

**BIRMINGHAM CITY COMMISSION MINUTES**  
**OCTOBER 28, 2019**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

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

Mayor Pro Tem, Pierre Boutros called the meeting to order at 7:30 P.M.

**II. ROLL CALL**

Present: Mayor Pro Tem Boutros  
Commissioner DeWeese  
Commissioner Harris  
Commissioner Nickita  
Commissioner Sherman

Absent: Mayor Bordman  
Commissioner Hoff

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Acting City Clerk Arft, City Planner Ecker, City Engineer O'Meara, Assistant City Engineer Fletcher, Finance Director Gerber, H.R. Manager Myers, DPS Director Wood, and Police Chief Clemence

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

**08-218 -19 ANNOUNCEMENTS**

- The City Commission acknowledges and thanks Mr. Dan Isaksen for his service to the community on the Multi-Modal Transportation Board.
- Tuesday, November 5, 2019 is the election of four City Commissioners and three Library Board members in Birmingham. The polls will be open from 7:00 AM to 8:00 PM. Also on the ballot are proposals for Oakland Community College and Birmingham Public Schools. Sample ballots for each of the nine precincts in Birmingham are available at the City Clerk's Office during business hours, or by visiting the Clerk's Office webpage at [www.bhamgov.org](http://www.bhamgov.org). Contact the Clerk's Office at 248-530-1880 during business hours for information about how you can request an Absent Voter ballot. The Clerk's office will be open from 8 A.M. to 4 P.M. on Saturday, November 2<sup>nd</sup> for the purpose of issuing and receiving Absent Voter ballots.

**08-219 -19 APPOINTMENTS**

The Commission interviewed two candidates for the Advisory Parking Committee – Alternate Member

1. Michael Horowitz
2. Robin Mueller

**MOTION:** Motion by Commissioner Sherman:  
To appoint Mr. Horowitz as the Alternate Member to the Advisory Parking Committee to complete a three-year term to expire September 4, 2020.

Mr. Bloom, resident, made a request for comment before the vote.

Mayor Pro Tem Boutros explained that public comment is not allowed during the nomination and subsequent appointment of an individual to a board or committee.

Commissioner Harris pointed out, that one of the luxuries of the City of Birmingham is that there are many qualified candidates applying for committee and board appointments. He expressed that this is another example of how both candidates would do a good job and encouraged Ms. Mueller to stay involved and keep applying as opportunities become available.

Commissioner Nickita called for verification from City Attorney Currier on the policy as it applies to public comment during this portion of the agenda.

City Attorney stated that traditionally public comment is not addressed during appointments, but he does not believe that there is a rule or procedure that prevents the Commission from doing so.

Mayor Pro Tem Boutros called Mr. Bloom for comment.

Mr. Bloom, resident, spoke in opposition of Mr. Horowitz because he is new to Birmingham and in favor of the NOW project.

VOTE:	Ayes:	5
	Nays:	0
	Absent:	2

**Administration of the Oath of Office:**

Acting City Clerk Arft administered the Oath of Office to Mr. Horowitz.

**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.

**08-220 -19 APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:

Mr. Bloom, Resident: Item A – Resolution approving the regular City Commission meeting minutes of October 7, 2019.

Commissioner Sherman: Item F - Resolution approving the request from the Chabad of Bloomfield Hills to display the Shain Park Menorah on December 19-31, 2019, with a special gathering to be held on December 23, 2019 from 5-7 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.

Item P - Resolution approving the amendment to the City Manager's Employment Agreement as outlined in the Third Amended Employment Agreement and directing the Mayor to sign the Agreement on behalf of the City.

**MOTION:** Motion by Commissioner Sherman seconded by Commissioner Nickita:  
To approve the Consent Agenda with the exception of Items A, F & P.

