

Birmingham City Commission Minutes
December 6, 2021
7:30 p.m.
Municipal Building, 151 Martin
Vimeo Link: <https://vimeo.com/648857629>

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
Mayor Pro Tem Boutros
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner McLain
Commissioner Schafer

Absent: None

Administration: City Manager Markus, City Clerk Bingham, Assistant City Manager Ecker, Finance Director Gerber, City Attorney Kucharek, Department of Public Services Director Wood

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

- A moment of silence was observed in remembrance of the lives lost and altered as a result of the November 30, 2021 shooting at Oxford High School.
- COVID-19 cases locally are the highest they have been since the beginning of the pandemic. Michigan and Oakland County continue 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. Please visit the CDC's website on how to safely celebrate the holidays and for more COVID-19 information.
- Mayor Pro Tem Boutros' Birthday.

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

Dan Marsh, Executive Director at the Birmingham YMCA, greeted the new Commissioners, invited the Commissioners to visit, and provided an update on the YMCA's operations.

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.

12-306-21 Consent Agenda

The following items were pulled from the Consent Agenda:

- Commissioner Host: Item A – City Commission Meeting Minutes of November 22, 2021
- Commissioner Haig: Item D – Set Public Hearing for 298 S. Old Woodward – Daxton Hotel – Special Land Use Permit Amendment
- Item E – Lease Agreement – 35046 Woodward Ave. (Formerly Alban’s Bottle & Basket)
- Item I – Park Street Parking Structure Elevator Repair

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Boutros:
To approve the Consent Agenda with the exception of Items A, D, E and I.

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

Nays, None

- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated November 24, 2021, in the amount of \$2,211,260.33.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated December 1, 2021, in the amount of \$167,982.15.
- F. Resolution approving Dynamic Systems, Inc. be awarded the “Power Washing Sidewalks in Downtown Birmingham 2022-2024” contract for a total project cost not to exceed \$66,300.00. Funds are available from the Birmingham Shopping District Maintenance account #247-748.000-935.0200, and the Parks Other Contractual Services account #101-751.000-811.0000 for these services. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of the required insurance coverage.
- G. Resolution to install a No Parking from 7 a.m. to 5 p.m., Permit Exempt zone for School Days on Bird Ave. from Pierce to Edgewood. Further, to direct the Chief of Police and the City Clerk to sign the traffic control order on behalf of the City.
- H. Resolution to reschedule the October 10, 2022 joint meeting of the Birmingham City Commission and Planning Board to a new date of November 21, 2022.

12-307-21 (Item A) City Commission Meeting Minutes of November 22, 2021

Commissioner Host said that on page seven, second paragraph from the bottom, it should read "Fremont Scott", not "Scott Fremont".

MOTION: Motion by Commissioner Host, seconded by Mayor Pro Tem Boutros:
To approve the City Commission meeting minutes of November 22, 2021.

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

Nays, None

12-308-21 (Item D) Set Public Hearing for 298 S. Old Woodward – Daxton Hotel – Special Land Use Permit Amendment

In reply to Commissioner Haig, CA Kucharek confirmed this potential liquor license transfer would only be a legal ownership change and would not alter the operations, licensing, or function of the Daxton.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Baller:
To set a public hearing date of January 10, 2022 to consider the Special Land Use Permit Amendment at 298 S. Old Woodward – Daxton Hotel – to allow the transfer of ownership of an existing liquor license.

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

Nays, None

12-309-21 (Item E) Lease Agreement – 35046 Woodward Ave. (Formerly Alban’s Bottle & Basket)

Commissioner Haig recommended that the lease agreement factor in an adjustment for inflation. He explained that could be done with a year-by-year adjustment, which he cautioned might be onerous, a five-year adjustment with either an absolute number or a round-up number, or selecting a standard percentage for interest.

CA Kucharek stated that inflation was considered as part of the proposed increase in the lease rates. She said the lease rates were also factored in fairness to the lessor, to ensure that the lessor would not be paying significantly more for these parking spaces than other lessors do in the City. She noted that this

lease would not be precedential since the City leasing just parking spaces to a lessor is a relatively rare occurrence.

CM Markus noted that the lease also grants the City the right to enter the property if necessary to conduct work on the Water Tower or surrounding areas.

Commissioner Baller said the escalations proposed in the contract largely correlated with inflation. He said that while he was in favor of tying City contracts to inflation and other relevant indices, he did not think that in this case the difference between the escalations proposed in this contract and inflation was worth a renegotiation.

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Boutros:
To approve the lease agreement between the City and Water Tower Properties and authorize the Mayor and the City Clerk to sign the agreement on behalf of the City.

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

Nays, Commissioner Haig

12-310-21 (Item I) Park Street Parking Structure Elevator Repair

Commissioner Haig noted this repair stemmed from the need to replace obsolete equipment. He asked if the equipment in the rest of the parking structures would be evaluated for similar issues, so that work in the parking structures could be preventative.

CM Markus confirmed that the new Parking Manager would be keeping an eye on things like obsolescence of equipment, and that preventative maintenance should become much more frequent than emergency repairs.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host:
To confirm the City Manager’s authorization for the emergency expenditure related to the repair of the Park Street Structure elevator by KONE Elevator for a cost not to exceed \$22,765.00 to be charged to the Automobile Parking System Fund, Park Parking Structure Elevator Maintenance account #585-538.003-930.0200.

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

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

12-311-21 Public Hearing – Wall Art – Request to Continue

Mayor Longe stated the Commission received a request for this item to be postponed to the City Commission meeting of December 13, 2021.

The Mayor opened the public hearing at 7:56 p.m.

Public Comment

David Bloom spoke in favor of trying wall art in the community, noting that the rules could always be modified or rolled back if desired.

