

**BIRMINGHAM CITY COMMISSION MINUTES**  
**JUNE 27, 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 7:33 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, City Planner Ecker, City Engineer O'Meara, Finance Director Gerber, Deputy Treasurer Klobucar, DPS Director Wood, Police Chief Clemence

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

**06-192-16 U.S. CONGRESSMAN – 11<sup>th</sup> DISTRICT  
DAVE TROTT**

Congressman Trott presented an update on legislation passed in Washington.

**06-193-16 APPOINTMENT TO THE  
MARTHA BALDWIN PARK BOARD**

**MOTION:** Motion by Harris:

To appoint Bob Kenning, 1700 Villa, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

**MOTION:** Motion by Bordman:

To appoint Ronald Buchanan, 1280 Suffield, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2019.

**MOTION:** Motion by DeWeese:

To appoint Jane McKee, 392 Ferndale, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2020.

**MOTION:** Motion by Sherman:

To appoint Linda Forrester, 1252 South Bates, on the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2019.

VOTE ON NOMINATION OF KENNING:

Yeas, 7  
Absent, None

VOTE ON NOMINATION OF BUCHANAN:

Yeas, 7  
Absent, None

VOTE ON NOMINATION OF MCKEE:

Yeas, 7  
Absent, None

VOTE ON NOMINATION OF FORRESTER:

Yeas, 7  
Absent, None

**06-194-16 APPOINTMENT OF THE HEARING OFFICER AND ALTERNATE HEARING OFFICER**

The Commission interviewed Alexander Stotland, 698 Hanna, for appointment to the Hearing Officer position. Patricia Papadopoulos, 1588 Bennaville was unable to attend to be interviewed.

The Commission agreed to postpone the appointment until Ms. Papadopoulos is available to be interviewed.

The Clerk administered the oath to the appointed members of the Martha Baldwin Park Board.

**IV. CONSENT AGENDA**

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

**06-195-16 APPROVAL OF CONSENT AGENDA**

The following items were removed from the consent agenda:

- Item E (Special Event Request - Harriers 5K Run/Walk) by Commissioner Bordman
- Item K (Purchase of DPS Message Boards) by Commissioner Bordman
- Item M (Outside Agency Agreements for Birmingham Bloomfield Community Coalition, Birmingham Youth Assistance, Common Ground, Haven ) by Commissioner Bordman
- Item N (Outside Agency Agreement for Deaf & Hearing Impaired Services, Inc) by Commissioner Bordman
- Item I (Tree Care and Removal Agreement) by Mayor Hoff

**MOTION:** Motion by DeWeese, seconded by Boutros:

To approve the consent agenda as follows:

- A. Approval of City Commission minutes of June 6, 2016.
- B. Approval of warrant list, including Automated Clearing House payments, of June 8, 2016 in the amount of \$900,497.25.
- C. Approval of warrant list, including Automated Clearing House payments, of June 15, 2016 in the amount of \$1,583,670.79.

- D. Approval of warrant list, including Automated Clearing House payments, of June 22, 2016 in the amount of \$559,547.20.
- F. Resolution approving the purchase of one (1) new Toro Workman MDX Utility Vehicle from Spartan Distributors, through State of Michigan extendable purchasing contract #071B0200329 for a total purchase price not to exceed \$11,746.77. Funds for this purchase are available in the Auto Equipment Fund, account #641.441.006-971.0100.
- G. Resolution awarding the 2016 Asphalt Resurfacing Project, Contract #5-16(P), to Pamar Enterprises Inc. in the amount of \$1,072,270.00 to be charged to the following accounts:

Major Street Fund	202-449.001-981.0100	\$219,786.00
Local Street Fund	203-449.001-981.0100	\$435,759.00
Sewer Fund	590-536.001-981.0100	\$396,340.00
Water Fund	591-537.004-981.0100	\$ 20,385.00
TOTAL		\$1,072,270.00

And further; approving the appropriation and amendment to the 2016-2017 Major Street Funds, as well as the Sewer Fund budgets as follows:

Major Streets Fund

Revenues:

Draw from Fund Balance	202-000.000-400.0000	\$ 39,786.00
Total Revenue		\$ 39,786.00

Expenditures:

EPS-Construction/ Public Improvements	202-449.001-981.0100	\$ 39,786.00
Total Expenditures		\$ 39,786.00

Sewer Fund

Revenues:

