

Birmingham City Commission Minutes

September 12, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/744424196>

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, City Engineer Coatta, Planning Director Dupuis, Assistant City Manager Ecker, 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 during meetings 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. The online and mail voter registration deadline is October 24th. After October 24th new voters must register in person at the Clerk's office.
- Wish Commissioner Brad Host a Happy Birthday!

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

Jared Hocking recommended that an ordinance be passed to outlaw the sale of new furs in Birmingham.

V. CONSENT AGENDA

09-229-22 Consent Agenda

The following items were pulled from the Consent Agenda:

Commissioner Host: Item I – Contract Lane Painting-Pavement Markings for Fiscal Year 2022-2023

MOTION: Motion by MPT Boutros, Commissioner Haig:
To approve the Consent Agenda excluding Item 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 Strategic Planning Workshop meeting minutes of August 24, 2022.
- B. Resolution to approve the City Commission meeting minutes of August 29, 2022.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 31, 2022, in the amount of \$25,663,596.77.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated September 7, 2022, in the amount of \$3,692,536.26.
- E. Resolution to approve a special event permit as requested by the Birmingham Bloomfield Art Center to hold the 42nd annual Art Birmingham art fair on May 13 and 14, 2023, contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications or event cancellation that may be deemed necessary by administrative staff leading up to or at the time of the event.
- F. Resolution to accept the resignation of Michael St. Germain from the Multi-Modal Transportation Board, to thank him for his service and to direct the City Clerk to begin the process of filling the vacancy.
- G. Resolution approving the settlement agreement dated July 25, 2022 between the City and the Birmingham Police Officers Labor Council for a renewal of the collective bargaining agreement through June 30, 2025. Further, to authorize the transfer of funds in the wage adjustment account 101.0-272.000-709.0000 to the appropriate departments.
- H. Resolution to approve \$20,416 in Municipal Credits and \$31,980 in Community Credits from SMART for fiscal year 2023 to Next in support of their specialized transportation program; and further to direct the Finance Director to sign the Municipal Credit and Community Credit contract for fiscal year 2023 on behalf of the City.

- J. Resolution to approve the Program Year 2022 High Intensity Drug Trafficking Area (HIDTA) subrecipient agreement between Oakland County and the City of Birmingham. Further, to authorize the Mayor to sign the agreement on behalf of the City.
- K. Resolution to approve the purchase of (2) 2023 GMC Yukon 4wd SLE utility vehicles from Todd Wenzel Buick GMC of Westland, located at 35100 Ford Rd, Westland, MI 48185, under the State of Michigan MiDeal extendable purchasing contract #071B7700184, in the amount not to exceed \$93,666.70 for both vehicles. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #661.0-441.006.971.0100.

09-230-22 (Item I) Contract Lane Painting - Pavement Markings for Fiscal Year 2022-2023

Commissioner Host recommended that DPS have City Staff carry out the contract lane painting and pavement markings in order to reduce the attendant project costs.

MOTION: Motion by Commissioner Host, seconded by Commissioner McLain:
 To approve the contract for 2022-23 handwork pavement markings with Hart Pavement Striping Corporation in the amount of \$243,270.00; further to approve the contract for fall 2022 grinding of non-conforming crosswalks with PK Contracting, Inc. for \$26,250.00; further to approve the contract for spring 2023 long/center lines with PK Contracting, Inc. for \$12,697.00; and further to fund all three contracts from account 202.0-316.000-937.0200. In addition, to authorize the Mayor and City Clerk to sign the agreements on behalf of the City and to appropriate and amend the Major Street Fund budget as follows:

Revenues:		
Draw from Fund Balance	202.0-000.000-400.0000	\$82,000
Expenditures:		
Public Safety-Traffic Controls	202.0-316.000-937.0200	\$82,000

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

09-231-22 Public Hearing for 2022 Cape Seal Program, Hearing of Necessity for Special Assessment District

Commissioner Haig recused himself from the meeting, citing his residence within the proposed Special Assessment District (SAD). The Commissioner left the room for the duration of the item’s discussion.

