

**Birmingham City Commission Minutes**

**January 23, 2023**

**Municipal Building, 151 Martin**

**7:30 p.m.**

**Vimeo Link: <https://vimeo.com/showcase/6708293/video/791498334>**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Therese Longe, Mayor, opened the meeting with the Pledge of Allegiance.

**II. ROLL CALL**

City Clerk Bingham called the roll.

Present: Mayor Longe  
Mayor Pro Tem McLain  
Commissioner Baller  
Commissioner Boutros  
Commissioner Haig  
Commissioner Host  
Commissioner Schafer

Absent: None

Staff: City Manager Markus; City Clerk Bingham, City Planner Blizinski, City Engineer Coatta, Planning Director Dupuis, Assistant City Manager Ecker, Finance Director Gerber, City Attorney Kucharek

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

**Announcements**

- The City recommends members of the public wear a mask if they have been exposed to COVID-19 or have a respiratory illness. City staff, City Commission and all board and committee members must wear a mask if they have been exposed to COVID-19 or actively have a respiratory illness. The City continues to provide KN-95 respirators and triple-layered masks for attendees.
- Community House 100<sup>th</sup> Anniversary Proclamation

**Appointments**

**01-008-23 Appointment to the Public Arts Board**

The Commission interviewed Annie VanGelderren for the appointment.

**MOTION:** Nomination by Commissioner Boutros:

To appoint Annie VanGelderren to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2026.

VOICE VOTE: Ayes, MPT McLain  
Commissioner Baller

Commissioner Boutros  
Commissioner Schafer  
Commissioner Host  
Mayor Longe  
Commissioner Haig

Nays, None

CC Bingham swore in Ms. VanGelderren.

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

David Bloom recommended that the City make adjustments to certain aspects of the 2040 Master Plan prior to adoption so implementation of the Plan can occur more easily in the future.

Dianne Anderson commended the Commission on taking up landlord-tenant issues and listed some other relevant aspects of the matter the Commission should consider.

Linda Buchanan, Vice-President of the Baldwin House Board of Directors, urged that an expedient timetable be adopted for the Chester Street Parking garage audit.

**V. CONSENT AGENDA**

**01-009-23 Consent Agenda**

The following items were pulled from the Consent Agenda:

Public: Item A – City Commission meeting minutes of January 9, 2023

**MOTION:** Motion by Commissioner Boutros, seconded by MPT McLain:  
To approve the Consent Agenda excluding Item A.

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

Nays, None

- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 11, 2023, in the amount of \$6,986,194.11.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 18, 2023 in the amount of \$995,061.06.
- D. Resolution to approve a one-year Professional Service Agreement, extendable at the discretion of the City Commission up to a total of three years, with Hubbell, Roth & Clark, Inc. for Residential Site Evaluation Services. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the city. Funding for this service is paid by permit fees. AND To amend the Schedule

of Fees, Charges, Bonds and Insurance, effective March 1, 2023, in the Community Development section as indicated by the consultant fee quote.

- E. Resolution to approve the sculpture donation of "Shooting Star" by John Henry to be installed in the public greenspace between Woodward Ave, S. Old Woodward, and Haynes Street as indicated in Exhibit A in the staff report.
- F. Resolution to approve a special event permit as requested by Common Ground to hold the Birmingham Street Art Fair on September 23 and 24, 2023 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.
- G. Resolution to appoint DPS Director Scott Zielinski as the alternate representative of the City of Birmingham on the SOCRRRA Board of Trustees for the remainder of the 2022/2023 fiscal year.

**(Item A) City Commission meeting minutes of January 9, 2023**

Mr. Bloom asked that brief clarification be added to his comments at the end of the January 9, 2023 minutes.

The Commission agreed to review the requested changes to the minutes at the next Commission meeting.

**VI. UNFINISHED BUSINESS**

**VII. NEW BUSINESS**

**01-010-23 Tenant Rights**

The Mayor thanked the public for their engagement on this matter, and thanked Staff and Council for their expeditious work on the item.

CA Kucharek introduced an associate from Beier Howlett, Monika Koleci. CA Kucharek noted that Sec. 66-50 should read 'Right to Renew' and not 'Right to Renew and Relocation Assistance', and provided the Commission with updated documentation reflecting the change.

Ms. Koleci and CA Kucharek presented the item and answered informational questions from the Commission.

Commissioner Host spoke in favor of the motion, stating that Birmingham has a significant number of renters and that they deserve fair treatment within the City. He thanked Staff, Council, and members of the public for their engagement on the matter.

MPT McLain noted that it was the appropriate time to be looking at these protections as the City seeks to expand its availability of middle-income rentals.

Commissioner Haig spoke to his experience being a landlord, and said this change would be slightly more complicated than the present rules but would also help improve people's quality of life.