Draw from Fund Balance	590-000.000-400.0000	\$196,340.00
Total Revenue		\$196,340.00

Expenditures:

EPS-Construction/ Public Improvements	590-536.001-981.0100	\$196,340.00
Total Expenditures		\$196,340.00

- H. Resolution approving the appointment of election inspectors for the August 2, 2016 Primary Election pursuant to MCL 168.674(1) and authorizing the City Clerk to make revisions as needed.
- J. Resolution approving the purchase of one (1) new 2016 Case 580SNWT Loader Backhoe from Southeastern Equipment Co., Inc., using National Joint Powers Alliance extendable purchasing pricing for a total expenditure not to exceed \$103,798.86. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.
- L. Resolution setting July 25, 2016 as the date of a public hearing to consider the 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.
- O. Resolution approving the service agreement with Next in the amount of \$99,810 for services described in Attachment A of the agreement for fiscal year 2016- 2017, account number 101-299.000-811.0000, and further directing the Mayor and City Clerk to sign the agreement on behalf of the City.
- P. Resolution approving the First Amendment to the Ground Lease Agreement by and between the City of Birmingham and NCWPCS MPL. 23-Year Sites Tower Holdings, LLC and approving the Memorandum of the First Amendment to the Ground Lease and authorizing the Mayor and Clerk to execute the same on behalf of the city.

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,          1 (Hoff from Item A – absent)

**06-196-16                    SPECIAL EVENT REQUEST  
    BIRMINGHAM HARRIERS 5K RUN/WALK**

Terri McArdle, representing the Birmingham Harriers Run, confirmed for Commissioner Bordman that set up on site will begin at 7:00 AM, but any set up along the course will begin at 8:00 AM.

Commissioner Bordman expressed concern with noise that would affect the neighborhood.

**MOTION:**    Motion by Bordman, seconded by Harris:  
 To approve a request submitted by the Seaholm Cross Country Team to hold Birmingham Harriers 5K Run/Walk on August 7, 2016, 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.

VOTE:            Yeas, 7  
                          Nays, None  
                          Absent, None

**V.           UNFINISHED BUSINESS**

**VI.          NEW BUSINESS**

**06-197-16                    PUBLIC HEARING TO CONSIDER A REZONING  
    404 PARK STREET**

Mayor Hoff opened the Public Hearing to consider the rezoning of 404 Park Street at 7:56 PM.

City Planner Ecker explained the proposal to rezone the property at 404 Park. She noted that it is two lots located on the north side of Oakland between Park Street and Woodward Avenue. She explained the history of the rezoning attempts and study of this site by the Planning Board and LSL Planning.

Ms. Ecker noted that the proposal is to rezone this property to the TZ1 zoning category. She explained that the applicant is proposing four units and have stated that they intend to comply with the recommendations of the LSL sub-area plan. She explained that the current zoning R-2 would allow for two detached single family units. Under the proposal TZ1, they would be allowed to have four attached single family units. Ms. Ecker explained the standards that must be reviewed for a rezoning application.

Mayor Pro Tem Nickita disclosed that he had past involvement with the development interest on this site. City Attorney Currier explained the decision by the Board of Ethics that this is not a conflict of interest as it was a past business relationship.

Mayor Pro Tem Nickita questioned the dialog in the sub-area plan and how it focused on the one site versus all three sites to the north, specifically 404 and the site adjacent to the west. Ms. Ecker explained that the Oakland Park Sub-Area Plan clearly delineated the two. One of the areas of the study was the Oakland Area along the north side of Oakland. 404 Park was distinguished as a separate area only because it made up part of the Oakland gateway into the downtown and it was unique fronting on three streets and having a narrow depth compared to the other lots. The views across Oakland of the office building and parking structure were not well shielded by the median landscaping and the house would have to be closer to Oakland due to the shallow depth of the lot. Ms. Ecker explained that all of Oakland was considered a gateway as having some similar characteristics.

Ms. Ecker confirmed for Mayor Pro Tem Nickita that the residential density capacity of an R8 versus a TZ1 are the same.

Rick Rattner, attorney representing the applicant, reviewed the history of this parcel and the ordinance. He further explained why rezoning was necessary, why the existing zoning is no longer appropriate, and why the proposed rezoning would not be detrimental to the surrounding properties.

Tom Ryan, attorney representing Mr. & Mrs. Host at 416 Park, noted that a transitional zone is a buffer zone between the lower density neighborhood to protect it from the higher density property. He stated that Oakland has been the buffer. He noted that he is not convinced it is necessary to rezone.

