



# Rochester Hills

## Minutes - Draft

### City Council Regular Meeting

1000 Rochester Hills Dr  
Rochester Hills, MI 48309  
(248) 656-4600  
Home Page:  
[www.rochesterhills.org](http://www.rochesterhills.org)

*Greg Hooper, Nathan Klomp, Adam Kochenderfer, James Rosen, Mark Tisdel,  
Michael Webber and Ravi Yalamanchi*

*Vision Statement: The Community of Choice for Families and Business*

*Mission Statement: "Our mission is to sustain the City of Rochester Hills as the premier community of choice to live, work and raise a family by enhancing our vibrant residential character complemented by an attractive business community."*

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Monday, June 24, 2013

7:00 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order at 7:00 p.m. Michigan Time.*

## ROLL CALL

**Present** 7 - Greg Hooper, Nathan Klomp, Adam Kochenderfer, James Rosen, Mark Tisdel, Michael Webber and Ravi Yalamanchi

## Others Present:

*Ed Anzek, Director of Planning and Economic Development  
Pranita Balusu, Rochester Hills Government Youth Council Representative  
Bryan Barnett, Mayor  
Tina Barton, City Clerk  
Jim Breuckman, Manager of Planning  
Kurt Dawson, Director of Assessing/Treasury  
Pam Gordon, Director of Human Resources  
Bob Grace, Director of MIS  
Kevin Krajewski, Network Administrator/Deputy Director of MIS  
Allan Schneck, Director of DPS/Engineering  
John Staran, City Attorney  
Pam Valentik, Manager of Economic Development*

## PLEDGE OF ALLEGIANCE

*Mr. Tisdel introduced Cheryl Verbeke, Auburn Hills City Council Member. He noted that she is in her second year of a four-year term on Council. Previously, she was a member of the Auburn Hills Planning Commission, and chaired their Senior Home Assistance Repair Program (SHARP) for almost 14 years. He explained that Council Member Verbeke introduced the SHARP Program, and extended an invitation to him and Leanne Scott, Deputy Clerk, to review the program. Championed by Rochester Hills, and using the Older Persons' Commission infrastructure and personnel, over 50 volunteers now work through the Faith Works organization, and have completed nearly 100 projects for seniors in the Rochester and Rochester Hills area.*

*Council Member Verbeke led the Pledge of Allegiance.*

## APPROVAL OF AGENDA

A motion was made by Webber, seconded by Kochenderfer, that the Agenda be Approved as Presented. The motion carried by the following vote:

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

## PUBLIC COMMENT

*None.*

## LEGISLATIVE & ADMINISTRATIVE COMMENTS

**Pranita Balusu**, Rochester Hills Government Youth Council (RHGYC) Representative, reported that the RHGYC held a successful 5K Run/Walk to benefit the Boys and Girls Club of Troy on June 15th, raising over \$15,000 for the organization. She announced that the RHGYC held a Senior Prom at the American House on Auburn Road and a selection committee is interviewing candidates for next year's membership. She reported on the Community Garden, noting that as of last week all plots have been reserved and there is now a waiting list.

**Mr. Tisdell** noted that RHGYC Member Francesca Tiberio was the chairperson for the Senior Services Action Committee, and the Senior Prom at American House was attended by 15 students all attired in prom dresses, suits and ties.

**Mr. Klomp** wished everyone a happy and safe Fourth of July holiday. He announced that the City's Festival of the Hills Fireworks is set for Wednesday, June 26th.

**Mr. Webber** noted that an Ordinance Amendment will be considered on tonight's agenda to regulate fireworks in the City. He congratulated the RHGYC for another successful 5K, and announced that the American Cancer Society's Relay for Life was held this past weekend and was well attended, raising funds for the fight against cancer.

## ATTORNEY MATTERS

*City Attorney John Staran had nothing to report.*

## PRESENTATIONS

**2010-0495** Update from Otto Bock Polyurethane Technologies, Inc. regarding their progress since the approval of a Tax Abatement in December, 2010; Tom Matwiczuk, Corporate Liaison and Steve Foote, Plant Manager, presenters

**Attachments:** [Agenda Summary.pdf](#)  
[Suppl Presentation 062413.pdf](#)  
[022811 Agenda Summary.pdf](#)  
[121310 Agenda Summary.pdf](#)  
[112210 Agenda Summary.pdf](#)  
[Development Agreement Draft.pdf](#)  
[Suppl Development Agreement \(Revised\).pdf](#)  
[Suppl Presentation 121310.pdf](#)  
[Exhibit A 2008 Tax Exemption Chart.pdf](#)  
[Application.pdf](#)  
[Application Question 6a.pdf](#)  
[Application Section 6b.pdf](#)  
[Otto Bock Brief History.pdf](#)  
[5 Year Analysis.pdf](#)  
[112210 Resolution.pdf](#)  
[121310 Resolution.pdf](#)  
[022811 Resolution.pdf](#)

**President Hooper** stated that he had requested that all companies receiving tax abatements in Rochester Hills come before Council to present periodic updates on their progress.

**Pam Valentik**, Manager of Economic Development, noted that representatives from Otto Bock Polyurethane Technologies were in attendance tonight, and highlighted the investment they had proposed during their quest for a tax abatement.

**Tom Matwiczky**, Otto Bock's Corporate Liaison, stated that it has been over two-and-one-half years since Otto Bock has had the privilege of addressing Council. He gave the following presentation on their progress:

Otto Bock History and Background

- 1919 - Founded as an Orthopedic Company in Berlin
- 1953 - Otto Bock Health Care USA
- 1967 - Developed First PUR for "Soft" Steering Wheel
- 2005 - Polyurethane Production Facility in China
- 2011 - Opening of Rochester Hills Facility
- Third Generation Family Owned Company
- 100% Owned by Professor Hans Georg Nader
- Global Group Sales in 2012 approximately \$1 billion
- Employees in 40 Countries Worldwide in 2012 approximately 4,600

Facility, Employment and Investment

- 47,000 square feet of Production Space and 6,000 square feet of Office Space
- First Machine Delivered in April 2011
- Sixth Machine Delivered in June 2013
- Two to Three More in Planning Stage for Delivery in 2013

**Steve Foote**, Plant Manager for Otto Bock's facility, continued:

- Total Employment 56 - 14 Salary and 42 Hourly on three Shifts
- Total Machine Investment to Date is \$6,000,000
- Supplying Parts to Automotive as a Tier 2
- Residential and Commercial Floor Mats and Infant Soft Seats
- Lobby - 100 percent Demolition and Rebuilt
- \$400,000 Spent on Remodeling Office and Lobby
- Office and Break Area - 100 percent Demolition and Rebuilt
- Office can Accommodate Staff of 21 people - Currently 14
- A New Production Employee Breakroom and Locker Room will be built and complete during the Second Quarter of 2013.

