

BIRMINGHAM CITY COMMISSION MINUTES

DECEMBER 7, 2020

7:30 P.M.

VIRTUAL MEETING

MEETING ID: 655 079 760

Video Link: <https://vimeo.com/event/3470/videos/482921125/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

Alexandra Bingham, City Clerk Designee, called the roll.

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

Absent: Commissioner Baller

Administration: City Manager Valentine, City Clerk Designee Bingham, Police Chief Mark Clemence, Planning Director Ecker, Police Operations Commander Grewe, City Attorney Kucharek, Consulting City Engineer Surhigh

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

Announcements

- The City has reinstated the hotline to provide residents with information about City and County COVID-19 resources. Elderly, quarantined and immuno-compromised individuals are encouraged to use the hotline to request assistance with essential functions, and obtaining necessary supplies Call 248-530-1805, Monday through Friday from 8 a.m. – 5 p.m, excluding holidays.
- The City Commission would like to thank JC Cataldo for 12 years of service on the Triangle District Corridor Improvement Authority.
- The City Commission would like to thank Laura Keener for 4 years of service on the Stormwater Appeals Board.
- The City Commission plans to recognize departing City Manager Joe Valentine for his exceptional work and service to the City of Birmingham at the beginning of the regularly scheduled City Commission Meeting on December 21, 2020.
- Mayor Boutros' Birthday.

Appointments

12-257-20 Appointments of Samuel Oh and G.A. "Kip" Cantrick to the Birmingham Triangle District Improvement Authority

The Commission interviewed Samuel Oh and G.A. "Kip" Cantrick.

Mayor Boutros appointed Messrs. Oh and Cantrick to the Birmingham Triangle District Improvement Authority, with Mr. Oh to serve a three-year term ending December 15, 2023 and Mr. Cantrick to serve a four-year term ending December 15, 2024.

Commissioner Sherman specified that the Birmingham Triangle District Improvement Authority requires a majority of the appointees to live in or operate a business in the District. It does not require that every appointee lives in or operates a business in the District.

City Attorney Kucharek concurred with Commissioner Sherman.

MOTION: Nomination by Commissioner Host, seconded by Commissioner Sherman:
To concur with the Mayor's appointments of Messrs. Oh and Cantrick to the Birmingham Triangle District Improvement Authority.

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

Nays, None

12-258-20 Appointment of Lester Richie to the Board of Review

Mr. Richie was not present. It was noted that this was a reapplication on the part of Mr. Richie since he currently serves on the Board of Review.

MOTION: Nomination by Commissioner Nickita:
To appoint Lester Richie to the Board of Review as a regular member to serve a three-year term to expire December 31, 2023.

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

Nays, None

12-259-20 Appointment of Guy DiPlacido to the Board of Review

Mr. DiPlacido was not present. It was noted that this was a reapplication on the part of Mr. DiPlacido since he currently serves on the Board of Review.

MOTION: Nomination by Commissioner Sherman:
To appoint Guy DiPlacido to the Board of Review as a regular member to serve a three-year term to expire December 31, 2023.

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

Nays, None

12-260-20 Appointment of Erin Rodenhouse to the Board of Zoning Appeals

The Commission interviewed Erin Rodenhouse for the appointment.

Commissioner Hoff noted that currently all the members of the Board of Zoning Appeals are men and stated she would like to see a woman on the Board.

Commissioner Nickita noted that it is the Commission's general practice to allow an interested member of a board to continue serving in their position unless there is some exceptional reason to discontinue that person's service. He noted that Jerry Attia was presently serving as an alternate member to this Board, and that he had reapplied for the position.

Noting Mr. Black's position as the General Manager of the soon-to-open The Daxton hotel, Commissioner Host asked Mr. Black how he would reconcile the interest The Daxton has in a variety of parking matters with his service on the APC. Commissioner Host stated it could be a significant source of potential conflicts of interest.

Mr. Black stated that The Daxton's success will be tied to the thriving of all the businesses in close proximity to the hotel. He said that serving on the APC would afford him more opportunities to be a good listener and a good neighbor to the Birmingham business community.

Mayor Pro Tem Longe suggested Mr. Black be nominated as an alternate and not as a resident shopper since his background is not primarily that of a resident shopper.

