BIRMINGHAM CITY COMMISSION MINUTES
OCTOBER 10, 2016
MUNICIPAL BUILDING, 151 MARTIN
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

Administration: City Manager Valentine, City Attorney Currier, Clerk Pierce, Finance Director Gerber, Building Official Johnson, City Engineer O'Meara, Police Commander Grewe, Planning Director Ecker, HR Manager Taylor

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

10-302-16 APPOINTMENT TO THE BOARD OF ZONING APPEALS

MOTION: Motion by Harris:
To appoint Jeffery Jones, 1701 Winthrop Lane, to the Board of Zoning Appeals to serve a three-year term to expire on October 10, 2019.

MOTION: Motion by Bordman:
To appoint Charles Lillie, 496 South Glenhurst, to the Board of Zoning Appeals to serve a three-year term to expire on October 10, 2019.

VOTE ON NOMATION OF JONES:
Yeas, 7
Absent, None

VOTE ON NOMINATION OF LILLIE:
Yeas, 7
Absent, None

10-303-16 APPOINTMENT TO THE MULTI-MODAL TRANSPORTATION BOARD

Commissioner Bordman commented that the Multi-Modal Transportation Board has important responsibilities and should be meeting more than once a month. Many roads of great

importance to the City will be reconstructed soon and she is not convinced that the criteria that have been established for the different positions are exactly what we really need them to be. She questioned whether the Commission should be looking at what is expected of the Board and whether we should reconfigure the descriptions of the positions on the Board.

Commissioner DeWeese noted that the expertise of the different perspectives gives the Board independence and expertise separate from staff so the members are asking relevant questions and the synergy broadens the discussion and the strength of what is done. He expressed that if we need the expertise on the Board, he is uncomfortable with proceeding without applicants with that background. He noted that the Board is dealing with the entire infrastructure and balance with cars and other forms of transportation.

Mayor Pro Tem Nickita noted that this is a relatively new board. As the recommendations of this Board come to the Commission, it has been clear that the Board is quite important. Its recommendations and expertise are critical. The level of expertise that is recommended for the Planning Board is a similar set up for this Board, which we are not achieving at this time. He suggested the Commission may want to examine the possibility of identifying, more definitively, members to fit into these positions so we have an effective board with the expertise that we need.

Commissioner Harris questioned if there were situations where the criteria was inapplicable or should be altered. He questioned what about the experience of the MMTB makes us think that the criteria may not be correct. Mayor Hoff noted that we have not had applicants for those positions.

The Commission discussed reevaluating the membership criteria and agreed to direct staff to return with a more complete description of the criteria.

The Commission interviewed the following applicants for appointment to the Multi-Modal Transportation Board.

- Daniel Rontal, 926 Bird
- Harvey Bell IV, 848 Pleasant

Applicant Paddy Mullin, 1794 Bradford, was not present to be interviewed.

The Commission agreed to hold the appointment until all three candidates could be interviewed.

10-304-16 APPOINTMENT TO THE MUSEUM BOARD

MOTION: Motion by DeWeese, seconded by Boutros:
To concur in the City Manager's recommendation of James Cristbrook, 260 Martin, to the Museum Board, as the business owner member, to serve the remainder of a three-year term to expire July 5, 2019.

VOTE: Yeas, 7
Nays, None
Absent, None

The Clerk administered the 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.

10-305-16 APPROVAL OF CONSENT AGENDA

The following items were removed from the consent agenda:

- Item B (minutes of September 26, 2016) by Commissioner DeWeese
- Item I (use of parking space on Woodward Avenue) by Mayor Hoff

MOTION: Motion by Sherman, seconded by Boutros:

To approve the consent agenda as follows:

A. Approval of City Commission/Planning Board workshop minutes of September 19, 2016.

C. Approval of warrant list, including Automated Clearing House payments, of September 28, 2016 in the amount of $1,776,564.59.

