

**BIRMINGHAM CITY COMMISSION MINUTES**  
**FEBRUARY 27, 2017**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

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

Mayor Mark Nickita called the meeting to order at 7:30 PM.

**II. ROLL CALL**

ROLL CALL: Present, Mayor Nickita  
Commissioner Bordman  
Commissioner Boutros  
Commissioner DeWeese  
Mayor Pro Tem Harris  
Commissioner Hoff  
Absent: Commissioner Sherman

Administration: City Manager Valentine, City Attorney Currier, Acting Clerk Arft, City Planner Ecker, Building Director Johnson, Police Chief Clemence, Commander Chris Busen, Museum Director Pielack, DPS Director Wood, Golf Manager Brito, City Engineer O'Meara, Finance Director Gerber

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

**02-39-17: RECOGNITION OF 2016 STUDENT BOARD REPRESENTATIVES**

The Commission recognized the 2016 Board Representatives.

Colin Cusimano was involved in the Planning Board.

Loral Salter-Dodson was involved in the Historic District Commission-Design Review Board.

Nicole McMaster was involved in the Parks and Recreation Board.

Ava Suchara was involved in the Public Arts Board.

Nayri Carmen is recognized for service on the Museum Board.

**02-40-17: APPOINTMENT OF 2017 STUDENT BOARD REPRESENTATIVES MOTION:**

Pamela Davis and Jennifer Condat, Birmingham Public Schools, explained this program and thanks City for the opportunity for the students to serve this way.

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

To appoint the following students as non-voting members for the calendar year 2017:

Planning Board: Ariana Afrakhtek – IA  
Bella Niskar - Seaholm  
Parks Board: Ben Gould - Groves  
Joey Kummer – Seaholm  
Public Arts Board: Celeste Demps-Simons – IA

Museum Board: Sarah Evans - Seaholm  
Cecilia Trella - Seaholm  
Carson Claar – Seaholm  
Hanna Sandler – Seaholm  
HDC-DRB: Josh Chapnick - Seaholm  
Griffin Pfaff – Seaholm

VOTE: Yeas, 6  
Nays, 0  
Absent, 1 (Sherman)

The Acting Clerk administered the oath to the appointed student representatives.

**02-41-17: APPOINTMENTS TO PUBLIC ARTS BOARD**

**MOTION:** Motion by Boutros:  
To appoint Rabbi Cohen to the Public Arts Board to serve the remainder of a three-year term to expire January 28, 2019.

VOTE: Yeas, 6  
Nays, 0  
Absent, 1 (Sherman)

**MOTION:** Motion by Hoff:  
To appoint Monica Neville to the Public Arts Board to serve the remainder of a three-year term to expire January 28, 2018.

VOTE: Yeas, 6  
Nays, 0  
Absent, 1 (Sherman)

The Acting 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.

**2-42-17 APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Item L (Museum Digitization Content Sourcing Agreement) by Commissioner Bordman
- Item H (Museum Contract – Allen House) by Commissioner DeWeese
- Item N (Special Event application-Celebrate Birmingham Parade)

City Manager Valentine noted that due to a noticing error, Item N will be brought back to the March 13, 2017 meeting. New notices have been mailed.

**MOTION:** Motion by Harris, seconded by Hoff:  
To approve the Consent Agenda, with the following items removed: H, L and N.

A. Approval of Minutes of February 13, 2017.

- B. Approval of warrant list, including Automated Clearing House payments, of January 25, 2017 in the amount of \$677,345.41. (REVISED)
- C. Approval of warrant list, including Automated Clearing House payments, of February 15, 2017 in the amount of \$ 2,518,082.76.
- D. Approval of warrant list, including Automated Clearing House payments, of February 22, 2017 in the amount of \$ 293,939.43.
- E. Resolution approving the 2017 annual flower purchase from Croswell Greenhouse in the amount not to exceed \$17,149.45. Funds are available from the General Fund – Property Maintenance – Operating Supplies account #101-441.003-729.0000.
- F. Resolution awarding the Park Street Painting Project, Contract #4-17(PK), to DRV Contractors, LLC of Shelby Township, MI in the amount of \$930,560.00 to be charged to account 585-538.003-977.0000.
- G. Resolution confirming the City Manager's authorization for the emergency expenditure regarding the repair to the Birmingham Ice Arena by Delta Temp Inc. in the amount of \$13,028.00 to be paid from the General Fund – Ice Sports Arena account #101-752.000-930.0300, pursuant to Sec. 2-286 of the City Code.
- I. Resolution approving the purchase of a new Caterpillar Model TL642D Telehandler from MacAllister Rentals through the National Joint Powers Alliance (NJPA) extendable purchasing contract #032515-CAT in the amount of \$120,690.96 from account #641-441.006.971.0100.
- J. Resolution approving the purchase of a new 2017 Ford Transit Connect cargo van from Gorno Ford through the State of Michigan extendable purchasing contract #071B1300005 in the amount of \$22,591.00 from account #641-441.006.971.0100.
- K. Resolution approving the purchase of two (2) new 2017 Ford Explorers from Gorno Ford through the State of Michigan extendable purchasing contract #071B1300005 in the amount of \$57,886.00 from account #663-338.000-971.0100.
- M. Resolution approving a request submitted by the Public Arts Board to hold Birmingham in Stitches from September 16th – October 7th, 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.
- N. Resolution approving a request submitted by the City of Birmingham to hold Celebrate Birmingham Parade on Sunday, May 21, 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.