The following individuals spoke in opposition to the rezoning:

William Finnicum, owner of 404 Bates  
Paul Gillin, 271 & 273 Eculid  
Kathryn Gaines, 343 Ferndale  
Jane McKee, 392 Ferndale  
Paul Reagan, 997 Purdy  
Michael Schuck, 247 Oakland and owns 267 Oakland  
Benjamin Gill, 520 Park  
Bella Fichtenberg, 430 Park  
Gina Russo, 431 Park

Commissioner Harris disclosed that he was involved in litigation with an entity named FCB. One of the members of FCB is the owner of 404 Park. He noted that FCB was adverse to his client and the case is now settled.

Commissioner Sherman pointed out that the last time the Commission looked at this was in September, 2015, not only at this parcel, but across the City and evaluating whether certain parcels should be rezoned at that time to TZ1, TZ2, or TZ3. Looking at what was presented then and now, he sees no difference. There is nothing different in the plan, no facts have changed and the sole reason this is back to the Commission is the argument that the City initiated that process to look at all of the zoning and this was initiated by the developer. He stated that he questions the original reason it was reviewed because a developer came forward

and wanted contractual zoning and the City is not interested in contractual zoning. The Commission had LSL prepare a study and look at a number of parcels around the City. LSL provided recommendations as to what could be done. LSL looked at the area of Ferndale to Woodward and from Oakland back one parcel. The study said that 404 may have had some differences, but when you look at the language used for all of them, LSL said if the City wanted additional transitional buffering, this is the area that should be used.

Commissioner Sherman pointed out that in looking at Oakland, it is commercial zoning, residential, then it would be transitional. He stated that doing this does not make sense. If the City is going to have transitional zoning, it should be congruent. He stated that the property is zoned R2. Just because the developer wants it to be something else, does not mean it should be if it does not fit in with the view of the City according to its plans for how things should be interpreted. He stated that he is not in support of the request to rezone.

Commissioner DeWeese stated that he will not support a change in zoning as he believes that nothing has been fundamentally changed. To make the decision to change any parcel, a case would have to be made for changing all the parcels.

Mayor Pro Tem Nickita commented that the study on transitional zoning needs to be looked at as a unit.

**MOTION:** Motion by Sherman, seconded by DeWeese:

To deny the rezoning of the property at 404 Park Street, Parcel #1925451021, lots 66 and 67 of Oak Grove Addition from R-2 Single Family Residential to TZ-1 Transitional.

The Mayor closed the Public Hearing at 9:37 PM.

Mayor Hoff expressed concern with prolonging this and stated that it is the Commission's responsibility to make a decision. She expressed opposition to the motion.

Commissioner DeWeese commented that it should be dealt with as a unit. He suggested it be reviewed with the master plan.

Commissioner Harris expressed support of the motion and agreed that a review of the entire block would be consistent with what the Commission requested back in the fall. He stated that he is having a hard time finding the community benefit to the rezoning.

VOTE:           Yeas, 5  
                  Nays, 2 (Bordman, Hoff)  
                  Absent, None

Commissioner Bordman pointed out that the property owner has a right to return in one year to ask for a rezoning.

Commissioner Sherman explained that back in September, the Commissioners had requested that before this came back, the entire Oakland area be reviewed to evaluate whether the entire area should be transition zoning from commercial to Woodward. This was never done. He stated that the Planning Board should return to the Commission with a report.

Commissioner DeWeese stated that the master plan is coming up within a year. He would rather wait and have them look at it in the context of the new master plan.

Commissioner Bordman stated that it is not fair to the residents to wait for possibilities. If the Commissioners want the Planning Board to review this, give them a time certain within two to three months so the residents have peace of mind about what is happening with this property.

**MOTION:** Motion by Sherman, seconded by Nickita:

To direct staff to gather information about the RFP, the review and revisions to the master plan, and input from the planning board as to process that would best be used to analyze Oakland Avenue from Old Woodward to Woodward.

Commissioner Bordman stated that she will not be supporting the motion because she does not agree with it in principle. She stated that this should be sent right to the Planning Board to examine.

Mayor Pro Tem Nickita stated that the bigger picture has to be considered and not focusing on one particular property.