D. Approval of warrant list, including Automated Clearing House payments, of October 5, 2016 in the amount of $1,539,781.69.

E. Resolution approving the appointment of election inspectors for the November 8, 2016 General Election pursuant to MCL 168.674(1) and authorizing the City Clerk to make revisions as needed.

F. Resolution approving $19,760 in Municipal Credits and $5,305 in Community Credits to provide support for Next's specialized transportation program; to approve $20,042 in Community Credit funds for the purchase of a new bus shelter (location to be recommended by the Multi-Modal Committee); and further directing the Mayor to sign the Municipal Credit and Community Credit contract for fiscal year 2017 on behalf of the City.

G. Resolution setting a public hearing date of October 27, 2016 to consider the approval of the Brownfield Plan and Reimbursement Agreement for 856 N. Old Woodward, The Pearl.

H. Resolution authorizing Work Bulletin #4 to the Peabody St. & Chester St. Structure Restoration Project, Contract #4-15(PK), accepting a proposal from DRV Contractors LLC to perform exterior fascia repairs and other high priority repairs to the N. Old Woodward Ave. Parking Structure for a total cost of $17,481, charged to account number 585-538.005-981.0100.

ROLL CALL VOTE: Yeas, Commissioner Bordman
Commissioner Boutros
Commissioner DeWeese
Commissioner Harris
Mayor Pro Tem Nickita
Commissioner Sherman
Mayor Hoff

Nays, None

Absent, None

Abstention, 4, (Commissioner reimbursements)

- Commissioner Bordman from Warrant 245183
- Mayor Hoff from Warrant 245347
- Commissioner DeWeese from Warrant 245204
- Commissioner Nickita from Warrant 245290

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

10-306-16 2017 INITIAL SCREENING FOR BISTRO APPLICANTS

The City Commission heard proposals from the following bistro applicants:

- Adachi, 325 South Old Woodward
- Lincoln Yard, 2159 East Lincoln
- Whole Foods Market, 2100 East Maple

The Commission discussed each concept and the location of each proposal. The Commission questioned whether the zoning allowed for a bistro at the Whole Foods location. City Planner Ecker explained that the City has a bistro category in its ordinance which states that the commercial use of a food and drink establishment within a grocery store is permitted. If the establishment wanted to fall within the bistro concept, it would have to be in one of the areas defined. She noted that the downtown and triangle district are clearly defined. The rail district is not clearly defined other than the vast majority is within the MX district which allows for bistros. She noted that Whole Foods has requested clarification to clearly specify the boundaries of the rail district and what properties are included.

MOTION: Motion by DeWeese, seconded by Harris:
To direct the following bistro applications, in the priority order below, to the Planning Board for full site plan and design review and Special Land Use Permit review:

1. Lincoln Yard
2. Adachi
3. Whole Foods

VOTE: Yeas, 7
Nays, None
Absent, None

10-307-16 MAD HATTER BISTRO, 185 N. OLD WOODWARD OWNERSHIP TRANSFER REQUEST

City Planner Ecker explained that the owners of Mad Hatter wish to sell it to RAM Restaurant Group. She pointed out the correction to the SLUP resolution to change the word “stock” to “assets”. She explained that there will be no changes to the name, outside of the building, the food menu, and layout.

MOTION: Motion by Sherman, seconded by Boutros:
To approve the Special Land Use Permit Amendment for Mad Hatter at 185 N. Old Woodward to approve the transfer in ownership of the existing liquor license and bistro from the current owners, Tea Parlor Inc. to RAM Restaurant Group, Inc as corrected:

WHEREAS, MAD HATTER filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to transfer ownership of their bistro as defined in Article 9, section 9.02 of Chapter 126, Zoning, of the City Code from the current owners, Tea Parlor Inc. to RAM Restaurant Group Inc.;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the west side of N. Old Woodward between Maple and Willits;

WHEREAS, The land is zoned B-4, and is located within the Downtown Birmingham Overlay District, which permits bistros with a Special Land Use Permit;

