

Birmingham City Commission Minutes

July 25, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/event/3470/videos/729072385/>

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
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner McLain
Commissioner Schafer

Absent: Mayor Pro Tem Boutros

Administration: City Clerk Bingham, City Engineer Coatta, Senior Planner Cowan, Planning Director Dupuis, Assistant City Manager Ecker, Parking Manager Ford, City Attorney Kucharek

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

07-194-22 Nomination of Commissioner McLain to Serve as Temporary Mayor Pro Tem

MOTION: Nomination by Mayor Longe:
To appoint Commissioner McLain to serve as temporary Mayor Pro Tem for the evening's meeting.

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

Nays, None

Announcements

- The City continues to recommend the public wear masks while attending City meetings per CDC guidelines. The cases of COVID-19 are increasing in the area. 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 triple-layered masks for all in-person meeting attendees.

- The City Clerk's Office will be open on Saturday, July 30, 2022 from 8am-4pm for your last minute absentee voting needs. The deadline to request and receive an absentee ballot by mail is 5pm Friday, July 29. The deadline to obtain an absentee ballot in person at the City Clerk's Office is no later than 4pm on August 1st. If you need to register to vote or update your voter registration, all registration actions must take place in person at the City Clerk's office from now through Election Day.
- Join us in Shain Park for our In The Park Summer Concert Series on Wednesday evenings beginning at 7 PM. July 27th is Thornetta Davis (R&B), August 3rd is Captain Fantastic Detroit and The Donny Rod Show (Rod Stewart & Elton John Tribute) and on August 10th we have Itchycoo (Psychedelic Rock).
- Proclamation Farmers Market
- Introduce Aaron Ford, new Parking System Manager
- Introduce Melissa Coatta, new City Engineer

Appointments

07-195-22 Appointment of Linda Buchanan to the Greenwood Cemetery Advisory Board

The Commission interviewed Linda Buchanan for the appointment.

MOTION: Nomination by Commissioner Host:

To appoint Linda Buchanan to the Greenwood Cemetery Advisory Board as a regular member to serve a three-year term to expire July 7, 2025.

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

Nays, None

07-196-22 Appointment of Margaret Suter to the Greenwood Cemetery Advisory Board

The Commission interviewed Margaret Suter for the appointment.

MOTION: Nomination by Commissioner Schafer:

To appoint Margaret Suter to the Greenwood Cemetery Advisory Board as a regular member to serve a three-year term to expire July 7, 2025.

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

Nays, None

City Clerk Bingham swore in the appointees.

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.

07-197-22 (Item J) Bus Bar, LLC Requests a transfer of membership in the Class C and SDM License with Sunday Sales (AM and PM) and Outdoor Service Area located at 2159 E. Lincoln, Birmingham, Oakland County, MI from 50% Keith Crain Jr. to 50% RPJP Holdings, LLC, with the other 50% remaining with Curt Catallo Trust

ACM Ecker recommended the removal of this item from the evening’s agenda with the item to return at a later date.

CA Kucharek recommended a motion be made to that effect.

MOTION: Motion by Commissioner Baller, Commissioner Haig:
To remove Item J from the evening’s agenda with the item to return the item at a later date.

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

Nays, None

07-198-22 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Haig: Item D – Set a Public Hearing for 695 W. Brown - Request to rezone parcel # 08-19-36-151-027 from R8 Attached Single-Family Residential to R2 Single-Family Residential on Watkins Street

Item E – Set a Public Hearing for City Commission approval of a lot division for 695 W. Brown Street, parcel # 19-36-159-009 & parcel # 19-36-151-027, lot T2N, R10E, SEC 36 OAKLAND COUNTY CONDOMINIUM PLAN NO 2257 WESTBROWN CONDOMINIUM GEN COM ELE TO BE ASSESSED WITH ALL UNITS IN CONDO L 52369 P 396 11-20-18 FR 151-001 and lot T2N, R10E, SEC 36 OAKLAND COUNTY CONDOMINIUM PLAN NO 2257 WESTBROWN CONDOMINIUM GEN COM ELE TO BE

ACM Ecker: Item J – Bus Bar, LLC Requests a transfer of membership in the Class C and SDM License with Sunday Sales (AM and PM) and Outdoor Service Area located at 2159 E. Lincoln, Birmingham, Oakland County, MI from 50% Keith Crain Jr. to 50% RPJP Holdings, LLC, with the other 50% remaining with Curt Catallo Trust.

MOTION: Motion by Commissioner Host, Commissioner Schafer:
To approve the Consent Agenda excluding Items D, E, and J.