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

**06-198-16 PUBLIC HEARING OF NECESSITY FOR  
SEWER LATERAL REPLACEMENT WITHIN THE  
VILLA AVENUE PAVING PROJECT AREA**

Mayor Hoff opened the Public Hearing of Necessity for sewer lateral replacement within the Villa Ave. Paving Project at 10:16 PM.

City Engineer O'Meara explained that the price normally charged to the residents is based on the low bidder price. He suggested a new formula be used based on the average price of all the bidders which would be \$65.33 per foot.

Commissioner Sherman noted that this has been done on other projects where the contract has been substantially higher than the average price.

Bob Kenning, resident, commented that he has been extremely pleased with the work of the current contractor.

The Mayor closed the Public Hearing at 10:21 PM.

**MOTION:** Motion by Sherman, seconded by DeWeese:

To declare necessity for replacement of sewer laterals within the Villa Ave. Paving Project. The public hearing of confirmation will be held on Monday, July 11, 2016, at 7:30 P.M:

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

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

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

RESOLVED, that all sewer laterals not meeting current criteria located within the limits of the following streets shall be replaced as a part of the paving project on Villa Ave. from Adams Rd. to Columbia Ave.

RESOLVED, that at such time as the Assessor is directed to prepare the assessment roll, of which 100% of the contractor's charge to replace sewer lateral (calculated at the rate of \$65.33 per linear foot) shall be charged to the adjoining property owners benefiting from the sewer lateral,

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

"Birmingham Villas Subdivision"

All of the following lots also include the southerly 8 ft. of the adjacent vacated alley:

Lots 73-75 inclusive, lots 78-82 inclusive, lots 84-90 inclusive, lots 92-94 inclusive, lot 95 and the adjacent westerly half of adjacent vacated Dixie Ave., lots 101-105 inclusive, lots 108, 109.

All of the following lots also include the adjacent 9.5 ft. vacated alley to the south of each lot, as well as have an adjacent 9.5 ft. exception taken for Villa Ave. right-of-way:

Lots 110-115 inclusive, lots 117, 118, lots 120, 121, the easterly 45 ft. of lot 123 plus the westerly half of adjacent vacated Dixie Ave. right-of-way, Lot 124 plus the easterly half of adjacent vacated Dixie Ave. right-of-way, lots 125-127 inclusive, lots 129, 130, 132, 134, 135 plus the westerly 20 ft. of adjacent vacated Yankee Ave. right-of-way, lots 138-146 inclusive.

RESOLVED, that the Commission shall meet on Monday, July 11, 2016, at 7:30 P.M., for the purpose of conducting a public hearing to confirm the roll for the replacement of sewer laterals within the Villa Ave. Paving Project.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**06-199-16 PUBLIC HEARING TO CONSIDER SPECIAL LAND USE PERMIT  
100 TOWNSEND, TOWNSEND HOTEL (CORNER BAR)**

Mayor Hoff opened the Public Hearing at 10:21 PM to consider the Final Site Plan and Special Land Use Permit – 100 Townsend, Townsend Hotel (Corner Bar).

City Planner Ecker explained that any establishment that serves alcoholic liquors that makes a change to the name, ownership, or application for site plan review, must obtain a Special Land Use Permit. The Townsend Hotel is requesting a thirty square foot addition to fill in the corner at the entrance to the Corner Bar. She explained they are proposing to get rid of the Corner Bar as a separate establishment and create another private reception area. She presented the plans for the proposed area.

Ms. Ecker explained that the area will be connected to the hotel. She confirmed for Commissioner Bordman that the steps would be removed.

Mayor Pro Tem Nickita commented that an existing conditions drawing would be helpful.

Victor Saroki, architect for the project, confirmed for Mayor Pro Tem Nickita that the glass windows would be clear. He explained that there will be drapery in the space similar to the Rugby Grill. He explained the entry off of Merrill Street will be ADA compliant and near the valet should a function need valet. He noted that the outdoor dining will be eliminated in that area.

The Mayor closed the Public Hearing at 10:36 PM.

