

Birmingham City Commission Minutes

February 14, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/event/3470/videos/669681851/>

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 Haig
Commissioner Host
Commissioner McLain
Commissioner Schafer

Absent: Commissioner Baller

Administration: City Manager Markus, City Clerk Bingham, Planning Director Dupuis, Assistant City Manager Ecker, City Attorney Kucharek, Deputy Treasurer Todd, Assistant City Engineer Zielinski

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

Announcements

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. KN-95 respirators and medical 3 ply masks will be provided to everyone attending public meetings.

The Mayor congratulated Madam Restaurant for making the Detroit Free Press' 'Top 10 best new restaurants in metro Detroit for 2022' list.

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

David Bloom raised concerns about: 1) the board appointment process at the January 24, 2022 meeting and 2) a potential contradiction in the draft master plan wherein continued commercial growth is recommended but a lack of parking is also acknowledged.

Paul Reagan raised concerns about conflicts-of-interest on boards and recommended that all three Ethics Board members advise the Commission on creating a code of conduct.

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.

02-038-22 Consent Agenda

The following items were pulled from the Consent Agenda:

- Commissioner Haig: Item A – Long Range Planning Minutes of January 22, 2022
Item K – Verizon Wireless Application to Install New Pole and Small Cell Equipment in the City’s ROW
- City Clerk Bingham: Item B – City Commission Minutes of January 24, 2022

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Host:
To approve the Consent Agenda excluding Items A, B, and K.

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

Nays, None

- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 26, 2022, in the amount of \$836,235.31.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated February 2, 2022, in the amount of \$2,007,252.52.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated February 9, 2022, in the amount of \$2,851,707.60.
- F. Resolution to amend the City’s schedule of fees, charges, bonds and insurance under the City Clerk’s office section, relating to Outdoor Dining Licenses, as requested by the Clerk’s office.
- G. Resolution to approve a special event permit as requested by the Birmingham Memorial Day Committee to hold the 2022 Memorial Day Service on Monday, May 30, 2022, 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.
- H. Resolution to approve a request from the Birmingham City Clerk’s office to hold the Celebrate Birmingham Parade on downtown streets and the Party in Shain Park as presented on May 15, 2022, 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.
- I. Resolution to amend the Birmingham Fee Schedule for the addition of a Wall Art Application Fee for the amount of \$200.

- J. Resolution to approve the purchase agreement with CMP Distributors, Inc. for (3) Point Blank ARMIS II SE-WARSOC tactical vests with Paraclete level III+ plate and Point Blank 555 level III+ steel plate in the amount not to exceed \$9,180.00. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funding for this project has been budgeted in account 101-301.000-743.0000.
- L. Resolution to set the Public Hearing of Necessity for the construction of sidewalk and streetscape improvements adjacent to all properties within the project area on S. Old Woodward Avenue, from Brown St. to Landon St., on Monday, March 14, 2022 at 7:30 P.M.; and

If necessity is determined on March 14, 2022, to meet on Monday, April 11, 2022 at 7:30 P.M., for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for construction of sidewalk and streetscape improvements adjacent to all properties within the project area on S. Old Woodward Avenue, from Brown St. to Landon St.

- M. Resolution to set the Public Hearing of Necessity for the replacement and improvement of Water and Sewer leads meeting the requirements for assessment, for all properties within project area on S. Old Woodward Avenue, from Brown St. to Landon St., on Monday, March 14, 2022 at 7:30 P.M.; and

If necessity is determined on March 14, 2022, to meet on Monday, April 11, 2022 at 7:30 P.M., for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for the replacement and improvement of Water and Sewer leads meeting the requirements for assessment, for all properties within project area on S. Old Woodward Avenue, from Brown St. to Landon St.

02-039-22 (Item A) Long Range Planning Minutes of January 22, 2022

Commissioner Haig commended Staff for the work and effort that went into preparing and presenting the Long Range Planning meeting.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Schafer:
To approve the City Commission meeting minutes of January 10, 2022 as submitted.

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

Nays, None

02-040-22 (Item B) City Commission Minutes of January 24, 2022

City Clerk Bingham said that the minutes would be amended to accurately reflect the vote on Item 01-25-2022.

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Host:
To approve the City Commission Regular Meeting minutes of January 24, 2022 as amended.

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

Nays, None

02-041-22 (Item K) Verizon Wireless Application to Install New Pole and Small Cell Equipment in the City's ROW

ACE Zielinski clarified that there would be 20 total poles, because there are 19 extant poles and one new pole to be installed.

