

Birmingham City Commission Minutes

May 24, 2021

7:30 P.M.

Virtual Meeting

Meeting ID: 655 079 760

Vimeo Link: <https://vimeo.com/event/3470/videos/547775342/>

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, BSD Operations & Event Manager Brook, Police Chief Clemence, City Planner Cowan, City Attorney Kucharek, Planning Director Ecker, City Attorney Kucharek, Deputy Treasurer Todd, Fire Chief Wells

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

ANNOUNCEMENTS

- The City Commission welcomed 40th District House of Representatives - Mari Manoogian.
- The Birmingham Shopping District welcomed Sean Kammer as its new executive director.
- The BSD also welcomed Sarvy Lipari as its newest board member.
- The Mayor noted that a Memorial Day Service would be held both virtually and in person at 10 a.m. in Shain Park.

APPOINTMENTS

- A. Martha Baldwin Park Board
1. Robert Kenning

05-141-21 Appointment of Robert Kenning to the Martha Baldwin Park Board

The Commission interviewed Robert Kenning for the position.

MOTION: Nomination by Commissioner Host:
To appoint Robert Kenning as a regular member to the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2024.

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

Nays, None

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

Paul Reagan recommended the City explore implementing pro-food truck policies in order to increase interaction and camaraderie between neighbors.

David Bloom opined that the curb design at the Southfield-Maple intersection is dangerous and likely to lead to a traffic accident. He also reiterated his comment from the May 10, 2021 meeting that the City should explore whether holding public comment to the end of the 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.

05-142-21 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Hoff: Item C – City Commission Minutes of May 10, 2021

Mayor Pro Tem Longe:
Item B – City Commission Workshop Minutes of May 10, 2021

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

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

Commissioner Sherman

Nays, None

- A. Resolution to approve the City Commission Budget Hearing minutes of May 1, 2021.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated May 12, 2021, in the amount of \$850,961.96.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated May 19, 2021, in the amount of \$1,679,329.03.
- F. Resolution to approve the appropriations and amendment to the 2020-2021 Park System Construction Fund Budget as follows:
Park System Construction Fund
Revenues:

Bond Proceeds	408-000.000-698.0001	\$4,750,000
Bond Premium	408-000.000-697.0000	<u>262,100</u>
Total Revenues		\$5,012,100

Expenditures:

Bond Issuance Costs	408-751.000-824.0300	\$ 110,000
Building Improvements	408-752.000-977.0000	3,797,610
Contribution to Fund Balance	408-000.000-400.0000	<u>1,104,490</u>
Total Expenditures		\$5,012,100
- G. Resolution to approve the commissioning services for the Birmingham Ice Arena Renovation project to Strategic Energy Solutions (SES) in the amount not to exceed \$15,800.00. Funds are available in the Capital Projects Fund account #401-901.001-977.0000 for this work. In addition, to waive the formal bidding requirements and to authorize the Director of Public Services to sign the SES Professional Service proposal on behalf of the City. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of the required insurances.
- H. Resolution to approve the attached resolution requesting reimbursement for the maximum allotment of \$2,648.39 for eligible mosquito control activity under the Oakland County's West Nile Virus Fund Program.
- I. Resolution to authorize the IT department to renew the Cortex XDR antivirus endpoint software license from AmeriNet. The purchase price not to exceed \$9,464.00. Funds are available in the IT Software Fund Account: 636-228.000-742.0000
- J. Resolution to approve a request from Eisenhower Dance Detroit to hold their NewDANCEfest Performance on stage at Shain Park on July 24, 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.

- K. Resolution to appoint City Manager Thomas M. Markus as Representative and DPS Director Lauren Wood as Alternate Representative of the City of Birmingham on the SOCRRA Board of Trustees for the fiscal year starting July 1, 2021.
- L. Resolution to appoint Consulting City Engineer Jim Surhigh as Representative and City Manager Thomas M. Markus as Alternate Representative of the City of Birmingham on the SOCWA Board of Trustees for the fiscal year starting July 1, 2021.
- M. Resolution to approve the installation of a 15 minutes parking restriction at the seven parking spaces located directly in front of 33347 to 33367 Woodward.

05-143-21 (Item C) City Commission Minutes of May 10, 2021

Commissioner Hoff said 'RH' needed to be changed to 'CH' in the last paragraph on page six of the minutes.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Baller:
To approve the City Commission meeting minutes of May 10, 2021.