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

WHEREAS, The Planning Board on December 11, 2013 reviewed the application for Final Site Plan and Special Land Use Permit and recommended approval with the following conditions:

1. The applicant obtain a variance for the 70% glazing requirement from the Board of Zoning Appeals ("BZA");

2. The applicant obtain a variance to extend the outdoor dining platform in front of the neighboring storefront from the BZA;

3. The applicant submit specification sheets on the planters prior to review by the City Commission;

4. The applicant will be required to enter into a license agreement with the City for use of the public right-of-way, and to provide the required insurance. Liquor liability insurance will also be required for the service of liquor in the right-of-way, as well as an outdoor dining permit;

5. The applicant will need to return to the Historic District Commission for changes they have made to the platform; and

6. The applicant meets all Fire Dept. requirements.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on December 11, 2013;

WHEREAS, The Historic District Commission on December 18, 2013 reviewed the application for a Historic Design and Sign review and voted to approve the proposed changes to the historic building.

WHEREAS, The Board of Zoning Appeals on January 14, 2014 reviewed the appeal for two variances regarding the first floor glazing requirement and the placement of the outdoor dining platform and granted the applicant both variances;

WHEREAS, On February 24, 2014 the Birmingham City Commission approved a Special Land Use Permit for Mad Hatter;

WHEREAS, The original stockholder in Mad Hatter, Tea Parlor, Inc., wishes to sell all assets in Mad Hatter to RAM Restaurant Group, Inc. thereby transferring ownership of Mad Hatter, thus requiring a Special Land Use Permit Amendment in accordance with Article 7, section 7.36 of Chapter 126, Zoning of the City Code;

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

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

Hatter application for a Special Land Use Permit authorizing the operation of a bistro at 185 N. Old Woodward in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

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

1. Mad Hatter shall abide by all provisions of the Birmingham City Code;

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

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

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

5. Mad Hatter shall enter into a contract with the City outlining the details of the proposed bistro option.

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

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

MAY IT BE FURTHER RESOLVED that Mad Hatter, which does business at 185 N. Old Woodward, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED that Mad Hatter is recommended for the transfer of ownership of the bistro, with a Class C Liquor License, at 185 N. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

VOTE: Yeas, 7
Nays, None
Absent, None

10-308-16 MAD HATTER BISTRO, 185 N. OLD WOODWARD LIQUOR LICENSE TRANSFER TO RAM RESTAURANT GROUP

Commander Grewe explained the request to transfer ownership of the Class C Liquor License from the Tea Parlor, Inc to RAM Restaurant Group. He noted that the paperwork was filed appropriately and the background checks were passed.

Kelly Allen, representing RAM Restaurant Group, introduced Andrew and Randy Dickow of RAM Restaurant Group. She explained that they own several restaurants without liquor licenses and one with a liquor license. Randy Dickow explained the location of the restaurants.

MOTION: Motion by DeWeese, seconded by Boutros:
To authorize the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and approving the liquor license transfer for RAM that requests a transfer of Class C License issued under MCL 436.1521(A)(1)(B) and SDM License with Outdoor Service (1 Area) that is located at 185 N. Old Woodward, Birmingham, Oakland County, MI 48009.
Furthermore, pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the Local Approval Notice at the request of RAM approving the liquor license transfer request of RAM for the transfer of a Class C License to be issued under MCL 436.1521 (A)(1)(B) & SDM License with Outdoor Service (1 Area) located at 185 N. Old Woodward, Birmingham, Oakland County, MI 48009.

VOTE: Yeas, 7
Nays, None
Absent, None

10-309-16 CONSULTANT SELECTION FOR REVIEW OF OLD WOODWARD AND MAPLE RECONSTRUCTION PLANS FOR 2017

Mayor Pro Tem Nickita disclosed that he has worked with all of the groups that have submitted for this project. He noted that he and his firm have no current involvement with these groups.