Commissioner Sherman stated the Commission has had applicants in the past who meet the qualifications of more than one board position, and that the Commission has generally allowed any applicant to join a board in any position they qualify for. Since Mr. Black is a resident of Birmingham, Commissioner Sherman stated his serving as a resident shopper would be appropriate.

MOTION: Nomination by Commissioner Sherman:
To appoint Aaron Black to the Advisory Parking Committee as a regular member who is a resident shopper to serve the remainder of a three-year term to expire September 4, 2022.

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

 Nays, None

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

Al Vaitas, chairman of the Advisory Parking Committee, welcomed Mr. Black to the APC.

Jennifer Hammond said she would like to see more of an initiative on the part of the City to support restaurants during the winter while indoor dining is closed as a result of the pandemic. She recommended potentially allowing further closing of the streets to allow more outdoor dining, music in Shain Park, or outdoor hot cocoa or other beverage areas on weekend evenings all of which could also spark further interest in shopping in the City.

V. 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.

12-263-20 Consent Agenda

The following item was pulled from the Consent Agenda:

Commissioner Hoff: Item I – Removal of Parking Meters in Front of 298 S. Old Woodward

MOTION: Motion by Commissioner Host, seconded by Commissioner Nickita:
To approve the Consent Agenda with the exception of Item I.

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

 Nays, None

- A. Resolution approving the City Commission meeting minutes of November 23, 2020.
- B. Resolution approving the warrant list, including Automated Clearing House payments, dated November 25, 2020, in the amount of \$658,291.66.

- C. Resolution approving the warrant list, including Automated Clearing House payments, dated December 2, 2020, in the amount of \$876,749.94.
- D. Resolution approving the contract with Wolverine Power Systems in an amount not to exceed \$39,500.00 to perform City of Birmingham Adams Fire Station Upgrade Emergency Generator from account #101-336-000-977-0000; and to direct the Mayor and City Clerk to sign the agreement on behalf of the City.
- E. Resolution to appoint City Manager Thomas M. Markus as Representative and DPS Director Lauren Wood as Alternate Representative of the City of Birmingham on the SOCRRRA Board of Trustees for the remainder of the fiscal year starting January 1, 2021.
- F. Resolution to appoint Consulting City Engineer Jim Surhigh as Representative and City Manager Thomas M. Markus as Alternate Representative of the City of Birmingham on the SOCWA Board of Trustees for the remainder of the fiscal year starting January 1, 2021.
- G. Resolution to appoint Thomas M. Markus to serve as the alternate member to SEMCOG on behalf of the City of Birmingham.
- H. Resolution to authorize the IT department to renew the Laserfiche support contract with MCCi for a total cost of \$12,775.00. Funds are available in the IT Computer Maintenance Fund Account: 636-228.000-933.0600
- J. Resolution to adopt the Performance Resolution for Governmental Agencies with the Michigan Department of Transportation (MDOT), and furthermore, to authorize James J. Surhigh, Consulting City Engineer, Lauren Wood, Director of DPS, and Scott Zielinski, City Construction Engineer to apply to MDOT for the necessary Annual Permit, and other Individual Permits for work within the State Highway Right-of-Way on behalf of the City of Birmingham.
- K. Resolution to approve the interlocal agreement with Oakland County and authorize Mayor Boutros to sign the agreement on behalf of the City Commission.
- L. Resolution to adopt the Resolution for Designation of Street Administrator, with James J. Surhigh, Consulting City Engineer, as the authorized designee.

12-264-20 (Item I) Removal of Parking Meters in Front of 298 S. Old Woodward

Commissioners Hoff and Nickita opined that this item was significant enough that it should not have been included on the Consent Agenda.

In reply to questions from Commissioner Hoff, CM Valentine stated the public valet stand currently in front of Vinoteca would be shifted south to be in front of The Daxton and operated by the hotel for the benefit of both the public and hotel guests. He stated that if this proposal were approved the City would promote this valet location as one of the public valet parking options. The City also gained four or five public parking spaces in the area near The Daxton since the public parking went from parallel to angled.

