

**BIRMINGHAM CITY COMMISSION MEETING MINUTES**  
**JUNE 22 2020**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**  
**VIRTUAL MEETING**

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

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

**II. ROLL CALL**

Alexandria Bingham, City Clerk Designee, called the roll.

PRESENT: Mayor Boutros  
Mayor Pro-Tem Longe  
Commissioner Baller  
Commissioner Hoff  
Commissioner Host  
Commissioner Nickita  
Commissioner Sherman

ABSENT: None

Administration: City Manager Valentine, Attorney Kucharek, Finance Director Gerber, Planning Director Ecker, DPS Director Wood, City Planner Dupuis, Assistant City Engineer Fletcher, Building Official Johnson, HR Manager Meyers, IT Manager Brunk, Management Intern Fairbairn, Police Chief Clemence, City Clerk Designee Bingham

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

**ANNOUNCEMENTS:**

- All City offices remain closed to the public. All departments are accessible via phone and email. Payments may be dropped off using the convenient drop box, located behind City Hall and accessible via the Police Department parking lot off Henrietta Street.
- The Library is currently offering Curbside Pickup service to patrons on Mondays through Thursdays from 11:00 a.m. to 7:00 p.m. and on Fridays and Saturdays from 9:30 a.m. to 5:30 p.m. On Monday, July 6, 2020 the Library will begin allowing the public will to enter the building for limited visits. Masks and social distancing will be required. Regular Library hours will resume. Find more details about Curbside Pickup and the Library's reopening plan at [www.baldwinlib.org/reopening](http://www.baldwinlib.org/reopening).
- The City will maintain the hotline to provide residents with information about City and County COVID-19 resources through the end of the month. 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.

- We encourage everyone to sign up for our email distribution system to receive the latest information from the City. You can do this by going to our website and clicking on the box in the lower right corner of your screen to sign up.
- The Clerk's Office reminds all voters that wish to vote absentee for the upcoming elections to complete and return their absentee voter ballot applications. All voters that have already turned in an application to request an absentee ballot will receive their ballot by mail shortly after June 25<sup>th</sup>. Finally, if you are interested in working as an Election Inspector in Birmingham in the upcoming elections, please contact our office at [elections@bhamgov.org](mailto:elections@bhamgov.org) or 248-530-1880. Please return any election documents by mail or use the convenient drop box located behind City Hall, do not hesitate to contact us with any questions.
- Birmingham Police Department Announcements from Chief Clemence.
  - Members of the Birmingham Police Department are in agreement with the City's proclamation of June 5, 2020 in response to the death of George Floyd.
  - All officers were appalled by the action and inactions of the officers involved in the case; it was a dark day for the nation and a darker day for the law enforcement community.
  - There is a movement to oversee the Police Department as well as social reform in general.
  - The President of the United States signed an executive order asking for police reform and both houses are working on reform.
  - Governor Gretchen Whitmer, Attorney General Dana Nessel, and State Legislatures have initiated reforms for police.
  - Chief Clemence went on to say that as the Chief, he will embrace anything that improves the profession of law enforcement and will support meaningful change that will insure fairness, respect, dignity, security, and justice for all people. When reforms are passed down from the Federal and State level, he guaranteed that the Birmingham Police Department would meet or exceed the recommendations.
  - In the fall of 2019 the department initiated a program to reform policies and procedures in conjunction with the State's Chief of Police Accreditation program. Currently only 4% of the State's police departments are accredited and 6% including Birmingham are in the process of accreditation.
  - The City of Birmingham's Police Department has a policy prohibiting the use of chokeholds unless it is a last resort for the officer to defend human life.
  - The department also has a duty to intervene policy requiring all officers to intervene when another officer engages in misconduct or uses undue force.
  - The City of Birmingham has a policy requiring all officers to receive annual use of force and de-escalation training that is scenario based.
  - In addition, the department has a policy against bias-free policing, using a diversity and inclusion specialist for annual training.
  - Finally, the department have studied the use of body cameras and are seeking approval later in the agenda to implement the program for public transparency and officer safety.
- Management Intern Fairbairn and Building Official Johnson announced and demonstrated a new program offering online forms, payments, and permit applications accessible through the City's home page and [www.bhamgov.org/formsandpayments](http://www.bhamgov.org/formsandpayments).
- Virtual meetings will continue through the July 31<sup>st</sup> in accordance with the Governor's Executive Order 2020-129.

## **APPOINTMENTS:**

The City Commission interviewed the following to serve on the Architectural Review Committee:

1. Michael Poris
2. David Larson

Commissioner Hoff asked Mr. Poris what the acronym SCI-Arc represented on his application.

Mr. Poris replied that it is the Southern California Institute of Architecture, one of the top ten schools of the world; he attended graduate school there and served on the Board of Trustees for ten years.

**06-095-20 APPOINTMENT OF MICHAEL PORIS TO THE ARCHITECTURAL REVIEW COMMITTEE**

**NOMINATION:** Nomination by Mayor Pro-Tem Longe:  
To appoint Michael Poris to the Architectural Board of Review as a regular member to serve a three year term to expire April 11, 2023.

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

**06-096-20 APPOINTMENT OF DAVID LARSEN TO THE ARCHITECTURAL REVIEW COMMITTEE**

**NOMINATION:** Nomination by Commissioner Host:  
To appoint David Larson to the Architectural Review Committee as a regular member to serve a three-year term to expire April 11, 2022.

