

## **Birmingham City Commission Minutes**

**November 22, 2021**

**7:30 p.m.**

**Municipal Building, 151 Martin**

**Vimeo Link: <https://vimeo.com/event/3470/videos/643775933/>**

### **I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Therese Longe, Mayor, opened the meeting with the Pledge of Allegiance.

### **II. ROLL CALL**

Alexandria Bingham, City Clerk, called the roll.

Present: Mayor Longe  
Commissioner Baller  
Commissioner Haig  
Commissioner Host  
Commissioner McLain  
Commissioner Schafer

Absent: Mayor Pro Tem Boutros

Administration: City Manager Markus, City Clerk Bingham, Assistant City Manager Ecker, Finance Director Gerber, City Attorney Gojcaj, City Attorney Kucharek, Human Resource Manager Lambert, Museum Director Pielack, Assistant City Engineer Zielinski

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

COVID-19 cases remain high in Michigan, and Oakland County continues to be at a high level of community transmission. As a result, the CDC recommends vaccinated and unvaccinated individuals wear a facemask indoors while in public. The City requires masks in City Hall for all employees, board and commission members, and the public.

#### **APPOINTMENTS**

Scott Tappan, applicant for the Board of Review, was interviewed by the Commission. CA Kucharek explained that Mr. Tappan's spouse is employed by the City. CA Kucharek continued that while there is no official prohibition against the spouse of a City employee serving on a Board, she was concerned with the potential for the appearance of a conflict-of-interest. She said she may propose a policy regarding whether spouses of City employees should be permitted to serve on Boards.

Commissioner McLain noted that members of the Board of Review are compensated for their time, whereas most of the other City Boards are volunteer. She said that would also influence the possibility of an appearance of a conflict-of-interest.

Mr. Tappan stated that his spouse is a part-time employee of the City and said he was unsure if that would make a difference. He said he understood the concern regarding the potential appearance of a conflict-of-interest but did not feel his appointment to a Board should be prohibited.

Commissioner Haig asked CA Kucharek if there was any Board she could recommend for Mr. Tappan, given Mr. Tappan's qualifications and desire to serve.

CA Kucharek said she could not recommend a spouse of a City employee be appointed to any City Board due to the potential for an appearance of impropriety. She said if the Commission wanted to proceed with Mr. Tappan's appointment regardless, the City could seek an advisory opinion from the Board of Ethics.

Mayor Longe noted the City has a tradition of preventing spouses from serving on two different Boards simultaneously, and cited an example in which that policy was followed.

CM Markus said his previous discussions with CA Kucharek had not indicated that a spouse of a City employee was interested in serving on a Board. Consequently, he said he would need more time to

determine his personal position on whether a spouse of a City employee should be permitted to serve on a Board.

Mr. Tappan was not nominated for an appointment to the Board of Review. Commissioner Baller stated he would like the City to clarify its policy. The Commissioner stated there were a number of open Board positions in the City for which Mr. Tappan would be eminently qualified.

**11-296-21 Appointment of Thomas Loafman to the Board of Review**

The Commission interviewed Thomas Loafman for the appointment.

**MOTION:** Nomination by Commissioner Host:  
To appoint Thomas Loafman to the Board of Review as a regular member to serve a three year term to expire December 31, 2024.

ROLL CALL VOTE: Ayes, Mayor Longe  
Commissioner Baller  
Commissioner Haig  
Commissioner Host  
Commissioner McLain  
Commissioner Schafer

Nays, None

**11-297-21 Appointment of Cynthia Rose to the Board of Review**

The Commission interviewed Cynthia Rose for the appointment.

**MOTION:** Nomination by Commissioner Schafer:  
To appoint Cynthia Rose to the Board of Review as a regular member to serve a three year term to expire December 31, 2024.

ROLL CALL VOTE: Ayes, Mayor Longe  
Commissioner Baller  
Commissioner Haig  
Commissioner Host  
Commissioner McLain  
Commissioner Schafer

Nays, None

**11-298-21 Appointment of Elicia Katrib to the Board of Review**

Elicia Katrib was unavailable for an interview.