Mayor Longe opened the public hearing.

CE Coatta presented the item.

Public Comment

CM Markus and Mayor Longe summarized the differences between the cape seal program and the street improvement program in reply to inquiry from Lee Keating, resident of Penistone.

It was noted by Mayor Longe that the assessed cost to improve a street is substantially more than the cost to cape seal a street.

In reply to Mr. Keating, CE Coatta and ACE Zielinski explained how the Engineering Department ranks roads in terms of priority for water, sewer, and surface repairs.

Mr. Keating said he would prefer Penistone be improved and said he believed the cost for road improvements should come from the City's funds and not from assessments.

In reply to Tex Ragsdale, resident of Penistone, CE Coatta and ACE Zielinski explained that developers who damage City roads in the course of home construction are generally required to either repair the roads or pay a fine for the City to fix the roads. ACE Zielinski explained that if the road is already in disrepair, it is occasionally difficult to determine which damage was done by the individual developer. ACE Zielinski noted that after cape sealing, it would become much easier to again determine the damage done by individual developers and to hold them financially accountable.

Mr. Ragsdale said that many residents were unaware that the City holds developers financially accountable for the damage they do to roads.

In reply to John Canisz, resident of Penistone, CM Markus explained that potholes are a risk of using cape seal over road improvements because of the differences in the road bases.

Shahad Attia, resident of Croft, said that the road in front of her home is used substantially more by the church use across from her and the commercial use adjacent to her. She said those commercial owners should be assessed according to their heavier use of the road versus her use of the road.

In reply to Ms. Attia, CA Kucharek explained the special assessment process and the attendant appeal process.

In reply to Ms. Attia, CE Coatta said the church across from Ms. Attia's home was being assessed at a residential, and not a commercial, rate. CE Coatta noted that the church was being assessed on three sides.

Ms. Attia noted that she was protesting her assessment based on the church's being assessed as a residential property. Ms. Attia reiterated her statement that she and the church should not be assessed at the same rate since the church uses the road more frequently more than she does.

In reply to Mary Milton, who spoke on behalf of Bernice Bettendorf, resident of Torry, ACE Zielinski said he could not know whether the road was rated for fully-loaded semi-trucks. He explained that would be related to the original structure of the road, and not to cape sealing.

Ms. Milton praised the City Staff that fill the potholes on Torry. She stated that she was protesting Ms. Bettendorf's assessment on Ms. Bettendorf's behalf.

CA Kucharek advised Ms. Milton that a verbal proxy of protest would not suffice. CA Kucharek advised Ms. Milton that Ms. Bettendorf could register her protest of her assessment in writing submitted to the City.

In reply to Ms. Milton, CM Markus stated that the City could evaluate whether it would be appropriate to install signage prohibiting semi-trucks from using Torry as a cut-through street.

In reply to Nick Gogonis, resident of W. Melton, ACE Zielinski explained how the estimated assessment costs were calculated.

Mr. Gogonis recommended that the developers of new homes be special assessed for future road repairs. He also raised concerns about the impact of new, larger homes on the water and sewer lines.

In reply to Derrick Trumbly, resident of Croft, ACE Zielinski said it is helpful for residents to report damage done to a road by developers. ACE Zielinski also explained that the interest for an assessment paid over time is set at the confirmation of roll.

In reply to Mr. Trumbly, CM Markus confirmed that when the water, sewer, and surface of Croft is improved in the future, residents would be responsible for another assessment.

In reply to Mr. Trumbly, Commissioner Baller provided some information from the City's Unimproved Block Ratings and Costs spreadsheet.

Mr. Trumbly stated that he was protesting his assessment.

Mr. J. Canisz asked if he was on the record protesting his assessment.

ACE Zielinski and CE Coatta explained to Matt Forcina, resident of Humphrey, how the school across from Mr. Forcina's home would be assessed.

CE Coatta also answered brief informational questions for Mr. Forcina on how the assessment costs were assigned to the impacted properties.

