

**BIRMINGHAM CITY COMMISSION
SPECIAL MEETING AGENDA
FRIDAY, OCTOBER 23, 2020
MUNICIPAL BUILDING, 151 MARTIN
3:00 P.M.
VIRTUAL MEETING
MEETING ID: 655 079 760
Video Link: <https://vimeo.com/470031857>**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Pierre Boutros, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Alexandria Bingham, City Clerk Designee, called the roll.

PRESENT: Mayor Boutros (location: Birmingham, MI)
Mayor Pro-Tem Longe (location: Birmingham, MI)
Commissioner Baller (location: Birmingham, MI)
Commissioner Hoff (location: Birmingham, MI)
Commissioner Host (location: Birmingham, MI)
Commissioner Nickita (location: Birmingham, MI)
Commissioner Sherman (location: Birmingham, MI)

ABSENT: None

Administration: City Manager Valentine, City Clerk Designee Bingham

IV. NEW BUSINESS

A. Discussion with Thomas Markus on his candidacy for the position of City Manager

Mayor Boutros welcomed all present and explained the purpose of the special meeting. He noted that Thomas Markus was unable to join the meeting via Zoom and so was joining via speakerphone. All participants in the Zoom meeting were still able to hear and engage Mr. Markus.

Public Comment

Jim Arpin thanked the Commission for its efforts towards transparency in its discussion and scheduling of this interview. He cautioned, however, that it seemed inappropriate to offer one candidate an interview separate from whichever broader City Manager search process the Commission might ultimately pursue. Dr. Arpin said that he would have recommended that Mr. Markus submit his application as part of the City's broader search process in order to maintain residents' trust and the transparency the Commission is working to create. He said it was unfair to Birmingham that Mr. Markus was not going through the same vetting process any other potential candidates will likely go through.

David Bloom said he contacted public servants and residents of Lawrence, Kansas, where Mr. Markus served as City Manager from winter 2016 through spring 2019. In asking them for their experiences of working with Mr. Markus, Mr. Bloom said that many had positive things to say. One Lawrence resident and two-decade President of one of their neighborhood associations, however, told Mr. Bloom that while Mr. Markus was reliable when it came to matters of infrastructure and neighborhoods, other concerns were often left undealt with and unaddressed. Mr. Bloom reported the same Lawrence resident found Mr. Markus inflexible in his dealings with residents and other public servants. Mr. Bloom contended that he and other Birmingham residents already have concerns that oppositional speech is stifled by the City administration, and said that Mr. Markus' reported inflexibility would only compound his concerns that City leadership does not sufficiently work to integrate a variety of viewpoints. Mr. Bloom said he was also concerned the City would only be delaying a national search for a City Manager for a few years since Mr. Markus would likely be looking to retire a bit after his proposed five-year tenure. In light of his concerns, and in spite of his stated respect for Mr. Markus, Mr. Bloom encouraged the Commission to decline Mr. Markus' application and to pursue a search for other applicants.

Michael Horowitz said he had sent an email to the Commission regarding this meeting and said it needed to be included in the public record. Mr. Horowitz summarized his email as saying that there is a lot of uncertainty in the world right now due to the Covid-19 pandemic and other circumstances, and that the potential of working with Mr. Markus might present a unique opportunity that could be beneficial to the City given those circumstances. Mr. Horowitz said he was only asking the Commission to fully consider Mr. Markus' offer, and was pleased this special meeting was doing just that. He said he was not endorsing an outcome one way or the other.

Matt Wilde said he had heard a number of positive things about Mr. Markus, and that he had no comment on his character or capabilities. Mr. Wilde said he only joined the meeting to state that when he was recently attending the Ross Business School at the University of Michigan, he had the opportunity to meet many young, enthusiastic, well-educated, innovative and bright people undertaking training in urban planning. Given the skillsets and capacities of the people he met at the University of Michigan, Mr. Wilde strongly encouraged the Commission to undertake a national search for a City Manager because he was confident there would be numerous well-qualified candidates who would be passionate about joining Birmingham and making it an even better place to live.

Scott Aikens said that while he had no problem with Mr. Markus being one of the Commission's candidates for City Manager, he thought that should be determined as part of an overall national search. He said that the 2-to-1 vote against the Bates Street Project in August 2019 was a canary in the coal mine for the City in terms of a mismatch between the City administration's goals and the residents'. In light of the perceived mismatch, Mr. Aikens asserted that a national search for a City Manager should be used as an opportunity to reassess the relationship between the administration and the residents, and to better bring each group's interests into alignment.

