

Birmingham City Commission Minutes

April 25, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/event/3470/videos/700629999/>

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, Fire Chief Wells, Parking Manager Weingartz

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

Announcements

Per the CDC, COVID-19 Community Level for Oakland County is currently Low. The City continues to recommend the public wear masks while attending city meetings. These precautions are recommended while risks for COVID-19 transmission remain from new variants. All City employees, commissioners and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. The City continues to provide KN-95 respirators for all in-person meeting attendees.

As a reminder the community is encouraged to submit non-emergency concerns or questions to the city via the new GovAlert mobile app. The free app is fast and user-friendly. Simply download the app, available for both iOS and Android devices, and follow the prompts. A short video that explains how to use the app is available at www.bhamgov.org/govalert.

DPS Open House is on Saturday, May 14 10 a.m. – 2 p.m. Location is at 851 S. Eton Public Services Facility. Come join us for a day of family fun, meet City staff, view equipment displays, find informational and educational exhibits. Enjoy hot dogs and refreshments!

Join us for the 2022 Celebrate Birmingham Parade and Party in Shain Park on Sunday, May 15. The Parade will begin at 1pm on N. Old Woodward near Booth Park and end in Shain Park with a celebration featuring entertainment and family activities. Celebration in Shain Park ends at 4 p.m.

Arbor Day Proclamation

Mental Health Proclamation

APPOINTMENTS

04-111-22 Appointment of Wadette Bradford to the Housing Board of Appeals

The Commission interviewed Wadette Bradford for the appointment.

MOTION: Nomination by MPT Boutros:

To appoint Wadette Bradford as a regular member to the Housing Board of Appeals to serve a three-year term to expire May 4, 2025.

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

Nays, None

04-112-22 Appointment of Robert Taylor Jr. to the Housing Board of Appeals

The Commission interviewed Mr. Taylor for the appointment.

MOTION: Nomination by Commissioner Haig:

To appoint Robert Taylor Jr. as a regular member to the Housing Board of Appeals to serve a three-year term to expire May 4, 2025.

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

Nays, None

04-113-22 Appointment of Carl Kona to the Board of Zoning Appeals

The Commission interviewed Carl Kona for the appointment.

MOTION: Nomination by Commissioner Haig:
To appoint Carl Kona as an alternate member to the Board of Zoning Appeals to serve the remainder of a three-year term to expire February 17, 2023.

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

Nays, None

04-114-22 Appointment of Luke Joseph to the Board of Zoning Appeals

CA Kucharek noted that Mr. Joseph was currently serving on the Housing Board of Appeals and as a Trustee on the Board of Education. She said she could foresee potential opportunities for conflict between his current appointments and his potential service on the Board of Zoning Appeals (BZA). She said the City also has a longstanding policy allowing board members to only serve on one City board, with the exception of brief study or ad hoc appointments.

CM Markus noted Mr. Joseph could resign his position on the Housing Board of Appeals if appointed to the BZA, but the likelihood of conflict would still remain between his service on the Board of Education and potential service on the BZA.

The Commission interviewed Luke Joseph for the appointment.

Mr. Joseph said he would be willing to resign his position on the Housing Board of Appeals if appointed to the BZA, and that he could recuse himself from any Board of Education related matters to be heard by the BZA.

MOTION: Nomination by MPT Boutros:
To appoint Luke Joseph as an alternate member to the Board of Zoning Appeals to serve the remainder of a three-year term to expire February 17, 2023.

VOICE VOTE: Ayes, None

Nays, MPT Boutros
Commissioner Baller
Commissioner McLain
Commissioner Schafer
Mayor Longe
Commissioner Haig
Commissioner Host

04-115-22 Appointment of Kristy Barrett to the Museum Board

The Commission interviewed Kristy Barrett for the appointment.

MOTION: Nomination by Commissioner Schafer:
To appoint Kristy Barrett as a regular member to the Museum Board to serve the remainder of a three-year term to expire July 5, 2023.

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

Nays, None

04-116-22 Appointment of Kelly Cobb to the Advisory Parking Committee

The Commission interviewed Kelly Cobb for the appointment.

In reply to CM Markus, Mr. Cobb confirmed that Hunter House Hamburgers leases a portion of land behind the restaurant from the City for diner parking. He also confirmed that a development process is currently underway at the location of Hunter House Hamburgers, and that he and the developer have some differences in views regarding how the development should proceed. He stated he and the developer are making progress on those differences. Mr. Cobb also confirmed he would be willing to recuse himself from any matters before the Advisory Parking Committee relating to either topic.

MOTION: Nomination by Commissioner Baller:
To appoint Kelly Cobb as a regular member as a regular member who is a restaurant owner to the Advisory Parking Committee to serve the remainder of a three-year term to expire September 4, 2023.