In reply to Sandeev Sarna, resident of Croft, CE Coatta said Mr. Sarna could contact the Engineering Department for more information on his street's ranking within the Engineering Department's priority rankings.

In reply to Mr. Sarna, CM Markus confirmed the City uses the street priority rankings to assist in determining when streets should be improved.

In reply to Mr. Sarna, ACE Zielinski stated how costs were split between the City and residents for cape sealing and for road improvements.

In reply to Ray Reeves, resident of Banbury, ACE Zielinski explained how fines from developers that damaged the roads are applied to the costs of cape sealing. ACE Zielinski also said that road improvement projects tend to be planned in at least two-to-three block areas at a time in order to bring down the costs for the City and the residents.

In reply to Tom Fink, resident of Penistone, stated that developers on Banbury who caused damage likely also caused damage from driving on the surrounding roads. He asked why only the residents of Banbury received the benefit of those particular developers' fines being applied to the costs of the cape sealing project.

ACE Zielinski explained that the City could only ascertain that those developers caused damage on Banbury.

Mr. Fink said that 1616 Croft was a relatively recent build and that the developers caused damage to the road. He said he was unsure if those developers were fined.

CM Markus reiterated that it is helpful for residents to submit evidence of road damage to the City.

Mr. Fink stated that he had called the City months prior and shared concerns about the road in front of 1616 Croft. He expressed frustration that some of the onus of enforcement was on the residents.

Yannis Cannisz, 1875 Bradford, said he was protesting his assessment. He expressed his preference for a road improvement.

In reply to an inquiry from Mr. Y. Cannisz, ACE Zielinski explained that unimproved roads are improved when their combined water, sewer, and surface rankings are high enough, or when the residents in the area petition for a road improvement. Prior to those two options, the City undertakes the best possible maintenance of the current road, which in this case is a cape seal reconstruct.

Messrs. Keating, J. Canisz, Y. Canisz and Sarna asked about the petition process for road improvements. It was explained that if the residents of an area submit a petition with over half of the area's residents requesting an improved road, the City would take that into consideration.

Both ACE Zielinski and CM Markus noted that many residents have expressed preferences in the past for cape sealing over full road improvements, and so the City does not recommend road improvements for a given area until that area's priority ranking necessitates it.

The Mayor noted that the City has 26 miles of unimproved streets and can improve approximately a mile a year. She noted the City continues the cape sealing process in the interim while trying to improve areas with flooding and other significant water and sewer issues.

Donna Garlitz, resident of Banbury, thanked the City for holding developers who damage City roads financially accountable. She said that cape seal is also sometimes an appropriate option because of its relative permeability.

In reply to inquiry from Ms. Garlitz, ACE Zielinski said there have been no material changes to cape seal to make it more able to support heavy loads. He explained that the cape sealing and patch repair are generally not performed during inclement weather, and that the work has a warranty within a certain period if it fails. He explained that the City prefers to not have gravel roads because the City does not have the equipment and would require additional Staff to handle the increased maintenance requirements.

Tiffany Redwine, resident of Taunton, noted her protest of her assessment.

In reply to Don Laws, resident of Penistone, ACE Zielinski explained that DPS generally uses hot mix or cold patch asphalt to repair potholes because those are the materials at DPS' disposal.

Mr. Laws expressed concern that the cape seal would not last much longer than a year given the general usage of the road. He noted his protest of his assessment.

In reply to Mr. Keating, ACE Zielinski explained that the higher priority streets within the project area would be done in the fall and the lower priority streets within the project area would be done in the spring. He explained that the project is completed street-by-street to only disrupt one street in the project area at a time.

In reply to Mr. Keating, CM Markus explained the income sources for the road fund and how expenditures from the road fund are planned. He stated that property taxes would have to increase if the City were to use the road fund to more extensively to cover road repairs.

The Mayor noted that more information about road fund allocations and expenditures can be found in the City's annual budget. She also recommended that anyone interested review the Ad Hoc Unimproved Streets Study Committee's (AHUSSC) report to learn more about the City's approach to improving streets. She noted that both documents could be accessed on the City's website.

