

Birmingham City Commission Minutes
March 27, 2023
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/807749761>

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

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

Announcements

- 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.
- Proclamation recognizing April 24, 2023 as Armenian Genocide Remembrance Day

Appointments

Jeremy Caverly and Veronica Rivera were interviewed for potential appointment to the Ad Hoc Environmental Sustainability Committee. They were not nominated for a position.

Patrick Hillberg rescinded his application for the Ad Hoc Environmental Sustainability Committee, citing the number of candidates and their high quality.

Lindsay Wold and Tom Fink were unavailable to be interviewed for an appointment to the Ad Hoc Environmental Sustainability Committee and were not nominated for a position.

Joel Wrobel was unavailable to be interviewed for an appointment to the Parks and Recreation Board. It was noted that he would be invited for an interview at a later date.

03-050-23 Appointment to the Planning Board

Janelle Boyce was unavailable to be interviewed for her reappointment. The Mayor noted Ms. Boyce was a long-serving member of the Board and asked if the Commission would be comfortable reappointing Ms. Boyce in her absence.

The Commission assented.

MOTION: Nomination by Commissioner Schafer:
To appoint Ms. Boyce to the Planning Board as a regular member to serve a three-year term to expire March 28, 2026.

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

Nays, None

03-051-23 Appointment to the Planning Board

Bert Koseck was unavailable to be interviewed for his reappointment. The Mayor noted Mr. Koseck was a long-serving member of the Board and asked if the Commission would be comfortable reappointing Mr. Koseck in his absence.

The Commission assented.

MOTION: Nomination by Commissioner Boutros:
To appoint Mr. Koseck as a regular member to the Planning Board as a regular member to serve a three-year term to expire March 28, 2026.

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

Nays, None

03-052-23 Appointment to the Ad Hoc Environmental Sustainability Committee

The Mayor provided introductory remarks on the Ad Hoc Environmental Sustainability Committee.

Joseph Mercurio was interviewed for the appointment.

MOTION: Nomination by Commissioner Boutros:
To appoint Mr. Mercurio to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Boutros specified that Mr. Mercurio would occupy the energy/electric vehicles position on the Committee.

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

Nays, None

03-053-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Jess Newman was interviewed for the appointment.

MOTION: Nomination by Commissioner Baller:
To appoint Ms. Newman to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Baller specified Ms. Newman would be the resident-at-large on the Committee.

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

Nays, None

03-054-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Lara Edwards was interviewed for the appointment.

MOTION: Nomination by Commissioner Schafer:
To appoint Ms. Edwards to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Schafer specified that Ms. Edwards would occupy the stormwater position on the Committee.

VOICE VOTE: Ayes, MPT McLain
Commissioner Boutros

Commissioner Host
Mayor Longe
Commissioner Haig
Commissioner Schafer
Commissioner Baller

Nays, None

03-055-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Lois DeBacker was interviewed for the appointment.

MOTION: Nomination by Commissioner Haig:
To appoint Ms. DeBacker to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Haig specified that Ms. DeBacker would occupy the environmental law consulting position on the Committee.

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

Nays, None

03-056-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Albert Harvey Bell IV was interviewed for the appointment.

MOTION: Nomination by Commissioner Host:
To appoint Mr. Bell to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Host specified that Mr. Bell would occupy the building/construction position on the Committee.

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

Nays, None

03-057-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Jerome S. Amber was interviewed for the appointment.

MOTION: Nomination by Commissioner Haig:
To appoint Mr. Amber to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Haig specified that Mr. Amber would occupy the waste position on the Committee.

VOICE VOTE: Ayes, Commissioner Host
 Commissioner Haig

 Nays, MPT McLain
 Commissioner Boutros
 Mayor Longe
 Commissioner Schafer
 Commissioner Baller

03-058-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Rachna Gulati was interviewed for the appointment.

MOTION: Nomination by Commissioner Schafer:
To appoint Ms. Gulati to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Schafer specified that Ms. Gulati would occupy the waste position on the Committee.

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

 Nays, Commissioner Host

03-059-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Danielle Todd was interviewed for the appointment.

MOTION: Nomination by Commissioner Baller:
To appoint Ms. Todd to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

Commissioner Baller specified that Ms. Todd would occupy the waste position on the Committee.

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

Nays, Two Commissioner Host
Commissioner Haig

03-060-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Daniella Torcolacci was interviewed for the appointment.

