

**BIRMINGHAM CITY COMMISSION MINUTES**  
**DECEMBER 9, 2019**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

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

Pierre Boutros, Mayor called the meeting to order at 7:30 PM.

**II. ROLL CALL**

ROLL CALL: Present: Mayor Boutros  
Mayor Pro Tem Longe  
Commissioner Baller  
Commissioner Hoff  
Commissioner Host  
Commissioner Nickita  
Commissioner Sherman  
Absent: None

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Acting City Clerk Arft, Fire Chief Wells, Assistant Fire Chief Bartalino, Planning Director Ecker, Police Chief Clemence, Deputy Treasurer Klobucar

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

**11-287-19 ANNOUNCEMENTS:**

- Mayor Boutros' Birthday was acknowledged and everyone sung the Happy Birthday song.
- Mrs. Andrews was recognized as a special guest.
- The Santa House located in Shain Park continues to be open for your visits through December 24, 2019. Horse-drawn carriage rides are also available on select dates throughout the holiday season. For more information on dates and times, visit [www.allinbirmingham.com](http://www.allinbirmingham.com).

**11-288-19 APPOINTMENTS TO THE BIRMINGHAM SHOPPING DISTRICT BOARD**

The following persons were appointed to the Birmingham Shopping District Board by City Manager Valentine and presented to the Commission for concurrence.

1. Jessica Lundberg, Revage Day Spa
2. Sam Surnow, The Surnow Company
3. Zachary Kay, Found Objects
4. Steve Quintal, Central Park Properties

Commissioner Hoff expressed that the listed candidates are excellent selections. They have stellar attendance records and felt that Ms. Lundberg would make an excellent addition to the Birmingham Shopping District Board.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Sherman:  
To concur with the City Manager’s appointment of Jessica Lundberg to the Birmingham Shopping District Board who is a business operator to complete a four-year term to expire November 16, 2022.

**AND**

To concur with the City Manager’s appointment of Sam Surnow to the Birmingham Shopping District Board who has an interest in property located in the district for a four-year term to expire November 16, 2023.

**AND**

To concur with the City Manager’s appointment of Zachary Kay to the Birmingham Shopping District Board as a Business operator for a four-year term to expire November 16, 2023.

**AND**

To concur with the City Manager’s appointment of Steve Quintal to the Birmingham Shopping District Board who has an interest in property located in the district for a four-year term to expire November 16, 2023.

VOTE:           Ayes,           7  
                  Nays,           0

**11-289-19                   CONFIRMATION OF BSD BOARD MEMBER TO APC**

City Manager Valentine presented this item.

**MOTION:** Motion by Commissioner Nickita, seconded by Commissioner Hoff:  
To confirm Birmingham Shopping District Board member Richard Astrein as the BSD board member representative to the Advisory Parking Committee to complete a three-year term to expire September 4, 2021.

Commissioner Baller suggested that this is an opportunity for a BSD representative to address the public, tell everyone what happens in the department, and comment on the BSD.

City Manager Valentine expressed that the commission is in the process of a confirmation and this is not the time for BSD to speak.

VOTE:           Ayes,           7  
                  Nays,           0

Mr. Hockman, chairperson of the BSD, was called forward to speak on behalf of BSD. He introduced Ingrid Tighe, Executive Director, highlighted the seasonal activities that are ongoing in the community, and gave a brief overview of what the Birmingham Shopping District does.

**11-290-19                   APPOINTMENTS TO THE BOARD OF REVIEW**

The following persons were interviewed for appointments to the Board of Review.

1. Lee (Leland) Feiste
2. Kathleen Devereaux
3. Suzanne Lasser
4. James Rayis
5. Harvey Rosenberg

**MOTION:** Motion by Commissioner Sherman:  
 To appoint Leland (Lee) Feiste as a regular member to the Board of Review for a three-year term to expire December 31, 2022.

VOTE:           Ayes,           7  
                   Nays,           0

**MOTION:** Motion by Commissioner Host:  
 To appoint Kathleen Devereaux as a regular member to the Board of Review for a three-year term to expire December 31, 2022.