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

The Commission agreed to discuss Items H and L at this time.

**02-43-17: ITEM L-MUSEUM DIGITIZATION CONTENT SOURCING AGREEMENT**

Commissioner Bordman asked Museum Director Pielack if the City is paying to have this done or whether the use of the magazine was in exchange for NA Publishing digitizing it. Ms. Pielack said we are loaning NA Publishing some items that it cannot get anywhere else. They are also borrowing materials from other institutions. They are going to create an entire data base, and in return for that loan, the City will have unlimited, permanent access to the entire collection.

Ms. Pielack confirmed for Commissioner Hoff that NA Publishing contacted the Museum because it was trying to identify the location of different issues to do an entire run. She followed up and asked what the company had in mind and took it from there.

Ms. Pielack explained that we have issues beginning with year 4 up to 15 years. We continue to get missing issues. Having access to this data base, the Museum will be able to have complete access to all the issues.

Commissioner Hoff asked if this will require any additional Museum staff time. Director Pielack responded the company is located in the Ann Arbor area, and have offered to come to the Museum to pick up the items that we are loaning them for digitization and return them to the Museum.

In response to Commissioner Hoff's questions about benefit to the City, Director Pielack said it provides permanent access to the entire collection to the Museum. The Museum would be able to permanently go to the data base and download the entire issue, and could re-print them. We could use it for study and all Museum patrons would be able to download the research.

Commissioner Hoff asked if there have been many requests for these magazines. Director Pielack confirmed that we have had a number of requests. A documentary is being produced right now that has evolved also into a relationship in part with the Museum.

Commissioner Boutros asked if the access is typically a service that is charged to other customers, Director Pielack responded there will be no fee to the Museum.

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

To approve a Content Sourcing Agreement with NA Publishing, a wholly owned subsidiary of Data Conversion, LLC to provide a loan of specified Creem Magazine monthly and special issues in exchange for permanent access by the museum to the final complete digitized CREEM collection at no charge. Further, direct the Mayor and Interim City Clerk to sign the agreement on behalf of the City.

VOTE:           Yeas,    6  
                  Nays,     0  
                  Absent, 1 (Sherman)

**02-44-17:            ITEM H:            MUSEUM CONTRACT – ALLEN HOUSE SIDING**

Commissioner DeWeese said he is supportive of what is being asked but some of us got a letter from Russ Dixon and I just wanted to bring it up as a matter for future approach or consideration for policy. He added when the City has issues that require an architect, the architect should represent the City or the entity of the City and not represent the contractor. He said he thinks we will get a better long term result.

Commissioner Hoff expressed concern that there is no information in our packet on Grunwell. She does not have any idea of their background and their experience with historical preservation. This was a highly discussed project with conflicting opinions. She feels something is missing here especially in view of the history of this project. We want to preserve the Allen House exactly as it should be according to the State Historic Preservation Office.

Museum Director Pielack said it does not look like Grunwell Cashero has that background and that is true because Grunwell Cashero is not the architect. The RFP required that all bidders provide or contract with an architect to answer the question what exactly needs to be done. We didn't want contractors tearing into the siding without an architect working with them to determine what needs to be replaced, or how should it be replaced and what exact material needs to be specified. So the RFP has the attachment of all the architects, because that was communicated to all of the contractors. A list of possible certified historical architects was forwarded. Grunwell Cashero is working with Jackie Hoist of H2A Architects who is a Certified Historical Architect. The portion that requires a certified historical architect is, in fact, being determined by one.

Director Pielack noted that Brian Lejeffski with the State Historic Preservation Office (SPHO). She contacted him and described the project. He suggested attaching a list of historical architects to the RFP. He looked online at some photos of the house and discussed the project by phone a few times. That was research that was done before the RFP was developed. Mr. Lejeffski is their historical architect in their Lansing office.

Director Pielack said Mr. Lejeffski advised that we could provide a list of the architects to the contractors, and the contractor would need to work with someone with that background and credentials.

City Manager Valentine added that Grunwell Cashero is a contractor that has done a lot of work in the City. They are familiar to the City. What we are talking about here is re-siding the building, so from that standpoint you would want a general contractor and not necessarily an architect doing the work and that is why the partnership comes into play. There are requirements in the RFP that stipulate the conditions that have to be met for that work to match the siding, and I believe we have stipulated that the consulting architect shall meet or exceed the Secretary of Interior standards, federal professional qualifications for historical architecture as stated in 36 CFR Part 61 of the Code of Federal Regulations. So that's what the architect is intending to match is the specification that we have to make sure that it meets the Historic Standards. The contractor then will construct it meeting those standards. There are two players that are involved here to work together to get us the product we are looking for.

Commissioner Hoff said it would be helpful if we had some background on the person who is going to do it and on the architect that he is going to use. That is information that would be helpful. This is a treasure in our City and something that we have to protect.

Commissioner Bordman asked if the architect that has been employed is to be paid by the City. Director Pielack said it is covered by the contract with Grunwell Cashero.

Mayor Nickita said from our prospective, we want to make sure that the work is being done to the highest level. We may want to expand our side of that review process by possibly incorporating the Building Department or someone from some staff with expertise on this particular area to make sure it is identifying to the specification. He added that the comments

that Commissioner DeWeese made and what Mr. Dixon had suggested are correct; we should have the architect working for us and dictating what exactly gets done, and then they are held to our standard and they are working for us. I think in this case as long as we have someone on our end verifying that it matches, we will be okay. He said that Grunwell has experience in historical work.

