

Birmingham City Commission Minutes
January 8, 2024
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/900952400>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor McLain
MPT Schafer
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner Long
Commissioner Longe

Absent: None

Staff: City Manager Ecker; City Clerk Bingham, Assistant City Engineer Borton, Assistant City Manager Clemence, City Engineer Coatta, Senior Planner Cowan, Assistant City Manager Fairbairn, Police Chief Grewe, Police Captain Kearney, City Attorney Kucharek, Parks & Forestry Foreman McGaughey, Fire Chief Wells, Department of Public Services Director Zielinski

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

State Rep. Sharon MacDonell and State Rep. Natalie Price provided State legislative updates.

Oakland County Commissioner Charlie Cavell provided County Commission updates.

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

David Bloom made a comment regarding accessory dwelling units in Birmingham and about interactions between voters and their legislators.

Tom Schneider made a comment regarding an issue with the Birmingham Country Club.

V. CONSENT AGENDA

01-001-24 Consent Agenda

MOTION: Motion by Commissioner Longe, seconded by Commissioner Long:
To move the Consent Agenda with the exception of Items B, G, and H.

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

Nays, None

- A. Resolution to approve the City Commission regular meeting minutes of December 18, 2023.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated January 4, 2024 in the amount of \$1,091,382.32.
- D. Resolution to amend the 2024 Schedule of Fees, Charges, Bonds and Insurance to include a change in the Birmingham Museum’s research fee from \$25 to \$30 per hour.
- E. Resolution to install all-way stop control at the intersections of Columbia St and Villa Rd and Columbia St and Haynes St. Further, to direct the Chief of Police and the City Clerk to sign the traffic control orders on behalf of the City.
- F. Resolution to enter into a lease agreement with Birmingham Tower Partners, LLC in the amount of \$850.00 per year with annual inflationary adjustments for an encroachment of 360 sq. ft. of right-of-way for private residential balconies at 479 S. Old Woodward.

01-002-24 Warrant List – December 20, 2023 (Item B)

Mayor McLain pulled the Item B, explaining that she pulls warrant lists with payments to the 48th District Court. She noted that a payment to the 48th District Court of \$466,481 was made as part of this warrant list.

Commissioner Host expressed appreciation for the Mayor’s pulling of the item.

MOTION: Motion by Commissioner Host, seconded by Commissioner Long:
To approve the warrant list, including Automated Clearing House payments, dated December 20, 2023 in the amount of \$1,378,750.34.

ROLL CALL VOTE: Ayes, Mayor McLain
Commissioner Host

Commissioner Longe
MPT Schafer
Commissioner Long
Commissioner Baller
Commissioner Haig

Nays, None

01-003-24 Board of Review Member Resignation (Item G)

Commissioner Longe pulled Item G and thanked Cynthia Rose for her years of service.

MOTION: Motion by Commissioner Longe, seconded by MPT Schafer:
To accept the resignation of Cynthia Rose from the Board of Review, to thank her for her service, and direct the City Clerk to begin the process of filling the vacancy.

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

Nays, None

01-004-24 Redding Road Project – Contract #9-23(S) Contract Award (Item H)

Commissioner Haig pulled Item H. Staff answered informational questions from Commissioner Haig.

MOTION: Motion by Commissioner Haig, seconded by MPT Schafer:
To accept the suggested Commission action as indicated on pages three through 12 of the packet, under Item 5H.

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

Nays, None

VI. CITY MANAGER'S REPORT

VII. UNFINISHED BUSINESS

VIII. NEW BUSINESS

01-005-24 Public Hearing of Necessity - Edgewood Road Project #6-24 (S) Water and Sewer Lateral Special Assessment District

The Mayor opened the public hearing at 8:05 p.m.

CE Coatta presented the item.

Seeing no public comment, the Mayor closed the public hearing at 8:11 p.m.

Staff answered informational questions from the Commission.

