

Birmingham City Commission Minutes

May 9, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/707310826>

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 McLain
Commissioner Schafer

Absent: Commissioner Host

Administration: City Manager Markus, City Clerk Bingham, Planning Director Dupuis, Assistant City Manager Ecker, City Attorney Kucharek

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 (hospital occupancy) for Oakland County is currently Low. However, the City continues to highly recommend the public wear masks while attending City meetings. These precautions are due to COVID-19 transmission levels remaining high in Oakland County that have led to an increase in infections of City employees and board members. All City employees, commissioners, and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. This is to ensure the continuity of government is not affected by an exposure to COVID-19 that can be prevented by wearing a mask. The City continues to provide KN-95 respirators and medical grade masks for all in-person meeting attendees.

DPS Open House is on Saturday, May 14 10 a.m. to 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 pm.

The Baldwin Public Library will be holding a public open house on Sunday, May 22 from 2:00 to 4:00 p.m., with remarks to be held at 2:30 p.m. The open house will celebrate the grand reopening of the expanded Youth Room and second floor renovations, honor Doug Koschik's retirement, dedicate Jim Miller-Melberg's Michigan Spring Statue, and commemorate Martha Baldwin's induction into the Michigan Women's Hall of Fame.

Proclamation Supporting Participation in United Way for Southeastern Michigan's 21 Day Equity Challenge

Proclamation Declaring the First Friday in June to be National Gun Violence Awareness Day

APPOINTMENTS

05-128-22 Appointment of Jim Arpin to the Advisory Parking Committee

The Commission interviewed Jim Arpin for the appointment.

MOTION: Nomination by MPT Boutros:

To appoint Jim Arpin to the Advisory Parking Committee as a regular member who is a resident to serve the remainder of a three-year term to expire September 4, 2024.

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

Nays, None

CC Bingham swore in Mr. Arpin.

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

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.

05-129-22 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Haig: Item A – City Commission and Planning Board Minutes of April 18, 2022

Commissioner Baller: Item M – Set a Public Hearing for Request to Rezone Parcel #
08-19-127-027 from R8 to R2

Mayor Longe noted she would recuse from voting on Item L, citing a business relationship between her spouse and La Strada.

MOTION: Motion by MPT Boutros, no second:

To approve the Consent Agenda excluding Items A and M, and noting Mayor Longe’s recusal from voting on Item L.

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

Nays, None

- B. Resolution to approve the City Commission meeting minutes of April 25, 2022.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 27, 2022, in the amount of \$1,049,582.18.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated May 4, 2022, in the amount of \$ 214,454.81.
- E. Resolution to approve an extension of the public services and minor home repair contracts with NEXT for the purpose of expending remaining program year 2018-2019 and 2020-2021 Community Development Block Grant funds for the Yard Services, Senior Outreach Services, and Minor Home Repair Services administered by NEXT through December 31, 2022; and further, to authorize the Mayor and the City Clerk to sign the amendments on behalf of the City.
- F. Resolution to approve the recommendation to add Juneteenth to the City of Birmingham’s designated legal holidays pursuant to Section 2-26 of the Birmingham City Code.
- G. Resolution to approve the addendum to the Greenwood Management Services Agreement with provider Creative Collaborations, LLC, to act on behalf of the city as the service provider to the Historic Greenwood Cemetery for a term of one year, with annual renewals until either party exercises the termination provisions as stated in the contract. The addendum to the annual contract is set for an amount not to exceed \$45,600.00, which will be paid from account #101-215.000-811.0000.
- H. Resolution to authorize the IT department to renew the Cortex XDR antivirus endpoint software license from AmeriNet. The purchase price not to exceed \$9,530.56. Funds are available in the IT Software Fund Account: 636-228.000-742.0000.
- I. Resolution to approve the request for reimbursement for the maximum allotment of \$2,705.23 for eligible mosquito control activity under the Oakland County’s West Nile Virus Fund Program.
- J. Resolution to approve the City Manager’s authorization for the emergency expenditure related to the repair of vehicle #160 by Jack Doheny Company, the sole supplier of the repair, for \$7,893.52 to be charged to the Auto Equipment account #641-441.006-933.0200, pursuant to Sec. 2-286 of the City Code.
- K. Resolution to approve the DTE Master Street Lighting Agreement for the removal of existing lighting and installation of the planned new lighting for the Phase 3 S. Old Woodward work. In addition, to authorize the Mayor to sign the agreement on behalf of the City. Funding for this project has been budgeted in account #401-901.010-981.0100.