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

- B. Resolution approving the Joint City Commission-Planning Board Work Session minutes of October 17, 2019.
- C. Resolution approving the warrant list, including Automated Clearing House payments, dated October 9, 2019 in the amount of \$1,090,036.57.
- D. Resolution approving the warrant list, including Automated Clearing House payments, dated October 16, 2019 in the amount of \$1,817,477.75.
- E. Resolution approving the warrant list, including Automated Clearing House payments, dated October 23, 2019 in the amount of \$697,107.06.
- G. Resolution confirming the City Manager's authorization for an emergency expenditure pursuant to Sec. 2-286 of the City Code in the amount of \$18,000 at the North Old Woodward parking garage to repair and secure failing panels on the exterior façade to be paid from account #585-538.005-977.0000.
- H. Resolution approving the agreement with WJE Engineers and Architects, P.C. (WJE) for professional engineering services to conduct full structural assessments of the five parking garages in downtown Birmingham for an amount not to exceed \$392,480 from account #585-538.001-811.0000 for Fiscal Year 2019-2020. Further, direct the Mayor and City Clerk to sign the agreement on behalf of the City.
- I. Resolution approving the Public Arts Board's recommendation that the City purchase the sculpture "The Counselor" by Chris Yockey for \$5,500 from account 101-299.000-811.0000; that the sculpture remain in its current location on the N. Old Woodward parking structure; and to approve the appropriations and amendment to the fiscal year 2019-2020 General Fund budget as follows:

Revenues:		
Draw from Fund Balance	101-000.000-400.0000	<u>\$5,500</u>

Total Revenues \$5,500

Expenditures:

Other Contractual Services 101-299.000-811.0000 \$5,500

Total Expenditures \$5,500

- J. Resolution setting November 25, 2019 at 7:30 PM as the public hearing date for the Program Year 2020 Community Development Block Grant Program.
- K. Resolution setting November 25, 2019 at 7:30 PM as the public hearing date for the reprogramming of program year 2018 Community Development Block Grant (CDBG) funds.
- L. Resolution approving the Professional Services Proposal from Automated Benefit Services, Inc., for a three-year agreement with renewal options to provide administration of the City's Flexible Spending Account and Health Reimbursement Arrangement programs, and to authorize the Human Resources Manager to sign the Addendum to the Administrative Services Agreement on behalf of the City following satisfactory legal review by the City Attorney.
- M. Resolution confirming the City Manager's authorization for the emergency expenditure related to the repair of vehicle #160 by Jack Doheny Companies in the amount of \$7,905.35 from the Auto Equipment Fund account #641-441.006-933.0200, pursuant to Sec. 2-286 of the City Code.
- N. Resolution approving the purchase and planting of ninety-six (96) trees from Greg Davis Landscape Services for the Fall 2019 Tree Purchase and Planting Project for a total project cost not to exceed \$38,315.00. 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 and the Parks- Other Contractual Services account #101-751.000-811.0000 for these services. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.
- O. Resolution approving the installation of a Yield Sign on Millrace at Lakeside. Further, to direct the Chief of Police and the City Clerk to sign the traffic control order on behalf of the City establishing the installation of a "Yield" sign on Millrace at Lakeside.

**08-221-19 (ITEM A) MINUTES OF THE REGULAR COMMISSION MEETING**

David Bloom, Resident, requested that the proposal he presented during public comment at the October 7, 2019 meeting of the City Commission be included in the minutes of that meeting.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner DeWeese: To approve the Minutes of the regular Commission Meeting with noted amendment.

VOTE:                   Ayes:               5  
                              Nays:               0  
                              Absent:            2

**08-222 -19 (ITEM F) REQUEST TO DISPLAY SHAIN PARK MENORAH**

Commissioner Sherman noted that this is a different organization sponsoring the event and wanted to meet Rabbi Dubov and asked if the same menorah would be used. Rabbi Dubov introduced himself and expressed that Rabbi Cohen is not in town and asked him to take over in his absence. He noted that there are not a lot of changes; just trying to make it better for the 20<sup>th</sup> Anniversary Celebration.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Harris:  
To approve the Resolution requesting from the Chabad of Bloomfield Hills to display the Shain Park Menorah on December 19-31, 2019, with a special gathering to be held on December 23, 2019 from 5-7 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:                   Ayes:               5  
                              Nays:               0  
                              Absent:            2

**08-223 -19 (ITEM P) AMENDMENT TO CITY MANAGER’S EMPLOYMENT AGREEMENT**

Mayor Pro Tem Boutros would like to move this to a future meeting since Mayor Bordman and Commissioner Hoff were absent.

Commissioner Sherman asked for it to be pulled because he knows it is a topic of public interest; and felt that there is no reason to move it to the future. He went on to explain that this is an administrative process and should not be postponed due to absence. Having been through two searches, he learned that the City Manager is not being comparably compensated. This amendment was to take care of the issues we know of; discussion of severance provisions determined that the information was not correct. There would be no severance if the City Manager were fired for breaching his contract terms. If the City were to breach the terms of the contract, the City Manager would be entitled to severance. The length of severance was based on the number of years that the City Manager has been with the City, and brings Birmingham in line with other compensation packages in the area. The rest of the terms of the contract are the same.