**MOTION:** Motion by Nickita, seconded by Boutros:

To approve the Final Site Plan and Special Land Use Permit to allow the Townsend Hotel to convert The Corner Bar into a private reception and special event space:

WHEREAS, The Townsend Hotel has filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a private dining and special event space with alcoholic beverage sales for on-premise consumption under Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit is sought is located on at 100 Townsend St. between Pierce Rd. and Henrietta;

WHEREAS, The land is zoned B-4 and D-4, and is located within the Downtown Birmingham Overlay District, which permits restaurants with alcoholic beverage sales for on- premise consumption 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, On May 18, 2016 the Historic District Commission reviewed the proposed changes to the site and issued a Certificate of Approval pursuant to the requirements of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

WHEREAS, On May 25, 2016, the Planning Board reviewed the proposed changes to the site and recommended approval of the Final Site Plan to the City Commission;

WHEREAS, The Birmingham City Commission has reviewed The Townsend Hotel 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 Townsend Hotel application for a Special Land Use Permit authorizing the operation of a establishment with alcoholic beverage sales (on-premise consumption) at 100 Townsend 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;

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, The Townsend Hotel 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 The Townsend Hotel to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**06-200-16 PUBLIC HEARING TO CONSIDER  
TEMPORARY SPECIAL LAND USE PERMIT  
835 & 909 HAYNES, LAVERY PORSCHE**

Mayor Hoff opened the Public Hearing at 10:37 PM to consider the Revised Final Site Plan and Temporary Special Land Use Permit Amendment – 835 & 909 Haynes, Lavery Porsche.

City Planner Ecker explained that renovations are being done to the Audi building. The applicant would like to use 909 Haynes temporarily for the sales office. She noted that the request is to use the building for a period of twelve months. She noted that the Planning Board had a few comments regarding landscape and screening in the parking area. She noted that twenty-four parking spaces are required by ordinance and there are thirty-six dedicated parking spaces for this site. She pointed out that vehicles for sale or lease are not allowed to be stored within the twenty-four spaces required for the building.

Fred Lavery, applicant, explained that the sales staff and managers will have to be relocated due to the renovation to the Audi building. He noted that the twenty-four parking spaces are for the occupants of the building. The difference between the twenty-four required spaces and thirty-six spaces will be used for the storage of cars.

A resident at 635 Elm Street expressed his support of the request, but only for one year.

The Mayor closed the Public Hearing at 10:54 PM.

**MOTION:** Motion by Nickita, seconded by Bordman:  
To approve the Revised Final Site Plan and Temporary Special Land Use Permit Amendment of one year for 835 & 909 Haynes – Lavery Porsche with the condition that applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, Lavery Porsche has applied for a Temporary Special Land Use Permit Amendment of one year to operate an Audi automobile sales agency on the first floor of the building located at 909 Haynes,

WHEREAS, The land for which the Temporary Special Land Use Permit Amendment is sought is located on the north side Haynes east of Elm,

WHEREAS, The land is zoned MU-5, Mixed Use 5, which permits automobile sales agencies with a Special Land Use Permit,

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning, requires a Special Land Use Permit Amendment 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 reviewed the proposed Temporary Special Land Use Permit Amendment request on April 27, 2016 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following condition:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on April 27, 2016;

WHEREAS, The Birmingham City Commission has reviewed the Lavery Porsche Temporary Special Land Use Permit Amendment application as well as the standards for such review as set forth in Article 7, section 7.34 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 the Lavery Porsche application for a Temporary Special Land Use Permit amendment is hereby approved for one year from the date of approval, subject to the attached site plan, and subject to the following conditions:

1) Applicant provides the dimensions of the parking lot landscaping islands to verify that they comply with the requirements of the Zoning Ordinance.

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, Lavery Porsche 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 Lavery Porsche to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**06-201-16 SOUTH OAKLAND COUNTY CRASH INVESTIGATION TEAM INTERLOCAL AGREEMENT**

**MOTION:** Motion by Sherman, seconded by Harris:  
To approve the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Interlocal Agreement for

Participation in the South Oakland County Crash Investigation Team (SOCCIT). Further, directing the Mayor and the City Clerk to sign the Amendment to the Interlocal Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT) and Binder Agreement for Participation in the South Oakland County Crash Investigation Team (SOCCIT).

Police Chief Clemence explained the South Oakland County Crash Investigation Team multi-jurisdictional crash investigation team is currently made of up from officers from Auburn Hills, Bloomfield Township, Bloomfield Hills, and Troy. He explained that this is part of the multi-jurisdictional movement to share resources to make our communities safer, better, and more efficient.

VOTE:           Yeas, 7  
                   Nays, None  
                   Absent, None

**06-202-16                   2015-2016 FISCAL YEAR  
                                   BUDGET APPROPRIATIONS AND AMENDMENTS**

Finance Director Gerber explained that the memo explains the requested changes to the 2015-2016 budget.

