

BIRMINGHAM CITY COMMISSION MINUTES
OCTOBER 29, 2018
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Andrew M. Harris called the meeting to order at 7:30 PM.

II. ROLL CALL

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

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Senior Planner Baka, Fire Chief Connaughton, Police Commander Grewe, Planning Director Ecker, Finance Director Gerber, Building Official Johnson, City Clerk Mynsberge, Birmingham Museum Director Pielack, BSD Director Tighe, DPS Director Wood

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

10-282-18 ANNOUNCEMENTS

- The Museum Board will conclude the celebration of Birmingham's bicentennial by presenting a time capsule to the City at the tree lighting ceremony on November 30, almost 200 years to the day of the first land purchase in Birmingham in 1818. The time capsule will contain contributions from Birmingham's students with the theme, 'Message to the Future,' and will be placed in Shain Park, to be opened in fifty years on December 1, 2068.
- Museum Director Pielack announced the Birmingham Museum's receipt of an award from the Michigan Museum Association for Excellence in Community Outreach for the 'Message to the Future' project.

IV. CONSENT AGENDA

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

10-283-18 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Commissioner Hoff: Item H, Shain Park Menorah
Item I, Birmingham Museum Heritage Zone
Item L, Pro Shop Lease Agreement

- Commissioner Sherman: Item B, City Commission-Planning Board Joint Meeting Minutes

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
 To approve the Consent Agenda with Items B, H, I, & L removed and noting abstentions of Mayor Harris from Item A due to his absence from the October 8, 2018 meeting and Commissioner Hoff and Mayor Pro Tem Bordman from Item C due to reimbursements to them listed on the October 10, 2018 warrant list for their attendance at the Michigan Municipal League.

VOTE: Ayes: Mayor Harris
 Mayor Pro Tem Bordman
 Commissioner Boutros
 Commissioner DeWeese
 Commissioner Hoff
 Commissioner Nickita
 Commissioner Sherman
 Nays: None

- A. Resolution approving the City Commission meeting minutes of October 8, 2018.
- C. Resolution approving the warrant list, including Automated Clearing House payments, dated October 10, 2018 in the amount of \$1,825,457.44.
- D. Resolution approving the warrant list, including Automated Clearing House payments, dated October 17, 2018 in the amount of \$765,622.19.
- E. Resolution approving the purchase and planting of 139 trees from KLM Landscape for the 2018 Fall Tree Purchase and Planting Project for a total project cost not to exceed \$44,327.00. Funds are available from the Local Streets Fund-Forestry Service Contract account #203-449.005-819.0000, the Major Streets Fund-Forestry Service Contract account #202-449.005-819.0000, the Local Streets Fund-Operating Supplies account #203-449.005-729.0000, the Major Streets Fund-Operating Supplies account #202-449.005-729.0000, the Parks Other Contractual Services account #101-751.000-811.0000, and the Parks Operating Supplies account, #101-751.000-729.0000 for these services. Further, authorizing the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.
- F. Resolution setting a public hearing date of November 19th, 2018 to consider an amendment to the Zoning Ordinance, Article 3, Section 3.08(E) to increase the one-time payment-in-lieu of parking fee in the Triangle District.
- G. Resolution approving a request from the Birmingham Bloomfield Art Center to hold Art Birmingham in Shain Park and on the surrounding streets on May 10 – 12, 2019 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.
- J. Resolution approving the Lighting Agreements with Essco of Birmingham, LLC and Merrillwood Investment, LLC, granting permission for the City to install holiday lighting over Merrill Street during the 2018 holiday season, directing the Mayor to sign the agreements on behalf of the City, and further approving the closure of Merrill Street on Sunday, November 18, 2018 or November 25, 2018 to install the lighting.

- K. Resolution authorizing an agreement between the City of Birmingham and Smarking for a period of one year to provide parking platform management and data integration for all municipal parking structures and parking meters in the Automated Parking System for a monthly subscription cost of \$3,294.54 per month and a one-time installation fee of \$7,906 using account #585-538-001-811.0000.
- M. Resolution adopting the 2017 Oakland County Hazard Mitigation Plan for the City of Birmingham. Further, authorizing the Mayor and Clerk to sign the Resolution on behalf of the City.

