

BIRMINGHAM CITY COMMISSION MINUTES
JULY 10, 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 p.m.

II. ROLL CALL

ROLL CALL: Present,	Mayor Nickita Mayor Pro Tem Harris Commissioner Bordman Commissioner Boutros Commissioner DeWeese Commissioner Hoff Commissioner Sherman
Absent,	None

Administration: City Manager Valentine, Assistant City Planner Baka, City Clerk Brown, Fire Chief Connaughton, City Attorney Currier, City Planner Ecker, DPS Manager Filipski, City Engineer O'Meara, Human Resource Manager Taylor, DPS Director Wood

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

Mayor Nickita announced:

- *Finding Dory* is the featured movie at Booth Park on Friday, July 14th at 7:30 PM. For more information about upcoming Movie Nights in Booth Park, visit www.enjoybirmingham.com.
- Summer Concerts in Shain Park continue on Wednesday, July 12th at 12 PM featuring Rock/Classical music performed by Gia Warner & Bobby Lewis, and at 7 PM featuring the Psychedelic Music of the 60's and 70's with the Magic Bus. For upcoming performers and the schedule, visit www.bhamgov.org/summerconcerts.
- The immensely popular Farmers Market continues on Sundays from 9 AM to 2 PM in Municipal Parking Lot #6 on N. Old Woodward.
- Day on the Town is Saturday, July 22nd from 9 AM to 7 PM. There will be great shopping and sales, as well as activities for the entire family in downtown Birmingham. For more information on this event and others coming up, visit www.enjoybirmingham.com.
- Birmingham is competing for a Community Excellence Award from the Michigan Municipal League. The Birmingham Multi-Modal Transportation Board is the City's entry. Public voting determines the winner, so please log on to <http://cea.mml.org/vote/> to vote for Birmingham's Multi-Modal Transportation Board. You can vote once a day.

07-187-17

**APPOINTMENTS TO THE GREENWOOD CEMETERY
ADVISORY BOARD**

John Rusche, having received a majority of votes, was declared appointed to the first of the two Parks and Recreation Board Alternate positions.

Because of the tied vote between Ellie Noble and Heather Carmona, Mayor Nickita called for a second round of voting.

VOTE for Ellie Noble:

Yeas, 5 (Bordman, Boutros, DeWeese, Hoff, Sherman)
Nays, 0
Absent, 0

Ellie Noble, having received a majority of votes, was declared appointed to the second of the two Parks and Recreation Board Alternate positions.

City Clerk Brown administered the oath of office to John Rusche and Ellie Noble.

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.

07-189-17 APPROVAL OF CONSENT AGENDA

The following item was removed from the Consent Agenda:

- Commissioner Hoff: Item A, Approval of Joint City Commission/Planning Board meeting minutes of June 19, 2017

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Boutros:
To approve the Consent Agenda, with item A removed.

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

- B. Approval of City Commission meeting minutes of June 26, 2017.
- C. Approval of warrant list, including Automated Clearing House payments of June 28, 2017 in the amount of \$617,375.12.
- D. Approval of warrant list, including Automated Clearing House payments of July 5, 2017 in the amount of \$994,286.29.
- E. Resolution approving a request from the Piety Hill Chapter, National Society Daughters of the American Revolution to hold the Veteran's Day Wreath Laying Ceremony on November 11, 2017 at 11:00AM, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

- F. Resolution authorizing the City Manager to cast a vote, on the City's behalf, for the five incumbent members of the Michigan Municipal League Workers' Compensation Fund Board of Trustees for four-year terms, beginning October 1, 2017.
- G. Resolution approving the street light agreement between the City of Birmingham and DTE Energy regarding the installation of street lights at 750 Forest Ave. Further, directing the Mayor to sign the agreement on behalf of the City. All costs relative to this agreement will be charged to the adjacent owner.
- H. Resolution approving the Contract for Skating Director with Jill Kolaitis effective July 11, 2017 up to and including May 11, 2018. Further, authorizing the Mayor and City Clerk to sign the Contract on behalf of the City of Birmingham upon receipt of all required insurances.

V. UNFINISHED BUSINESS

07-190-17	OAKLAND AVE. – WOODWARD AVE. TO LAWNDALE AVE. MULTI-MODAL IMPROVEMENTS
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City Engineer O'Meara reported:

- The City Commission on May 22, 2017 discussed proposed plans for the reconstruction of Lawndale Ave., from Oakland Ave. to Woodward Ave. The discussion expanded to include potential sidewalk improvements on the above segment of Oakland Ave.
- The Multi-Modal Transportation Board (MMTB) at their meeting of June 1, 2017 reviewed and approved the following recommendations:
 - If endorsed by the MI Dept. of Transportation (MDOT), the Woodward Ave. crosswalk for Oakland Ave. would be relocated to the south side of the intersection for northbound traffic only. The relocation would reduce potential traffic conflicts for pedestrians and bicyclists using this intersection.
 - A sidewalk would be added to the south side of Oakland Ave. for this short block, providing additional more direct paths for pedestrians. The improvement will also encourage pedestrians crossing Oakland Ave. in this area to cross at the signalized intersection, improving safety.
 - The existing ramp at the southeast corner of Lawndale Ave. would be relocated about 25 feet east, in order to line up with a new ramp at the northeast corner of Lawndale Ave., encouraging pedestrians to cross at a STOP bar, rather than in the middle of the intersection.
- MDOT staff also endorses the idea of relocating the northbound Woodward Ave. crosswalk at Oakland Ave. and has offered to include this work in their 2018 resurfacing project at their cost, provided that the City agrees to install the rest of the sidewalk on the south side of the road at City cost.
- If the Commission approves the plan as presented, the Engineering Dept. will include the Lawndale Ave. ramp improvements with the work planned later this summer, and will work with MDOT to ensure the remaining improvements involving Woodward Ave. are completed no later than the end of the 2018 construction season.

Commissioners Bordman and Hoff expressed concern that sightlines on the southeast corner of Lawndale and Oakland reduce the visibility of pedestrians. Suggestions were made for a stop sign or a caution sign letting drivers know they are approaching a pedestrian crossing.

Commissioner DeWeese noted the road will be narrower which will slow cars. He and Mayor Nickita suggested hatching the crosswalk.

City Engineer O'Meara noted:

- There is no change planned in the location of traffic signals.
- The Lawndale portion of the project is slated to be completed August 2017.
- Installation of stop signs requires a traffic engineer to determine if the intersection meets applicable standards.
- The subject section of Oakland Ave. is a proposed bike route, and signs will be added to designate it as such.
- The Multi Modal Transportation Board (MMTB) has not explored a stop sign.

The Commission was generally in favor of Commissioner Sherman's suggestion to move forward with City Engineer O'Meara's recommendation as submitted and have the MMTB consider how to draw attention to the crossing of pedestrians, such as with a stop or caution sign and/or hatching the crosswalk.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Hoff:
To approve the sidewalk improvement plans recommended by the Multi-Modal Transportation Board for Oakland Ave. from Woodward Ave. to Lawndale Ave., to be implemented as a part of upcoming City of Birmingham and MI Dept. of Transportation projects planned in 2017 and 2018.

John Rusche felt the current pedestrian crosswalk across Woodward Ave. keeps pedestrians further away from traffic than the new recommendation

Benjamin Gill was opposed to a change from the current design of the crosswalks.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

VI. NEW BUSINESS

07-191-17 2017 CAPE SEAL – BID AWARD

DPS Manager Filipski reported:

- The City solicited sealed proposals from qualified parties to perform cape seal treatment on approximately 31,000 square yards of roadway as part of its cape seal maintenance program.
- The solicitation sought per-unit prices for single- and double-chip treatment, slurry seal, surface pulverization, street preparation, and manhole adjustments.
- The Department of Public Services recommends awarding the cape seal contract to Highway Maintenance and Construction, Inc. of Romulus, MI, the lowest qualified bidder for each solicited bid item, with the understanding the recommendation is contingent upon the results of the public hearing of necessity and confirmation of the related special assessment roll.
- Highway Maintenance and Construction has been performing the City cape seal work for over twelve years. The last award was for the 2014 Cape Seal Program and pricing was seven (7%) percent lower than the combined bid pricing for 2017.

MOTION: Motion by Commissioner Sherman, seconded by Mayor Pro Tem Harris:
To approve the award with Highway Maintenance and Construction, Inc. for services related to the 2017 Cape Seal Program, contingent upon the results of the related public hearing of necessity and confirmation of the special assessment roll, in amounts no to exceed the per unit

pricing as submitted; Double chip seal \$3.13/sq. yd., Single chip seal \$1.70/sq. yd., Slurry seal \$2.61/sq. yd., Pulverizing \$1.90/sq. yd., Street preparation \$395.00/ton and Manhole adjustment \$550.00 each. Further, to authorize the Mayor and Clerk to sign the agreement on behalf of the City upon receipt of proper insurances.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

07-192-17 CAPE SEAL – PUBLIC HEARING OF NECESSITY

DPS Manager Filipski reported:

- The Department of Public Services maintains nearly 26 miles of unimproved roadways through periodic cape seal treatment – a process that involves the application of a stone chip seal followed by a slurry microsurface.
- The result is a smoother, dust-free driving surface that resists damaging moisture intrusion into the gravel road base.
- Cape seal is an inexpensive maintenance option relative to the cost of installing a fully-engineered road, but because it is only a surface treatment, it is limited in its ability to remedy road drainage and profile issues.
- Each year, DPS staff reviews unimproved streets and recommends streets for maintenance, taking into consideration treatment age and existing conditions.
- The most common failure conditions include surface wear and loss, road center crowning, and alligator cracking.
- The following streets have been identified for the 2017 Cape Seal Program:

		Pulverize	Prep
Larchlea	Lincoln to Maple	x	
Westchester	Lincoln to Maple	x	
Berwyn	Midvale to Avon	x	
Radnor	Maple to Berwyn		x
Avon	Radnor to S. Glenhurst		
Bryn Mawr	Cranbrook to Radnor		x
Puritan	Maple to Pine		x
Willow Lane	Midland to Raynale		x
Fairfax	Raynale to Suffield	x	

- Since 1948, the City policy for assessing street maintenance work on unimproved streets has been:
 - 85% of the front-foot costs for improvement are assessed on all property fronting the improvement;
 - 25% of the side-foot costs for improvement are assessed on all residential property siding the improvement;
 - 85% of the side-foot costs for improvement are assessed on improved business property siding the improvement and;
 - 25% of side-foot costs for improvement are assessed on vacant business property siding on the improvement.
- The balance of the cost, 15% and 75%, front- and side-footage respectively, is paid by the City.

- The Federal Americans with Disabilities Act requires sidewalk crossing ramps to be upgraded where applicable; in this project all streets have ramps subject to that requirement.
- Actual costs will be determined once the project is completed.

Commissioner Sherman explained cape sealing is a temporary solution to deal with unimproved roads until the roads are improved. He cautioned that the cape sealing process can move a drainage issue from one location to another.

Commissioner Hoff referred to several letters sent to the Commission from residents objecting to paying for the cape sealing. She explained that assessing the residents for unimproved road repairs is the City's policy and has been since 1948.

Commissioner DeWeese explained that an improved road, which means paved with curb and gutter, costs residents more up front, but once the road is improved the City maintains it. If enough people on the block petitioned for their road to be improved, the City could do that rather than cape seal, but he explained the road is in bad shape so something has to be done.

Mayor Nickita opened the public hearing at 8:22 p.m.

Len Billingsly asked how to find out what the assessment will be for his lot. City Manager Valentine directed him to talk to DPS Manager Filipski.

Paul Hofley, representing his parents, placed the blame for damaged roads on construction equipment and suggested the City allocate money from building permits to repair roads.

John Corey said the resurfacing is unnecessary because the road is smooth and not dusty. He commented that the last time the road was resurfaced the contractor left a deep depression in front of his property. He explained that four years ago the City did a good job filling in the area and the street itself does not need resurfacing.

Steve Taylor recommended postponing the cape seal program because of the current construction activity in the neighborhood. Concerning the policy of assessing residents for repairs, he recommended the City consider changing it to a fee-based system on builders. He asked that the 2017 program be postponed until the City Commission has time to consider a change.

Susan and Dennis Potoczak echoed what other community members said. He noted that 8 new builds have been constructed in the past 7-8 years, and 2 more homes on the road are currently being demolished and rebuilt. They said it is time to reconsider how the City repairs the roads and asked that load limits on construction vehicles be enforced.

Dennis Schreibeis indicated the residents are not going to vote to upgrade the road. He said it is time to change the City's policy because the underlying premise of the 1948 policy no longer applies. Mr. Schreibeis stated the taxes he has paid in Birmingham for the past five years are significant, and he is surprised the taxes aren't going to the roads.

Mike Brennan referenced his ongoing communications with City Manager Valentine regarding the inadvisability of putting a bike path on Larchlea when there are potholes from construction trucks all over the road. He pointed out that Larchlea becomes a single lane street with rainfall

because of the potholes caused by construction vehicles. He asked the Commission to consider delaying the cape seal program, noting ongoing construction in the neighborhood, and to make the people causing the road damage pay for the repairs. Mr. Brennan suggested the City more widely publicize the process, including the costs, of how residents can petition for improved streets.

Commissioner Sherman pointed out:

- Cape seal is a temporary band aid; it is just smoothing the underlying dirt and putting more gravel on top.
- The roads for the 2017 program have been identified based on the necessity of repairs, and residents are better off putting in an improved road and letting the City take over the maintenance.
- Residents pay the assessment for an improved road over 10 years.
- Improved roads increase property values.
- The roads have to be addressed in some fashion.

City Manager Valentine explained:

- The cape seal program is a maintenance program for gravel roads.
- A long term proposition is for an ad hoc committee to investigate alternatives.
- The City has brought on additional ordinance enforcement to deal with construction issues.

Commissioner DeWeese commented:

- He appreciates residents' comments about heavy trucks, and the City is becoming more sensitive as to how to address the issue.
- Birmingham is growing, and it is a change which allows the tax millage to be reduced.

Commissioner Hoff, referencing communication from Helen and Larry Smith, asked if cape seal will increase the crown of road and if the City could increase the width of the street with cape seal. DPS Manager Filipski explained Westchester Way will be pulverized which keeps the crown from becoming bigger, and the City cannot intentionally make the road wider.