Police Chief Clemence stated that The Daxton would be granted use of two extra parking spaces in front of the hotel for special events at the discretion of the Police Department. The Daxton would compensate the City for use of those spaces. He said there was no set lead time for requesting the use of those spaces, but that he anticipated The Daxton would notify the Police Department well in advance of the events so that the use of the spaces was secured.

Gayle McGregor, attorney for The Daxton, said this proposal has The Daxton working with less valet space than the valet space allotted to other comparable Birmingham businesses.

Rick Rattner, attorney for The Daxton, stated that a traffic study regarding the feasibility of moving the valet stand to Brown Street determined that such a move would cause traffic backups all the way to Pierce. He noted that The Daxton added an extra level of underground parking to better ensure that there would be sufficient parking onsite.

The Daxton General Manager, Mr. Black, stated The Daxton anticipates opening in February 2021.

There was consensus that the information provided for this item was insufficient, and that the item needed to be presented at a future Commission meeting with more information. Commissioners requested:

- Information on the regular utilization of the valet stand in front of Vinoteca;
- Clarity regarding the economics of shifting the valet stand from being in front of Vinoteca and run by the City to being in front of The Daxton and run by the hotel;
- Information regarding whether it would be appropriate for the City to agree to pay a flat fee of \$150 on days where there are free parking promotions given that the City is being asked to waive \$22,464 in parking meter revenues;
- Diagrams of all proposed traffic flows in the area from Vinoteca to the curb at Brown, all on-street painting of traffic and parking indicators, and the ingress and egress to the underground parking; and,
- Information on how The Daxton would prevent instances of higher-than-usual valet usage on the part of its guests from negatively impacting the public's use of the valet stand at the same time.

No action was taken on this item.

VI. UNFINISHED BUSINESS

12-265-20 Public Hearing – 34350 Woodward & 907-911 Haynes – Lot Combo

City Attorney Kucharek explained the applicant wanted to submit supplemental information to their application. She said that since the application was reviewed by the Planning Board before going to the Commission, this item should be returned the Planning Board for a review of the additional information.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To direct this item to the Planning Board.

Public Comment

Jason Canvasser, attorney for the applicant, stated that the lot combination was not reviewed by the Planning Board, and as a result any supplemental information for the application would be most appropriately submitted to the Commission. He said only the SLUP for this item was reviewed by the Planning Board. He noted that the applicant did request a postponement of the item for a number of reasons, including granting the public additional opportunity to review the supplemental information.

Planning Director Ecker clarified that the lot combination was the topic of discussion during the Planning Board's discussion of the relevant SLUP.

In light of the fact that the Planning Board did not review the lot combination separate from the SLUP, Commissioner Hoff withdrew her motion and Commissioner Nickita withdrew his second.

Mayor Boutros opened the public hearing at 8:52 p.m.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To postpone the public hearing of the Public Hearing – 34350 Woodward & 907-911 Haynes – Lot Combo to December 21, 2020.

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

Nays, None

There was no closure of the public hearing.

12-266-20 Cost Sharing Agreement with Oakland County Road Commission

Consulting City Engineer Surhigh summarized the item.

Commissioner Sherman stated that this was a very routine item and accordingly moved the suggested resolution.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To approve the cost sharing agreement with the Road Commission for Oakland County, agreeing to pay the City of Birmingham's share of the cost to replace the traffic signal at the intersection of Coolidge Highway and Maple Road, at a cost not to exceed \$75,000, to be charged to account number 202-303.001-971.0100. Also, to authorize the Mayor to sign the agreement on behalf of the City.

In reply to a question from Commissioner Nickita, CCE Surhigh stated that the RCOC will commence the intersection upgrade designs pending the approval of this motion by the City Commission. He stated that Birmingham has been invited by the RCOC to provide input on the design.

Commissioner Nickita said this is one of the most dangerous intersections for pedestrians in Birmingham. He said that two matters of high priority for the intersection must be the addition of continental pattern crosswalks to the south and east sides, and the addition of pedestrian signals that actually function as the current ones seem never to change from 'Don't Walk'.

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

Nays, None

12-267-20 Request for Planning Board Review of Proposed Ordinance Amendments

Planning Director Ecker presented the item.