Richard Aginian said he had worked extensively with Mr. Markus in the past and said Mr. Markus was both skillful and moral. He said that a national search would be no guarantee of success. Mr. Aginian concluded his statement by saying that 'sometimes the devil you know is better than the devil you don't'.

Brain Bolyard said he and his family were in support of Mr. Markus' candidacy. He said bringing Mr. Markus on would be an opportunity to both benefit from his expertise and to bring on one of those younger individuals Mr. Wilde spoke so glowingly of who could train under Mr. Markus' tutelage during the latter portion of his tenure with the City. He thanked the City administration for organizing this meeting with Mr. Markus.

Jonathan Hofley noted that Birmingham frequently describes itself as a 'world-class city', and that if this is actually the case then it is incumbent on the City to do a wider search for candidates. He said not pursuing a national search would be akin to negligence on the City administration's part. Mr. Hofley also asserted that if the City had previously had poor experiences with national candidate searches, as at least one Commissioner had stated at a previous meeting, then that clearly reflected more on the quality of the search firms hired to conduct the searches than on the quality of the national pool of available candidates. He adjured the Commission to conduct an exhaustive search because even a City Manager working with the City for a short while could enact policies that would have significant long-term impacts on the City.

Paul Reagan noted that City Manager Valentine's December 2020 resignation date gives the City ample time to undertake a national search for a replacement. He said he was confident the City would never intend to convey an intention to pre-empt the national search process through their interviewing of Mr. Markus.

Andrew Haig said the City should not return to a previous City Manager as it has a fantastic opportunity to build forward via a national search process. Mr. Haig also noted the extensive public comment that has been allowed during the present special meeting, and asked for confirmation that the City would be allowing similar public comment periods for every candidate interviewed by the City in order to maintain a fair process for all candidates.

Seeing no further public comment, Mayor Boutros welcomed Mr. Markus and thanked him for reaching out to the City. He invited Mr. Markus to review his experience and qualifications.

Mr. Markus provided an overview of his experience since leaving the position of Birmingham City Manager in 2010. Mr. Markus' email to the Mayor and a written review of his qualifications can be found in the Commission's October 19, 2020 agenda packet. Mr. Markus continued that:

- He understands the importance and value of an executive search, and still wanted to offer the Commission the opportunity to evaluate him independent of that kind of search. If the Commission wanted to interview him as a part of its broader search process that might take approximately five months, at which point he may have accepted another position.
- He has been looking for positions with other municipalities as well and has another interview scheduled in the near future for a position.
- Executive searches do not guarantee long tenure. He noted that his 22-year service as City Manager of Birmingham came from an executive search, as did the service of a City Manager for Birmingham who lasted only three years with the City after Mr. Markus' departure.
- He was hired via executive searches in his last two cities of employment, Lawrence, KS and Iowa City, IA. He stated that he competes very well in those processes as evidenced by his hiring for both positions.
- When he wrote about staying with Birmingham, if hired, for five years, he was not asking for a five year contract. He was saying that he could commit on his end to remaining for five years should that be the will of the Commission. He said he could also be flexible about staying for about two to three years if the Commission deemed that appropriate.
- He would have no difficulty expressing his professional opinion while serving as City Manager if hired. He would expect to by turns agree and disagree with the different Commissioners' opinions, and would respectfully offer his perspective, but understands his roll would be enacting the will of the City Commission's as a whole once a decision is made. He would work on behalf of the entire Commission without bias. He said the same would go for enacting the will of the electorate if a matter was decided by vote.
- Covid-19 and matters of social justice and injustice will have a notable impact on an executive search process. He stated that he knew of two well-known university cities in the midwest that

recently undertook national executive searches and ultimately concluded those searches by hiring internally.

- Bringing on new staff to manage the City during this tumultuous period could prove difficult. Hiring someone more familiar with many of the routine aspects of administering Birmingham could allow that person to better focus on guiding the City through some of the more complicated aspects of keeping a city vibrant during a global pandemic.
- Working as a City Manager is fulfilling. He enjoys being of service to cities in such a capacity.
- While he understood people's mentioning of his age, he could assure the public that he remains both active and capable.
- One of his guiding principles is 'attack the issues, not the person'. That idea guides his actions even when discussing contentious issues around municipal management, and even if residents are critical of particular positions or actions he takes. At the same time, he also strives to learn from others' feedback so as not to come across as arrogant, disinterested or dismissive.
- Succession planning would be one of his priorities, whether it would be training an interim manager or training a more permanent replacement.

Commissioner Sherman cited some residents' concerns that since Mr. Markus had already worked for the City once, hiring him again would be a backwards step. Noting that Mr. Markus has worked in two other cities since his time in Birmingham, Commissioner Sherman asked what new knowledge and experience Mr. Markus would bring to the City if hired again.