Commissioners made the following comments in the course of discussion:

- This project was approved by a previous Commission and proposed by a previous City Administration using different criteria than the City uses now. It would be appropriate to clarify whether this project represented an appropriate use of resources;
- When roads are cut into for any reason, it shortens the life of the road;
- This road was likely scheduled for improvement by the previous administration because the scoping likely indicated that these sewer replacements were more urgent than other sewers scoped around the same time;
- The road has not been repaved in the last 25 years. This project might allow for the creation of a rain garden, which could help reduce flooding in the area. The sewers are older than 50 years, and the water pressure in the project area is lacking. The looping of the water lines would be valuable for the residents in the project area;
- This project would improve the health, safety, and welfare of the residents in the area;
- It was clarified that this project would actually replace the portion of the sewer line not located on private property; and,
- Replacing the remainder of the sewer line on private property during this project may result in cost savings for the residents versus replacing the sewer line as part of a separate project.

MOTION: Motion by Commissioner Longe, seconded by Commissioner Baller:
WHEREAS, Notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property and lots to be assessed, by first class mail, and by publication in a newspaper generally circulated in the City; and

WHEREAS, The City Commission has conducted a public hearing and has determined to proceed with the project of replacing sewer services 50 years of age or older or of material that are not acceptable for City standards and replacing water services that are less than 1 inch in diameter on Edgewood Road between E. Lincoln Street and E. Southlawn Blvd.; and

WHEREAS, The City has previously established a policy requiring replacement of sewer services 50 years of age or older or of material that are not acceptable for City standard and water services less than 1 inch in diameter and the City street is open for repairs or reconstruction; and

WHEREAS, The City Commission, after the public hearing, has determined that the Edgewood Road Project, the replacement of sewer services that are 50 years of age or older or of material that are not acceptable for City standards, the replacement of water services that are less than 1 inch in diameter, is a necessity and is in the best interest of the City; and

WHEREAS, The Commission has approved the detailed plans and estimates of cost prepared by the City Engineer; and

WHEREAS, Formal bids have been received and the actual cost of sewer service and water service replacement has been determined; and

WHEREAS, The City Engineer has determined the boundaries of sewer service lateral and water service laterals located within the limits of the following streets shall be installed as part of the Edgewood Road Project (Contract #4-23(S)): Edgewood Road – E. Lincoln Street to E. Southlawn Blvd.; and

WHEREAS, The formula used in making the assessment is 100% of the contractor’s charge for replacing the lateral service that is 50 years of age or older or constructed of materials that are not acceptable for City standard and water service that is less than 1 inch in diameter within the public right-of-way between the utility and the property line (calculated at the rate of \$170.00 per foot of sewer service pipe and \$110.00 per foot of water service pipe).

THEREFORE LET IT BE RESOLVED, The City Commission has determined that the scope of the public improvement as described is in the best interest of the City and will benefit the properties listed in the assessment roll, and the City Commission directs the Manager to prepare a Special Assessment Roll and present the same to the City Commission for confirmation and further set a Public Hearing and give notice on January 22, 2024.

Sewer Lateral SAD

Street Address
280 E. Lincoln
400 E. Lincoln
1204 Edgewood
1212 Edgewood
1236 Edgewood
1260 Edgewood
1272 Edgewood
1300 Edgewood
1332 Edgewood
1348 Edgewood

1416 Edgewood
1450 Edgewood
1486 Edgewood
1498 Edgewood

Water Lateral SAD

Street Address
1204 Edgewood
1260 Edgewood
1288 Edgewood
1300 Edgewood
1332 Edgewood
1416 Edgewood
1450 Edgewood
1472 Edgewood
1498 Edgewood

Commissioner Haig expressed concern about voting in favor of the motion since he did not know the net cost of the project.

Subsequent to staff comment, Commissioner Haig reiterated for the record that the project was estimated to cost a little over \$2.2 million based off of a December 2023 quote.

Commissioner Long stated that Edgewood from Lincoln to Southlawn measures approximately a quarter of a mile.