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

Nays, None

05-144-21 (Item B) City Commission Workshop Minutes of May 10, 2021

Mayor Pro Tem Longe noted that 'Unimproved Streets' needed to be changed to 'the Parking Assessment District' on the first page of the minutes.

MOTION: Motion by Mayor Pro Tem Longe, seconded by Commissioner Host:
To approve the City Commission Workshop Minutes of May 10, 2021.

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

Nays, None

VI. UNFINISHED BUSINESS

None.

VII. NEW BUSINESS

05-145-21 Public Hearing of Necessity - Grant Street Paving Project

The Mayor opened the public hearing at 8:03 p.m.

Deputy Treasurer Todd presented the item.

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

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Sherman:
To confirm Special Assessment Roll No. 894 for Grant Street Paving Special Assessment District (see complete resolution in agenda packet).

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

Nays, None

05-146-21 Public Hearing – 720 N. Old Woodward

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

It was noted that the applicant requested a postponement.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To postpone the Special Land Use Permit, Final Site Plan and Design Review application for 720 N. Old Woodward – Vinewood Kitchen & Cocktails to the June 14, 2021 meeting.

Commissioner Hoff asked Staff to be in touch with the applicant to determine whether they would be ready by June 14, 2021 since the evening already had a lengthy agenda.

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

Nays, None

The public hearing was not closed.

05-147-21 Public Hearing - 695 W. Brown Street – Lot Split

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

Mayor Pro Tem Longe notified the Commission she would be recusing herself from the item because her spouse was involved in the original project from which this property was asking to be split.

City Planner Cowan presented the item.

In reply to Commissioner Sherman, Planning Director Ecker said she could provide the Commission with information about the previous development proposals regarding this lot.

Commissioner Sherman said he would rather have that information before making a decision on this item. He said he recalled there being previous disagreements between the neighbors and the developer regarding this parcel.

Christopher Brokovich, applicant, said that when he had previously proposed a development adjacent to 685 W. Brown the proposal left 685 W. Brown itself undesignated. Subsequently, he proposed to build two more townhouses on 685 W. Brown, which the neighbors were not in favor of. As a result, Mr. Brokovich chose to put 685 W. Brown on the market.

Public Comment

Guy Simons reviewed the contents of his letter to the Commission.

In reply to Mr. Simons, PD Ecker said she could provide the interpretation of the side setback that was used to build the eight units adjacent to 685 W. Brown.

Thomas Saracino indicated he was interested in purchasing the lot if it was split within R-8 and advocated for the split.

Michael Talansky, neighbor of 695 W. Brown Street, expressed concern about the lot split proposal.

Andrew Haig expressed skepticism that adequate parking could be provided on the lots in question given the City's lot coverage ordinances and the average turning radiuses of vehicles.

In reply to Mr. Haig, CP Cowan stated that even with the lot split the eight adjacent units would still meet the minimum area-per-unit required for all units in R-8.

Mr. Reagan said the Central Birmingham Residents' Association has historically not been in favor of new multi-family residences being built on Watkins.

Maria Van Hees, neighbor of 685 W. Brown, said she and her family had purchased a nearby home with an understanding that there would be a single family home built on 685 W. Brown.

Wendy Zebrowski concurred with Commissioner Sherman's recollection and agreed that previous minutes regarding this parcel should be reviewed for clarity. She stated that in general the neighbors want this parcel to be zoned for a single family home.

Mr. Bloom said that if plans could be developed that were amenable to the neighbors, he was supportive of Mr. Saracino doing the work. He attested to Mr. Saracino's integrity and other building work in Birmingham.

Commissioner Host concurred with Commissioner Sherman's request for previous records regarding this parcel. He said the neighbors' preferences should take precedence since they live there. He also said it was an issue that the final site plan approved by the Planning Board for this parcel was subsequently changed.

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

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Baller:
To direct the applicant to pursue a rezoning of the subject property to R2-Single Family Zone in order to meet the lot split requirements of the municipal code.

Commissioner Sherman commented the Commission took a similar stance regarding a proposal for the former Franklin Bank and Mountain King properties.

Commissioner Host said he concurred with the comments of Mr. Simons and Mr. Reagan.

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

Nays, None

05-148-21 Public Hearing – 353 & 385 Fairfax – Lot Combination

Mayor Pro Tem Longe rejoined the meeting.

The Mayor opened the public hearing at 9:11 p.m.

City Planner Cowan presented the item.

MOTION: Motion by Commissioner Host, seconded by Commissioner Sherman:
To cancel the public hearing.

Commissioners Sherman and Nickita stated the applicant would run into issues with Item Four of the Subdivision Regulation Ordinance (Chapter 102, Section 102-83).

