

# BIRMINGHAM CITY COMMISSION MINUTES

January 11, 2021

7:30 P.M.

VIRTUAL MEETING

MEETING ID: 655 079 760

Video Link: <https://vimeo.com/event/3470/videos/493603896/>

## 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, 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 Markus, City Clerk Bingham, City Planner Cowan, City Attorney Currier, City Planner Dupuis, Planning Director Ecker, Police Operations Commander Grewe, City Attorney Kucharek, Parks and Recreation Manager Carrie Laird, Fire Chief Paul Wells, DPS Director Wood

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

### Announcements

- Happy New Year!
- The City's Covid-19 Hotline has concluded as Covid-19 cases continue to decline across the state. Keep an eye on [www.bhamgov.org/virusprevention](http://www.bhamgov.org/virusprevention) for the latest City, County, State and CDC news pertaining to Covid-19.
- Update from Birmingham Fire Chief Paul Wells on Covid-19 vaccinations.
- The City Commission wishes to welcome back City Manager Tom Markus.

### Appointments

#### 01-001-21 Appointment of Barbara Heller to the Public Arts Board

The Commission interviewed Barbara Heller for the appointment.

**MOTION:** Nomination by Commissioner Hoff:

To appoint Barbara Heller to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2024.

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

Nays, None

#### 01-002-21 Appointment of Monica Neville to the Public Arts Board

Monica Neville was unable to be present for the meeting.

**MOTION:** Nomination by Commissioner Baller:  
To appoint Monica Neville to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2024.

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

Nays, None

**01-003-21 Appointment of Jill Stress to the Board of Review**

The Commission interviewed Jill Stress for the appointment.

**MOTION:** Nomination by Commissioner Host:  
To appoint Jill Stress to the Board of Review as an alternate member to serve a three-year term to expire December 31, 2023.

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

Nays, None

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

Frank Pisano and David Bloom welcomed City Manager Markus back to the City and congratulated Doug Koschick on his retirement.

**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.

**01-004-20 Consent Agenda**

Mayor Pro Tem Longe recused herself from voting on Item E citing a business relationship between her husband and the parties concerned.

The following item was pulled from the Consent Agenda:

Commissioner Hoff: Item A – City Commission Minutes of December 21, 2020

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Host:  
To approve the Consent Agenda with the exception of Item A and noting Mayor Pro Tem Longe’s recusal from Item E.

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

Nays, None

- B. Resolution approving the warrant list, including Automated Clearing House payments, dated January 6, 2021, in the amount of 6,472,146.25.
- C. Resolution to set a public hearing date for February 8, 2021 to consider the Final Site Plan and Design and Special Land Use Permit at 251 E. Merrill to allow for the operation of Tapper's Gold Exchange.
- D. Resolution to approve a purchase of two LIFEPAK 15 v4 defibrillators plus accessories from Stryker in the amount of \$37,554.50 from account #101-336.000-971.0100 and further to approve the appropriation and amendment to the 2020-2021 General Fund budget as follows:

General Fund

Revenues:

|                        |                      |                 |
|------------------------|----------------------|-----------------|
| Draw from Fund Balance | 101-000.000-400.0000 | <u>\$37,560</u> |
| Total Revenues         |                      | <u>\$37,560</u> |

Expenditures:

|                                       |                      |                 |
|---------------------------------------|----------------------|-----------------|
| Public Safety – Fire – Mach. & Equip. | 101-336.000-971.0100 | <u>\$37,560</u> |
| Total Expenditures                    |                      | <u>\$37,560</u> |

- E. Resolution to set a public hearing for the proposed lot combination of 469-479 S. Old Woodward for February 8th, 2021.
- F. Resolution authorizing the IT department to purchase the Support and Security Subscription License renewals for the Palo Alto Firewall from AmeriNet. The purchase price not to exceed \$18,957.60. Funds are available in the IT Computer Maintenance fund account #636-228.000-933.0600.
- G. Resolution to approve the amendment to the CARES Act Interlocal Agreement between Oakland County and the City of Birmingham.

**01-005-21 (Item A) City Commission Minutes of December 21, 2020**

Commissioner Hoff made a minor correction to page nine in the "and" parts of the resolution regarding Greenwood Cemetery. 'Section C' should be added before Row 19-A and 'Row 12-A' instead of Lot 12-a.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Host:  
To approve the City Commission meeting minutes of December 21, 2020.

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

Nays, None

|                                |
|--------------------------------|
| <b>VI. UNFINISHED BUSINESS</b> |
|--------------------------------|

**01-006-21 CLG Grant Application – Little San Francisco – Resident Engagement Plan and the Historical Designation Process**

CP Dupuis summarized the item. He confirmed that:

- The final cost of the project could range somewhat from the estimated quotes provided; and,
- He would write a follow-up letter to the residents of the Little San Francisco neighborhood regarding next steps if the Commission approves the CLG grant application and if the funds requested are granted.