Director Pielack said the architect has to come out and meet with her and Mr. Jorge, and the project manager from Grunwell Cashero. If any concerns are noted at that point, there is ample opportunity to interact, find out more about it, research it, get mock ups on anything that we think we need to understand better before the siding is actually done. We did have concerns about that and that's how we built it into the process.

Commissioner Hoff said we can do it differently starting now. She would not be as apprehensive if there had not been an issue on this previously. Because we were made aware of two different opinions on how the Allen House should be restored, she feels the architect should be here tonight telling us what has to be done.

Commissioner DeWeese said he would support a motion to ask the architect to come and satisfy the concerns. He said this is a clear opportunity in terms of policy because that's the real issue.

Mayor Nickita said we have enough specifications in the requirements, and enough checks and balances to make this work well. If we are not in any rush and there is an uncomfortable level for anyone moving forward, then I do not have a problem either way. He feels we will be able to do this properly, but if the Commission wants to set the standard and want more information, he has no problem with it either.

Mayor Pro Tem Harris said the comments made by Commissioner tonight are well taken, including Russ Dixon's letter. He said he is comfortable approving the resolution because we consulted with the State Historic Preservation Office, it has been approved by the Museum Board unanimously and it is a requirement in the RFP that Grunwell Cashero work with the State approved historic preservation architect. It was mentioned that there are two checks, at 75% and 90% that the work is being done right, so he is comfortable with this project, notwithstanding the comments that have been made.

Director Pielack said that Todd Nancarol from Grunwell Cashero is planning to work with Jackie Hoist of H2A Architects, who designed the Bell Structure. She is a certified historical architect who is familiar with the site and familiar with our building.

Commissioner Bordman is inclined to put this off. She would like to hear from the architect as Commissioner Hoff has suggested, and feel reassured about the procedure that they are going to be following and that there is the kind of oversight we expect. We are not in a hurry here, and can take another look at this.

Mayor Pro Tem Harris said the end result is going to be the same as what we are facing tonight unless we change the wording of the whole contract. He concurred with Commissioner Hoff's concern but at the same time literally by postponing this to hear from the architect, I do not think we are gaining anything.

Commissioner Bordman said the policy issue should prevail, and that this started off in the wrong direction to begin with. Maybe we need a course correction and get it started in the way that the policy should be and start over so that we have established the way we want things to be done. I think there are questions here and, there is a long season to do the work on this. He favors some kind of change, and may need to reissue the RFP.

Mayor Pro Tem Harris confirmed with Director Pielack that the work is a repair and replacement of the existing siding and trim.

Commissioner Hoff explained this is not just siding. This has to be done a certain way. It is a historical preservation and at one time it was going to be just siding, and it was not acceptable. So, the specifications have changed.

Director Pielack said we looked at using alternative material that is often used in some historic districts. While we were putting this information together, I heard back from my State Historical Preservation Office (SHPO) contact that we would not be able to do that. So we stopped that plan and went to the Historic District Commission for their input. Then we developed this RFP from the SHPO requirement. So we felt we changed course back then, because we learned that what we had thought was going to be acceptable, would not be.

Commissioner Hoff said that is an excellent indication that sometimes when you think something is going to work out, it is not acceptable. That is the best indication of all why we should be very careful with this.

Mayor Nickita said what we have here is a very definitive contract that basically says we move forward as it is, or we do not.

City Manager Valentine agreed and said the Commission has one of two choices to make: to approve or not to approve.

**MOTION:** Motion by Harris, seconded by Boutros:  
To approve a service agreement with Grunwell Cashero to provide siding repair.

Mayor Nickita said there has been a lot of good dialogue here, and it seems clear that we look at repurposing our future issues in this case. We have enough catches in this, so he will support the motion, because we have enough checks in this particular issue to address the concerns

VOTE:           Yeas,    3  
                  Nays,     3  
                  Absent, 1 (Sherman)

**MOTION FAILED**

City Manager Valentine said for purposes of moving forward it would be helpful to have some direction now going forward.

Mayor Pro Tem Harris said he thinks the sentiment being expressed is that the process was not ordered the correct way, and there is concern about the historical aspects not being preserved. He said for that concern to be addressed, the RFP has to be issued to perspective architects and not contractors. That would also address Mr. Dixon's concerns.

Mayor Nickita said that going forward we do this in a different manner, which is in accordance to the comments earlier and comments from Mr. Dixon, which would be to have an architect direct the process and then let the process go from there.

City Manager Valentine said having some direction at this point would be helpful.

Mayor Nickita suggested this RFP go back, get reissued and repositioned in the way that we discussed and then come back to the Commission. This will establish the process. He noted it will not be necessary to start from scratch, but it will be necessary to readdress or reestablish the process a bit and move back essentially in the process.

Commissioner DeWeese said this is a process that should be applied throughout the City on any of our public projects. We set the standard, and it should be going forward that way whether it is a fire station, a library or any public building.

Mayor Nickita said we have been very conscious of that change in process specifically with our infrastructure where it should be planned first, designed, and then implemented through engineering.