10-284-18 SHAIN PARK MENORAH (Consent Item H)

Rabbi Cohen explained '36 Mystics' is the name of a space in Birmingham being rented by the Birmingham Jewish Connection.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner DeWeese: To approve a request from the Birmingham Jewish Connection to display the Shain Park Menorah on December 2 – 10, 2018, with a special gathering to be held on December 4, 2018 at 7 pm in Shain Park, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

10-285-18 BIRMINGHAM MUSEUM HERITAGE ZONE LANDSCAPE DESIGN SERVICES (Consent Item I)

Museum Director Pielack explained:

- Historic architect Brian Devlin had already created concept plans for the City. The agreement before the Commission this evening is to provide design services and construction documents to execute the plan.
- The Nagy Devlin Land Design, LLC bid came in lower than the other two bids due to less business overhead and Mr. Devlin's relative familiarity with the area and its needs.
- The other two bidders did receive a copy of the concept plan because it was included in the RFP.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Boutros: To approve a service agreement with Nagy Devlin Land Design, LLC to provide Historic Landscape Design Services for the Birmingham Museum Heritage Zone, in the amount of \$2,960.00, to be charged to account 101-804.002-811.0000, and directing the Mayor and City Clerk to sign the agreement on behalf of the City.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

10-286-18 PRO SHOP SPACE LEASE AGREEMENT (Consent Item L)

DPS Director Wood explained:

- This space has not been used for sales activity by a vendor since 2011.
- The City brings in a company to sharpen rental skates.

- From 2011 to 2014, there was a barter-exchange agreement where a vendor sold wares and performed skate sharpening for the City.
- The option to run a shop in this space was bid out, but there were no bidders.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner DeWeese: To approve the Pro Shop Space Lease Agreement with Birmingham Hockey Association and Birmingham Unified High School Hockey Team for use of the space in the Birmingham Ice Sports Arena referred to as the Pro Shop effective November 1, 2018 for the amount of \$400.00 per month until the end of the season. Further, authorizing the Mayor and Clerk to sign the agreement upon receipt of the required insurance.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

**10-287-18 CITY COMMISSION-PLANNING BOARD JOINT MEETING
 MINUTES OF OCTOBER 15, 2018 (Consent Item B)**

Commissioner Sherman noted he arrived at the meeting at 9:20 p.m.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese: To approve the City Commission-Planning Board joint meeting minutes of October 15, 2018, as corrected.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

V. UNFINISHED BUSINESS

10-288-18 MASTER PLAN CONSULTANT SELECTION

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Boutros: To approve the contract with DPZ Partners, LLC, as recommended by the Ad Hoc Master Plan Selection Committee, with the direction that staff discuss with DPZ the retail component concerns raised at previous meetings, in the amount of \$298,000.00 payable from account # 101-721-000-811.000, to provide professional services to prepare an update to the City's comprehensive master plan, and to direct the Mayor to execute same.

Commissioner Sherman clarified that the City is looking for a focus on the neighborhoods and engaging the public rather than analysis of the downtown.

Commissioner DeWeese said he would not be supporting this motion because Mr. Duany did not do DPZ good service. He added:

- He was impressed with Megan O'Hara from MKSK's team who is an expert in neighborhoods.
- He will support the outcome of this vote either way because both firms are outstanding.

Commissioner Sherman said his motion would allow staff to express the Commission's stated concerns and to confirm that the scope of the project is in-line with the City's requested scope. He anticipated no revisions to the contract as part of his motion.

Commissioner Hoff expressed support of MKSK due to Ms. O'Hara's presentation and the team's overall local experience. She voiced concerns with the DPZ's team in terms of Mr. Duany's familiarity with the proposal, the fact that Mr. McKenna is retired, and Mr. Gibbs' philosophy on downtown retail as it pertains to Birmingham. She stated that the chosen consultant must tailor their process to Birmingham's unique qualities. She noted she will support whichever group is chosen.