Commissioner Nickita concurred with the fact that the Commission had an administrative duty to move forward with this item.

Commissioner DeWeese was in the middle ground. He wanted to let the people in attendance tonight speak on it, and then the commission can take a vote at the later meeting.

Commissioner Harris agreed with Commissioner Sherman and Commissioner Nickita that there are no compelling reasons to postpone this action.

After polling the public, Mayor Pro Tem Boutros agreed to allow people to speak on this issue tonight.

Commissioner DeWeese suggested that the Commission move on this item now so people would not have to wait until the end of the meeting.

Commissioner Sherman agreed with Commissioner DeWeese with the assumption that comments would be limited and the speakers would be respectful of time, to allow for the meeting to move along in a timely manner.

Commissioner Nickita expressed that relative to this severance discussion, it is aligned directly with the previous long term City Manager's severance. He reiterated that this is a tenured position according to the Michigan Municipal League and this type of severance is nothing new.

## **PUBLIC COMMENT**

Mandy brown expressed concern that it was on the Consent Agenda. He asked why now and why 1-3 years. He suggested that the Commission consider modifying the document to explain the conditions under which the severance would be paid.

Andrew Haig addressed the Commission and pointed out that they have a problem communicating issues to the public. He would like to see a cause and reason for each issue moving forward.

Brad Coulter, 498 Wimbledon, disagreed with the reasonableness of the proposed severance. Six to twelve months is standard. If benchmarking data supports 24 months, it should have been included in the package. Spending decisions of this size should have more supporting data.

Commissioner Sherman reiterated that the severance only applies if the city violates the contract.

David Bloom presented an organization chart. He said that according to the chart, the legal department reports to the City Manager and felt that the contract drawn up by the legal department for the City Manager's Employment Agreement is a conflict of interest.

Diane McKeon, past Mayor, expressed that her issue is not City Manager Valentine; she was disappointed that the item was on the consent agenda with no backup documentation. She said that Commission Sherman's explanation was great and should have been included in the backup, and went further to say that 24 month severance is unacceptable.

Michael Horowitz, resident, expressed that he had been exposed to a myriad of conversations in the City. The most common thread is lack of communication; he also said that he is inundated with information. He believes that discussion and negotiations for his compensation should be private.

## **END OF PUBLIC COMMENT**

Commissioner Nickita-pointed out that "for cause" is in paragraph 2 of the document.

City Attorney Currier read paragraph 2 of the amended contract aloud for the public.

Mayor Pro Tem Boutros explained that his decision to defer this issue to a later date is to provide the public with more information; and would like the full commission to vote on this.

Commissioner Nickita reminded everyone that this is an administrative approval and has been done this way many times with other City Managers. The process is simple, analysis are done on other Managers, and he feels that there is consensus among the Commissioners that the City Manager is underpaid. He further expressed that this document is a correction to previous packages and sees it as appropriate. He went on to say that, this issue is typically on the Consent Agenda and the Commission is doing what they should be doing. Addressing severance that was inappropriate is not different this time from previous years.

Commissioner Harris expressed that part of this administrative process is required to be private by state law; only the vote is only public. The contract is in line with the market, and it is

important to keep City Manager Valentine. He deserves this based on merit and Commissioner Harris is in support of this resolution forward.

Commissioner DeWeese expressed that there are many who disagree with the City Commission and the focus on the City Manager is misplaced. The position of City Manager should be apolitical. Mr. Valentine has been respectful and does what the City Commission directs him to do. The Commission has direct control over the City Manager's personnel issues. After considerable research, he found that the City is way underpaying Mr. Valentine. Given a motion, he will support the vote tonight.

Commissioner Sherman echoed Commissioner DeWeese's comments.

Mayor Pro Tem Boutros agrees that Mr. Valentines performance has been strong and an asset to the City.

**MOTION:** Motion by Commissioner Nickita, seconded by Commissioner Harris:  
To approve the resolution approving the amendment to the City Manager's Employment Agreement as outlined in the Third Amended Employment Agreement and directing the Mayor to sign the Agreement on behalf of the City.