## **V. UNFINISHED BUSINESS**

## **VI. NEW BUSINESS**

### **02-45-17: ANNUAL GOLF REPORT – 2016 REVIEW – 2017 PROSPECTUS**

Golf Course Manager Jacky Brito said we had another great year at the golf courses. We made \$210,725 net operating Lincoln Hills. Lincoln Hills opened last year on March, 27, 2016 and closed on October 19, 2016. Springdale opened on April 14, 2016 and it remained open until December 7, 2016. Weather is great this year so we are shooting to open at least one of the courses by April 1<sup>st</sup>, perhaps earlier. She reported they ended with 53,840 rounds, just 3% down from last year, noting that we dealt with construction at Big Beaver. Food and Beverage remain about the same as last year. She feels that this area is still untapped and a frequent diner card will be introduced this year. If a member or guest purchases four entrees, they will get one free, similar to our frequent loyalty program on our golf. Junior Golf is growing with 494 participants. Upcoming capital projects at Springdale include cape sealing the parking lot and resurfacing the bridges. Lincoln Hills' bunkers were renovated and excavated and all new sand is coming. Our objective each year is to increase usage of the course, increase memberships and increase the food and beverage and merchandise. In doing so, we did add a couple new events to our agenda for events, including Nine, Dine and Laugh, which is a comedy show on June 3, 2017.

Commissioner Bordman commended her on the junior golf program and asked about the fluctuations in resident memberships. Manager Brito is uncertain why the fluctuation occurs. Commissioner Bordman noted the efforts to work with the BSD.

Commissioner Hoff asked if the weather is a big factor in the fluctuations. Manager Brito responded that weather has affects the shoulder months of April and October.

Mayor Pro Tem Harris also commended her efforts. He asked about unlimited memberships started in 2012. Manager Brito stated there are four unlimited memberships that are offered.



Mayor Nickita said we have struggled with the courses over the years but thinks they are on a good track. The numbers are great. He added that Commissioner Sherman is very supportive as well.

City Manager Valentine said the trend has been getting into the black. In this year's budget the Commission will see a re-visiting of the payments for the loan that was made to the golf courses during the period of time which they were not in the black. There was a period of time when the City was contributing to supplement the shortfalls that were occurring.

**MOTION:** Motion by Bordman, seconded by DeWeese:  
To accept the Annual Golf Report-2016 Review-2017 Prospectus.

VOTE: Yeas, 6  
Nays, 0  
Absent, 1 (Sherman)

**02-46-17: 2017-2020 BIRMINGHAM MUSEUM STRATEGIC PLAN**

Director Pielack explained that the previous strategic plan for 2013 to 2016 was reviewed last year. The Museum Board looked at all levels of the plan, revised as needed, and the final document has the same four goal areas which are: Community Engagement and Public Access, Strategic Development and Care of the Museum Collection, and Strengthening the financial and other resources for improved sustained ability and marketing and imaging enhancement. Those goals were in the first plan, and they are continuing into the proposed plan. The changes that are presented are in a streamlining fashion. Items have been combined that fit together. There are accomplishments that do not need to be addressed. New tasks were added, and we continued tasks that are ongoing. In total, the document is shortened, because we removed the executive summary and the information about how we gathered our first set of information. In January, the Museum Board approved unanimously the plan being presented tonight.

Mayor Pro Tem Harris said that he and his oldest son attended the Museum's open house and was very impressed with the program.

Commissioner Hoff expressed concern if people know about the Museum. She said her past experience with the Birmingham Museum has been through the schools program and there used to be the Old Settlers Day program. Director Pielack said that program has been narrowed down to second grade field trips because of school restrictions on the kind of programs they can offer. All of the second graders are seen and we do programs that relate to early settlement but we do not have the Settler's Day that you remember.

Commissioner Hoff said she thinks the plan is very good and well organized. She noted a much greater emphasis on technology, which is important as we move forward, but would also like to see some focus on publicizing the Museum to the residents. She is concerned that many people do not know the Museum exists.

Director Pielack agreed that it is a challenge and that is part of the reason for the marketing component. A re-branding and a marketing plan is in the works. The Museum is looking for ways to expand those programs so we are out in the community a bit more. She is confident that what we are doing is working to reach people that do not know about the Museum. She agreed that the tried and true programs work very well, and that is why we continue to do them through our school program. I think we are going in that direction.

Commissioner DeWeese said he understands the Museum is working on a new history of Birmingham book because that is related to an upcoming anniversary for the City of Birmingham. He suggested that entities like our own library or the community house or others, might be able, in their own self-interest, to do a history of the Community House or do a history of Baldwin Library that could be used as exhibits. There are some ways by working with other groups and organizations that could expand awareness that you do not normally have. He commented that fundraising is down in recent years.

Director Pielack said the idea of having history of different organizations and incorporating that into the Museum is something we want to do. The Museum has a couple of virtual exhibits on our schools' history, and we work with the schools to gain that information. So that is the first step in that direction. Our fundraising focus has been specific to the Bell Structure and we were able to raise \$65,000 to do the planning and the execution of that work. She said that was a pretty significant project, but it was very focused on that. Broadening fundraising efforts is a really good plan, and she feels as though we are getting commitment through dollars from the community.

Pro Tem Harris agreed with Commissioner DeWeese's point about trying to parlay the bicentennial with promotion of the Museum and perhaps connect Settler's Day to the second grade program. The students liked the connection they saw at the Museum to the founders and what they were learning in school, and thought it was a great program.

