

Birmingham City Commission Minutes

August 23, 2021

7:30 p.m.

Municipal Building, 151 Martin

Vimeo Link: <https://vimeo.com/event/3470/videos/585167413/>

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
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Commissioner Sherman

Absent: None

Administration: City Manager Markus, City Clerk Bingham, BSD Operations & Event Manager Brook, Police Chief Clemence, Assistant City Manager Ecker, Operations Commander Grewe, City Attorney Kucharek, Assistant City Engineer Zielinski

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

ANNOUNCEMENTS

- The highly transmissible COVID-19 Delta variant is spreading throughout the nation at an alarming rate. As a result, the CDC is recommending that vaccinated and unvaccinated personnel wear a facemask indoors while in public if you live or work in a substantial or high transmission area. Oakland County is currently classified as a substantial transmission area. The City has reinstated mask requirements for all employees while indoors. The mask requirement also applies to all board and commission members as well as the public attending public meetings.
- In The Park Summer Concerts are being held weekly in Shain Park on Wednesday evenings from 7 pm - 9 pm. Upcoming groups include the following:
 - August 25th Ben Sharkey
 - September 1st Sun Messengers
 - September 8th "The Byron Legacy Show" starring Byron Cancelmo
- Patriot Week Proclamation
- Director of Professional Development Neal Rossow and his staff from the MACP Accreditation Program

APPOINTMENTS

Jim Arpin, applicant for the Advisory Parking Committee, was interviewed by the Commission. He was nominated by Commissioner Host. Since Mr. Nasserian was nominated before Mr. Arpin, and was voted into the single resident position available on the Advisory Parking Committee, no vote was taken on Mr. Arpin's candidacy.

Commissioner Hoff thanked Anne Honhart for her years of service to the Advisory Parking Committee and the City.

08-213-21 Appointment of Richard Astrein to the Advisory Parking Committee

Richard Astrein was unavailable for an interview.

Commissioner Host opined that having business owners on the APC represents a conflict of interest, and said he would not vote for Mr. Astrein's reappointment for that reason.

Commissioner Sherman replied that business owners are able to offer an important perspective to the APC which is why the APC specifically has positions for them. He noted that board members of any City board are expected to recuse themselves if an item before their board represented a specific conflict of interest.

Mayor Boutros recommended that further concern about having business owners or BSD members on boards should be raised with the City Manager and possibly addressed as a future discussion topic.

MOTION: Nomination by Commissioner Hoff:
To appoint Richard Astrein to the Advisory Parking Committee as a regular member who is a BSD member to serve a three-year term to expire September 4, 2024.

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

Nays, Commissioner Host

08-214-21 Appointment of Sarshar Nasserian to the Advisory Parking Committee

The Commission interviewed Sarshar Nasserian for the appointment.

MOTION: Nomination by Commissioner Nickita:
To appoint Sarshar Nasserian to the Advisory Parking Committee as a regular member who is a resident who does not qualify under the following categories: downtown commercial representative of large retail, small retail, a professional firm, a building owner, a restaurant owner, or a downtown employee to serve a three-year term to expire September 4, 2024.

ROLL CALL VOTE: Ayes, Commissioner Nickita

Commissioner Sherman
Mayor Pro-Tem Longe
Mayor Boutros
Commissioner Baller

Nays, Commissioner Hoff
Commissioner Host

08-215-21 Appointment of Algirdas Vaitas to the Advisory Parking Committee

The Commission interviewed Algirdas Vaitas for the appointment.

MOTION: Nomination by Commissioner Sherman:
To appoint Algirdas Vaitas to the Advisory Parking Committee as a regular member who is a small retail owner to serve a three-year term to expire September 4, 2024.

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

Nays, None

City Clerk Bingham swore in the appointees.

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

Donna Hock asked the City to consider allowing the Gladney Cup to host its pre-Cup gala on September 26, 2021 in Shain Park because their previous location abruptly cancelled due to Covid-19 concerns. She noted that City event applications require 90-day advance notice and asked if that could be waived in this exceptional case.

CM Markus responded to Ms. Hock and explained that the special event licensing process could not likely be expedited even though the City supports the work of Gladney. He advised Ms. Hock to seek an alternate location for the pre-Cup gala.

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.

