

**BIRMINGHAM CITY COMMISSION MINUTES**  
**FEBRUARY 26, 2018**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

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

Mayor Harris called the meeting to order at 7:30 p.m.

**II. ROLL CALL**

|                     |   |
|---------------------|---|
| ROLL CALL: Present, | Mayor Harris<br>Mayor Pro Tem Bordman<br>Commissioner Boutros<br>Commissioner DeWeese<br>Commissioner Hoff<br>Commissioner Nickita (arrived at 7:32 p.m.) |
| Absent,             | Commissioner Sherman  |

Administration: City Manager Valentine, City Attorney Currier, Golf Manager Brito, Police Commander Busen, Chief of Police Clemence, Finance Director/Treasurer Gerber, Assistant to the City Manager Haines, Building Official Johnson, Deputy Treasurer Klobucar, Assistant Building Official Morad, City Clerk Mynsberge, City Engineer O'Meara, Director of Public Services Wood

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

**02-047-18 ANNOUNCEMENTS**

Mayor Harris announced:

- The Birmingham Ice Arena offers ice skating classes for ages three and up. The next session begins March 5<sup>th</sup> and runs through April 22<sup>nd</sup>. Registration for new skaters is February 28<sup>th</sup>, 5:00 - 7:00 pm, and March 3, 10:00 am - 1:00 pm. For more information visit [www.bhamgov.org](http://www.bhamgov.org).
- Commissioner DeWeese's Birthday was celebrated.

**02-048-18 RECOGNITION OF 2017 STUDENT BOARD REPRESENTATIVES**

The following Birmingham Public School students were recognized with service awards for civic involvement as student representatives to City boards in 2017:

| <u>STUDENT</u>       | <u>BOARD / COMMISSION</u>  |
|----------------------|----------------------------|
| Ariana Afrakhtek     | Planning Board             |
| Bella Niskar         | Planning Board             |
| Ben Gould            | Parks and Recreation Board |
| Joe Kummer           | Parks and Recreation Board |
| Sarah Evans          | Public Arts Board          |
| Celeste Demps-Simons | Public Arts Board          |

|                |  |
|----------------|--|
| Cecilia Trella | Public Arts Board                                |
| Carson Claar   | Museum Board                                     |
| Hanna Sandler  | Museum Board                                     |
| Josh Chapnick  | Historic District Commission/Design Review Board |
| Griffin Pfaff  | Historic District Commission/Design Review Board |

**02-049-18 RESOLUTION APPOINTING THE FOLLOWING STUDENTS AS NON-VOTING MEMBERS FOR THE CALENDAR YEAR 2018**

Assistant to the City Manager Haines introduced student leaders Pamela Davis from Seaholm High School and Jennifer Kondak from Groves High School, explained the program, and thanked the City for affording students the opportunity for civic involvement.

**MOTION:** Motion by Commissioner DeWeese:  
To appoint the following students as non-voting members for the calendar year 2018:

|                            |  |
|----------------------------|--|
| Planning Board             | Madison Daminato – Seaholm<br>Sam Fogel – Seaholm<br>Ellie McElroy - Seaholm |
| Parks and Recreation Board | Jakob Sayers - Seaholm<br>Cecilia Cousins - Seaholm                          |
| Public Arts Board          | Cole Wolhfiel - Seaholm<br>Amelia Berry - Seaholm                            |
| Museum Board               | Joy Tenjeras – Groves  |
| Advisory Parking Committee | Anjay Yaple - IA   |
| HDC-DRB                    | Ava Wells – Seaholm<br>Grace Donati – Seaholm                                |

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

Commissioner DeWeese and Commissioner Nickita told the students that these positions afford a real opportunity to influence City policy should the students choose to pursue that.

Commissioner Hoff said she is encouraged that three different schools are represented.

The City Clerk administered the Oath of Office to the student board representatives.

**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.

**02-050-18 APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Mayor Pro Tem Bordman: Item A, Special City Commission meeting minutes of February 12, 2018

- Commissioner DeWeese: Item H, Replacement of four (4) wooden bridges located at Springdale Golf Course

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Nickita:  
To approve the Consent Agenda, with Items A and H removed.

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

- B. Approval of Regular City Commission meeting minutes of February 12, 2018.
- C. Approval of warrant list, including Automated Clearing House payments, dated February 14, 2018 in the amount of \$676,695.80.
- D. Approval of warrant list, including Automated Clearing House payments, dated February 21, 2018 in the amount of \$2,013,252.38.
- E. Resolution approving a request submitted by the Michigan Chapter of the Huntington's Disease Society of America requesting permission to hold Yoga in the Park, on Saturday, June 16, 2018, 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.
- F. Resolution approving the purchase of one (1) new Toro Groundsmaster 4500D and one (1) Toro Groundsmaster 3500D from Spartan Distributors, through State of Michigan extendable purchasing contract #2017025 for a total expenditure of \$95,270.14. Funds for this purchase are available in the equipment fund account # 641-441.006-971.0100.
- G. Resolution setting Monday, March 26, 2018 at 7:30 PM for a Public Hearing to consider the reprogramming of program year 2017 Community Development Block Grant (CDBG) funds.