**MOTION:** Motion by DeWeese, seconded by Bordman:  
To accept the proposed 2017-2020 Birmingham Museum Strategic Plan.

VOTE:           Yeas,     6  
                  Nays,     0  
                  Absent, 1 (Sherman)

**02-47-17:                   ANNUAL RENEWAL OF CLASS B, CLASS C AND MICROBREWERY LIQUOR LICENSES**

Acting City Clerk Arft explained the review and renewal process for the establishments which sell intoxicating liquor for consumption on the premises in the City. She explained that staff has conducted investigations on each establishment to determine whether the licensee is in compliance with all applicable city and state codes, a review of the general condition of the licensed premises on the interior and exterior, whether all taxes and other monies due to the City are paid timely, and report any police activity. She noted that any violations that were found have either been corrected or staff is working with the establishments to correct the violations.

City Manager Valentine added the information has been provided in the reports based on the various issues that have been noted. The issues that are of concern are very limited in scope. Staff that are here on any of those reports are happy to answer those questions and they can come forward in that regard. Also, some of the owners are here that can respond as well to any concerns.

Mayor Nickita said we are here to review the individual licenses in the certain categories that they happen to be in, identify whether or not the Commission is comfortable with approving

them to continue, or if there is a need for further review in which case we would have an opportunity to review them further with a public hearing.

Commissioner Bordman expressed concern about Ironwood Grill and now known as Four Story Burger. She understands that they have failed to submit an application for a SLUP amendment. That means they are operating in violation, so that is the one that she is inclined to want to bring before us at a public hearing.

Commissioner Boutros agreed with Commissioner Bordman, and asked if both a name change and a change of ownership require a SLUP amendment. City Manager confirmed that they do.

Commissioner Hoff added for the most part the others are doing well. She noted the same ones have a few different incidents or a few different violations, but nothing is too serious. She asked if the inspection records for Griffin Claw and Triple Nickel have been submitted yet.

Commissioner Bordman agreed that she does not see anything that is excessive.

Commissioner Manager Valentine said the outstanding documents consist of information from the Oakland County Health Department, and not from the City. All the City's inspections and follow-up with regard to those inspections have verified that all corrections are complete and each establishment is in compliance. In addition, the Building Department contacts the Oakland County Health Department to confirm the status of the each business with regard to the Oakland County Health Division. In terms of the City's reviews and inspections, everything has been completed and determined to be in compliance. As part of that practice though, they have contacted the County to try to verify those records.

City Manager Valentine added if there is a violation with the Oakland County Health Division, the County will copy the City on the correspondence. He noted that no correspondence has been received from the Oakland County Health Division in regards to any establishments in the recent term. He has no reason to believe that there is anything existing even though it may be outstanding from the request that has been made to the County. He added that he is comfortable in that regard because it is normal course to involve the City in that correspondence

Scott LaPage of Griffin Claw Brewing Company said the Department of Agriculture has jurisdiction in their cases because Griffin Claw is a microbrewery. Mayor Nickita said that clarifies that it is a different process for Griffin Claw.

Mark Blancke of Triple Nickel said their reports have been submitted to the County and there are no violations.

Commissioner Bordman asked if we requested the records from the Department of Agriculture for Griffin Claw. Commissioner Valentine said it is unclear without the building official being here to ask personally.

Commissioner DeWeese recalled that last year we had every single report of all the health department reports. City Mayor Valentine said last year there was concern that it was too much information to digest, and we tried to narrow it down to make it more manageable.

Commissioner DeWeese said it was very useful because it gave a broader picture of what was going on in the establishments. The only one I really see as a critical problem right now is, the Ironwood Grill because they are in violation of our SLUP process, so that needs to have a public hearing. The others are not fully up to what you would always like but they are within the tolerance level. Next year I would actually like to see the overall picture, because as Commissioner Hoff mentioned, the health part is part of the total evaluation.

Commissioner Boutros said Ironwood Grill is in violation by failing to file a SLUP Application. He noted that Rojo has a delinquent tax bill for the second year in a row. Mayor Nickita asked City Attorney Currier to clarify the Rojo issue.

City ~~Commissioner~~ Attorney Currier explained the Rojo chain has filed for Chapter 11 bankruptcy. In accordance with the bankruptcy code, there is a judicial stay of proceedings against any attempts to collect the debt that was accumulated prior to the date that they filed for bankruptcy. In accordance with the Bankruptcy Code and various bankruptcy court decisions, the City is not in a position to take action by not renewing their liquor license with respect to delinquent taxes and delinquent water bills prior to the date of filing. Mayor Nickita said that is a unique circumstance due to the Chapter 11 filing.

Commissioner Boutros said there are things we can control and things we cannot control and he expressed confidence that they are doing an excellent job. He encouraged all business owners, especially the Bistro owners, to spend more effort to keep our alleys clean. There have been some complaints and we see it also in the reports. We do not want more complaints of dumpsters getting filled and garbage overflowing.

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

To set a public hearing for 7:30 p.m. on Monday, March 13, 2017 in the City Commission room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009 to consider whether to file an objection with the Michigan Liquor Control Commission to the renewal of the license for consumption of intoxicating liquor on the premises currently held by the owners or operators of Ironwood Grill and/or Four Story Burger for the following reason: This entity is in violation of the City's SLUP amendment ordinance. Further to direct the City Manager to notify the owners and/or operators of Ironwood Grill / Four Story Burger in writing that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at that hearing.

City Manager Valentine suggested the reason that it is being cited be clarified by citing Chapter 10 of the City Code, Section 10-40 (5) which reads: Licensee's failure to comply with the terms of its liquor license or any conditions imposed by the City Commission or the Liquor Control Commission at the time of issuance or transfer of the license.

Commissioner Bordman amended her motion to include that section of the Code. Commissioner Hoff agreed to the amendment as supporter of the motion.