**MOTION:**     Motion by Sherman, seconded by Boutros:  
 To approve the appropriations and amendments to the fiscal year 2015-2016 budget as follows:

**General Fund:**

Revenues:

Intergovernmental	101-000.000-569.0000	\$ 150,000
Fines & Forfeitures	101-000.000-657.0000	( 170,000)
	101-000.000-656.0000	( 80,000)
Other Revenue	101-000.000-678.0000	100,000
Draw from Fund Balance	101-000.000-400.0000	388,000
Total Revenue Adjustments		\$ 388,000

Expenditures:

General Government	101-191.000-702.0001	\$ (73,000)
	101-191.000-706.0012	(12,000)
	101-191.000-706.0013	( 5,000)
	101-253.000-702.0001	(35,000)
	101-253.000-706.0002	(32,000)
	101-253.000-706.0004	(35,000)
	101-253.000-706.0010	( 6,500)
	101-253.000-811.0000	(11,500)
	101-266.000-801.0200	(30,000)
	101-804.002-811.0000	(10,000)
	101-804.002-977.0000	(10,000)
Community Development	101-721.000-811.0000	(75,000)
	101-721.000-825.0100	(25,000)
Transfers Out	101-136.000-999.9999	(235,900)
	101-999.000-999.2430	( 11,100)
	101-999.000-999.4010	( 5,000)
	101-999.000-999.6770	1,000,000
Total Expenditure Adjustments		\$ 388,000

**Major Streets Fund:**

Expenditures:		
Traffic Controls & Engineering	202-303.002-804.0200	\$ 60,000
Street Trees	202-449.005-702.0001	12,000
	202-449.005-702.0002	1,000
	202-449.005-706.0002	2,000
	202-449.005-941.0000	15,000
Snow & Ice Control	202-449.006-729.0000	(70,000)
	202-449.006-941.0000	(20,000)
Total Expenditure Adjustments		\$ -0-

**Local Streets Fund:**

Revenues:		
Intergovernmental	203-000.000-540.0000	\$ 80,000
Total Revenue Adjustments		\$ 80,000

Expenditures:		
Traffic Controls & Engineering	203-303.001-937.0300	\$ 2,000
Street Cleaning	203-449.004-941.0000	10,000
Capital Outlay – Engineering & Construction of Roads	203-449.001-981.0100	100,000
	203-449.001-985.7300	25,000
Snow & Ice Control	203-449.006-702.0001	(7,000)
	203-449.006-729.0000	(40,000)
	203-449.006-941.0000	(10,000)
Total Expenditure Adjustments		\$ 80,000

**Principal Shopping District:**

Revenues:		
Other Revenue	247-000.000-676.0001	\$ 15,000
Draw from Fund Balance	247-000.000-400.0000	55,000
Total Revenue Adjustments		\$ 70,000

Expenditures:		
Principal Shopping District	247-441.005-702.0002	\$ 15,000
	247-441.005-941.0000	15,000
	247-748.000-811.0000	25,000
	247-748.000-829.0200	(5,000)
	247-748.000-903.0000	(5,000)
	247-748.000-904.0000	10,000
	247-748.000-909.0000	15,000
Total Expenditure Adjustments		\$ 70,000

VOTE:       Yeas, 7  
              Nays, None  
              Absent, None

**06-203-16                   FEE SCHEDULE AMENDMENT  
                                  WATER AND SEWER RATES AND INDUSTRIAL SURCHARGES &  
                                  WASTE CONTROL CHARGES**

Finance Director Gerber explained the changes to the water and sewer represents a 7.25% increase.

**MOTION:** Motion by DeWeese, seconded by Bordman:  
To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in water and sewer rates and changes in industrial surcharges and industrial waste control charges to be effective for bills with read dates on or after July 1, 2016.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**06-204-16 CLOSED SESSION REQUEST  
PENDING LITIGATION**

**MOTION:** Motion by Nickita, seconded by Sherman:  
To meet in closed session to review pending litigation regarding Shellaberger v City of Birmingham pursuant to Section 8(e) of the Open Meetings Act.