Mr. Markus explained:

- Both Lawrence, KS and Iowa City, IA are university towns, and as such, tended to lean liberal.
- In his time there was a fair amount of discourse around social justice concerns and that in both jurisdictions he aided in implementing social justice reforms.
- He helped conduct disproportionate minority contact studies which indicate whether there is bias in terms of minority interactions with juvenile justice systems at a local level. There usually is disproportionate minority contact, and that is due to institutionalized racism.
- Community police review boards, where the public has the opportunity to review complaints about the police, were another tool he helped the communities utilize.
- He also helped the communities develop body cam processes for the police force to determine when and how they would be used.
- Both communities had high neighborhood association engagement, and as such the City hired staff liaisons to go out to the association meetings, interact with the community, and convey their concerns and comments back to the city management.

Commissioner Sherman asked Mr. Markus if he thought he would be stymied by his previous policy decisions and positions.

Mr. Markus emphatically said he would not. Since discourse around policies is constantly evolving, Mr. Markus said it is a City Manager's obligation to help guide the changes that stem from those community discussions. He cited an instance during his Birmingham tenure where he and City staff evolved in their position about street widths after some regular advocacy on the part of a particular Commissioner. He explained that staff listened and undertook a study of what the Commissioner proposed, and determined that the Commissioner's recommendations were a better way of proceeding. As a result the City shifted its policy regarding street widths. Mr. Markus said he does not covet authorship or feel any obligation to defend the status quo.

Commissioner Host noted that Mr. Markus was a key driver of the City's 2016 Plan, which Commissioner Host said has resulted in a strained parking system due to its increases in commercial and office space.

Commissioner Host asked if Mr. Markus had any regrets about the 2016 Plan, and asked if Mr. Markus had any ideas regarding how the City might reduce the strain on the parking system stemming from the 2016 Plan.

Mr. Markus said he had less influence over the 2016 Plan than Commissioner Host might think. He explained that former Commissioner Lanzetta had been the one to advocate for Andres Duany coming in and developing the 2016 Plan. Mr. Markus said his preliminary thoughts were that remote parking and shuttles would be one possibility for addressing a parking shortage, and advocating for alternative forms of transportation would be another. He noted that it in some ways the strain on the parking system demonstrates the 2016 Plan's success in increasing office and commercial uses in the City. Mr. Markus said he would also be in favor of moving people away from single-occupancy vehicles, which create a lot of the parking strain both in downtown and in the neighborhoods. Mr. Markus said he would not likely recommend increasing parking structures in Birmingham at this time.

In reply to Commissioner Host, Mr. Markus said he would not be interested in serving in a one-year City Manager term for the City due to the costs and disruption of moving.

Commissioner Nickita asked Mr. Markus how aware he is of the changes that have occurred in Birmingham since he left, and what his anticipated learning curve would be if he were hired for the City Manager position.

Mr. Markus replied that he returns to Birmingham twice a year to visit family, and said that as a prolific walker he has likely walked through all of the neighborhoods and 70% of Birmingham streets in the last two years. He said these walks have kept him up-to-date with how the community is progressing street by street. He said he also keeps up-to-date on Birmingham news and has semi-regular communication with some members of City staff about what goes on in the community. Mr. Markus said it is in his nature to remain interested and engaged in the communities he has served in, and that Birmingham has been no exception. As a result, he said he was confident that he would be bringing a fair amount of foundational knowledge and recent history of Birmingham that would make for a smooth onboarding process if he were hired as City Manager.

In reply to Commissioner Baller, Mr. Markus said he would be in favor of having the public meet and provide feedback on any potential candidate for Assistant City Manager. He said this would allow him to maintain the appropriate independence in staff hiring while allowing public and Commission feedback to be one of the factors considered. Mr. Markus stated that has been his standard practice when hiring staff for a municipality. He also stated that he worked for executive search firms where he helped municipalities find city managers, so he has experience on the other side as well. Mr. Markus advised the Commission that he would be able to design a process for hiring the next City Manager if he were directed to do so. He said that these and other options would both maintain the City Manager's independence in hiring staff, while also creating appropriate procedures for the Commission to hire its next City Manager. He said he would be amenable to discussing any of these options further as part of a potential hiring agreement with the Commission should that be desired.

In reply to an inquiry from Mayor Pro Tem Longe, Mr. Markus said he had been observing some strain in the interactions between the longer-tenured and newer Commission members. He said that the Covid-19 pandemic was also contributing to a feeling of strain overall that is being felt nationally. In light of those issues, Mr. Markus said he hoped that if he were hired as City Manager he could help reduce some of the strain on the Commissioners stemming from both situations in order to make the conversations flow a bit easier than they have been.

