

Birmingham City Commission Minutes
April 24, 2023
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/820766927>

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; Senior Planner Cowan, Planning Director Dupuis, Assistant City Manager Ecker, Finance Director Gerber, City Attorney Kucharek, Fire Marshal Scaife, Fire Chief Wells

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.
- Arbor Day Celebration Proclamation
- Arab American Heritage Month Proclamation
- Chaldean-American Month Proclamation
- Clerk Week Proclamation

Appointments

Neither Dennis Mando or Scott H. Sirich were available for interviews for the Board of Building Trades Appeals Appointments. The Mayor noted these would be reappointments and asked the Commission if they were interested in making nominations.

04-083-23 Board of Building Trades Appeals Appointment

MOTION: Nomination by MPT Boutros:

To appoint Dennis Mando to the Board of Building Trades Appeals as a regular member to serve a three-year term to expire May 23, 2026.

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

Nays, None

04-084-23 Board of Building Trades Appeals Appointment

MOTION: Nomination by MPT McLain:
To appoint Scott H. Sirich to the Board of Building Trades Appeals as a regular member to serve a three-year term to expire May 23, 2026.

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

Nays, None

The Mayor noted that Messrs. Mando and Sirich would be sworn in at a later date.

Employee Recognition

FC Wells stated that he was informed earlier on April 24, 2023 that Birmingham’s ISO rating was raised to a two. He recognized the promotion of Jeff Scaife to Fire Marshal.

FM Scaife briefly spoke and was acknowledged by the Commission.

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

V. CONSENT AGENDA

04-085-23 Consent Agenda

The following items were pulled from the Consent Agenda:

- Commissioner Haig: Item H – Amendment to Tennis Facility Lease
- Item K – Delinquent Special Assessments/Invoices to the Tax Roll
- MPT McLain: Item D – Warrant List Dated 04/05/2023
- Item M – Temporary Art Installation - Piano in the Park

MOTION: Motion by Commissioner Boutros, seconded by MPT McLain:
To approve the Consent Agenda excluding Items D, H, K, and M.

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 regular meeting minutes of March 27, 2023.
- B. Resolution to approve the City Commission workshop meeting minutes of April 3, 2023.
- C. Resolution to approve the City Commission regular meeting minutes of April 3, 2023.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 12, 2023 in the amount of \$633,448.28.
- F. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 19, 2023 in the amount of \$1,190,459.59.
- G. Resolution to approve the purchase of a Tandem-Axle Dump Truck from Wolverine Truck Group, located at 107 S. Groesbeck, Mt. Clemens, MI 48043, under the Rochester Hills Cooperative Agreement, RFP-RH-20-023, in the amount not to exceed \$313,976.00. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #661.0-441.006.971.0100.
- I. Resolution to approve an extension of the public services and minor home repair contract with NEXT for the purpose of expending remaining program year 2020-2021 Community Development Block Grant funds for Minor Home Repair Services administered by NEXT through June 30, 2024; and further, to authorize the Mayor and the City Clerk to sign the amendment on behalf of the City.
- J. Resolution to award the 2022-2023 Public Services contract totaling \$10,445.00 for Yard Services and Senior Outreach Services to NEXT under the Community Development Block Grant Program; and further, to authorize the Mayor to sign the contract on behalf of the City.
- L. Resolution WHEREAS, The City Treasurer, in accordance with Chapter 114, Section 114-303, of the city code has reported certain water/sewage accounts, including interest and penalty, unpaid and delinquent on May 1, 2023, and

WHEREAS, Chapter 114, Section 114-303, of the city code provides that these payments shall be carried to the next annual city tax roll.

NOW, THEREFORE, BE IT RESOLVED, that the properties with unpaid and delinquent water/sewage accounts, listed in the Delinquent Water/Sewer Tax Roll, dated April 13, 2023, including interest

and penalty, be transferred and reassessed to the 2023 city tax roll and authorization be given to remove from the list any bills paid or a payment plan agreement signed after commission approval.