City Planner Ecker explained that there is a large construction project planned for the reconstruction of Old Woodward and parts of Maple next year. She explained that there was interest in hiring a consultant to review the plans for this project. She noted that the engineering drawings have been drawn up and staff has been reviewing the different issues such as bicyclists, pedestrians, street lights, traffic signals, street furnishings, transit shelters, ADA compliance issues, ramps, crosswalks, curbs, vehicular traffic, etc. She explained the consultant will review and finalize the plans and do renderings of the key segments of the project area. In response to a question from Mayor Hoff, Ms. Ecker confirmed that the history of previous committee discussions was included.

Brian Kinzelman, senior principle of MKSK, explained that the firm will adjudicate the various studies, commission reports, etc. As they come to possible points of contradiction from one plan or opinion to another, they will put forth options to staff. He noted that he will be taking the lead on this project and has put his senior staff on this project.

Mayor Pro Tem Nickita noted that these are the most significant blocks in the City and stated that an urban design consultant was needed to take this on. He noted that some of the options that need to be studied include sustainability, linkage, trees, landscape, paving pattern, ADA, increased pedestrian activity, increased crosswalks, whether or not to have a median.

MOTION: Motion by DeWeese, seconded by Nickita:
To direct staff to execute a contract with MKSK/Parsons Brinkerhoff in an amount not to exceed $69,437.00, for professional services to complete the final plans and renderings for Old Woodward from Oakland to Landon and Maple Road from Southfield to Woodward;

AND

To approve the appropriation and budget amendment to the fiscal year 2016-2017 budget as follows:

General Fund

Revenue:		
Draw From Fund Balance	#101-000.000-400.0000	$69,500
Total Revenue Adjustment		$69,500
Expenditure (Planning Dept):		
Other Contractual Service	#101-721.000-811.0000	$69,500
Total Expenditure Adjustment		$69,500

AND

To authorize the expenditure of funds from account #101-721.000-811.0000, Other Contractual Services (Planning) in an amount not to exceed $69,437.00 for the completion of final plans and renderings for Old Woodward and Maple by MKSK/Parsons Brinkerhoff.

VOTE: Yeas, 7
Nays, None
Absent, None

10-310-16 ORDINANCE AMENDMENT TO ALLOW FOR ALTERNATE BOARD MEMBERS ON THE DESIGN REVIEW BOARD, HISTORIC DISTRICT COMMISSION, AND MULTI-MODAL TRANSPORTATION BOARD

MOTION: Motion by Sherman, seconded by DeWeese:

To adopt an ordinance amending Part II of the City Code, Chapter 82, Planning, Article V, Design Review Board, Section 82-99, Composition, to allow for alternate members.

- AND -

To adopt an ordinance amending Part II of the City Code, Chapter 127, Historic Districts, Section 127-6, Historic District Commission, to allow for alternate members.

- AND -

To adopt an ordinance amending Part II of the City Code, Chapter 110, Transportation Systems, Article II, Multi-Modal Transportation Board, Section 110-26, Composition, to allow for alternate members.

Commissioner Boutros left at 10:25 PM.

City Manager Valentine explained that the City Commission requested that clarification be given to the alternate positions for the Design Review Board and the Historic District Commission to remove the requirement that the alternate is a member of the opposite board. He explained that the advantage to adding alternates to the Multi-Modal Transportation Board.

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

10-311-16 PROPOSED SETTLEMENT AGREEMENT AND CONTRACT RENEWAL BIRMINGHAM COMMAND OFFICERS ASSOCIATION

HR Manager Taylor explained that the primary features of the proposed settlement agreement include a three-year contract through June 30, 2019, a 2% wage adjustment in each year of the contract and modest adjustments in commander pay, increased employee cost sharing for benefit costs and other modest improvements and other minor economic provisions.

Commissioner Boutros returned.