Mayor Pro Tem Bordman agreed with the remarks made by Commissioners DeWeese and Hoff and stated her belief the better choice is not DPZ. She noted the majority rules, and she will be supportive of the decision.

Mayor Harris apologized for his absence at the October 8, 2018 Commission meeting. Mayor Harris acknowledged that both teams would do a great job. He noted positively DPZ's success with the 2016 Plan, the quality of its presentation to the Commission, its near-unanimous approval by the Ad Hoc Master Plan Selection Committee (MPSC), DPZ's focus on input from younger citizens given the duration of this plan and its commitment to an updated and efficient Charrette process.

Commissioner Nickita spoke in favor of DPZ. He acknowledged both teams are competent and would do well, although DPZ has more experience with Birmingham. He factored in the MPSC's endorsement of DPZ, and said he is in support of staff clarifying expectations vis-a-vis retail with the DPZ team.

Commissioner Boutros urged the Commission to award the contract to DPZ.

VOTE:	Yeas,	4
	Nays,	3 (Bordman, DeWeese, Hoff)
	Absent,	0

VI. NEW BUSINESS

10-289-18 PUBLIC HEARING TO CONSIDER THE LOT REARRANGEMENT OF 120 HAWTHORNE AND 125 ASPEN

Mayor Harris opened the public hearing at 8:01 p.m.

Senior Planner Baka confirmed the request meets all requirements.

Commissioner Boutros disclosed his residence in this neighborhood but did not believe it represented a conflict.

Senior Planner Baka explained:

- There would be no change to 125 Aspen except for the rear property line. 120 Hawthorne would see the detached garage demolished, an addition which would include an attached garage, and a slightly shifted driveway.
- The utility lines would remain accessible to the utility companies and the proposed changes would not infringe on any easements.

Mr. Willoughby, the architect for the project, explained:

- If the lot rearrangement is granted, the owner may consider moving the power line to be on the new property line.
- The lot owner is committed to preserving as many trees as possible.

Mayor Harris closed the public hearing at 8:09 p.m.

Senior Planner Baka confirmed there is precedent for changing the rear lot line in the neighborhood, and that there will be no unintended consequences from the lot rearrangement.

Mr. Willoughby stated plans for 125 Aspen beyond the construction of 120 Hawthorne have not been determined.

Senior Planner Baka explained the lot rearrangement would not be changing the width of the property.

Mayor Pro Tem Bordman noted that the houses south of the two houses in question have very consistent rear lot lines.

Commissioner Boutros said this is a very minor rearrangement and would not affect the continuity of the street.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Nickita:
To approve the proposed lot rearrangement of 120 Hawthorne and 125 Aspen as requested.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

**10-290-18 PUBLIC HEARING TO CONSIDER THE NECESSITY TO ESTABLISH
ASSESSMENT FOR THE BIRMINGHAM SHOPPING DISTRICT**

Mayor Harris opened the public hearing at 8:20 p.m.

Jeff Hockman, Chair of the BSD Board, introduced Mr. Fehan, Mr. Astrein and City Manager Valentine, members of the Board.

BSD Executive Director Tighe explained:

- Property is constituted by the land and the real property on the land.
- Property owners are subject to the cap rate. The BSD Board calculated which properties would hit the cap rate and used those figures to determine the necessary rate to be applied to the rest of the properties.
- Changes to square footage of a property would be factored in to the property's assessment.
- Private parking decks and residences will not be included in these assessments per statute.
- Rates are locked-in for four years and include anticipated inflation and costs related to items like valet services and personnel.
- The BSD Board has considered the possibility of expanding the BSD assessment area and will be looking into it further over the next couple of years.
- The proposed rate increases fall in line with the CPI inflation rate over the last ten years.
- This exact presentation was given at the BSD's merchant meeting the week before, which was attended by merchants and open to the public.