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

**06-097-20 APPOINTMENT OF ELAINE MCLAIN TO THE CABLECASTING BOARD**

The City Commission interviewed current member Elaine McLain to serve an additional term as a regular member of the Cable Board.

Commissioner Hoff, in reference to Ms. McLain’s board affiliations as stated on her application, asked what NATOA represents.

Ms. McLain expressed that she is a board member of the National Association of Telecommunications Officers and Advisors and a member of the state chapter.

**NOMINATION:** Nomination by Commissioner Hoff:  
To appoint Elaine McLain to the Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2023.

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

Commissioner Hoff noted that there are three positions open on the Cablecasting Board and encouraged anyone interested in serving to apply.

**06-098-20 APPOINTMENT OF ANDREW HAIG TO THE MULTI-MODAL TRANSPORTATION BOARD**

The Commission interviewed alternate member Andrew Haig for appointment to the Multi-Modal Transportation Board as a regular member.

**NOMINATION:** Nomination by Commissioner Host:  
To appoint Andrew Haig as a regular member to the Multi-Modal Transportation Board to serve a three-year term to expire March 24, 2022.

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

Mayor Boutros thanked the appointees for their interest and noted that the swearing in of the new appointees will be done individually and safely at the City Clerk’s office by appointment.

**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.

**06-099-20 APPROVAL OF CONSENT AGENDA**

The following items were removed from the Consent Agenda:  
Commissioner Host: Item A – Resolution to approve the City Commission Budget Hearing minutes of June 6, 2020.  
Item B - Resolution approving the City Commission regular meeting minutes of June 8, 2020.

Commissioner Hoff:

Item J – Resolution for Van Dyke Horn Agreement Amendment.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Nickita:  
To approve the Consent Agenda excluding Item A, B, and J.

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

- C. Resolution approving the warrant list, including Automated Clearing House payments, dated June 10, 2020 in the amount of \$1,540,326.70.
- D. Resolution approving the warrant list, including Automated Clearing House payments, dated June 17, 2020 in the amount of \$253, 316.69.
- E. Resolution to confirm the City Manager’s authorization for the emergency expenditure related to the purchase of hand sanitizer from Grainger for a total cost of \$6,186.63 to be charged to City Property Operating Supplies COVID account # 101-441.003-729.0000, pursuant to Sec. 2-286 of the City Code.
- F. Resolution to approve the purchase of uniforms with Contractors Clothing Company for the total amount not to exceed \$9,000 for fiscal year 2020-2021. Funds are available for this in the Public Services - Uniform Allowance account # 101-441.002-743.0000.
- G. Resolution to appoint City Manager Joseph A. Valentine as Representative and DPS Director Lauren Wood as Alternate Representative of the City of Birmingham on the SOCRRA Board of Trustees for the fiscal year starting July 1, 2020.
- H. Resolution to appoint Assistant City Engineer Austin Fletcher as Representative and City Manager Joe Valentine as Alternate Representative of the City of Birmingham on the SOCWA Board of Trustees for the fiscal year starting July 1, 2020.
- I. Resolution to approve a 24-month service agreement renewal with Logicalis, Inc. effective July 1, 2020 for City Information Technology services. Further, to direct the City Manager to sign the renewal agreement on behalf of the City.

**06-100-20 (ITEM A) CITY COMMISSION BUDGET HEARING MINUTES OF JUNE 6, 2020**

Commissioner Host pointed out page 5, paragraph 3, and second line should read maintainable, as parts are not readily available.

**MOTION:** Motion by Commissioner Host, seconded by Mayor Pro-Tem Longe:  
To approve the City Commission Budget Hearing minutes of June 6, 2020 as amended.

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

**06-101-20 (ITEM B) CITY COMMISSION REGULAR MEETING MINUTES OF JUNE 8, 2020**

Commissioner Host suggested the following amendments to the minutes:

- Page 8, second to last paragraph, refers to a combination request in November. It should read October 29, 2019.
- Page 15, under Commissioner Comments, Item A, point #1 should read Touchwood.
- Page 15, Item D, the line to track annual spending on commercial and residential Birmingham.

Commissioner Hoff pointed out that Touchwood should be replaced by the Joint Senior Services Committee will be meeting.

Commissioner Sherman, Page 8, last word should be dissented.

**MOTION:** Motion by Commissioner Host, seconded by Commissioner Sherman:  
To approve the City Commission Regular Meeting minutes of June 8, 2020 as amended.

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

**06-102-20 (ITEM J) AMENDMENT TO VAN DYKE HORN AGREEMENT**

Commissioner Hoff pointed out that this is the contractor for City communications. While she complimented City Manager Valentine and the consultant for the coverage of Birmingham over the last couple of months, she asked why the change in contract price and who directs and provides information to the consultant.

City Manager Valentine expressed that the scope of the contract services are more limited than previously. The consultant did an outstanding job in providing those services in the absence of an in-house person, but it was decided that an in-house communications director would be more beneficial and have the consultant in a supporting role; thus decreasing the cost of the contract. He further explained that there is a \$4,000 retainer for approximately 39 hours per month for the social media platform and a wage for additional projects that may be assigned to them for special projects that may come up.