MOTION: Motion by Sherman, seconded by DeWeese:
To approve the settlement agreement of September 22, 2016 between the City and BCOA/COAM for a renewal of the collective bargaining agreement through June 30, 2019. Further, authorizing the transfer of the appropriate funds by the Finance Department for the contract effective July 1, 2016.

VOTE: Yeas, 7
Nays, None
Absent, None

10-312-16 CITY COMMISSION CONSIDERATION OF BIRMINGHAM FIREFIGHTERS ASSOCIATION GRIEVANCE

HR Manager Taylor explained that the grievance procedure provides that the City Commission may render a decision on the grievance or waive consideration of the grievance.

MOTION: Motion by Sherman, seconded by Harris:
To waive consideration of the Birmingham Firefighters Association Local 911 grievance of July 28, 2016.

VOTE: Yeas, 7
Nays, None
Absent, None

VII. REMOVED FROM CONSENT AGENDA

10-313-16 CITY COMMISSION MINUTES SEPTEMBER 26, 2016

Commissioner DeWeese noted that he pulled the wrong set of minutes. He requested that it be noted that the September 19, 2016 minutes should read “survey monkey” not “monkey survey”.

MOTION: Motion by DeWeese, seconded by Boutros:
To approve the of City Commission minutes of September 26, 2016.

VOTE: Yeas, 7
Nays, None
Absent, None

10-314-16 PARKING IN THE RIGHT-OF-WAY AT 33766 & 33772 WOODWARD AVE

Mayor Hoff expressed concern with using public parking to fulfill the parking requirements for a business. City Planner Ecker explained that this does not reserve the space for exclusive use for that business. She pointed out that the parking requirements will be studied with the master plan.

MOTION: Motion by DeWeese, seconded by Boutros:
To approve the use of one parking space on Woodward Avenue to fulfill a portion of the off-street parking requirements per Article 4, section 4.43 (G)(1) of the Zoning Ordinance for 33766

& 33772 Woodward Avenue, subject to the recommended repairs being completed as required by the Engineering Department.

VOTE: Yeas, 7
Nays, None
Absent, None

VIII. COMMUNICATIONS

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

X. REPORTS

10-315-16 COMMISSIONER REPORTS

The Commission intends to appoint alternate members to the Design Review Board, Historic District Commission and Multi-Modal Transportation Board on October 27, 2016 and to appoint members to the Birmingham Shopping District Board on November 21, 2016.

10-316-16 CITY STAFF REPORTS

The Commission received the Neighborhood Connector Route Project Update submitted by City Engineer O'Meara.

City Manager Valentine noted that a bid was received, but was not complete; therefore the project will have to be rebid next spring.

The Commission received the Bond Refunding report submitted by City Manager Valentine.

City Manager Valentine reported that the City will save $1.3 million in debt service due to the refunding of the bonds.

The Commission received the Update on New RTA Service Detroit to Somerset via Birmingham submitted by City Planner Ecker.

Mayor Hoff commented that the Commission was made aware of this particular line at the last meeting, but did not decide that the shelter would be placed in that location. The Commission had requested information on the number of passengers at the different locations in order to make an informed decision on where the shelter should be.

City Manager Valentine explained that the information was not available and staff is still waiting on the actual numbers. In lieu of not providing any information on this topic, he wanted staff to provide a status update. The presumption is that this would be the new location, but ultimately, the request has been made to SMART to provide the numbers requested.

Mayor Pro Tem Nickita questioned if there is a timing issue in terms of location given that there is a delay. City Planner Ecker explained that it is probably not going to happen this fall.

Commissioner Boutros commented that people use the bus stop on Maple. He noted that there is already a budget and a location that is in need of a shelter. He questioned why we are focusing on the unknown.

The Commission requested ridership data for SMART. Ms. Ecker explained that it is difficult to get exact numbers from SMART. She noted that they will provide data on the highest use stops.

XI. ADJOURN

The meeting adjourned at 10:50 PM.

Laura M. Pierce
City Clerk