#### 2012 Tax Abatement Annual Report

	<b>Pledged</b>	<b>Actual</b>
New Jobs Created	39	45
Investment	\$3,861,000	\$6,396,000

#### Moving Forward

- Facility will be full in 2014
- Total Investment approximately \$14 million
- Total Employment approximately 100
- Next Building Search mid-2014
- Similar Size Facility Needed

Mr. Foote expressed his appreciation for Council's support and invited those interested in touring the facility to contact his office.

**Mr. Matwiczuk** noted that Mayor Barnett visited their facility in Germany approximately a year ago.

**President Hooper** stated that he hoped that the company would stay in contact with Ms. Valentik during its upcoming building search.

**Mr. Kochenderfer** thanked the representatives of Otto Bock for their presentation and for having faith in Rochester Hills. He noted that when Otto Bock first arrived in the City, the economic environment was very different for automotive suppliers. He stated that both the company and the City will be posed to benefit from the growth taking place.

**Presented.**

## CONSENT AGENDA

2013-0178 Approval of Minutes - City Council Regular Meeting - April 22, 2013

**Attachments:** [CC Min 042213.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0130-2013

**Resolved**, that the Minutes of a Rochester Hills City Council Regular Meeting held on April 22, 2013 be approved as presented.

**2013-0244** Approval of Minutes - City Council Special Meeting - April 29, 2013

**Attachments:** [CC Special Mtg Min 042913.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0131-2013

**Resolved**, that the Minutes of a Rochester Hills City Council Special Meeting held on April 29, 2013 be approved as presented.

**2013-0245** Approval of Minutes - City Council Regular Meeting - May 6, 2013

**Attachments:** [CC Min 050613.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0132-2013

**Resolved**, that the Minutes of a Rochester Hills City Council Regular Meeting held on May 6, 2013 be approved as presented.

**2013-0231** Request for Purchase Authorization - MIS: Purchase of network switching, related management software and professional services for a network upgrade project in the amount not-to-exceed \$60,000.00; INS Professional Services, LLC, Novi, MI

**Attachments:** [Agenda Summary.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0133-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes the purchase of net switching, related management software and professional services for a network upgrade project to INS Professional Services, LLC, Novi, Michigan, in the amount of \$57,106.00 with a 5% contingency of \$2,894.00 for a total not-to-exceed amount of \$60,000.00.

**Further Resolved**, that the City's acceptance of a proposal and approval of the award of a contract shall be contingent and conditioned upon the parties' entry into and execution of a written agreement acceptable to the City.

**Passed the Consent Agenda**

A motion was made by Klomp, seconded by Yalamanchi, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

## PUBLIC HEARINGS

**2013-0191** Request for Approval of a Resolution Establishing a Property Assessed Clean Energy (PACE) Program

**Attachments:** [Agenda Summary.pdf](#)  
[Memo Breuckman 061413.pdf](#)  
[Documentation Package.pdf](#)  
[Suppl Staran Letter 062113.pdf](#)  
[Resident Questions 061013.pdf](#)  
[Response to Resident Questions.pdf](#)  
[052013 Agenda Summary.pdf](#)  
[SUPPL Presentation.pdf](#)  
[PACE Program Documentation.pdf](#)  
[Act 270.pdf](#)  
[052013 Resolution.pdf](#)  
[Resolution.pdf](#)

**Jim Breuckman**, Manager of Planning, stated that tonight's Public Hearing is the second step in the establishment of a PACE Program. He noted that **Andrew Levin**, President, Lean & Green Michigan, was also in attendance to address any questions regarding the program. He explained that the Public Hearing was noticed and documents were included in the packet and online for review, including a response from the City Attorney to questions raised at the May 20, 2013 Council Meeting. In response to concerns regarding what would happen in the event of a company's bankruptcy, it was noted that Mr. Levin reported that experience in case markets including California found that there had been no bankruptcies to date, due in large part to the stringent underwriting process for financing.

### **President Hooper Opened the Public Hearing at 7:23 p.m.**

**Prasad Gullapalli**, representing Srinergy, Novi, Michigan, stated that he founded his business three years ago, and commented that the PACE program will help keep his cash flow positive. He mentioned that the program will provide a finance company or investor with increased confidence in the due diligence process. He added that the City will see a revenue stream from increased permit fees.

**Diana Nash**, 6845 Cedarbrook Drive, Bloomfield, commented that she is President of the Green Team Coalition, an energy consulting firm providing energy auditing and energy efficiency consulting for commercial businesses. She stated that her firm's biggest stumbling block in providing services has been for firms to secure financing. She noted that the PACE Program is a viable low-risk way to finance these projects.

**Jennifer Mefford**, 1884 Vinsetta Boulevard, Royal Oak, stated that she is with the National Electrical Contractors Association, an organization representing 185 electrical contractors in Southeast Michigan, with 52 member firms in Oakland County. She mentioned that 1,500 members of their workforce live in Oakland County and the PACE Program will help provide work in the field of energy efficiency.

**Lee Zendel**, 1575 Dutton Road, commented that the City will have its name and logo attached to promotional material in its partnership in the program. He stated that Council has a responsibility to first vet the PACE Program and Levin Energy Partners very carefully. He questioned what fees would be charged for an energy audit, what an independent financial review will cost the property owner, and whether the fee schedule for audits, reviews, financing and performance standards to be guaranteed are in writing. He commented that any marketing materials for the program should be shown to Council prior to issuance. He urged Council to postpone any decision.

**Seeing No Further Public Comment, President Hooper Closed the Public Hearing at 7:33 p.m.**

**President Hooper** requested Mr. Levin give a brief review of the program and address the status of Michigan communities who have chosen to participate.

**Mr. Levin** explained that the Lean and Green Michigan is a public-private partnership, where multiple cities and counties work together to create one PACE market, and businesses can take advantage of long-term financing to undertake clean energy projects that are not otherwise financially feasible to them. He mentioned that Southfield joined the initiative in June of 2012, Ingham County in November of 2012, Saginaw County passed a Resolution of Intent last week, Macomb County has held its first hearing and other cities and counties around the state are in discussions right now.

**President Hooper** commented that the proposed version of the PACE Program that the City is considering should put nothing at risk to the taxpayers.

**Mr. Levin** concurred, stating that this is a market-based program where the City is simply allowing property owners who desire to make their facility more efficient to use the property tax mechanism to finance energy improvement. Property owners can repay the financing through the City through property tax payments or directly through the lender. He commented that if there is an administrative expense, the City can add a fee to ensure that it is held harmless.

**President Hooper** noted public comment regarding fees and pointed out that it is each participating company's choice whether to follow through with the improvement.

**Mr. Levin** responded that any fees are rolled into the financing and all costs are negotiated between the parties. He stated that the concept behind the PACE Program is that private companies and property owners are expending monies in lost energy and do not have a way to finance improvements to make it profitable for the property owner. He stated that this is a way to install new systems and

improvements and receive a modest positive cash flow. He commented that property owners and energy companies benefit, and lenders receive interest. He added that this is a very exciting time to be developing this program, citing a New York Times article referencing programs all over the country. He noted that the national PACE Organization has released five case studies of successful projects that have been done.