- L. Resolution to set a public hearing date of June 13, 2022 to consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 243 E. Merrill – La Strada – to allow for the expansion of the existing bistro and the associated interior renovations and the addition of a new outdoor dining platform in the Merrill St. right-of-way.

05-130-22 (Item A) City Commission and Planning Board Minutes of April 18, 2022

Commissioner Haig stated he wanted to abstain from the vote on these minutes since he was not present at the April 18, 2022 joint meeting between the City Commission and the Planning Board.

MOTION: Motion by MPT Boutros, seconded by Commissioner Baller:
To approve the City Commission and Planning Board joint meeting minutes of April 18, 2022.

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

Nays, None

Abstain, Commissioner Haig

05-131-22 (Item M) Set a Public Hearing for Request to Rezone Parcel # 08-19-127-027 from R8 to R2

Commissioner Baller recommended that the Commission not set a public hearing date for this item, and explained his concerns.

CM Markus stated:

- He discussed this item with Commissioner Baller and Staff prior to the present meeting;
- Commissioner Baller was correct that Staff misportrayed to the Planning Board what the R8 zone permits;
- Commissioner Baller was correct that while the R8 zone limits eight units in a building, it does not prevent more than one building on a site;
- Commissioner Baller was correct that the Board was told that R8 only allows eight units per site;
- A Board member even asked whether an R8 site was limited to eight units regardless of the lot's size, and that Staff confirmed that to be the case; and,
- The lot has been split, not according to the Commission's rules, but was subdivided by the party that typically signs off on these things but is not the expert regarding the process, so the lot split is reflected at the County level.

CM Markus invited PD Dupuis speak on the matter as well.

PD Dupuis concurred with CM Markus, specifying that Planning Staff did misrepresent to the Board over the course of its April 27, 2022 meeting what can be developed in the R8 zone.

CM Markus added:

- Initially the neighborhood was supportive of the section of the parcel in question being developed as a single family residence, and historically that was the discussion;

- If a single family home were to be added to this parcel, it would be more appropriate to do it as part of a lot split instead of keeping it as part of the condominium association;
- Because of Staff’s misunderstanding of the R8 ordinance at the April 27, 2022 meeting, some of the neighbors of the parcel may now believe that if the City were to deny the rezoning that the property could remain as open space, when in fact that is not likely;
- A denial of this request may constitute some level of ‘taking’, which means the removal of the potential for an owner to use their property;
- Due process can be preserved by the Commission taking no action presently, and by asking the Board to review this issue again with Staff providing corrected information; and,
- An appropriate motion would be for the Commission to direct the Board to review this issue again. Once the Board returns their findings to the Commission, then the Commission could consider setting a public hearing.

In reply to an inquiry from Mayor Longe, CA Kucharek said the Board could be asked to review the item at the next available meeting for which adequate public notice can be provided.

MOTION: Motion by MPT Boutros, seconded by Commissioner Schafer:
To direct the Planning Board to again review the request to rezone Parcel # 08-19-127-027 from R8 to R2 at the next available meeting for which adequate public notice can be provided.

Commissioner McLain and MPT Boutros thanked Commissioner Baller.

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

Nays, None

VI. UNFINISHED BUSINESS

None.

VII. NEW BUSINESS

05-132-22 Public Hearing: 2100 E. Maple – Whole Foods/Maple Road Taproom – Special Land Use Permit

The Mayor opened the public hearing at 7:58 p.m.

PD Dupuis presented the item.

Kelly Allen, attorney, was present on behalf of the applicant.

The Mayor closed the public hearing at 8:02 p.m.

Commissioner Baller stated that establishment’s prior issue seemed to have been an accident of Covid-19 that has now been resolved.

