

**Birmingham City Commission Minutes**

**August 29, 2022**

**Municipal Building, 151 Martin**

**7:30 p.m.**

**Vimeo Link: <https://vimeo.com/744381102>**

**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, Police Chief Clemence, Senior Planner Cowan, Planning Director Dupuis, Assistant City Manager Ecker, Finance Director Gerber, City Attorney Kucharek, Assistant City Engineer Zielinski

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

**Announcements**

- The City continues to recommend the public wear masks while attending City meetings. All City employees, commissioners, and board members must wear a mask while indoors because adequate ventilation 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 Clerk's office would like to remind voters to turn in an absentee ballot application if they wish to vote by mail for the November 8, 2022 State General Election. Absentee Ballots are tentatively scheduled to be mailed out the last week of September. If you have already turned in your application to receive a November absentee ballot and need to change the mailing location, please contact the Clerk's office as soon as possible. To review your specific voting information, request an absentee ballot, or update your voter name or address go to [mi.gov/vote](http://mi.gov/vote). The online and mail voter registration deadline is October 24th. After October 24th new voters must register in person at the clerk's office.
- National Recovery Month Proclamation
- Village Players Proclamation
- Timothy J. Currier Proclamation

## Appointments

Maria Chirco was unable to be present for her interview for appointment to the Board of Review. Given that Ms. Chirco would be a new appointee, it was decided that her interview would be rescheduled.

### **08-215-22 Appointment of Kevin Kozlowski to the Advisory Parking Committee**

The Commission interviewed Kevin Kozlowski for the appointment.

**MOTION:** Nomination by MPT Boutros:

To appoint Kevin Kozlowski to the Advisory Parking Committee as a regular member who is a resident shopper to serve a three-year term to expire September 1, 2025.

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

Nays, None

### **08-216-22 Appointment of Lisa Silverman to the Advisory Parking Committee**

The Commission interviewed Lisa Silverman for the appointment.

**MOTION:** Nomination by Commissioner Host:

To appoint Lisa Silverman to the Advisory Parking Committee as a regular member who is a resident to serve a three-year term to expire September 1, 2025.

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

Nays, None

### **08-217-22 Appointment of Larry Lyng as the Hearing Officer**

The Commission interviewed Larry Lyng for the appointment.

**MOTION:** Nomination by Commissioner Host:

To appoint Larry Lyng as the Hearing Officer to serve a three-year term to expire June 30, 2025.

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

Nays, None

**08-218-22 Appointment of Richard Lilley to the Board of Zoning Appeals**

The Commission interviewed Richard Lilley for the appointment.

**MOTION:** Nomination by Commissioner Haig:  
To appoint Richard Lilley to the Board of Zoning Appeals as an alternate member to the Board of Zoning Appeals to serve the remainder of a three-year term to expire February 18, 2023.

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

Nays, None

**08-219-22 Appointment of Erica Ahmed to the Triangle District Corridor Improvement Authority**

The Commission interviewed Erica Ahmed for the appointment.

**MOTION:** Nomination by Commissioner McLain:  
To appoint Erica Ahmed to the Triangle District Corridor Improvement Authority as a member with ownership or business interest in property located in the Development Area to serve the remainder of a four-year term to expire December 15, 2023.

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

Nays, None

**08-220-22 Appointment of Harry Awdey to the Brownfield Redevelopment Authority**

Mr. Awdey was unable to attend. The Commission chose to proceed given that the application was for a reappointment.

**MOTION:** Nomination by MPT Boutros:  
To appoint Harry Awdey as a regular member to the Brownfield Redevelopment Authority to serve a three-year term to expire May 23, 2025.

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

Nays, None

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

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

Sally Savoy, representative for Village Players, thanked the Commission for the proclamation.