**President Hooper** questioned what would happen if a company does not follow through with its financing commitment and the property is assigned to a tax lien.

**City Attorney John Staran** stated that the City is at low risk of losing property tax revenue. He noted that it would be a first priority lien which is not dischargeable through bankruptcy. He commented that in order for the City to not be paid in full, a number of events would have to occur and combine together, and would include not only the liquid marketable assets to be insufficient to pay both the taxes and the PACE lien, but the property value itself would have to ultimately be insufficient to satisfy the taxes and lien on sale. He stated that there would be a vetting through the financing and audit process, and any mortgage lenders on the property would have to consent and agree to subordinate their mortgages to the PACE loan. He commented that while there are potential scenarios that could pose some risk to tax dollars, it would be a fairly remote risk.

**President Hooper** mentioned that his employer recently completed an energy-saving project by installing LED lighting with a three-year payback in an 80,000 square foot warehouse.

**Mr. Breuckman** stated that Sonoma County, California, has completed 58 financing deals in five years. He commented that the City does not have an in-house energy efficiency expert to administer a program such as this. He added that the City could establish a district and then choose to leave the program if it is not working out.

**Mr. Yalamanchi** stated that this is a simple tool to undertake complex project financing. He commented that there must be a willing owner and a willing lender to undertake these improvements, and any existing lender must agree to subordinate to the new loan. He noted that any payments made through a special assessment become a business deduction for the borrower.

**Mr. Levin** concurred, stating that it will be the property owner's choice whether to treat the project as an on-balance sheet or off-balance sheet transaction. He commented that some accountants treat the entries as property taxes. He mentioned that the program is advantageous for landlords of commercial office buildings who have split incentives for tenants, allowing them to reduce energy costs and pass the capital improvements on through taxes.

**Mr. Yalamanchi** stated that the borrower can opt to pay the lender directly or remit payment through the City to the lender. He noted that this must be outlined in an agreement when a project comes forward to note that there is no liability to the City and administrative costs are to be recovered through the project. He commented that he is in support of establishing the district. He reviewed the proposed resolution and offered some wording changes.



**Mr. Rosen** questioned who would receive the assets of a company should their business fail; and what would occur if the remaining value of the real property, business and personal property is less than the combined taxes and PACE loan.

**Mr. Staran**, responded that in that instance, the commercial lender would not recover the full amount of the loan and the lien created by both the taxes and the PACE loan would stay with the property and not be discharged. He stated that if at such time that the property is ultimately foreclosed on and sold for taxes, a scenario exists that the property for whatever reason is worth less than what is necessary in order to cover the loan, it would suggest in that situation that both the lender and the tax dollars would be at some risk. He noted that this could occur if a market crash happened again.

**Mr. Rosen** commented that in the event of a foreclosure with no PACE loan in place, the City ends up eating the taxes and receives the property.

**Mr. Staran** responded that the County would take the property. He explained that when there is a delinquency in taxes, the City is made whole by the County. At some point, the county would foreclose and attempt to auction off the property. If the auction yields less than the tax obligation, the County would come back to the City, and withhold future monies to offset the debt. The County would transfer the obligation back to the City.

**Mr. Rosen** commented that this could be a parallel situation to the subprime mortgage business of the 1990s and 2000s that resulted in the housing collapse in 2006, 2007 and 2008. The mortgagee found that the value of the home was less than was owed and there was no provision to kick that loss down the road. He stated that while he understands that an energy efficient project will pay off, a PACE lien could deter a future purchaser. He noted that it reminds him of a jobs stimulus program where individuals around the edges will make money. He commented that the program is not anything more than a way to sell energy equipment. He commented that the program is not appropriate for Rochester Hills.

**Mr. Webber** pointed out that a start up company leasing property in one of the City's long-standing industrial complexes would need the agreement of the building owner to become a part of the PACE program. He stated that he would like to see where the PACE districts are in Michigan in the next five to ten years and commented that there is certainly risk in anything and this will be factored in.

**Mr. Kochenderfer** commented that while he appreciates the creativity of the program, there are some circumstances where the City would be in a worse position because of the program. He expressed concern, noting that the City should have its attorney review some of the applications as they come through. He stated that there are unknowns and should the City accept the program tonight, it may find that it is difficult to turn down a specific application. He commented that he never thought that General Motors would have experienced a bankruptcy and stated that he would like to avoid a risk to tax dollars until he was fully confident of the benefits.

**A motion was made by Yalamanchi, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 5 - Hooper, Klomp, Tisdell, Webber and Yalamanchi

**Nay** 2 - Kochenderfer and Rosen

Enactment No: RES0134-2013

**Whereas**, the City Council of the City of Rochester Hills, Michigan, previously has adopted a Resolution of Intent to authorize the establishment of a property assessed clean energy program (the "PACE Program") and create a PACE district pursuant to Act No. 270, Public Acts of Michigan, 2010 ("Act 270"), for the purpose of promoting the use of renewable energy systems and energy efficiency improvements by owners of certain real property; and

**Whereas**, the City Council hereby finds that the PACE Program is a valid public purpose because it stimulates economic development, improves property values, reduces energy costs, reduces greenhouse gas emissions and increases employment in the City; and

**Whereas**, the types of energy projects, either energy efficiency improvements or renewable energy systems that may be financed under the PACE Program include: insulation in walls, roofs, floors, foundations or heating and cooling distribution systems; storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption; automated energy control systems; heating, ventilating or air-conditioning and distribution system modifications or replacements; caulking, weather-stripping and air sealing; replacement or modification of lighting fixtures to reduce use of the lighting system; energy recovery systems; day lighting systems; installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity; measures to reduce the usage of water or increase the efficiency of water usage; any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the City Council; a fixture, product, device or interacting group of fixtures, or products or devices on the customer's side of the meter that use one or more renewable energy resources to generate electricity. Renewable energy resources include, but are not limited to: biomass (includes a biomass stove but does not include an incinerator or digester); solar and solar thermal energy; wind energy; geothermal energy and methane gas captured from a landfill; and

**Whereas**, the City Council conducted a public hearing on June 24, 2013 at 1000 Rochester Hills Drive, Rochester Hills, MI 48309 to receive comments on the proposed PACE Program, including the Report referenced in Section 9(1) of Act 270 (the "PACE Report"); and

**Whereas**, the City Council intends to establish a PACE Program as described in the PACE Report, so as to provide a property owner based method of financing and funds for energy projects from owner arranged financing from a commercial lender, which shall be secured and repaid by assessments on the property benefited, with the agreement of the record owners, such that no City moneys, general City taxes or City credit of any kinds whatsoever shall be pledged, committed or used in connection with any project as required by and subject to Act 270.

