

Birmingham City Commission Minutes

May 10, 2021

7:30 P.M.

Virtual Meeting

Meeting ID: 655 079 760

Vimeo Link: <https://vimeo.com/event/3470/videos/544030266/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

Alexandria Bingham, City Clerk, 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 Cowan, City Attorney Kucharek, Planning Director Ecker, Communications Director Gamboa, Finance Director Gerber, Operations Commander Grewe, Interim 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.

APPOINTMENTS

- A. Birmingham Shopping District Board
 - 1. Sarvy Lipari
 - 2. Gerald Baker

05-130-21 Appointment of Sarvy Lipari to the Birmingham Shopping District Board

CM Markus commented on his appointment of Ms. Lipari to the Birmingham Shopping District Board.

MOTION: Nomination by Commissioner Sherman, seconded by Commissioner Nickita:

To concur with the City Manager's appointment of Sarvy Lipari to the Birmingham Shopping District Board, as a member who is a resident from an adjacent neighborhood, to serve for the remainder of a 4-year term expiring November 16, 2024.

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

Nays, None

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

David Bloom commented on whether holding public comment to the end of their May 1, 2021 budget hearing infringed on the public's legal right to comment.

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.

05-131-21 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Hoff: Item L – Recognition of Eisenhower Dance Ensemble, Inc.
Item M – Public Art Donation - Dynamic Tension
Item N – Mental Health Interlocal Agreement

Commissioner Baller: Item F – Set a Public Hearing for RH Rezoning Request

MOTION: Motion by Commissioner Host, seconded by Mayor Pro Tem Longe:
To approve Consent Agenda with the exclusion of Items F, L, M, and N.

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

Nays, None

- A. Resolution to approve the City Commission meeting minutes of April 19, 2021
- B. Resolution to approve the City Commission meeting minutes of April 26, 2021

- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 28, 2021, in the amount of \$693,624.38.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated May 5, 2021, in the amount of \$137,783.89.
- E. Resolution to set a public hearing for June 14, 2021, for the application to amend Chapter 126, Zoning Ordinance, Appendix C, Exhibit 1, Licenses for Economic Development to include 300-394 S. Old Woodward and a portion of 294 E. Brown Street to be qualified to be eligible for an Economic.
- G. Resolution to approve the Amended and Restated Cross Connection Control Services Agreement with HydroCorp for services described in Attachment A in the amount not to exceed \$49,716.00 over a three-year period. Funds are available in the Water Fund account #591-537.007-811.0000. In addition, to waive the normal bidding requirements. Further, to authorize the Mayor and City Clerk to sign the Agreement on behalf of the City upon receipt of the required insurance coverage.
- H. Resolution to authorize the mayor to sign the 2020 Program Year Community Development Block Grant (CDBG) Subrecipient Agreement on behalf of the City and to approve the appropriations and amendment to the 2020-2021 CDBG Fund Budget as follows:
 Revenues:

Intergovernmental Revenue	248-000.000-503.0000	\$287
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 Expenditures:

Minor Home Repair	248-690.000-836.0300	\$287
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- I. Resolution to approve an extension of the public services and Minor Home Repair contract with NEXT for the purpose of expending remaining program year 2018-2019 Community Development Block Grant funds for the Minor Home Repair Program administered by NEXT through June 30, 2021; and further, to authorize the Mayor to sign the amendment on behalf of the City.
- J. Resolution To approve an extension of the public services contract with NEXT for the purpose of expending remaining program year 2019-2020 Community Development Block Grant funds for the Minor Home Repair Program administered by NEXT through June 30, 2021; and further, to authorize the Mayor to sign the amendment on behalf of the City.
- K. Resolution to approve a resolution directing the Historic District Study Committee to prepare a study committee report as outlined in Chapter 127, Section 127-4 of the City Code.

05-132-21 (Item L) Recognition of Eisenhower Dance Ensemble, Inc.

Police Commander Grewe stated that there would be a dance studio at 2155 Cole.