08-216-21 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Hoff: Item G – Agreement for Managed Assigned Counsel Coordinator
Item L – Amended Contract with SP+ Corporation

Item N – 2021 Santa House
Item Q – Permanent Polling Location Change for Precinct 6

Commissioner Baller:

Item M – Stop Sign Request (Ravine at Ferndale and Brookside)

Public:

Item E – Set a Public Hearing for Amendments to Article 7, Sections 7.01 and 7.29 of Chapter 126, Zoning – Public Notice

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Baller:
To approve the Consent Agenda with the exception of Items E, G, L, M, N, and Q.

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

Nays, None

- A. Resolution to approve the City Commission meeting minutes of August 9, 2021.
- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 11, 2021, in the amount of \$9,141,601.76.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 18, 2021, in the amount of \$1,537,613.98.
- D. Resolution setting a public hearing for September 20, 2021 to consider the Special Land Use Permit amendment, Final Site Plan and Design Review application for 260 N. Old Woodward – The Morrie – to allow the addition of a new outdoor dining platform in the N. Old Woodward right-of-way.
- F. Resolution approving the Interlocal Agreement between the seven (7) control units of the 48th District Court in order to receive the grant and local share funding from the State of Michigan as demanded by the MDIC and authorizing the City of Birmingham as the lead community to receive and administer all monies on behalf of the 48th District Court MDIC program, and authorizing the City Manager, Thomas M. Markus, to sign on behalf of the City.
- H. Resolution authorizing the IT department to purchase 126 block hours of GIS support from Geographic Information Services, Inc. 2100 Riverchase Center, Suite 105, Birmingham, AL 35244, the total purchase not to exceed \$19,936.98. Funds are available in the IT Computer Maintenance fund account # 636-228.000-993.0600. This purchase is considered a sole source purchase pursuant to section 2-280(d) of the City Code.
- I. Resolution confirming the City Manager’s authorization for the emergency expenditure related to the sewer repair on W. Maple Road at Henrietta Street by Aaron’s Excavating, for a cost not to exceed \$6,650.00 to be charged to the Sewer Fund, Other Contractual Services account #590-536.001-811.0000, pursuant to Sec. 2-286 of the City Code.

- J. Resolution confirming the City Manager’s authorization for the emergency expenditure related to the repair of the Quarton Dam auxiliary spillway gate lifting mechanism by Midwest Power Systems, for a cost not to exceed for \$17,150.00 to be charged to the Quarton Lake Maintenance account #101-751.000-935.0300, pursuant to Sec. 2-286 of the City Code.
- K. Resolution confirming the City Manager’s authorization for the emergency expenditure related to the repair of the Chester Street structure elevator by KONE Elevator for a cost not to exceed \$7,345.00 to be charged to the Automobile Parking System Fund, Chester Parking Structure Elevator Maintenance account #585-538.008-930.0200, pursuant to Sec. 2-286 of the City Code.
- O. Resolution approving a special event permit as requested by the Birmingham Shopping District to hold the 2021 Winter Markt Friday, December 3 – Sunday, December 5, 2021 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event due to public health and safety measures.
- P. Resolution approving the renewal of Brooklyn Pizza’s liquor license for 2021.

08-217-21 (Item G) Agreement for Managed Assigned Counsel Coordinator

CA Kucharek explained that the 24 hours specified on page four of the agreement under Compensation refers only to hours spent in court appearances. She explained that since the MACC also manages the program they would be working well in excess of 24 hours per week.

After discussion, Commissioner Hoff and CM Markus asked that the item be returned to the Commission at their next meeting with the clarification that the MACC would be required to fulfill the role’s other responsibilities in addition to accruing the aforementioned 24 hours per week in court.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Sherman:
To make the requested revisions to the Agreement for the Managed Assigned Counsel Coordinator (MACC) and to return it to the Commission for review on September 13, 2021.

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

Nays, None

08-218-21 (Item L) Amended Contract with SP+ Corporation

Commissioner Hoff requested that the redlined copy of the prior contract be provided to the Commission so that they could compare the prior and amended versions before voting.

Commissioner Baller thanked CA Kucharek and Ops. Cmdr. Grewe for their work on the item.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Baller:
To postpone review of the item until the redlined version of the contract is provided to the Commission.