**02-051-18 RESOLUTION APPROVING THE SPECIAL CITY COMMISSION MEETING MINUTES OF FEBRUARY 12, 2018 (ITEM 4A)**

Mayor Pro Tem Bordman noted she, not Mayor Harris, adjourned the meeting.

**MOTION:** Motion by Bordman, seconded by Commissioner Nickita:  
To approve the Special City Commission meeting minutes of February 12, 2018 as corrected.

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

**02-052-18 RESOLUTION APPROVING REPLACEMENT OF WOODEN BRIDGES AT SPRINGDALE GOLF COURSE (ITEM 4H)**

City Manager Valentine confirmed for Commissioner DeWeese that:

- ADA regulations require parts of the course to be accessible, including the clubhouse.
- The bridge will meet ADA regulations for width.

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

To award the Replacement of four (4) wooden bridges located at Springdale Golf Course, to Kyle Builders, Inc. in the amount not to exceed \$71,560, and approving hiring Anderson, Eckstein and Westrick, Inc. (AEW) in the amount not to exceed \$8,000 to provide professional Engineering Services related to this project for a total project amount of \$79,560.00 to be funded from account 584-753.001-981.0100 and further; approving the appropriation and amendment to the 2017-2018 Springdale Golf Course Fund budget as follows. Further, authorizing the Mayor and the City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

Springdale Golf Course Fund

Revenues:

|                        |                      |             |
|------------------------|----------------------|-------------|
| Draw from Net Position | 584-000.000-400.0000 | \$79,560.00 |
| Total Revenue          |                      | \$79,560.00 |

Expenses:

|   |                      |             |
|---|----------------------|-------------|
| Capital Outlay –<br>Public Improvements | 584-753.001-981.0100 | \$79,560.00 |
| Total Expenses                          |                      | \$79,560.00 |

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

**V. UNFINISHED BUSINESS**

None.

**VI. NEW BUSINESS**

**02-053-18       PUBLIC HEARING TO CONSIDER CONFIRMATION OF SPECIAL ASSESSMENT DISTRICT ROLL NO. 880 – REPLACEMENT OF SEWER AND WATER LATERALS WITHIN OLD WOODWARD AVENUE PAVING PROJECT**

Mayor Harris opened the public hearing at 7:54 p.m.

Deputy Treasurer Klobucar presented the proposed special assessment district to ratify and confirm Special Assessment District Roll No. 880 to defray the cost of installment of sewer and water laterals within the Old Woodward Avenue Paving Project over a ten-year period. Billing for the project would occur at a date closer to the end of construction.

Commissioner Hoff noted, for the record, a letter was received from Dr. Karni Frank in opposition.

Mayor Harris closed the public hearing at 7:55 p.m.

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

To ratify and confirm Special Assessment District Roll No. 880 for the replacement of sewer and water laterals within the Old Woodward Ave. Paving Project, and to instruct the City Clerk to endorse said roll, showing the date of confirmation thereof and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement; Further, to resolve that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of five and a half percent (5.5%) on all unpaid installments. (*Formal resolution appended to these minutes as Attachment A*)

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

**02-054-18                   PUBLIC HEARING TO CONSIDER CONFIRMATION OF SPECIAL ASSESSMENT DISTRICT ROLL NO. 881 – FOR OLD WOODWARD AVE. STREETScape ENHANCEMENTS WITHIN THE OLD WOODWARD AVENUE PAVING PROJECT**

Mayor Harris opened the public hearing at 7:56 p.m.

Deputy Treasurer Klobucar presented the proposed special assessment district to ratify and confirm Special Assessment District Roll No. 881 to defray the costs of the Old Woodward Avenue Streetscape Enhancements within the limits of the Old Woodward Avenue Paving Project over a ten-year period. Billing for the project would occur at a date closer to the end of construction.

Commissioner DeWeese noted, for the record, a letter was received from Dr. Karni Frank in opposition.

Adam Lutz asked why the cost of Special Assessment District Roll Number 881 is not being spread across all of Birmingham rather than just the adjoining properties.

City Manager Valentine explained that it is the City's long-standing policy to assess the adjoining properties for laterals and enhancements.

Mr. Lutz rejoined that:

- The work benefits the whole City, not just the adjoining properties, and therefore should be assessed to the whole City.
- He has been concerned about the unsafe nature of the streetscape in front of his office for six years, and has reported his concerns to the City multiple times.
- He anticipates the streetscape changes will remedy some of those safety concerns, but does not believe the adjoining properties should exclusively bear the financial brunt of the changes.

Mayor Harris closed the public hearing at 7:59 p.m.

**MOTION:**    Motion by Commissioner Boutros, seconded by Commissioner Nickita:  
To ratify and confirm Special Assessment District Roll No. 881 for Old Woodward Ave. Streetscape Enhancements within the limits of the Old Woodward Avenue Paving Project, and

to instruct the City Clerk to endorse said roll, showing the date of confirmation thereof and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement; Further, to resolve that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of five and a half percent (5.5%) on all unpaid installments. *(Formal resolution appended to these minutes as Attachment B)*

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

**02-055-18                   2017 LIQUOR LICENSE REVIEWS AND 2018 LIQUOR LICENSE RENEWALS**

City Clerk Mynsberge explained that annually:

- The City Commission is required by Chapter 10, Alcoholic Liquors, of the Birmingham Code of Ordinances to review the licenses of establishments which sell intoxicating liquor for consumption on the premises in the city;
- Investigations are conducted of each licensed establishment to determine whether the licensee is in compliance with all applicable city and state codes.
- The City Commission uses the findings of the investigations to consider the renewal of the licenses.