**Resolved**, that the Rochester Hills City Council hereby establishes and approves the PACE Program for the City; and

**Be It Further Resolved**, that the PACE district, having the same boundaries as the City's jurisdictional boundaries, is established; and

**Be It Further Resolved**, that the PACE Program constitutes a valid public purpose because it stimulates economic development, improves property values, reduces energy costs, reduces greenhouse gas emissions and increases employment in the City; and

**Be It Further Resolved**, that the PACE Report is incorporated herein in full by reference and is approved and adopted; and

**Be It Further Resolved**, that the City formally joins Lean & Green Michigan and Levin Energy Partners, LLC is designated as PACE administrator to administer the PACE Program; and

**Be in Further Resolved**, that in accordance with the PACE Report, amendments to the PACE Program shall not require a public hearing, with the exception of amendments regarding property eligibility parameters found in paragraph 11 of the PACE Report; and

**Be It Further Resolved**, that in accordance with Act 270, an assessment imposed under the PACE program, including any interest on the assessment and any penalty, shall constitute a lien against the property on which the assessment is imposed until the assessment, including any interest or penalty, is paid in full. The lien runs with the property and has the same priority and status as other property tax and assessment liens. The City has all rights in the case of delinquency in the payment of an assessment as it does with respect to delinquent property taxes. When the assessment, including any interest and penalty, is paid, the lien shall be removed from the property. The Authorized Official(s), as designated in the PACE Report, are authorized and directed to execute and deliver any special assessment agreement, document or certificate necessary or appropriate to create, establish and record an assessment under the PACE Program; and

**Be It Further Resolved**, that in accordance with Act 270, installments of assessments due under the PACE Program may be included in each summer tax bill issued under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.155 ("Act 206"), and may be collected at the same time and in the same manner as taxes collected under Act 206. Alternatively, installments may be billed and collected as provided in the City's special assessment ordinance. Under owner-arranged financing, the City may impose an assessment and forward payments to the commercial lender or the record owner may pay the commercial lender directly. In all projects where the property owner will pay the installments of assessments through periodic payments to the City, the PACE special assessment agreement will provide for the City to be reimbursed for the actual costs of administering the billing and payment process; and

**Be It Further Resolved**, that the City may join with any other local unit of government, or with any person, or with any number or combination thereof, by contract or otherwise as may be permitted by law, for the implementation of the City's PACE Program, in whole or in part, and the Authorized Officials are authorized to execute and deliver such documents, agreements or certificates as may be necessary or advisable to permit the cooperative implementation of the PACE Program as provided by Act 270 or other applicable law; and

**Be It Further Resolved**, that the Authorized Official is authorized to sign necessary documents, agreements or certificates and to take all other actions necessary or convenient to implement a PACE Program consistent with the PACE Report, to the extent permitted by law and City Charter.

**Be It Finally Resolved**, that all resolutions and parts of resolutions inconsistent with this Resolution are repealed to the extent of such inconsistency.

## ORDINANCE FOR ADOPTION

**2012-0292** Acceptance for Second Reading and Adoption - an Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling approximately .7 acre, located at 3010 S. Rochester Rd., at the southwest corner of Rochester and Auburn Roads, Parcel No. 15-34-227-031 from B-5, Automotive Business to B-3, Shopping Center Business, and to prescribe penalties for the violation thereof

**Attachments:** [Agenda Summary.pdf](#)  
[Ordinance.pdf](#)  
[Map.pdf](#)  
[061013 Agenda Summary.pdf](#)  
[Back up documents.pdf](#)  
[Minutes PC 052113.pdf](#)  
[Staff Report 051613.pdf](#)  
[Site Plans 050313.pdf](#)  
[Memo Breuckman 101912.pdf](#)  
[Staff Report 081012.pdf](#)  
[Public Hearing Notice.pdf](#)  
[061013 Resolution.pdf](#)  
[Resolution.pdf](#)

**A motion was made by Yalamanchi, seconded by Webber, that this matter be Accepted for Second Reading and Adoption by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0135-2013

**Resolved**, that an Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling approximately .7 acre, located at 3010 S. Rochester Rd., at the southwest corner of Rochester and Auburn Roads, Parcel No. 15-34-227-031 from B-5, Automotive Business to B-3, Shopping Center Business and to repeal conflicting Ordinances and prescribe a penalty for the violation thereof, is hereby accepted for Second Reading and Adoption and shall become effective on Monday, July 1, 2013, the day following its publication in the Oakland Press on Sunday, June 30, 2013.

**2013-0243** Adoption of Emergency Ordinance to Amend Section 58-58 of Article III of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify fireworks regulations, repeal conflicting Ordinances and prescribe a penalty for violations

**Attachments:** [Agenda Summary.pdf](#)  
[Ordinance.pdf](#)  
[House Bill 4743.pdf](#)  
[Resolution.pdf](#)

**Mr. Webber** explained that State Law enacted last year made it legal to have fireworks the day before, day of and the day after national holidays. The law also regulated the sale of fireworks hoping to increase sales tax revenues. He stated that after July 4th of last year, there were many complaints as the legislation did not regulate any times that fireworks could be used. The Legislators heard many concerns expressed by local municipalities, and subsequently enacted Public Act 65, signed into law last Wednesday, allowing municipalities to set timeframes prohibiting fireworks from Midnight to 8:00 a.m. on those three days and 1:00 a.m. to 8:00 a.m. on New Year's Day. He stated that the proposed Ordinance reflects what the State Law allows.

**John Staran**, City Attorney, stated that the proposed language is being presented as an Emergency Ordinance, allowed by the Charter to be adopted on a single reading and to go into effect upon publication. He pointed out that the Governor's Office signed the legislation into law last week; and in order to go into effect prior to July 3rd, it must be submitted to the City's official newspaper tomorrow. He added that there is no flexibility to expand the nighttime hours that fireworks discharge would be prohibited.

**Mr. Webber** commented that he would not normally support the process for just any Ordinance; however, in this case he would hope Council would see the urgency.

**Mr. Rosen** stated that he would concur, commenting that while fireworks are great out in the country, the City is too densely populated. He commented that it would be better if cities were allowed to ban them completely in densely populated areas.

**Mr. Kochenderfer** thanked Mr. Webber for his attention to this, noting that he received many emails last year regarding fireworks.

**A motion was made by Webber, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0136-2013

**Resolved**, that an Ordinance to Amend Section 58-58 of Article III of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify fireworks regulations, repeal conflicting Ordinances and prescribe a penalty for violations, is hereby Adopted as an Emergency Ordinance and shall become effective on Saturday, June 29, 2013, the day following its publication in the Oakland Press on Friday, June 28, 2013.

## NOMINATIONS/APPOINTMENTS

(Mr. Klomp exited at 8:24 p.m.)

