

## Birmingham City Commission Minutes

April 26, 2021

7:30 P.M.

Virtual Meeting

Meeting ID: 655 079 760

Vimeo Link: <https://vimeo.com/event/3470/videos/538949933/>

### 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, Police Chief Clemence, City Planner Dupuis, City Attorney Kucharek, Planning Director Ecker, Finance Director Gerber, Interim HR Director/Assistant City Manager Hock, Building Official Johnson, City Attorney Kucharek, DPS Director Wood

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

#### PROCLAMATIONS

- Proclamation on Mental Health Awareness
- Proclamation on Gun Violence Awareness

#### APPOINTMENTS

##### 04-115-21 Appointment of Larry Bertollini to the Architectural Review Committee

The Commission noted that Larry Bertollini was not able to attend the present meeting, but has been a member of the ARC since 2012.

**MOTION:** Nomination by Commissioner Host:

To appoint Larry Bertollini as a regular member to the Architectural Review Committee to serve a three-year term to expire April 11, 2024.

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

Nays, None

##### 04-116-21 Appointment of Pierre Yaldo to the Brownfield Redevelopment Authority

The Commission interviewed Pierre Yaldo for the appointment.

**MOTION:** Nomination by Commissioner Host:

To concur with the Mayor’s appointment of Pierre Yaldo as a regular member to the Brownfield Redevelopment Authority to serve a three-year term to expire May 23, 2024.

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

Nays, None

**04-117-21 Appointment of Karson Claussen to the Housing Board of Appeals**

The Commission interviewed Karson Claussen for the appointment.

**MOTION:** Nomination by Commissioner Host:

To appoint Karson Claussen as a regular member to the Housing Board of Appeals to serve a three-year term to expire May 4, 2024.

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

Nays, None

**04-118-21 Appointment of Phil Vincenti to the Housing Board of Appeals**

The Commission interviewed Phil Vincenti for the appointment.

**MOTION:** Nomination by Commissioner Nickita:

To appoint Phil Vincenti as a regular member to the Housing Board of Appeals to serve a three-year term to expire May 4, 2024

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

Nays, None

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

None.

**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.

**04-119-21 Consent Agenda**

The following items were pulled from the Consent Agenda:

- Commissioner Hoff: Item B – City Commission Meeting Minutes of April 12, 2021
- Item E – Michigan Parkinson's Foundation Walk at Seaholm

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Nickita:  
To approve Consent Agenda with the exclusion of Items B and E.

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

Nays, None

- A. Resolution to approve the Workshop meeting minutes of April 12, 2021
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 14, 2021, in the amount of \$809,759.86
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 21, 2021, in the amount of \$493,415.90
- F. Resolution directing the Treasurer to transfer the following unpaid and delinquent special assessment and invoices, including interest and penalty, to the 2021 City tax roll and to authorize removal from the list any bills paid after City Commission approval. (Complete resolution in agenda packet)
- G. Resolution directing the Treasurer to transfer the following unpaid and delinquent water/sewage bills of the properties listed in this report to the 2021 city tax roll and to authorize removal from the list any bills paid or a payment plan agreement signed after City Commission approval. (Complete resolution in agenda packet)
- H. Resolution to approve the purchase of holiday lights from Wintergreen Corporation for a total cost not to exceed \$29,910.00. Funds are available from the General Fund-Community Activities-Operating Supplies account #101-441.004-729.0000 and Property Maintenance-Operating Supplies account # 101-441.003-729.0000 for this purchase.
- I. Resolution to set a public hearing date for May 24, 2021 to consider the Special Land Use Permit, Final Site Plan and Design Review application for 720 N. Old Woodward – Vinewood Bistro.
- J. Resolution to set a public hearing for May 24, 2021 to consider a lot split for the property known as 525 W. Brown.
- K. Resolution to set a public hearing for May 24, 2021 for the lot combination application of 385 & 353 Fairfax, Parcel # 19-26-451-018 and Parcel # 19-26-451-019.

**04-120-21 (Item B) City Commission Meeting Minutes of April 12, 2021**

Commissioner Hoff asked that her early departure from the meeting be noted in the body of the minutes on page 12.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Nickita:  
To approve the City Commission meeting minutes of April 12, 2021.