Some Commissioners wanted the Planning Board's review to take into account findings of what worked or what did not work over the winter of '20-'21, while other Commissioners wanted the review done more expeditiously so restaurant owners could know which purchases for outdoor dining could be used during both winter '20-'21 and winter '21-'22. After discussion there was a general understanding among the Commissioners that even if this review were requested now the Planning Board's findings would not likely be available until late spring 2021 at the earliest, which meant that the circumstances of winter '20-'21 could be factored into the review but that by necessity restaurant owners would not be able to use the findings to guide their purchases for outdoor dining for the '20-'21 season.

Commissioners asked that the Planning Board consider the following topics during their review, including that:

- The outdoor dining structures should be taken down in the summer;
- The approvals of outdoor seating should be considered vis-a-vis the type of license already held by the restaurant (bistro, Class C, etc.);
- The size of the tents should be maximized where possible since the sizes of the aisles inside the tents are dictated by building code;
- Issues that have already arisen with outdoor dining during the winter of '20-'21 should be discussed; and,
- The differences between outdoor dining that would be on public or private property, offer alcohol or not, or other potential variations should be addressed.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:
To direct the proposed ordinance amendments Chapter 126, Zoning, Article 4, Section 4.44 to the Planning Board for their review and recommendation.

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

Nays, None

Op. Cmdr. Grewe presented the item.

Commissioner Sherman said he would move the motion because it would benefit City businesses without any cost to taxpayers, and because the likely impact on the parking fund balance would be relatively minor.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To approve the continuation of free parking in all structures through March 31, 2021.

Commissioner Host noted the City does not have data on parking structure usage as long as the gates are not down, and said he would like to start gathering data on February 1, 2021. He suggested the City could charge a nominal fee at first when it restarts charging. He also said that since the parking fund is the City's, a decrease in its balance does seem to represent a loss for the City's taxpayers.

Mayor Pro Tem Longe said she would also like data and would want the gates down April 1, 2021. She agreed the fee could be nominal to start. She said she was not supportive of providing relief to permit parkers that would not be granted to transient parkers, and said she wondered why Royal Oak and Ferndale were not offering similar changes to their parking.

Commissioner Nickita said that the cityscapes of Royal Oak and Ferndale are more complex than Birmingham's, especially since Birmingham has more office space downtown. He stated that charging surface lot and on-street parking is appropriate in Birmingham in order to encourage parking turnover which benefits the restaurants and retailers. Maintaining a good business environment downtown is essential to the financial success of the City, and he said he would be in favor of rethinking parking charges in the spring.

Commissioner Sherman noted that the City's taxpayers only contribute to the parking fund when they pay to park on-street, in a surface lot, or in a parking deck. These are the same charges paid by anyone parking in Birmingham. There are no additional charges assessed to residents for the parking fund.

Mayor Boutros said he was in full support of the motion given the relief it would offer the City's businesses.

Public Comment

Richard Astrein, owner of Astrein's Creative Jewelers on Maple, stated that the current pandemic is the worst crisis for retail businesses he has seen in the 50 years he has been in business. He noted that business owners in Birmingham pay for their staff to park in the City and pay assessments for parking, and that as regular contributors to the parking fund they deserve the relief it can offer. He said that there would likely no situation more appropriate for offering business owners relief than the current one, and given the parking fund's balance of nearly \$20 million the Commission should not hesitate to pass the current motion.

Andrew Haig said the City should look into ways to still collect data without charging for a period of time. He also recommended the City consider temporarily closing one or two decks to reduce the maintenance needs across the decks while people are not paying and parking demand is down.

Dr. Vaitas, chairman of the APC, said he was in favor of the motion and that passing it would really help small businesses.

David Bloom noted that the balance of the parking fund decreased by nearly \$1 million as a result of not charging for parking during most of 2020. He agreed with Mr. Haig's suggestion that data should be collected without payments, and suggested that other compromises be considered like temporarily increasing free parking in the decks to four hours or temporarily lowering permit costs for small businesses in order to help maintain the fund balance.

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

Nays, Commissioner Host

VII. NEW BUSINESS

12-269-20 Public Hearing – 470 N. Old Woodward - EM Bistro

1. Resolution to approve the Final Site Plan and Design and Special Land Use Permit at 470 N. Old Woodward to allow for the operation of a new bistro, EM, at 470 N. Old Woodward.