City Manager Markus stated that this authorization would allow Eisenhower Dance Ensemble, Inc. to apply for permits both within and outside of Birmingham. He confirmed that if Eisenhower Dance Ensemble, Inc. were to apply to hold a special event in Birmingham they would have to gain approval through the routine special event application process.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Host:

To recognize Eisenhower Dance Ensemble, Inc., 2155 Cole Street, Birmingham, Michigan 48009 as a 501(c)(3) non-profit organization for the purpose of obtaining a State of Michigan Gaming License with the State of Michigan Charitable Gaming Division. Furthermore, authorizing the City Clerk to complete the Local Governing Body Resolution Form, forwarding it to the Charitable Gaming Division, Lansing, Michigan.

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

Nays, None

05-133-21 (Item M) Public Art Donation - Dynamic Tension

City Planner Cowan stated that the sculpture will be installed on a base pad and not elevated. He stated that while Anthropologie was not contacted about the sculpture, signage was placed asking anyone with questions, comments or concerns to contact the City.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Host:
To accept the donation of "Dynamic Tension" by Lois Teicher and to approve the recommended location at Henrietta and W. Maple Road.

AND

To approve the payment of a \$2,000 stipend from the Public Arts Board budget to the artist for the donation and installation of the sculpture, to be charged to the Public Arts Board account #101-299-000-811-0000.

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

Nays, None

05-134-21 (Item N) Mental Health Interlocal Agreement

Police Commander Grewe stated that the costs would be split equally between the three municipalities. He noted that grants had been applied for to reduce the costs.

Commissioner Hoff noted that Auburn Hills and Bloomfield Twp. may have greater use of the social worker's time given their greater populations.

Ops. Cmdr. Grewe stated that each municipality would receive an equal, dedicated amount of the social worker's time.

Commissioner Baller stated that he believed this investment in community mental health would save lives.

In reply to Commissioner Baller, Ops. Cmdr. Grewe said that when the Police Department receives mental health calls while the social worker is in Birmingham, those calls would be handled in part by the social worker. He stated that when the social worker is in the other municipalities those calls would still be handled by the Police Department.

City Attorney Kucharek stated the largest benefit of the program would be helping the Police Department navigate the mental health system and helping mental health callers to the Police Department get the help they need more expeditiously. She said the program would be a huge benefit to people in crisis.

MOTION: Motion by Commissioner Hoff, seconded by Mayor Pro Tem Longe:
To approve the interlocal agreement for the Mental Health Co-Response Team, further to direct the Mayor and the Chief of Police to sign the agreement on behalf of the City.

Commissioner Host complimented CA Kucharek for her service on the Board of the Oakland County Health Network.

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

Nays, None

05-135-21 (Item F) Set a Public Hearing for RH Rezoning Request

In reply to Commissioner Baller, PD Ecker said some alternative options could possibly receive approval at the June 14, 2021 public hearing while others would require public noticing and further study at both the Planning Board and Commission levels.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Hoff:
To set a public hearing date of June 14, 2021, to consider the rezoning of the new parcel encompassing 300 - 394 S. Old Woodward and portions of 294 E. Brown from B-2 (General Business) and D-3 (Downtown Overlay) to B-2 (General Business) and D-4 (Downtown Overlay).

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

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

05-136-21 Public Hearing of Necessity - Grant Street Paving Project

The Mayor opened the public hearing at 7:59 p.m.

Consulting City Engineer Surhigh presented the item.

In reply to Commissioner Hoff, CCE Surhigh stated that the sewer and water lines under Grant Street not being included in this project were maintained or upgraded during previous projects.

In reply to Commissioner Nickita, CCE Surhigh confirmed that the width of the road and the bump out at the corner of Lincoln would remain as-is.

The Mayor closed the public hearing at 8:05 p.m.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To confirm the roll for the replacement of water and sewer laterals within the Grant Street paving project.

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

Nays, None

05-137-21 Public Hearing – 211 S. Old Woodward – Final Site Plan and SLUP

The Mayor opened the public hearing at 8:07 p.m.

Planning Director Ecker presented the item.

Paul Glanz, representative for RCH¹ Birmingham, was present on behalf of the item. In reply to Commissioner questions about the included documentation, he stated that 'NSF' stood for insufficient funds, which was an erroneous designation and had been resolved. He also stated that he would be using the liquor license in the same way Birmingham Teatro did, though he clarified he was contemplating requesting the ability to host occasional live events at some point in the future.