MOTION: Nomination by Commissioner Host:
To appoint Ms. Torcolacci to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

The Mayor specified that Ms. Torcolacci would occupy the energy position on the Committee.

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

Nays, None

03-061-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Debra Horner was interviewed for the appointment.

MOTION: Nomination by Commissioner Baller:
To appoint Ms. Horner to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

The Commissioner Baller specified that Ms. Horner would occupy the stormwater position on the Committee.

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

Nays, None

03-062-23 Appointment to the Ad Hoc Environmental Sustainability Committee

Kevin Bopp was interviewed for the appointment.

MOTION: Nomination by Commissioner Baller:
To appoint Mr. Bopp to the Ad Hoc Environmental Sustainability Committee as a regular member to serve an eighteen-month term to expire September 27, 2024.

The Commissioner Baller specified that Mr. Bopp would occupy the building/construction position on the Committee.

VOICE VOTE: Ayes, Commissioner Baller
 Commissioner Host

 Nays, MPT McLain
 Commissioner Boutros
 Mayor Longe
 Commissioner Haig
 Commissioner Schafer

03-063-23 Appointment to the Public Arts Board

Andi Harris was interviewed for the appointment.

MOTION: Nomination by Commissioner Boutros:
To appoint Ms. Harris to the Public Arts Board as an alternate member to serve the remainder of a three-year term to expire January 28, 2026.

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

 Nays, None

03-064-23 Appointment to the Parks and Recreation Board

Sarah Kupczyk was interviewed for the appointment.

MOTION: Nomination by Commissioner Schafer:
To appoint Mr. Kupczyk to the Parks and Recreation Board as a regular member to serve a three-year term to expire March 13, 2026.

VOICE VOTE: Ayes, MPT McLain
 Commissioner Boutros
 Commissioner Host

Mayor Longe
Commissioner Haig
Commissioner Schafer
Commissioner Baller

Nays, None

03-065-23 Appointment to the Parks and Recreation Board

Steve Sweeney was interviewed for the appointment.

MOTION: Nomination by Commissioner Host:
To appoint Mr. Sweeney to the Parks and Recreation Board as a regular member to serve a three-year term to expire March 13, 2026.

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

Nays, None

Those appointees present were sworn in by CC Bingham. It was noted that those in attendance by Zoom or absent would be sworn in at a later date.

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

In reply to Commission request and in order to allow residents to comment earlier in the meeting, CM Markus presented the portion of the City Manager Report regarding the northeast corner of E. Lincoln and S. Eton.

Larry Bertollini, Denise Rumsey, Diane Smith, Ron Glaser, and Claudia Unruh spoke in favor of maintaining the northeast corner of E. Lincoln and S. Eton as greenspace.

John Rusche recommended the northeast corner of E. Lincoln and S. Eton be designated as recreational on page 275 in the plan and as public property on page 277.

In reply to Todd MacIntosh, CM Markus explained how a rezoning of the parcel in question could occur.

Commissioner Haig noted that Motion 08-225-19 did not include the northeast corner of E. Lincoln and S. Eton as part of the adjacent Economic Development Zone.

V. CONSENT AGENDA

03-066-23 Consent Agenda

The following items were pulled from the Consent Agenda:
Commissioner Baller: Item H – Lafontaine, Chrysler, Dodge, Jeep, Ram Vehicle Purchase

MOTION: Motion by Commissioner Baller, seconded by MPT McLain:
To approve the Consent Agenda excluding Item H.

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

Nays, None

- A. Resolution to approve the City Commission special meeting minutes of March 13, 2023.
- B. Resolution to approve the City Commission regular meeting minutes of March 13, 2023.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 15, 2023 in the amount of \$892,206.85.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 23, 2023 in the amount of \$1,658,168.44.
- E. Resolution to approve a special event permit as requested by the HDSA Michigan Chapter to hold Yoga in the Park on 06/24/23 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.
- F. Resolution to approve a special event permit as requested by Birmingham Little League to hold the Little League Minors State Tournament on July 27-August 2, 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 approve an extension of the public services and minor home repair contract with NEXT for the purpose of expending remaining program year 2021-2022 Community Development Block Grant funds for the Yard Services, Senior Outreach Services, and Minor Home Repair Services administered by NEXT through December 31, 2023; and further, to authorize the Mayor and the City Clerk to sign the amendment on behalf of the City.
- I. Resolution to set a public hearing date of April 24, 2023 to consider amendments to Chapter 126 (Zoning), Article 3, Section 3.04, Article 3, Section 3.16, Article 4, Section 4.44, and Article 9, Section 9.02 to provide clear and enforceable outdoor dining standards.