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

Nays, None

- A. Resolution to approve the regular City Commission meeting minutes of July 11, 2022.
- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated July 13, 2022, in the amount of \$794,198.65.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated July 20, 2022 in the amount of \$1,319,579.99.
- F. Resolution to approve an agreement with Span Systems, Inc. for the fabrication and installation of two windscreen panels and overall tensile structure maintenance in the amount not to exceed \$12,500. 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- 751.000-811.0000.
- G. Resolution to approve and award the 2022 Concrete Sidewalk Repair Program #8-22(P), to Luigi Ferdinandi and Sons Cement Company, Inc., in the amount not to exceed \$399,928.00. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funding for this project has been budgeting in the following accounts;

<u>Funding Account</u>	<u>Fund ID Number</u>	<u>Project Award</u>
General Sidewalk	101-444.001-981.0100	\$ 326,687.21
Major Streets Fund	202-449.001-981.0100	\$ 41,851.88
Local Streets Fund	203-449.001-981.0100	\$ 31,388.91
	Total Costs	\$ 399,928.00

- H. Resolution to approve the increased payment of \$14,400.00 with Hart Pavement Striping Corporation over the contracted amount for \$64,000.00 for additional handwork pavement services conducted in the 2021-2022 fiscal year. Further, to approve the appropriations and budget amendment to the fiscal year 2021-2022 budget as follows:

Major Street Funds

Revenues:

Draw from fund balance #202-303.001-937.0200 \$14,400.00

Total Revenue Adjustment	\$14,400.00
Expenditures:	
Contract Lane Painting -#202-303.001-937.0200	\$14,400.00
Total Expenditures Adjustment:	\$14,400.00

- I. Resolution to authorize the IT department to purchase the Palo Alto Firewall hardware and 3-year security subscription and support License bundle, the purchase price not to exceed \$31,461.00, from funds available in the IT machinery and equipment fund account # 636-228.000-971.0100;
AND
Make a motion adopting a resolution to authorize the IT department to purchase the Cortex XDR Pro / Data Lake Integration for the Firewall, the purchase price not to exceed \$41,478.06, from funds available in the IT computer maintenance fund account # 636-228.000-933.0600.

07-198-22 (Item D) Set a Public Hearing for 695 W. Brown - Request to rezone parcel # 08-19-36-151-027 from R8 Attached Single-Family Residential to R2 Single-Family Residential on Watkins Street

Commissioner Haig said his comments for Items D and E were related. He noted that the neighbors were unsupportive of the proposals to be heard at the prospective public hearings to be set by Items D and E, and said that it seemed the Commission did not have other options. He opined that the situation was unfortunate.

MOTION: Motion by Commissioner Haig, Commissioner Host:
To set a public hearing date of August 29th, 2022 to consider the rezoning application for a portion of 695 W. Brown, parcel #19-36-151-027, from R8 Attached Single Family to R2 Single Family Residential.

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

Nays, None

07-199-22 (Item E) Set a Public Hearing for City Commission approval of a lot division for 695 W. Brown Street, parcel # 19-36-159-009 & parcel #19-36-151-027, lot T2N, R10E, SEC 36 OAKLAND COUNTY CONDOMINIUM PLAN NO 2257 WESTBROWN CONDOMINIUM GEN COM ELE TO BE ASSESSED WITH ALL UNITS IN CONDO L 52369 P 396 11-20-18 FR 151-001 and lot T2N, R10E, SEC 36 OAKLAND COUNTY CONDOMINIUM PLAN NO 2257 WESTBROWN CONDOMINIUM GEN COM ELE TO BE ASSESSED WITH ALL UNITS IN CONDO L 52369 P 396 11-20-18 FR 151-001

Commissioner Haig noted his comments were the same as for Item D.

MOTION: Motion by Commissioner Haig, Commissioner Host:
To set a public hearing date of August 29th, 2022 to consider finalizing the lot division of 695 W. Brown, parcel # 19-36-159-009 & parcel # 19-36-151-027.

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

Nays, None

VI. UNFINISHED BUSINESS

07-201-22 Continuation of Public Hearing to amend Article 4, Section 4.30, Open Space Standards, to add language to permit accessibility ramps in the required open space

PD Dupuis presented the item and noted the changes that CA Kucharek recommended.

The Mayor closed the public hearing at 7:51 p.m.

In reply to Commissioner Baller, CA Kucharek defined 'disabled' and her rationale for including it in the language. She noted that 'accessible' indicates that the ramp must be for a disabled individual.

In reply to Commissioner Schafer, CA Kucharek noted that the City would not be legally permitted to ask an individual to define or prove their disability.