**V. CONSENT AGENDA**

**08-221-22 Consent Agenda**

The following items were pulled from the Consent Agenda:

Commissioner Baller: Item H – Approving The Sculpture Donations Of “Untitled #1” and “Untitled #2” by Hank Marx to be Installed at Martha Baldwin Park

Item I – Approving The Sculpture Donation of “Khyber” by Tom Fitzgerald, Donated By Carolle Baskin, to be Installed at Fairway Park

**MOTION:** Motion by Commissioner Baller, Commissioner Host:  
To approve the Consent Agenda excluding Items H and I.

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

Nays, None

A. Resolution to approve the City Commission meeting minutes of August 15, 2022.

- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 17, 2022, in the amount of \$8,340,531.37.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 24, 2022, in the amount of \$1,075,548.31.
- D. Resolution to approve the purchase of the Nutanix expansion for the Hyper-converged infrastructure from CDWG at total cost not to exceed \$33,608.00. Funds are available in the Machinery and Equipment fund account #636.0-228.000-971.0100.
- E. Resolution to approve the First Amendment Software Agreement between the City and Sensus (needed to initiate the software upgrade),

AND

Resolution to approve an agreement with ETNA Supply Company for the one-time Sensus Meter System Upgrade and the year one hosting fee totaling (\$82,450) and to approve the annual web hosting fees to be paid over the following four years as cited below. Funding will be available in account number 591-537.001-811.0000 for the system upgrade and annual costs; further, to approve the appropriation and amendment to the fiscal year 2022 thru 2027 Water Fund budget as follows:

**Expenses:**

Fiscal Year 2022-2023

591-537.001-811.0000	One-time Upgrade Fee	\$49,000
591-537.007-811.0000	Fiscal Year 2022-2023 Annual Hosting Fee	<u>\$33,450</u>
		\$82,450

Upcoming Annual Cost Schedule

Fiscal Year 2023-2024	Annual Hosting Fee	\$35,210
Fiscal Year 2024-2025	Annual Hosting Fee	\$37,070
Fiscal Year 2025-2026	Annual Hosting Fee	\$39,020
Fiscal Year 2026-2027	Annual Hosting Fee	<u>\$41,070</u>
Four-Year Total		\$152,370

And further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

- F. Resolution confirming the City Manager’s authorization for the emergency expenditure related to the repair of a brick wall on the east side entrance of the Park Street Structure by Pullman SST Inc. for a cost not to exceed \$8,400.00 to be charged to the Automobile Parking System Fund, Park Street Structure Building Maintenance Account #514.1-594.003-930.0500. Furthermore, to direct the City Attorney to continue to seek restitution from the responsible driver’s insurance company for \$8,400.00.
- G. Resolution approving the purchase of two (2) 2022 Chevrolet Tahoe vehicles for \$40,466 each, from Berger Chevrolet located at 2525 28th Street S.E., Grand Rapids, MI 49512, under the State of Michigan MiDeal extendable purchasing contract #071B7700184, in the amount not to exceed \$80,932 for both vehicles. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #641-441.006.971.0100.
- J. Resolution to move the third strategic planning workshop from September 27, 2022 to October 11, 2022 at 7 p.m.

- K. Resolution to appoint City Engineer Melissa Coatta as Representative of the City of Birmingham on the SOCWA Board of Trustees for the remainder of the 2022/2023 fiscal year.
- L. Resolution to accept the resignation of Caitlin Rosso from the Museum Board, to thank her for her service and to direct the City Clerk to begin the process of filling the vacancy.

**08-222-22 (Items H And I) Approving The Sculpture Donations of "Untitled #1" and "Untitled #2" by Hank Marx to be Installed at Martha Baldwin Park and "Khyber" by Tom Fitzgerald, Donated By Carolle Baskin, to be Installed at Fairway Park**

Commissioner Baller thanked the donors for their donations.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Host:  
To approve the sculpture donations of "Untitled #1" and "Untitled #2" by Hank Marx to be installed at Martha Baldwin Park

AND

To approve the sculpture donation of "Khyber" by Tom Fitzgerald, donated by Carolle Baskin, to be installed at Fairway Park.

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

Nays, None

**VI. UNFINISHED BUSINESS**

**VII. NEW BUSINESS**

**08-223-22 Public Hearing – Confirming Roll for Westwood Cape-Seal Treatment Special Assessment District #898**

The Mayor opened the public hearing at 7:54 p.m.

FD Gerber introduced the item. ACE Zielinski presented the item.

