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed the person's possession of the right.

(3) A notice required under subsection (2) shall state all of the following:

(a) A description of the right to a space affected.

(b) If known to the cemetery owner or operator, the name of the person possessing the right to the space and the person's authorized representative, if any.

(c) The time frame within which a person possessing the right to the space or the person's authorized representative must contact the cemetery owner or operator and affirm the person's possession of the right to the space to prevent the right from being certified as abandoned.

(d) That, if the right to the space is certified as abandoned, a person who possessed the right may be entitled to the remedies set forth in section 17 of the cemetery regulation act, 1968 PA 251, MCL 456.537.

(e) The name, address, electronic mail address, and telephone number of the cemetery owner or operator.

(4) A right to a space is certified as abandoned by any person possessing the right if, after satisfying the requirements of subsections (2) and (3), the cemetery owner or operator creates, signs, and maintains a record that states all of the following:

(a) A description of the right to a space affected.

(b) The names of any persons possessing the right to the space immediately before the right is certified as abandoned, if known to the cemetery owner or operator.

(c) That the right to the space is presumed to be abandoned under the criteria set forth in subsection (1).

(d) That the cemetery owner or operator provided notice in compliance with subsections (2) and (3).



(e) That the cemetery owner or operator has not received a response to a notice under subsection (2) from a person possessing the right to the space or the person's authorized representative affirming the person's possession of the right.

(5) A person whose right to a space was certified as abandoned under subsection (4) is entitled only to the following remedies:

(a) Reinstatement of the right to the space if the right has not been resold or otherwise transferred to another person by the cemetery owner or operator.

(b) If the right to the space has been resold or otherwise transferred to another person by the cemetery owner or operator, at the option of the person whose right was certified as abandoned, either of the following:

(i) A different right to a space of comparable value within the cemetery.

(ii) Compensation in the amount that the person whose right was certified as abandoned paid for the right or in an amount equal to 65% of the price for which the right was resold or otherwise transferred by the cemetery owner or operator, whichever amount is greater.

(6) If a person possessing a right to a space within a cemetery or the person's authorized representative is notified by the cemetery owner or operator under subsection (2) and the person or the person's authorized representative does not wish to retain possession of the right, the person or the person's authorized representative may transfer the right to the space back to the cemetery owner or operator for an amount as agreed by the parties.

(7) A contract for the sale of a right to a space entered into by a cemetery owner or operator after the effective date of this section shall contain a written notice of the presumption of abandonment of a right to a space under subsection (1).

(8) A cemetery owner or operator may publish on 1 or more internet websites a notice of intent to certify a right to a space as abandoned under subsection (2). A cemetery owner may use an internet search to attempt to identify for use under subsection (2) the current mailing address of a person possessing a right to a space or the person's authorized representative.

(9) Subsections (1) to (8) do not apply to a right to a space if 1 or more of the following apply:

(a) An inscribed memorial is located on the space to which the right applies.

(b) Both of the following apply to the space to which the right applies:

(i) The space immediately adjoins an inscribed memorial and the adjoining side of the inscribed memorial displays a family surname.

(ii) The space was purchased with another space on which the inscribed memorial that displays the family surname is located.

(c) Both of the following apply to the space to which the right applies:

(i) The space immediately adjoins an inscribed memorial.



(ii) The space immediately adjoins a space that was purchased with the right to a space and includes interred remains.

(10) This section is intended to advance the significant and legitimate public purpose of ensuring the availability and productive use of space within cemeteries and providing security in rights consistent with the health, safety, and welfare of the people of this state.

(11) As used in this section:

(a) "Inscribed memorial" means 1 or both of the following:

(i) A stone or other structure or item that is used for the purpose of memorializing a decedent on a place of interment and that displays the name of a decedent.

(ii) A stone or other structure or item that identifies an area of a cemetery dedicated for the interment of members of a family and that displays a family surname.

(b) "Right to a space" or "right" means the privilege, license, or right of interment in a space in a cemetery.

**History:** Add. 2014, Act 398, Eff. Jan. 1, 2015

**Compiler's Notes:** Former MCL 456.537, which pertained to the licensing of salesmen and trainees, was repealed by Act 132 of 1982, Imd. Eff. Apr. 20, 1982.

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## PUBLIC CEMETERIES

### Act 46 of 1931

AN ACT to supplement the laws providing for the establishment, control, maintenance and care of public cemeteries by cities and townships within this state; to define the powers and duties of cemetery boards and other public officials invested by law with the management thereof; to provide for the termination and forfeiture of rights in certain unused burial spaces in such cemeteries; to prescribe and regulate the procedure with reference thereto; to authorize the resale of such spaces and to direct the investment and use of the funds received therefrom; and to repeal all acts or parts of acts inconsistent with the provisions hereof.

**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- Am. 1947, Act 149, Eff. Oct. 11, 1947

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*The People of the State of Michigan enact:*

#### **128.11 Definitions.**

##### **Sec. 1.**

The term "cemetery" as used herein shall be deemed to refer to any public cemetery owned, managed or controlled by any city, village or township within this state. "Cemetery Board" as used herein shall be construed as referring to and including any board, trustees or public official or officials invested by law with the duty of managing or controlling any public cemetery as herein defined. "Burial space" means a lot or portion thereof in any cemetery as aforesaid designed and intended for the interment of human bodies or of a human body, but not used for such purpose. "Owner" means any person or persons owning or possessing the privilege, license or right of interment in any burial space.