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

Nays, None

01-006-24 Postponement of Shirley Rd. & Arlington St. Interim Report for City-Initiated Unimproved Street Project

Citing his residence within the project area, Commissioner Baller recused himself from all items on the present agenda regarding the Shirley Rd. & Arlington St. Unimproved Street Project and left the room at 8:50 p.m.

MOTION: Motion by Commissioner Host, seconded by Commissioner Haig:
To postpone the Commission’s proposed discussion of the proposed Arlington and Shirley sewer and road improvements until the next Commission meeting.

MPT Schafer said there was presently an opportunity to hear residents’ opinions, and so she would not support the motion to postpone the discussion.

Commissioner Longe said that she had independently visited the project area, and said she did not feel that a second visit would further contribute to her deliberations.

The Mayor clarified by a show of hands that all Commissioners deliberating on the item had visited the project area by car, had also visited the project area by bicycle or on foot, had read all the resident correspondence included in the agenda packet, had read all the other item information included in the agenda packet, and had watched the video recording of the relevant Multi-Modal Transportation Board (MMTB) discussion of the item.

Staff answered informational questions from the Commission.

Commissioner Long noted that while he was a member of the MMTB during initial discussions of the project, he had resigned from the MMTB and joined the Commission by the time the MMTB voted on its recommendations regarding the project. He suggested that the knowledge he gained from the MMTB discussions would benefit the Commission’s deliberations, and that his prior participation in some of the MMTB’s discussions would not necessitate his present recusal.

ROLL CALL VOTE: Ayes, Commissioner Host
Commissioner Haig

Nays, MPT Schafer
Commissioner Longe
Commissioner Long
Mayor McLain

01-007-24 Special Meeting to Tour Shirley Rd. & Arlington St.

MOTION: Motion by Commissioner Host, seconded by Commissioner Haig:
To move that the special meeting of the City Commission be scheduled prior to the Commission’s next meeting for the purpose of on-site fact-finding with representatives of the Coryell Association, and that consistent with the City Attorney’s counsel, proper public notice be given at least 18 hours in advance of the meeting start time.

Staff answered informational questions from the Commission.

ROLL CALL VOTE: Ayes, MPT Schafer
Commissioner Longe
Commissioner Long
Commissioner Host
Commissioner Haig

Nays, Mayor McLain

Mayor McLain explained her no vote was a matter of process, since all the Commissioners had visited Arlington and Shirley and had received information from residents and staff.

Commissioner Host, the Mayor, and Commissioner Long had a brief exchange about a portion of the Open Meetings Act (OMA).

Shirley Rd. & Arlington St. Interim Report for City-Initiated Unimproved Street Project

SP Cowan, CE Coatta, and FC Wells presented the item and answered informational questions from the Commission.

The Mayor explained to the public the procedure for commenting on the item.

Public Comment

Mike and Lindsay Vansyckle, Lisa Drake, Jenny Shebib, Olivia Davis, Richard Silbergleit opposed sidewalks being added within the project area.

Doug DelGrosso and Mr. Silbergleit opposed changes to the street widths.

Kathleen Deveraux opposed the City's newer method of selecting roads for improvement in light of how the improvements are funded.

Midge Moran opposed the project.

Mark Nickita and Janelle Whipple-Boyce supported the project.

Pam Minelli opposed the project's impact on her property and the project's hypothetical financial impact on senior citizens residing in the project area.

Mike Minelli supported the water and sewer repairs, and supported the City in seeking funding for the water and sewer repairs from other sources.

Jim Mirro supported an alternative plan.

Virginia Holcomb requested that the City provide information that would make the plan reasonable to residents of Arlington and Shirley.

Paul Reagan made a comment regarding the OMA.

A number of residents thanked the Commission and Staff for their work on the item.