CM Markus stated that in future meetings a representative from the establishment be present so that

information can be exchanged between the representative and the Commission as needed. He said that license holders usually have a representative present. He asked Ms. Allen to convey to the management that they should be present when they have an item before the Commission, including the establishment's review at the annual liquor license renewal.

Ms. Allen stated that management was on Zoom at the last public hearing, but were not present at the annual liquor license renewal meeting. She said it was her impression that management did not need to be present tonight given her reading of the item and the recommended action, and took responsibility for that determination.

05-133-22 Public Hearing – 220 Merrill – 220 Restaurant – Special Land Use Permit (SLUP) Amendment, Final Site Plan and Design Review

Mayor Longe recused herself from this item at 8:05 p.m., citing a business relationship between her spouse and this with entity.

MPT Boutros assumed facilitation of the meeting at 8:05 p.m.

MPT Boutros opened the public hearing at 8:05 p.m.

PD Dupuis presented the item. He clarified:

- That since the March 31, 2022 recommendation of approval from the Planning Board, Staff determined that the language used in the Board's motion for condition three was not appropriate since it seemed to put pressure on another board/committee;
- Similar language would not be included in recommended motion language moving forward;
- The second condition of the motion approved by the Historic District Committee (HDC) on May 4, 2022 was actually that the HDC recommended the Commission change the color palette of the platform, specifically in regards to the chairs and umbrellas; and,
- The applicant indicated that if they were approved for the outdoor dining platform in question they would no longer use any on-street parking spaces for their valet operations.

He stated he had been a little overreaching in the memo to the Commission and wanted those items to be clear.

CM Markus clarified that the language used in the Board's motion for condition three from March 31, 2022 should have said the item must be reviewed by the Advisory Parking Committee (APC), not requiring a favorable recommendation from the APC.

Public Comment

Rick Willits, resident and manager of Merrillwood, raised concerns about traffic congestion on Merrill that he said is caused by 220 Merrill's valet operations and about general traffic noise on Merrill.

David Potts, resident of Merrillwood, echoed Mr. Willit's concerns. Mr. Potts said he would be meeting with Zaid Elia, owner of 220 Merrill, to discuss those concerns.

Both Messrs. Willits and Potts said they would like to see increased parking and traffic enforcement activity on Merrill.

MPT Boutros closed the public hearing at 8:22 p.m.

Zaid Elia, owner of 220 Merrill, spoke on behalf of the request. He stated:

- Installation of the dining deck might help slow the traffic down, and thus reduce the traffic noise, on Merrill;
- While he is also troubled by vehicle noise on Merrill, he was aware that the Police Department had many miles to cover and could not always catch parking and traffic violations on Merrill;
- 220 Merrill's valet operations are open to the public and are operated out of its private drive;
- The expansion of the outdoor dining is in part an effort to recover from the impacts of Covid-19 on the business;
- 220 Merrill has received few noise complaints overall, and none in the last two years during which the outdoor dining platform was operational;
- There were also no traffic accidents stemming from the outdoor dining platform's operation; and,
- 220 Merrill's outdoor dining platform would contribute to the City's vibrancy, beauty, walkability, and community.

Steve Ferich, operator of In-House Valet, stated the valeted cars are parked in a rented parking lot at 211 E. Merrill.

In reply to Commission inquiry, Mr. Elia continued:

- That even though 220 Merrill is adjacent to the Pierce Street garage maintaining valet services is important for reasons of both convenience and accessibility;
- He directed the manager of valet operations to increase staffing to ensure expedient service and to mitigate vehicular congestion;
- He is willing to rent additional parking spaces in the structure to accommodate potentially increased use of the valet services; and,
- 220 Merrill has had vehicular traffic crossing the sidewalk as part of its valet operations for nine years with no incident.

Commissioner Haig raised concerns about the increased vehicular traffic that would now be crossing the sidewalk during the valet's hours of operation. He recommended that condition be reviewed by the Multi-Modal Transportation Board in terms of safety and the impact on pedestrian use of the sidewalk through that area.