The Mayor closed the public hearing at 8:12 p.m.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:

¹ As corrected at the May 24, 2021 meeting.

To approve the Final Site Plan and Special Land Use Permit Amendment for 211 S. Old Woodward to allow the change in ownership of the Class C liquor license in use at Birmingham 8 Theater from Birmingham Theatro, LLC to CH Birmingham, LLC;

AND

To authorize the Chief of Police to sign the MLCC Police Investigation Report (LC-1800) and to approve the liquor license request of CH Birmingham, LLC that requests a transfer of interest in a Class C License to be issued under MCL 436.1521(A)(1)(B) located at 211 S Old Woodward, Birmingham, Oakland County, MI 48009;

AND

Pursuant to Birmingham City Ordinance, to authorize the City Clerk to complete the Local Approval Notice at the request of CH Birmingham, LLC approving the liquor license transfer request of CH Birmingham, LLC that requested a Class C License be transferred under MCL 436.1521 (A)(1)(B) located at 211 S Old Woodward, Birmingham, Oakland County, MI 48009.

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

Nays, None

Mayor Boutros thanked Mr. Glanz for his continued investment in Birmingham. Mr. Glanz thanked the Mayor for his comments.

05-138-21 Public Hearing – Lot split of 300 S. Old Woodward, 294 E. Brown and the lot combination of the amended parcels at 300 and 394 S. Old Woodward

The Mayor opened the public hearing at 8:15 p.m.

PD Ecker reviewed the item. She stated that if RH was not developed on the site that it would still increase the parcels' property values and would make those parcels easier to sell.

Victor Saroki and Rick Rattner, attorney, were present on behalf of the item.

In reply to Commissioner Nickita, PD Ecker confirmed that the City has a long history of lot combinations in order to create lots that better align with the City's development goals.

In reply to Commissioner Baller, Victor Saroki confirmed that while Dave Stanchak of RH will be retiring it will have no impact on the project's plans.

Public Comment

Mr. Bloom reiterated his concern from previous meetings that parking for RH could impact the adjacent neighborhoods. He said the City should also update its parking ordinances before the RH development proceeds.

The Mayor closed the public hearing at 9:06 p.m.

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Baller:
To approve the proposed lot split/rearrangement of 300 S. Old Woodward to allow for 3,104.39 sq.ft. on the western edge of 300 S. Old Woodward to be split from the existing parcel, and added to the parcel known as 294 E. Brown Street.

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

Nays, None

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Longe:
To approve the proposed lot split/rearrangement of 294 E. Brown Street to divide the existing parcel into two parcels, to allow for 1,962.79 sq.ft. on the eastern edge of the parcel to be split and added to the parcel at 394 S. Old Woodward.

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

Nays, None

MOTION: Motion by Commissioner Baller, seconded by Commissioner Nickita:
To approve the proposed lot combination of 300 – 394 S. Old Woodward to create a larger rectangular parcel 20,201.08 sq.ft. in size on S. Old Woodward running south of E. Brown Street to Daines, subject to the following conditions:

1. All outstanding taxes and special assessments due on 300 S. Old Woodward must be paid in full; and,
2. Both 300 S. Old Woodward and 394 S. Old Woodward are approved for rezoning to D-4 in the Downtown Overlay District, or the height of the proposed building to is reduced to 68' and a use variance is obtained from the Board of Zoning Appeals for the use of the fourth floor as a restaurant.

Commissioner Sherman said he was concerned that the motion as stated could create one parcel with two different taxable businesses.

Building Official Johnson clarified that the City does not send lot combinations to Oakland County until both buildings on a combined lot are demolished, thus preventing the scenario Commissioner Sherman described.

Mr. Rattner said he was uncomfortable with being required by the motion to obtain a use variance if the rezoning to D-4 is not granted.

Building Official Johnson also recommended the applicant not be mandated by the motion to pursue a use variance if the rezoning to D-4 is not granted.

After further discussion between the Commission, CA Kucharek, Mr. Rattner, PD Ecker, and Building Official Johnson, it was decided that the most appropriate motion would be a duplicate of the present motion with the end of the second condition ending after "68".

CA Kucharek recommended the Commission vote on the present motion, noting that a follow-up motion could be made if the present motion failed.