CM Markus echoed the Mayor's recommendation that interested residents read the AHUSSC report.

In reply to Mr. Y. Canisz, ACE Zielinski stated that the cape sealing project would not address the curbs or the driveway aprons.

The Clerk received and filed correspondence regarding the proposed SAD from John Canisz, resident of Penistone; Susan Scibor, resident of W. Melton; Scott Hess, resident of Bradford; Betty Garlitz, resident of Banbury; and, Bernice Bettendorf, resident of Torry.

A number of residents thanked the Commissioners for their time and service.

Seeing no further public comment, the Mayor closed the public hearing and invited Commission discussion.

Commissioner McLain reminded the public that the GovAlert mobile app can be used to document concerns and to send those reports to the appropriate City departments for resolution.

Commissioner Baller said it would be helpful to have a workshop to better understand the City's strategy for recommending road maintenance or road improvements. As an example, he asked whether the City considers delaying cape sealing or improvements when a given road has a lot of current private home construction, since private home construction can damage a road surface. Commissioner Baller said he also did not know what options were available if the Commission were to decline the recommended action.

Commissioner Host said it was positive that the fines from the developers on Banbury went to offsetting the costs of the special assessments for the residents on Banbury. He said that when his block was redone it took three to four days. He recommended that the City require bonds or deposits from builders in case of damage to the roads. He said that the City's present cost-split for special assessments is very high for the residents, and mentioned a nearby municipality that he said charges residents 50% of the special assessment cost. He said that these roads in the proposed special assessment district still need to be maintained, however, and offered his support for the recommended action.

Commissioner Schafer said the City needs to continue to educate residents at public hearings regarding special assessments because most residents are unfamiliar with the City's process. She said that when

residents understand the process the proposals are likely to make more sense. Commissioner Schafer said she was supportive of the recommended action given the condition of the included roads. She expressed some disappointment that a project this extensive does not move the City towards its goals of road improvements, but said she trusted Staff's evaluation. She also cautioned residents that petitions to improve roads can prove very contentious among neighbors.

In reply to the Mayor, ACE Zielinski reiterated that only a mile of road could be improved a year, in a best-case scenario. He explained that road surfaces deteriorate faster than provided for with the road improvement schedule, and so resurfacing remains necessary to maintain road functionality in the interim.

MPT Boutros described the thoroughness of the AHUSSC's study in terms of costs, benefits of different surfaces, cost-splitting, and other aspects. He concurred with Commissioner Schafer that petitions for road improvements are often unpopular. He said that while he would prefer to improve all the roads at once, the costs were prohibitive to do so. He explained that consequently the roads must be resurfaced in the meantime, and that he supported the recommended action for that reason.

Mayor Longe said she lived on an unimproved, cape sealed road, and that she has paid for resurfacing. She said that while resurfacing is not the ideal solution, the City has an obligation to maintain a driveable, plowable road condition. She confirmed MPT Boutros' statement that the City does not have the resources to improve all 26 miles of unimproved City roads simultaneously. She also noted that having the City under that amount of construction at once would be prohibitive to the residents. The Mayor stated that resurfacing allows the City to maintain the best roads possible given the present resources. She noted that the nearby municipality referenced by Commissioner Host had very little unimproved road left, and that said municipality elected to pay more in order to complete its road improvements. The Mayor offered her support for the recommended action given the condition of the included roads.

MOTION: Motion by Commissioner Schafer, seconded by Commissioner McLain:
To declare necessity and approve a Special Assessment District with special assessments levied in accordance with benefits that will be derived for the properties within such assessment district. The City Commission further directs the Manager and City staff to follow all the prescribed requirements and steps detailed in City Code Chapter 94 for Special Assessments. The Special Assessment District shall include all properties within the following district of 198 parcels within the 2022 Cape Seal Program project area on Taunton between Woodward and Lincoln, Torry between Emmons and Sheffield, Bradford between Sheffield and Eton, Croft between Bradford and 14 Mile Road, Penistone between Torry and 14 Mile Road, Banbury between Torry and Sheffield, Humphrey between Torry and Eton, and Melton between Taunton to Eton.