Public Comment

Brock Rooney, resident of Westwood: requested an explanation of the cost increase for this project relative to a similar project that occurred in 2019; said the City should be paying for the capesealing in this case since the City was initiating the water and sewer repairs; said that crosswalks should be assessed to the City alone; said that this project should be bid out as part of a larger capeseal project in an attempt to lower assessment costs; and, said he was concerned that the contractor would bid the residential assessment portions of the project at a higher cost than the portions of the project to be assessed to the City.

In reply to an inquiry from Mr. Rooney, FD Gerber and ACE Zielinski confirmed that it was be the City's intent to postpone assessing the residents until the final costs are confirmed.

Mr. Rooney requested that language be included in the motion either to that effect or stating that costs would not be assessed until the project is completed.

Corey Holter, resident of Westwood: asked whether it would be more efficient to combine this project with the project on Westwood between Raynale and Redding and Glenhurst between Raynale and Redding; and, noted the crosswalks at Oak and Westwood were redone in the last two years and made ADA-compliant.

Seeing no further public comment, the Mayor closed the public hearing at 8:08 p.m.

The Commission had no questions for Staff.

**MOTION:** Motion by MPT Boutros, seconded by Commissioner Baller:  
To confirm the entire resolution for the special assessment roll 898 as indicated in the staff report.

CA Kucharek confirmed for Commissioner McLain that payments would not become due before construction because the resolution specified that 'payment of the cost thereof to be made after the time of construction' and that 'said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement'.

CM Markus noted that it was necessary for the roll to show up as pending in a title search for the affected properties so that a person searching is made aware.

In reply to Commissioner Host, ACE Zielinski stated that changes to the grade of the road were necessitating changes to the crosswalks at Oak and Westwood.

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

Nays, None

**08-224-22 Public Hearing – Confirming Roll for Westwood, Raynale and Oak Sewer and Water Lateral Replacement Special Assessment District #898S and #898W**

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

FD Gerber presented the item.

Public Comment

Mr. Rooney contended that sidewalk improvements should not be assessed to residents per the City's documentation. He also reiterated that the City should bear the cost of repairing the road surfaces since the City is initiating the water and sewer repairs.

Seeing no further public comment, the Mayor closed the public hearing at 8:16 p.m.

The Commission had no questions for Staff.

**MOTION:** Motion by MPT Boutros, seconded by Commissioner Baller:  
To confirm the entire resolution for special assessment rolls 898S and 898W as indicated in the staff report.

MPT Boutros commended Staff for their work on this process.

Commissioner Host said a resident's previous comments that sewer replacements should be bonded for the sake of equity was worth exploring further.

CM Markus explained why using a bond would not increase equity in sewer replacement costs.

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

Nays, None

**08-225-22 Public Hearing - Request to Rezone - 695 W. Brown - parcel #  
08-19-36-151-027 from R8 Attached Single-Family Residential to R2  
Single-Family Residential on Watkins Street**

The Mayor opened the public hearing at 8:20 p.m.

SP Cowan presented the item.

Rick Rattner, attorney for the applicant, spoke on behalf of the request.

Public Comment

Martin McGough, resident of Watkins, said the Mayor and the architect for the project had the same last name and asked if there was any relation.

Mayor Longe noted that the architect for the project was Brian Neeper, who neither shares a last name with or has any relation to the Mayor or her spouse.

In reply to Mr. McGough, SP Cowan said this rezoning and the proposed lot split would not result in a non-conforming lot.

Gerald Seizert, resident of W. Brown, described a proposal from some of the lot's neighbors to purchase 695 W. Brown and to leave it as open space. He asked for the Commission's support for that proposal and



asked that the request from the owners of 695 W. Brown be either postponed or denied.

Seeing no further public comment, the Mayor closed the public hearing at 8:36 p.m.

Staff answered informational questions from the Commission.

In reply to the Mayor, CA Kucharek confirmed that by right the owner of 695 W. Brown could construct three attached units on the property. If the rezoning and lot split were granted, the developer would be able to construct a single family home on the property.