Planning Director Ecker explained that combining two single-family lots generally creates one single-family home, and it would affect the total number of households represented in the City.

Commissioner Sherman expressed that he found the information gathered from the Planning Board helpful in clarifying Section 102-83, Sub 6 in terms of what should be considered in the Commissioners determination as it applies to the use of discretion. He went on to reiterate that he looks at how a proposed combination would look and feel in the neighborhood, and it was examined at the Planning Board meeting. In this instance, the proposal raised additional issues specifically, how the building fronts line up. The proposed combination allows for the front and side setbacks to match property along Henrietta and Frank streets, without the combination there is not a match along both streets. He went on to say the buildable area on the second lot appears to be approximately 1,000 sq. ft. and addresses any footprint and height issues that may arise. Finally, after discussions with the Planning Board, he is in support of the suggested resolution.

Mayor Pro-Tem Longe closed the public hearing at 8:50 p.m.

**MOTION:** Motion by Commissioner Nickita, seconded by Commissioner Baller:  
To approve the proposed lot combination of 211 Frank Street, Parcel # 19-36-184-020 and 227 W. Frank Street, Parcel # 19-36-184-019.

Commissioner Hoff read the Commissioners comments made at the April 20, 2020 public hearing for the Bates Street lot combination:

- Commissioner Nickita expressed that the current lot combination ordinance needs a thoughtful amendment to strengthen the City's position in deciding future lot combinations.
- Commissioner Hoff agreed with Commissioner Nickita that an ordinance revision is needed so that consistent standards are in place moving forward.
- Commissioner Baller expressed support in revising the ordinance governing lot combinations.
- Mayor Pro-Tem Longe prefers to revise the ordinance to allow a property owner to have accessory uses on a lot without forcing a lot combination.
- Commissioner Host agreed with the other Commissioners that the ordinance is a problem.
- Commissioner Sherman stated that it is now evident that there is still work that needs to be done to the ordinance.

Based on the comments, she felt there was a consensus among the Commissioners that the ordinance needed revision. Due to the timing of this particular request and it meets all the requirements set forth in the existing ordinance, and the application was filed prior to the April 20, 2020 discussion, she reluctantly supports the suggested resolution. She expressed that an ordinance revision was almost unanimous and hopes that it could be conveyed to the Planning Board.

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



Mayor Pro-Tem Longe turned the meeting over to Mayor Boutros to preside.

**VI. NEW BUSINESS**

**06-104-20 LAKEVIEW AVENUE PAVING PROJECT**

Assistant City Engineer Fletcher presented this item.

Commissioner Hoff asked if the quotes include the cost to remove lead water services from ten properties; and would those homeowners be able to have sewer laterals replaced at their own cost.

Assistant City Engineer Fletcher affirmed that the removal of lead water services and replacement of sewer laterals in the City’s right-of-way are included.

Mayor Boutros clarified that there are two bids in front of the Commission to approve the use of concrete or asphalt in the paving project on Lakeview Avenue. He also expressed that the Commission have received all of the residents’ communications supporting the use of asphalt.

Commissioner Baller expressed that he supports the asphalt option and would like to move forward with this resolution.

Commissioner Sherman, from the position of serving on the Ad-Hoc Street Improvement Committee, reminded everyone that the committee is still reviewing the best options to implement for City policy. Currently, the City policy is concrete. In this case the residents would prefer asphalt and there is an apparent savings over concrete to the residents but there is an increase in maintenance cost to the City. Due to the number of existing asphalt streets, maintenance cost should not be considered for the bid before the Commission.

**MOTION:** Motion by Commissioner Sherman, seconded by Mayor Pro-Tem Longe: To award the Lakeview Avenue Paving Project, Contract #2-20 (P), to DiPonio Contracting, Inc., **ALTERNATE #2 (Asphalt)** in the amount of \$1,135,660.00, to be charged to the following accounts contingent upon execution of the agreement and meeting all insurance requirements:

<u>Fund</u>	<u>Account Number</u>	<u>Costs</u>
Sewer Fund	590-536.001-981.0100	\$413,273.33
Water Fund	591-537.004-981.0100	\$306,913.33
Local Streets Fund	203-449.001-981.0100	<u>\$415,473.33</u>
TOTAL		\$1,135,660.00

Commissioner Hoff pointed out that one of the residents on Lakeview Avenue asked why the surface on Baldwin that is asphalt, degraded and with construction projects planned on Lakeview would the heavy equipment effect the new pavement.

Assistant City Engineer Fletcher explained that there are many reasons why asphalt deteriorates. He further affirmed that the asphalt planned for Lakeview would uphold the construction traffic. He also pointed out that in new construction a hole would be cut in the road to connect the water and sewer. With the asphalt option, the patch would be visible, that is not the case with concrete.

Assistant City Engineer Fletcher addressed the deterioration on Baldwin by stating that the road would have to be examined to determine the specific cause.

Commissioner Hoff commented that many residents have put parking spaces in front of their homes would the practice of adding parking areas be available with the improved streets.

Assistant City Engineer Fletcher expressed that the road improvement includes the addition of curbs and the ability to park on both sides of the street, eliminating the need to create additional parking areas.

Commissioner Baller asked what curb design would be used for this project, and how wide is the tree strip.

Assistant City Engineer Fletcher described the design as a straight-faced curb with a tree strip of approximately 12 ft. wide.