Commissioner Haig said the item should note that information.

MOTION: Motion by Commissioner Haig, seconded by Mayor Pro Tem Boutros:
To approve the Verizon Wireless application for placement of Verizon Wireless' new pole and small cell equipment at the proposed location along the east side of Columbia St., with additional wording to the effect of 'the existing agreement that was presented to Verizon as part of their approval for the (19) nineteen colocations plus one new colocation for a sum total of (20) twenty'.

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

Nays, None

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

02-042-22 Public Hearing for Confirming S.A.D. #896 – Maple Road Reconstruction Project

The Mayor opened the public hearing at 8:10 p.m.

DT Todd presented the item.

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

MOTION: Motion by Commissioner Host, seconded by Commissioner Schafer:
To confirm S.A.D. Roll #896 as indicated in the Staff report.

ROLL CALL VOTE: Ayes, Mayor Pro Tem Boutros

Commissioner Schafer
Mayor Longe
Commissioner Host
Commissioner Haig
Commissioner McLain

Nays, None

02-043-22 Necessity of Maple Rd. Sewer Lateral S.A.D.

The Mayor opened the public hearing at 8:13 p.m.

ACE Zielinski presented the item.

Public Comment

Cheryl Daskas, owner of Tender, said adequate notice was not provided to the business owners affected by this project, that she had concerns about the caulking done as part of the project, and said she had concerns about the narrowness of Maple.

CM Markus noted that the project went through the City's design process and that the road was narrowed for traffic calming. He said the City would have someone out to see about the caulking issue.

Ms. Daskas asked the City to be cautious about the redesign coming to the South Old Woodward area in the next few years in light of her experience with Maple.

The Mayor closed the public hearing at 8:24 p.m.

In reply to Commissioner McLain, CM Markus noted that projects both solicit public feedback during the design process and that affected property owners are noticed at various points throughout the process.

Mayor Pro Tem Boutros affirmed that there was public engagement throughout the design process and that the design was implemented to increase walkability and safety in the downtown area.

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Haig:
To declare necessity and create a Special Assessment District (SAD) and that special assessments be levied in accordance with benefits against the properties within such assessment district, (sewer laterals) said special assessment district shall be all properties, within the following district, of (10) ten parcels (as listed in the staff report), and that the Commission meet on Monday, February 28, 2022 at 7:30 p.m. for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for the SAD for properties within the project area with sewer laterals meeting the requirements for replacement on Maple Road, between Bates Street and Pierce Street, and between Old Woodward Avenue and Woodward Avenue.

Public Comment

Ms. Daskas said implementing or reimplementing a truck bypass for Maple would help the issues she observes.

In reply to Ms. Daskas and Commissioner Host, CM Markus said he would ask Staff to prepare a brief history of the ring road to increase understanding of its previous and present status.

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

Nays, None

02-044-22 Public Hearing for 211 Hamilton Row – Sybil – Special Land Use Permit, Final Site Plan & Design Review

The Mayor opened the public hearing at 8:33 p.m.

PD Dupuis presented the item.

In reply to Commissioner Haig, PD Dupuis confirmed that the applicant was able to change their plans in order to increase the pedestrian clear path by a foot as compared to the original plans.

Kevin Biddison, architect, was present on behalf of the project.

The Mayor closed the public hearing at 8:37 p.m.

Mr. Biddison confirmed for Mayor Pro Tem Boutros that the project meets all ADA requirements.

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Host:
To approve the Special Land Use Permit, Final Site Plan and Design Review application and contract for 211 Hamilton Row – Sybil – to allow the addition of a new food and drink establishment serving alcoholic beverages for on premise consumption and associated interior/exterior renovations.

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

Nays, None

02-045-22 Public Hearing – Proposed Amendments for Article 4, Section 4.44 – Outdoor Dining Standards

The Mayor opened the public hearing at 8:40 p.m.

PD Dupuis presented the item.

The Mayor closed the public hearing at 8:42 p.m.

In reply to Commissioner Haig, PD Dupuis and CM Markus confirmed that the City's snow removal ordinance sufficiently addresses snow removal in conjunction with these changes. Both Staff members noted that the

recommended long-term changes to the outdoor dining standards would address snow removal more directly.