City Clerk Mynsberge further reported:

- The summary report of investigative findings was reformatted to be responsive to the Commission's input during last year's review process.
- The report is now in the form of a chart, with violations of each licensed establishment listed by the statutory reasons for which the Commission may object to the renewal of a liquor license.
- Chapter 10, Sec. 10-40 of the Code lists the statutory reasons.
- If the City Commission wishes to consider objecting to the renewal of any license, it must first hold a public hearing.
- Public hearings should be scheduled for March 12, 2018 to allow adequate time to forward objections to the Michigan Liquor Control Commission by their March 31, 2018 deadline.
- For establishments in compliance with the requirements of Chapter 10 the City Commission may approve the renewal of licenses tonight.

City Clerk Mynsberge confirmed all licensed establishments were notified the Commission would be considering renewal of licenses tonight.

- The notice included any violations reported during the 2017 investigation.
- Owners of establishments with outstanding financial obligations to the City were contacted personally.
- Where a payment plan was established, an appropriate notation has been entered in the report.
- 220 Merrill, Rojo and Sidecar paid their outstanding obligations on Friday, and all their accounts are now current.

- Emagine has removed the sidewalk sign for which they had no permit. The Community Development Department is working with license holders to bring all other violations of regulatory codes under Sec. 10-40 (3)a into compliance.
- Mad Hatter has been contacted about their outstanding taxes and have indicated a check is in the mail.

City Clerk Mynsberge confirmed for Commissioner Hoff that:

- Any establishments in violation of the City's sign ordinances were notified, and that Community Development is working with establishments to bring their signage into compliance.
- Birmingham Teatro is the Birmingham Theatre.

City Clerk Mynsberge confirmed for Mayor Harris that as of this Commission meeting, six establishments remain in violation of the City's sign ordinances.

Mayor Pro Tem Bordman said:

- She was concerned about establishments' sign ordinance violations and issues with intoxicated patrons.
- Establishments need to stop serving before patrons are intoxicated.

Chief of Police Clemence explained to Commissioner DeWeese that:

- While Market North End had a high number of police contacts relative to other Birmingham establishments, nine police contacts in a year is still considered low for a City.
- The owners of Market North End met with City Manager Valentine and Chief of Police Clemence and have implemented a proactive plan to reduce the number of incidents that require police involvement.

Commissioner DeWeese echoed Mayor Pro Tem Bordman's concerns regarding intoxication, and said establishments need to be proactive in terms of safety in order to avoid issues that have occurred in the past.

Chief of Police Clemence explained to Commissioner Hoff that police contacts with Townhouse were potential noise violations, with no violations observed when officers arrived on scene.

Chief of Police Clemence told Commissioner Nickita that Market North End has had no reported noise violations, and that people who congregate outside of establishments usually do so in order to adhere to the ban on smoking inside establishments.

Commissioner Nickita replied that the sidewalk in front of Market North End is often raucous on busy nights, and that the City needs to be aware that incidents which originate in an establishment may spill out on to City streets.

Commissioner DeWeese congratulated City staff on the summary of violations and said it was the best he had seen. Mayor Pro Tem Bordman added her thanks.

City Manager Valentine and City Clerk Mynsberge mutually acknowledged each other's work on the presentation.

Commissioner Boutros stated that the Commission is exploring ways of strengthening alley maintenance and cleanliness ordinances in order to compel City establishments to prioritize the issue.

The Commissioners were generally in favor of setting a public hearing for Mad Hatter based on the tax payment not yet being received by the City.

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

To set a public hearing for 7:30 PM on Monday, March 12, 2018 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/operators of Mad Hatter Bistro (Tea Parlor, Inc.) for the following reasons: violations of Sec. 10-40 (7), failure to timely pay monies due the City.

Further, to direct the City Manager to notify the owners/operators of Mad Hatter Bistro (Tea Parlor, Inc.) 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.

**-AND -**

To approve the renewal for the 2018 licensing period, of all Class B, Class C, and microbrewery liquor licenses for which a current year application was received, except for the license(s) held by Mad Hatter Bistro (Tea Parlor, Inc.), for which a public hearing(s) has been set.

Commissioner Nickita requested to abstain from the vote on 220 Merrill, per a conversation with the City Attorney and due to a business relationship with some of the individuals involved. The Commission concurred.