AND

Resolution to consider amendments to Chapter 98 (Streets, Sidewalks and Other Public Places), Articles 2 and 3 on April 24, 2023 to add language for outdoor dining facilities on public property.

- J. Resolution to set a public hearing date of April 24th, 2023 to consider the lot division of 1429 Quarton Road, parcel # 19-26-203-003.

- K. Resolution to approve the art-on-loan agreement with Gary Kulak for the sculpture "Windswept" in Barnum Park for an additional 3 years, and to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

03-067-23 (Item H) Lafontaine, Chrysler, Dodge, Jeep, Ram Vehicle Purchase

Commissioner Baller noted that he spoke with Staff about the decision to make this vehicle purchase and was satisfied with the explanation he received. He advised members of the public that if they had further questions about this purchase they could email the City Manager.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To approve the purchase a 2023 Jeep Grand Cherokee Laredo 4x4, from Lafontaine Chrysler, Dodge, Jeep, Ram, located at 6131 S. Pennsylvania Ave., Lansing, MI 48911, under the MiDeal Cooperative Agreement #071B7700183, in the amount not to exceed \$41,723. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #661.0-441.006.971.0100.

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

Nays, None

Absent, Commissioner Haig

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

03-068-23 Public Hearing for 2023 Liquor License - Casa Perno

The Mayor opened the public hearing at 9:31 p.m.

PD Dupuis presented the item.

Kelly Allen, attorney, spoke on behalf of the establishment.

Seeing no public comment, the Mayor closed the public hearing at 9:35 p.m.

Commissioner Host said it was evident the establishment made an isolated mistake and said they should not be penalized for it.

MOTION: Motion by Commissioner Boutros, seconded by MPT McLain:

To approve the renewal of liquor license for the 2023 licensing period for Casa Pernoi, who holds a Class C Liquor License and is in compliance with Chapter 10, Alcoholic Liquors of the City Code.

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

Nays, None

03-069-23 Public Hearing for 2023 Liquor License - Papa Joes/Bistro Joes

The Mayor opened the public hearing at 9:36 p.m.

PD Dupuis presented the item.

Kelly Allen, attorney, spoke on behalf of the establishment.

Seeing no public comment, the Mayor closed the public hearing at 9:38 p.m.

MPT McLain emphasized the seriousness of the issue, and said it should be an example for other establishments in Birmingham. She also noted that she had been asked for identification to purchase alcoholic beverages at Papa Joe’s in the past, and said that in general they seemed to be following the laws about age verification.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Haig:
To approve the renewal of liquor license for the 2023 licensing period for Papa Joes/Bistro Joes, who holds a Class C Liquor License that is in compliance with Chapter 10, Alcoholic Liquors of the City Code.

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

Nays, None

03-070-23 Public Hearing for 2023 Liquor License - Toast

The Mayor opened the public hearing at 9:39 p.m.

PD Dupuis presented the item.

Kelly Allen, attorney, spoke on behalf of the establishment.

Seeing no public comment, the Mayor closed the public hearing at 9:48 p.m.

CA Kucharek and CM Markus explained the motion options provided by Staff.

MPT McLain noted that an overage of seats amounts to a health and safety issue.

MOTION: Motion by MPT McLain, seconded by Commissioner Boutros:
To approve the renewal of liquor license for the 2023 licensing period for Toast, who holds a Class C Liquor License that is in compliance with Chapter 10, Alcoholic Liquors of the City Code, with the following condition:

1. Toast provide the City with a written understanding of the requirements of Chapter 10, Alcoholic Liquors of the City Code and compliance with approved site plans. In addition, that failure to remain in compliance may result in the termination of the Special Land Use Permit.

Commissioner Baller said that Toast's removal of all extra seats from the restaurant would aid compliance. He said he would like a year to go by where no restaurants had excess seating according to their SLUPs.

Commissioner Haig noted that Toast had violated its SLUP in regards to this issue three times, and a fourth on an operating hours issue. He stated that this demonstrated a pattern of behavior. He then shared two lines from the resolution approving Toast's 2021 SLUP amendment which indicated that the seating would remain the same and that failure to comply with any of the above conditions 'shall result in termination of the Special Land Use Permit.' He noted the use of the word 'shall', saying he understood it to have a particular legal meaning. He raised concerns about the potential consequences of not terminating the SLUP given the repeat violations and the language used.