**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- Am. 1947, Act 149, Eff. Oct. 11, 1947 ;-- CL 1948, 128.11 ;-- Am. 1949, Act 107, Imd. Eff. May 17, 1949

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#### **128.12 Failing or neglecting to care for and maintain burial space; proceedings for termination and forfeiture of owner's rights and interest; resolution; petition; service; publication of hearing notice; failure to appear and answer; default.**

##### **Sec. 2.**

If the owner of a burial space in a public cemetery, subject to the provisions of this act, fails and neglects for a period of 7 years or more to care for and maintain the burial space in accordance with the laws, rules, and regulations relating to the care and maintenance of burial spaces, the cemetery board may institute proceedings for the termination and forfeiture of the owner's rights and interest in the burial space. If the cemetery board determines that the owner has failed or neglected to care and



maintain the burial space, the cemetery board shall adopt a resolution reciting this determination. A certified copy of the resolution shall be served on the owner personally by a competent person or shall be sent by first class mail to the owner's last known address. If within 30 days after the sending of the resolution the owner does not comply or make provisions for complying with the laws, rules, and regulations, the cemetery board may cause a petition to be filed in the circuit court for the county in which the cemetery is located. The petition shall set forth the facts relating to the sale and ownership of the burial space, the owner's failure and neglect to comply with the laws, rules, and regulations for the care and maintenance of the burial space, and shall ask for the termination and forfeiture of the owner's rights to the burial space. The petition shall be noticed for a hearing, on a date not less than 40 days from the date of filing. Within 15 days after filing, a copy of the petition with the hearing notice shall be personally served on the owner or copies of the petition shall be sent by first class mail to the last known address of the owner. Notice of the hearing shall be published once each week for 3 successive weeks in a newspaper of general circulation in the county in which the cemetery is located. The first notice shall be published not less than 30 days before the date of hearing. After the petition and notice have been served or sent, it is the owner's duty to appear and answer to the allegations of the petition. If the owner fails to appear and answer on the day noticed for hearing, the owner's default may be entered in the manner provided for by law.

**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- CL 1948, 128.12 ;-- Am. 1989, Act 14, Imd. Eff. May 10, 1989

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**128.13 Burial space; proceedings for termination of rights; forfeiture; city, village or township may re-sell; copy of order served on owner; redemption.**

**Sec. 3.**

On the day noticed for the hearing of said petition or on any subsequent day to which the hearing of the cause is adjourned, the proofs and allegations of the parties shall be presented to the court and if said court shall determine therefrom that the owner has failed and neglected for a period of 7 years preceding the filing of said petition to comply with the rules and regulations relating to the maintenance and the care of said burial space or spaces, an order shall be entered accordingly, forfeiting and terminating the rights and interest of such owner in and to said burial space or spaces, subject to the provisions of this act, and shall further provide that the city, village or township, through and by its proper board or other officials shall have the right to re-sell such spaces and to use the proceeds derived from such sale in the manner and for the purposes hereinafter provided. A duly certified copy of such order shall, within a period of 10 days after the entering thereof, be personally served on such owner or shall be sent by registered mail to his last known place of address. Following the entering of such order aforesaid, the owner shall have a period of 60 days in which to redeem the right or interest in and to such spaces by paying the costs incurred in the proceeding, not exceeding \$15.00, and by complying with the rules and regulations provided for the care and maintenance thereof, or by making provision for such compliance. If it shall be made to appear to the court at any time before the expiration of such 60 day period that the owner has so redeemed the right or interest, an order shall be made and entered, setting aside the previous order of termination and forfeiture.

**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- Am. 1933, Act 72, Imd. Eff. May 5, 1933 ;-- Am. 1935, Act 18, Eff. Sept. 21, 1935 ;-- Am. 1937, Act 150, Imd. Eff. July 2, 1937 ;-- Am. 1939, Act 257, Imd. Eff. June 15, 1939 ;-- Am. 1941, Act 187, Imd. Eff. June 16, 1941 ;-- CL 1948, 128.13 ;-- Am. 1949, Act 107, Imd. Eff. May 17, 1949

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#### **128.14 Duty of board.**

##### **Sec. 4.**

It shall be the duty of the cemetery board to keep an accurate account of all expenses incurred by it under the provision of this act and shall charge such expenses against the burial spaces involved. If, at the expiration of 60 days from and after the entering of the order of termination and forfeiture hereinbefore provided for, the owner shall not have redeemed his right or interest, the board is authorized and empowered to maintain and care for the burial space or spaces involved and shall keep an accurate and detailed account of all money expended for such purpose.

**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- CL 1948, 128.14

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#### **128.15 Reconveyance; perpetual care trust fund.**

##### **Sec. 5.**

At any time during the period of 2 years from and after the entering of the order of termination and forfeiture, the owner of any burial space or spaces shall be entitled to a reconveyance to him by the cemetery board on the payment of the costs and expenses incurred in said proceeding, not exceeding 15 dollars, in the care and maintenance of such space or spaces. If such reconveyance is not sought and obtained during said 2 year period, then and thereupon the cemetery board shall be authorized and empowered to offer such spaces for sale in accordance with the rules and regulations of said board governing the sale of lots and spaces in the cemetery concerned. The proceeds derived therefrom shall be used to defray the expenses incurred in accordance with the provisions of this act and the balance, if any, shall be placed in a fund to be known as the "Perpetual care trust fund" of the cemetery. The income therefrom shall be used by the board for the future maintenance, care and upkeep of the cemetery.

**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- CL 1948, 128.15

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#### **128.16 Rights not forfeited; conditions.**

##### **Sec. 6.**

Nothing in this act contained shall be construed to authorize the forfeiture or termination of rights or interest in and to any burial space that has been used for interment nor shall any such space be subject to resale under the provisions hereof.



**History:** 1931, Act 46, Eff. Sept. 18, 1931 ;-- CL 1948, 128.16

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