- 2013-0228** Request to Confirm the Mayor's reappointments of Frank Cardimen, Scott Hunter, Carl Moore, Alexios Pathenos and Thomas Pozolo to the Advisory Traffic and Safety Board for three-year terms expiring June 30, 2016

**Attachments:** [Agenda Summary.pdf](#)  
[Cardimen CQ.pdf](#)  
[Hunter CQ.pdf](#)  
[Moore CQ.pdf](#)  
[Pathenos CQ.pdf](#)  
[Pozolo CQ.pdf](#)  
[Resolution.pdf](#)

**A motion was made by Webber, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

**Absent** 1 - Klomp

Enactment No: RES0137-2013

**Resolved**, that the Rochester Hills City Council hereby confirms the Mayor's re-appointments of Frank Cardimen, Scott Hunter, Carl Moore, Alexios Pathenos and Thomas Pozolo to the Advisory Traffic and Safety Board for three-year terms to expire June 30, 2016.

**(Mr. Klomp re-entered at 8:26 p.m.)**

## **NEW BUSINESS**

- 2013-0189** Request for Conditional Land Use Approval to construct a used car lot on .28 acres at 1927 E. Auburn, between John R and Dequindre, zoned C-I, Commercial Improvement, Parcel No. 15-25-482-021, Syed Ahmed, Applicant

**Attachments:** [Agenda Summary.pdf](#)  
[Map Aerial.pdf](#)  
[Site Plan 060713.pdf](#)  
[Minutes PC 061813.pdf](#)  
[Minutes PC 052113.pdf](#)  
[Staff Report 061813.pdf](#)  
[Minutes PC 031913.pdf](#)  
[Staff Report 052113.pdf](#)  
[Back Up Staff Report.pdf](#)  
[Public Hearing Notice.pdf](#)  
[Resolution.pdf](#)

**Jim Breuckman**, Manager of Planning, stated that the proposed request will establish a used car lot business at Hessell and Auburn Roads in the Olde Town District. He noted that the Planning Commission recommends approval, subject to conditions, including no more than five cars to be on display. He commented that any future expansions would come back for review.

**Syad Ahmed**, Applicant, and **Siraj Ahmad**, Engineering Consultant, were in attendance.

**Mr. Klomp** questioned whether the gravel parking lot would remain, if the trees in the back would provide a green buffer, and if the applicant had plans to renovate the existing building.

**Mr. Siraj Ahmad** responded that the gravel lot is a hard surface and is not loose.

**Mr. Syad Ahmed** stated that plans are to use the existing building for now, and plan for a new building within a year or so.

**Mr. Klomp** questioned whether a five-car maximum is realistic.

**Mr. Syad Ahmed** responded that he can make his business work with five cars.

**Mr. Klomp** commented that he is excited to hear of the future plans to make the property look attractive and wished Mr. Ahmed success.

**President Hooper** noted that the business is internet-based and it is not necessary to have inventory located at that location.

**A motion was made by Yalamanchi, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0138-2013

**Resolved**, that the Rochester Hills City Council hereby approves the Conditional Land Use for City File No. 13-005, to construct a used car lot on .28 acres at 1927 E. Auburn, between John R and Dequindre, zoned C-I, Commercial Improvement, Parcel No. 15-25-482-021, based on plans dated received by the Planning and Economic Development Department on June 7, 2013 with the following findings and conditions:

Findings:

1. The proposed uses of the existing site and building do promote the intent and purpose of the Zoning Ordinance.
2. The proposed building is proposed to be operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing and planned character of the neighborhood, the general vicinity, adjacent uses of land, the natural environment and the capacity of public services and facilities affected by the land use.
3. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways and refuse disposal.
4. The proposed development would not be detrimental, hazardous or disturbing to existing or future neighboring land uses, persons, property or the public welfare.
5. The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Conditions:

1. No more than five cars for sale shall be parked or stored on the lot.
2. The fencing and plantings shall be installed by November 15, 2013.
3. The grass area cannot be used for parking, display or advertising purposes.

**(Mr. Kochenderfer exited at 10:15 p.m. and re-entered at 10:17 p.m.)**

**2010-0094** Request by G&V Investments to discuss the elimination of the City Place Planned Unit Development (PUD) Agreement that controls the development of their 28 acres along Rochester Road between Avon and Hamlin Roads

**Attachments:** [Agenda Summary.pdf](#)  
[Letter Anzek 060413.pdf](#)  
[WWRP Request.pdf](#)  
[Beier Howlett Ltr 062113.pdf](#)  
[Ltr from RH Chrysler Jeep Dodge.pdf](#)  
[Ltr from Winchester Vlg HOA.pdf](#)  
[Ltr from Meadowfield Condo Assn.pdf](#)  
[030110 Agenda Summary.pdf](#)  
[PUD Comparison Chart.pdf](#)  
[WWRP Ltr 021610.pdf](#)  
[Map \(aerial\).pdf](#)  
[City Place PUD Site Plan.pdf](#)  
[Land Use Site Plan.pdf](#)  
[PC Minutes 081809.pdf](#)  
[Suppl July 2010 City Place PUD.pdf](#)  
[PUD Agreement.pdf](#)  
[030110 Resolution.pdf](#)

**Ed Anzek**, Director of Planning and Economic Development, stated that he received a letter from the attorney representing the property owner, requesting that Council direct staff and the Administration to look into the possibility to eliminate the Planned Unit Development (PUD) as a control device for the property and convert it to FB-2 zoning. In May, a rezoning request was filed. He commented that the PUD is a contract with City Council and the rezoning request is not appropriate to consider.

**John Gaber**, Attorney for the property owner, introduced **Bill Gilbert**, G&V Investments, and displayed an aerial photograph noting the 27-acre parcel subject to the City Place PUD agreement. He stated that the area is primarily a commercial corridor and Council is requested to refer the matter back to staff to pursue a rezoning request to eliminate the PUD and confirm the B-2 zoning of the property. He commented that they are not asking for Council to take any affirmative action tonight, and are requesting that staff be directed to allow the request to be put through the process. He reviewed the history of the parcel, noting that G&V Investments developed Eddington Farms Subdivision, retaining this property for future development as mixed-use. In 2004, the original City Place PUD was put into place, providing for a rather dense development for up to 710,000 square feet of multi-family residential with an office and retail component of up to 35,000 square feet, following the concept of "new urbanism". He pointed out that a PUD was used at that time as the City's Zoning Ordinance did not have any mixed-use zoning classifications. The underlying zoning was changed from a residential classification to B-2 to support the PUD.