In reply to another inquiry from Mayor Pro Tem Longe, Mr. Markus said he thought dissent was essential in

a governing body, but that blocks of Commissioners that always vote one way or the other together is not necessarily healthy dissent. Healthy dissent, in his view, would be when it was difficult to predict who would vote with whom on each issue. One of his biggest recommendations in his previous work has been to 'hold one's vote', and to not decide one's stance until the moment the vote is called. He said that only in this way can a Commissioner, staff member, or other member of the public be sure that they are integrating all of the relevant information to make a fully informed decision based on available information, rather than primarily on prejudice or bias.

In reply to a third inquiry from Mayor Pro Tem Longe, Mr. Markus said the best way to get innovative and outside-the-box thinking from the City's advisory boards is to specifically solicit and encourage that at the Commission level. Letting the advisory board members know that proposing unusual solutions, even if they are not ultimately pursued, is valued by the Commission is the best way to shift the culture towards cutting-edge thinking on how to solve City issues.

In reply to Mayor Boutros, Mr. Markus explained that in each place he has worked he has gauged what in particular the place needed, and then proceeded to act from there. Lawrence, KS and Iowa, IA were both in need of strategic plans when he arrived, so he said he focused on getting to know the community and in designing strategic plans. In the absence of those structures, Mr. Markus explained he was able to make quick, foundational changes in both those communities. Birmingham, in contrast, tends to need more time to make changes. In his experience debate, discussion, and public engagement is prioritized in Birmingham, which means topics require more consideration before implementation. Mr. Markus said his management and leadership style would be responsive to the desires of the Commission and to the desires of the electorate.

In reply to a second inquiry from Mayor Boutros, Mr. Markus said he views the roles of Mayor and Mayor Pro Tem as being the spokespersons for the Commission and as being facilitators for the Commission's conversations. If he were to make changes to the Mayor-Commission dynamic, he would spend more time preparing both the Mayor and the Mayor Pro Tem for their facilitative roles. He would also seek to provide an overview of some of the discussions that could be arising over the next year of their service.

Seeing no further questions from the Commission, Mayor Boutros invited questions from Mr. Markus.

Mr. Markus asked the Commissioners what City topics are looming largest in their minds looking out over the next six to eight months.

Commissioner Baller replied that one of his priorities would be finding a footing to get the City through the Covid-19 pandemic, and setting a course that would also carry the City beyond the pandemic. He said residents also want the roads improved and will likely vote to approve a parks bond in November 2020, which they will expect the Commission to act expeditiously on once it is approved. He noted that in light of Covid-19 there may be landlords in the downtown area wanting to convert office space to residential, and that one of the currently proposed ways to provide more residential parking would be to allow residential parking in the parking decks overnight. The Triangle District Plan has been incompletely implemented because the City has not added the parking it said in the Plan would be necessary to keep pace with future developments in the area. Further development of the Triangle District, then, would also be a priority.

Commissioner Hoff said it would be important to address resident concerns about the currently ongoing 2040 master planning process. She said another priority would be getting a clearer sense of how the Covid-19 pandemic is affecting all aspects of the City's functioning, and how the Commission's actions can best respond to those impacts.

Commissioner Nickita agreed with Commissioner Hoff that the City needs clarity regarding the impacts of Covid-19 and how to best create policy to address those impacts. He said that ensuring a smooth onboarding process for the incoming City Manager would also be essential to creating a foundation that can help the City navigate the uncertainty stemming from the Covid-19 pandemic. Commissioner Nickita said he values the planning process immensely but sees it as being secondary at this moment to the need to have a solid City Manager and a clear sense of how the City will be navigating Covid-19 over the next number of months. He said the master planning process can take place concurrently to creating those solid foundations but that the foundations must be prioritized.

Commissioner Host said that 80% of the Commission's agenda topics are commercial, while 80% of the City's tax revenues come from the neighborhoods. He said the agenda topics must come to better reflect the concerns of the residents and to not so heavily focus on commercial development.

Commissioner Sherman said he sees that there are macro and micro priorities for the City. The macro priority would be, as Commissioners Hoff and Nickita said, gaining clarity on all aspects of Covid-19's impact on the City and how the Commission should respond. He said the more micro concerns are the master planning process and disinformation that is spreading among residents regarding that, the process of improving streets, senior services, and the matter of the Commission's focus on residential versus commercial concerns. He said there needs to be clarification regarding the appropriate role of the Commission and the appropriate role of the City Manager.