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

Nays, None

08-219-21 (Item N) 2021 Santa House

BSD Operations & Event Manager Brook explained this event would be the same as done in 2019 and prior. She noted that there was no Santa walk in 2020 due to the Covid-19 pandemic.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Host:
To approve a special event permit as requested by the Birmingham Shopping District to hold the 2021 Santa House beginning the weekend of November 27, 2021 through December 24, 2021 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further, pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, 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 Host
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Sherman
Commissioner Nickita
Mayor Boutros

Nays, None

08-220-21 (Item Q) Permanent Polling Location Change for Precinct 6

In reply to Commissioner Hoff, City Clerk Bingham confirmed she would confer with the Library Director about the timing of potential to construction to the Baldwin Library and whether it might conflict with any upcoming elections. City Clerk Bingham noted that the Baldwin Library is a better location than City Hall for Precinct Six overall and that the polling place could be temporarily moved to the Community House if construction conflicts do arise.

Commissioner Hoff agreed that moving Precinct Six to the Library was a good idea overall. While she initially preferred to know if there would be construction conflicts before voting, when the Commissioner was advised that postponing the resolution would result in Precinct Six remaining in City Hall for the November 2021 election she said she would move the motion.

MOTION: Motion by Commissioner Hoff, seconded by Mayor Pro Tem Longe:
To approve the suggested precinct change as required by the Election Commission and as recommended by the City Clerk. Precinct 6 presently located at City Hall will be permanently located at the Baldwin Public Library effective immediately.

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

Nays, None

08-221-21 (Item M) Stop Sign Request (Ravine at Ferndale and Brookside)

Commissioner Baller commended the resident that raised the issue and noted that they made an impact on the City.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To approve the installation of a 4-way stop control at the intersection of Ferndale and Ravine and an installation of a stop sign on the southbound approach of Brookside at Ravine.

Commissioner Nickita requested assurance that the need for these stop signs had been studied thoroughly.

Ops. Cmdr. Grewe confirmed that the normal speed, crash data, and sightline analyses had been conducted at these two intersections and that the recommendations had been reviewed by the City’s traffic consultant, Fleis & Vandenbrink, and the Multi-Modal Transportation Board. He said that his analysis and the F&V analysis found sightline issues at these intersections significant enough to warrant the installation of four-way stop controls.

Commissioner Nickita expressed confidence that the intersection of Brookside and Ravine required a four-way stop control but expressed some uncertainty about the need for a four-way stop control at Ferndale and Ravine.

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

Nays, None

08-222-21 (Item E) Set a Public Hearing for Amendments to Article 7, Sections 7.01 and 7.29 of Chapter 126, Zoning – Public Notice

In reply to David Bloom, CM Markus said the intent of the proposed changes would be to make noticing simpler and to let residents know how they could find further information about notices.

The Mayor noted that further discussion regarding this item could occur during the public hearing.

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Sherman:
To set a public hearing for September 20, 2021 to consider the following amendments to Chapter 126, Zoning:

1. Article 7, Section 7.01 (General) to add general public notice requirements; and
2. Article 7, Section 7.29 (Site Plan Review: Hearing on Review; Notice) to remove and relocate public notice requirements.

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

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

08-223-21 Townsend and Peabody Street Paving Contract #6-21 (P) Contract Award

ACE Zielinski was present regarding the topic.

No presentation or discussion occurred.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Host:
To award the Townsend and Peabody Street Paving Project #6-21(P), to DiPonio Contracting, Inc. contingent upon execution of the agreement and meeting all insurance and bonding requirements in the amount of \$1,154,870.95, to be charged to the following accounts:

Sewer Fund, Public Imp.	590-536.001-981.0100	\$ 405,754.24
Water Fund, Public Imp.	591-537.004-981.0000	\$ 178,440.03
Local Streets Fund	203-449.001-981.0100	\$ 353,210.22
Major Streets Fund	202-449.001-981.0100	\$ 195,840.46
General Fund	101-444.002-981.0100	\$ 21,626.00
Total		\$ 1,154,870.95

To authorize the Mayor to sign the contract on behalf of the City; and

To approve the appropriation and amendment to the 2021/2022 budget as follows:

General Fund:

Revenues:

Draw from Fund Balance	101-000.000-400.0000	\$21,630
Expenditures:		
Engineering and Public Services – Alleys	101-444.002-981.0100	\$21,630

Major Street Fund:

Revenues:		
Draw from Fund Balance	202-000.000-400.0000	\$195,840
Expenditures:		
Construction of Roads and Bridges	202-449.001-981.0100	\$195,840