- N. Resolution to approve the project budget increase for Contract #5-21 (P), 2021 Asphalt Resurfacing Program, by \$382,510.00 to a total budget for Parking Lot No. 5 of \$485,510.00, and approving the appropriation and amendment of the 2022/2023 budget as follows:

Automobile Parking System:

Revenues:

Draw from Fund Balance	514.1-000.000-400.0000	\$382,510.00
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Expenditures:

Public Improvements	514.1-594.005-981.0100-21.ASPHALT	\$382,510.00
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- O. Resolution to set the Public Hearing of Necessity for the construction of sidewalk and streetscape improvements adjacent to all properties within the project area on Brown Street, from S. Old Woodward Ave. to Woodward Ave., on Monday, May 8, 2023, at 7:30 P.M.; and

If necessity is determined on May 8, 2023, to meet on Monday, May 22, 2023, at 7:30 P.M., for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for construction of sidewalk and streetscape improvements adjacent to all properties within the project area on Brown Street, from S. Old Woodward Ave. to Woodward Ave.

- P. Resolution to accept the resignation of George Stern from the Greenwood Cemetery Advisory Board, to thank him for his service, and to direct the City Clerk to begin the process of filling the vacancy of this regular board member position with term expiration of July 6, 2024.
- Q. Resolution to accept the resignation of Robert Ziegleman, Chris McLogan and Luke Joseph from the Housing Board of Appeals, to thank them for their service, and to direct the City Clerk to continue to accept applications to fill vacancies on the Housing Board of Appeals.

The City Manager recommended the Commission handle the items removed from the consent agenda after discussing the Proposed Ordinance Amending Chapter 66 – Establishing Tenants Rights for Senior Citizens.

The Commission concurred.

VI. UNFINISHED BUSINESS

04-086-23 Proposed Ordinance Amending Chapter 66 – Establishing Tenants Rights for Senior Citizens

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

In reply to an inquiry from the Mayor, Oakland County Commissioner (OCC) Charlie Cavell advised the Commission that the two Michigan House bills regarding tenants’ rights have been introduced every year for the last fifteen years.

Commissioner comments were as follows:

- It would be prudent to have some form of renters' protections, and it is also important to ensure that the requirements are not overly burdensome for either landlord or tenant. A landlord-tenant Code of Conduct, in which present protections are listed and mediation is encouraged, might be an appropriate first step before legislation;
 - Landlords could be invited to sign on to such a Code of Conduct, and could be listed as such. Tenants could also share comments regarding violations of the Code of Conduct; and,
- All tenants, regardless of age, should be able to renew their leases unless there is just cause for non-renewal.

Public Comment

Diane Anderson described some renters' recent difficulties with certain landlords in Birmingham and stated that Michigan is well-known for being lax in its tenant protections.

Steve Tomkowiak, attorney with the Fair Housing Center of Metropolitan Detroit (FHCMD), listed 13 Michigan municipalities that have source of income protection. He stated that, to his knowledge, no litigation has occurred because of source of income protection in Michigan. He said he could provide training and other comments on the matter free-of-charge since the FHCMD is grant-funded. He recommended, in concurrence with Commissioner Host, that tenant protections not be restricted by age, noting that it is illegal in Michigan for landlords to ask a tenant's age.

Dorothy Conrad stated the cost of fighting an eviction would often be prohibitive to renters. She stated she prevailed in her eviction case because of the support of hundreds of community members, and noted that every tenant could not rely on similar levels of advocacy. She noted that her tenant rights' group had not been asked for input on the proposed ordinance changes. She asked that the currently proposed ordinance changes not be approved, that the Commission seek comment from tenants, and that the Commission reformulate the proposed changes based on those conversations.

Mary Williams said, in concurrence with Commissioner Host, that tenant protections should be available to all good tenants.

Jim Gromer, attorney, said limiting auto-renewal and source of income protections to the over 65 groups was proper. He spoke in favor of reaching a balance between landlords' and tenants' interests.

Mike Santi stated he was a landlord to a tenant that remained in her apartment until she passed away at 106 years old. He said there were two sides to the story about landlords.

Jenni Scheid, attorney, said she worked for 20 years with the Michigan Department of Civil Rights (MDCR) and that age restrictions included in the currently proposed ordinance changes would violate Michigan's Elliott-Larsen Civil Rights Act. She recommended the City consult the MDCR for their opinion on the currently proposed ordinance changes.