City Manager Valentine explained that there is an inventory of trees that are planted in the right-of-ways throughout the City and DPS determines the placement.

Commissioner Baller expressed his pleasure in hearing Christine McKenna speak about the importance of design and esthetics incorporated with engineering.

Commissioner Nickita commented on this part of the process. He expressed that this is just a small piece in the bigger picture of identifying how to move forward with unimproved roads and does not set a precedent for how the City addresses the projects going forward. A policy is still forth coming. While esthetics are important, long term maintenance cost must be considered to keep the City fiscally responsible.

Mayor Boutros expressed his appreciation for the unity of the neighbors in working on this project. He also assured everyone that the Ad-Hoc Unimproved Streets Committee will begin working on a recommendation soon and apologized for the delay caused by the current pandemic.

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

**06-105-20                      REVISED REVIEW PROCESS FOR THE 2040 MASTER PLAN**

Planning Director Ecker presented this item.

**MOTION:**                      Motion by Commissioner Sherman, seconded by Commissioner Hoff:  
To approve the Revised Review Process dated June 5, 2020 as endorsed by the Planning Board on June 10, 2020.

Commissioner Hoff asked for clarification on the time-line presented.

Planning Director Ecker expressed that the community meetings will begin in July of 2020 virtually. The Planning Board would discuss this at their next meeting and select a date to move forward.

DLZ replied that the packets would be launched at the next Planning Board meeting and distributed to the public as soon as possible.

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

**06-106-20                   REVISED PLANNING BOARD ACTION LIST**

Planning Director Ecker presented this item.

Commissioner Hoff suggested that the lot combination process be moved up in priority before other applications are submitted. She further asked where in the themes of the Master Plan is the definition of retail.

Planning Director Ecker suggested theme number 9 and 10 for the definition of retail.

Sarah agreed with Planning Director Ecker’s suggestion. She also explained that the themes listed are draft themes from feedback suggesting that there is a need to bridge the east and west sides of Woodward. Moving through the revision process, themes would become more defined.

Commissioner Baller is not comfortable with the process for the action list and suggested that the list be reviewed and prioritized in a workshop with the Planning Board.

Commissioner Nickita clarified that the Planning Board has been dealing with the listed issues for some time and it is a collaborative effort that now needs approval by the City Commission.

Commissioner Host agreed with Commissioner Baller in that there should be a workshop to address the Planning Board action list.

Mayor Pro-Tem Longe is comfortable pending this item for input from the Planning Board.

Mayor Boutros, while not part of the lot combination discussion, expressed that he did not see support from the Planning Board for the ordinance review and is in support of pending the action.

Commissioner Sherman recalled the discussion, at the Planning Board joint meeting, supporting an ordinance review.

Commissioner Hoff explained to Mayor Boutros that while he was recused and out of the room, she read comments from the remaining Commissioners supporting a review of the lot combination ordinance. She reiterated that the Planning Board should review the process in a timely manner before the Commission is faced with another application.

Mayor Boutros expressed that the Bates Street lot combination was unique and different from the discussion now. He is in support of pending the action.

Commissioner Baller reiterated that this is a to-do list and prioritizing the list should be hashed out in a workshop.

Commissioner Nickita admitted being part of creating the list for approximately 20 years. He explained that it is a list carried over from projects, approvals, and discussions throughout the Commission and Planning Board activities. He went on to say the list is dynamic, complicated, and addressed by staff, as time is available. Commissioner Nickita further noted that it had been reviewed and qualified by the Planning Board in March.

Planning Director Ecker affirmed that the Planning Board studied the list in March, made recommendations for the order of priority, and that it is a cooperative effort.

Mayor Boutros wanted to table this issue due to the public comment tonight on the effects of lot combinations on the public school funding process. He suggested that there are studies that need to be done to evaluate the number of children in the existing homes, if any, and then measure the impact. He reiterated that the Commission is in place to serve the public who are the residents of Birmingham with changing familial needs and recommended more discussion.

Mayor Pro-Tem Longe requested clarification because she does not see the action list as an agenda item at the March 11, 2020 meeting; and added that her preference is to send it back to the Planning Board.

Planning Director Ecker expressed that she thought the Planning Board considered it on March 11, 2020; but would verify the date because it might have been at the February meeting. She further expressed that lot combinations would not have priority for the Planning Board due to the planned Master Plan activities.

Commissioner Hoff added that the City Commission traditionally has input on prioritizing the to-do list. She also firmly stated that speaking for one of the six Commissioners in agreement with an ordinance review based on discussions at the joint meeting on June 15, 2020; she is a proponent for having it on the to-do list for the Planning Board.

Commissioner Sherman reiterated that the list customarily comes back to the Commission after discussions with the Planning Board; if it satisfies the Commissioners he suggested asking staff to take it back to the Planning Board to confirm that they are comfortable with the to-do list and the order and bring it back for review by the City Commission.

Commissioner Nickita concurs with Commissioners Sherman to move this forward, agreed with Commissioner Hoff's comments, and added that the ordinance is concerning and needs review. He further pointed out that other Commissioners have agreed that there is a gap and at the joint meeting, there was agreement among the Planning Board that the ordinance could be stronger, and believes that returning the list would be repetitive.