**MOTION:** Nomination by Commissioner Baller:  
To appoint Elicia Katrib to the Board of Review as a regular member to serve the remainder of a three year term to expire December 31, 2023.

ROLL CALL VOTE: Ayes, Mayor Longe  
Commissioner Baller  
Commissioner Haig  
Commissioner Host  
Commissioner McLain  
Commissioner Schafer

Nays, None

City Clerk Bingham swore in the present appointees.

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

Patty Edwards and David Bloom both expressed concern with Commissioner Baller’s conduct, especially vis-a-vis his written communications with the public.

Mayor Longe noted the matter was on the agenda under Reports.

CA Kucharek advised that Ms. Edwards and Mr. Bloom could proceed with their comments presently, but should address their comments to the Mayor and not to any particular Commissioner.

Based on their concerns, Ms. Edwards and Mr. Bloom both requested that the Commission censure or otherwise admonish Commissioner Baller.

**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.

**11-299-21 Consent Agenda**

The following items were pulled from the Consent Agenda:

Commissioner Baller: Item G – Greenwood Parking Restriction Request

Commissioners Baller and McLain:

Item I – Verizon Wireless’ 19 Applications to Install Small Cell Equipment on DTE’s Poles in City’s ROW

Commissioner Schafer:

Item J – Sidewalk Trip Elimination Services Contract #7-21 (SW) – Addendum Contract Amendment 2

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner McLain:  
To approve the Consent Agenda with the exception of Items G, I, and J.

ROLL CALL VOTE: Ayes, Commissioner Baller  
Commissioner McLain  
Commissioner Schafer  
Commissioner Host  
Mayor Longe  
Commissioner Haig

Nays, None

- A. Resolution to approve the City Commission meeting minutes of November 8, 2021.
- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated November 10, 2021, in the amount of \$694,588.33.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated November 17, 2021, in the amount of \$1,009,029.05.
- D. Resolution authorizing the IT department to purchase the Nutanix Hyper-converged system from CDWG at total cost not to exceed \$10,283.71. Funds are available in the Machinery and Equipment fund account # 636-228.000-971.0100.
- E. Resolution authorizing the IT department to renew the Laserfiche support contract with MCCi for a total cost of \$13,084.20. Funds are available in the IT Computer Maintenance Fund Account: 636-228.000-933.0600.
- F. Resolution providing direction to authorize the City Clerk to complete the Local Approval Notice at the request of Casa Godi, LLC approving the liquor license request of Casa Godi, LLC requesting a new Class C license to be issued pursuant to MCL 436.1521 (A)(1)(B) with Sunday Sales (AM/PM), Catering Permit and an Outdoor Service Permit (1 Area) located at 470 N Old Woodward, Birmingham, Oakland County, MI 48009.
- H. Resolution to approve the Fourth Amendment with Plante & Moran Cresa, LLC in the amount not to exceed \$11,200.00, with the term ending December 8, 2021 for assisting with capital planning and operational review consulting services for the Birmingham Ice Arena. Funds are available for this work in the Capital Projects - Ice Arena - Buildings account #401-901.001-977.0000.

**11-300-21 (Item G) Greenwood Parking Restriction Request**

Commissioner Baller pulled the item to note that the draft 2040 Master Plan recommends the City consider simplifying its parking restrictions at some point in the future. He stated that if that aspect of the Plan is adopted, residents on Greenwood should be aware that the Commission may consider further changes to the permit parking on the street.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Haig:  
To approve the installation of a permit exempt 2 hour time zone from 9 a.m. to 6 p.m. on Greenwood St. from Willits St. to Harmon St. Further, to direct the Chief of Police and the City Clerk to sign the traffic control order on behalf of the City.

Commissioner Host said Commissioner Baller was right to note that the 2040 Master Plan may in the future recommend changes to permit parking. He said that, even so, the City would still need a consistent approach to prevent people from parking in the residential neighborhoods when visiting the commercial areas of the City.