Sue Chatlin noted that people with disabilities are another group that could be severely impacted by a lack of tenant protections. She asked that tenant protections be extended to all tenants, and not just those over the age of 65.

Mary Ryan Taras said she was disappointed with the narrowness of the proposed ordinance changes. She said Birmingham had an opportunity to present a moderate ordinance that would balance landlord and tenant rights, and that the State could look to for a model for future legislation. She expressed disappointment that tenants were not asked for input on the proposed ordinance changes. She encouraged

the Commission to be brave and to have a meeting for listening to all affected voices on the topic. She said that rights and justice should not be age-limited.

OCC Cavell stated that Oakland County created an Attainable Housing Trust Fund in 2021. He said that any increased housing access, fair housing, and/or protection of renters' rights in the City would enable developers working in Birmingham to access funds from the Attainable Housing Trust Fund, which is permanently funded.

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

Commissioner Boutros said he was not ready to vote on the item. He recommended the City solicit more guidance from attorneys who work on these topics and from the MDCR.

The Mayor said there were a minimum of three open issues regarding the matter: the practicality of a Code of Conduct as opposed to an ordinance change, whether an age limit in the ordinance would be prohibited under the Elliott-Larsen Civil Rights Act, and whether the word 'citizen' should be removed.

The Mayor encouraged any interested member of the public to email their opinions on the matter to the City Manager for referral to the Commission.

MPT McLain explained all the research and work that goes into consideration of these matters. She also encouraged residents to reach out, by email, mailed letters, the GovAlert app, or via voicemail that could be transcribed and shared.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Haig:
To table the proposed ordinance to establish tenants' rights for senior citizens to a later date.

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

Nays, None

The Mayor thanked everyone for their participation.

VII. REMOVED FROM CONSENT AGENDA

04-087-23 Amendment to Tennis Facility Lease (Item H)

CM Markus answered informational questions from the Commission. He stated that he believed this represented a recreational asset to the community.

Commissioner Baller concurred with CM Markus, and added that he would be supportive of considering similar recreational opportunities with other operators on small portions of public land.

Commissioner Boutros concurred with the City Manager as well. He said requiring parking would change the operator's considerations.

Commissioner Haig said he would like to know if the tennis operator would be charged market rate. He said not requiring parking in this case was different from other commercial uses that have been before the Commission.

CM Markus explained that this would be a public-private partnership, which is different from the other commercial uses mentioned by Commissioner Haig as potentially precedential. He noted that there would be common parking for all recreational uses. He said there was no shortage of parking during the winter months unless there was a major hockey tournament, and noted that on-street parking was also available.

Commissioner Baller said he estimated that the rate was close to market rate, and noted that the City was receiving a service in return.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Schafer:
To approve the Fourth Amendment to the Tennis Facility Lease with the Birmingham Racquet Club authorizing a second ten (10) year extension to the lease, ending September 30, 2043, in consideration of the Lessee making long-term improvements and maintenance of the tennis facility and offering a resident discount of 20% across all memberships according to Attachment A. Further, to authorize the Mayor and Clerk to sign the agreement upon receipt of the required insurance.

Public Comment

Pam Graham recommended the motion not be approved presently because of concerns around transparency, competitiveness, meeting the programming needs of everyone in the community, the level and prices of services, flexibility, and the measures taken to protect City assets.

CM Markus noted that one of the courts is striped for pickleball, and agreed with Ms. Graham that it helps meet the programming needs of the community.

Jeff Stassen, CEO of the Birmingham Racquet Club, said the goal is to continue to provide first-rate service to Birmingham and the surrounding communities. He said the expense of the maintenance required more time to amortize the costs. He said the goal was to install the new domes in August 2024. He explained how the Racquet Club benefits the community and noted that tennis was a financially difficult sport to provide space for.

In reply to CM Markus, Mr. Stassen confirmed he was not just amortizing for depreciation purposes. He confirmed he was amortizing the cost over the expected life of the facility with the hope that enough revenue could be generated to pay the expenses and generate some profit. He stated that the rates being charged were competitive and were evidenced by the routinely full courts.

