

Birmingham City Commission Minutes

March 14, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/683112653>

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, City Attorney Kucharek, Consulting City Engineer Surhigh, Assistant City Engineer Zielinski

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

Announcements

Michigan and Oakland County are at a substantial rate of COVID-19 community transmission. Per Occupational Safety and Health Administration (OSHA) mask guidance for areas of high or substantial community transmission levels, and to continue to protect essential government operations and functions, the city requires masks in City Hall for all employees, and for board and commission members. Masks are recommended for members of the public who attend city meetings. The City continues to provide KN-95 respirators for all in-person meeting attendees.

Happy Birthday Commissioner Baller

Mohmadyunes Patel - City Engineer Coming to Birmingham

Congresswoman Haley Stevens

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

- A. Public Comment – Brad Coulter
 - a. Additional communication regarding this submitted public comment has been included.

David Bloom expressed concerns regarding a number of Commissioners' conduct during and since the 2021 Commission election campaign.

Brad Coulter summarized the content of his submitted written comments. He expressed support for the pending code of conduct and asked that it include any persons and businesses that interact with the City government.

Samuel Oh expressed concerns about recommended upzoning in the Triangle in the 2040 Master Plan draft. He asked that the 2040 Plan maintain the zoning currently recommended for the Triangle in the 2007 Triangle Plan.

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.

03-069-22 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Haig: Item H – Advisory Parking Committee Resignation – Sarshar Nasserian

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Host:
To approve the Consent Agenda excluding Item H.

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

Nays, None

- A. Resolution to approve the City Commission meeting revised minutes of February 14, 2022.
- B. Resolution to approve the City Commission meeting minutes of February 28, 2022.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 2, 2022, in the amount of \$283,691.17.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 9, 2022, in the amount of \$1,671,096.82.
- E. Resolution to approve a special event permit as requested by the Michigan Parkinson Foundation to hold the 2022 Parkinson Walk on Saturday, June 18, 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 leading up to or at the time of the event.

- F. Resolution to approve a special event permit as requested by the HDSA Michigan Chapter to hold Yoga in the Park on Saturday, June 18, 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 leading up to or at the time of the event.
- G. Resolution to accept the resignation of Erin Rodenhouse from the Board of Zoning appeals, to thank her for her service and to direct the City Clerk to begin the process of filling the vacancy.
- I. Resolution to accept the resignation of Pierre Yaldo from the Brownfield Redevelopment Authority, thank him for his service, and to direct the City Clerk to begin the process of filling the vacancy.
- J. Resolution to accept the resignation of David Lurie from the Mutli-Modal Transportation Board, thank him for his service, and to direct the City Clerk to begin the process of filling the vacancy.
- K. Resolution approving a 2-year contract extension (through November 15, 2023) with Birmingham Lawn for lawn maintenance services in an amount not to exceed \$347,562. 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 for using funds from the following other contractual services accounts: \$193,854 in Parks (101-751.000-811.0000), \$55,490 in City Properties (101-441.003-811.0000), \$13,156 in Well Sites (591-537.002-811.0000), \$15,274 in Local Streets (203-449.003-937.0400), \$59,788 in Major Streets (202-449.003-937.0400), and \$10,000 in Grass/Noxious Weed Enforcement (101-441.007-811.0000).

03-070-22 (Item H) Advisory Parking Committee Resignation – Sarshar Nasserian

Commissioner Haig and McLain noted it might be necessary to clarify for board applicants that virtual attendance is no longer an option for counting as present, counting towards a quorum, or voting.

Mayor Longe asked that Staff make it clear to applicants that attendance in person is now required for board participation.

MOTION: Motion by Commissioner Haig, seconded by Mayor Pro Tem Boutros: To accept the resignation of Sarshar Nasserian from the Advisory Parking Committee, thank him for his service, and to direct the City Clerk to begin the process of filling the vacancy.

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

Nays, None

VI. UNFINISHED BUSINESS

None.

VII. NEW BUSINESS

03-071-22

S. Old Woodward Ph. 3 Estimated Project Cost Update

CCE Surhigh presented the item.

In reply to Commission inquiry, CM Markus noted that the geopolitical context often causes costs to diverge from cost estimates. He said those changes do not give him pause in terms of scheduling a hearing of necessity. He said the Commission's decision regarding the viability of this project would come after bids have been received and reviewed. He noted that the bids would inform Staff and the Commission about how the project might impact the City's budget, what changes budgetary changes might be required, and what changes might need to be re-engineered within the project. He stated that the project needs to be done, that the City always repairs sewer and water when such a project is done, and that it is appropriate to address the streetscape at the same time.

Mayor Pro Tem Boutros noted that delaying the project would likely only increase the costs.

Commissioner McLain noted that the S. Old Woodward area is not Americans with Disabilities Act (ADA) compliant, and so it is necessary to redo the street. She said she was glad to be having a transparent conversation about the increase in costs but remained definite that the project must move forward. She noted that a delay would also negatively impact the business owners in the area, who have to deal with uncertainty until the project is complete.