In reply to a request from the Mayor, the City Attorney provided guidance regarding Commissioner Haig's comments. CA Kucharek did advise that the legally binding documents were the ones signed with the establishment, which did not include 'shall' and left termination of the SLUP up to the Commission's discretion.

The Mayor said she wanted to hear from Toast's owner and staff about the violations.

CA Kucharek confirmed for the Mayor that the SLUP could be terminated at any time by the City as long as due process was followed.

Ms. Allen noted that Toast had the only SLUP in the City that had included required hours, and that the operating hours issue had arisen because of the extenuating circumstances of the Covid-19 pandemic and had been resolved.

Jean-Baptiste Cailler, Manager at Toast, said he did not know how many seats were allowed at certain tables, that adding extra seats reduces the wait for customers, and that a guide to seating allowances would be helpful.

CM Markus replied that Toast agreed to a certain number of seats as part of the restaurant's agreements with the City. He also explained the difference between a bistro and Class C license.

Mr. Cailler stated he had been unaware of that information.

Commissioner Baller said it was unacceptable that any manager of a bistro establishment in Birmingham was unaware of the rules and history governing bistro operations. He said training in those aspects should be mandatory for managers.

Anthony Minicilli, Director of Operations at Toast, apologized for the issue. He said it was not Toast's intent to violate the SLUP. He said it occurred because Toast has a small staff and because of the day-to-day of running the business.

Regan Bloom, owner of Toast, took responsibility for not conveying the importance of the seating counts to Toast staff. She said she took the matter very seriously. She emphasized that all extra seating would be removed from the restaurant in order to prevent a recurrence of the issue and stated she understood that it was Toast's last chance regarding the issue. She apologized to the Commission for the errors.

The Mayor recommended that PD Dupuis be involved in the creation of the written understanding, including the creation of a seat count with each seat mapped to be provided to Toast management.

Commissioner Haig concurred, and emphasized the importance of writing out where each seat would be located. He also noted that Toast's repeated non-compliance put the City in a difficult position vis-a-vis other establishments, and asked Toast's management to consider that impact.

Commissioner Host said he could only support the resolution if it was modified to say that 'failure to remain in compliance **shall** result in the termination of the Special Land Use Permit.'

MPT McLain said she would maintain the motion language as-is since it matched the language of Toast's other agreements with the City.

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

 Nays, Commissioner Host

CA Kucharek confirmed Staff would provide the Commission with the written understanding once completed.

03-071-23 Public Hearing for 2023 Liquor License - Whole Foods

The Mayor opened the public hearing at 10:14 p.m.

PD Dupuis presented the item.

Kelly Allen, attorney, spoke on behalf of the establishment.

Seeing no public comment, the Mayor closed the public hearing at 10:16 p.m.

Ms. Allen asked that the liquor license be extended for 90 days in order to accommodate changes in the business' plans.

CM Markus recommended the item be tabled to the April 3, 2023 Commission meeting so Staff could return with updated language and recommendations.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Haig:
To postpone the public hearing for the renewal of the liquor license through a certain date to the April 3, 2023 Commission meeting.

It was reiterated that the the business ultimately intended to put its Class C license for this location into escrow while deciding next steps.

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

Nays, None

03-072-23 Employment Agreement for Jana Ecker as the City Manager

CA Kucharek presented the item. CA Kucharek and CM Markus answered informational questions from the Commission.

In regards to negotiating a salary above the advertised range, MPT McLain noted that the City was facing a more difficult hiring environment than it had in the past and that this was a public sector hiring process with other variables. She continued that the Michigan Center for Public Policy just published their research on the pressure faced by municipal governments to hire qualified candidates, with attention to equal pay for equal work and overall equity. She said that information was available online. She said that the present hiring environment was shocking versus the one she was accustomed to.

The Mayor explained that, as a participant in the negotiations, ACM Ecker’s work ethic with the City was well-established. Given ACM Ecker’s history, the Mayor said no one at the negotiations was concerned about issues of non-performance arising.

CA Kucharek concurred.

The Mayor noted that the five-year commitment would also assure City Staff and the public that the City would have some continuity in its leadership. She said the stability would also be more likely to attract employment candidates to the City.

Commissioner Baller recommended that the language of 12(B)(i) within the agreement be amended for clarity.