Commissioner Baller said he appreciated Ms. Graham's comments, and said it was possible the Parks and Recreation Board should have weighed in on the item. He also offered his support for the motion.

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

Nays, None

04-088-23 Delinquent Special Assessments/Invoices to the Tax Roll (Item K)

Commissioner Haig said the City should discourage those who frequently are delinquent on their Special Assessments/Invoices to the Tax Roll from continuing to be so. He noted that previous Commissioner Sherman had made a similar comment when the same item had occurred in years prior.

FD Gerber said he was not sure, beyond the 15% penalty, how to encourage residents to pay their bills on time.

CM Markus noted the issue may have related more to Consent Agenda Item L.

Commissioner Haig said he picked between Consent Agenda Items K and L to make the comment.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Boutros:
To move Consent Agenda Item K as written in the evening’s agenda packet.

K. Resolution WHEREAS, the City Treasurer, in accordance with the provisions in the City Code has reported certain special assessments and invoices, including interest and penalty, unpaid and delinquent on May 1, 2023, and

WHEREAS, the City Code provides that these delinquent special assessments and invoices shall be carried to the next annual City tax roll,

NOW THEREFORE BE IT RESOLVED, that the listing of unpaid and delinquent special assessments and invoices, including interest and penalty, be transferred and reassessed to the 2023 City tax roll with an additional 15% penalty and authorization be given to remove from the list any bills paid after commission approval.

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

Nays, None

04-089-23 Warrant List Dated 04/05/2023 (Item D)

MPT McLain noted that the warrant list included payments to the 48th District Court, and informed the public that she would observe every time the City makes a payment to the 48th District Court since concerns have arisen in the past.

MOTION: Motion by MPT McLain, seconded by Commissioner Host:
To approve the warrant list, including Automated Clearing House payments, dated April 5, 2023 in the amount of \$402,708.23.

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

Nays, None

04-090-23 Temporary Art Installation - Piano in the Park (Item M)

MPT McLain said it would be beneficial to provide signage that encourages members of the public to respect the instrument.

CM Markus said he directed Staff to find a way to tether the piano so it could be moved for concerts but not removed from the Park. He said other communities also use outdoor furniture covers for their outdoor pianos.

MPT McLain said she would be happy to donate an outdoor furniture cover for the piano if allowed.

MOTION: Motion by MPT McLain, seconded by Commissioner Host:
To approve the art donation and temporary art installation of a piano to be placed in Shain Park beneath the Markus Pavilion from the middle of May 2023 to the end of November 2023.

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

Nays, None

VI. UNFINISHED BUSINESS (Cont.)

04-091-23 Public Hearing - to amend 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 to amend Chapter 98 (Streets, Sidewalks and Other Public Places), Article 2 and Article 3, to add language for outdoor dining facilities on public property

The Mayor opened the public hearing at 9:42 p.m.

PD Dupuis explained the request to postpone.

Seeing no public comment, the Mayor closed the public hearing at 9:43 p.m.

PD Dupuis answered informational questions from the Commission.

Commissioner Baller said he would like to know the history of, and the reasoning for, the City's dislike of eisenglass when the item returns.

MOTION: Motion by Commissioner Boutros:

To postpone consideration of the 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 AND the amendments to Chapter 98 (Streets, Sidewalks and Other Public Places), Article 2 and Article 3, to a date certain of May 22, 2023.

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

Nays, None

Absent, Commissioner Haig

04-092-23 Proposed Ordinance Amending Chapter 26 – Establishing and Regulating Marihuana

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

In reply to Commissioner Baller, PD Dupuis clarified that there were a few parcels on Woodward between 14 Mile and Lincoln that were inadvertently left off the map despite being an area where marihuana businesses could be located.

Commissioner comments were as follows:

- The content of petitions can be misrepresented, and there would be no recourse on the part of the City vis-a-vis those misrepresentations;
- The marihuana laws at the State level were in part formed in response to the lobbying process;
- Passing a marihuana ordinance preëemptively is a much more prudent step than the other available options; and,
- If additional parks were located in certain areas of the City, it might be impossible to locate a marihuana business in Birmingham that would be compliant with State law.