ACM Ecker noted that the City will likely use the accessory structure permitting process to permit accessibility ramps in order to ensure that accessibility ramps are treated the same as any other accessory structure.

CA Kucharek noted that the City could also not legally require an annual renewal, since accessory structures do not require an annual renewal. She said that the City could not legally police the removal of the accessibility ramps once a disabled person no longer lives at the home; rather, the City would have to trust the property owner to do so when appropriate.

In reply to Commissioner Baller, CA Kucharek said Article 3, Section 4.30(C)(7) could be amended to begin 'Accessible ramps and structures for disabled persons are permitted', with the rest of that section remaining as-proposed.

In reply to Commissioner Haig, CA Kucharek explained City enforcement could deal with violations when there is evidence that one or more violation(s) has occurred.

Commissioner Host commended resident Allison Goodwin for raising this matter and spoke in support of the ordinance amendments.

MOTION: Motion by Commissioner Host, tMPT McLain:
To adopt an ordinance to amend Article 4, Section 4.30 of the Zoning Ordinance to include provisions for accessible ramps that do not unintentionally inhibit persons in need as it relates to open space restrictions.

ROLL CALL VOTE: Ayes, Commissioner Baller
tMPT McLain

Commissioner Schafer
Commissioner Host
Mayor Longe
Commissioner Haig

Nays, None

VII. NEW BUSINESS

07-202-22 Public Hearing for 220 Merrill – 220 Restaurant – Review for Compliance – Special Land Use Permit

Mayor Longe recused herself from discussion of the item citing a business relationship between her spouse and the owner of the property. She stepped out of the meeting at 8:02 p.m.

tMPT McLain assumed facilitation of the meeting at 8:02 p.m. She opened the public hearing at 8:04 p.m.

PD Dupuis and ACM Ecker presented the item.

Seeing no public comment, tMPT McLain closed the public hearing at 8:08 p.m.

PD Dupuis confirmed that all previously outstanding compliance issues were resolved.

Commissioner Schafer said the colors selected for the outdoor dining looked nice.

tMPT McLain noted she had been satisfied thus far with the changes to the valet operation in terms of signage locations and queuing.

Zaid Elia, owner, spoke on behalf of the project and thanked Staff and the Commission.

MOTION: Motion by Commissioner Baller, Commissioner Haig:
To maintain the Special Land Use Permit for 220 Restaurant with the terms and conditions previously approved, removing the last condition to reappear before the City Commission in July 2022.

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

Nays, None

07-203-22 Public Hearing for 1160 Grant Street – Ortiz Educare – Special Land Use Permit, Final Site Plan & Design Review

The Mayor rejoined the meeting at 8:10 p.m. and resumed facilitation of the meeting. She opened the public hearing at 8:11 p.m.

SP Cowan presented the item.

Amy Ortiz, applicant, and Patrick Howe, attorney, spoke on behalf of the project.

The Mayor closed the public hearing at 8:16 p.m.

In reply to Commissioner Baller, ACM Ecker explained that the B1 zoning of the necessitates a Special Land Use Permit for this type of use.

Commissioner Schafer offered her support for the project.

MOTION: Motion by Commissioner Haig, Commissioner Host:
To approve the Special Land Use Permit, Final Site Plan and Design Review application for 1160 Grant St. – Ortiz Educare with the following condition:

- The applicant provide a photometric plan indicating all lighting requirements for the parking lot circulation area have been met.

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

Nays, None

The Mayor congratulated Ms. Ortiz.

07-204-22 Public Hearing for 36877 Woodward Ave – Gasow Veterinary Clinic – Special Land Use Permit, Final Site Plan & Design Review

The Mayor opened the public hearing at 8:23 p.m.

SP Cowan presented the item.

Seeing no public comment, the Mayor closed the public hearing at 8:26 p.m.

Mike Mathys, architect, and Mike Bailey, owner, were present on of behalf of the project.

In reply to Commissioner Host, Mr. Bailey confirmed that the neighbor to the south was satisfied with proposed layout of the south side of the site.

tMPT McLain recommended that other property owners use this project as a template for working with neighbors to come to mutually agreeable solutions.

MOTION: Motion by Commissioner Haig, Commissioner Host:
To approve the Special Land Use Permit, Final Site Plan and Design Review application for 36877 Woodward Ave – Gasow Veterinary Clinic and to enter into a Special Land Use Permit Contract with Midwest Veterinary Partners PLLC and 36877 Woodward Avenue LLC to allow for a veterinary clinic use to operate in the TZ-3 Transition zone with the condition that the applicant obtain lot combination approval from City Commission.

Commissioner Host echoed tMPT McLain’s comments.

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

Nays, None

The Mayor congratulated the applicant.