VOTE:           Ayes,           7  
                   Nays,           0

**MOTION:** Motion by Commissioner Nickita:  
 To appoint Harvey Rosenberg as an alternate member to the Board of Review for a three-year term to expire December 31, 2022.

VOTE:           Ayes,           7  
                   Nays,           0

**11-291-19                   ADMINISTRATION OF OATHS**  
 Acting City Clerk Arft administered the Oath of Office to the appointees.

**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.

**11-292-19                   APPROVAL OF CONSENT AGENDA**

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Nickita:  
 To approve the Consent Agenda as listed.

- A. Resolution approving the Regular City Commission meeting minutes of November 25, 2019.
- B. Resolution approving the warrant list, including Automated Clearing House payments, dated November 27, 2019 in the amount of \$644,044.82.
- C. Resolution approving the warrant list, including Automated Clearing House payments, dated December 4, 2019 in the amount of \$255,025.63.

- D. Resolution approving a request from the Birmingham Memorial Day Committee to hold the Memorial Day Service in Shain Park on May 25, 2020 from 10:00 – 11:00 am, 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.
- E. Resolution approving the Oakland County Central Support Services Inter-Local Agreement and further, authorizing the Mayor to sign the agreement on behalf of the City.

ROLL CALL VOTE:   Ayes,                   Mayor Boutros  
                                                           Mayor Pro Tem Longe  
                                                           Commissioner Baller  
                                                           Commissioner Hoff  
                                                           Commissioner Host  
                                                           Commissioner Nickita  
                                                           Commissioner Sherman

Nays,                   0

**V. UNFINISHED BUSINESS**

None

**VI. NEW BUSINESS**

**11-293-19                   PUBLIC HEARING TO CONSIDER SLUP FOR BROOKLYN PIZZA,  
 111 HENRIETTA AND 195 W. MAPLE**

Mayor Boutros opened the Public Hearing at 7:55 p.m.

Planning Director Ecker presented this item.

The proposal from Brooklyn Pizza meets the requirements set forth by the Planning Board.

Mayor Boutros clarified that the glass requirement would be met per the current ordinance. If the requirements change, the owners would have the option to change the glass to satisfy the ordinance if they are still in the construction phase of the project.

Commissioner Nickita commented that the plan fits right in to the Bistro Ordinance that the City has in place. He went on to ask if the additional seating accessible from the outside affects the limit for bar seating specified in the ordinance.

Director Ecker clarified that the Planning Board reviewed this carefully and decided that the additional seating was seasonal, and not deemed bar seats. Therefore, it is compliant with the established Bistro Ordinance.

Commissioner Hoff asked if the additional seats proposed for outside are at tables or counters, and would there be table service.

Director Ecker replied that there are seats at tables and seats at the proposed counter. There would be no table service, which is consistent with how the restaurant currently operates. She also noted that the ordinance does not requires table service.

Commissioner Hoff noted that the plan before the commission is revised in six places; she asked how the plans were revised; what are the dates of proposed completion and what are the hours of operation.

Director Ecker replied that the revisions reflect the changes that were required to meet the conditions set forth by the Planning Board. The hours of operation would be 11:00 a.m. until 11 p.m. seven days a week.

Commissioner Sherman continued asking about the three seats at the counter with an open window where food or drink could be passed through. Director Ecker affirmed that this could happen but confirmed that it is not the intended use.

Mayor Pro Tem Longe clarified that alcohol would not be consumed on the way to the outside seating area from the inside.

Commissioner Sherman understood that servers were only permitted to carry alcohol outside of an establishment, so how would this work with patrons carrying alcohol to their seats.

Mayor Boutros asked Chief Clemence about a law preventing patrons from carrying alcohol to an outside seating area. Chief Clemence did not know of any rule or law prohibiting that action.

Commissioner Nickita discussed goals related to the bistro idea and outdoor seating; at that time, there was a law prohibiting alcohol in the public walkway. He recalled that there was some complexity to this issue and asked that we confirm the law about this item in reference to alcohol.