Public Comment

Aric Klar of Quality Roots said that Birmingham was home to many people knowledgeable in the marijuana industry and recommended the City seek out expert advice. He said there was likely to be extensive competition to locate a retail marijuana business in the City. He cautioned that the proposed ordinance as presently written would likely result in litigation.

Christie Kelly of Sozo concurred with Mr. Klar that marijuana businesses would demonstrate significant interest in locating in Birmingham. She said the Commission might want to revisit whether one retail location would adequately meet the likely demand. She recommended that the City create an application review panel composed of some of the subject matter experts in the City.

Carol Mastroianni, Executive Director of the Birmingham Bloomfield Community Coalition (BBCC), reviewed: changes in THC content of marijuana products over time, the use of THC-containing products by high schoolers in the BBCC's served communities, the levels self-reported mental health concerns in teens in BBCC's served communities, and the increased link between mental health distress and the use of THC-containing products.

Rob Crosby said he runs a financial services business in downtown Birmingham and posited that business owners in downtown Birmingham would not like having a dispensary close by.

Kelly Michaud of BBCC reviewed: the perception among teens of risk and harm associated with trying marijuana, the perception among teens of access to THC-containing products, the likelihood of marijuana addiction in teens, and the potential links between marijuana use and long-term mental health difficulties.

Dana LaKritz Marcus said her preference would be that no marijuana retail establishments be allowed in the City. She acknowledged that may not be possible, and raised concerns about the appeal of marijuana establishments to children and the impact of marijuana on adolescents' brain development.

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

Commissioner comments were as follows:

- The City needs to consult some of the subject experts for advice on this process;
- It would be worthwhile for the City Attorney to speak with Keego Harbor, Michigan about their recent experiences with marijuana businesses; and,
- It would be worthwhile for the City Attorney to speak with litigators that specialize in defending municipalities in cases pertaining to marijuana businesses.

In reply to the Mayor, CA Kucharek said she would be happy to speak with a litigator that specializes in defending cities in cases pertaining to marijuana businesses about the proposed ordinance language.

MOTION: Motion by MPT McLain, Commissioner Boutros:
To table consideration of the issue to a future date.

Commissioner Haig expressed concern about there being an influx of potential marijuana business applications based on comments from Mr. Klar.

The Mayor said that was likely to occur regardless of whether the proposed ordinance language was presently passed or not. She said her priority was to pass the most defensible ordinance possible.

Commissioner Host said he was intrigued by the idea of creating more City parks, and said residents would likely appreciate additional parks.

The Mayor noted that the City Manager could consider the feasibility of that option while CA Kucharek also conducts her separate research.

Commissioner Baller agreed the City Manager should explore that option. The Commissioner also requested an updated map inclusive of all possible locations.

In reply to a request for clarification, CA Kucharek said the ordinance would aim to limit the number of available marihuana business licenses in the City. She explained that because aspects of this area of the law are still being decided, she could not guarantee that the ordinance would limit the number of available marihuana business licenses in the City long-term.

The Mayor said it would be better for the City to be proactive.

Commissioner Schafer said it was appropriate to table the conversation since there seemed to be a number of opinions on how the Commission should proceed. She also thanked Ms. Mastroianni and Ms. Michaud for their work on behalf of Birmingham youth.

Public Comment

David Bloom concurred with Commissioner Schafer that more information would help the Commission navigate the available options, including the potential option of creating new parks. He recommended the City create a board to study the options available to the community, and that the board could also serve to review marihuana business applications if the City proceeds with that option.

Ms. Kelly said State marihuana law does not set forth parks as a prohibited use or create a buffer space around parks.

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

Nays, None

VIII. NEW BUSINESS

04-093-23 Establishment of an Ad Hoc Aging in Place Committee

ACM Ecker presented the item and answered informational questions from the Commission.

Commissioner comments were as follows:

- It would be appropriate to have someone on the committee who studies demographics and data;
- It might be appropriate to have additional committee members familiar with the needs of the senior community;
- It would be appropriate to have an additional committee member able to write well for the composition of the committee’s action plan;
- It might be worthwhile to increase the number of committee members to nine, from seven; and,

- The committee would have the opportunity to speak with Oakland County and SEMCOG experts on seniors, which would help address the need for demographic data.