VOTE:           Yeas,       6  
                  Nays,       0  
                  Absent,    1 (Sherman)  
                  Abstain, on vote for 220 Merrill Restaurant, 1 (Nickita)

**02-056-18                   2017 ANNUAL GOLF REPORT**

Golf Manager Brito presented the 2017 Annual Golf Report:

- The courses saw a profit of \$106,000 in 2017.
- This was less profit than the previous year, due largely to renovations and slight increases in labor costs at both courses.
- On July 1, 2017 the City began to pay back the \$100,000 incurred to build the Lincoln Hills Clubhouse in 2010. The repayment will occur over the next seven to ten years.
- 52,591 rounds were completed in 2017. In 2016, there were 53,840 rounds. November temperatures and a rainy May may have contributed to the lower 2017 numbers.
- Resident memberships remained at 1,898. Business memberships were a little bit down, but non-resident memberships are growing.



- Resident rounds also increased in 2017, which was one of the courses' stated objectives.
- Junior golf yielded a \$51,201 profit in 2017 with 483 participants. Golf Manager Brito said the courses hope to expand the program this year.
- The course had a "Nine, Dine and Sing" event in August that Mayor Harris reviewed positively, and a "Nine, Dine and Laugh" event in June.
- Food and beverage profits were at \$89,971, with burgers as the #1 selling item.
- The cart fleet was updated, tee signage is being updated, and the website will be updated.
- An adaptive golf cart was purchased, and the courses will market the cart's availability.

Mayor Pro Tem Bordman congratulated Golf Manager Brito on the new events, on the acquisition of the adaptive golf cart, and on the courses turning a profit. Mayor Pro Tem Bordman clarified that the adaptive golf cart enables users with mobility issues to, while remaining in the cart, navigate and play Birmingham's golf courses.

Commissioner Hoff suggested that Golf Manager Brito look into advertising in Birmingham Living and Seen Magazines. Golf Manager Brito agreed.

Mayor Harris congratulated Golf Manager Brito on her success and asked about the relative underperformance of Springdale Golf Course. Golf Manager Brito said there was a closure that affected the course, and she plans to move her office to Springdale in order to get a better sense as to what the issues may be.

**MOTION:** Motion by Commissioner DeWesse, seconded by Commissioner Hoff:  
To accept the 2017 Annual Golf Report.

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

**02-057-18                   CONSTRUCTION SITES MAINTENANCE CODE**

Building Official Johnson noted:

- Construction sites and maintenance of those sites are an ongoing issue.
- To improve Section 50-29 of the Birmingham City Code a new General Penalty provision, Section 1-9 which makes clear the penalty for civil infractions, is proposed.
- A new Section 50-29 "Construction Site Maintenance", including new ordinances that will penalize permit holders who maintain unsafe construction sites, especially if three or more violations occur on the same site, is also proposed.
- A proposed staggered penalty provision includes:
  - A first violation will be \$100;
  - A second offense will be \$250; and,
  - A third, and any subsequent, offenses will be \$500.
- An amendment to the City's fee schedule is proposed to reflect the penalties.
- Changes are also proposed to Section 50-74(b).

Building Official Johnson explained that, historically, the penalties for violations of ordinances regarding construction site maintenance were criminal misdemeanors. As such, code officials

were cautious about giving persons on a construction site tickets which would make them criminally liable. By changing the penalties to civil infractions, the City will have a mechanism by which to hold the construction site workers and permit holders responsible in a swift and meaningful way.

Commissioner DeWeese reiterated that the goal of the proposed changes is to enable the Commission to apply increased pressure on construction site workers and permit holders who violate City construction ordinances.

Building Official Johnson told Commissioner Boutros that non-payment of the aforementioned fines would legally be like non-payment of any other civil fine.

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Bordman:  
To approve the ordinance amendment to amend the City Code, Part II, Chapter 1 – General Provisions, Sec. 1-9 General Penalty. *(Full ordinance appended to these minutes as Attachment C.)*

**-AND -**

To approve the ordinance amendment to amend the City Code, Part II, Chapter 50-Environment, Article II. – Nuisances, Division 1 – Generally, Sec. 50-29 Construction Site Maintenance Provisions for Residential and Commercial Properties. *(Full ordinance appended to these minutes as Attachment D.)*

**-AND -**

To approve changes to the Fee Schedule adding Construction Site Maintenance Violations (Sec. 50-29), with clarification that the fee for Building Permit Holders with five or more violations at the same site within one calendar month is \$500.

**-AND -**

To approve the ordinance amendment to amend the City Code, Part II, Chapter 50 – Environment, Article II. – Nuisances, Division 4. Noise, Sec. 50-74 Decibel Level Prohibitions. *(Full ordinance appended to these minutes as Attachment E.)*

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

**VII. REMOVED FROM THE CONSENT AGENDA**

The items removed were discussed earlier in the meeting.

**VIII. COMMUNICATIONS**

None.

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

None.

**X. REPORTS**

**02-059-18                   COMMISSIONER COMMENTS**

Mayor Pro Tem Bordman reported that at the NEXT board meeting Executive Director Chris Braun commented the restricted parking signs along Midvale have been effective.

Mayor Pro Tem Bordman said that this summer NEXT will be offering Pickle Ball at the ice arena.

Mayor Pro Tem Bordman reported an excellent experience in a police ride-along on February 21, 2018. Over the course of several traffic stops, the officer received compliments from every driver stopped. Mayor Pro Tem Bordman continued that it was clear that the officers in the department support each other, and told Chief of Police Clemence that he is doing a great job.