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

Nays, None

**04-121-21 (Item E) Michigan Parkinson's Foundation Walk at Seaholm**

In reply to Commissioner Hoff, City Clerk Bingham clarified that both the MPF Walk and Yoga in the Park would be held on Saturday, June 26, 2021.

Commissioner Hoff said she saw no conflict between the two events and that she had just wanted confirmation of the dates.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Baller:  
To approve a request from the Michigan Parkinson Foundation to hold the "I gave my sole to Parkinsons" walk at Seaholm High School and on the surrounding streets on June 26, 2021 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further, pursuant to any modifications or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event, due to public health and safety measures.

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

Nays, None

**VI. UNFINISHED BUSINESS**

**04-122-21 Lot Combination of 34350 Woodward Avenue and 907-911 Haynes Street**

CP Cowan reviewed the item.

Commissioner Host thanked CP Cowan for highlighting the new information in blue in the agenda item.

Commissioner Hoff asked that in the future updated drawings and information be provided with the agenda packet when it goes out to the Commissioners on Thursdays, instead of being provided on Fridays.

**MOTION:** Motion by Commissioner Nickita, seconded by Mayor Pro Tem Longe:  
To cancel the public hearing on the proposed lot combination of 34350 Woodward and 907-911 Haynes, parcel #19-36-281-022 and parcel #19-36-281-030 and direct the applicant to first obtain Final Site Plan and SLUP approval for expanding the use of an auto sales and auto showroom use in the MU-5 and MU-7 zones.

Jason Canvasser, attorney for the applicant, asked the Commission to indicate whether they were broadly amenable to the proposed plans while still understanding the plans would need to undergo review by the Planning Board and the Board of Zoning Appeals.

Commissioner Baller said that while he understood Mr. Canvasser's request the applicant may not get an answer to the question during the present proceedings.

Commissioner Nickita noted that while the prototype building being proposed has strict guidelines imposed by Porsche corporate, it does not obligate the City to accept the building as-planned. He said that even though there may not be flexibility in the building's parameters on the applicant's part, the City must still either approve buildings that adhere to ordinance or grant variances from the ordinances.

Public Comment

Mr. Canvasser additionally asked the Commission to indicate when the agreements in the proposal would be re-addressed.

Commissioner Nickita said the Commission's regular consideration of the item over a number of months indicates its intention to try and work out a mutually beneficial agreement with the applicant.

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

Commissioner Sherman

Nays, None

**04-123-21 2021 Initial Screening for Bistro Applicants - Spring**

PD Ecker reviewed the item. She noted that Maple & One would be pursuing a SLUP amendment instead of a bistro license.

Commissioner Sherman recommended The French Lady re-apply in Fall 2021 given that there were two other bistro reviews pending and one with a scheduled public hearing.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Hoff:  
To take no action on the bistro application for The French Lady at this time.

In reply to Commissioner Nickita, PD Ecker concurred it would be useful to give the fall bistro applicants a 90-day time limit for submitting their documentation moving forward so that it was more clear how many bistro licenses might be available for the spring applicants.

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

Nays, None

**04-124-21 Chesterfield Fire Station - Park Designation**

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Baller:  
To refer this matter to the Parks and Recreation Board for their review, discussion and recommended actions about designating a portion of the Chesterfield Fire Station property as a City Park and provide formal park naming procedures. Further, to consider potential park site amenities and budget implications in order to undertake such endeavor, and to take into consideration the needs of the Chesterfield Fire Station.

Commissioner Hoff said she would send her list of concerns about this proposal to DPS Director Wood for consideration by the Parks and Recreation Board.

Commissioner Nickita recommended that Parks and Recreation Board consider how this proposed park would fit within the City’s system of parks overall.

Commissioner Baller expressed interest in Commissioner Hoff’s concerns, said he concurred with Commissioner Nickita, and said that this item might be a good opportunity for the City to utilize the Bang the Table tool or other ways to facilitate collaboration on the discussion between the Commission and the Parks and Recreation Board.