ACM Ecker said that Staff tends to prefer committees of seven instead of nine, and noted the Commission has discretion on the committee size.

In reply to Commissioner Baller, the Mayor concurred that Staff could be encouraged to make whatever changes deemed necessary based on the Commission’s comments.

MOTION: Motion by Commissioner Haig, MPT McLain:
To establish the Ad Hoc Aging in Place Committee for a term of 18 months, and to direct staff to advertise for upcoming appointments to this committee; further, once established, to direct staff to facilitate the requested studies and research needed to develop an action plan to improve the health, safety and welfare of senior citizens in Birmingham.

Commissioner Baller said he would support the motion as long as ACM Ecker had the ability to adjust the committee roster based on Commission comments.

Commissioner Haig concurred.

The Mayor noted the committee roster would also be informed by the qualifications of the applicants.

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

Nays, None

04-094-23 Public Hearing for 1429 Quarton Road (Parcel # 19-26-203-003) – Lot Division

The Mayor opened the public hearing at 11:23 p.m.

SP Cowan presented the item.

Jon and Jan Elvekrog, applicants, spoke on behalf of the item.

Public Comment

In reply to Mike Santi, neighbor to the west, SP Cowan stated that further lot splits would be up to the future property owner and would have to be checked against the requirements of the municipal code. He explained how setbacks in the City are calculated.

Mr. Santi said he would not be in favor of further lot splits because it could increase the number of adjacent homes and decrease the green space visible from this home.

Webb Barnes, neighbor to the east, said he was fine with the lot split and just did not want his property taxes to be increased as a result of the lot split.

In reply to Mr. Barnes, CM Markus explained that property taxes are usually based on the value of the property determined from comparable sales. CM Markus said that a lot split of one property would not cause a different property's taxes to increase.

The Mayor noted there were five letters on the matter that were entered into the record, with two in support and three against the requested lot split.

The Mayor closed the public hearing at 11:44 p.m.

Individual Commissioner comments were as follows:

- This lot split would adversely impact the interests of the abutting property owners, which is one of the criteria the ordinance requires the Commission consider. The neighbor to the south asserted this lot split would devalue their property. The lots were probably platted with the depth they have to compensate for being located on Quarton, which is a busy road. The letter writers concerned about drainage on Pilgrim should consider petitioning for improvements to their unimproved street, in order to improve the drainage on the street;
- The lot complies with the ordinance requirements for a lot split, and consequently should be permitted. The left side of Chesterfield between Raynale and Quarton has three lots where one previously was;
- The previous Commission moved lot splits and lot combinations to the Commission so that they could be reviewed on a case-by-case basis to determine what was best for the community. Usually these proposals come to the Commission with more information, including a proposed house design and a developer, which allowed for more certainty in the evaluation;
- The previous Commission only ran into issues with neighbors regarding lot combinations, since they allowed for larger houses. There has not been an issue before with lot splits. There should not be an issue with a requested lot split that otherwise meets all of the ordinance requirements;
- Since neighbors have voiced concerns about the lot split, and the applicant seemed more flexible in their request, it would be better to err on the side of the neighbors;
- The applicant, if interested, could include a covenant for this lot split that would prevent further lot splits so as to not adversely affect Mr. Santi. The lot split otherwise meets the ordinance requirements. Those on Pilgrim should petition to improve their road to address drainage issues; and,
- The argument that the lot split would devalue a neighboring property is subjective. The argument that the increased green space is more pleasing to the neighbors is also not relevant, since each property owner is allowed to do what they wish with their own private property. The lot split seems to meet the overall intent of the ordinance. In addition, if Mr. Santi wanted to preserve the green space on the split lot, he could always purchase the portion without a home.

The Mayor asked Mr. Elvekrog whether he would like the Commission to proceed with a vote or to pend the item.

Mr. Elvekrog asked the Commission to proceed with a vote.

MOTION: Motion by Commissioner Boutros, Commissioner Host:
To approve the lot division of 1429 Quarton Road, parcel # 19-26-203-003.