The Mayor ~~closed the public hearing at 7:59 p.m.~~ continued the public hearing to the December 13, 2021 meeting.¹

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Schafer:
To continue the public hearing to consider ordinance amendments to Article 7, Section 7.41-7.46-Processes, Permits, and Fees & Article 9, Section 9.02 Definitions of the Zoning Ordinance to create a wall art definition and review process to the City Commission meeting of December 13, 2021.

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

Nays, None

12-312-21 Public Hearing – 203 Pierce Street – Toast – Special Land Use Permit Amendment, Final Site Plan and Design Review

The Mayor opened the public hearing at 8:00 p.m.

Mayor Longe stated the Commission received a request for this item to be postponed to the City Commission meeting of December 13, 2021.

The Mayor ~~closed the public hearing at 7:59 p.m.~~ continued the public hearing to the December 13, 2021 meeting.²

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Schafer:

¹ As amended at the January 10, 2022 meeting.

² As amended at the January 10, 2022 meeting.

To continue the public hearing to consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 203 Pierce Street – Toast – to amend the hours of operation to the City Commission meeting of December 13, 2021.

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

Nays, None

12-313-21 Public Hearing – 2022-2023 Community Development Block Grant Application

The Mayor explained the procedures to be followed for the public hearing and opened the public hearing at 8:01 p.m.

Seeing no public comment, the Mayor closed the public hearing at 8:02 p.m.

MOTION: Motion by Commissioner Host, seconded by Mayor Pro Tem Boutros:
To approve the Program Year 2022 Community Development Block Grant application with the following projects and respective allocations:

	<u>APPROVED</u>
	<u>2022-2023**</u>
i. Public Services – Yard Services	\$7,573
ii. Public Services – Senior Services	3,500
iii. Remove Architectural Barriers – Museum Park	<u>25,839</u>
TOTAL	<u>\$36,912</u>

** (TO BE DETERMINED BY THE CITY COMMISSION AT THE DECEMBER 6, 2021 MEETING); and authorize the mayor to sign the application, conflict of interest certification, subrecipient agreement (when available), and other documents resulting from this application on behalf of the City and submit the documents to Oakland County.

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

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.

12-314-21 Delay Entering Closed Session Pursuant Until Other Agenda Items are Complete

MOTION: Motion by Commissioner Haig, seconded by Commissioner Baller:
To delay meeting in closed session to discuss Agenda Item F until other agenda items are complete in order to avoid inconveniencing members of the public.

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

Nays, None

12-315-21 Closed Session Pursuant to the OMA at MCL §15.268(e)

(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)

MOTION: Motion by Commissioner Baller, seconded by Mayor Pro Tem Boutros:
To meet in closed session to discuss pending litigation pursuant to MCL § 15.268(e) of the Open Meetings Act.

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

Nays, None

City Attorney Kucharek provided an explanation of the function of a closed session.

The Commission went into closed session at 8:54 p.m.

The Commission reconvened into open session at 9:58 p.m.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to Appoint to the Multi-Modal Transportation Board
 - 2. Public Arts Board
 - 3. Cablecasting Board
 - 4. Stormwater Utility Appeals Board
- B. Commissioner Comments

Mayor Pro Tem Boutros commended two Birmingham residents for winning the 3.5 age 40-and-older men's United States Tennis Association national championship.

Commissioner Host commended Chief Clemence for his letter to the Birmingham Schools community and for his approach to working with Birmingham residents.

Other Commissioners concurred with Commissioner Host.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Plante Moran Ice Arena Update & Project Recap

DPSD Wood introduced the item.

Robert Stempien of Plante Moran Cresa presented the item.

Commissioner Baller thanked Mr. Stempien for his work on the project and said he was pleased with the results.

Commissioner Schafer said she spends three days a week at the Ice Arena with her son and said that after time spent at other municipalities' ice arenas during the construction her family was glad to be back at their home rink. She reported that the party room in the Ice Arena has also been receiving consistent bookings.

Mayor Longe said she had received positive feedback on the Ice Arena updates from a number of residents who are also members of the hockey community. She thanked Mr. Stempien, DPSD Wood, and the DPS Staff for their work on the Ice Arena project, the community members who lobbied in support of the updates to the Ice Arena, and all those who voted to fund the updates to the Ice Arena via the Park Bond.

CM Markus said there would be a family-oriented open house for the Ice Arena sometime after the first of the year. He said Birmingham was lucky to have the updated Ice Arena in the community and said the team from Plante Moran Cresa did a beautiful job.

2. Administering a Foundation or Charity

CA Kucharek said she was available to answer any questions that arose from her submitted report on this item.

CM Markus explained he had asked CA Kucharek to offer her legal opinion about Birmingham potentially administering a non-profit foundation or charity after reading in a recent news article that Royal Oak would be doing so. He said his initial impression was that it was not appropriate for Birmingham to pursue, and that CA Kucharek's findings aligned with his own impression.

In reply to Mayor Longe, CM Markus said he would clarify how the Friends of the Baldwin Public Library was structured.

3. Commissioner Attendance at Various Advisory Boards and Committees

CM Markus introduced the item and CA Kucharek presented the item.

CM Markus said he would offer policy recommendations for the Commission to consider in the near future. He said the recommendations would be based off CA Kucharek's findings.

In reply to Commissioner McClain, CM Markus said the policy recommendation would likely include a way for the Commission to make an exception to the rules as well should it be deemed appropriate.

Commissioner Baller said the Commissioners should be briefed on:

- Which meetings could be accessed via which media; and,
- The technical information the Commissioners might need to avoid running afoul of a potential policy.

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 9:58 p.m.



Alexandria Bingham, City Clerk
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