Public Comment

Mr. Bloom recommended that the City undertake a re-engineering of the project now so the project would not be further delayed if a re-engineering is needed once bids are received. He also asked whether Plante Moran should revise the City's five-year forecasts in light of the project's estimated cost increases.

03-072-22

Public Hearing of Necessity for S. Old Woodward Sidewalk and Streetscape Special Assessment District

Mayor Longe disclosed that her spouse's landlord has a property in the proposed special assessment district (SAD). She reported being advised by the City Attorney that fact did not represent a conflict of interest.

CA Kucharek confirmed, and said she appreciated the Mayor's transparency.

The Mayor opened the public hearing at 8:27 p.m.

ACE Zielinski presented the item.

The Mayor noted that the Commission received formal protest of this item on behalf of 555 Residential LLC, 555 Commercial LLC, and Manorwood Properties LLC.

The Mayor closed the public hearing at 8:32 p.m.

MOTION:

Motion by Mayor Pro Tem Boutros, seconded by Commissioner Haig:

To adopt a resolution declaring the necessity of the improvement and of the Special Assessment District with special assessments levied in accordance with benefits against the properties within such assessment district which has been outlined by parcel number and included in the packet before the Commission on pages three, four, five, six, and seven. To further approve the detailed plans and estimates of the costs

prepared by the City Engineer as presented, to prescribe which portion of the costs of such improvements will be paid by special assessment upon the property especially benefited, determining that the benefits received by affected properties and what portion shall be paid by the City, which is 25% paid by the City and 75% assessed against the properties. Furthermore, the delineating of boundaries of the special assessment as defined by parcel numbers on pages three, four, five, six, and seven of the Commission packet, and to determine the method or formula to be used in making the assessment as provided in the Commission packet, in section 7B of the March 14, 2022 Commission packet, and furthermore by direction the Manager to prepare a special assessment roll and to present the same to the Commission for confirmation, which will be completed at the public hearing on April 11, 2022. Furthermore that the special assessment district will include all properties within the following districts as stated, and that the City Commission will 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 sidewalk and street scape improvements adjacent to all properties within the project area on South Old Woodward Avenue, between Brown Street and Landon Street.

Public Comment

Jason Long, attorney, reiterated his letter on behalf of the 555 Commercial LLC and the 555 Residential LLC protesting the proposed SAD.

Jack Reinhardt, managing partner of the 555 and representative for Manorwood Properties LLC, also spoke against the proposed SAD and aspects of the S. Old Woodward project.

Mark Nickita summarized the lengthy review and study process that went into designing the S. Old Woodward project and recommended the Commission move forward with both the proposed SAD and the project as a whole.

Joe Vicari, owner of the Birmingham Pub, said that losing parking will negatively impact businesses in the S. Old Woodward area and suggested that the Commission delay the project, opining that prices for the project would likely decrease in a few years.

Mr. Bloom recommended that the City find a way to address Mr. Reinhardt's concerns given Mr. Reinhardt's level of investment in the City.

Mayor Pro Tem Boutros and Commissioners Baller, McLain, Host, and Haig conceded that the reconstruction of S. Old Woodward would be uncomfortable for area businesses in the short-term but would ultimately be beneficial to them in the long-term.

Commissioner McLain noted that the impact of the construction on businesses and their parking was at least partially mitigated during Phases One and Two of the project, and said those lessons in mitigation could be replicated on S. Old Woodward in Phase Three.

Mayor Pro Tem Boutros echoed Mr. Nickita's comments, and added that the City has already gone through two previous phases in other areas of the City and seen positive results.

Commissioner Baller acknowledged that customers to the S. Old Woodward area may have to walk a bit farther after the project's completion, but concurred with Mr. Nickita and Mayor Pro Tem Boutros that the improved streetscape would benefit both businesses in the area and the community as a whole.

Commissioner Haig said that while he believed the S. Old Woodward project would improve the area for

businesses and the community, he wished fewer parking spaces could be removed from the S. Old Woodward area. He said he was concerned both about the project potentially increasing parking in the neighborhoods and the potential need to balance out the loss of parking with a new parking deck.

Commissioner Schafer summarized the experience of studying this item as a former Multi-Modal Transportation Board member as far back as Summer 2021. She noted that the S. Old Woodward project would improve the infrastructure, make the area aesthetically more pleasing, improve the area for pedestrians, and improve the area in terms of accessibility. She agreed with Mayor Pro Tem Boutros and Commissioners Baller, McLain, and Haig that those improvements would also benefit the businesses in the area.

Commissioner Host offered his support for the S. Old Woodward project, noting the planned improvements in terms of both safety and aesthetics.

Mayor Longe noted that this is not the final decision on this matter. She noted that the improvements in infrastructure, pedestrian safety, and accessibility are important. She noted that while costs for the project are high now, if more federal infrastructure funding becomes available then prices for the project would only increase and may not level off for a decade.