Local Street Fund:

Revenues:		
Draw from Fund Balance	203-000.000-400.0000	\$353,210
Expenditures:		
Construction of Roads and Bridges	203-449.001-981.0100	\$353,210

Sewer Fund:

Revenues:		
Draw from Fund Balance	590-000.000-400.0000	\$405,760
Expenditures:		
Sewer Improvements	590-536.001-981.0100	\$405,760

Water Fund:

Revenues:		
Draw from Fund Balance	591-000.000-400.0000	\$178,440
Expenditures:		
Water Main Improvements	591-537.004-981.0100	\$178,440

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

Nays, None

Absent, Baller

08-224-21 NEXT Interlocal Agreement

CA Kucharek and CM Markus reviewed the updates to the agreement.

Public Comment

Gordon Rinschler said the agreement should undergo further review by the Commission before approval and that the Commission should establish a permanent senior services committee. He stated that the Ad Hoc Joint Senior Services Committee had not been renewed.

CA Kucharek noted this item was included under the New Business section of the agenda to afford the Commission an opportunity to review the agreement.

Mayor Pro Tem Longe opined that this item should have provided more of the history and context regarding the provision of senior services in Birmingham.

After discussion, the Commission agreed to add "(contributions)" under Article II -- Appropriate of Funds for Services. It was also recommended that NEXT be required to share an audit and a management or audit letter with the relevant municipalities every year, and that some mechanism for increasing funding according to a set percentage or cost of living be considered.

CA Kucharek said she would make the changes and consult with the other municipalities' attorneys to make sure they approved of the proposed changes. She said she would also return to the Commission with the updated agreement and the redline copy.

Commissioner Baller said it would be helpful to hear from NEXT what they would do if Midvale were no longer available for their use, and that those plans might help start a conversation about next steps between the municipalities. He noted it would be necessary to clarify what Birmingham and the other municipalities have the political will to do, and that it could be helpful for Birmingham's elected officials to work on increasing political support for senior services.

There was general consensus that getting this agreement signed would be a positive step but would not conclude the City's work towards supporting senior services.

Mr. Rinschler said that the recommendations from the former Ad Hoc Joint Senior Services Committee should also be reviewed for next steps. He noted that one of the significant recommendations was to move from a private non-profit that offers senior services to a public non-profit modelled after the Rochester OPC.

A number of speakers recommended making a permanent senior services committee that could study next steps.

The Commission agreed to postpone the item until CA Kucharek could return with the updates.

08-225-21 Glass Standards

Commissioner Nickita introduced the item.

ACM Ecker confirmed the ordinance does not currently address the use of shading devices.

CM Markus stated he would prefer to see if the few retailers in the City using shading devices frequently might be amenable to reducing their use. He explained that dialogue likely be more efficient for the businesses, taxpayers and City administration than making an ordinance to address the few outliers. He noted that the goal is to create an interplay between the interior and exterior, stating that some other setups can also get in the way of that goal. CM Markus said he would get the names of the businesses

about which Commissioner Nickita was concerned and would begin a dialogue with them. He continued that it would still be useful to have the Planning Board study the issue and offer their recommendations.

MOTION: Motion by Commissioner Nickita, seconded by Commissioner Sherman:
To send the matter of shading devices to the Planning Board for review.

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

Nays, None

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.

MOTION: Motion by Commissioner Host, seconded by Commissioner Hoff:
To discuss joint senior services.

Commissioner Hoff said it would be helpful to know more about the Joint Senior Services Committee's disbanding as reported by Mr. Rinschler.

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

Nays, None

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments

Commissioner Hoff commended all involved in making Birmingham's Dream Cruise events a success.

Commissioner Nickita recounted his recent experience at RH Chicago. He explained that he was confident based on his experience that RH would fit in well in Birmingham.

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

- D. Legislation
- E. City Staff
 - 1. Greenwood Cemetery Advisory Board Annual Report
 - 2. Interim Report on Infrastructure Ratings

CM Markus noted that this report was being provided in advance of a Commission study session on improving roads.

3. Manager's Report

CM Markus reviewed the report.

He also recommended that senior services be discussed as part of the City's strategic planning process.

INFORMATION ONLY

XI. ADJOURN

Mayor Boutros adjourned the meeting at 11:00 p.m.



Alexandria Bingham, City Clerk
/le