Mayor Boutros opened the public hearing at 10:10 p.m.

PD Ecker and Joe Bongiovanni, owner of EM, reviewed the item.

A number of Commissioners expressed concern regarding the proposed intensity of the use. Some felt that the coexistence of EM Bistro and Market North, given the shared ownership and shared resources such as restrooms, made the operation seem more like a Class C than a bistro. There was the feeling that the proposed outdoor seating made EM Bistro a more intensive use than bistros intend, even though it was pointed out that both the indoor and outdoor seating would be within the bistro license limits. It was noted that the plans proposed to remove a parking space for seating, which would reduce the amount of parking available in the area even though there are other parking-intensive uses nearby, like the salon above EM Bistro. Concerns were also raised that the bathrooms would be insufficient for the number of patrons served even though the plans did meet the building code requirements.

Other Commissioners noted that the plans met all the bistro and building code requirements and that EM Bistro would pay for the use of the parking space if outdoor dining were staged there. They noted that EM Bistro and Market North are two separate establishments with two separate concepts, and therefore deserved to be considered for licenses separately.

Commissioner Nickita noted that the seating allowances for bistros were studied extensively at the Planning Board and Commission level before they were instituted. He said the Commission should not impose a requirement for lesser seating at this particular bistro since the City has decided on a standard and it would be unfair to impose different standards on one operator seeking a bistro license versus another.

Public Comment

Mr. Bloom expressed concern about the bathroom-to-patron ratio. He suggested that the project get a Class C license since he viewed it as a larger establishment.

Ms. Hammond stated that Market North is primarily a restaurant, not a bar, and that EM Bistro would be the same. She said she is grateful to have these establishments in the area in order to get reliably good meals at most hours of the day. She said there has never been an issue with waiting for the bathrooms here or at most other restaurants in Birmingham, and that there is generally no issue with parking in the area. If concerns about overflow parking in the little San Francisco neighborhood were the issue, then the City could prohibit parking there. She concluded that she would rather reliably competent operators like the Bongiovannis continue to invest in Birmingham than having other people who come in, run an establishment for a year, and have to close it. She said Birmingham was lucky to have the Bongiovannis' investment and that the City should actively work to maintain that relationship.

Mayor Boutros closed the public hearing at 11:07 p.m.

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Host:
To approve the Final Site Plan and Design and Special Land Use Permit to allow for the operation of a new bistro, EM, at 470 N. Old Woodward.

ROLL CALL VOTE: Ayes, Commissioner Nickita
Commissioner Host
Mayor Boutros

Nays, Commissioner Sherman
Commissioner Hoff
Mayor Pro-Tem Longe

After further discussion, the dissenting Commissioners suggested approving the revised plans allowing for 52 indoor seats plus ten at the bar, and allowing for the 28 outdoor seats adjacent to the restaurant on its private property to be maintained. They said the 36 proposed for the parking space and the public sidewalk should be removed.

Commissioner Sherman said EM Bistro could always return to the Commission in the future with a request to expand its outdoor seating if need be, like Toast did in the past.

Mr. Bongiovanni said he would prefer the unanimous support of the Commission to gaining the seating in the parking space. He said he would like to maintain the outdoor seating proposed for the public sidewalk if at all possible as a way of creating vibrancy in the area.

Public Comment

Amy Gooch echoed many of Ms. Hammond's previous points, stating that the City was lucky to have the Bongiovannis and that there is never an issue with lines for restrooms in Birmingham establishments. She said the City needs to step up for its businesses and that approving the proposal as-is would be a way to do that.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To approve the revised Final Site Plan and Design and Special Land Use Permit, with the exclusion of the platform, the seating on the platform, and the seating that would have been on the public sidewalk and the inclusion of the 52 interior seats, plus ten at the bar, and the 28 outdoor seats adjacent to the establishment on private property to allow for the operation of a new bistro, EM, at 470 N. Old Woodward.

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

Nays, None

12-270-20 Birmingham Museum Collection Policy

Museum Director Pielack presented the item. She stated that the Museum has sufficient capacity to further receive appropriate items via donation, and that donations that would create redundancies in the Museum's collection are recommended to other institutions.