VOTE:                   Ayes:           5  
                              Nays:           0  
                              Absent:        2

**V. UNFINISHED BUSINESS**

**08-224 -19                   TRAFFIC SIGNAL AT N. OLD WOODWARD AVE & WILLITS ST.**

Director Ecker presented this item.

- Commissioner Nickita asked how the bus lane would be designated so that people would see it.
- Director Ecker said that temporary bollards are proposed for bump outs with pavement markings for the bus lane.
- Commissioner Sherman appreciates the staff looking at this on a test basis.
- Commissioner Nickita asked for the next step in terms of clarifying some of these points.
- City Manager Valentine expressed that the details can come either back as a staff report after the fact or see it again for approval.
- Commissioner Nickita does not want to extend the issue but clarification needs to be provided by the consultants.
- Julie explained that drawings are first and once implemented data collection would occur.
- Commissioner DeWeese would like to approve as a concept, in the meantime implement this piece and additional costs could be brought back at a later meeting in the form of change orders.

**MOTION:** Motion by Commissioner Nickita, seconded by Commissioner Harris:  
To approve the resolution for the recommended modifications to the traffic signal timing at the N. Old Woodward Ave. & Willits St. /Oakland Blvd. intersection for a trial period as soon as possible, through March 2020, with the enhancement of the temporary bus lane at a total estimated cost of \$9,200, including:

1. Remove the permissive left turn phase of the traffic signal for eastbound and westbound traffic using Option 3 as a trial through March, 2020;
2. Installing updated crosswalk markings on three legs of the intersection; and

3. Installing lane modifications north of the intersection, marked by bollards, such that a bump out can be added on the northwest corner, and a separated bus lane will be created on the northeast corner.

Further, approving the appropriation and amendment to the 2019-2020 fiscal year Major Street Fund budget as follows:

Major Street Fund

Revenues:

Draw from Fund Balance	202-000.000-400.0000	<u>\$9,200</u>
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Total Revenue Adjustments	\$9,200
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Expenditures:

Other Contractual Service	202-449.001-981.0100	\$9,200
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Total Expenditure Adjustments	\$9,200
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VOTE:	Ayes:	5
	Nays:	0
	Absent:	2

**VI. NEW BUSINESS**

**08-225 -19 PUBLIC HEARING TO CONSIDER ZONING AMENDMENT**

Mayor Pro Tem Boutros opened Public Hearing at 8:45 p.m.

Brooks Cowan presented the item and explained that a SLUP is needed. The majority located along Woodward between Oakland and Lincoln, to include All Seasons, Hazel Ravines, and Triple Nickel. Nothing is eligible east of Woodward, MU5 and MU7.

- Commissioner Sherman commented that the presentation should address the ordinance before the commission only, the Rail District as a whole, as opposed to the project specifications.
- Commissioner Deweese expressed that people are concerned that there are going to be a lot of liquor licenses coming into a certain area. He went on to say that the licenses are under total control of the commission, it is a tool to provide some catalyst to reinvigorate the area, but will not become over consumed with licenses.
- Commissioner Nickita questioned if the district in the Master Plan called the S. Rail District, due to its eclectic nature, is consistent with what was proposed as the S. Rail District. He further asked if we anticipated it being further north.

**Public Comment**

- Andrew Haig supported the whole point of addressing an area, he also suggested limiting to 2-3 parcels.
  - Mr. Cowan presented the original map proposed to the Planning Board.
- Larry Bertollini expressed concern about the big chunk being changed. He felt that the City should move more slowly. While he is not opposed to spot zoning, sidewalk issues, and parking should be investigated. He felt the residents in the area are not aware of the impact and should be given notification. He noted that one of the suggestions of the new Master Plan was to get access to train and should concentrate on the Triangle District.
- David Bloom supported comments by Mr. Haig and Mr. Bertollini.

**Public hearing closed at 9:09**



- Commissioner Nickita clarified the public space on the corner and felt it should be eliminated. He expressed that development along both sides of a street is typical. Approving the number of parcels doesn't mean that all will be restaurants; each will be individually approved/denied. The intention is be comfortable with the approach.
- City Manager Valentine confirmed that proper notification was given about this issue.
- Commissioner Harris clarified that the Commission is not changing the ordinance to make the properties eligible.