CA Kucharek also advised the Commission that:

- The issues described by the tenants of the condo association regarding the developer were not part of the Commission's purview; and,
- The Commission could not prevent the owner of 695 W. Brown from doing anything the owner is permitted to do by right. Accordingly, the Commission could not require the developer maintain the property as green space.

In reply to a comment from Commissioner Haig, both CA Kucharek and CM Markus noted that if the error had not occurred at the County level the present requests from the developer still could have occurred, albeit in a different order. CM Markus said that if the parcel meets the requirements for rezoning to R2, the rezoning would allow the parcel to be used as it was likely contemplated by the City and by the neighborhood.

Commissioner Baller offered his support for the rezoning. He stated that the developer initially planned to build a single family home on this lot. He noted that while the City was unlikely to purchase this lot and make it a park, private residents or entities were entitled to do so. When deciding between single family and single family attached, Commissioner Baller said this parcel was better suited to single family. He noted that neighbors of the parcel have varied their perspectives on this matter over time.

The Mayor noted that the Commission had to determine whether it agreed with the Planning Board that the proposed rezoning met the five requisite criteria.

Commissioner Haig opined that neither zoning option for this parcel was ideal, and that the Commission had to select the more appropriate option. He said that a rezoning to R2 was more appropriate than maintaining the zoning at R8.

**MOTION:** Motion by MPT Boutros, seconded by Commissioner Host:  
To adopt an ordinance amendment to rezone 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, MPT Boutros  
Commissioner Baller  
Commissioner McLain  
Commissioner Schafer  
Commissioner Host  
Mayor Longe  
Commissioner Haig

Nays, None

**08-226-22                    Public Hearing – Proposed Lot Division on Watkins and Brown St. - 695  
W. Brown Street, parcel # 19-36-159-009 & parcel # 19-36-151-027**

The Mayor opened the public hearing at 8:54 p.m.

SP Cowan presented the item.

Seeing no public comment, the Mayor closed the public hearing at 8:56 p.m.

The Commission had no questions or comments on the item.

**MOTION:**                    Motion by MPT Boutros, seconded by Commissioner Baller:  
To approve the lot division of 695 W. Brown, parcel # 19-36-159-009 & parcel # 19-36-151-027.

Commissioner Baller stated his support for the motion.

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

Nays,    None

**08-227-22                    Designation of Voting Delegate(s) for the Michigan Municipal League  
Annual Meeting**

CM Markus noted that one need not be a Commissioner to serve as an official voting delegate.

The Mayor recommended that CM Markus serve as the official voting delegate, with Commissioner Host serving as the alternate delegate.

**MOTION:**                    Motion by MPT Boutros, seconded by Commissioner McLain:  
To appoint City Manager Markus as the City of Birmingham’s official voting delegate and Commissioner Host as the alternate delegate, for the Michigan Municipal League Annual Meeting to be held in Muskegon, Michigan on October 19, 2022.

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

Nays,    None

**Commission Items for Future Discussion**

## **Commission Discussion On Items From A Prior Meeting**

### 1. Birmingham Country Club – Pickleball

PD Dupuis presented the item.

Staff answered informational questions from the Commission.

Commissioner Host commended Staff for the thoroughness of their research and presentation.

In reply to Commission and Staff inquiry, Dan O'Hara, representative for the Birmingham Country Club (the Club), stated:

- The paddleball courts were moved because of the lighting. Trees were added to the perimeter to prevent light from impacting the neighbors;
- The pickleball courts will not have additional lighting since it is played during the day and they would not be allowed per the zoning ordinance. Arborvitae will be around the perimeter;
- He would promise that no lights for the pickleball courts would be added later;
- There are no other appropriate locations for the pickleball courts because of the water table and the extant location of the racketsports area;
- On-site parking is provided at the Club, and it is unlikely that someone visiting the Club to play tennis, paddleball, or pickleball would park on the street. On-street parking generally only occurs five weekends a year, as a result of four swim meets and one tennis finals;
- The Club intends to better inform its members that profanity is discouraged;
- It should be anticipated that club members may linger on the courts after they are done playing;
- The Club will be prohibiting the louder pickleball rackets, and will be conducting a sound study and a parking study; and,
- In reply to CM Markus' suggestion, signs will be posted on the court fences reminding club members about types of permitted pickleball rackets, prohibited behaviors, and a reminder that conduct should be respectful of the fact that the courts are located adjacent to a neighborhood.