ROLL CALL VOTE: Yeas, Commissioner Boutros  
Commissioner DeWeese  
Commissioner Harris  
Mayor Pro Tem Nickita  
Commissioner Sherman  
Commissioner Bordman  
Mayor Hoff  
Nays, None  
Absent, None  
Abstention, None

**06-205-16 CLOSED SESSION REQUEST  
ATTORNEY/CLIENT PRIVILEGE COMMUNICATION**

**MOTION:** Motion by Sherman, seconded by Nickita:  
To meet in closed session to discuss an attorney/client privilege communication in accordance with Section 8(h) of the Open Meetings Act.

ROLL CALL VOTE: Yeas, Commissioner DeWeese  
Commissioner Harris  
Mayor Pro Tem Nickita  
Commissioner Sherman  
Commissioner Bordman  
Commissioner Boutros  
Mayor Hoff  
Nays, None  
Absent, None  
Abstention, None

**VII. REMOVED FROM CONSENT AGENDA**

**06-206-16 TREE CARE AND REMOVAL AGREEMENT**

Mayor Hoff requested clarification on the average annual increase to the contractor as listed in the report. DPS Director Wood explained that the contract has been on-going for twelve years. The last six of those years there has been no increase.

Ms. Wood confirmed for Mayor Hoff that extending the contract will allow time to continue discussion with the current contractor or to rebid the service.

**MOTION:** Motion by DeWeese, seconded by Sherman:

To approve the Amendment and Resolution to the Tree Care and Removal Agreement with J. H. Hart Urban Forestry that ends on June 30, 2016 and authorizing a sixty (60) day extension with all terms and conditions remaining the same until August 31, 2016. Further, authorizing the Mayor and City Clerk to sign the Agreement upon receipt of all required insurances.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**06-207-16 DPS MESSAGE BOARDS**

In response to a question from Commissioner Bordman, DPS Director Wood explained the differences between the type of message boards. She noted that the model chosen gives more functionality and more uses for formatting, number of characters, and software.

**MOTION:** Motion by Bordman, seconded by Boutros:

To approve the purchase of two (2) Sunray 345 message boards from National Signal Inc. in an amount not to exceed \$28,650.00. Funds for this purchase are available in the Auto Equipment Fund, account #641-441.006-971.0100.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**06-208-16 OUTSIDE AGENCY AGREEMENTS**

Commissioner Bordman expressed her hesitation with approving expenditures without knowing whether the residents are receiving any value for the funds given to the organizations. She requested additional information be provided to include the number of residents utilizing the service. Mayor Hoff suggested documentation be provided as to how the funds are used.

Clerk Pierce explained that a detailed invoice is received from Deaf & Hearing Impaired Services. Chief Clemence explained the services provided by Birmingham Bloomfield Community Coalition, Birmingham Youth Assistance, Common Ground, and Haven.

The Commission agreed to postpone the outside agency agreements for additional information.

**VIII. COMMUNICATIONS**

**06-209-16 COMMUNICATIONS**

The Commission received the following communications:

- Troy & Lisa Testa re: Villa Road paving project
- Terry Holmes re: Petition for Maddie

City Manager Valentine commented that the Police Chief has sent a letter outlining the status of where that case sits. He noted that the matter has been turned over to the 48<sup>th</sup> District Court for prosecution.

- Robin Smith re: Leash laws

Mayor Pro Tem Nickita expressed concern with the issue of dogs being off-leash. He noted the Rouge River Trail from Lincoln to Maple is a problem area and suggested the Police Department address this area.

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

**06-210-16 OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

George Stern, 1090 Westwood, suggested the cemetery reports be moved to the next meeting due to the late hour.

**X. REPORTS**

**06-211-16 COMMISSIONER COMMENTS**

Commissioner Harris suggested a representative from the ACT Coalition advocating for regional transit in metro Detroit address the Commission. The Commission agreed.

**06-212-16 CITY STAFF REPORTS**

The Commission received the Mosquito Control Update submitted by DPS Director Wood.

City Manager Valentine noted that this is an annual process for mosquito control. He pointed out that the treatment does address the zika and west Nile virus.

Commissioner Bordman encouraged residents to remove any standing water on their property to eliminate potential breeding grounds for mosquitos.

The Commission agreed to receive the Greenwood Cemetery Advisory Board Annual Report and Cemetery Report/Contractor Update submitted by the City Clerk and bring the reports to the next meeting as a New Business item.

The Commission recessed to closed session at 11:32 PM.  
The Commission reconvened in open session at 12:20 AM

**XI. ADJOURN**

The meeting adjourned at 12:20 AM.

Laura M. Pierce  
City Clerk