**MOTION:** Motion by Commissioner DeWeese, seconded by Commissioner Harris:  
 To approve, with condition that the public properties on the NE corner of Lincoln and Eton be removed from the map, the resolution for a Zoning Amendment to Chapter 126, Zoning Ordinance, Appendix C, Exhibit 1, Licenses for Economic Development to include 2159 E. Lincoln Street as well as all the properties along Cole Street and Lincoln Street within the Rail District as recommended by the Planning Board to be qualified to be eligible for an Economic Development License;

**AND**

Resolution approving an amendment to Chapter 126, Zoning Ordinance, Article 2, Section 2.39 MX, Uses Requiring a Special Land Use Permit, to allow establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development on those parcels identified in Appendix C, Exhibit 1 with a Special Land Use Permit.

Mr. Larry Bertolline strongly disagreed with the motion.

Commissioner Nickita clarified that this is an allowance for applications for approval, not the same as an ordinance. It must still go through the approval process.  
 Mayor Pro Tem Boutros added that he is in support of the motion. The Commission controls growth/demand and it is up to the discretion of the Commission.

VOTE:                   Ayes:           5  
                               Nays:           0  
                               Absent:        2

**08-226 -19                   PUBLIC HEARING FOR LINCOLN YARD APPLICATION**

Mayor Pro Tem Boutros opened the Public hearing at 9:17 p.m.

Mr. Cowan presented this item.

- Mayor Pro Tem Boutros requested clarification on where the two entrances to buildings are located on the site plan. Mr. Cowan showed the entrances on the plan.
  - Curt Catallo addressed the Commission; he complimented the staff on their work; and is happy to deliver something that belongs in Birmingham. Armstrong White should be named neighbor of the year for their parking agreement.
- Commissioner Sherman noticed a difference in hours of operation.
  - The restaurants generally do not stay open until 2:00a.m. so midnight closing has a better optic.
- Commissioner Nickita shared concern about hours of operation for the area, expressed concern about accessibility for the Little Yard, and commented that the suggested solution to close at midnight is good.

- Cassius Catallo explained the culture of this business, which is walkable, inclusive, and comforting. It would offer comfort food as well as health conscious options.
- Commissioner DeWeese asked about the visible light transmission and energy issues; and why it is not doable. Mr. Catallo confirmed that the requirement would be met.

**Public Comment:**

- Larry Bertollini commented on the outdoor seating and parking requirements, he observed the parking issues in the area.
  - Mayor Pro Tem Boutros replied that there are no parking requirements for Bistros.
  - City Manager Valentine commented that the City is always looking at parking and does not know when it will come into play.
  - Mr. Catallo noted that he reduced outdoor seating from the original proposal.
- David Bloom commented that based on the zoning ordinances, there are parking requirements for outdoor dining.

**Public hearing closed at 952 p.m.**

- Commissioner DeWeese asked for the commissions wish for visible light. Also if the commission could approve this item because it is a concept. He also inquired about the enforcing or not enforcing the 80% requirement.
  - City Manager Valentine expressed that there are options to have them come back or conditioned upon administrative approval. Enforcing the 80% would be a discussion of the commission.
  - The applicant is using the same product as the Library.
- Commissioner Nickita stated that the commission could administratively approve tonight. Clear glass altered at the Library was for a reason, not a retail space, floor to ceiling windows, reluctant to use that as a base for private projects and need to hold the line on the ordinance or identify that the ordinance has to be revised. The Library was very atypical.
- Commissioner Harris asked the applicant to describe in detail the challenges faced in satisfying glass requirement.
  - The applicant explained that the 80% does not provide a good U factor.
- Mr. Catallo explained that the purpose of VLT is to let people know what is going on inside.
- Commissioner Sherman pointed out the Commission made it clear that it was limited to that project because of the sensitivity of products to light.
  - Architect is still examining designs to be in compliance.
- Commissioner Sherman would have them come back with that piece of it for approval.
- Commissioner Nickita said it is not a valid argument; we need to hold the line on the ordinance in place. If it is problematic, then the ordinance should be revisited. He suggested that the applicant work on trying to fit within the ordinance.

**MOTION:**

Motion by Commissioner Sherman, seconded by Commissioner Harris:

To approve the resolution for a Special Land Use Permit and Final Site Plan and Design Review for Lincoln Yard at 2159 E. Lincoln to allow the use of an economic development liquor license to serve alcohol on premise and to occupy a building more than 6,000 square feet in size in the MX Zone. Subject to administrative approval of changes to the entrance to comply with current ordinances.