Commissioner Boutros addressed Mr. Santi's concerns, stating that the Commission reviews these requests on a case-by-case basis. He said it was unlikely that a further lot split of the property would be as supported by the Commission. He noted that some further lot splits might not even meet the requirements of the ordinance, given the setbacks and other considerations. Commissioner Boutros said he was moving this motion because he believed the present request was fair and met the ordinance requirements.

At the request of Commissioner Baller, the Mayor asked whether any Commissioners had any ex parte communication with the applicant.

No Commissioners indicated that they had.

Public Comment

Mr. Santi stated that the previous owner of his lot had pursued a lot split which was denied. He asked the Commission to research why the split of his lot was denied. He said the potential approval of this motion, in light of the previously denied split of his lot, was unfair.

ROLL CALL VOTE: Ayes, Commissioner Boutros
 Commissioner Host
 Commissioner Haig
 Commissioner Schafer

 Nays, MPT McLain
 Mayor Longe
 Commissioner Baller

04-095-23 Proposed Ordinance Amending Chapter 2 – Changes to the Ethics Ordinance

CC Bingham presented the item.

MOTION: Motion by Commissioner Baller, Commissioner Boutros:
To adopt the ordinance amendments as recommended by the Board of Ethics and to further direct the City Clerk to notice the two available alternate Ethics Board member positions and begin the process of filling these vacancies.

Public Comment

Mr. Bloom said the ordinance required further revisions, including a way to address the conduct of officials outside of their official duties, a way for Commissioners to both engage in advocacy and to be fair and impartial where appropriate, and expanding the Ethics Board to five people plus two alternates.

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

 Nays, None

Commission Items for Future Discussion

04-096-23 Special Assessments for Funding Police and Fire Operations

MOTION: Motion by Commissioner Baller, Commissioner Host:
To have further discussion about how some communities use special assessments to fund Police and Fire operations and whether that would be an appropriate funding mechanism for Birmingham to explore.

VOICE VOTE: Ayes, Commissioner Host
Commissioner Baller

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

Commission Discussion On Items From A Prior Meeting

No items were discussed.

04-097-23 Request for Closed Session Under MCL § 15.268 Sec. 8(d) of the Open Meetings Act and MCL § 15.268 Sec. 8(h)

CA Kucharek summarized the item.

MOTION: Motion by Commissioner Host, Commissioner Baller:
To meet in closed session to discuss the potential purchase of land pursuant to MCL § 15.268 Sec. 8(d) of the Open Meetings Act and pursuant to MCL § 15.268 Sec. 8(h) to discuss a written attorney client privileged communication.

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

Nays, None

The Commission went into closed session at 12:40 a.m.

The Commission returned from closed session at 1:23 a.m.

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to Appoint to the Historic District Study Committee
 - 2. Notice of Intention to Appoint to the Greenwood Cemetery Advisory Board
 - 3. Notice of Intention to Appoint to the Martha Baldwin Park Board

- 4. Notice of Intention to Appoint to the Board of Ethics
- B. Commissioner Comments

Commissioner Host read a statement explaining his concerns regarding the revised Code of Conduct and provided a copy of the statement to the City Clerk to receive and file.

Commissioner Baller addressed an item in the City Manager’s Report. He clarified that he had no interest in having the City involved in the formation or administration of a Foundation. He described further topics around event creation and administration that he was interested in exploring and discussing.

Commissioner Baller then praised the Commission and the City administration. He asked the Commission to read the budget thoroughly in advance of the upcoming Budget Hearing and to raise questions and concerns.

MPT McLain asked that the City develop a one-page summary of the Ad Hoc Unimproved Streets Study Committee’s report in order to better communicate the information to residents. She said there was a lot of resident interest in the topic.

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

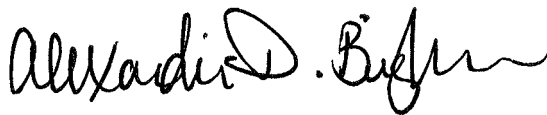
CM Markus reviewed his report. He said Staff would schedule a workshop for the Commission to discuss the Code of Conduct.

- 2. Code of Conduct

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 1:23 a.m.



Alexandria Bingham, City Clerk



Laura Eichenhorn, City Transcriptionist