Public Comment

Jim Gromer, attorney focusing on landlord-tenant issues, raised concerns with several aspects of the proposed ordinance. He noted that Michigan already has a law regarding retaliatory non-renewal that could be used to address some of the City's concerns.

Benjamin Tobin, representative of Group Five Management, raised concerns with the ordinance and spoke to the value of having a non-renewal option when dealing with certain resident challenges.

Mr. Bloom said it might be worth revising the proposed ordinance to address some of the concerns raised by Messrs. Gromer and Tobin.

Mary Taras, resident of Baldwin House, thanked the Commission for their work and support of the Baldwin House's focus on social justice.

Matthew Miller, attorney and representative for the Property Management Association of Michigan and the Detroit Metropolitan Apartment Association, raised concerns about the right-to-renew. He noted some potential unintended consequences that could stem from right-to-renew requirements. He noted that only one city in Michigan presently has right-to-renew provisions.

Messrs. Gromer and Miller both said they would be happy to work with the City on revising aspects of the proposed ordinance.

Duy Vu, representative for The Associated Management Company, said he helped Grand Rapids and Kalamazoo work on similar efforts. He supported the source of income provisions but raised concerns about right-to-renew provisions. He recommended the City work with Messrs. Gromer and Miller to revise the proposed ordinance.

Seeing no further public comment, the Mayor invited CA Kucharek to reply to some of the concerns raised.

CA Kucharek stated:

- The ordinance would require a landlord inform a tenant whether their lease would be renewed and that a tenant be provided with good cause, in writing, for a non-renewal;
- A good cause would allow a termination of a tenancy which is already provided for in State law;
- There are many State laws to protect landlords from tenants' violation of their lease agreement; and,
- It is incumbent upon a landlord to document issues that would amount to a good cause for a non-renewal.

Commissioner Boutros said he was supportive of the aims in general but was concerned that, given public comment, disruptive tenants could take advantage of the proposed ordinance.

MPT McLain said the aim of the ordinance was to balance the needs of good renters and the needs of landlords facing challenging tenant issues.

Commissioner Haig observed that source of income and right-to-renew seemed to be the two sections of the proposed ordinance generating concerns. He said that it might be worthwhile to temporarily reserve judgment on the proposed ordinance, and to consider some suggestions for revisions from Messrs. Gromer and Miller.

Commissioner Boutros concurred.

Commissioner Schafer said she trusted that CA Kucharek and Ms. Koleci considered issues raised by the public before the proposed ordinance language was brought before the Commission. Commissioner Schafer noted that many of the public commenters spoke in defense of particular interests, which were likely at least partially different from the interests of the Commission. She noted that the stories used by the public commenters to raise concerns about the proposed ordinance were anecdotes, and that anecdotal evidence does not disprove the merit of the proposed ordinance overall.

MPT McLain concurred.

The Mayor said that the source of income section seemed to largely be agreed upon, with the exception of settlements. She noted that the offers of assistance from Messrs. Gromer and Miller seemed to include the elimination of the right-to-renew section, as opposed to a revision of it. She noted that the ordinance had options to allow non-renewal when good cause could be demonstrated as set forth in Sec. 66-50(3)(c). She noted that the anecdotes shared by the public commenters described instances where courts have failed to enforce the State laws on evictions, which is not something that Birmingham could remedy with its ordinance. She invited CA Kucharek to comment.

CA Kucharek said she would consult with either one or both of Messrs. Gromer and Miller and would consider their suggestions. She said that did not mean that she would necessarily recommend any changes. She said she wanted the Commission to be certain that it was moving forward with the best ordinance possible.

Commissioner Haig voiced his support for CA Kucharek's proposal.

**MOTION:** Motion by Commissioner Host, seconded by Commissioner Haig:  
To table the tenant rights ordinance.

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

Nays, None

### **01-011-23 Climate Emergency Declaration and Ad Hoc Environmental Sustainability Committee Establishing Resolution**

PD Dupuis and CM Markus presented the item. PD Dupuis, the Mayor, and CM Markus answered informational questions.

It was noted that the Ad Hoc Committee would do the preliminary work that would allow for the later creation of a permanent Sustainability Board.

Commissioner Haig noted that access to the software that would be used for the greenhouse gas study would be a cost item. He said he was interested in knowing whether the software indicated significant changes that Ferndale and Royal Oak could make in their sustainability practices, or whether the recommended changes were more minor.

PD Dupuis said Planning Staff would consult with Ferndale and Royal Oak.

CM Markus said he was confident that there were communities across the country that could offer examples of significant changes that Birmingham could emulate.

Commissioner Schafer thanked Staff for their work on the item. She said she hoped the Ad Hoc Committee would create the foundation for a permanent Sustainability Board because it was important to increase and then maintain attention on the importance of sustainability.