The motion is amended as follows:

To set a public hearing for 7:30 PM on Monday, March 13, 2017 in the City Commission Room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009, to consider whether to file an objection with the Michigan Liquor Commission to the renewal of the license for

consumption of intoxicating liquor on the premises currently held by the owners/operators of Ironwood Grill and/or Four Story Burger, for the following reasons: Sec. 10.40 (5) Licensee's failure to comply with the terms of its liquor license or any conditions imposed by the city commission or the liquor control commission at the time of issuance or transfer of the license, to wit: Requires Special Land Use amendment. Further, to direct the City Manager to notify the owners/operators of Emagine/Ironwood Grill, in writing, that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing, that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at the hearing.

Chris Poulos, General Manager for Emagine Palladium, now Four Story Burger said the contactor developer Ron and Roman was to submit the application. He added managers would never be able to fill out such an application so the fact that a manager was talked to or communicated with and said that they would do so, they would never be allowed to at that level. He said either co-owner John Goldstein or Paul Glanz would take charge of that. He added it is the same ownership for Emagine Palladium and Four Story Burger that it was when it was Ironwood Grill; only the name has changed. He said Ron and Roman were contacted a couple of weeks ago and we were told that they have submitted the application.

City Attorney Valentine said it has not been submitted yet. He said conversations have been taken place with Mr. Goldstein. City Manager Valentine suggested submitting the application prior to the public hearing at the next meeting.

VOTE:           Yeas,   6  
                  Nays,    0  
                  Absent, 1 (Sherman)

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

To approve the renewal for the 2017 licensing period of all Class B, and Microbrewery Liquor licenses for which a current year application was received except for the license by Ironwood Grill for which a public hearing has been set.

Mayor Nickita commented we have some very fine establishments, and they are doing a very good job at representing the City well.

VOTE:           Yeas,    6  
                  Nays,    0  
                  Absent, Sherman

**02-48-17:           CROSSWALK PAVEMENT MARKINGS STANDARD POLICY**

City Engineer O'Meara explained that the Multi Modal Board has revised its recommendation for pavement marking design standards. The biggest change is the width of the painted bars that are going to be a part of the pavement markings. We went with the 24 inch wide with any new pavement markings no matter what street they are on with a 24 inch gap between. Further analysis on costs determined that if every single crosswalk in the City was remarked with the 24 inch, which will take several years to accomplish, we would be pay about 60% more each year than we are now. Today we are paying about \$18,000 per year. So it will be a slow incremental increase in costs over several years if you were to enact this policy as now stated. The other change suggested now is that there be three categories.

Commission Hoff continued with Mr. O'Meara that the stripes will be 24 inches wide and the space between stripes would be 24 inches. He added that the length of the bar which could also be referred to as the width of the walking path, would be 12 feet.

Commissioner DeWeese questioned why Cranbrook was left off the major street category? Mr. O'Meara said it did not really cross my consideration because it is a County road. If the City was in a position where it wanted to mark a crosswalk differently, we would work with the County to get that accomplished and they would have input on that. If the Commission wants to add that to the list we certainly can.

Commissioner DeWeese said he thinks of it as a major road but other than that, he is satisfied with the list.

Commissioner Bordman said that perhaps North Eton should also be included because there will be more pedestrian traffic heading toward Whole Foods from that area. She suggested the entire street be included.

Commissioner DeWeese added N. Eton is a big border street for that neighborhood.

Mayor Pro Tem Harris asked if under the proposal, North Eton would be marked 6 feet wide. Mr. O'Meara confirmed it would. Mr. O'Meara also added the crosswalks could be 12 feet wide, which is probably more than we need there.

Mayor Nickita said it is a matter of interpretation. We are trying to set a basic fundamental standard that is not absolute, meaning that there is opportunity for this to vary. One way to look at it is that the width is relative to the amount of people that are on it, but it also is something that can be considered wider because it is more obvious to high traffic area. An argument can be made for a place like Oak, even though it is pedestrian, even though it is not a commercial district, it does not have a lot of pedestrians, and the cars are generally going fast. We are hope that drivers see crosswalk before they get to it, which means the wider the crosswalk, the more easily it will be seen. He suggested that would add all of Lincoln Oak, and North Eton into the mix of potentially being wider. So it is a consideration to either add those in or to clarify the criteria of what we are trying to achieve with a wider standard.

Commissioner Hoff suggested some streets would need to be evaluated as to what size would make sense there.

Mayor Pro Tem Harris asked if there is some flexibility in the policy that if we wanted to include North Eton, but 12 feet didn't make sense we have that flexibility implementing the crosswalk. Mr. O'Meara said the policy takes away that flexibility from the engineer.

Mayor Nickita said we have the Multi-Modal Board to review those issues where there is not going to be a one size fits all. We are going to have some interpretation of whether some of these standards are appropriate or if they need to be varied. We are starting with something we are defining as the base. It is important that we do not have it undefined but at the same time inflexible so there is no change based on odd conditions, which of course come up all the time. That is where Multi-Modal Board factors in and the Board would look at all of these things. It provides flexibility but also a basis to work with that is erring on the side of safety and more appropriately walkable than where we are now.

Commissioner Boutros thanked the Board for the work done on this recommendation.

Commissioner Hoff said based on the comments and what the Multi-Modal Board came up with, she supports this motion for the streets listed. She added that this is a starting point and if at some point, it is determined that a location should be wider, it could be done.