In reply to Commissioner Haig, PD Dupuis confirmed that the width of the outdoor dining platform would be 10 inches wider than the parking spaces. He stated that width was approved as the maximum appropriate width for the outdoor dining platform by the Engineering Department.

Both Commissioner Haig and CM Markus emphasized the importance of keeping a five foot clear path outside of 220 Merrill, and noted that issues had occurred with that in the past.

Commissioner Haig also stated the City does not have a set policy about parking spots versus parking decks.

Commissioner Baller stated:

- While he is supportive of outdoor dining, 220 Merrill already has an abundance of outdoor seating on its property, to which they want to add this outdoor dining platform;
- While 220 Merrill may not be causing the noise on Merrill, the establishment attracts noise. He said he was unsure if 220 Merrill could influence the issue, or if the City could. He floated the idea of making Merrill pedestrian-only;
- The valet is a huge issue and there should be a traffic study and a valet plan. He concurred with Commissioner Haig that the valet operations essentially create a street across a sidewalk;

- This proposal will make the traffic and the noise worse on Merrill;
- 220 Merrill could put up signs and otherwise communicate to its patrons the need for a respectful volume due to the residential neighbors;
- He would like to make it so that a certain number of violations affiliated with the operation of 220 Merrill, including parking enforcement issues, would return 220 Merrill to the Commission for review of its SLUP;
- There is likely a way to increase 220 Merrill's outdoor dining without having a detrimental impact on Merrill, but that the current proposal was likely inadequate for that purpose.

MPT Boutros and Commissioners Baller, McLain, and Schafer said they had no issue with the pink chairs.

Commissioner McLain said:

- She has also seen issues stemming from the valet operations, but said the Commission needs to balance that with the fact that 220 Merrill is a long-standing business in the community;
- This proposal has been reviewed by the Planning Board and the APC. She asked the Commission what it expects businesses to do if the Commission does not allow businesses to make a plan, get it accepted, and to move forward;
- The Commission needs to consider its process; and,
- If this item is sent back for further study, Mr. Elia will have no opportunity to operate the outdoor dining deck during the short time period permitted and thus will not be able to use it to help recover from the business impacts of Covid-19.

Commissioner Schafer noted that:

- 220 Merrill was proposing a situation that increases activation of the street, which is something the Commission has requested of City establishments;
- While this results in positive aspects, it also results in some difficulties. She said the valet operations in this case clearly compound the traffic problem on Merrill;
- The situation of the regular valet traffic across the sidewalk was likely not safe and is not intended to be a roadway;
- The Pierce Street garage is a few steps away from this establishment, and that needs to be considered; and,
- She wanted to support the outdoor dining, but not the extraneous noise and activity it will bring.

MPT Boutros said:

- He had no concerns about adding additional outdoor seating via the outdoor dining platform to 220 Merrill's extant outdoor seating because this is one of the largest dining establishments in the City;
- The Commission has encouraged activity and vibrant streets;
- The outdoor dining platform will likely slow down vehicles and reduce vehicular noise since the outdoor dining platform would narrow the street by about 10 inches;
- He agreed with Commissioner McLain's comment that requiring further study before implementation would effectively eliminate 220 Merrill's ability to operate during the 2022 summer outdoor dining season;
- He wanted assurances that the five foot clear path would be maintained; and,
- Residents choosing to live in the center of a vibrant downtown should expect some amount of noise stemming from activity. Though the City can also endeavor to minimize excessive noise, the City needs to be clear on whether it wants an active downtown or a silent one.

In reply to Commissioner Schafer, CM Markus said the valet service has had challenges in hiring and maintaining sufficient staff to deliver on its operational promises.

CM Markus continued that 220 Merrill has had issues with obstructing the sidewalks with objects, people, and vehicles. He said Mr. Elia would have to be held accountable by the Commission if the valet operation and five foot clear path are not maintained as promised. He noted that the Police Department simply does not have enough resources to patrol Merrill enough to remedy the issues that could arise from 220 Merrill's valet operations.