MOTION: Motion by Commissioner Schafer, seconded by Commissioner Host:
To adopt an ordinance to amend Article 4, Section 4.44, Outdoor Dining Standards, to remove temporal restrictions on outdoor dining patios in the public right-of-way, and to allow outdoor dining fixtures and furnishings to stay outside overnight.

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

Nays, None

02-046-22 NEXT Long-Term Written Agreement with Birmingham Public Schools

Mayor Longe disclosed she is a member of NEXT, Commissioner Host disclosed that he is a member of NEXT, Commissioner McLain disclosed that she is both a member and a board member of NEXT, and Mayor Pro Tem Boutros stated that he is the City Liaison to NEXT.

CA Kucharek noted she was contacted by the Mayor earlier in the day in order to determine whether these relationships to NEXT presented conflicts-of-interest.

CA Kucharek stated these relationships to NEXT do not represent financial or personal interests for the disclosing Commissioners, and therefore do not amount to conflicts-of-interest.

She specified that the specific topic at hand, which solely regards the Commission potentially offering support for NEXT pursuing a long-term written agreement, also posed no danger of creating conflicts-of-interest.

As a result of these factors, the City Attorney advised that no recusals were required.

CM Markus presented the item.

MOTION: Motion by Commissioner McLain, seconded by Commissioner Haig:
To adopt a formal resolution concerning NEXT and their need for a long-term written agreement to house NEXT services and operate at Midvale School in Birmingham, Michigan.

Commissioner Host thanked the City Manager for his work on this item.

CM Markus stated the credit was shared by many.

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

Commissioner McLain

Nays, None

02-047-22 Closed Session on 2/14/22 to Discuss A Written Attorney/Client Privilege Communication

(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 Host, seconded by Commissioner Haig:
To adopt a resolution to meet in closed session to discuss an Attorney/Client privilege communication pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act.

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

Nays, None

The Commission went into closed session at 9:16 p.m.

The Commission reconvened into open session at 9:32 p.m.

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.

Commission discussion on items from prior meeting

02-048-22 Social Districts

Commissioner Schafer explained why she supported further exploration of social districts.

MOTION: Motion by Commissioner Schafer, seconded by Commissioner Host:
To make the topics of social districts a formal agenda item at a future meeting.

Commissioner Haig said he would want to discuss both the positive and negative impacts of social districts, mentioning particularly the drinking of alcohol in public around minors and potential instances of crime.

Commissioner Schafer said it was her intent in raising the topic that both the positive and negative aspects would be studied. She asked Staff for future clarification regarding whether the streets are required to be closed to create social districts.

Commissioner McLain said she anticipated the study would cover departmental reviews, business impacts, and other topics the City usually considers in similar discussions.

The Mayor added that the impact of social districts on City ordinances, which currently prohibit alcoholic beverages in parks, should also be considered.

CM Markus said he would want to observe how social districts continue to evolve in other Michigan communities, opining that their appeal may wane as the impact of Covid-19 lessens.

Mayor Longe noted that the enabling legislation for social districts expires December 31, 2024 unless the State renews it.¹

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

Nays, None

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

- A1. Letter from Hillary Callaghan dated January 9, 2022.
- A2. City response to Callaghan

- B1. Letter from David Hendrickson, City Manager, City of Bloomfield Hills dated January 25, 2022.
- B2. City response to Hendrickson

X. REPORTS

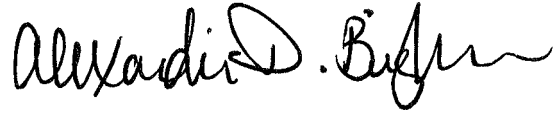
- A. Commissioner Reports
 - Notice of intention to appoint:
 - 1. Parks & Rec
 - 2. Multi Modal
 - 3. Planning
 - 4. Cablecasting
 - 5. Alternate Hearing Officer
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Attorney General's Opinion Regarding OMA and Virtual Accommodations for Disabled Persons – Mary Kucharek

INFORMATION ONLY

¹ As amended at the February 28, 2022 meeting.

XI. ADJOURN

Mayor Longe adjourned the meeting at 9:35 p.m.

A handwritten signature in black ink, appearing to read "Alexandria Bingham". The signature is fluid and cursive, with the first name being more prominent.

Alexandria Bingham
City Clerk

A handwritten signature in black ink, appearing to read "Laura Eichenhorn". The signature is very fluid and cursive, with a long, sweeping tail.

Laura Eichenhorn
City Transcriptionist