Eric Miles, architect for the Club, estimated that the Club is approximately 160 acres.

CM Markus also recommended that the Club begin meeting occasionally with its neighbors to try and resolve any issues that may arise.

In reply to the Mayor, CM Markus stated he could draft a letter to Bloomfield Township (the Township) outlining commitments made by the Club's representatives and Birmingham residents' concerns.

### Public Comment

Susan Randall, resident of Saxon, described her concerns regarding noise from pickleball, speeding, and on-street parking in the neighborhood. She stated there was a petition regarding some of the issues she raised.

Maureen Field, resident of Norfolk, described her concerns regarding the lights, on-street parking on nearby streets, and noise from pickleball. She asked the City to advocate on behalf of its residents directly with the Township in addition to sending a letter.

Bryan Williams, resident of Latham, concurred with Ms. Randall and Ms. Field that the neighborhood has noise issues.

Seeing no further public comment, discussion returned to the Commission.

Commissioner Haig recommended residents take photographs of parking issues in order to provide evidence of the issues.

Commissioner Schafer stated the Club could discourage its members from parking on the adjacent streets in the spirit of being good neighbors.

Commissioner Host opined that the Club could likely locate the courts away from the neighboring residences. He recommended that the City continue to advocate for the neighboring Birmingham residents' interests.

## 2. Traffic Calming Measures – Speed Tables/Speed Humps

PC Clemence presented the item.

Staff answered informational questions from the Commission.

Commissioner Haig said he would support doing a study of speed tables on Ruffner because of the cut-through traffic and more generally increased traffic calming measures.

Commissioner Baller said cut-through traffic and speeds are one of the most consistent issues raised by constituents. He concurred with Commissioner Haig that increased efforts to calm traffic would be worthwhile.

PC Clemence explained that adding superfluous stop signs tends to actually increase speeds in the area. He explained that the Police Department follows engineering standards to guide where to add stop signs.

Commissioner McLain concurred with Commissioners Haig and Baller about the need for increased traffic calming measures.

PC Clemence said Police would meet with Staff, City consultants, and the Multi-Modal Transportation Board to see where speed tables might be appropriate.

### Public Comment

Mr. Williams said there should be a stop sign heading east on Norfolk. Citing speeding, he requested increased traffic enforcement along Norfolk and Latham.

A resident opined that regular traffic enforcement is more effective than speed bumps.

Ms. Randall said the residents of Saxon were promised that a white '25' would be painted on 14 Mile Road heading west when the speed limit changes from 35 miles per hour to 25 miles per hour. She also said the paint frequently erodes from the crosswalk at Latham and Saxon. She asked that the City address both issues.

**08-228-22                      Closed Session Pursuant to MCL § 15.268 Sec. 8(e) of the Open Meetings Act and Pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act**

**MOTION:**                      Motion by Commissioner Host, MPT Boutros:  
To meet in closed session to discuss pending litigation pursuant to MCL § 15.268 Sec. 8(e) of the Open Meetings Act regarding John Reinhart, et al the v City of Birmingham; U.S. District Court Case No.: 2:22-cv-11074-MAG-DRG.

AND

To meet in closed session to discuss a written attorney/client privilege communication pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act.

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

Nays, None

The Commission went into closed session at 10:14 p.m.

The Commission returned from closed session at 10:32 p.m.

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

**X. REPORTS**

- A. Commissioner Reports
    - 1. Notice of Intention to Appoint to the Museum Board
  - B. Commissioner Comments
  - C. Advisory Boards, Committees, Commissions' Reports and Agendas
  - D. Legislation
  - E. City Staff
    - 1. City Manager's Report
- INFORMATION ONLY

**XI. ADJOURN**

Mayor Longe adjourned the meeting at 10:32 p.m.

Alexandria D. Bingham

Alexandria Bingham  
City Clerk

Laura Eichenhorn

Laura Eichenhorn  
City Transcriptionist