Mayor Pro Tem Longe said the City needs clarity on how to balance commercial, residential, and school district concerns, noting that the school district has a large impact on the health of the community overall. She said she would also like to see discussions about accessibility to the community, in terms of welcoming to young families to the City and keeping seniors in the City who may no longer be able to maintain their own homes. She said that the development of large houses in Birmingham, some of which are infrequently occupied, can drive up residential costs in the City and have a negative impact on young families looking to move in. Mayor Pro Tem Longe said she was concerned that Birmingham could end up like some of the Grosse Pointes, where schools are being closed because not enough young families live there.

Mr. Markus thanked the Commission for its insights. He asked how Covid-19 has thus far impacted the City's financial forecast.

City Manager Valentine said property values have not changed thus far, and therefore the tax base in that respect has been unaffected. He estimated that the taxable values in 2021 or 2022 may change, but that in the current environment there has been little financial hardship due to Covid-19. The City also benefited from CARES Act funding that covered some of the costs that were incurred as a result of Covid-19. One area of concern right now would be the costs of operating the district court, because the City pre-funds those costs and revenues associated with the court have been reduced. Overall City Manager Valentine said the City is in fine financial shape at this point.

Mr. Markus asked the Commission why the master planning process is 'taking so long'.

Mayor Boutros said in his view it is the result of having to navigate Covid-19 at the same time.

Commissioner Baller said that even without Covid-19, the City decided to solicit feedback from residents on each aspect of the first draft of the master plan which takes some time. Those comment sessions are being done at the Planning Board level, and Commissioner Baller noted the Planning Board meets only twice a month and must solicit feedback while also keeping up with their regular Board business. Commissioner Baller contrasted this process with the process for creating the 2016 Plan, which had a newly created Board

appointed to carry out that work.

Mr. Markus asked, if hired, what he could do that would make the single biggest positive difference in the community.

Commissioner Sherman said the most important thing in his view would be to reassure City staff that things are under control both in regards to Covid-19 and in regards to City Manager Valentine's departure.

Commissioner Baller concurred with Commissioner Sherman. He said a new City Manager should operate in general from a position of confidence, knowledge, ability, respect for due process and respect for democratic functions. A new City Manager should also emphasize to the City overall that the City operates from courage and not from fear.

Commissioner Hoff agreed with Commissioner Sherman as well, but said the reassurance and efforts towards stability should also extend to the Commission and the community. She said that between Mr. Markus' experience in other cities and his experience in Birmingham he would be an ideal candidate to bring that stability to the City.

Commissioner Nickita concurred with Commissioner Hoff that stability and confidence would be important for City staff, the Commission, and the broader community. He also said clarifying the City's upcoming challenges, and the best ways to navigate those, would be essential.

Commissioner Host said increasing transparency on the part of City administration and Commission would be immensely important.

Mayor Boutros said he would want a City Manager committed to treating everyone equally, being honest and being respectful in all interactions. He said that from those stability, trust, and transparency will follow.

In response to Mayor Pro Tem Longe, City Attorney Currier said there was no statute requirement for a public posting of the City Manager position.

Mayor Pro Tem Longe commented that the present meeting was noticed as a discussion, and not an interview, with Mr. Markus. She said she wanted to be careful about the distinction between the two since the public might be expecting a more formal interview in which they could participate.

Commissioner Host said that while closed session would be appropriate for a potential discussion of terms, doing so presently would be premature. He noted the City has not had an official interview with Mr. Markus nor has there been sufficient public engagement on the matter, especially due to the present meeting's last-minute nature.

City Attorney Currier said section 8(f) of the Open Meetings Act allows the Commission to consider an application for employment in closed session.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To enter into closed session at prior to its October 26, 2020 to discuss Thomas Markus' application for the position of City Manager pursuant to Section 8(f) of the Open Meetings Act.

Public Comment

Mr. Bloom said that if the Commission came out of their closed session on October 26, 2020 with a decision to hire Mr. Markus he was concerned it could be legally problematic since the present meeting was noticed as a discussion and not as an interview.

Mr. Reagan agreed with Mr. Bloom's concerns. He said he was also disappointed that he had the impression that the Commission would be entering into closed session partially with the intent to avoid a national search for a City Manager.

Mr. Haig concurred with Mr. Bloom and Mr. Reagan. He said the Commission should also receive more information from executive search firms before going into closed session regarding Mr. Markus' application. He said that would allow the Commission to proceed in its evaluation in a more unbiased manner.

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

Nays, None

V. ADJOURN

Mayor Boutros adjourned the meeting at 5:52 p.m.