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

Nays, None

**VII. NEW BUSINESS**

**04-125-21 Unimproved Streets Policy Modifications**

Consulting City Engineer Surhigh summarized the item. In reply to Commissioner Hoff, he stated that an expression of interest would be solicited from residents once the Engineering Department completes its unimproved streets rankings.

CM Markus added that the City would provide the residents of unimproved streets with an estimate of the approximate costs of improving their street. He said this process moves the City more towards initiating the process of improving streets versus only waiting for resident petitions as was done in the past. He also stated that assessments would occur as part of the process, and that it was unrealistic to imagine the City would be able to fund the entire process.

Commissioner Baller ventured that residents often care more about the condition of the street's surface than the condition of the water lines or sewers. Consequently, he recommended that the Engineering Department weigh the former criterion more heavily than the latter in its ranking system.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Nickita:  
To follow up on the unimproved streets workshop in regards to unimproved street policy modifications.  
(Complete resolution in agenda packet)

Mayor Pro Tem Longe said she was in support of the resolution as it would help clarify the likely costs and help inform future City policy on the matter.

Mayor Boutros commended Consulting City Engineer Surhigh for his work on the item.

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

Nays, None

#### **04-126-21 Ordinance Amendment Fee Schedule Memo**

**MOTION:** Motion by Commissioner Sherman, seconded by Mayor Pro Tem Longe:  
To adopt the proposed ordinance:

Sec. 1-16. – Fee Schedule

Fees for application, plan reviews, permits, inspections, licenses, registrations, appeals, and other charges or penalties shall be specified in the schedule of fees, charges, bonds and insurance. All fees are subject to change from time to time as recommended by city staff and as determined by resolution of the City Commission. Ordained on this 26th day of April 2021. Effective upon publication.

In reply to Commissioner Hoff, City Attorney Kucharek stated she was recommending this language be added to the City's ordinances in order to ensure that fee-related matters were covered as part of the ordinances' general provisions.

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

Nays, None

#### **04-127-21 Greenwood Cemetery Fee Schedule Proposed Revisions**

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Host:  
To amend the City's schedule of Fees, Charges, Bonds and Insurance under the City Clerk's Office section in regards to Greenwood Cemetery as proposed in the item's report.

City Clerk Bingham stated that these fees go to paying the subcontractor that performs the necessary work.

In reply to Commissioner Sherman, City Attorney Kucharek stated that she would review any outstanding purchase agreements to see if the City can require they be returned within a certain timeframe. She said

that at the direction of the City Manager she would also review the purchase agreement template to add any language necessary to protect the City's interests.

Cheri Arcome of Creative Collaborations stated that City Clerk Bingham can send the City Attorney the purchase agreement template.

In reply to Commissioner Sherman, City Clerk Bingham stated that the currently proposed fee changes would be effective after this ordinance is approved by the Commission and published. She stated that the fee changes approved at the March 22, 2021 Commission meeting were already in effect.

In reply to Commissioner Hoff, City Clerk Bingham stated that the cost to repair damages done to markers or monuments by lawnmowers or natural changes would come out of the perpetual care fund.

Public Comment

Andrew Haig made a recommendation about timing of payments for gravesite purchases.

Commissioner Hoff stated that it was her recollection that the City prohibited payment plans for grave purchases.

Ms. Arcome stated that the Cemetery's Rules and Regulations currently allow payment plans and outline the process of their creation.

Commissioner Hoff said the matter should be looked into further since she was sure payment plans were prohibited.

City Clerk Bingham said GCAB would be looking into clarifying the payment plans section of the Rules and Regulations at an upcoming meeting.

CM Markus noted that the present conversation was no longer germane to the motion.

Margaret Suter, resident and member of GCAB, said the previous change in payment plans eliminated the variety of options available and replaced them with a single option that would allow a purchaser to pay over the course of two years.

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

Nays, None

**04-128-21 Greenwood Cemetery Grave Release**

**MOTION:**           Motion by Commissioner Host, seconded by Commissioner Nickita:  
To release 38 graves in section B, rows 17-C, 16-C, 15-C, and 14-A to be available for purchase in Greenwood Cemetery.