Commissioner Schafer noted that the petitions for this change from the residents of Greenwood dated back to 2019. She acknowledged that the delay in implementation was Covid-related, but said the City should verify residents are still in favor of a proposal, as occurred in this case, when there has been an extended delay.

ROLL CALL VOTE: Ayes, Commissioner Baller  
Commissioner Haig  
Commissioner McLain  
Commissioner Schafer  
Commissioner Host  
Mayor Longe

Nays, None

**11-301-21 (Item I) Verizon Wireless' 19 Applications to Install Small Cell Equipment on DTE's Poles in City's ROW**

CA Gojcay and ACE Zielinski stated that this was Verizon's first application to install small cell equipment in the City, and that they are the first provider to apply to install small cell equipment in the City.

CA Gojcay explained that the Small Cell Wireless Deployment Act prevents municipalities from having much discretion in an instance such as this. He stated that allowing installation is mandated by the State as long as the application complies with State law and City ordinances.

Commissioner McLain provided brief further background regarding the item. She stated that the installation trucks and installers are required to have identification, and that any safety questions or issues regarding installation should be addressed with the Birmingham Police Department.

CA Gojcay explained that the proposed non-conforming installations are due to the fact that DTE requires Verizon's boxes to be five feet from DTE's boxes on DTE's utility poles. He explained that the other option would be to install an entire second pole next to the first pole instead of co-locating if the non-conforming installations were undesirable.

There was Commission consensus that higher Verizon boxes, resulting in non-conforming installations, was preferable to adding second poles for the small cell equipment installation. In reply to Commissioner Haig, David Haslinger, Head of Permitting for Verizon in Michigan, stated that no generators would be added to the poles with small cell equipment during power outages.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner McLain:  
To approve all 19 Verizon Wireless applications for placement of Verizon Wireless' small cell equipment on DTE's utility poles, and further approving 7 of the 19 applications to exceed the 45 foot height limitations as described in the agreement.

VOICE VOTE: Ayes, Commissioner Baller  
Commissioner Schafer  
Commissioner Host  
Mayor Longe  
Commissioner Haig  
Commissioner McLain

Nays, None

**11-302-21 (Item J) Sidewalk Trip Elimination Services Contract #7-21 (SW) – Addendum Contract Amendment 2**

Commissioner Schafer stated this was part of the City’s efforts to make sidewalks safer. She recalled former Commissioner Nickita’s recommendation that the City continue working on installing sidewalks where they are currently lacking, and noted that the Multi-Modal Transportation Board is working on prioritizing areas for sidewalk installation. She said the City should continue its efforts to expand sidewalk coverage and safety in the City.

**MOTION:** Motion by Commissioner Schafer, seconded by Commissioner Host:  
To approve an amendment to the extension of the 2021 Sidewalk Trip Elimination Program through the addendum of the Contact #6-18 (SW) for the 2021 sidewalk program repair area, at 2018 contract prices, to Precision Concrete, Inc., in the amount of \$260,000.00 (net increase of \$135,000.00 over the existing contract). All costs shall be charged to account number 101-444.001-981.0100. Further, authorizing the Mayor to sign the approved contract addendum authorizing this work.

ROLL CALL VOTE: Ayes, Commissioner Schafer  
Commissioner Host  
Mayor Longe  
Commissioner Haig  
Commissioner McLain  
Commissioner Baller

Nays, None

**VI. UNFINISHED BUSINESS**

**VII. NEW BUSINESS**

**11-303-21 Fiscal Year 2020-2021 Audit Report Presentation**

FD Gerber introduced the item.

Tim St. Andrew and Spender Tawa of Plante Moran presented the audit.

In reply to Commissioner Haig, Mr. St. Andrew explained that because the City had not had an audit in the last two years the City could not qualify as a low-risk auditee. He said that because there were no findings this year, the City could qualify as a low-risk auditee next year if there is another single audit. He stated that next year’s testing would be consistent with this year’s testing.

Public Comment

Paul Reagan asked what number of the City’s employees are covered by the defined benefit plan.

FD Gerber stated it is approximately 30% of employees.

Mr. Reagan asked what the expected replacement ratio of employees in the defined contribution plan is.