#### Public Comment

David Bloom, resident, expressed that he likes the idea of moving the lot combination ordinance forward. He is concerned about the Master Plan themes, specifically 6 and 7 which deal with new urbanism that the residents of Birmingham do not want.

Hany Boutros, 711 Bates, commended Commissioner Hoff for her hard work and consistent research. He asked why she changed her position on lot combinations since the last request was before the Commission.

Commission Sherman interrupted with a point of order, and stated under the rules of procedure the public are not allowed to address Commissioners, staff, or other members of the public in an unruly manner.

Mayor Boutros clarified that there was no attack, just a question asked.

Hany Boutros, resident, apologized and reiterated his commendation for Commissioner Hoff's work. He went on to pose his question again.

Commissioner Hoff expressed that the question was not asked with good will and therefore not beneficial to the discussion; she stood behind her vote and suggested that the Commission move forward with the meeting.

Hany Boutros argued that he did ask in good will and expressed that lot combinations should be an administrative process.

**No action was taken** to approve the Revised 2020-2021 Planning Board Action List by adding a review of the lot combination ordinance and to consider the development of economic stimulus programs to be incorporated into the Planning Board's schedule after the in progress items are completed.

#### **06-107-20                      DAXTON HOTEL STREETSCAPE**

Assistant Planning Director Dupuis presented this item.

Gail McGregor, Daxton Hotel, explained that the organization is asking for a minor modification of the streetscape. There is a light pole planned for the entrance of the hotel that would impede the walkway; and removing the light pole would not affect the lighting designed for that area.

Commissioner Hoff asked if there would be parking in front of the hotel on Old Woodward and how would the removal of the light pole affect the corner of S. Old Woodward and Brown St.

Assistant Planning Director Dupuis explained that there are parking spaces that would be shared with the valet parking stand and he affirmed that currently there are no streetlights on the affected corner. He added that the applicants have suggestions for alternative lighting.

Ms. McGregor explained there are foot-candles and a well-lit canopy over the entrance planned for the area that would enhance the current streetscape and provide sufficient lighting.

Commissioner Nickita asked for clarification on the digital packet in reference to pedestrian light in terms of the applicant's preference; there appears to be two options.

The applicant is asking for removal of the light post. Studies have suggested that there would not be a need for a light post in an alternative location. There are two options at the request of the Planning Department.

Commissioner Baller asked for clarification on the request to remove a light post that has not been installed; and why staff is not taking a position on the request.

City Manager Valentine expressed that there is an approved site-plan by the City Commission; and staff are not authorized to make changes to an existing approved plan.

Mayor Boutros attempted to clear the air by asking if there was any opposition to removing the pole from the site plan. He further asked if extra lighting would be needed to replace the planned lighting, and if so, would underground flush lighting be considered.

Planning Director Ecker commented that there are pros and cons to the removal of the light. Based on the photo metrics, the applicants request would work; there would be enough light for safety and security. The con is the design esthetic expected as you view the streetscape; symmetry would be interrupted.

Mr. Charlie Stetson, Booth Hansen Architects, clarified that the request is to remove an awkward light pole from the entrance to the hotel. He went on to assure that the planned lighting for the area would be sufficient.

Commissioner Nickita acknowledged that the hotel is on a challenging corner; the entry canopy and lighting would be a focal point at the end of the streetscape and would not need a pedestrian light post at that location to complete the esthetics. Commissioner Nickita continued with the Commission being cognoscente of setting a precedent and asked Planning Director Ecker to explain the distinction of this scenario.

Planning Director Ecker advised that there have been request in the past; interruption of symmetry is not desired unless needed. In this case, the canopy of this large, new building provides relief for pedestrian lighting, provides coverage for people standing, and finally, the sidewalk would be too cluttered with the light post, and would disrupt the grand architecture.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Host:  
To approve a revised streetscape plan for the Daxton Hotel at 298 S. Old Woodward to include 3 pedestrian scale streetlights along S. Old Woodward.

Commissioner Nickita asked if moving the motion as stated would require a light to be put atop of the traffic light or would it eliminate that option until it is determined necessary.

Planning Director Ecker affirmed that the light post would be removed and there would be no light installed at the intersection.

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

## **06-108-20 PURCHASE OF BODY WORN CAMERAS**

Chief Clemence presented this item based on a suggestion from Karen Healy, a 15-year-old student from Seaholm High School. After discussions with the Chief, Miss Healy created a petition and acquired over 1,000 signatures from community members in support of Birmingham police officers wearing body cameras. Chief Clemence commended her for her efforts and concern about the community.

Commissioner Hoff asked if the proposed account is funded enough to support this purchase; or would it be more appropriate to use the drug forfeiture fund.

Chief Clemence affirmed that there is enough in the proposed fund, and there is a plan to use the drug forfeiture fund on a camera system for the City in the 2020-2021 budget year.

Commissioner Sherman clarified that there were excess funds in the current year budget so the Chief is asking to use the funds for this purchase.

Commissioner Nickita acknowledged that the use of body cameras have been studied by the City that revealed legal concerns, privacy issues, and civil rights issues prohibiting the adaptation of this practice. Being aware of cameras inside the vehicles and recorded audio on body for several years, He further asked would the body cameras just enhance and complete the current systems. Finally, he asked if there would be any change in the vehicle configuration.