The following comments were made during the Commission's discussion:

- Improving the water system within the project area would represent a significant safety improvement since it would increase the water pressure available to fire hydrants;
- The Commission has reviewed all available information and feedback from experts, staff, and residents;

- It is important to understand that a Commissioner might both:
 - Earnestly listen to a resident's stated concerns; and,
 - Reach a conclusion contrary to a resident's preferred conclusion;
- Commissioners joined the Commission to listen to fellow residents and to try and make the best decisions possible for the entire community. Commissioners are tasked with having the wherewithal to make the best possible decisions. Commissioners are residents first. Commissioners are volunteers who receive \$5 a meeting;
- Residents are encouraged to express their opinions at Commission meetings;
- It is inappropriate and inaccurate for residents to accuse the Commissioners of not listening. It is inappropriate for residents to threaten the Commissioners. The Commission takes its decisions seriously. Residents were perhaps not giving the Commissioners enough credit for trying to be open-minded and impartial;
- The Commission is very careful about observing the OMA;
- The Commission aims to undertake infrastructure improvements, to protect and improve the health, safety, and welfare of the residents, and to improve sustainability in the City. The Commission was elected to implement those improvements. The implication that the Commission was neglecting to hear an overwhelming majority of the residents on Arlington and Shirley was not borne out by the numbers;
- Addressing some inaccuracies raised during public comment: A resident commented that 86% of residents on Arlington and Shirley were against sidewalks, when the initial surveys indicated that 56% of residents were against sidewalks. Additionally, 36 households did not respond to the surveys, and eight indicated that they were in favor of sidewalks. Latham was only repaved, which is why sidewalks were not considered for the project at that time. Two women sit on the MMTB, and the Commission strives to adhere to the values of diversity, equity, and inclusion. The City is able to require residents to financially contribute to certain infrastructure work without the residents' assent, and there is precedent for doing so. The 2040 Plan recommends both 26 foot streets and sidewalks;
- The Commission is tasked with representing all the residents of the community;
- Part of the conclusions reached by the Ad Hoc Unimproved Streets Study Committee (AHUSSC) was that street improvements should be expert-driven. Residents, in general, have many opinions about character of their streets but lack sufficient expertise to make the best decisions regarding street improvements. Resident-initiated processes often proved contentious and gridlocked. That is why the AHUSSC recommended that road improvements occur based on a City initiative and based on expert-defined criteria;
- While residents of a street may feel that they deserve greater say on a project that affects their street, there is a limit to that. Residents own their homes, but do not own the right of way in front of their homes;
- People tend to dislike change initially. Residents previously had concerns about changes to Shain Park, and many people now vocally appreciate the changes that were made;
- The tree canopy on Arlington has the potential to look as desirable as the one on Linden;
- If residents of a street wanted to remove their sidewalks, the Commission would not entertain that. There is a limit to the decisions that can be made based on character;
- Birmingham invests funds every year into ensuring that its sidewalks are well-maintained; and,
- It might be most appropriate to review this project as three separate but interrelated items: the water and sewer, the road surface, and the sidewalks. Residents seemed largely supportive of the water and sewer improvements. If the survey had been phrased differently regarding the easements, the answers may have been different. When

including the interest on the assessments, the amounts owed by residents for their portion of the project would be large. It would be important to look more carefully at the financial aspects of this project, and at the financial costs of improving streets more generally. The 2040 Plan is a guidebook, not a mandate. Residents each chose their homes based on their particular criteria, and the Commission must consider how its decisions could impact those choices.

It was requested that staff's presentation be distributed to the Commission and made available to the public.

It was noted that Commissioner Baller would remain recused for the special meeting regarding this project.

It was determined that the Commission would hold a publicly-noticed, open to the public special meeting regarding this project on Saturday, January 13, 2024 at 12 p.m.

The Commission and staff clarified the logistics of the special meeting.

The Commission took a brief recess, and returned from recess.

01-008-24 Special Meeting to Tour Shirley Rd. & Arlington St. (Part II)

MOTION: Motion by Commissioner Longe, seconded by Commissioner Host:
To move that the Commission schedule a special meeting to have a walking tour of Shirley, Arlington, and related areas on Saturday, January 13 at noon.