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

Nays, None

**03-073-22 Public Hearing of Necessity for S Old Woodward Water and Sewer
 Special Assessment District**

Mayor Longe reiterated her disclosure from the previous item. She opened the public hearing at 9:13 p.m.

ACE Zielinski presented the item.

The Mayor closed the public hearing at 9:15 p.m.

The Mayor noted that the Commission also received formal protest of this item on behalf of 555 Residential LLC, 555 Commercial LLC, and Manorwood Properties LLC.

MOTION: Motion by Mayor Pro Tem Boutros, seconded by Commissioner Schafer:
To declare the necessity to replace the water and sewer lateral for the 10 properties that have been listed in the March 14, 2022 City Commission packet on pages two and three. Further, approving the detailed plans and estimates of costs prepared by the City Engineer that can be found in the March 14, 2022 City Commission packet, 7C, on page four. And further describing the scope of the properties that can be found on pages four and five. Therefore, prescribing the portion of the costs to be paid by special assessment will be 100% by the properties listed. Further direction to the Manager to prepare the special assessment roll that will be completed on Monday, April 11, 2022 for the Commission’s confirmation on the roll.

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

In reply to Commissioner Host, CM Markus said he would offer a suggested action on the topics of social districts and food trucks to the Commission at its next meeting.

Commission discussion on items from prior meeting

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

A. Eric Wolfe Regarding Rezoning Questions - Staff Responses and Related Communications

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of intention to appoint Housing Board of Appeals
 - 2. Notice of intention to appoint Brownfield Redevelopment Authority
 - 3. Notice of intention to appoint Board of Zoning Appeals
 - 4. Notice of intention to appoint Advisory Parking Committee
 - 5. Notice of intention to appoint Multi-Modal Transportation Board
 - 6. Notice of intention to appoint Architectural Review Committee

Mayor Longe noted that the number of positions available for appointment should indicate to the Michigan Legislature that the inability for board members to attend board meetings virtually is an issue.

B. Commissioner Comments

Commissioner Haig expressed dismay regarding two fellow Commissioners' conduct during and since the 2021 Commission election campaign. He admonished his fellow Commissioners to commit to adhering to the pending code of conduct and to treating each other with respect.

Commissioner Haig then thanked the Police and Fire Departments for replying to him regarding an inquiry. He noted he also received a clarification from ACM Ecker regarding a question he had asked about tax increment financing, but that correspondence was not included in the agenda package. He concluded by saying that all communications between Commissioners and Staff should be included in the agenda packet, and not just certain communications.

Commissioner McLain recommended that Birmingham residents over 50 years of age, who might have restricted mobility in the case of an emergency, call the Birmingham Fire Department to learn more about Knox Boxes.

Commissioner McLain then recommended the book "Conversations Worth Having: Using Appreciative Inquiry to Fuel Productive and Meaningful Engagement", by Jacqueline M. Stavros, Cheri Torres, David L. Cooperrider, to help inform the Commission's and the public's discourse around developing a code of conduct.

Commissioner Host spoke in favor of developing a code of conduct and of clarifying how conflicts of interest are handled. He noted that the focus of each Commissioner should be addressing the issues affecting the community.

Commissioner Host clarified that while the City funds Birmingham Public Schools, the operations and governance of the school system are completely separate from the Commission.

Commissioner Baller noted that Michigan campaign finance laws make election financing transparent to the community. He continued the Birmingham community includes more than just the City's residents, that those non-resident community members should not be referred to as 'outsiders', and said those non-resident community members deserve the wider community's respect. He noted also that residents have votes in the City, whereas non-residents do not.

Commissioner Host noted that Mr. Coulter apologized for his statement referencing 'outsiders'. Commissioner Host then asked whether it was appropriate to be uncivil to residents, since it is inappropriate to be uncivil to non-residents.

The Mayor expressed appreciation for all the Commissioner comments, and noted that cross-talk was discouraged during Commissioner comments.

Commissioner Haig asked if he could make an additional comment since Commissioner Host was permitted an additional comment.

The Mayor allowed Commissioner Haig to speak again on the basis that the Commissioner said his comment would be brief.

Commissioner Haig agreed with Commissioner Baller that the perspectives of non-resident community members are important. He noted that while he and Commissioner Baller have points of disagreement, he also agrees with Commissioner Baller on many points.

Mayor Longe briefly summarized the meeting she, CM Markus, and ATCM Fairbairn had with General Counsel Shindo from the Japanese Consulate in Detroit.

Commissioner McLain advised her colleagues to try and handle their disagreements quietly and outside of Commission time, so that the focus during Commission meetings can be getting the people's business done.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. 2021 Annual Golf Report

The Mayor commended DPSD Wood and GOCM Brito on the performance of the City's golf courses.

2. City Manager Annual Performance Update


CM Markus summarized the item and said he would schedule his performance review for the first Commission meeting in April.

In reply to Commission inquiry, CM Markus confirmed that the review would be held in closed session and that his term with the City is scheduled to last through the end of June 2023.

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 9:37 p.m.



Alexandria Bingham
City Clerk



Laura Eichenhorn
City Transcriptionist