Chief Clemence explained that laws have changed eliminating early concerns with the use of this type of technology and affirmed that the addition of body cameras would complete the existing system. He also expressed that this purchase would create a two prong system that provides redundancy if one of the systems were to fail.

Commissioner Host wanted Chief Clemence to know that his proactivity and leadership demonstrates that he is a great guardian of the community.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Nickita: To approve the purchase of (40) VISTA HD body worn camera systems from WatchGuard Video via Oakland County Cooperative Purchasing contract # 004898; further charging this expenditure in the amount of \$60,463.00 to the General Fund capital outlay machinery and equipment account # 101-301.002-971.0100.

Mayor Pro-Tem Longe thanked Chief Clemence for his swift action on this issue, applauded the comments, and looks forward to continued dialogue about other suggestions.

### Public Comment

Karen Healy, Seaholm student, expressed that her petition to require the Birmingham Police Department to wear body cameras was supported by over 1,600 signatures. She thanked the City Commission, City Manager, and the Police Chief for taking this issue seriously.

Mayor Boutros complimented Ms. Healy on taking up a cause that she is passionate about and recognized her good work.





**06-110-20                      FOURTH      QUARTER      APPROPRIATIONS      AND      BUDGET  
AMENDMENTS**

Finance Director Gerber presented this item.

**MOTION:**                      Motion by Commissioner Sherman, seconded by Mayor Pro-Tem Longe:  
To approve the fourth quarter appropriations and amendments to the fiscal year budget of 2019-2020.

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

**VII.      REMOVED FROM CONSENT AGENDA**

**VIII.      COMMUNICATIONS**

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

David Potts, 530 Lakeview, stated that he and his wife retired circuit court judge Wendy Potts have lived in Birmingham for 28 years. He wanted to comment on national concerns that effect all residents in Birmingham. He asked is America a systemic racist society. He went on to ask if people are so partisan that they are willing to put police agencies and other institutions across the country at risk, as a result of the death of George Floyd. He also suggested that before holding him in high esteem, the speakers at his funeral promised vengeance and violence. Mr. Potts pointed out that on the left, the Governor of Virginia promised the removal of all statues of confederate generals. CNN suggested that monuments of Washington and Jefferson are insidious replicas of slave owners; Washington being the father of this country and Jefferson was the author of one of the most important American documents. He went on to say that everyone should be concerned about the movement supported by the left and right and that anarchist nationwide, including Detroit Mayor Duggan, are removing monuments across the nation. While he noted that Black Lives Matter, he went on to say that all lives matter. He continued with, Fox journalist Carlson who was in support and criticism of the Black Lives Matter movement lost sponsors. Mr. Potts expressed that there is space in the room for debate on the fate of iconic structures and sees the country running the risk of targeting and ignoring institutions, and debasing police based on the misconduct of one officer and the complicit behavior of the other officers implicated in the murder of George Floyd.

David Bloom, resident, expressed that earlier in the meeting Item B was pulled from consent without the public having an opportunity to comment. He went on to say that his comments were not articulated fully in the minutes and repeated his comments as follows: The budget contains \$.5M in legal services going to Mr. Currier and his firm; last year Mr. Currier with faulty legal advice took away civil rights of residents of Birmingham. He does not think that the residents deserve to spend \$.5M on an attorney giving that type of legal advice and should not continue to retain City Attorney Currier. He further pointed out that it is ridiculous that it has been three hours and 40 minutes since the meeting began and the public is just getting the opportunity to

comment on issues not on the agenda. He also stated that he is concerned about how the City is being governed. Rights were taken away last summer, questionable propaganda sent to residents about the NOW parking deck, contract for City Manager Valentine, two Commissioners suggested that there was data used to support the decision for the City Manager's contract and no such data has been produced. In his opinion, the residents of Birmingham have lost control of City Government to two or three Commissioners and staff that are preventing three new Commissioner from doing the job that they were elected to do.

## **X. REPORTS**

A. Commissioner Reports

B. Commissioner Comments

- Commissioner Sherman expressed that he wanted to address an issue that he thought would be appropriate for discussion when the Commission is able to hold the meetings in person again. He went on to talk about the trial period for public comment being held at the top of the agenda, and explained that the intent was to discuss the results of the trial at the next in-person meeting. Because it is not known when in-person meetings would resume, he suggested that this issue be brought to the second meeting in July for discussion. Commissioner Sherman also expressed his concern about decorum; specifically some of the comments made by Commissioners or the public that are personal attacks in trying to fight a battle that occurred before some of the present Commissioners were elected. He went on to speak about a comment made at the last meeting referring to the nice lady that works with Mr. Currier. He specified that the nice lady is an attorney and deserves the same respect that would be given to a male in the same profession. He reiterated that personal attacks are not allowed and the Commission has to work together and have the responsibility of setting the tone. Rules of decorum for dealing with the public are in place and he asked that the mayor enforce those rules, in particular unruly and inappropriate comments that are combative in nature. The behavior is not productive and only serve to prolong the meetings.
- Commissioner Baller expressed his frustration with getting items on the agenda. He spoke with a local parliamentarian that advised him to make a motion to put the item on the agenda and take a vote. During his research, he found that section 41 of Roberts Rules of Order defines the order of the day as a particular subject, question, or item of business that set in advance to be taken up at a given meeting. Orders of the day are in two categories general and special. It goes on to say that an item of business can be made the order of the day by making a question that is not pending the general order for a future time by a majority vote; this confirmed the advice given by the local parliamentarian. He referred to Commissioner Sherman's suggestion and pointed out that he did not put it into a motion. He also referred to a discussion initiated by himself on January 27 as to whether DPZ or another firm should help the City with a Plan B to move forward with the property at N. Bates Street. Even though the bond issue failed last November, a number of community members feel that further planning for that site is appropriate. The minutes from that meeting reflect that City Manager Valentine offered to get a proposal from DPZ, and in March the City Manager expressed in the Inside City Hall video that on March 23, 2020, the City Commission would review a proposal for evaluating the Bates Street property. The meeting was cancelled due to the pandemic and has not been brought to the Commission for review.