Commissioner Baller agreed with Commissioners Sherman and Nickita, and said he would support the motion as a result.

Commissioner Hoff said the variance request would likely meet the definition of self-creation and prevent the owner from obtaining a variance. She said the petitioner would likely have more luck amending their proposal to meet the lot combination requirements.

Commissioner Baller noted the Commission could also state that they were uninterested in permitting a lot combination of these parcels at this time if they so chose.

Public Comment

Patrick Dyke, designer for the applicant, asked a procedural question.

CA Kucharek noted that conversation at this time should only be regarding the motion on the floor.

David Ruby, applicant, said he was unsure why Item Four of the Subdivision Regulation Ordinance (Chapter 102, Section 102-83) would present an issue for his application.

In reply to a request from Commissioner Baller, PD Ecker provided a brief summary of the circumstances that gave rise to the current lot combination guidelines and to having the Commission review lot combinations.

Mayor Boutros reiterated CA Kucharek's advisement that the present conversation should only be in regards to the motion on the floor.

Gayle MacGregor, attorney for the applicant, said she would prefer the public hearing simply be cancelled with no additional direction in order to allow the applicant flexibility in their next steps.

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

Nays, None

05-149-21 Woodward Dream Cruise 2021

Fire Chief Wells reviewed the item.

FC Wells and City Manager Markus both spoke in favor of Birmingham withdrawing its participation in the Woodward Dream Cruise for 2021 due to continuing concerns about the impact of the Covid-19 pandemic.

Mayor Boutros and Commissioner Nickita asked Staff to reach out to other participant municipalities regarding their potential participation in the 2021 Dream Cruise.

FC Wells said that the Fire Chiefs he has spoken to from other municipalities were also not in favor of holding the 2021 Dream Cruise due to public health and safety concerns.

Chief Clemence said Bloomfield Township and Royal Oak had not, so far, permitted any municipally-sponsored events, though he said that Royal Oak indicated that might be subject to change. He stated the Berkley would be holding their municipally-sponsored events and that he had not yet heard back from Ferndale about their plans.

BSD Operations & Event Manager Brook stated that the Dream Cruise Committee did not poll participant municipalities about their intention to participate in the 2021 Dream Cruise before announcing that it would take place.

Commissioner Host thanked FC Wells and CM Markus for their handling of the Covid-19 pandemic in the City so far and said it was better to err on the safe side by not holding an events that could compromise residents' safety.

MOTION: Motion by Commissioner Host:
To approve a resolution that the City of Birmingham will be canceling participation in the annual Woodward Dream Cruise event for 2021 due to public health and safety concerns attributed to the COVID-19 pandemic and encouraging the promotion of the cancellation of the event by WDC, Inc. to the public.

Motion failed for lack of a second.

Mayor Pro Tem Longe noted that a total withdrawal from the 2021 Dream Cruise might result in Birmingham losing some ongoing relationships with sponsors.

Public Comment

Gordon Rinschler said he did not agree with the City unilaterally withdrawing from the 2021 Dream Cruise.

The Mayor agreed with Mr. Rinschler.

Mr. Haig ventured some ways the City could potentially reduce liability for Covid-19 related issues at the 2021 Dream Cruise while not withdrawing entirely.

After Commission discussion, FC Wells said he would work with Chief Clemence and the BSD to return at the June 14, 2021 Commission meeting with a proposal for minimizing Birmingham's participation in the 2021 Dream Cruise.

Commissioners Hoff, Sherman and Mayor Boutros recommended that FC Wells review past participants and consider permitting ones that would be less likely to attract crowds.

05-150-21 FY 2021-2022 Budget Resolution

Finance Director Gerber presented the item.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:
To approve the budget appropriations resolution adopting the City of Birmingham's budget and establishing the total number of mills for ad valorem property taxes to be levied for the fiscal year commencing July 1, 2021 and ending June 30, 2022.

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

Nays, None

05-151-21 Official Water and Sewer Rate Resolution 2021-2022

FD Gerber presented the item.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To amend the Schedule of Fees, Charges, Bonds and Insurance, Water and Sewer Service Sections, for changes in sewer, storm water, industrial surcharge, and industrial waste control charge rates effective for bills with read dates on or after July 1, 2021 as recommended in this report.

Commissioner Hoff commended CM Markus and FD Gerber for their work on the FY 2021-2022 budget and for their communication with the Commission and the public regarding the City's finances.

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

Nays, None

05-152-21 Parking Assessment District Follow-Up

City Attorney Kucharek reviewed the recommended resolution.