Chief of Police Clemence and City Manager Valentine thanked Mayor Pro Tem Bordman for her positive feedback.

Commissioner Nickita said:

- He has concerns regarding poorly designed or hung signage in some of the downtown merchants' windows.
- The City needs to more thoroughly enforce its retail ordinances by walking through the retail district, notifying merchants of violations, and working with them to come into code.
- If the current ordinances insufficiently yield the desired aesthetic downtown, the Commission should take time to review the relevant ordinances in order to make sure they reflect the City's standards.

City Manager Valentine told Mayor Harris that City staff would be looking at what the current ordinances provide, and acknowledged that there are some merchants who currently take liberties with their signage.

**02-060-18                      CITY STAFF**

The Commission received the 2<sup>nd</sup> Quarter Financial Reports submitted by Finance Director/Treasurer Gerber.

The Commission received the December 2017 Investment Report submitted by Finance Director/Treasurer Gerber.

|                         |
|-------------------------|
| <b>XI.      ADJOURN</b> |
|-------------------------|

Mayor Harris adjourned the meeting at 8:42 p.m.

---

J. Cherilynn Mynsberge, City Clerk

**RESOLUTION 02-053-18**

**RATIFICATION AND CONFIRMATION  
OF SPECIAL ASSESSMENT ROLL NO. 880  
SEWER AND WATER LATERAL REPLACEMENT WITHIN  
THE OLD WOODWARD AVENUE PAVING PROJECT**

To confirm Special Assessment Roll No. 880, to defray the cost of Sewer and Water Lateral Replacement:

WHEREAS, Special Assessment Roll, designated Roll No. 880, has been heretofore prepared for collection; and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property to be assessed; and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction; and

WHEREAS, Commission Resolution 02-039-18 provided it would meet this 26th day of February 2018 for the sole purpose of reviewing the assessment roll; and

WHEREAS, at said hearing held this February 12, 2018, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham.

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 880 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of five and a half percent (5.5%) on all unpaid installments.

Special Assessment Roll No.880  
Old Woodward Avenue Sewer and Water Lateral Replacement

| <u>Parcel ID</u> | <u>Address</u>               | <u>Amount</u> |
|------------------|------------------------------|---------------|
| 19-25-378-026    | 275 N. Old Woodward Ave.     | \$ 3,080.00   |
| 19-25-378-027    | 265 N. Old Woodward Ave.     | \$ 2,884.00   |
| 19-25-378-014    | 233-239 N. Old Woodward Ave. | \$ 10,318.00  |
| 19-25-378-015    | 215-229 N. Old Woodward Ave. | \$ 2,884.00   |
| 19-25-378-016    | 183-191 N. Old Woodward Ave. | \$ 5,768.00   |
| 19-25-378-094    | 101-167 N. Old Woodward Ave. | \$ 5,768.00   |
| 19-36-201-011    | 100 S. Old Woodward Ave.     | \$ 3,090.00   |
| 19-36-201-012    | 106-112 S. Old Woodward Ave. | \$ 3,090.00   |

|               |                              |                     |
|---------------|------------------------------|---------------------|
| 19-36-201-013 | 114-116 S. Old Woodward Ave. | \$ 3,090.00         |
| 19-36-201-014 | 124-128 S. Old Woodward Ave. | \$ 9,666.00         |
| 19-36-201-015 | 138-142 S. Old Woodward Ave. | \$ 5,858.00         |
| 19-36-201-021 | 154 S. Old Woodward Ave.     | \$ 3,296.00         |
| 19-36-201-018 | 160-168 S. Old Woodward Ave. | \$ 9,462.00         |
| 19-36-202-016 | 298 S. Old Woodward Ave.     | \$ 7,874.00         |
| 19-25-456-001 | 188 N. Old Woodward Ave.     | \$ 2,060.00         |
| 19-36-456-002 | 152-172 N. Old Woodward Ave. | \$ 4,860.00         |
| 19-25-456-039 | 100-136 N. Old Woodward Ave. | \$ 11,496.00        |
| 19-36-206-001 | 101-115 S. Old Woodward Ave. | \$ 1,190.00         |
| 19-36-206-006 | 181-201 S. Old Woodward Ave. | \$ 5,552.00         |
| 19-36-206-008 | 217-239 S. Old Woodward Ave. | \$ 5,014.00         |
| 19-25-378-011 | 142 W. Maple Rd.             | \$ 3,512.00         |
| 19-25-378-012 | 138 W. Maple Rd.             | \$ 1,040.00         |
| 19-25-456-017 | 129-135 E. Maple Rd.         | \$ 3,886.00         |
| 19-25-456-018 | 205-213 E. Maple Rd.         | \$ 3,989.00         |
|               | <b>TOTAL</b>                 | <b>\$ 118,727.0</b> |

I, J. Cherilynn Mysnberge, City Clerk of the City of Birmingham, Michigan do hereby certify that the foregoing is a true and correct copy of the resolution by the Birmingham City Commission at its regular meeting held on February 26, 2018.