**06-111-20 NORTH OLD WOODWARD (NOW) PROJECT**

**MOTION:** Motion by Commissioner Baller, seconded by Mayor Pro-Tem Longe:

To add a presentation by the City Manager of the draft proposal for planning of the NOW property for Commission review on the City Commission Meeting Agenda of July 13, 2020.

Commissioner Host commented that this should be included in the 2040 Plan, but was not mentioned. He is in support of starting the discussion in an effort to make progress.

Commissioner Hoff suggested that the first order would be to ask City Manager Valentine if it is possible to add this to the July 13, 2020 agenda in terms of having the appropriate information ready for presentation.

City Manager Valentine affirmed that the document has been prepared since March and can be on the agenda at the next meeting. He further added that the COVID19 pandemic changed priorities and only immediate issues have been on the agendas per the Governors executive orders.

Commissioner Sherman explained that the agenda is full for July 13 due to scheduled public hearings and that is why he asked for the second meeting in July.

Mayor Boutros confirmed that the July 13 agenda is full and asked if Commissioner Baller would like to consider amending his motion for the July 20, 2020 agenda.

Commissioner Baller declined, but agreed to table the discussion at the July 13 meeting if time would not permit for the discussion.

Commissioner Nickita asked the legal team for an opinion on whether the motion at this time aligns with the Commissions previous actions.

Attorney Kacharek expressed that she had not been able to examine the citation from Roberts Rules of Order as presented by Commissioner Baller, but explained that Roberts Rules are a compilation of guidelines for boards and commissions to use in conducting meetings. She went further to say it is not enacted by law, constitution, charter, ordinance, or statute. If a particular board or commission finds that parts of Roberts Rules does not fit with their philosophy, it is not required to follow that part. She went on to clarify that just because it says that you can do something, it does not mean that you must do it.

Mayor Pro-Tem Longe, as a new Commissioner, studied the rules of procedure for the City Commission. She found under Conduct of Business the following: Commission meetings shall be governed by the rules obtained in the most recent edition of Roberts Rules of Order in all instances where applicable, and not inconsistent with statutes of the State of Michigan or the Charter adopted by the City of Birmingham.

Attorney Kucharek expressed that she would need to review the rules of procedure.

Mayor Boutros suggested that there is no difference between taking a vote and agreeing collectively to have the discussion. He went on to say the focus should be on the date since City Manager Valentine stated that he is ready to proceed at the next meeting.

Attorney Kucharek clarified that there is a difference between a motion and vote and a collective agreement. She suggested that he keep in mind that the Commission speaks as a collective body through motions and votes.

Commissioner Baller raised a hypothetical question to his advisor, as to whether a motion could be made at a meeting for something not on the agenda. While she told him that he could, she also advised that he should not because it is not practiced by anyone due to noticing the public as outlined in the Public Meetings Act.

Commissioner Hoff, concerning Commissioner Nickita's question, expressed that she did not recall this being done during Commissioner Comment in the past, and had no opposition to Commissioner Baller's request and motion. She is concerned about the date in his motion because there are several public hearings scheduled making for a heavy agenda. She suggested it be on an agenda when the Commission is sure that it could be done in a timely meeting.

Commissioner Baller asked that the City Manager provide the material prior to the next meeting because he wants to see the proposal. He went on to comment about the timeliness of the agenda packet and does not understand why the Commission does not have the proposal since it has been prepared.

Mayor Boutros clarified that the next meetings are seven days apart and concurs with Commissioner Hoff about the date.

City Manager Valentine could provide the document but the Commission would not have the benefit of a report that would normally accompany the documents submitted for review.

Commissioner Baller amended his motion for the City Commission Meeting Agenda dated July 20, 2020. Mayor Pro-Tem Longe agreed.

Commissioner Nickita expressed concern with creating motions during Commissioner Comment. It is not part of the procedure for a reason. This Commission has practiced presenting a point, exchanging dialog, and collectively agreeing to have it on a future agenda. He is not comfortable with putting ideas in an agenda format due to the assumption that it would be raised to and considered at the same level of a planned agenda item.

Commissioner Sherman reiterated his previous comment and the problems surrounding Commissioner Comment. Comments are made that lead to direction to staff to act and bring something back to the Commission. It has not been past

practice to raise motions during the comment section simply because of the reasons stated by Commissioner Nickita. The practices until now have been collegial. He went on to advise Commissioners that the best way to get items on the agenda is to follow the procedures that are already in place.

Commissioner Host complimented Commissioner Hoff for keeping an open mind and supporting this item for the July 20, 2020 agenda.