Mayor Pro Tem Harris noted:

- The residents' comments resonate deeply.
- He believes the City is poised to investigate change.

Mayor Nickita remarked:

- The current assessment policy has been in place for decades so many residents over the years have had to pay the assessment.
- There has been a clear increase in construction activity in recent times, and valid points have been made concerning its impact on the roads which the City can consider, but those ideas are not in place now.
- City Manager Valentine is correct that the City does everything possible to address issues caused by contractors.
- Residents should report to the City observations of damage by construction vehicles.

In response to questions from Mayor Nickita, DPS Manager Filipski responded:

- Roads are identified for the cape seal maintenance program via an annual review and prioritization of conditions, such as potholes, alligator cracking and crowning, on all streets.

- Residents are informed of the options and process for requesting an improved street as part of the notification process for the cape seal program.

Mayor Nickita closed the public hearing at 9:01 p.m.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:
To declare necessity for the improvement to be known as 2017 Cape Seal Program-Public Street Improvement; further, approving the detailed cost estimates submitted by the Department of Public Services; further, creating a special assessment district and special assessments levied in accordance with benefits against the properties as described above; further that the following method of assessment be adopted: 85% of front-foot costs for improvement are assessed on all property fronting the improvement; 25% of side-foot costs for improvement are assessed on all residential property siding the improvement; 85% of side-foot costs for improvement are assessed on improved business property siding the improvement and; 25% of side-foot costs for improvement are assessed on vacant business property siding on the improvement; further, to direct the City Manager to prepare the special assessment roll and present the same to the City Commission for confirmation at the Public Hearing on Monday, July 24, 2017 at 7:30 p.m.

Commissioner Sherman encouraged residents to petition for full improved streets.

City Manager Valentine clarified that petitions for improved streets would need to be submitted in the next week and a half in order for the streets to be removed from the 2017 cape seal program.

Commissioner Boutros explained that improved streets are more expensive but can be paid for over 10 years, the cost is roughly \$10,000 - \$15,000, and are a better return on investment.

DPS Manager Filipski confirmed for Commissioner Hoff that every resident on the impacted streets were notified and given the question and answer form.

Commissioner Bordman said:

- She lives on an unimproved street and is aware of the problems and understands the concerns expressed.
- Birmingham is an old city where all the streets started as gravel roads, so the remnants have to be dealt with, and it's painful because the residents have to pay.
- To live in a wonderful city sometimes you have to go through some pain.
- The residents' comments may help the City going forward even if the process doesn't change right now.
- She thanks the residents for participating in the conversation.

Susan Potoczak asked the City to provide the potential costs of improving a street to the residents when sending out notification of the cape seal program.

Steve Taylor added that potential costs and the process for an improved street need to be given to residents on a timely basis, such as a year ahead, to give them a chance to explore options.

Commissioners discussed ways of giving affected residents a closer estimate of costs and perhaps a comparison between the costs of cape seal and full improvement, along with the information that assessments for full improvement may be paid over a 10 year period.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

07-193-17 PUBLIC HEARING FOR A LOT SPLIT OF 839 RANDALL CT.

Mayor Nickita opened the public hearing at 9:21 p.m.

Senior Planner Baka reported:

- The applicant previously combined their home on lots 10 and 11 with lot 9.
- At this time, the applicant is seeking approval to separate the existing platted lot 9 (currently vacant) from lots 10 and 11 on which their home is located.
- Although lot 9 is an existing platted lot, it cannot be separated administratively as the home located at 839 Randall Ct. was considered legal non-conforming in regards to Zoning Ordinance requirements when the combination was completed, and it has been determined by the Building Official that reverting the properties to the previous configuration would create a non-conforming condition.
- The Subdivision Regulation Ordinance (Chapter 102, Section 102-53) requires that the following standards be met for approval of a lot division:

(1) All lots formed or changed shall conform to minimum Zoning Ordinance Standards.

Both parcels that result from the lot split at 839 Randall Ct. would conform to minimum Zoning Ordinance standards as set out in Article 02, Section 2.08 of the Zoning Ordinance, for the R-2 Zoning District. However, there are several non-conforming conditions on the existing house that do not comply with the current ordinance standards. A review by the Building Department noted the following possible non-conformities:

- Lot coverage would return to 30.1% with 30% maximum required and open space would return to 36.7% with 40% required.
This non-conformity was existing previous to the lot combination and would be re-established if the requested lot split is approved.
- The front setback is off Randall Ct. and must meet the average of the homes within 200'.
This non-conformity will not be affected by the lot split.
- The rear setback is required to be a minimum of 30' (14.27' is existing).
This non-conformity will not be affected by the lot split.
- A total front and rear setback must be a total of 55' (29.26' is existing).
This non-conformity will not be affected by the lot split.
- Need to verify that a 5' minimum setback will exist if split on the west side.
This dimension has been verified by a surveyor as 5.22' which meets the requirement.
- Need front yard average of homes within 200' on Baldwin to confirm 24.06 is equal or larger than the average.
This non-conformity will not be affected by the lot split.