J. Cherilynn Mysnberge, City Clerk

**RESOLUTION 02-054-18**

**RATIFICATION AND CONFIRMATION  
OF SPECIAL ASSESSMENT ROLL NO. 881  
SIDEWALK STREETScape ENHANCEMENTS WITHIN  
THE OLD WOODWARD AVENUE PAVING PROJECT**

To confirm Special Assessment Roll No. 881, to defray the cost of sidewalk streetscape enhancements:

WHEREAS, Special Assessment Roll, designated Roll No. 881, has been heretofore prepared for collection; and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property to be assessed; and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made at a date closer to the time of construction; and

Commission Resolution 02-040-18 provided it would meet this 26th day of February 2018 for the sole purpose of reviewing the assessment roll; and

WHEREAS, at said hearing held this February 12, 2018, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll as determined in Section 94-9 of the Code of the City of Birmingham.

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 881 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessments shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of five and a half percent (5.5%) on all unpaid installments.

Special Assessment Roll No.881  
Old Woodward Avenue Streetscape Enhancement

| <u>Parcel ID</u> | <u>Address</u>               | <u>Amount</u> |
|------------------|------------------------------|---------------|
| 19-25-378-026    | 275 N. Old Woodward Ave.     | \$ 53,037.90  |
| 19-25-378-027    | 265 N. Old Woodward Ave.     | \$ 19,504.26  |
| 19-25-378-014    | 233-239 N. Old Woodward Ave. | \$ 26,081.72  |
| 19-25-378-015    | 205-229 N. Old Woodward Ave. | \$ 41,517.84  |
| 19-25-378-016    | 183-191 N. Old Woodward Ave. | \$ 28,591.04  |
| 19-25-378-094    | 101-135 N. Old Woodward Ave. | \$ 131,127.54 |
| 19-36-201-011    | 100 S. Old Woodward Ave.     | \$ 70,372.26  |
| 19-36-201-012    | 106-108 S. Old Woodward Ave. | \$ 11,862.24  |

|               |                              |           |                    |
|---------------|------------------------------|-----------|--------------------|
| 19-36-201-013 | 112-116 S. Old Woodward Ave. | \$        | 40,491.30          |
| 19-36-201-014 | 124-128 S. Old Woodward Ave. | \$        | 27,526.48          |
| 19-36-201-015 | 138-142 S. Old Woodward Ave. | \$        | 32,469.08          |
| 19-36-201-021 | 154 S. Old Woodward Ave.     | \$        | 18,819.90          |
| 19-36-201-018 | 160-168 S. Old Woodward Ave. | \$        | 49,730.16          |
| 19-36-206-005 | 176-180 S. Old Woodward Ave. | \$        | 61,630.42          |
| 19-36-202-015 | 200-210 S. Old Woodward Ave. | \$        | 94,099.50          |
| 19-36-202-016 | 298 S. Old Woodward Ave.     | \$        | 137,138.14         |
| 19-36-204-006 | 300 S. Old Woodward Ave.     | \$        | 28,210.84          |
| 19-25-453-010 | 280 N. Old Woodward Ave.     | \$        | 48,817.68          |
| 19-25-453-011 | 250-270 N. Old Woodward Ave. | \$        | 96,152.58          |
| 19-25-456-001 | 188 N. Old Woodward Ave.     | \$        | 26,918.16          |
| 19-25-456-002 | 152-172 N. Old Woodward Ave. | \$        | 36,423.16          |
| 19-25-456-039 | 100-136 N. Old Woodward Ave. | \$        | 80,858.90          |
| 19-36-206-001 | 101-115 S. Old Woodward Ave. | \$        | 127,949.25         |
| 19-36-206-005 | 177 S. Old Woodward Ave.     | \$        | 65,280.34          |
| 19-36-206-006 | 181-201 S. Old Woodward Ave. | \$        | 70,032.84          |
| 19-36-206-007 | 211 S. Old Woodward Ave.     | \$        | 20,606.84          |
| 19-36-206-008 | 217-239 S. Old Woodward Ave. | \$        | 57,524.26          |
| 19-36-206-021 | 255-275 S. Old Woodward Ave. | \$        | 133,868.42         |
| 19-36-208-015 | 325 S. Old Woodward Ave.     | \$        | 36,993.46          |
| 19-25-378-012 | 138 W. Maple Rd.             | \$        | 10,526.57          |
| 19-25-378-021 | 120-122 W. Maple Rd.         | \$        | 33,502.52          |
| 19-25-456-017 | 135 E. Maple Rd.             | \$        | 13,459.67          |
| 19-36-129-005 | 115 W. Maple Rd.             | \$        | 31,677.48          |
|               | <b>TOTAL</b>                 | <b>\$</b> | <b>1,762,802.7</b> |

I, J. Cherilynn Mysnberge, City Clerk of the City of Birmingham, Michigan do hereby certify that the foregoing is a true and correct copy of the resolution by the Birmingham City Commission at its regular meeting held on February 26, 2018.

J. Cherilynn Mysnberge, City Clerk

**CITY OF BIRMINGHAM  
ORDINANCE NO. 2261**

**AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 1 – GENERAL PROVISIONS, SEC. 1-9 GENERAL PENALTY.**

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 1. General Provisions, Sec. 1-9. – General penalty, shall read as follows:

Sec. 1-9. - General penalty; continuing violations.