FD Gerber said he was unfamiliar with the concept of a replacement ratio in regards to a defined contribution plan.

Mr. Reagan stated that the replacement ratio is the key indicator for evaluating the quality of a benefit plan.

Mr. Reagan continued that the City should press anyone dealing with the City’s benefits system to answer what the replacement ratio is because it is essential information. He said that the City has focused a lot on the defined benefit system when there seems to be no issue with it. He said that if Birmingham expects to recruit, retain and reward employees for their service to the City, it has to do so via well-designed programs.

Mr. Reagan stated it may be the case that employees of the City cannot afford to work for the City long-term, and that is one of the reasons why the City is having a difficult time recruiting and retaining employees.

In reply to a second line of inquiry from Mr. Reagan, Mr. St. Andrew said that it would be difficult to determine which City expenditures are commercial and which are residential since many of the expenditures include overhead, such as City Hall, the Fire Department, or the Police Department, which

are accessed by commercial and residential users alike. He said trying to separate expenditures in that way would depend on a lot of assumptions.

FD Gerber said he was not aware of any City that does that.

Mr. Reagan said that the City could establish a procedure for determining those expenditures based on a set of assumptions, determine the year-over-year change, and make expenditure decisions based on that information.

Dr. Fremont Scott asked what relevance the previous discussion had, saying he found it esoteric.

Mayor Longe thanked FD Gerber, Staff, and the audit team from Plante Moran for their work on the audit.

**11-304-21 Nomination for Greenwood Cemetery-National Underground Railroad Network to Freedom Designation**

MD Pielack presented the item.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Haig:  
To provide direction to the Mayor to sign a letter of consent on behalf of the city and to authorize staff to submit application to the National Park Service to nominate Greenwood Cemetery to the National Underground Railroad Network to Freedom.

In reply to Commissioner Baller, MD Pielack stated that the funds have been raised to provide George and Eliza Taylor with grave markers. She said the City was just waiting on final legal clarification regarding how non-deed holders can install a marker since the City no longer holds the deeds.

She said that the City was also waiting on an appropriate time to celebrate with the funders and the public which has been delayed by Covid-19. She said she was hoping to be able to do so in Spring 2022.

In reply to Commissioner Schafer, MD Pielack said that some newly-digitized archival records of newspapers helped in clarifying Birmingham’s connection to the Underground Railroad.

Mayor Longe thanked MD Pielack for her work on this item.

VOICE VOTE: Ayes, Commissioner Baller  
Commissioner Haig  
Commissioner McLain  
Commissioner Schafer  
Commissioner Host  
Mayor Longe

Nays, None

**11-305-21 Benefit Consulting Services**

HRM Lambert presented the item.

**MOTION:** Motion by Commissioner Host, seconded by Commissioner McLain:  
To approve the contract with Gallagher Benefit Services, Inc. in the amount of \$49,000.00 annually, for a three year term, to provide benefit consulting services for the City. Funds are available from the Risk Management Fund, account #677-851.000-811.0000; Further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City.

Mayor Longe said she was thrilled that the City is continuing its trend of undertaking RFPs for its external consulting services. She noted that the costs to the City would be reduced and that Gallagher Benefit Services, Inc. was very qualified.

ROLL CALL VOTE: Ayes, Commissioner Host  
Commissioner McLain  
Commissioner Baller  
Commissioner Schafer  
Mayor Longe  
Commissioner Haig

Nays, None

**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.

After brief Commission discussion, CM Markus stated he and Staff would draft a policy regarding RFPs for external contract services and would return it to the Commission for review.

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

**X. REPORTS**

- A. Commissioner Reports
  - 1. Notice of Intention to Appoint to the Birmingham Triangle District Corridor Improvement Authority
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
  - 1. 1st Quarter Budget Report
  - 2. 1st Quarter Investment Report
  - 3. City Manager's Report

CM Markus reviewed the City Manager's Report.

INFORMATION ONLY

**XI. ADJOURN**

Mayor Longe adjourned the meeting at 9:39 p.m.



Alexandria Bingham, City Clerk  
/le