Commissioner Baller expressed his support for the item, noting that this topic would be a good one for Bang the Table resident engagement and that City staff would have the opportunity to provide residents of the neighborhood with further information if the funds are granted.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Host:  
To adopt the resolution in support of the grant application made to the Michigan State Historic Preservation Office for the reimbursement grant application for \$8,000 to conduct a reconnaissance level survey of the Little San Francisco neighborhood.

Commissioner Hoff complemented CP Dupuis' letter to residents.

Public Comment

Neil Fiechtenberg, a resident of Little San Francisco, said he was supportive of the motion and also paid compliments to CP Dupuis for his letter to residents.

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

Nays, None

**01-007-21 Daxton Parking Meter Removal & Shared Valet**

Mayor Boutros recused himself from this item citing a business relationship with the management company for the Daxton.

Mayor Pro Tem Longe took over facilitation of the meeting.

Police Operations Commander Grewe reviewed the item.

Rick Rattner and Gayle McGregor, attorneys for the project, represented the request.

A number of Commissioners said the City and the Daxton would need to make it very clear that this valet station serves both the Daxton's guests and any members of the public looking to park in Birmingham. They expressed concerns about how that would be publicized sufficiently.

CM Markus said he would work with the Daxton to ensure that the valet station is publicized sufficiently. He said it might be worth considering redesigning the signage that indicates a public valet station to make it more clear.

Aaron Black, operator of the Daxton, said the hotel would charge the public the fees agreed to with the City, and would charge the hotel's users the same amount during the public valet hours of operation. He said the hotel was still exploring potential rate differences for hotel users during special events and during non-public hours of operation.

Commissioner Nickita requested that the Birmingham PD keep track of how often the adjacent parking spaces are bagged for special events or heavy use over the course of 2021 to assure the Commission that they are being used sporadically and not regularly.

Commissioner Sherman opined that it would be worthwhile to see if the City and the Daxton can make this agreement work, especially since there are relatively simple provisions for either party ending the agreement if necessary.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Nickita:  
At a regular meeting of the Commission for the City of Birmingham, Oakland County, Michigan, held on the 11th day of January, 2021. Whereas, Woodward Brown Ventures LLC d/b/a Daxton Hotel, Aparium Hotel Group, wish to enter into a license agreement for shared parking valet services with the City of Birmingham. Now therefore be it resolved that the City of Birmingham authorizes by this resolution the license agreement for share parking valet services. Be it further resolved that the Mayor or Mayor Pro Tem and City Clerk are hereby authorized to execute the license agreement on behalf of the City of Birmingham.

After discussion among the Commission, City Manager Markus, City Attorney Currier and Mr. Rattner, there was consensus that the agreement would last one year unless one party provides the other with a 90 day notice of intent to terminate the agreement before the end of that first year. After that first year, the agreement would continue indefinitely only to be terminated if one party offers the other 90 day notice of intent to so.



excluded from the PAD.

City Manager Markus stated that the Commission might consider reversing its previous vote and allowing the six frontage spaces to be counted towards The Pearl's retail parking requirements. He said it could be a positive compromise. He explained it could allow for some of the slightly more intensive retail uses being currently proposed while serving as a governor to make sure the uses remain at a reasonable intensity for the area.

Commissioner Hoff and Mayor Pro Tem Longe said they would be comfortable with City Manager Markus' proposed compromise.

Planning Director Ecker noted that sometimes a building such as The Pearl can enter into a shared use agreement between its residential and commercial parking if it can demonstrate that the different uses are concentrated during significantly different times of day. She said that option had not yet been explored.

#### Public Comment

Lindsey Sales, co-owner of Fruition, said she wanted to clarify that seating at Fruition would be relatively low-intensity. She explained that Fruition's Grand Rapids location 80% of the business is carryout. She stated that people that stay to eat usually do so for a maximum of 10-15 minutes, and that the owners are intending there to be no more than two or three tables.

Emil Cherkasov, principal of Bloomfield Hills-based Forward Commercial Group, which is leasing the building, said that by taking no action the Commission could be hurting the business tenants that are signed on to lease in The Pearl.

Mayor Boutros said it was important for the Commission to do what it could to fairly support City businesses during the pandemic.

There was discussion as to whether the Commission could vote to grant the six frontage spaces to The Pearl during the present discussion.

CM Markus and City Attorney Kucharek concurred that a vote on granting the six parking spaces had not been noticed and therefore should not occur this evening. The public needed to be provided with appropriate opportunity to speak on the proposal.