City Attorney Currier recalled the discussion; he felt the bistro ordinance allowed patrons to carry alcohol outside as long as they were adjacent to the building; there was no provision for crossing the walkway.

Commissioner Baller asked what would be the earliest date that the 80% glass requirement ordinance would come to City Commission. Director Ecker felt it would be sometime between early February to April, due to the priorities of the Planning Board related to the master plan.

Patrick Howe, attorney for the applicant, expressed that the project would commence in January, with planned completion date in mid-April.

Commissioner Hoff asked if the unscreened dumpster in the alley had been resolved, if not, where would the dumpster be located. The applicant felt that there is not enough room in the alley to screen the dumpster and it would not be moved from the current location. Director Ecker confirmed that the dumpster in question is grandfathered into the current requirement and that access to the alley is not blocked.

Public hearing closed at 8:22 p.m.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Nickita: To approve the Special Land Use Permit and Final Site Plan for Brooklyn Pizza at 111 Henrietta and 195 W. Maple and directing the Mayor to sign a contract to allow the operation of a bistro in the B4/D4 Zone;

**AND**

To authorizing the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and to approve the liquor license request of 111 Brooklyn, Inc. that requests a new Class C License to be issued under MCL 436.1521(A)(1)(B) and SDM License with Outdoor Service (1 Area) located at 195 W Maple Rd and 111 Henrietta St, Birmingham, Oakland County, MI 48009;

**AND**

Furthermore, pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the Local Approval Notice at the request of 111 Brooklyn, Inc. approving the liquor license request of 111 Brooklyn, Inc. that requested a new Class C License be issued under MCL 436.1521 (A)(1)(B) & SDM License with Outdoor Service (1 Area) located at 195 W Maple Rd and 111 Henrietta St, Birmingham, Oakland County, MI 48009.

Commissioner Nickita believed that the proposal aligned with the bistro ordinance as it was created; he also thinks it is a bit of an anomaly, and has some apprehension in supporting this proposal. However, in supporting, there has to be an understanding that it would be monitored carefully. With SLUPs, the commission has the ability to withdraw support in the event that the establishment becomes problematic.

Commissioner Hoff shared the same concerns; she agreed that there is potential for problems.

Mr. Howe assured the commission that there is a two-point identification check in place for alcohol purchases.

Commissioner Baller agreed with Commissioner Hoff, and asked why the establishment chose to not provide table service.

The applicant said that there would always be a manager and/or employees in the outdoor area to monitor alcohol consumption and to be sure that it remains on the property; he further said that it is no different from the other restaurants in Birmingham that minors frequent and alcohol is served.

Mayor Boutros thanked the applicant for his commitment to the City, and supported the plan.

VOTE:           Ayes,           7  
                  Nays,           0

**11-294-19                   PLANNING BOARD REVIEW SCHEDULE OF MASTER PLAN DRAFT**  
Planning Director Ecker presented this item.

Commissioner Sherman asked for a copy of the action list for this year. Director Ecker did not have the list but added that the first 6 items are on hold pending master plan discussions. Commissioner Sherman suggested that the action list be integrated into the master plan.

City Manager Valentine clarified the distinction between the two items and suggested the action list be brought back to the City Commission for review.

Commissioner Hoff expressed concern that there is not a good cross section of people responding to the surveys and sessions previously scheduled. She would like to see more input but wondered how the City would reach those who do not typically respond.

Commissioner Baller thinks the plan is too aggressive, agreed with Commissioner Hoff that the same people respond to the survey, round tables, charrettes, etc. He suggested that the Planning Board vet the document and break it down into simple to digest bullet points.

Mayor Pro Tem Longe agreed with Commissioner Baller on several points, she felt the surveys were cumbersome and difficult to express true opinions. She expressed that she is pleased with the leadership displayed by the Planning Board in taking on this project.