07-205-22 First Time Special Event - Quarton Elementary Slow Roll

Commissioner Schafer recused herself, citing her participation in the planning of the event. She stepped out of the room at 8:28 p.m.

CC Bingham presented the item.

Laura Markle, applicant, spoke on behalf of the request. She stated that there may be bicycle repairs, food, or other provisions in the school parking lot.

Ms. Markle confirmed that the event was open to public participation and that she intends to invite food trucks to attend the event.

MOTION: Motion by Commissioner Baller, tMPT McLain:
To approve a special event permit as requested by the Quarton Elementary to hold the Slow Roll on October 1, 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, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

Commissioner Host expressed support for the event.

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

Nays, None

The Commission congratulated the applicant.

07-206-22 First Time Special Event - Baldwin Society “An Autumn Affair of Dignity and Hope”

Commissioner Schafer rejoined the meeting at 8:34 p.m.

CC Bingham presented the item.

Tina Marzolf, applicant, and Rob Gillette, founder, spoke on behalf of the request.

In reply to ACM Ecker, the applicant team confirmed that there would be bartenders to serve the alcohol and that the alcohol service would comply with all City and State requirements.

In reply to the Mayor, Ms. Marzolf explained that two tickets could be purchased: one for the hayride, cider, and donuts, and one for the alcohol tasting event.

ACM Ecker noted that the event would need the Health Department to inspect and approve any planned food service.

Ms. Marzolf said she would follow up with the Health Department.

MOTION: Motion by tMPT McLain, Commissioner Host:
To approve a special event permit as requested by the Baldwin Society to hold the event "An Autumn Affair of Dignity and Hope" on September 22, 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, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

Commissioner Haig said insufficient information about the event was supplied in the application. He said he would prefer to have more documented information than less in the future.

In reply to Commissioner Baller, Ms. Marzolf confirmed that the only use of public property would be for the hayrides.

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

Nays, None

The Mayor congratulated the applicant team. Ms. Marzolf thanked the Commission, said they would be invited to the event, and said she would be sure to submit a more detailed application in the future.

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 Previous Meetings

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

A. Commissioner Reports

Mayor Longe attended a meeting of the Mayors of Woodward-adjacent communities to discuss their concerns regarding Woodward. The meeting was organized by Oakland County Development and SEMCOG. She said future meetings will be arranged.

B. Commissioner Comments

C. Advisory Boards, Committees, Commissions' Reports and Agendas

1. Ethics Opinion 2022-02 Koseck

D. Legislation

E. City Staff

1. Parking Assessment District (PAD)

Public Comment

Paul Reagan said the City should seek clarification regarding the original intent for new construction beyond the original assessment. He said the City should provide a defensible rationale for having no parking requirements for previous PAD members or should enforce the otherwise-applicable parking requirements.

ACM Ecker noted that the PAD studies took into account the maximum future developments possible on each site in order to calculate contributions and parking needed. Consequently, the City did not need to seek clarification about the original intent regarding new construction because the PAD accounted for the likelihood of new construction on the relevant sites.

Mr. Reagan disputed ACM Ecker's statement.

In reply to Commissioner Baller, CA Kucharek said CM Markus had previously expressed his desire to be present if a more involved discussion began to occur on this item. Given that more discussion seemed forthcoming, she stated that CM Markus would schedule this item for a future agenda.

Commissioner Haig asked that the total required number of parking spaces determined by the PAD studies be provided and that the number of parking spaces required for current PAD buildings also be provided.

2. City Manager's Report

ACM Ecker reviewed the report.

Commissioner Baller stated that the Baldwin House residents paying \$90 a month for parking should be informed that if they purchased the spaces directly from the City they would pay \$50 a month.

ACM Ecker agreed.

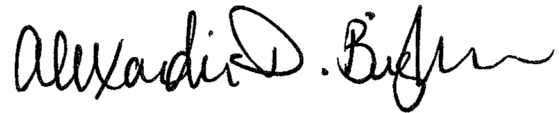
tMPT McLain said she was appalled at the Baldwin House parking situation described in the report. She said she anxiously awaited the opportunity to ask follow up questions and to find a way to remedy the situation.

In reply to tMPT McLain, ACM Ecker said the issue came to light through complaints from Baldwin House residents.

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 9:24 p.m.

A handwritten signature in black ink, appearing to read "Alexandria Bingham". The signature is fluid and cursive, with a large initial 'A' and 'B'.

Alexandria Bingham
City Clerk

A handwritten signature in black ink, appearing to read "Laura Eichenhorn". The signature is more compact and cursive than the one above.

Laura Eichenhorn
City Transcriptionist