MOTION: Motion by Commissioner McLain, seconded by Commissioner Schafer:
To approve the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 220 Merrill – 220 Restaurant – to allow the addition of a new outdoor dining platform in the Merrill St. right-of-way with the following conditions:

1. The applicant must remove all privately owned obstructions such as the existing planter boxes, as well as the hanging planters proposed on the new fence on the east side of the existing patio from the public right-of-way or relocate them to private property;
2. The applicant must install city standard tree grates over both tree boxes that exist along the right-of-way adjacent to the property;
3. The applicant must appear before the Commission again at the second Commission meeting in July 2022 to review compliance.

Commissioner Baller said he would be evaluating the safety and efficiency of the valet operations, the maintenance of the five foot clear path, and efforts at noise reduction when 220 Merrill is back before the Commission in July 2022. He said his concerns were not just ones of safety, but also ones of nuisance.

MPT Boutros wished Mr. Elia the best of luck and entreated he and Mr. Ferich to address the Commission's and neighbors' concerns.

ROLL CALL VOTE: Ayes, Commissioner Schafer
Commissioner Baller
MPT Boutros
Commissioner McLain

Nays, Commissioner Haig

05-134-22 Request to Include 469-479 S. Old Woodward in the Parking Assessment District

Mayor Longe rejoined the meeting at 9:32 p.m. and resumed facilitation of the meeting.

CM Markus summarized the request from the applicant.

Stephen Estey, attorney for the applicant, reviewed his letters included in the evening's agenda packet regarding the request.

Commissioner Baller noted that D-4 zoning did not exist in 1982. He noted that 369-397 N. Old Woodward Ave was zoned residential, and questioned whether the addition of those addresses to the Parking Assessment District could be described as correcting an irregularity.

In reply to Commissioner Baller, Mr. Estey said that the approved site plan for 469-479 S. Old Woodward s not viable. He stated that the applicant had been unable to attract the kind of retail tenants needed because sufficient parking is not available. He added that the approved site plan does not align with the

master plan's goals for the area. He said the applicant would need to provide larger retail spaces and offer more mixed use both of which necessitate admission to the Parking Assessment District (PAD).

Doraid Markus, one of the owners of 469-479 S. Old Woodward, contended that no retailers are interested in renting out the two available 745 sq. ft. retail spaces because they find them too small.

Both Commissioner Baller and CM Markus listed a number of retail uses that occupy similarly-sized retail spaces in Birmingham.

Consequently, Commissioner Baller said he would like to see substantiation of the contention that no retailers would be interested in a 745 sq. ft. retail space.

In reply to MPT Boutros, CM Markus said next steps would be for the Commission to direct the City Attorney write a response to Mr. Estey's letter, which the Commission could then review.

CM Markus reviewed a memorandum he provided to both the Commission and the applicants. He noted the memorandum included some of his more major concerns regarding the applicant's request, but should not be construed to be a comprehensive list of his concerns regarding the request.

In reply to the Mayor, CA Kucharek concurred with CM Markus that she should respond in writing to the points laid out in the letters from the applicant's attorney prior to the Commission continuing its discussion of the request given the possibility of litigation.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Schafer:
To direct the City Manager to direct the City Attorney to respond in writing to the letters from the applicant's attorney.

In reply to MPT Boutros, the Mayor said that City Attorney would deliver her written response to the applicant's representation. The Mayor said that the applicant could then decide whether they were satisfied with the City Attorney's response, or whether they wanted to continue the conversation with the Commission, at which point they would have the opportunity to do so.

CM Markus confirmed that was the process he recommended.

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

Nays, None

05-135-22 Resolution Regarding Highland Park's Water and Sewer Debts

ACM Ecker presented the item.

MOTION: Motion by Commissioner Baller, seconded by MPT Boutros:
To adopt a Resolution in Opposition to GLWA Member Communities Paying for the City of Highland Park's GLWA Debt, and to direct the City Manager to forward copies of the approved resolution to Governor Whitmer, our State legislators and to the Great Lakes Water Authority.

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

Nays, None

05-136-22 Charter Amendment to Chapter IV of the Birmingham City Charter

CA Kucharek presented the item.