MOTION: Motion by Commissioner Nickita, seconded by Mayor Pro Tem Longe:
To accept the proposed Birmingham Museum Collection Policy.

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

Nays, None

12-271-20 Birmingham Museum Heritage Zone

Museum Director Pielack presented the item.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To accept the proposed final design for the Birmingham Museum Heritage Zone and plan for implementation of its first phase elements of primary signage, fencing modifications and gates, and installation of three Pioneer elm trees.

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

Nays, None

12-272-20 Greenwood Cemetery Grave Release in Sections B and C

Museum Director Pielack presented the item.

Commissioner Hoff said she remains opposed to releasing lots for sale in Sections B and C since those sections are at least partially historic. She noted that Section D is not full and could be utilized instead. She added that the GCAB intends to use GIS mapping and ground-penetrating radar in the future to hopefully locate additional available lots outside of the historic areas.

Mus. Dir. Pielack said there are only six lots available in Section D. She said the majority of known available lots are in Sections B and C.

Mayor Pro Tem Longe agreed with Commissioner Hoff that the GIS mapping and ground-penetrating radar should be used to locate more lots. She also said that although the GCAB recommends that 50 lots be released, there was no map to indicate which 50. She suggested the Commission authorize the remaining lots in Section D and await further information from the GCAB regarding which lots in Sections B and C are recommended for release.

MOTION: Motion by Commissioner Sherman, seconded by Mayor Pro Tem Longe:
To authorize that the six grave sites in Section D be made available for sale and to request that additional information be provided to the Commission regarding the additional 50 requested grave sites in Sections B and C.

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

Nays, None

12-273-20 Greenwood Cemetery Grave Release - Single Lot Authorization

Mus. Dir. Pielack confirmed for Commissioner Sherman that the one lot sold that exceeded the authorized lot sales was in either Section B or Section C.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To authorize that the one lot that was sold that exceeded the authorized lots be authorized.

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

Nays, None

12-274-20 REQUEST TO MEET IN CLOSED SESSION IN ACCORDANCE WITH SECTION 8(E) OF THE OPEN MEETINGS ACT

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To go into closed session to review pending litigation in the matter of Lyons v City of Birmingham pursuant to Section 8(e) of the Open Meetings Act, MCL 15.261 – 15.275.

ROLL CALL VOTE: Ayes, Commissioner Sherman
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Mayor Boutros
Mayor Pro-Tem Longe
Nays, None

The City Commission adjourned to Closed Session at 12:05 a.m.

Mayor Boutros reconvened the meeting at 12:19 a.m.

Commission Discussion on items from prior meeting.

None.

Commission Items for Future Discussion. A motion is required to bring up the item for future discussion at the next reasonable agenda, no discussion on the topic will happen tonight.

None.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports – Notice of intent to appoint to the Public Arts Board & the Storm Water Utility Appeals Board
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
 - 1. Ethics Majority Opinion for case # 2020-01
 - 2. Ethics Minority Opinion for case # 2020-01

Commissioner Nickita said he wanted clarity regarding the implications of the findings of case #2020-01 for Commissioners. He suggested a study session at a future Commission meeting.

City Attorney Kucharek said such a study session would be appropriate as long as it focuses on generalities and not on any of the specific facts or details of case #2020-01. She said the Chair of the Board of Ethics could be requested to offer such a training.

Commissioner Nickita confirmed that would be his request.

Mayor Pro Tem Longe voiced her support for a training with the Board of Ethics.

It was discussed that the training could also be held as a workshop between the Board of Ethics as a whole and the Commission.

- 3. Greenwood Cemetery Annual Report
- 4. City Commission Sub Committee to Recognize City Manager Joe Valentine
- D. Legislation
- E. City Staff
 - 1. Outdoor Dining Enclosure Status Report

CM Valentine summarized the item.

City Attorney Kucharek stated that five of the six establishments have reached out to the City to ask how best to come into compliance with the requirements. One establishment has not reached out to the City and has received additional violation tickets.

INFORMATION ONLY

XI. ADJOURN

Mayor Boutros adjourned the meeting at 12:20 a.m.



Alexandria Bingham, City Clerk
/le