Commissioner Nickita felt that the City has significantly increased connection and communication. This plan has had more information than any plan ever presented by the City. He felt that The City is on the right path; and should look for other opportunities to fill in gaps and reach more people. More detail should be provided moving forward by extracting the fundamentals and communicating them to the community. Commissioner Nickita also expressed that the Planning Board has more insight on this issue and would do a good job in scheduling and implementing the plan.

Commissioner Host commented that the Planning Board knows the importance of the Master Plan demonstrated by the scheduling, the study sessions, and other outlets used to gather input from the public.

Mayor Boutros commented that there is a consensus that the City Commission is happy with the Planning Board's focus.

Commissioner Hoff disagreed with Mayor Boutros' assessment of consensus. She was hearing that the Planning Board should focus on the plan but they must also focus on other issues concerning the City that are important and need addressing.

Commissioner Sherman suggested postponing the first resolution until next week and move forward with the other two suggested resolutions tonight.

Commissioner Baller commented that he is in favor of public engagement but does not think that there is enough information to move forward.

Mayor Pro Tem Longe suggested that the commission come back on December 16 with a list of the urgent items on the action list for a decision. She also pointed out that the Planning Board believes that momentum is important and does not want to lose it at this point.

Commissioner Hoff agreed with postponing the suggested resolutions until next meeting.

No action was taken. The suggested resolution would be brought back to the next regular meeting of the City Commission.

**11-295-19 PURCHASE OF RESCUE 2 LIFE LINE AMBULANCE**

Fire Chief Wells and Assistant Fire Chief Bartalino presented this item.

Commissioner Baller requested an explanation from City Manager Valentine on the Fire Department Apparatus Replacement Account. City Manager Valentine explained how the fund works and that it addresses future needs. Chief Wells added that the fund is sound and has ample reserves.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Host: To approve the purchase of a 2020 Life Line Superliner Type-1, 171"x96", Superliner 72" Head - room, on a 2020 Ford F-450 XLT 4x4 Chassis with Liquid Spring Suspension, Stryker Power-Load system, and Stryker Power Cot for the cost of \$256,700.00, which includes a Ford GPC rebate of \$4,200 from account #663.338.000.971.0100 and further, authorizing the Mayor to sign the purchase proposal on behalf of the City.

VOTE: Ayes, 7  
Nays, 0

**VII. REMOVED FROM CONSENT AGENDA**

**VIII. COMMUNICATIONS**

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

**X. REPORTS**

**11-296-19 COMMISSIONER REPORTS**

Notice of intent to appoint on Monday, January 13, 2020 to Public Arts board, Storm Water Utility Appeals Board and Parks and Recreation Board.

**11-297-19 COMMISSIONER COMMENTS**

Commissioner Host used this time to distribute a plan proposing to change the City Commission meeting agenda to allow public comment at the beginning of the meeting in addition to the current place, at the end of the agenda.

- Mayor Pro Tem Longe felt that this idea is worth investigating and directed the staff to do so, and bring back to the commission in 2020.
- Commissioner Baller believes it is a good idea, and should be considered on a limited, trial basis.
- Commissioner Hoff expressed that she needs more information. While she is not opposed, it requires more discussion and a review of parliamentary procedure. She reminded the commission that discussions and consensus are important in determining what goes on the agenda for action; one person deciding what should be acted upon does not do it.
- Commissioner Sherman, shares Commissioner Hoff's concerns about setting unreasonable expectations for the public. He reiterated that these are public meetings to handle the business of the City, not a meeting for the public to dictate the agenda.

He is also concerned about meetings being high jacked as we have seen in other communities when public comment is allowed early in the meeting.

- Commissioner Nickita agreed that there are some good points raised, but expressed that these are business meetings to conduct the business of the City and feels that this issue is a low priority and the commission should proceed with caution.
- Mayor Boutros commented that he supports further discussion into the matter.

**ADVISORY BOARDS, COMMITTEES, COMMISSIONS' REPORTS AND AGENDAS**

None

**LEGISLATION**

None

**CITY STAFF**

None

**INFORMATION ONLY**

None

<b>XI. ADJOURN</b>
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Mayor Boutros adjourned the meeting at 9:36 p.m.