MOTION: Motion by MPT Boutros, seconded by Commissioner Baller:
To make a motion adopting a Resolution to amend the City of Birmingham Charter, Chapter IV. – REGISTRATIONS, NOMINATIONS AND ELECTIONS as provided, and to direct the Mayor’s signature for approval and the Clerk to proceed as dictated by state law.

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

Nays, None

05-137-22 Charter Amendment to Chapter VI of the Birmingham City Charter

CA Kucharek presented the item.

The Mayor said she would have appreciated having more than one comparator municipality’s threshold provided in the memorandum.

CA Kucharek noted that Birmingham’s surrounding communities have largely not addressed this issue in their charters because of the difficulties of doing a charter amendment. She said she provided Ann Arbor as the comparator since it is the most similar to Birmingham in terms of budget.

In reply to the Mayor, CM Markus said:

- Staff would return to the Commission with a proposed amendment to the purchasing policy, which would be implemented if the voters approve the correlated charter amendment change;
- Changing the amount is appropriate, will increase efficiency, and will reduce expenditures; and,
- The Commission should choose a proposed threshold of \$50,000 or \$75,000 based on their sense of which the residents are more likely to approve.

The Mayor concurred that the threshold change should be an amount the Commissioners feel is reasonable and likely to be approved by the electorate.

Commissioner Baller stated that likelihood of electorate approval was not the only factor worth considering. He noted:

- The \$6,000 threshold from 1987 would increase to approximately \$15,000 presently;
- That \$6,000 threshold, as selected in 1987, reflected the desire of past Commissions to have robust

- oversight of contracts for goods, services, or professional services; and,
- While assembling these items for RFPs and Commission review is time consuming for both Staff and the Commission, having opportunity for Commission and public comment is useful in many cases.

In reply to Commissioner Baller, CM Markus noted:

- That projects under the threshold would still be subject to review by the Commission;
- The only difference would be that an RFP and bidding process would not occur;
- That would save not only the costs of Staff preparing those items, but the costs of the bidders replying to the RFPs, which are rolled into the costs of the bids; and,
- He could create a policy that would outline how projects under the threshold amount should be reviewed by the Commission.

Commissioner Haig said:

- The proposed \$75,000 threshold would represent about the rate of inflation if the threshold were not reviewed again for another 35 years;
- He did not find that proposal particularly prohibitive;
- It might be worth considering allowing replacements to occur with minimal review, and new purchases or projects to be subjected to more review; and,
- That could give the public assurances that funds are being spent appropriately while minimizing bureaucracy to increase efficiency.

MOTION: Motion by MPT Boutros, seconded by Commissioner Schafer:
To amend the City of Birmingham Charter, Chapter VI. – CONTRACTS, Sections 1., 2., and 3. as provided, and to direct the Mayor’s signature for approval and the Clerk to proceed as dictated by state law.

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

Nays, None

Commissioner Haig said that outlining the projected savings from implementing this policy could help educate the electorate about why this would be a worthwhile change.

Commissioner Baller and the Mayor concurred.

05-138-22 City Manager Selection Process

CM Markus reviewed the item.

Commissioner Baller said:

- While he had previously preferred option three, because it is ‘best practice’, upon further consideration he now prefers promoting ACM Ecker to the City Manager position;
- He could not know how much time a search would take, or the impact it would have on ACM Ecker’s morale, given the difficulty of being one of a number of candidates for a long period of time;
- It would take a very exceptional candidate to make him believe that someone would be more equipped than ACM Ecker to do the City Manager job;

- He was willing to go through a search if the Commission determined it necessary, but he wanted to be clear on his stance.

Commissioner McLain said she felt strongly that the public would want a formal process, even while acknowledging ACM Ecker’s hard work and experience. She said she preferred option three.

In reply to Commissioner Schafer, CM Markus described what the process would be for option three.

Mayor Longe stated:

- Option two represents an extensive process, having been through it in other contexts;
- External search processes also often disadvantage internal candidates;
- She likes ACM Ecker and had full faith in her abilities;
- She also agreed with Commissioner McLain that the public would appreciate a formal process, and that going through it successfully would grant ACM Ecker the credibility to govern.