He added that in 2007, during the Master Land Use Plan update process, it was determined that the property should fall into the Flexible Business Use 2 (FB-2). In 2009, the FB-2 overlay was imposed by the new Zoning Ordinance. In 2010, his clients realized that this structured dense development was not feasible, and came forward to Council to request an amended or restated PUD, allowing some areas to be designed for certain uses. He explained that since that agreement was approved, attempts to market the property have failed, as a provision in the existing PUD requiring Conditional Land Use approval by Council for buildings over 12,500 square feet is found objectionable to certain users. Furthermore, a lack of a traffic signal deters clients. He stated that the Michigan Department of Transportation (MDOT) has looked into the realignment of Eddington Boulevard with Drexelgate and determined that the warrants are met for realignment and installation of a traffic signal. MDOT has noted that the realignment will change the level of service from a Level F to a Level B during peak hours. He commented that the Traffic Improvement Association looked into this and issued a letter dated April 23, 2013 confirming MDOT's findings and conclusions. He added that MDOT concluded that a signal at Yorktown and Meadowfield does not meet the requirements.

He mentioned that the Eddington Farms Subdivision continues to object to the realignment of Eddington Boulevard with Drexelgate, while letters were received from Winchester Village, Meadowfield Condominiums, and the adjacent Chrysler dealer requesting the light and supporting the realignment.

Mr. Gaber commented that the benefits to the developer by eliminating the PUD will parallel the benefits to the City. He stated that the rezoning would provide a transition buffer between Bordines and Eddington Farms, allows for stricter design guidelines and standards, and will enhance the City's tax base by encouraging a development with higher-quality end users. He added that public safety will benefit from the addition of a traffic signal. He mentioned that the Capital Improvement Plan proposes the construction of a traffic signal at a realigned Eddington Boulevard and Drexelgate in 2017.

He stated if the property is rezoned to FB-2 without PUD restrictions, G&V Investments will fund the realignment project. If the rezoning is not approved, the City would have to negotiate a cost-sharing agreement as the developer would not have increased revenue from the sale of the property.

**Mr. Anzek** stated that the original PUD rezoned the property to B-2. With the expiration of the PUD in 2004, the property reverted to residential. An F-2 overlay is currently appropriate. He commented that the proposal raises legal questions on the vacation of Eddington Boulevard and he is unsure that this would be a clean sendback for staff consideration. He noted that Eddington Farms has declined any participation in the process.

**Mr. Gaber** added that the PUD currently provides that if a site plan is not submitted by November of 2013, the City has the right to rezone the property, which could be to FB-1. He commented that nothing will change between now and November.

**President Hooper** questioned whether upon expiration of the PUD the zoning would revert to FB-1 or R-4.

**Mr. Anzek** responded that he would have to consult with the City Attorney.

**President Hooper** noted that he received a number of emails requesting that Eddington Boulevard not be closed. He stated that he was not aware that there was ever a request to close Eddington Boulevard.

**Mr. Anzek** responded that there was not.

**Public Comment:**

**James Coon**, 707 Tewksbury, suggested that a three-way signal at Drexelgate be installed instead of relocating Eddington Boulevard. He stated that the gap in traffic from the signal will allow left turns from Eddington.

**Hector Urteaga**, 1578 Farnborough, stated that the developer is not promoting the best interests of the community. He commented that there are many empty businesses already and a traffic light will not solve the problems.

**Scott Armstrong**, 625 Lexington, stated that the Eddington Farms Association has had discussions with the developer and commented that there has been nothing presented to them as to how the realignment would be done.

**Keith Jablonski**, Beier Howlett, P.C., stated that his firm represents the homeowners association. He noted that the 2010 Amendment to the PUD specifies that the homeowners association must approve any realignment of Eddington Boulevard. He commented that it is the association's position that it is a direct and intended third party beneficiary to the PUD agreement, along with Fifth Third Bank. He stated that the Eddington Property Owners Association objects, does not agree with, and will not agree with without further discussion of a realignment of Eddington Boulevard. He questioned whether a realignment could have a health and safety impact, having a detrimental effect on emergency vehicle access. He added that the 2004 PUD agreement does in fact require references that the property was zoned residential and would revert back to residential.

**Bill Karam**, 1710 Farnborough, stated that the realignment will become a cut through for traffic to John R. He questioned what would happen to the berm that currently shields homeowners from Rochester Road.

**Michael Corless**, 1590 Farnborough, noted that putting a zig zag into Eddington Boulevard will impede emergency vehicles. He commented that there is empty retail property in Rochester Hills now.

**Lorraine McGoldrick**, 709 Essex, stated that the developer's request should be denied. She commented that only seven percent of the crashes would be helped by the placement of a light at Drexelgate, while 28 percent of the crashes would be improved at Meadowfield.

**Lubna Channo**, 175 Bellshire, spoke in opposition to the realignment of Eddington Boulevard and Drexelgate.

**Lisa Winarski**, 194 Bedlington, stated that she is the President of the Eddington Farms Homeowners Association. She stated that Eddington Farms is demanding that the PUD remain in place until its expiration. She questioned why the subdivision was not advised that this item was on the agenda.

**Kim Semrau**, 146 Meadow Lane Circle, noted that she is the President of the Meadowfield Condominium Board, and stated that the Board does support a light near Drexelgate.

**President Hooper** questioned why a site plan has not been put together.

**Mr. Gilbert** responded that a site plan was not developed as there was question whether the road realignment would be approved. He commented that with the objection of the homeowners association, there is no benefit to spending dollars to show a road realignment.

**President Hooper** commented that if traffic warrants have been met, a plan should be presented.

**Mr. Gilbert** stated that much will be determined by MDOT as to how the realignment will be configured. He commented that if the realignment is not done, the property can be sold at a lesser price to lesser tenants. He questioned whether the plans should depict more than merely a concept.

**President Hooper** commented that it is his opinion that a plan should depict how the realignment will look and how Eddington Farms Subdivision will maintain its identity, with enough detail to show signage.

**Mr. Gilbert** responded that it is difficult to go through a planning process without knowing if the City would contribute to the road.

Discussion ensued as to whether the road realignment would affect City maintenance needs, health and safety.

**President Hooper** questioned the viability of adding more retail locations when there are empty businesses in the area.

**Mr. Gilbert** responded that everything they do is market-driven, and noted that much of the empty retail is old-style big box spacing. He commented that Fifth Third Bank is in agreement with the relocation.

**President Hooper** commented that it is his opinion that the jog in the road would not affect the movement of fire trucks.

**Mr. Anzek** added that as Drexelgate is near Fire Station No. 1 on Livernois, a signal at Rochester Road would provide another point of direct access.

**President Hooper** commented that it is the City's intent to have interconnectivity between subdivisions. He questioned what noticing requirements are for rezoning.

**Mr. Staran** responded that tonight's discussion item is not a rezoning hearing and has no requirement for notice. He stated that should Council decide that this matter is worthy of further consideration and referral to the Planning Commission, it would be scheduled for a Public Hearing there and public notices would go out at that point to the homeowners association and all property owners within 300 feet of the property.

**Mr. Anzek** added that by policy, the Administration notifies anyone who has spoken on the issue in the past. As there is no formal action to be taken tonight, no notice was given.