And, the City Commission will meet on Monday, September 19, 2022 at 7:30 p.m. for the purpose of conducting the Confirmation of the Assessment Roll for cape-seal for the 198 parcels within the 2022 Cape Seal Program project area on Taunton between Woodward and Lincoln, Torry between Emmons and Sheffield, Bradford between Sheffield and Eton, Croft between Bradford and 14 Mile Road, Penistone between Torry and 14 Mile Road, Banbury between Torry and Sheffield, Humphrey between Torry and Eton, and Melton between Taunton and Eton.

Public Comment

Mr. Keating thanked the Commission and Staff for their presentation. He said a Frequently Asked Questions document would provide a lot of clarity for the residents in the future and would likely help reduce contentiousness.

Ms. Garlitz also thanked the Commission, and said that given all the circumstances she supported the motion. She said that more advanced notice might have given residents time to do more research on the item.

Commissioner McLain noted that road resurfacing is a safety issue that needs to be addressed.

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

Nays, None

09-232-22 1283 Buckingham – Historic Designation Request

Commissioner Haig rejoined the meeting.

PD Dupuis presented the item and introduced Keith Deyer.

Mr. Deyer spoke briefly about his home, about the architect, Wallace Frost, about the Historic District Committee’s efforts to recognize homes over 100 years old, and about his disappointment with the number of home demolitions in the City.

MOTION: Motion by Commissioner Host, seconded by Commissioner Haig:
To direct the Historic District Study Committee to begin preparation of a preliminary Historic District Study Committee report for 1283 Buckingham pursuant to Section 127-4 of the Birmingham Code of Ordinances.

Commissioner Host expressed appreciation for Mr. Deyer’s comments.

Commissioner Baller noted that architects presently working in Birmingham continue to create the City’s character just as Wallace Frost did. He explained he supports both historic preservation and new architectural works.

In reply to Commissioner Schafer, PD Dupuis explained the process for studying whether 1283 Buckingham should be designated as a historic resource.

Mr. Deyer summarized the outcomes of a historic designation.

Commissioner Haig thanked Mr. Deyer for pursuing a historic designation for 1283 Buckingham.

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

Nays, None

09-233-22 Commission Items for Future Discussion

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To discuss, at a future Commission meeting, the installation of a town banner at Old Woodward and Maple.

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

Nays, None

Commission Discussion On Items From A Prior Meeting

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intent to Appoint: Board of Zoning Appeals
 - 2. Notice of Intent to Appoint: Multi Modal Transportation Board
 - 3. Notice of Intent to Appoint: Birmingham Shopping District
 - 4. Notice of Intent to Appoint: Alternate Hearing Officer

B. Commissioner Comments

The Mayor noted that Shelley Taub was being honored by the Women Officials' Network and that the Mayor would be presenting Ms. Taub with a proclamation for her years of service to the City.

In reply to Commissioner Haig, CM Markus stated that the City now requires a bond from builders when private construction starts in order to be able to draw down on the bond if the builders do damage to City roads.

Commissioner Haig said it would be helpful to provide that information in future special assessment district discussions, along with the street rankings. He said that explaining that developers are fined based on documentation would also be useful information to provide. He recommended that the City consider providing this information as part of some kind of public education effort as well.

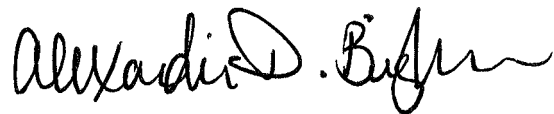
In reply to Commissioner Host, CM Markus explained why the City cannot legally charge developers specifically to fund road resurfacing or road improvements. He noted that charging developers for damage they do to roads is legally valid.

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

1. Greenwood Cemetery Advisory Board Annual Report
 - D. Legislation
 - E. City Staff
- INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 10:12 p.m.



Alexandria Bingham
City Clerk



Laura Eichenhorn
City Transcriptionist