Mayor Nickita said it is a work in progress, because we are going from not having a standard to having a standard and some areas still need definition. The orientation of the stripes for example, sometimes are parallel to the adjacent curb, sometimes are not and sometimes the edges are not defined, or are over sprayed. That is another standard that comes to mind. There is something to be said about having a standard of aligning to the adjacent curb. There are some details on how that gets done, and he is not certain that we have a handle on a standard there. City Engineer said the MDOT drawing shows that they should be aligned with the wheel path. We do have some that do not meet that standard but they will now.

Mayor Nickita said the other aspect is the spray versus the vinyl. They are very definitive. That is an area of study that we need to consider. It is a cost factor and there are many factors involved. He suggested it is could be phase II of the discussion of standards.

Commissioner DeWeese agreed that is something for us to consider, maybe not in the neighborhood but any place that is a high priority area.

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

To adopt the following standard policy for the design of all future crosswalk pavement markings in the City of Birmingham, as recommended by the Multi-Modal Transportation Board:

All new painted crosswalks installed shall be of the continental style, as outlined on MDOT Detail Sheet PAVE-945-C, Sheet 3 of 3, with the exception that all painted bars shall be 24 inches wide spaced as close to 24 inches apart as possible. Crosswalk widths shall be installed as follows:

On Major Streets within the Central Business District, Triangle District, Rail District, or Adjacent to Schools:

Total width of the crosswalk shall be 12 to 14 feet wide. Crosswalks at the upper width limit may be installed when traffic signals are present.

On Local Streets within the Central Business District, Triangle District, Rail District, or Adjacent to Schools:

Total width of the crosswalk shall be 8 feet wide, unless the adjacent sidewalk main walking path is wider, at which point it shall be widened to match the main walking path width.

At All Other Locations:

Total width of the crosswalk shall be 6 feet wide.

The following shall be considered Major Streets (within the specific districts noted) for the purposes of this standard:

Woodward Ave.  
Old Woodward Ave.  
Maple Rd.  
Southfield Rd.  
Adams Rd.  
Willits St.  
Oakland Blvd.  
Chester St.

Brown St.  
S. Eton Rd.  
E. Lincoln Ave.

VOTE:           Yeas,   6  
                  Nays,    0  
                  Absent, 1 (Sherman)

Mayor Nickita said that we need to move forward on taking a look at some of these other details and said this is a foundation. We move this forward as a standard, there is opportunity for it to be revised as needed, but we do need to look at the material issue sooner than later. Maybe we can take a look at that in the upcoming meetings.

City Engineer O'Meara suggested the Multi-Modal Transportation Board could amend their standard policy with some language that encompasses the materials while taking into account these considerations so that it is all part of their recommendation to you with the standard policy.

Commissioner Hoff asked if the Multi-Modal Board would consider costs. Mr. O'Meara said historically we have shared the cost component with them in regard to this standard. If the standard is to be amended, it should come from them in the form of a recommendation. The additional information that is more relevant to the Commission in terms of cost is something that you would put more merit on than they would since they are more design oriented. For purposes of the design component and the recommendation of materials and the pros and cons, they would initially vet that for you and come forward with kind of a more supplemental piece to this.

VOTE:           Yeas,   6  
                  Nays,    0  
                  Absent, 1 (Sherman)

**02-49-17:                    WATER LATERAL REPLACEMENT POLICY**

City Engineer O'Meara explained this topic was brought up in long range planning and the focus was on the fact that we do have some relatively new streets that are being cut up due to houses being torn down and replaced relatively frequently in certain neighborhoods. That requires a one inch minimum water service or water lateral and so there has been some frustration on the part of various neighbors and city staff that we continue to see this happening. The only way to really corner that issue is to start putting in one inch water services at each home where there is currently a ¾ inch. In order to do that we would want to amend the policy where today we are just doing that for sewer laterals. We have been doing that for 10 years now where the sewer lateral gets replaced based on age and the water service has been on a voluntary ~~thing~~ basis. We do get a handful of people or property owners that do volunteer to get their service replaced at their expense, but we will never see the large numbers there because a lot of people don't see the long term value in that. It would have to become a forced issue with a special assessment similar to the sewer assessment. There has been very little negative feedback about replacing the sewer lateral as part of our City projects, so it may be time to do that as well with the water service.



Commissioner Hoff asked if we implement this new program of a mandatory replacement, the City will no longer be paying for the replacement of lead or iron water lateral. City Engineer O'Meara confirmed the City will no longer pay for the replacement.

Commissioner DeWeese asked what the costs are currently to a home owner or builder if they want to make a cut in the street so that the City can cover all the costs of getting the street back to allegedly the condition the street was before the destruction was made. Mr. O'Meara responded it is in the range of \$4,000 to \$6,000.

Commissioner DeWeese asked if that gets the street up to the standard now that we have a cut in the street. Mr. O'Meara said it is a patch, and it will age at a different rate than the original pavement would.

Commissioner DeWeese asked are we fully covering the costs to get street back to the same condition. Mr. O'Meara said the trench maintenance fee is charged. He added the fee is reviewed on a regular basis and was increased recently.

Commissioner DeWeese asked if the suggested resolution too restrictive. He suggested changing the wording to "at least one inch". The City's policy would be one inch but if the owner wanted to upgrade to a larger size, if they were willing to pay at the time. Mr. O'Meara agreed.

Commissioner DeWeese commented some people might view this as onerous to have it done up front because they never plan themselves to do anything to the house. There is still some benefit of doing it, and it gives the City a common infrastructure and a common standard that we expect everyone to have. Mr. O'Meara said sometimes there is a big benefit and sometimes there is not, so does not tell people to expect a big benefit.