PD Ecker confirmed that the matter could be publicly noticed for consideration at the Commission's January 25, 2021 meeting.

CM Markus said he would have a motion for the January 25, 2021 meeting proposing using the frontage spaces in The Pearl's parking calculation.

The Commission took no action.

## **VII. NEW BUSINESS**

### **01-009-21 Birmingham Ice Arena - Andrus Architecture**

Parks and Recreation Manager Laird introduced the item. Robert Stempien of Plante Moran Cresa reviewed the facility assessment and recommendations.

A number of Commissioners commended Mr. Stempien on his presentation.

Commissioners expressed concerns about:

- The proposed overall expenditure of \$5.1 million for repairs and upgrades.
- The design and design review process for the aesthetic upgrades.
- Whether there was sufficient community understanding and buy-in for these upgrades given the expense and the fact that the Ice Arena is used more often by non-residents.
- Whether the community understood that ice arenas are generally unprofitable and are at best cost-neutral between operational costs and revenue.
- Whether the proposed schedule for the work outlined in this item was too short a timeframe.
- Whether construction on the arena would negatively impact users of Kenning Park during the summer months.

Mr. Stempien said:

- He would work with Parks and Recreation Manager Laird on the designs. The designs could

also be submitted to the City's Architectural Review Board.

- Andrus Architecture had reviewed the proposed timeline and confirmed they could accommodate the proposed project scheduling.
- The biggest issue for users of Kenning Park would be the proximity between where some users park and the south side of the Ice Arena, where some of the construction would take place. Site logistics will be important for that reason and will prioritize pedestrian safety to mitigate any potential issues.
- Updating the utilities for energy efficiency would likely offset the \$3,000/month average deficit the Ice Arena currently has, getting the Ice Arena close to, or a bit over, breakeven status.
- The upgrades will also allow the Ice Arena to operate for an additional three months each year, which will bring in further revenue.

DPS Director Wood and Mayor Pro Tem Longe said that having an Ice Arena is an amenity Birmingham can be proud of, attracts residents to the city, and improves quality of life.

Commissioner Host said he was interested in operating the Ice Arena as an enterprise fund. He also said that the locker room updates would yield a complete return on investment, and that the City would likely engage in marketing to increase the Ice Arena's revenue once all updates are complete.

Commissioner Baller recommended proceeding with the recommended motion to do necessary repairs, and then said the Commission could do further community engagement regarding proposed subsequent changes. He recommended using Bang the Table as a way of soliciting some of that public feedback.

City Manager Markus said that aiming for cost neutrality with an Ice Arena is usually the best case scenario. He noted that while non-residents use the Birmingham rink, Birmingham residents use other rinks as well. He also noted that while the cost to operate a rink is more, users also pay to use the rink, which is not true for many of Birmingham's other recreational amenities. He said it is common practice for these kinds of facility improvements to be paid for out of general operating bonds and then paid back by general property taxes.

#### Public Comment

Jerry Petrovich and Steve Carroll, individuals heavily involved in running hockey programming in the City for a number of years, both spoke in favor of the proposal. They stated there had been hours of community input and surveys about the Ice Arena done by the Parks and Recreation Board, and cited the 70% Park Bond approval vote that occurred in November 2020 as proof that there is overwhelming support for the improvements. They also noted that upgrades would lead to a significant increase in revenue and usage, and that Birmingham teams have made a number of commitments to remaining financially invested in the Ice Arena post-upgrades.

Mr. Petrovich thanked DPS Director Wood, Parks and Recreation Manager Laird, Connie Folk, and Mr. Stempien for all their help in this process.

Paul Reagan said the City should make a serious effort to break even on the Ice Arena. He said he was not sure residents understood that Ice Arenas tend not to make money when they voted in November 2020 to approve the Parks Bond.

John Rusche, member of the Parks and Recreation Board, said that presently some area hockey teams avoid the Birmingham Ice Arena since it closes in the summer and that could be disruptive in terms of scheduling. He said the extra three months of operational time would not only increase use during those months, but could increase use overall by teams that previously would not schedule time there.

David Bloom said he had voted in favor of the bond and said he wanted clarity that voters understood all aspects of the Ice Arena upgrade proposal. He also asked the Commission to ensure that creative options for generating a profit were being considered.

Andrew Haig said he was generally in support of the upgrades. He said the aesthetic and design considerations would be very important given the amount of money to be spent. He asked if having the team room off the women's locker room was too specific, said geothermal was a good idea, and asked if the timeline for the project was too tight. He said many of his friends and neighbors enjoy their hockey teams and that he just wanted to ensure that the project benefits the community.