(2) All residential lots formed or changed by the division shall have a lot width not less than the average lot width of all lots on the same street within 300 feet of the lots formed or changed and within the same district.

The parcel at 839 Randall Ct. would revert back to 100'. The parcel identified as lot 9 would revert back to 72.83. The average lot width of lots in the area is 67.92. Accordingly, the parcels created by the lot split will meet this requirement.

(3) *The division will not adversely affect the interest of the public and of the abutting property owners. In making this determination, the City Commission shall consider, but not be limited to the following:*

- a. *The location of proposed buildings or structures, the location and nature of vehicular ingress or egress so that the use of appropriate development of adjacent land or buildings will not be hindered, nor the value thereof impaired.*
- b. *The effect of the proposed division upon any flood plain areas, wetlands or other natural features and the ability of the applicant to develop buildable sites on each resultant parcel without unreasonable disturbance of such natural features.*
- c. *The location, size, density and site layout of any proposed structures or buildings as they may impact an adequate supply of light and air to adjacent properties and the capacity of essential public facilities such as police and fire protection, drainage structures, municipal sanitary sewer and water, and refuse disposal.*

- The code requirements in Sec. 102-51 for administrative approval by the Building Official are not met in this case.
- Section 102-4, Waivers, of the code gives the City Commission the authority to make an exception in this case based on the fact that lot 9 was previously a buildable platted lot prior to 2015.

In response to questions from Commissioners, Senior Planner Baka explained:

- The lot size, 72.83' x 126', is similar to other lots on Randall.
- Lot 9 does not currently have an address because it is grouped with 839 Randall Ct.
- There is room to build a conforming house on lot 9.
- The two non-conforming features of lot 9, maximum lot coverage and open space, which were alleviated by the combining of lots 10 & 11 with lot 9, are the only nonconforming features that return if the lot split is approved.
- Despite builder fencing around the lot and builder advertising on the lot, no permits have been issued.
- Development of the lot would have to meet all city codes.

Tina Blodgett, property owner, in answer to Commissioner Hoff, explained:

- In 2015 the combination of the lots was requested to add on to the existing home.
- In 2017 the Blodgett's are moving out of state for her husband's job.
- The Blodgett's have received no offers on the house with the extra lot included, and their realtor suggested separating the lot.
- Builders have expressed interest in developing lot 9.

Mayor Nickita closed the public hearing at 9:35 p.m.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Harris:
To grant a waiver in accordance with Sec. 102-4 Waivers and approve the proposed lot split of 839 Randall Ct.

Commissioner Sherman expressed concern with granting a waiver that will reintroduce a nonconforming situation.

Mayor Nickita, stating lot splits are notable and significant and should not be taken lightly, was troubled about the in and out nature of the situation. He noted, however, that Lot 9 is a very typical site for the neighborhood, while a gigantic house on the three combined lots would not be appropriate.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

07-194-17 856 N. OLD WOODWARD AVE. DTE ENERGY LINE RELOCATION

City Engineer O'Meara and City Planner Ecker reported:

- 856 N. Old Woodward Ave., directly south of the southeast corner of Oak St., has been vacant for nearly 30 years. The former building, destroyed by fire occupied only a portion of the site. The current owner, known as FLS Properties #5, LLC, has obtained final site plan approval from the Planning Board for the construction of a four-story mixed-use building, including two levels of underground parking. Final construction drawings are currently under review.
- Overhead electric wiring feeding many other properties to the north and south currently obstruct the full use of the property, and must be relocated if it is to be redeveloped to its full potential. The applicant has worked with DTE Energy Co., the two immediate property owners to the north, and City staff to finalize a relocation plan that accomplishes the goal of relocating the overhead wiring closer to the east property line, as well as entirely away from the north property line.
- In order to relocate the wires in such a manner that construction can proceed, DTE Energy has developed a relocation plan that moves a section of the wiring south of the subject property from its current location further east. Since the relocation involves City property, approval must be obtained from the City Commission.
- Issues relevant in this case:
 - A. The existing overhead wires obstruct both the north and east ends of the property. The wires are considered primary in the DTE Energy system, meaning that they cannot just be ended and re-routed elsewhere, rather, they need to continue north and south of this area on some path to ensure proper redundancy both to this new building and all of the other existing buildings in the immediate corridor.
 - B. The existing pole labeled A1 on the drawing, while not in direct conflict with the new building, is situated such that the entire relocation south of the property becomes warranted. Specifically, the wires south of the building cannot remain in place because if a new alignment started north of pole A1, a guy wire would have to extend further north to properly support the remaining wires and poles further south. With the building proposed immediately north of pole A1, there is no room available to create tension for the wires and poles to the south, if they were to remain.
 - C. Once the determination was made that a relocation is required, DTE Energy

identified three poles that should be relocated, given their current close proximity to the Rouge River (the bases of the poles are situated immediately adjacent to the west bank of the river). Extending the relocation south to the north edge of Parking Lot #6 (at pole #4), the remaining lines further south can then be tensioned with a guy wire without being potentially undermined from the adjacent river bank.