ROLL CALL VOTE: Ayes, None

 Nays, Commissioner Baller
 Commissioner Nickita
 Mayor Pro Tem Longe
 Commissioner Host
 Commissioner Hoff
 Mayor Boutros
 Commissioner Sherman

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To approve the proposed lot combination of 300 – 394 S. Old Woodward to create a larger rectangular parcel 20,201.08 sq.ft. in size on S. Old Woodward running south of E. Brown Street to Daines, subject to the following conditions:

1. All outstanding taxes and special assessments due on 300 S. Old Woodward must be paid in full; and,
2. Both 300 S. Old Woodward and 394 S. Old Woodward are approved for rezoning to D-4 in the Downtown Overlay District, or the height of the proposed building is reduced to 68'.

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

Nays, None

05-139-21 Website Redesign and Hosting Services

Communications Director Gamboa presented the item.

Thomas Jean of Revize was also present for the discussion.

Commissioner Sherman noted that the City had worked with Revize in the past and had that the website updates they implemented did not meet expectations. He asked why Revize was being recommended again in light of that fact.

CD Gamboa stated that since Revize last worked with the City they had increased their staffing levels, provided positive municipal references, and had 1,800 municipal sites running nationwide. She said that Revize also explained ways they could address the City's specific website concerns.

Mr. Jean explained that many of the features Revize could add to the City's website now were not available in 2013, when Revize first worked on the City's website. He explained that Revize would streamline pages on the City's website and would add a curated search. The curated search would be manually indexed to return the most salient information first.

Commissioner Baller said he would be more comfortable with a contract shorter than six years since technology advances quickly.

It was noted that the contract would allow for 30-day written termination at any time.

CA Kucharek clarified that the contract would be a three-year term, with the option to renew for another three years.

CD Gamboa said the results from the survey about the City's current website would be used to inform the redesign process.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To approve an agreement with Revize LLC for website design services in the amount not to exceed \$33,850.00 from account #636-228.000-933.0700. Further to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

Public Comment

Jonathan Hoffley commented that users tend not to know how to describe what they are looking for in a web interface, and that it is incumbent on user experience/user interface designers to know how to meet users' needs. He asked what the cost of the curated search option would be to the City, and concurred with Commissioner Baller that six-years is a long time for a technology contract.

CD Gamboa stated that the curated search was included in the contract with Revize.

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

Nays, Commissioner Sherman

05-140-21 ZAYO Agenda Statement

MOTION: Motion by Commissioner Baller, seconded by Commissioner Sherman:
To approve the METRO Act Bilateral Form Right-Of-Way Telecommunications Permit for ZAYO Group and authorize the Mayor to sign the permit on behalf of the City.

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

Nays, None

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

A. Outdoor Dining – Kelly Allen

Kelly Allen reviewed her letter to the Commission. She stated that since her submission she had heard from the owners of Papa Joe's, Townhouse, and Adachi that they agreed with the statements in her letter.

Beth Hussey of Hazel Ravines Downtown said she was also in support of the request made in Ms. Allen's letter.

CM Markus said the matter would be coming before the Commission at the first meeting in June 2021.

X. REPORTS

A. Commissioner Reports

1. Notice of intention to appoint to the Historic District Study Committee
2. Notice of intention to appoint to the Ethics Board
3. Notice of intention to appoint for the Hearing Officer

B. Commissioner Comments

Commissioner Host thanked the Police Department for their work on noise abatement on Woodward and thanked Staff for their work on the budget hearing. He said he wanted a Commission workshop on providing senior services in the City. He also stated that the Commission serves at the will of the citizens, and that public comment should be allowed consistently at all four different types of Commission meetings.

C. Advisory Boards, Committees, Commissions' Reports and Agendas

D. Legislation

E. City Staff

1. Bang the Table - Kucharek

Commissioner Nickita thanked CA Kucharek for her letter. He asked her to provide future guidance regarding Commissioner advocacy on social media and in other communications. He said he wanted to know both what was legal and what was appropriate.

2. Outdoor Dining
3. 3rd Quarter Budget Financial Report
4. March 2021 Investment Report

INFORMATION ONLY

XI. ADJOURN

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

Alexandria D. Bingham

Alexandria Bingham, City Clerk
/le