Commissioner Host thanked CA Kucharek for her work on the item.

In reply to Commissioner Host, CM Markus said the City would endeavor to determine the relevance of previous rolls and payments into the Parking Assessment District (PAD). He cautioned that some of that specific data may no longer be available, and would be of indeterminate usefulness, but said Staff's studies regarding the PAD would remain be comprehensive.

CM Markus said the aim would be to return to the Commission with an overview and recommendations in Fall 2021.

Commissioner Host said he was glad to see that input would be sought from the Advisory Parking Committee on this matter.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Sherman:
To pursue the follow-up action in regards to the Parking Special Assessment District Workshop (see complete resolution in agenda packet).

Commissioner Host emphasized the importance of this work and the importance of using all available data to make the recommendations.

CM Markus said he could not commit to a more specific date than Fall 2021 for revisiting this item.

Public Comment

Mr. Reagan made suggestions for how the parking aspects of new business proposals in the PAD should be evaluated. He expressed concern about parking availability in the PAD and said the matter should be addressed more quickly.

Mr. Bloom noted that public comment was not taken on the item before the motion was made. He recommended that RH be advised that they may have to pay more into the PAD in the future if their development process in the City continues.

Commissioner Nickita noted he has worked with many municipalities in his professional work and said that Birmingham has a superlative parking system. He said he was supportive of the motion and of endeavors to improve the parking system further.

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

Nays, Commissioner Host

Commission discussion on items from prior meeting.

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.

05-153-21 Food Trucks in Birmingham

MOTION: Motion by Commissioner Host, seconded by Commissioner Baller:
To discuss food trucks in the neighborhoods.

Public Comment

Helene Fertal recommended that parking lots, as well as parks, be considered for potential food truck locations.

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

Nays, None

05-153-21 Placement of Public Comment During Regular and Other Meeting Formats

MOTION: Motion by Commissioner Host:
To discuss first amendment rights of Birmingham citizens with regard to all types of Commission meetings as an agenda item.

Mayor Boutros said he had a statement regarding the matter that he would offer during Commissioner comments.

Motion failed for lack of a second.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To discuss rules of procedure for non-regular Commission meetings.

In reply to a request for clarification from Commissioner Sherman, Commissioner Baller said he was proposing a discussion of when certain parts of non-regular meetings, such as public or Commission comment, should occur.

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

Nays, Commissioner Sherman
Commissioner Nickita
Mayor Boutros
Commissioner Hoff

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments

Commissioner Host said he was dismayed that the Unimproved Streets Report recommended a mile a year of improvements, recommended foregoing asphalt as an option for road improvements, and did not offer a payment schedule for assessments that would be more accessible to the City's senior citizens and young families.

Commissioner Host recommended that the City allocate more money to the Police Department for traffic calming efforts on Woodward. He said that the City should also endeavor to encourage the State Police to be more of a visible presence on Woodward since it is a State road.

Commissioner Sherman commended the Police Department for excellent police and detective work in tracking down a suspect in a hit-and-run that occurred on Woodward and getting a warrant issued for the suspect's arrest.

Commissioner Sherman also commended the Fire Department for their response to a call where they determined a resident had non-operational fire detectors and the firefighters and Union pitched in to purchase the resident new ones.

Commissioner Sherman stated that on the previous Saturday night he saw both City and State Police on Woodward making traffic stops.

Speaking more generally, Commissioner Sherman stated that both the Police and Fire Departments do exemplary work in Birmingham and deserve to be recognized for that.

Commissioner Baller said that it was unrealistic to expect Commissioners not to publicly discuss or participate in advocacy regarding any matters that may be before the Commission.

Commissioner Nickita said he thought it inappropriate for Commissioners to publicly opine on any matters that may be before the Commission since his understanding was that the decisions should be made during a meeting, and not before, based on the information presented.

Mayor Boutros said that moving forward he would hold public comment at the beginning of all Commission meetings, including non-regular Commission meetings such as the budget hearing. He explained his rationale for holding public comment to the end of the FY 2021-2022 Budget Hearing.

In reply to Commissioner Host, Mayor Boutros said he would also allow public comment after each segment of non-regular Commission meetings.

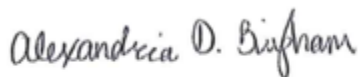
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. City Manager's Report

CM Markus made brief comments.

INFORMATION ONLY

XI. ADJOURN

Mayor Boutros adjourned the meeting at 11:36 p.m.



Alexandria Bingham, City Clerk
/le