**Mr. Staran** commented that a matter such as this would have a number of public meetings before any final action, and would come back to City Council. For the purposes of tonight there are no particular personal notice requirements. The item is just placed on the agenda for discussion.

**President Hooper** questioned whether the berm currently installed separating the vacant property from the residences would be maintained.

**Mr. Anzek** stated that it would be maintained at its highest point.

**President Hooper** pointed out that Rochester Road is owned by MDOT and they have jurisdiction over the placement of a traffic signal. He noted that a signal was placed into the CIP to capture that as a potential project should MDOT find the installation is warranted.

**Mr. Anzek** mentioned that privately-funded projects are typically not placed into the CIP; however, this project was added to coordinate with any potential improvements to Drexelgate.

**President Hooper** questioned how the City would have the ability to vacate right-of-way.

**Mr. Staran** responded that there is a procedure to do that. The City has control over Eddington Boulevard as a City road. There is a procedure to vacate road right-of-ways. He explained that a public hearing would be held, and the utilities and adjacent lot owners notified. The plat would have to be revised and an Oakland County Circuit Court proceeding and Court Judgment issued to revise the plat to eliminate all public and private rights for the right-of-way.

#### **Council Discussion:**

**Mr. Kochenderfer** questioned how the decision process would proceed regarding the rezoning and the traffic light, and if the elimination of the PUD would require a sign off by the homeowners association.

**Mr. Anzek** responded that rezoning would not occur without an adjustment to the PUD.

**Mr. Staran** responded that the realignment of Eddington Boulevard requires the association's agreement.

**Mr. Gaber** noted that the parties to the PUD agreement are the City, the developer and Fifth Third Bank. He noted that the owner is requesting the rezoning of this property to eliminate the PUD agreement where Eddington is not a party and change the zoning to B-2. He commented that the traffic signal process is something that they are promoting and would be willing to fund.

**Mr. Kochenderfer** stated that without a plan to review, he does not know how the change would impact the subdivision.

**Mr. Staran** commented that the PUD has at least two components, which include a zoning component and a contractual component. He stated that Council is involved as the PUD does not form without Council's approval and would not get amended or terminated without its approval. He noted that while the matter was submitted initially as a zoning request, it was believed that such a request would be inappropriate without Council's opinion.

He stated that Council has three options to consider: If Council is not interested in changing the PUD, it could make that decision tonight. Another alternative would be to determine if the request merits further consideration, and refer it to the Planning Commission for a public hearing and input. A third alternative is to determine that Council is not satisfied that it has enough information to make a decision and to refer the request to the Planning Commission.

**Mr. Klomp** questioned whether the homeowners' association's approval rights means that Council cannot back out of the PUD.

**Mr. Staran** stated that under the current PUD agreement, the homeowners association has approval rights limited to the relocation of the road. He commented that they are not a party to the PUD itself, and do not have any say other than as residents of the community. He pointed out that terminating the PUD itself would terminate everyone's rights under the PUD, and future development of the site would be governed by the underlying zoning. He mentioned that a second step is requested to make the zoning an FB-2 overlay.

**Mr. Klomp** stated that while the market has been turbulent, he would echo the sentiments that a plan should be presented. He noted that residents have the idea that the entrance onto Rochester Road would be eliminated entirely, or the subdivision's identity would be lost. He commented that while the realignment makes all the sense in the world, there should be a review at the Planning Commission level that Council can then take a look at. He stated that the reality is that eventually the property will be developed, and efforts should be toward working together to form something most are happy with. He commented that he would like to see plans for a high quality development with sidewalks connected. He stated that at some point parameters will have to be developed showing the road configuration, buffers, signage and what kinds of businesses.

**Mr. Gaber** noted that the developer would like to have direction from Council to proceed.

**Mr. Gilbert** stated that their dilemma is that he is unable to negotiate the property with potential purchasers or tenants as things like corner spaces cannot be determined without knowing whether the relocation will be approved.

**Mr. Rosen** recapped the history of the property starting with its potential development in 1991 and 1992. He commented that he has said for two decades that residential development at that point is still viable and questioned whether a staggered light such as on Adams at Powderhorn Ridge would be acceptable. He noted that he has no problem with a revision of the PUD; however, he cannot logically approve a vacation of the PUD to revert back to the current zoning.

**Mr. Staran** explained when the City might be able to initiate a notice stating that the project has been abandoned, and noted that the current PUD provides for extensions.

**Mr. Rosen** questioned whether an extension can be granted by resolution of Council.

**Mr. Staran** responded that the first extension can be done administratively, and a subsequent extension can be granted by the Planning Commission.

**Mr. Rosen** suggested that while he does not favor forming committees for this type of task, he would like to get all parties together to determine a course of action.

**Mr. Tisdell** stated that this evening's purpose is to begin the discussion process. He noted that possible realignment can be reviewed when a site plan is submitted and suggested that the Eddington Farms Homeowners Association should review any liability issues arising due to their opposition of a traffic light with their attorney. He commented that the homeowners association does not want to be the single entity standing out against a traffic light at that location, noting that tax value should not be chosen over public safety.

**Mayor Barnett** stated that tonight's discussion has been helpful. He pointed out that one traffic study suggests a 500 to 600 second wait time for a break to turn out. He commented that while he agrees that development is coming to this property in some fashion, he would suggest that the developer approach the neighbors. He noted that the developer is putting Council and the Administration in an unfair position and should return after putting a plan together.

**Mr. Gaber** reiterated that financing of the traffic signal is an issue, and commented that the developer cannot pay for a signal with the existing PUD.

**Mr. Gilbert** stated that FB-2 is the best zoning vehicle for a developer and PUDs do not work in this ever-changing market. He requested Council direct that their rezoning application be processed.

**Mr. Yalamanchi** stated that Council was previously told that the PUD was the best thing that could happen and now it is being told that by rezoning to FB-2 the market will change and the development will get a jump start.

**Mr. Gilbert** responded that with a zoning of FB-2 and a road realignment with a traffic light, the developer will not be hamstrung by a size limitation for a particular

building. Furthermore, the higher quality development will allow for resources to pay for the improvements.

**Mr. Yalamanchi** questioned why FB-2 was being requested.

**Mr. Anzek** responded that FB-2 zoning is form-based and finds the right scale of development for the land it sits on. He noted that for form-based zoning, the higher the number, the more intensity of development allowed.

**Mr. Yalamanchi** stated that he would seek a quality development and would request that a concept plan be presented. He commented that he is not ready to ask the Administration to begin the process until he views a concept plan.

**Mr. Gaber** stated that the developer does not know what the market is driving and cannot provide a definite plan.

Discussion ensued regarding the specifics of what would eventually be built on the site.

**Mr. Gilbert** commented that he would be unable to provide details without further progress toward rezoning and likened it to contract zoning.