Heather Carmona, Chair of the Parks and Recreation Board, detailed the extensive community feedback received by the P&R Board during their design of the P&R master plan about three years

back. She noted there was ten pages of public engagement documented and a number of surveys. For Commissioners concerned that they were not hearing from the public, she suggested that was because the public weighed in during the P&R Board's master planning process and not much had been done at the City-level subsequently until now. She also said that Mr. Stempien's plan was thoroughly vetted by the P&R Board the week prior to the present Commission meeting and that the P&R Board was comfortable with its findings and recommendations.

Mayor Boutros spoke in favor of both the proposed safety and aesthetic improvements. He said he wanted an Ice Arena his children were proud to use. He noted that resident use would likely increase after the improvements are made. He also said the Park Bond approval in November 2020 indicated significant resident buy-in to these proposed improvements. He said the residents voted for the Commission to hire experts and carry out the proposals and that is what the City should do.

**MOTION:** Motion by Commissioner Baller, seconded by Mayor Pro Tem Longe:  
To award the Birmingham Ice Arena Architectural and Engineering Services project to Andrus Architecture in the amount not to exceed \$288,900.00. Funds are available in the Capital Projects Fund account #401-901.001-977.0000 for this project. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of the required insurances.

~~Commissioner Hoff complemented CP Dupuis' letter to residents.<sup>1</sup>~~

Commissioner Host said that while he was aware this item proposed a tight timeline, he was confident that it could be achieved since all involved are specialists in their fields. He asked whether Commissioner Baller and Mayor Pro Tem Longe might be amenable to amending their motion to make the running of the Ice Arena an enterprise fund. He said it was important that the City make an earnest effort towards making the Ice Arena profitable even if cost neutrality is the likely best outcome.

Mayor Pro Tem Longe asked Commissioner Host to respectfully hold off on his proposed amendment to keep the approval of this particular upgrade clear. She noted that the P&R Board is confident that these upgrades will lead to opportunities for revenue growth. As long as the Ice Arena remains the home arena for Birmingham Figure Skating and the high school hockey teams she said demand for the use of the area would exist well into the future. She reiterated Mr. Petrovich's and Mr. Carroll's earlier comment that all users pay to use the Ice Arena. She said she was pleased to second the motion and pleased to support it.

Commissioner Nickita said he was unclear what kind of capital outlay would be required continuing into the future, citing an upcoming need to replace the Zamboni as one future cost. He said he wanted to better understand the likelihood of these updates adequately extending the use of the Ice Arena well into the future, versus the significant costs it takes to maintain and update it.

#### Public Comment

Paul Reagan said that if this is not structured as an enterprise fund the Commissioners should vote against the motion.

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

Nays,   Commissioner Sherman

#### **Commission Discussion on items from prior meeting.**

Commissioner Host asked City staff to schedule time for a workshop between the Commission and the Planning Board for sometime in late March or early April 2021 to discuss the 2040 Master Plan.

**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.

Commissioner Hoff said she would like to see funds set aside at the upcoming long-range planning meeting for the Greenwood Cemetery Advisory Board to enact some of their recommendations for the Cemetery.

---

<sup>1</sup> As corrected at the January 25, 2021 Commission meeting.



Commissioner Baller said he was still interested in a staff report regarding the PAD as he requested at the December 21, 2020 Commission meeting.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Host:  
To schedule a workshop to discuss long term plans for the Ice Arena and the accounting options, whether a P&L or an enterprise fund, at a time convenient for the rest of the Commission but not within the context of a regular meeting.

In reply to CM Markus, Commissioner Baller clarified that his intention with the motion would allow the workshop to be scheduled before a regular meeting.

Public Comment

David Bloom said it would be a good idea to make sure the City is missing no additional opportunities to approve the proposal.

Paul Reagan thanked Commissioner Baller.

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

Nays, None

**MOTION:** Motion by Commissioner Host, seconded by Mayor Pro Tem Longe:  
To discuss short term rentals at the next available City Commission meeting.

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

Nays, None

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

**X. REPORTS**

- A. Commissioner Reports
- B. Commissioner Comments

Commissioner Baller spoke out against declarations made by the President, some politicians, and some members of the public, without any production of credible evidence, that the November 3, 2020 election was anything other than free and fair. He noted these declarations incited an attack on the nation's Capitol by rioters on January 6, 2021. Commissioner Baller said he echoed Senator Mitt Romney of Utah's call to speak to the fact that no credible evidence of election fraud in the November 3, 2020 election has been produced. Commissioner Baller said those statements should be made with understanding and compassion.

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

INFORMATION ONLY

**XI. ADJOURN**

Mayor Boutros adjourned the meeting at 12:06 a.m.

*Alexandria D. Bingham*

---

Alexandria Bingham, City Clerk  
/le