**MOTION:** Motion by Commissioner Schafer, seconded by MPT McLain:  
To declare a climate emergency, establish the Ad Hoc Environmental Sustainability Committee, and direct Planning Staff to facilitate the immediate development of a greenhouse gas emissions inventory to set a baseline and develop greenhouse gas emission reduction targets for 2030 and 2050.

Commissioner Host noted that Birmingham has some world authorities in matters of sustainability who were eager to get involved in these efforts.

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

Nays, None

The Mayor thanked Staff for their work on the item.

### **01-012-23 Wayfinding Update RFP**

PD Dupuis presented the item and PD Dupuis and CM Markus answered informational questions.

Commissioner Haig said he liked the wayfinding examples that were branded or themed in ways that were particular to the municipality in which they were located.

PD Dupuis confirmed that the design services contractor would be looking to find and implement a relevant brand theme for Birmingham.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host:  
To approve an agreement with Corbin Design for design services in the amount not to exceed \$58,550 from account # 101.0-701.000-811.0000. In addition, 7C to authorize the Mayor and City Clerk to sign the agreement on behalf of the City and further, to approve the appropriations and amendment to the General Fund budget as follows: Revenues: Draw from Fund Balance 101.0-000.000-401.0000 \$8,550 Expenses: Planning – Other Contractual Services 101.0-701.000-811.0000 \$8,550

VOICE VOTE: Ayes, Commissioner Schafer  
Commissioner Host  
MPT McLain

Commissioner Boutros  
Mayor Longe  
Commissioner Baller  
Commissioner Haig

Nays, None

**01-013-23 Michigan Department of Environment, Great Lakes, and Energy (EGLE) Drinking Water Asset Management (DWAM) Grant**

CM Markus said this item was under New Business instead of the Consent Agenda in order to inform the public and the Commission about City Staff's regular efforts to obtain grants for City work.

CE Coatta presented the item and CE Coatta and CM Markus answered informational questions.

**MOTION:** Motion by Commissioner Haig, seconded by MPT McLain:  
To approve the agreement between the City of Birmingham and the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for a \$745,680.00 Drinking Water Assessment Management grant award. In addition, authorize the City Engineer to electronically sign the agreement on behalf of the city.

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

Nays, None

**01-014-23 Funding Agreement for the 48th District Court**

ACM Ecker presented the item and ACM Ecker and FD Gerber answered informational questions.

The Mayor commended ACM Ecker and CA Kucharek for their work on the matter. She said the proposed agreement was not perfect but was better than the previous alternatives.

Commissioner Baller commended ACM Ecker for her leadership in creating this proposed funding agreement.

In reply to Commissioner Baller, ACM Ecker stated she would make the City's representatives in the State Legislature aware of the difficulties Birmingham faced in this process.

MPT McLain thanked all Staff and others involved in creating the proposed funding agreement.

**MOTION:** Motion by MPT McLain, seconded by Commissioner Boutros:  
To approve an Addendum to the existing 48th District Court funding agreement with Bloomfield Township and W. Bloomfield Township and to authorize the Mayor and City Clerk to sign the agreement on behalf of the City, subject to the approval of the Political Subdivision Distribution / Funding Agreement by all four political subdivisions.

Commissioner Host thanked ACM Ecker for her work, and said he still had concerns about the costs to the City to operate the Court. He said he would be voting against the proposed funding agreement for that reason.

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

  Nays, Commissioner Host

**Commission Items for Future Discussion**  
**Commission Discussion On Items From A Prior Meeting**

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

**X. REPORTS**

- A. Commissioner Reports
- B. Commissioner Comments

MPT McLain reported on the MML Live discussion and on upcoming MML events. She also noted that the upcoming Polar Plunge to support the Special Olympics would take place on February 4, 2023 at 10 a.m.

The Mayor noted that the MML was soliciting comments regarding potential updates to the Michigan Open Meetings Act.

Commissioner Schafer thanked the Police Department for a good experience with using the Co-Responder program with one of Commissioner Schafer’s patients.

Commissioner Host thanked Oakland County Commissioner Cavell for his assistance with getting NEXT a grant and thanked NEXT Director Braun for her leadership of NEXT.

Commissioner Host thanked the Police Department for their work on a recent case, and for their efforts to maintain public safety in the City.

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

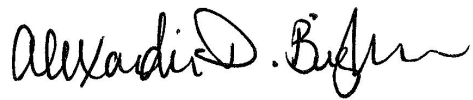
CM Markus and CA Kucharek presented the report.

INFORMATION ONLY



**XI. ADJOURN**

Mayor Longe adjourned the meeting at 10:34 p.m.



Alexandria Bingham, City Clerk



Laura Eichenhorn, City Transcriptionist