City Manager Valentine said:

- The fund balance remains available should any anomalies in funding needs arise after this assessment is approved.
- Subject to any changes in the properties, this is a locked-in rate for the next four years.
- He also added this plan has more strategic vision, as it takes into account the next two construction cycles in downtown Birmingham.
- These rates have remained flat over the last ten years, so the increase in assessments is to match the increase in costs.

Chair of the BSD Board Hockman stated:

- The majority of the members of the BSD Board are property owners. The meetings are publicly noticed and often attended by other business owners.
- The vote of the Board was 9-1.

Mayor Harris closed the public hearing at 8:45 p.m.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Sherman:
To declare the necessity to establish assessment for the Birmingham Principal Shopping District for 2018-19, 2019-20, 2020-21, and 2021-2022.

BSD Executive Director Tighe explained the BSD works on expanding the benefits of the BSD through:

- Recruiting retail into some of the larger, more accommodating spaces in the 1A area;
- Adding more flowers, providing snow services, and other services to the 1A area which was made possible by this past summer's construction project; and,
- Continuing to market and provide publicity for the businesses in the 1A area.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

10-291-18 DOWNTOWN RETAIL REVIEW

Planning Director Ecker recapped the material provided to the Commission in their agenda packet.

Mayor Pro Tem Bordman expressed concern that City RFPs are garnering one or two bids for a project, making it harder to compare bidders' services and costs. She opined that the City must ensure the RFPs are reaching their intended audience.

Planning Director Ecker explained:

- Sixteen firms downloaded the RFP from MITN.
- City staff reached out to all sixteen firms for more information regarding the lack of bids. Some firms explained they would have to partner with another firm in order to provide the full range of required services, and other firms said they were overwhelmed with work at this time.
- The RFP asks for two focuses: a retail market analysis and a change in City planning policies. Very few firms have both in-house.

Commissioner Nickita gave his opinion:

- The RFP does not ask for a retail market analysis; rather, it looks at the physical conditions of the downtown retail district.
- Given the fact that most of the RFP items focus on a physical analysis of the retail district, the RFP may not be clear enough to be attracting physical planning firms, architectural firms, or design firms that would best understand these physical conditions.
- The six firms that provided feedback seem to be exactly what the City is looking for with this project, which indicates a lack of clarity in the RFP.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner DeWeese:
To rebid the RFP seeking additional responses.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

Commissioner DeWeese requested staff reach beyond MITN for dissemination of RFPs.

Sole bidder Mr. Gibbs explained:

- The firms on his team were selected on the basis of being the best in the country.
- He picked three of the best retail brokers to get their insight on the retail spaces they lease and also reached out to a local retail broker.
- He brought in the Leland Group, which is the leading national market analyst in the country, to get a second opinion on whether 1,000,000 sq. ft. of retail space is supportable in the redline retail district.

A number of Commissioners stated the City typically does not accept a bid when there is only a single bidder, but they do hope Mr. Gibbs will follow up with the project.

10-292-18 REMOVAL OF PARKING SPOT AT 160 ELM

Police Commander Grewe presented the request to remove a parking spot at 160 Elm to reserve space for emergency vehicles called to All Seasons senior living facility.

Commissioner Hoff said there is not enough parking available in this area, and the need is only increasing. She said that the City must give thought to how to increase parking in the area.

Commissioner Nickita echoed Commissioner Hoff's concerns about losing parking. He suggested:

- Emergency vehicles could take up one lane of Maple as an option when called to the area, leaving three lanes open.
- Removing more parking on Elm will result in higher traffic speeds, which is also a concern.

City Manager Valentine suggested this is an evolution of the property's demand on the community. He suggested removal of the parking space could be a short-term option, which would be reassessed as part of a broader conversation over time.

Commissioner Boutros suggested temporarily removing the parking space and using the recently-approved smaller emergency vehicle could solve the issue.

Police Commander Grewe said that on medical runs proximity to the front door of the building is a priority.

Mayor Pro Tem Bordman said City staff should contact All Seasons to help resolve the issue. She said room for emergency vehicles could be made in the All Seasons parking lot, for instance, instead of removing on-street parking.