- Bill Loizon suggested that the Commissioners look at Whole Foods' big wall of glass to see the 80% ordinance at work. He feels that it is unreasonable and unsightly. With that said, he felt that the ordinance needs some adjustments.

VOTE:                   Ayes:               5  
                               Nays:               0  
                               Absent:            2

**08-226 -19                   PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE PERMIT AND FINAL PLAN & DESIGN REVIEW FOR 298 S. OLD WOODWARD**

Mayor Pro Tem Boutros opened the Public Hearing at 10:06 p.m.

Director Ecker presented the item, with the listed facts:

- The applicant is applying to transfer a Class B Resort License under the Hotel Option.
- Planning Board found Financial Capability
- 151 Proposed Rooms
- Sit down restaurant with private dining room.
- Bar and lounge.
- Entire Hotel under Liquor License
- Signage and branding not presented tonight
- No out-door dining is being proposed.
- There are discussions about Valet Parking, not included in the Site Plan.
- Proposing 175 permanent jobs.
- The facility is expected to assess at 11 times more than previously assessed.
- Police background investigations have been completed.

Mayor Pro Tem Boutros called for public comment and there was none.

**Public hearing was closed at 10:16 p.m.**

**MOTION:**    Motion by Commissioner Sherman, seconded by Commissioner Harris:

To approve a resolution for a Special Land Use Permit and Final Site Plan and Design Review for 298 S. Old Woodward to allow the operation of the Daxton Hotel with the service of alcoholic liquors, in accordance with Article 7, Section 7.34 of the Zoning Ordinance;

AND

Resolution authorizing the City Clerk to sign the MLCC Local Government Approval Report (MLC 436.1510) and to approve the liquor license request of Aparium Hotel Group, LLC that requests a B-Hotel Liquor License be issued under MCL 436.1521(4), SDM License with Outdoor Service (1 Area) Sunday Sale Permit (AM)(PM), Dance-Entertainment Permit, Catering Permit, Eight (8) Additional Bar Permits, Specific Purpose Permit for Hotel Operations located and a Participation Permit in the name of Woodward Brown Ventures, LLC located at 298 S Old Woodward, Birmingham, Oakland County, MI 48009.

VOTE:                   Ayes:               5  
                               Nays:               0  
                               Absent:            2

**08-227 -19                    AUDIT PRESENTATION – NO ACTION EXPECTED**

Finance Mark Gerber presented Mr. Doug Bohren and Tim St. Andrew from Plante Moran.

- Explained the contents
- Unmodified Opinion, the highest form of Assurance.

Commissioner Harris asked about OPEC and Retiree Health Care and was advised that they are the same.

Commissioner Nickita thanked the auditors.

Commissioner Sherman extended kudos to the staff.

**08-228 -19                    AMENDMENT TO THE SIGN ORDINANCE TO PROHIBIT ELECTRONIC MESSAGE CENTERS**

Nick Dupuis, City Planner, presented this item. This amendment would reduce visually unsightly signage; specifically regulating those types of signs.

- Commissioner DeWeese commented that the City uses electronic signage at the parking garages and is uncomfortable restricting their use.
- Mr. Dupuis expressed that he may amend to not include parking garage signs
- Commissioner Nickita expressed that city signs exist and therefore grandfathered in, but going forward, he thinks open signs flashing are inappropriate. He would like to see the ordinance expanded eventually to include open signs.
- Commissioner DeWeese noted that the new Master Plan addressed signage; while he can see adopting it tonight, it needs some further work.
- Mayor Pro Tem Boutros echoed Commissioner Nickita about open signs.

Public Comment

- David Bloom, resident, agreed with Commissioner DeWeese that the Master Plan addresses signage and this item is not consistent with the MP.
- City Manager Valentine noted that the Master Plan had not been adopted, but should be a guide to have future conversations.
- Commissioner Nickita expressed that ordinances are not perfect and may need to evolve over time.

**MOTION:**                    Motion by Commissioner Nickita, seconded by Commissioner Sherman:  
To approve the following amendments to the Sign Ordinance to add Electronic Message Centers to the list of prohibited sign types:

1. To amend Article 1, Section 1.03, Sign Requirements, to amend the prohibited sign types;

**AND**

2. To amend Article 3, Section 3.02, Definitions, to add definitions for Electronic Message Centers and Gas Station Price Signs.