Commissioner Hoff reiterated her ongoing stance that any other available graves in the Cemetery should be located via reclamation, ground-penetrating radar, cross-referencing of records, or any other means, and released for sale before further selling graves in historic Sections A and B.

It was noted that the Commission discussed and approved plans for creating and selling gravesites in Sections B and C in 2015. Commissioner Nickita said this proposed grave release was a continuation of that process which has been ongoing for a number of years.

Mayor Boutros echoed Commissioner Nickita.

Mayor Boutros and Commissioners Nickita and Sherman said they were also in favor of utilizing the mechanisms listed by Commissioner Hoff to locate possible additional graves outside of the historical sections.

CM Markus stated that the GCAB, City Clerk Bingham, Ms. Arcome, DPW and himself all were recommending the currently proposed grave release. He noted that nine sites have partial obstructions but those would not preclude the burial of cremated remains.

Commissioner Hoff expressed concern that the turnover in the Clerk's Office staff in the last few years has lead to difficulties for GCAB because 'things have slipped through the cracks'. She acknowledged that the reconciliation of Cemetery records is a large undertaking and said more time was required to know what additional graves might be available outside the historical sections.

Commissioner Nickita noted that the aisles in Sections B and C would remain walkable even with the sale of additional graves in those sections.

Public Comment

Fred Lavery said he owned two plots in the Cemetery that are as yet unused, and said the graves' lack of occupancy did not reflect the graves' availability for reclamation.

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

Nays,   Commissioner Hoff

**04-129-21   Greenwood Cemetery Contract Service Provider Annual Renewal**

City Clerk Bingham presented the item.

**MOTION:**                    Motion by Mayor Pro Tem Longe, seconded by Commissioner Host:  
To authorize the agreement with Creative Collaborations, LLC, a Cemetery Service Provider firm to act, on behalf of the City, as the service provider to the Historic Greenwood Cemetery for a term of one year with annual renewals until either party exercises the termination provisions as stated in the contract. The annual contract is set for an amount not to exceed \$45,600.00, which will be paid from account #101-215.000-811.0000.

Mayor Pro Tem Longe moved the motion, saying that a number of current factors make the decision to renew the contract with Creative Collaborations at this time the most judicious one.

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

Nays,   None

**Commission discussion on items from prior meeting.**

1. Builder developer street damage. Issues, costs, remedial action and payment proposal.

CM Markus reported that he had met with Mr. Haig, and that many of Mr. Haig's recommendations are already in place in the City. He stated that Mr. Haig had recommended the City consider requiring that builders obtain a bond while building a new home in order to repair damage to public property that may not be immediately visible. CM Markus stated that he would be looking into possible ways of instituting that requirement and would be returning to the Commission with a proposal. He said that the City generally has the appropriate policies in place to prevent construction damage and needs to spend more energy on enforcement.

**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.

**VIII. REMOVED FROM CONSENT AGENDA**



**IX. COMMUNICATIONS**

A. Short Term Rentals – Haig

Mr. Haig asked the City to look into Ferndale, Michigan’s recently passed provisions regarding short-term rentals to see if they might provide a model for Birmingham’s ordinances.

City Attorney Kucharek stated she would be presenting potential ordinance language to address short-term rentals at the Commission’s upcoming workshop on the topic.

Commissioner Nickita stated that the Michigan Municipal League (MML) has also done work regarding short-term rentals in the past few years and that it would be worthwhile for Staff to see how the MML’s research might inform Birmingham’s policies.

**X. REPORTS**

- A. Commissioner Reports
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions’ Reports and Agendas
- D. Legislation
- E. City Staff
  - 1. Manager’s Report

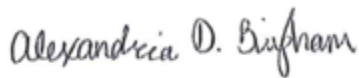
CM Markus reviewed the item. He confirmed, in reply to Commissioner Hoff, that outdoor dining allowances for restaurants would be on an upcoming Commission agenda.

- 2. Indexing of Fees
- 3. Prior Communications with Restoration Hardware

INFORMATION ONLY

**XI. ADJOURN**

Mayor Boutros adjourned the meeting at 10:25 p.m.



---

Alexandria Bingham, City Clerk  
/le