CA Kucharek said she would likely change it to “Except, if, at a public meeting, a majority of the City Commission votes to terminate the Employee because of her personal conviction of a felony **and/or** misdemeanor as defined in Paragraph 3.”

Commissioner Host stated he believed five years was too long a term.

Commissioner Baller commended the City Attorney and said the recommended contract was very fair. He said any concerns about a five year term was more than offset by the lower severance. He said with regard to moving expenses he would consider offering \$50,000, given the benefit and value of having ACM Ecker live in the City once she becomes City Manager. He said that could be a consideration down the road.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Boutros:
To approve the proposed Employment Agreement with the minor, unsubstantial edits discussed, between Jana Ecker and the City of Birmingham and to direct the Mayor and City Clerk to execute same.

Commissioner Boutros agreed with Commissioner Baller regarding the benefits of offering ACM Ecker more money to relocate into the City once she becomes City Manager. He also emphasized the difficulties of the present hiring environment for both the private and public sectors. He said he was very pleased to be hiring a wonderful person who has been with the City for 21 years and said the proposed compensation was very fair. He said in his personal business presently he is often willing to pay more than average in order to get a qualified candidate. He emphasized that the City would not be overpaying.

Commissioner Baller noted the City has over 200 employees, a \$100 million annual budget, and that in the private sector compensation for a comparable position would be higher.

MPT McLain noted the extensive amount of time the position requires and said the commitment was appreciated.

Public Comment

Frank Pizzano congratulated ACM Ecker. He raised concerns about the long-term costs associated with the City's contributions to ACM Ecker's 457(b) Deferred Compensation Plan. He said it would have been most appropriate for CA Kucharek to recuse herself from the negotiation and to allow her colleague to negotiate the contract for transparency reasons.

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

CA Kucharek noted she had offered to recuse herself and that the Commission had not deemed it necessary. She noted that both the Mayor and Mayor Pro Tem were observers to the entire negotiation process.

MPT McLain noted that both she and the Mayor were also independent professionals who have participated in municipal government and private contract negotiations.

The Mayor noted that ACM Ecker was already in a defined benefit plan and that there was no option available to remove her.

Commissioner Host said he was pleased ACM Ecker would be the new City Manager but that he was not persuaded she should be receiving the proposed compensation amount. He said he would prefer a three year contract with an annual evaluation since ACM Ecker had not been a City Manager previously. He expressed concerns about meeting his fiduciary responsibilities to the City if he agreed to the proposed compensation amount.

ROLL CALL VOTE: Ayes, MPT McLain

Commissioner Boutros
Mayor Longe
Commissioner Schafer
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

MPT McLain reported back from the MML's Infrastructure, Transportation, and Technology Committee and provided notice of upcoming MML events.

Commissioner Schafer reported back from SEMCOG's General Assembly meeting and provided notice of upcoming SEMCOG events.

B. Commissioner Comments

Commissioner Baller recognized and commended the work of Communications Director Marianne Gamboa and the Communications Department. He said CD Gamboa's work would likely play a large part in promoting sustainability in the community moving forward.

MPT McLain thanked everyone who attended to speak regarding the northeast corner of E. Lincoln and S. Eton. She encouraged residents to continue to formally submit their comments and questions to the City so they could be considered and addressed. She noted that doing so would allow everyone in the community to work together to take the community in a positive direction.

Commissioner Schafer expressed appreciation for the new Ad Hoc Environmental Sustainability Committee and all the residents who applied to serve. She said she was proud to serve the community's residents and was in awe of all they have to offer.

MPT McLain commended Commissioner Schafer for proposing the Ad Hoc Environmental Sustainability Committee

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

D. Legislation

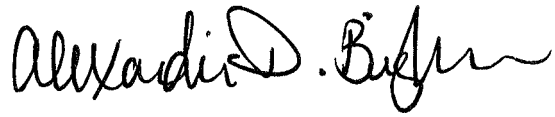
E. City Staff

1. City Manager Report
2. Planning Division Annual Report

INFORMATION ONLY

XI. ADJOURN

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

A handwritten signature in black ink that reads "Alexandria Bingham". The signature is written in a cursive style with a large initial 'A' and a long, sweeping underline.

Alexandria Bingham, City Clerk

A handwritten signature in black ink that reads "Laura Eichenhorn". The signature is written in a cursive style with a large initial 'L' and a long, sweeping underline.

Laura Eichenhorn, City Transcriptionist