D. Relocating the lines further east will impact existing trees on a City owned floodplain/natural area. Given its low topography and classification as a floodplain, approving an easement in this area does not represent an impediment to future development of the property. The main focus, then, would be damage to the existing natural environment, particularly in the form of mature trees. In order to avoid such damage, DTE Energy was asked to consider all possible options that could avoid this relocation. The following was considered:

- Relocation from Parking Lot #6 property directly out to the N. Old Woodward Ave. right-of-way could be considered. Moving the wiring to an important, very visible right-of-way would require an underground installation. Further, given other existing underground utilities in the area, DTE Energy indicated that the wires would have to be moved to the west side of the right-of-way, while feeding each of the existing buildings being fed on the east side via underground connections. While such an effort would improve the overall aesthetics of the area, it would be prohibitively expensive, being roughly estimated at \$2 million (the proposal now being suggested is estimated at about \$220,000, which will be a 100% developer expense).
- Attempting to locate a source for power relocation to the west of Old Woodward Ave. through existing backyard feeds does not address the issue of feeding the existing buildings to the south.
- Likewise, attempting to locate a source for power relocation to the east of Woodward Ave. power lines (currently in backyards) again does not address the issue of feeding existing buildings to the south.
- DTE Energy mapped out the existing location and size of all trees 2" diameter and larger along the proposed route. The original route selected by DTE Energy focused on a natural linear clearing that exists in the area. DTE Energy agreed with the request of City staff to move the alignment approximately 10 feet west, allowing several larger trees to remain.
- After much analysis and discussion involving all involved parties, it appears that the only feasible solution to removing the encumbrance from 856 N. Old Woodward Ave. will involve the relocation of overhead electric utilities onto adjacent City property currently being maintained as a natural floodplain buffer between commercial and residential areas. The design moves the poles in an area of relatively low visibility, remains economically feasible, and allows redevelopment of this important property that has remained vacant for nearly thirty years.

Mayor Pro Tem Harris disclosed that he and the applicant have done cross-referral business with each other in past, but have no current business together.

After lengthy discussion of the proposed route for the line relocation, with representatives from DTE Energy explaining why several suggestions for alternate plans would not work or be cost prohibitive, the City Commission requested DTE provide a site tour for them so that an informed decision could be made.

City Manager Valentine indicated he would work out a date and time with DTE for the tour, and he thanked the DTE representatives for their time.

Mayor Nickita noted the tour would be noticed as a public meeting, and the tour will be open to members of the public.

The City Commission took no action.

**07-195-17 DESIGN AND COST CONSIDERATIONS FOR 2018 OLD
WOODWARD AVE. CONSTRUCTION PROJECT**

City Engineer O'Meara and City Planner Ecker reported:

- Earlier this year the Engineering Department solicited bids for the proposed reconstruction of Old Woodward Ave. between Willits St. and Brown St. in Downtown Birmingham.
- The City requested bidders to provide bids for numerous material options, which resulted in a complex, detailed bidding package.
- The City Commission may wish to select preferred options in each category based on design and cost considerations to allow for a simpler bid package, which may attract a greater number of bidders and more competitive pricing.

They noted the options, specifications and costs as outlined in the June 30, 2017 memo to City Manager Valentine.

The Commissioners were in agreement that the look of Old Woodward Ave. should be consistent with the unified downtown design recommended in the Birmingham 2016 Plan. Therefore they were in favor of using standard Birmingham street lights, and standard streetscape and concrete street design. However, to allow the Birmingham Business District more options for lighting and other decorations, the Commissioners were in favor of an electrical system separate from the street light electrical system.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese: To direct staff to revise the bidding documents for the Old Woodward Ave. Reconstruction Project, prepared for 2018 construction, with the following directives:

1. Installation of Hadco standard Birmingham street lights.
2. Inclusion of a separate electrical system.
3. Installation of the City's standard streetscape and concrete street design throughout the project, known as Option A1.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

07-196-17 2017 – 2018 PLANNING BOARD ACTION LIST

City Planner Ecker presented the Draft Planning Board Action List for 2017-2018 based on the June 19, 2017 Joint Planning Board/City Commission Meeting.

Each Commissioner noted their preference for priority projects, taking into account how quickly an item could be completed, which items might bog down progress because they will require more effort, input and time, and which items are issues the Commission is currently facing.