- (a) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.
- (b) Whenever in this Code or in any rule, regulation or order made pursuant to this Code or any ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision by any person shall, upon conviction, be punished by a fine not exceeding \$500.00, and/or a term of probation, and/or imprisonment for a term not exceeding 90 or 93 days, except whenever a specific penalty is otherwise provided except pursuant to MCL 117.3(k), MCL 257.625(1)(c) of the Michigan vehicle code is hereby specifically adopted by reference. In addition to probation, costs of prosecution, and any other consequence ordered by the court, a violation of this Code is punishable by one or more of the following:
  - (1) Community service for not more than 360 hours.
  - (2) Imprisonment for not more than 180 days.
  - (3) A fine of not less than \$200.00 or more than \$700.00.
- (c) The commission of any violation of this Code that is declared to be a civil infraction shall subject the violator to a civil penalty as provided by state law for civil infractions, or municipal civil infractions whichever is applicable, and as determined by city ordinance.
- (d) Except as specifically provided, any person under the age of 17 years who violates any provision of this Code or any ordinance of the city shall be dealt with by the juvenile division of the probate court or as prescribed by the laws of the state.
- (e) In addition to the penalties provided in subsections (b) and (c) of this section, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a new and separate offense for each day that such condition continues to exist.
- (f) In addition to any penalty under this section, the city may seek injunctive relief, abate the condition as a nuisance, revoke any permit or license, and/or seek any other available remedy.
- (g) The provisions of this section shall not apply to the failure of city officers and employees to perform duties required in this Code.

All other Sections of Chapter 1 – General Provisions, shall remain unaffected.



Ordained this 26th day of February, 2018. Effective upon publication.

Andrew M. Harris, Mayor

J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held February 26, 2018 and that a summary was published March 4, 2018 on the Observer and Eccentric newspaper.

J. Cherilynn Mynsberge, City Clerk

CITY OF BIRMINGHAM  
ORDINANCE NO. 2262

**AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 50 – ENVIRONMENT, ARTICLE II. – NUISANCES, DIVISION 1 – GENERALLY, SEC. 50-29 CONSTRUCTION SITE MAINTENANCE PROVISIONS FOR RESIDENTIAL AND COMMERCIAL PROPERTIES.**

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 50. Environment, Article II. Nuisances, Division 1. Generally, Sec. 50-29 Construction site maintenance provisions for residential and commercial properties, shall read as follows:

Sec. 50-29 – Construction site maintenance provisions for all properties.

A. All residential and commercial properties, in addition to other City Code provisions and the requirements of the Michigan building codes, shall comply with the following provisions while under a valid permit for construction:

- 1) *Residential Construction Hours.* Residential construction, repair, remodeling, demolition, drilling, wood cutting, excavating, and all other construction activities shall only be permitted between 7:00 a.m. and 7:00 p.m. and shall only be permitted Monday through Saturday, except legal holidays, with activities not exceeding the decibel levels identified in Table I of Section 50-74.
- 2) *Commercial Construction Hours.* Commercial construction, repair, remodeling, demolition, drilling, wood cutting or excavating, and similar construction activities conducted between 7:00 a.m. and 7:00 p.m. Monday through Saturdays, except legal holidays, which does not produce a sound level exceeding 100 DBA at or beyond the property line of the property on which the work is being conducted.
- 3) *Loading, Idling and Deliveries.* In addition to construction activities, the following limitations shall apply to all construction sites on legal holidays, Sundays, and between 7:00 p.m. and 7:00 a.m., Monday through Saturday:
  - a. No loading or unloading of trucks, trailers, etc., on a construction site within 500 feet of any residential dwelling.
  - b. No idling or running of vehicle engines or other motors on a construction site within 500 feet of any residential dwelling.
  - c. No making or receiving deliveries for materials, supplies, equipment, etc., on a construction site.
- 4) *Public Protection.* Wherever a building or structure is erected, altered, repaired, removed or demolished, the operation shall be conducted in a safe manner and suitable protection for the general public must be provided.

- 5) *Equipment Storage.* Construction equipment must be stored in an orderly fashion and in compliance with the building code.
- 6) *Airborne Materials.* Protective provisions must be provided for control of on-site dust, soil and any other airborne materials so that such materials remain on the job site.
- 7) *Watchman.* Wherever a building is being demolished, erected or altered, a watchman shall be employed to warn the general public when intermittent hazardous operations are conducted across the sidewalk or walkway or where required by the building official.
- 8) *Construction Fencing.* Every excavation and/or area of a construction site must be enclosed with a barrier consisting of chain link fencing not less than six (6) feet high to prevent the entry of unauthorized persons. Barriers of equal or greater strength may be utilized if approved in writing by the building official. Construction fencing must comply with the following provisions:
  - a. The six-foot tall rigid construction fencing must remain in place until a City Official has approved its removal.
  - b. The fence must remain properly installed inside the lot one foot from the City sidewalk.
  - c. The fence must not encroach onto or over any adjoining property at any height.
  - d. Access gates are required in the construction fence and must be able to be secured in a closed rigid position.
  - e. Gates opening outward must be able to be secured in the open position one foot away from the City sidewalk.
  - f. The gates must be closed and secured at all times construction workers are not present.
- 9) *Sign.* The "Code of Conduct" sign provided by the City, must remain mounted on the front of the fence near the gate.
- 10) *Address.* The property address numbers must be posted on front of the fence and legible from the street.
- 11) *Silt Fencing.* Silt fencing must be installed at construction sites where earth disruption has occurred and must be properly maintained until its removal as approved by a City Official.
- 12) *Streets and Sidewalks.* The City streets and sidewalks must be kept clean and passable at all times. Any mud or debris deposited on the street or sidewalk must be cleaned up immediately.
- 13) *Vehicle Access.* A construction driveway consisting of concrete, asphalt or 21AA crushed stone 6-inches deep must be provided from the street to a point of 20-feet into the site from the property line. The driveway must be properly maintained at all times.
- 14) *City Right of Way.* The grass area between the road and the sidewalk cannot be used for parking vehicles, staging of materials, and must be properly maintained. Any damage must be repaired immediately to the satisfaction of a City official.