It was noted that the meeting would occur if the weather permitted.

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

Nays, None

It was decided the snow date would be January 20, 2024 at 3 p.m.

Commissioner Baller rejoined the meeting at 12:02 a.m.

01-009-24 Capital Improvement Projects – Oakland Ave Between N. Old Woodward and Woodward Ave

CE Coatta and SP Cowan presented the item. Staff and Julie Kroll of Fleis and Vandenbrink answered informational questions from the Commission.

The following comment was made during the Commission's discussion:

- When heading west on Oakland from Woodward, the street markings indicating the ability to turn left or proceed straight should be located further to the east.

MOTION: Motion by Commissioner Host, seconded by Commissioner Long:
To approve the proposed design for N. Old Woodward and Oakland Ave between Woodward Ave and N. Old Woodward Ave with enhanced green space along Oakland Ave, a permanent bus stop loading area with an island, and a permanent bump out at the northwest corner of N. Old Woodward and Willits St. as pictured in Exhibit A.

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

Nays, None

Commission Items for Future Discussion

01-010-24 Birmingham Country Club Variance Letter

MOTION: Motion by Commissioner Host, seconded by Commissioner Haig:
To ask the City Manager to engage the City of Beverly Hills as soon as possible, advising Bloomfield Township and Birmingham Country Club how this proposed variance adversely affects our mutual residential homeowners.

The Commission asked that CM Ecker send a letter, similar to the letter previously sent by former CM Markus, without further Commission discussion in this one case.

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

Nays, Commissioner Baller

01-011-24 Three Step Process Precedent

MOTION: Motion by Commissioner Longe, seconded by Commissioner Haig:
To note that the Commission has deviated from its normal process in this instance only because of the urgency of time, and that this does not set a standard for future Items for Future Discussion.

VOICE VOTE: Ayes, MPT Schafer

Commissioner Longe
Commissioner Long
Commissioner Host
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

01-012-24 City-Provided Cell Phones

MOTION: Motion by Mayor McLain, seconded by Commissioner Longe:
To request that the City provide the Commissioners with cell phones that the Commissioners would use only for City business, so that when Freedom of Information Act requests occur, or there are other exchanges, that those interactions occur on a City-provided cell phone as opposed to Commissioners' personal phones, to be discussed at a later date.

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

Nays, None

At the request of the Commission, Staff said they would review whether the intersection of Torry and Haynes should have Stop Signs, and would return to the Commission with further information.

Commission Discussion On Items From A Prior Meeting

01-013-24 Speed Mitigation

MOTION: Motion by Commissioner Baller, seconded by Commissioner Long:
To put this item on a future agenda for a full discussion.

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

Nays, None

01-014-24 To Add Brandon to the Shirley and Arlington Project

MOTION: Motion by Commissioner Baller, seconded by Commissioner Long:
To move this item to the third step.
MPT Schafer noted that multiple stages of review allow for project refinement and clarification.

Commissioner Long noted there may have been reasons for initially proposing the project without Brandon.

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

Nays, None

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to Appoint to the Cable Casting Board

The Mayor noted that this Board was now the Cable Board, and that its description of activity needed to be updated.

- 2. Notice of Intention to Appoint to the Board of Review
 - 3. Notice of Intention to Appoint to the Parks and Recreation Board
- B. Commissioner Comments

The Mayor shared information from a letter from Josephine Connolly.

It was noted that staff would provide a copy of Ms. Connolly's letter to the Commission, and would publicize the scholarship mentioned in the letter to Birmingham's first responders, police, and EMT.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation

It was noted that the State legislature would be reconvening soon.

- E. City Staff

INFORMATION ONLY

XI. ADJOURN

The Mayor adjourned the meeting at 12:32 a.m.

Handwritten signature of Alexandria Bingham in black ink.

Alexandria Bingham, City Clerk

Handwritten signature of Laura Eichenhorn in black ink.

Laura Eichenhorn, City Transcriptionist