City Planner Ecker explained the Planning Board addresses 5 study items at each study session, so that 5 issues are being worked on concurrently. She estimated any zoning ordinance amendment takes a minimum of 3 - 6 months to go through the planning and public hearing process to reach the point of adoption.

A change in wording of the *Specific Direction/Problem Definition* for *Definition of Retail – Short Term Study* was requested to be consistent with City Manager Valentine's June 30, 2017 memo to the Planning Board: "review the Redline Retail Area as prescribed by the Downtown Birmingham 2016 Report for background on the intent for retail in the downtown".

With regard to the issue of renting properties, which City Planner Ecker noted is not within the scope of the Planning Board, City Manager Valentine indicated he presented the issue at the joint meeting as something to keep an eye on. He believes it important to monitor pending legislation and plan for appropriate language in case the legislation doesn't pass.

The Commission requested that City Planner Ecker provide more clarity and detail for 2 items: (1) "Consider looking at principal uses allowed and add flexibility ("and other similar uses")" and (2) "Potential residential zoning changes; MF & MX garage doors".

Mayor Nickita asked for a timely update on the Planning Board's progress, and City Manager Valentine suggested a progress report be given at the next Joint Planning Board/City Commission Meeting.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To approve the Planning Board 2017 Action List as amended:

1. Definition of Retail – Short Term Study
2. Bistro Parameters
3. Economic Development License Boundary Review
4. Renovation of Commercial Properties
5. Commercial Projections onto Public Property / Architectural Allowances
6. Definition of Retail – Long Term Study
7. Shared Parking
8. Consider looking at principal uses allowed and add flexibility ("and other similar uses")
9. Potential residential zoning changes; MF & MX garage doors
10. Rail District Boundary Review
11. Sustainable Urbanism (Green building standards, pervious surfaces, geothermal, native plants, low impact development, etc.)
12. Additional Items to be Considered during Master Plan Process

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

07-197-17 RECOMMENDATION FOR EXTENSION OF MASONRY SCREEN WALL

Fire Chief Connaughton reported:

- In the construction documents for the Chesterfield Fire Station the City approved removal of the existing wooden fence separating City property from residential

property on the north side of City property and replacement with a six foot masonry screen wall with capstone.

- The existing wooden fence also extends from the fire station property heading east, 120 lineal feet into City property.
- A property owner has requested that the wooden fence separating their property from City property be removed and replaced with the approved masonry screen wall.
- Without this change, their property line would have both wooden fence and masonry screen wall.

Fire Chief Connaughton requested the City Commission consider removing the 120 feet of existing wooden fence and replacing it with the six foot high masonry screen wall with capstone to dramatically improve the aesthetic and provide a stronger partition between property lines. He noted that now, while still early in the construction phase of this project, would be the optimal time to move forward with the proposal while equipment and manpower are on site and landscaping has not begun

Fire Chief Connaughton confirmed for Commissioner Hoff that the entire current fence belongs to the City.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Sherman: To approve the quote from Axiom Construction in the amount of \$36,211.20 to remove the existing wooden fence and replace with 120 feet of six foot high masonry screen wall with capstone, to be funded from account number 401-339.001-977.0000

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

07-198-17 PROPOSED SETTLEMENT AGREEMENT AND CONTRACT RENEWAL WITH BIRMINGHAM FIREFIGHTERS ASSOCIATION

HR Manager Taylor reported:

- The Birmingham Firefighters Association (BFFA), affiliated with the International Association of Firefighters, represents a total of twenty-seven (27) Firefighters, Firefighter/Paramedics, Lieutenants, and Captains.
- The current Collective Bargaining Agreement expires on June 30, 2017.
- The City and Union reached a settlement agreement on Monday, June 19, 2017, and union membership ratified the agreements on June 26, 2017.
- The primary economic provisions are consistent with the City's overall bargaining strategy of balancing wages with health care and other benefits costs, and continue the trend on increased employee cost sharing for health care-related coverages.
- The settlement is consistent with existing contracts with the Birmingham Police Officers and Command Officers agreements.
- The primary features of the settlement agreement are:
 - Three-year contract through 6/30/2020.
 - 2% wage adjustment in each year of the contract.
 - Increased prescription drug co-pays.
 - Increases in City contributions to retirement benefits.
 - Modest improvements in other minor economic provisions.