- 15) *Deliveries, Material Staging.* All construction materials must be delivered directly onto the construction site. The City Street, sidewalk and grass area between them must not be used for deliveries or staging of construction materials at any time.
  - 16) *Sidewalk Damage.* Any damage to the sidewalk must be repaired immediately unless a Sidewalk Obstruction Permit has been issued by the Engineering Department.
  - 17) *Sidewalk Repair.* Sections of sidewalk that are damaged or removed must be repaired with concrete or asphalt to the satisfaction of a City official.
  - 18) *Toilet Facilities.* A toilet facility must be provided for construction workers and must be maintained in a sanitary condition, within the fenced area of the site.
- B. *Penalties for violations.*

- 1) *Unsafe Construction Site.* Building permit holders shall be held responsible to have a legal and safe construction site. If five (5) or more violations of this Section 50-29, and/or Section 118-15 occur on the same site per calendar month, the building permit holder shall be cited under this section for an unsafe construction site. The penalty shall be as specified in the Schedule of Fees, charges, bonds and insurance.
- 2) *Civil Infraction.* Any violation under this Section "Construction Site Maintenance" shall be a municipal civil infraction issued to the party in violation. For a first, second, third and subsequent offense of the same violation under this section at the same site the fine shall be as specified in the Schedule of Fees, charges, bonds and insurance.
- 3) *Daily Violation.* Each and every day that a violation occurs on the same construction site under Section 50-29 and/or Section 118-15 shall constitute a new, separate and citable violation with the penalties prescribed above.

All other Sections of Chapter 50 - Environment, shall remain unaffected.

Ordained this 26th day of February, 2018. Effective upon publication.

Andrew M. Harris, Mayor

J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held February 26, 2018 and that a summary was published March 4, 2018 and published in the Observer and Eccentric newspaper.

J. Cherilynn Mynsberge, City Clerk

**CITY OF BIRMINGHAM  
ORDINANCE NO. 2263**

**AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 50 – ENVIRONMENT, ARTICLE II. – NUISANCES, DIVISION 4 – NOISE, SEC. 50-74 DECIBEL LEVEL PROHIBITIONS.**

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 50. Environment, Article II. Nuisances, Division 4. Noise, Sec. 50-74 Decibel Level Provisions, shall read as follows:

Sec. Sec. 50-74. - Decibel level prohibitions.

- (a) No person shall conduct or permit any activity, including those specific prohibitions listed on section 50-73, that produces a DBA at or beyond the property line of the property on which it is conducted which exceeds the levels specified in Table I. Such noise levels shall be measured on the property line or on the adjacent property which is receiving the noise. Where property is used for both residential and commercial purposes, the limitations set forth below for commercial property shall apply.

Table I

| Use of Property Producing the Sound | Use of Property Receiving the Sound | Sunday to Saturday 7:00 a.m. to 7:00 p.m. | Sunday to Saturday 7:00 p.m. to 7:00 a.m. |
|-------------------------------------|-------------------------------------|---|---|
| Residential                         | Residential                         | 75  | 60  |
| Commercial                          | Residential                         | 80  | 60  |
| Residential                         | Commercial                          | 80  | 60  |
| Commercial                          | Commercial                          | 90  | 75  |

(b) The following limited activities are exempted from the sound level limitations of this section:

- (1) *Equipment operations.* Operation, between 7:00 a.m. and 7:00 p.m., of power equipment that does not produce a sound level exceeding 100 DBA at or beyond the property line of the property on which the equipment is operated.
- (2) *Snow removal equipment operations.* Operation of snow removal equipment which does not produce a sound level exceeding 90 DBA at or beyond the property line of the property on which the equipment is operated.

All other Sections of Chapter 50 - Environment, shall remain unaffected.

Ordained this 26th day of February, 2018. Effective upon publication.

Andrew M. Harris, Mayor

J. Cherilynn Mynsberge, City Clerk

I, J. Cherilynn Mynsberge, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held February 26, 2018 and that a summary was published March 4, 2018 in the Observer and Eccentric newspaper.

J. Cherilynn Mynsberge, City Clerk