Commissioner Haig concurred with Commissioner McLain and the Mayor about the importance of option three. He suggested that as part of the third option, ACM Ecker be given more opportunities to demonstrate her skillset in navigating contentious topics during Commission meetings.

CM Markus concurred with Commissioner Haig’s suggestion.

MPT Boutros said he had also had occasion in the past to use executive search committees, and that his experience had been that it is always better to hire a qualified internal candidate if one is available. He said he was confident that ACM Ecker would be a superlative candidate but would be willing to go through the process if necessary.

The Mayor said that while she generally agreed with MPT Boutros, option three would help safeguard the public’s trust.

MOTION: Motion by Commissioner McLain, seconded by Commissioner Haig:
To direct the current City Manager to continue to train, educate and acclimate the current Assistant City Manager in order to be able to assume the duties of the City Manager. Further, the City Commission directs the City Manager to take the necessary actions to assist the City Commission in order to effectuate option three in the City Manager selection process.

Commissioner McLain emphasized that this would be a public, transparent process to ensure that Birmingham finds the right fit for its next City Manager.

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

Nays, None

05-139-22 Amendment to the January 25, 2021 Amended and Restated Employment Agreement Between Thomas M. Markus and the Commission of the City of Birmingham

CM Markus introduced the item.

The Mayor stated the City Manager:

- Received a very favorable performance review;
- Had to undertake a lot more work than he had anticipated before returning to Birmingham; and,
- Has done a tremendous job reviewing operations, hiring an enormous number of Staff, shoring up the personnel side of the City, improving polices and processes, and increasing revenue recovery.

The Mayor apologized for not discussing a raise during the City Manager’s performance review, which she said was an omission on her part. She noted that approving the raise would have been done in public regardless, but that part of the present conversation could have occurred in during closed session.

MOTION: Motion by MPT Boutros, seconded by Commissioner Baller:
To amend the City Manager’s Employment Agreement increasing the annual salary.

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

Nays, None

The Commission thanked the City Manager for all of his work.

Commission Discussion On Items From Previous Meetings

BBCC Mental Health

Commissioner Baller said the City could possibly offer BBCC access to the City’s communications infrastructure as one way of supporting BBCC’s mission. He said City departments should also be encouraged to have more student interns. He said he was interested in hearing more suggestions about how to support BBCC’s efforts.

The Mayor agreed that it could be worthwhile for the City’s Communications Department to provide contact information for community mental health resources on the City’s website, to broadcast that information via the City’s social media channels, and to possibly publish an article in one of Birmingham’s print magazines about the conversation the Commission had with BBCC.

Commissioner Baller said he was very impressed with the City’s Communications Staff.

CM Markus agreed, and said he was confident that the Communications Staff would find ways to publicize BBCC that would be effective. He noted that mental health difficulties are a national issue, that getting mental health or counseling is positive, and that however the City could help publicize that message would be positive.

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.

The Commission requested that the City Manager expedite the selection of a City tennis court for restriping to a pickleball court. They emphasized that they wanted it done as soon as possible without circumventing the normal process.

Commissioner Baller said the City needs more clarification on how references to the parking assessment district in the ordinance should be updated to reflect the current situation.

In reply to Commissioner Baller, the City Manager and Mayor said the Commission could discuss potential principles for granting the use of public outdoor space for private uses at the joint Planning Board-Commission meeting in June 2022.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

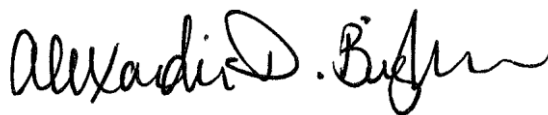
X. REPORTS

- A. Commissioner Reports
 - 1. Notice of intention to appoint to the Historic District Study Committee
 - 2. Notice of intention to appoint to the Board of Ethics
 - 3. Notice of intention to appoint to the Museum Board
 - 4. Notice of intention to appoint Hearing Officer
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff Report
 - 1. Update Concerning OMA
 - 2. 3rd Quarter Budget Report
 - 3. 3rd Quarter Investment Report

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 11:23 p.m.



Alexandria Bingham
City Clerk



Laura Eichenhorn
City Transcriptionist