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

Nays, None

CC Bingham swore in the present appointees. It was noted that those appointees appearing virtually would be sworn in at a later date.

CM Markus said that, moving forward, the Commission should make a point to ask board and committee candidates whether their service could entail any potential conflicts of interest.

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

Mr. Joseph recommended that potential issues with a board or committee applicant's candidacy be raised with the candidate individually prior to the Commission meeting in order to avoid any potential embarrassment for the candidate.

CM Markus apologized for any embarrassment caused by the discussion of Mr. Joseph's candidacy, and noted that moving forward the Commission would ask all board and committee candidates about any potential conflicts of interest.

Bobby Lawrence, from State Senator Marshall Bullock's office, reminded the Commission that the Senator's office remains available to assist with any State Senate related issues.

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.

04-117-22 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Haig: Item E – Delinquent Special Assessments/Invoices to the Tax Roll

MOTION: Motion by MPT Boutros, seconded by Commissioner Haig:
To approve the Consent Agenda excluding Item E.

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

Nays, None

- A. Resolution to approve the City Commission workshop meeting minutes of April 11, 2022.
- B. Resolution to approve the City Commission meeting minutes of April 11, 2022.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 13, 2022, in the amount of \$333,312.11.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 20, 2022, in the amount of \$1,029,778.67.
- F. Resolution approving the recommended investment policy statement for the Retiree Health Care Investment Fund.
- G. Resolution to approve an agreement with L.G.K. Construction, Inc., for Birmingham Museum-Phase I Allen House Historic Window Restoration Project in the amount not to exceed \$112,000. 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 #101-804.002-811.0000.

- H. Resolution to authorize the IT department to renew the Nutanix extended service agreement from CDWG for a total cost not to exceed \$8,185.00. Funds are available in the Computer Maintenance fund account # 636-228.000-933.0600.
- I. Resolution to approve a payment of up to \$264,000 to Merritt Cieslak Design for design development, construction drawings, bidding, and construction administration for the proposed expansion and renovation of the Front Entrance and Circulation Area of the Baldwin Public Library, to be paid out of account 901.0600 (Architectural Services).
- J. Resolution to approve the purchase of holiday lights from Zoros Lighting for a total cost not to exceed \$28,800.00. Funds are available from the General Fund-Community Activities Operating Supplies account #101-441.004-729.0000 and Property Maintenance Operating Supplies account # 101-441.003-729.0000 for this purchase.
- K. Resolution to approve the 2 year contract with Cardno (now Stantec) for Parks Natural Areas Maintenance Services for a total cost not to exceed \$85,450.00. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funds are available from the General Fund-Parks Other Contractual Services account #101-751.000-811.0000 for these services.

04-118-22 (Item E) Delinquent Special Assessments/Invoices to the Tax Roll

In reply to Commissioner Haig, CM Markus said that discussing the issue with repeatedly delinquent payors would not likely be worthwhile for the City. He said that adding the unpaid special assessments and invoices, plus the penalty, was likely the most efficacious way for the City to approach the issue.

FD Gerber concurred with CM Markus. He added that the delinquent payors would be notified of the Commission’s decision on the present motion and would be given the opportunity to pay their balances due before the amounts are added to their property taxes.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host:
 To direct the City Treasurer, in accordance with the provisions in the City Code, to transfer the reported unpaid special assessments and invoices, including interest and penalty, unpaid and delinquent on May 1, 2022 to the next annual City tax roll. The listing of unpaid and delinquent special assessments and invoices, including interest and penalty, will be transferred and reassessed to the 2022 City tax roll with an additional 15% penalty and authorization be given to remove from the list any bills paid after commission approval.

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

Nays, None

VI. UNFINISHED BUSINESS

None.

VII. NEW BUSINESS

04-119-22 1924 American LaFrance Fire Truck Donation

FC Wells and Bill Olsen, representative for the Olsen family, presented the item.

The Mayor and the Commission thanked the Olsen family for their donation.

MOTION: Motion by Commissioner Host, seconded by Commissioner McLain:
To adopt a resolution to approve the 1924 American LaFrance fire engine donation from the Olsen Family. In addition, to authorize the Mayor, City Clerk, City Manager, and Fire Chief to sign the agreement on behalf of the City.

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

Nays, None

04-120-22 Re-set Public Hearing for 2225 E. 14 Mile – Our Shepherd – Special Land Use Permit Amendment, Final Site Plan & Design Review

The Mayor opened the public hearing at 8:11 p.m.

PD Dupuis stated he was requesting a rescheduling of the public hearing to a later date.

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

MOTION: Motion by MPT Boutros, seconded by Commissioner Haig:
To re-set the public hearing date to May 23, 2022 to consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 2225 E. 14 Mile – Our Shepherd – to allow new parking lot landscaping, signage and new covered entries at an existing religious institution in the R2 zoning district.