Commissioner Hoff shared a thought: The goals were to have a discussion and get the presentation and report. She continued to share that the issue was discussed, the Commission wants more information, the City Manager is prepared to present it, so she suggested that the Commissioners accept the discussion as opposed to formalizing a motion and agree to hear it on July 20, 2020.

Commissioner Host commented that the easiest thing to do would be to vote on the resolution. He further stated that it is important to the people of Birmingham to get their issues on the agenda.

Commissioner Nickita expressed that he cannot support a motion that was not presented in the proper manner. He suggested that Commissioner Baller withdraw the motion and ask for a straw poll.

Commissioner Baller has no interest in withdrawing the motion.

Public Comment

David Bloom expressed his appreciation for this discussion and looks forward to doing more and getting more items on the agenda. He went on to say there have been issues in the past and this might be a good way forward.

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

- Commissioner Host complimented City Manager Valentine and staff on how the recent crisis have been handled. He appreciates the police chief, fire chief, and other staff for keeping the community safe. He thanked Commissioner Sherman for his comments to begin discussions on the placement of public comment on the agenda moving forward. He requested a legal opinion about public comment.

**06-112-20 PLACEMENT OF PUBLIC COMMENT ON MEETING AGENDAS**

**MOTION:** Motion by Commissioner Host, seconded by Commissioner Baller: To discuss at the July 13, 2020 City Commission Meeting, the timing of public comment with a legal opinion as to whether public comments can be postponed to a later time in that meeting with the resolutions prepared by staff giving several

options for entertaining some or all of the public comments at the beginning of the City Commission Meetings on July 13, 2020.

Commissioner Hoff commented that this motion is exactly what Commissioner Sherman suggested for the second meeting in July. She expressed that everyone could have just agreed at that point to have a discussion at the second meeting in July. She went on to say that this stance is deliberate and not cohesive. She further objected to convening until midnight and not being productive.

Commissioner Nickita asked why there is a motion when Commissioner Sherman identified a date to bring it back and there was agreement.

Commissioner Sherman expressed that this is Commissioner Host making a political stance because the point was expressed in a previous comment. This is misuse of the public's and Commissions time. He again advised the new Commissioners to watch how things are done, learn the processes that work, and then try to change what does not work. The current process does work and things are accomplished. He asked if the City Manager had sufficient direction on this topic.

City Manager Valentine affirmed that there was sufficient interest to bring the item back for discussion on July 20, 2020.

Commissioner Baller clarified that the motion is to have it on the July 13, 2020 agenda and called for a vote.

Commissioner Nickita, again, noted that it has been decided that the July 13, 2020 agenda is heavy, therefore the July 20, 2020 and is the logical time to do it.

Mayor Boutros asked for clarification on the discussion. He heard that the discussion about public comment was posed for when the City Commission returns to normal business and live meetings.

Commissioner Sherman clarified that, based on the assumption of being back to normal business August 1; it was to bring it back on the last meeting in July in preparation for implementing the new process at the first live meeting.

Commissioner Host agrees with Commissioner Sherman that this should be on the agenda. He is willing to wait until the 20<sup>th</sup> but feels it is better to do it as soon as possible. The public's time is more important than the Commissioners time and ridiculous that they have to wait to make their comments.

Commissioner Baller read the Zoom transcript of Commissioner Sherman's comments and argued that he was suggesting that the test results would be discussed and is not the same as Commissioner Host's comment. He further argued that there was not a consensus for Commissioner Sherman's suggestion.

Mayor Boutros asked that the Commission work as a team and pointed out that they have a high standard in Birmingham and should respect and keep the standard. He went on to say that trust and respect is needed to work collectively.

He also pointed out that Commissioner Comments have become a new meeting and he hopes that everyone could relieve their frustrations and display a strong team with strong leadership.

Public Comment

Hany Boutros, 711 Bates, expressed his thanks to Commissioner Host for being an advocate of the public and his persistence on this issue.

Commissioner Nickita expressed that he supports the discussion of his issue to determine how to move forward. He also said that he is not supportive of creating motions in Commissioner Comments without a proper dialogue about what it means to make a motion and open it to an agenda item that is noticed. He cannot support this unprecedented motion at this time.

Commissioner Sherman agreed with Commissioner Nickita and reiterated that this motion is not proper and he cannot support it.

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

- Mayor Pro-Tem Longe asked the status of the Parks and Recreation Bond, and if it is still feasible for the November ballot.
- City Manager Valentine pointed out that this topic was discussed in January at the Long Range Planning Meeting with the intent of bringing this issue to the Commission in the spring. However, in light of the pandemic, this item was tabled. It should be noted that new economic considerations arose out of the pandemic as well. If it is the Commission's desire the item could be brought back in July for language approval, keeping in mind that the City is still in a COVID19 environment with emergency declarations that requires the City to assess how to move forward frequently. He reiterated that there was a progressive approach to the problem without a clear path to progression.
- Commissioner Hoff expressed that it takes more than one meeting to approve a multi-million dollar bond proposal.
- Mayor Pro-Tem Longe would normally agree but in this case it has been in front of the Commission and it should not be an issue.
- Commissioner Nickita would like to review the proposal and then decide on a path.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff

INFORMATION ONLY

**XI. ADJOURN**

Mayor Boutros adjourned the meeting at 12:17 a.m. on June 23, 2020.