Commissioner Bordman said she supports this initiative. It is important that the City maintain its infrastructure in all aspects. She asked if a street is to be replaced because of a petition by the homeowners, will this resolution apply. Mr. O'Meara confirmed it would apply.

Commissioner Bordman asked if applied to tear downs. Mr. O'Meara said tear downs are happening everywhere and are required to get a one inch service. That is where the cut in the street is occurring.

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

To adopt a policy that when the City is undertaking a project wherein the existing street pavement is being completely removed and replaced, the Engineering Dept. shall prepare plans that include the replacement of all water laterals that are less than 1 inch, no matter what material was used, to be replaced with at least 1 inch copper or plastic water lateral pipe. Further, requiring the replacement of any size lead or iron water service, to be replaced with the same size pipe using either copper or plastic lateral pipe. All such improvements shall be charged to the adjacent benefitting property owner, and included in the special assessment district already being created for said project covering the cost of sewer lateral replacements. Assessments shall be based on the unit price per foot charged by the contractor in the applicable contract. The City shall cover all inspection and surface restoration costs.

VOTE:        Yeas,    6  
                 Nays,    0

Absent, 1 (Sherman)

**02-50-17: AMENDMENT TO SCHEDULE OF FEES – STORM WATER UTILITY FEES**

City Engineer O'Meara explained the storm water utility fee was authorized in December and is now in place. The first third of the City customers received their bill in late January and another round will be going out since it is late February. Some calls are coming in, and we would like to help these people. He identified three different areas where a fee would be appropriate. The first one is if they are asking for a credit. The Court's settlement required that there be an opportunity to do certain things on your property that would reduce the storm water runoff in exchange for a credit, so there is a list of various things that you can do to your property to help get the credit approved. There would be a fee for us to review that plan and approve a credit, which would then apply for a certain number of years depending on what it is according to the schedule. The second one would cover the City review for those who might want to consider a relatively large improvement, but are unsure whether or not it is going to be worth the money. The City could do a determination on that and give them a calculation on what that change would be from their current situation. The third fee would cover a hearing before the appeals board that would be scheduled. There would be a \$50.00 fee. We wanted to keep it simple and not onerous, since this is not something that people are voluntarily getting into, but as a property owner, they have to deal with this.

Commissioner Hoff said this sounds very reasonable and asked about the storm water utility appeals board. Mr. O'Meara said it was created as a part of the appointments.

Acting Clerk Arft said we have two applications for the Board currently.

City Engineer O'Meara said the applicants are two civil engineers pending to come before you to be interviewed. We are also looking for an at-large resident.

City Engineer O'Meara explained some of the credits that you see there have an asterisk relative to being multiplied. If it is a larger property, it could potentially be a relatively large amount of savings. We do not want to issue a credit unless there is clearly a difference on the run off.

Commissioner Hoff asked what the renewal period mean. Mr. O'Meara replied we would like to go back at the appropriate time frame and make certain that it is still there and still working properly.

**MOTION:** Motion by Bordman, seconded by DeWeese:  
To amend the Schedule of Fees, Engineering Dept., to reflect new fees and credits pertaining to the Storm Water Utility Fee.

VOTE: Yeas, 6  
Nays, 0  
Absent, 1 (Sherman)

**VII. REMOVED FROM CONSENT AGENDA**

The items removed from the Consent Agenda were taken care of earlier in the meeting.

**VIII. COMMUNICATIONS**

**02-51-17: COMMUNICATIONS REGARDING FAIRWAY SIDEWALKS**

Mayor Nickita noted a number of communications regarding sidewalks on Fairway Street had been received.

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

**X. REPORTS**

**02-52-17: COMMISSIONER COMMENTS**

Mayor Nickita commented on the increased time on countdown numbers for pedestrians to cross streets he has noted in his visits to other cities. He suggested the City take a look at the intersections that are not pedestrian-friendly, such as Willits and Old Woodward, Bates and Willits, and also Chester and Maple.

**02-53-17: CITY STAFF REPORTS**

The Commission received the 2<sup>nd</sup> Quarter Financial Reports, and the December 2016 Investment Report, submitted by Finance Director Gerber, and the Great Lakes Water Authority Sewer Rate Update, submitted by City Engineer O'Meara.

Commissioner Bordman asked about the increase in the repayment of bonds. Finance Director Gerber said the increase is based on a fixed schedule of payments, and was not a surprise.

Commissioner Hoff asked about the Community Development Block Grant. Director Gerber explained that normally the City receives \$31,000 each year. Last year we had a carryover, and that was the reason for the \$72,000 revenue in the 2015-2016 budget. He added that the leftover funds are planned to be used for the police door to make it handicapped accessible. A budget amendment will be done at the time the contract for it is brought to the Commission for consideration.

Commissioner Hoff asked about the difference in the Greenwood Cemetery trust fund. Director Gerber said initially, we had no idea how many lots would be sold in the cemetery beginning in 2014-2015. The sales initially were numerous, but that has since slowed down, and therefore, a difference in amounts is seen.

Mayor Pro Tem Harris confirmed with Finance Director Gerber that GLWA's decisions do not affect the City's assessment for storm water, and this update concerns only sewage and water.

Commissioner DeWeese thanked staff for updating the Commission with the report.

**XI. ADJOURN**

The meeting was adjourned at 10:17 PM.

Cheryl Arft  
Acting City Clerk