HR Manager Taylor, in response to a question from Commissioner Sherman, confirmed the contract is consistent with contracts negotiated with other unions. She explained there is a long term disability provision that was not in the police contract, but overall strategy is the same.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Bordman:
To approve the tentative agreements of June 12, 2017 and settlement agreement of June 19, 2017 between the City and BFFA for a renewal of the collective bargaining agreement through June 30, 2020. Further, to authorize the transfer of the appropriate funds by the Finance Department for the contract effective July 1, 2017.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

**07-199-17 CERTIFICATION OF COMPLIANCE WITH STATE OF MICHIGAN
PUBLIC ACT 152 OF 2011**

Human Resource Manager Taylor reported:

Background

Since 2012, Michigan public employers have annually certified compliance with Public Act 152— Publicly-funded Health Insurance Contribution Act—in order to maintain eligibility for state funding. Previously, this was a requirement for statutory revenue sharing disbursements tied to the Economic Vitality Incentive Program (EVIP) which has been discontinued. Now, MDOT uses PA 152 compliance for distribution of federal funds. Certification of compliance is required by September 30th of each year to guarantee eligibility for road funding in the current fiscal year.

Alternatives for Compliance

A local unit of government may comply with the Act by adopting any one of the following:

1. Adopt a limitation on flat dollar amounts of employee medical costs by establishing the hard dollar caps set forth by the Michigan Department of Treasury for single coverage, 2-person coverage, and family coverage.
2. Adopt a limitation on a percentage of the total annual medical costs by establishing a maximum employer contribution of 80%.
3. Opt-out by exempting itself from the requirements of the Act by 2/3 vote of the governing body.

Considerations

Since 2012, the City has elected to exempt itself from the requirements of the Act as its compliance alternative. This has been due to employee concessions in health care, which were initiated several years ago with increased cost sharing on the part of employees through increasing deductibles, co-insurance and co-pays. This has continued, and is continuing, with the objective of managing health care costs.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To authorize the city's compliance with the provisions of State of Michigan Public Act 152 of 2011, by exercising the City's option to exempt itself from the requirements of the Act; and further, directing the Finance Director to submit the required form with the Michigan Department of Transportation.

VOTE: Yeas, 7

Nays, 0
Absent, 0

**07-200-17 2017-18 COMPENSATION RECOMMENDATIONS FOR
DEPARTMENT HEADS AND ADMINISTRATIVE / MANAGEMENT
EMPLOYEES**

Human Resource Manager Taylor reported:

- Collective bargaining negotiations in recent years (including pending settlements of BFFA) have included a 2% wage adjustment for all respective labor groups.
- For fiscal year 2017-2018, HR recommends a 2% salary table adjustment for Department Heads and Administrative/Management classifications effective July 1, 2017, along with part-time employees not covered by a labor organization.
- Individual administrative and management staff do not receive automatic adjustments in conjunction with salary table changes. Instead increases for this group are determined through annual performance evaluations.
- HR recommends in-range performance increases based upon department head recommendations, and HR and City Manager approval, for the Department Heads and Administrative/Management group (including part-time staff not covered by a labor organization). This adjustment is for one of the City's largest employee groups and provides an estimated cost of \$140,000.
- In the past, the Commission has approved a variable pay component for management staff at or near their salary range maximum (currently about 15 key staff members) which provides the ability to achieve a performance increment. This performance increment, when achieved, is not built into base salary, but is a one-time lump sum payment and is subject to City Manager and HR approval. For fiscal year 2017-18, HR recommends an increment of up to 2.00%, which is an estimated cost of \$27,500.

MOTION: Motion by Commissioner Sherman seconded by Commissioner DeWeese:

- A. To approve the recommendation by Human Resources, to implement a 2% salary table adjustment and in-range adjustments based upon performance for full-time and part-time employees in the Department Head and Administrative/Management classifications effective July 1, 2017.

AND

- B. To approve the recommendation by Human Resources, to implement the 2% performance increment through June 30, 2018 with individual eligibility to be in accordance with merit increase guidelines.

AND

- C. To authorize increased copays in the Administrative/Management and ACA-Eligible benefit plans effective January 1, 2018 as recommended.

AND

- D. To approve the transfer of the necessary funds by the Finance Department to the respective departmental personnel accounts.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

VII. REMOVED FROM CONSENT AGENDA

07-201-17 APPROVAL OF JOINT CITY COMMISSION/PLANNING BOARD MEETING MINUTES OF JUNE 19, 2017

Commissioner Hoff noted that her statement in the fifth full paragraph on Page 10 did not make sense and asked that the minutes be amended to clarify she was referring specifically to the resolution adopted by the City Commission on May 8, 2017 which specifically excluded community and personal services.

City Clerk Brown was requested to review the minutes and bring them back at the July 24, 2017 Commission meeting for consideration of approval.

VIII. COMMUNICATIONS

None.

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

None.

X. REPORTS

07-202-17 COMMISSIONER REPORTS

The Commission will appoint members to the Advisory Parking Committee on August 14, 2017.

07-203-17 CITY STAFF REPORTS

The Commission received the Parking Utilization Report, submitted by City Engineer O'Meara.

The Commission received the Museum Strategic Plan Update, submitted by Museum Director Pielack.

XII ADJOURN

Mayor Nickita adjourned the meeting at 11:54 p.m.

J. Cherilynn Brown, City Clerk