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

Nays, None

04-121-22 Public Hearing for 100 Townsend – Rugby Grille – Special Land Use Permit (SLUP), Final Site Plan & Design Review

The Mayor opened the public hearing at 8:14 p.m.

PD Dupuis presented the item.

John Gardner, architect, and Steve Kalczynski, Managing Director, spoke on behalf of the project.

CA Kucharek noted that Mr. Kalczynski serves on the Advisory Parking Committee (APC), and advised the Commissioners to consider whether they might have any conflicts of interest relating to this item as a result.

Mr. Kalczynski noted that he did not participate in the APC's vote regarding the outdoor dining deck.

In reply to Commissioner Haig, Mr. Kalczynski confirmed that he would only be speaking regarding the existing dining deck to the light pole and the tree, and not the new dining deck.

Mr. Kalczynski confirmed The Townsend was willing to install an ADA-compliant tree grate.

The Mayor closed the public hearing at 8:26 p.m.

In reply to Commissioner McLain, Mr. Kalczynski said the project would commence upon the Commission's approval.

Commissioner Baller said that:

- To his recollection dining decks were meant for establishments that had neither private property nor sidewalk space on which to locate outdoor dining;
- The Rugby Grille's new outdoor dining deck would double the establishment's outdoor seating, would encroach into public space, and would be in addition to valet parking for the Townsend which is located on both Townsend and Merrill, all of which would further limit the limited parking available;
- Bella Piatti, located across the street from the Rugby Grille, may request outdoor dining in the future;
- Despite an APC member's contentions, outdoor dining decks are not only available to bistros; and,
- While outdoor dining is popular with the public, so is available parking.

Commissioner Baller concluded by saying he wanted to hear his fellow Commissioners' opinions regarding these issues.

Commissioner Haig said he appreciated Commissioner Baller's comments. He said he was also glad to hear that any encroachment into the five foot pedestrian clear path would be addressed, and that the planters would be removed. He spoke in favor of visually delineating the five foot clear path and emphasized the importance of establishments keeping their outdoor dining within the delineated area.

There was brief discussion about whether the current design would be legally non-conforming if the present design became disallowed by the future outdoor dining ordinance.

It was clarified by CA Kucharek and CM Markus that because this outdoor dining deck would be operating under a SLUP, the design would not be legally non-conforming and would have to be modified in order to comply with the future outdoor dining ordinance.

Mr. Gardner asked if a request could be administratively approved to use umbrellas instead of a roof-type structure. He noted that the railings and size of the deck itself would remain the same.

Kelly Allen, attorney for the project, stated that she was at the Planning Board meeting on the item and that the Board's understanding was that their decision should be made based on the current ordinance. She said that ordinance changes in the past have resulted in legal non-conforming uses. Ms. Allen acknowledged that City was permitted to include whatever language it saw fit in its agreements. She asked whether the language requiring compliance with future amended ordinances was new to the SLUP language. She also asked whether the City would be going around to all establishments to enforce compliance with the future outdoor dining ordinance.

CM Markus stated that legal non-conforming uses have generally resulted from uses on private property. He said this request was distinguished from those instances because the dining deck would be located on public property, and that it would be allowed by a SLUP and not as a permitted use. He said his recommendation was that the applicant be permitted to seek administrative approval for the use of umbrellas, instead of roof-type coverings, which would comply with both the current and potential future outdoor dining ordinances.

CA Kucharek estimated that the new SLUP language requiring compliance with future ordinances was added sometime in 2020. She said the new language was included to allow the City greater control in protecting City property.

In reply to an inquiry from the Mayor and CM Markus, PD Dupuis estimated the Townsend would occupy five total spaces, with two for the proposed deck and three for the valet service.

The Mayor said she was concerned about issues of equity where one establishment may be permitted both valet services and an outdoor dining deck, whereas another may not be.

CM Markus noted that differences in scale and type of establishment would partially impact that decision, in that one establishment is a restaurant and the Townsend is a hotel. He added that the history of permitting the Townsend to have both valet services and outdoor dining would also be a factor in the decision.

In reply to Commissioner Baller, CM Markus recommended that the City create principles for guiding the granting of outdoor dining decks, instead of a policy. He said the principles could entail consideration of the general context in which the dining deck would be located, the scale of the site, whether the establishment holds a liquor license, and if so, the type of license, the traffic level on the street, and the parking situation on the street, for examples. CM Markus affirmed Commissioner Baller's statement that dining decks were meant for establishments that had neither private property nor sidewalk space on which to locate outdoor dining. The City Manager said it would be appropriate to devise guiding principles for these decisions, but said that would take some time.

The Mayor noted that many communities including Birmingham are trying to expand outdoor dining in response to public request while also balancing the community's other interests and equity between establishments.