VOTE:                            Ayes:                    5  
                                       Nays:                    0  
                                       Absent:                2

**08-229 -19                    AMEND ADVISORY PARKING COMMITTEE MEMBERSHIP**

City Manager Valentine presented this item.

- Recommending a modification to the composition of the board to enable the City to fill some long-time vacancies.
- Replace a building owner with a BSD board member to participate on the board

- Remove the City Engineer and Replace with the City Manager or his designee.

Brad Host expressed that he thought it might be a mistake to eliminate a representative from Engineering.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Harris: To adopt the resolution to amend Advisory Parking Committee membership to remove the Building Owner position and replace it with a board member of the Birmingham Shopping District and to remove the City Engineer (non-voting, ex-officio) position and to replace this position with the City Manager, or his/her designee.

VOTE:                   Ayes:               5  
                               Nays:               0  
                               Absent:            2

**08-230 -19                    WATER FEES**

Fletcher Austin, Engineering, presented this item.

- There are approximately 9,000 water customers. 550 Homes may fall into that category.
- The City is required to replace 7% a year.
- Suggested waiving fees associated with the removal of lead water lines.

Mayor Pro Tem Boutros asked how the affected homes are being identified.

City Manager Valentine explained that it is up to each community to plan for replacement; the City has a plan to be submitted to the State. This resolution is an incentive to help those who want to replace leads on their own. It was designed to assist homeowners with known lead lines to avoid permit fees in the event they want to make the fix sooner than the City.

**MOTION:** Motion by Commissioner Harris, seconded by Commissioner DeWeese: To amend the Fees, Charges, Bonds, Insurance Schedule to allow all associated water permit fees (ROW Permit, Plumbing Permit, Trench Maintenance and Inspection Fees) to be waived for individuals that wish to replace their lead water services.

VOTE:                   Ayes:               5  
                               Nays:               0  
                               Absent:            2

**VII. REMOVED FROM CONSENT AGENDA**

Done at the beginning of the Agenda.

**VIII. COMMUNICATIONS**

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

- Brad Host commented on the 20/40 plan. At the Planning Board study session, the Mayor cut off City Master Planner before he could address Quarton Lake. Residents did not know about the Charrettes held over the summer. Public input is greatly needed.
- City Manager Valentine expressed that there is a survey planned to engage the public.
- Terese Longe, 103 Yosemite, commented about the lead testing and the lack of communication to residents. She wants the City to let the residents know that the replacement of the lines are the responsibility of the water provider. She thinks the City should prioritize the homes that are testing high and replace the lines immediately.

- David Bloom noted that at the last meeting Mr. Host suggested adding public comment to the beginning of the agenda and at the end. He also noted that at that meeting he asked for an independent investigation conducted on the NOW debacle and would like to see it on the next Agenda. He further presented his FOIA request and the response from the City Clerk.
- Cindy Rose addressed open sign ordinance suggestion. She also felt that the acceptance of the severance package was a courageous move on the part of this commission and feels that it was well deserved. It was a very good decision to advance the item. She further expressed her appreciation publicly for Commissioner Harris' service. He is outstanding, judicious, thoughtful, and never emotional. She thanked him for his service.
- Commissioner Sherman recognized and thanked Commissioner Harris on behalf of the commission for his service.

<b>X. REPORTS</b>
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1. Commissioner Reports
  - a. Notice of Intention to Appoint to Multi-Modal Transportation Board (1) Alternate and (1) regular members will be done on December 9, 2019.
  - b. Commissioner Nickita explained that the water lead issue is a nationwide issue and not specific to Birmingham.
  - c. Commissioner Harris commented that this is a bittersweet moment, the sweet in the sense that he will get a part of his life back and thanks his Wife for her support of this sacrifice. It is bitter in the sense that he will miss the opportunity to serve the residents of Birmingham. He expressed gratitude for the opportunity.
2. Advisory Boards, Committees, Commission's Reports and Agendas
3. Legislation
4. City Staff
  - a. Parking Utilization Report (Gunter)
  - b. 1<sup>st</sup> Quarter Budget Report (Gerber)
  - c. 1<sup>st</sup> Quarter Investment Report (Gerber)

INFORMATION ONLY

<b>XI. ADJOURN</b>
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**Meeting adjourned at 11:18 p.m.**

Cheryl Arft, Acting City Clerk  
/vc