MOTION: Motion by Commissioner DeWeese, seconded by Commissioner Hoff:
To remove one parking spot on Elm St. located in front of 160 Elm Street for a period of one year and to review the situation at the end of the year to determine if it should continue.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

Commissioner Boutros said the City needs to talk to All Seasons about the residents' increasing utilization of the City's emergency services. He emphasized the fact that the residents at All Seasons should authentically qualified for independent living, and not require assisted living.

Commissioner DeWeese suggested:

- Code changes in the future could take into account the needs of parking emergency vehicles at independent living locations around the City.
- More All Seasons residents should be encouraged to park under the building to free up space on the street.

10-293-18 UNDERGROUND ELECTRIC EASEMENT

City Manager Valentine and City Attorney Currier described the easement.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Boutros:
To approve the Underground Electric Easement as provided herewith authorizing the Mayor and Clerk to sign the same on behalf of the City.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

10-294-18 SETTLEMENT AGREEMENT WITH TEAMSTERS LOCAL 214

City Manager Valentine presented the terms of the agreement.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Bordman:
To approve the Settlement Agreement of September 24, 2018 between the City of Birmingham and Teamsters Local 214 for a renewal of the collective bargaining agreement through June 30, 2021, and to authorize staff to execute a collective bargaining agreement consistent with its terms and conditions. Further, to authorize the transfer of the appropriate funds by the Finance Department.

VOTE: Yeas, 7
 Nays, 0
 Absent, 0

10-295-18 SALARY ADJUSTMENT FOR DEPARTMENT HEAD AND ADMINISTRATIVE/MANAGEMENT CLASSIFICATIONS

City Manager Valentine presented the item, confirming for Commissioner Hoff that the performance increment would be paid as a one-time lump sum payment and not included in the annual wage.

MOTION: Motion by Commissioner DeWeese, seconded by Mayor Pro Tem Bordman: To approve the recommendation by the Human Resources Department 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, 2018.

AND

To approve the recommendation by the Human Resources Department implementing the 2% performance increment through June 30, 2019 with individual eligibility to be in accordance with merit increase guidelines as specified in the report.

AND

To approve ICMA plan amendments to the 401(a) plan for the Department Heads and Administrative/Management, effective January 1, 2019, increasing the City contribution to 9.5%.

AND

To approve the additional employee health care cost sharing measures, effective January 1, 2019, increasing the copay for emergency room/illness services to \$150; increasing the calendar year deductible to \$600 individual/\$1,200 family (combined in and out-of-network); increasing the annual in-network out-of-pocket maximum to \$1,100 individual/\$2,200 family; increasing the annual out-of-network out-of-pocket maximums to \$1,700 individual/\$3,400 family; and, increasing the specialty drug copay to \$75.

AND

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

Items removed from the Consent Agenda were addressed earlier in the meeting.

VIII. COMMUNICATIONS

None

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

None

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments

Mayor Pro Tem Bordman noted she and Commissioner Hoff attended the Michigan Municipal League Conference and reported on the relevancy of issues discussed, including a workshop on short-term rentals.

Commissioner Nickita requested additional information on the email regarding a tree removal on Dorchester and on the current policy.

City Manager Valentine explained:

- Dead or dying trees can pose a safety hazard.
- Such trees are assessed by a forester in order to determine whether removal is appropriate.
- Sometimes a stump must decompose for a bit before any other landscaping can occur if the lot is narrow.
- The tree planting cycle must be taken into account for new trees planted. This may mean that a dead tree will be taken down in the fall, and the new tree may need to wait until the following fall to be planted, according to the needs of the new tree's species. The interlude safeguards the longevity of the new tree planted.

Mayor Harris reported on the success of the recent fundraiser by the Friends of the Library.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Quarterly Investment Report as submitted by Finance Director Gerber
 - 2. Quarterly Budget Report as submitted by Finance Director Gerber

XI. ADJOURN

There being no further business Mayor Harris adjourned the meeting at 9:56 p.m.

J. Cherilynn Mynsberge, City Clerk