In reply to Commissioner Baller, CA Kucharek noted that if the Commission found that an outdoor dining deck was generally vacant they could consider removing the dining deck under paragraph 14B of the SLUP language.

Commissioner McLain said it was not an ideal balance that the request was already reviewed by the APC and the Planning Board and that the Commission was still unclear on whether the matter could go forward.

The Mayor and Commissioner Baller commended the Ad Hoc Committee and Staff on their work.

Commissioner Haig recommended that attention be paid to subtlety in the wayfinding and gateway signage.

Commissioner Baller spoke in favor of the logo proposal and the wayfinding RFP. He said he had some concerns about the composition and size of the proposed Committee, noting for instance that a branding professional should be included on the Committee.

MOTION: Motion by MPT Boutros, seconded by Commissioner Baller:
To adopt a resolution to approve the City logo as recommended by McCann Detroit and the BBDC in 2017, and the Wayfinding and Gateway Signage Committee in 2022.

Commissioner Host commended the Committee as well.

The Mayor noted that the City received an email from former Mayor Russell Dixon in support of the selection of logo option one.

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

Nays, None

04-123-22 RFP for Updated Wayfinding Plan

Discussion occurred as part of Item 04-122-22.

MOTION: Motion by MPT Boutros, seconded by Commissioner Baller:
To authorize the City Manager to issue an RFP for an update of the 2004 Wayfinding Plan.

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

Nays, None

Establishment Of The Ad Hoc Wayfinding And Gateway Signage Committee And Direction To Work On Concept Plans For The Northern And Southern Gateways To Downtown

Commissioner Baller asked that more clarity be provided regarding the composition of the proposed Committee.

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.

04-125-22 Improvements in Information Provision and Methodology

MOTION: Motion by Commissioner Haig, seconded by Commissioner Baller:
To discuss improvements in information provision and methodology to help the Commission make better policy decisions and improve its service to the City.

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

Nays, None

04-126-22 On-Street Parking Study

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host:
To study the number of on-street parking spaces in the City and their current utilization for different uses, especially with regard to future outdoor dining requirements.

Commissioner Baller said the matter of how dining decks should be allocated should be discussed as part of the City’s update of its outdoor dining ordinance. He recommended the City resolve that policy question before discussing more general parking policy matters. He also recommended that any fellow Commissioners who have not read the City’s 2018 Parking Report do so.

VOICE VOTE: Ayes, Commissioner Host
 Commissioner Haig

Nays, MPT Boutros
 Commissioner Schafer
 Mayor Longe
 Commissioner McLain
 Commissioner Baller

Commission Discussion On Items From Previous Meetings

CM Markus clarified that discussions occurring under this section of the agenda should be researched, initiated, and guided by the Commissioner that made the relevant motion.

04-127-22 City Manager Selection Process

Commissioner Host noted that the City Charter tasks the Commission with hiring a City Manager. He recommended that the Commission hire a qualified search firm to conduct a City Manager search.

Commissioners Baller and Schafer expressed their preference for option three as outlined in CM Markus' memo. Mayor Longe concurred, but said that a full discussion of the options could occur if the Commission decided to set this option as a formal agenda item.

Mayor Longe said she had participated in a number of national searches in her philanthropic career, and that she was ultimately less impressed with national search firms than she would have otherwise expected to be. She said she had seen conflicts of interest arise in national searches directed by firms. She described the process of using a national search firm as expensive and time-consuming.

MOTION: Motion by Commissioner McLain, seconded by Commissioner Schafer:
To make the City Manager Selection Process a formal agenda item.

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

Nays, None

Assisting the Birmingham Bloomfield Community Coalition

No motion was made, but the Mayor said the Commission would have a discussion at a future meeting regarding how the Commission might be able to further assist the Birmingham Bloomfield Community Coalition in its work.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments

Commissioner Host said that the Commission should have given chapter-by-chapter feedback on the 2040 Plan draft at the joint Commission and Planning Board. He continued that the Commission insufficiently interacts with resident comment, and that likely deters residents from interacting with the Commission in the future. He said he would like to see more interaction between the Commission and the public and the Commission and the City's various boards and committees.

Commissioner Haig said that while the Chair of the Planning Board described what process they followed for working on the master plan, it would have been prudent to have the Board clarify why they followed that process.

The Mayor stated that the joint Planning Board-Commission meeting was to provide comment on the Board's direction to the master planning team regarding the writing of the third draft. She noted that

Commissioner Baller verified whether there were any points of outstanding contention among the Board members.

Commissioner Haig said he wanted more information on why the selected priorities were chosen by the Board over other options.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
 - D. Legislation
 - E. City Staff
 - 1. City Manager's Report

During the City Manager's Report there was a brief discussion of parking-related matters.

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 11:05 p.m.



Alexandria Bingham
City Clerk



Laura Eichenhorn
City Transcriptionist