**Mr. Staran** pointed out that the developer is asking Council to go from a PUD contract where they know what was proposed to something that is less certain and commented that it is clear that a number of the Council members are struggling with the uncertainty.

**Mr. Yalamanchi** commented that Council needs a starting point to lay out the concept for change. He questioned what the zoning will revert to if the PUD expires.

**Mr. Anzek** stated that the developer has the right to ask for an extension. He commented that he would have to review what will occur if the PUD expires and no extension is sought.

**Mr. Yalamanchi** pointed out that the developer can request an extension due to economic reasons.

**Mr. Webber** noted that from the residents' opinion elimination of the PUD will remove their ability to weigh in on the realignment. He stated that the City would like to see a traffic signal in that area in the interest of safety and have the identity and character of the subdivision kept. He suggested an extension and work within the PUD concept, and noted that the PUD could be amended again.

**Mr. Rosen** stated that if the PUD is abandoned or the City initiates an abandonment, the property zoning would revert to FB-1. FB-2 is an increased density from what would happen naturally.

**President Hooper** stated that in the interest of public safety, he would like to see a light. He suggested that a site plan concept be presented to the homeowners association, and if an agreement cannot be worked out, Council could be asked to find another way to make it happen. He commented that he cannot see eliminating the PUD.

**Mr. Gilbert** commented that he will meet with his engineers and begin a concept plan for realignment.

**President Hooper** noted that the plan should include the subdivision sign, landscaping and how the realignment will be done.

**Mr. Gilbert** commented that it is intended to construct a framed entranceway at the actual beginning of the subdivision.

**President Hooper** stated that the PUD has a range of uses and commented that the developer should get a buy-in by the homeowners' association and then return to Council with a concept plan for the traffic light. He noted that the developer should comply with the terms of the PUD, and if an agreement with the homeowners' association cannot be reached within the PUD, then Council would have to determine what should occur next.

**Mr. Gaber** commented that further discussion of funding for the light is warranted.

**President Hooper** responded that a funding discussion would be held with Council at some point.

**Discussed.**

**2013-0236** Request for Acceptance of the Pedestrian-Bicycle Pathway Easement granted by Thomas Gregory and Paula M. Paine, 3645 Tienken Road, Rochester Hills, Michigan 48306 and authorization of payment in the amount of \$6,000.00

**Attachments:** [Agenda Summary.pdf](#)  
[Pathway Easement Appd 050713.pdf](#)  
[3645 Tienken Easement Drawing.pdf](#)  
[Resolution.pdf](#)

**Allan Schneck**, Director of DPS/Engineering, stated that this request is to purchase an easement to complete pathway along Tienken Road. He commented that the City has tried for a number of years to obtain this easement, and the owner is now receptive to the purchase.

**A motion was made by Yalamanchi, seconded by Webber, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0139-2013

**Resolved**, that the Rochester Hills City Council hereby accepts the pedestrian-bicycle pathway easement for Parcel Number 15-07-100-015 granted by Thomas Gregory and Paula M. Paine, 3645 Tienken Road, Rochester Hills, Michigan and authorizes payment to the landowners in the amount of of \$6,000.00.

**2013-0229** Request for Purchase Authorization - DPS/FLEET: Purchase of one (1) new Water System Maintenance Truck in the amount of \$37,727.00; Red Holman Buick GMC, Westland, MI

**Attachments:** [Agenda Summary.pdf](#)  
[Bid Tabulation.pdf](#)  
[Resolution.pdf](#)



*Allan Schneck, Director of DPS/Engineering, stated that the existing DPS personnel will be used as a second water maintenance crew. Currently, the crew uses a hand-me-down van from the water metering department that is not adequately sized for staff to utilize for this purpose.*

**A motion was made by Tisdell, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0140-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes the purchase of one (1) new Water System Maintenance Truck from Red Holman Buick GMC, Westland, Michigan in the amount of \$37,727.00.

### The following six (6) Legislative Files are related to 2014 Salary Recommendations

**2013-0237** Salary Recommendation for Directors' General Adjustment - 2014

**Attachments:** [Agenda Summary.pdf](#)  
[2014 Director Salaries.pdf](#)  
[Resolution.pdf](#)

*Pamela Gordon, Director of Human Resources, stated that the Human Resources Technical Review Committee (HRTRC) met on May 24th and June 6th to consider recommendations for salaries relevant to Directors, the Mayor, City Council, and Boards and Commissions. She stated that a review of factors yielded some slow improvement in the economic indicators. She noted that the Consumer Price Index for 2012 increased by 1.7 percent and taxable values are projected to increase by 1.5 percent in 2014. She mentioned that union contract negotiations begin next month. She commented that the taking these factors into account along with other compensation factors such as health care, the HRTRC recommends a conservative adjustment for Department Directors of one percent.*

**A motion was made by Yalamanchi, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0141-2013

**Whereas**, pursuant to Article II, Section 5 of the *City Council Policy for Salaries of Department Directors and Mayor, and Per Diem Fees for City Boards and Commissions*, the HR Technical Review Committee has met to discuss recommendations concerning the general base pay adjustments for department directors in 2014.

**Whereas**, the committee concurs that an improvement in economic and market conditions supports the consideration of a conservative salary adjustment.

**Resolved**, the amount of 1% shall be added to the general base salary budget for department directors for 2014, in the amount of \$8,517.00, bringing the total base salary budget for department directors to \$971,158.00.

**2013-0238** Salary Recommendation for Directors' Equity Adjustment - 2014

**Attachments:** [Agenda Summary.pdf](#)  
[Resolution.pdf](#)

**Pamela Gordon**, Director of Human Resources, stated that the Human Resources Technical Review Committee (HRTRC) saw no real indication of a need to make any specific recommendations for individual Director's salaries for 2014. No equity adjustment is recommended.

**A motion was made by Webber, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0142-2013

**Whereas**, pursuant to Article III, Section 5 of the *City Council Policy for Salaries of Department Directors and Mayor, and Per Diem Fees for City Boards and Commissions*, the Human Resources Technical Review Committee met to discuss recommendations concerning individual salary equity adjustments for department directors in fiscal year 2014.

**Resolved**, that the Rochester Hills City Council hereby concurs with the recommendation of the Human Resources Technical Review Committee that no additional budget for equity adjustments be authorized for department directors in 2014.

**2013-0239** Salary Recommendation for Directors' Variable Performance (Discretionary) Pool - 2014

**Attachments:** [Agenda Summary.pdf](#)  
[Resolution.pdf](#)

**Pamela Gordon**, Director of Human Resources, stated that there has not been a recommendation for any variable adjustment since 2008, and there is no recommendation for a variable adjustment for 2014.

**A motion was made by Webber, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0143-2013

**Whereas**, pursuant to Article III, Section 5 of the *City Council Policy for Salaries of Department Directors and Mayor, and Per Diem Fees for City Boards and Commissions*, the Human Resources Technical Review Committee met to discuss recommendations concerning variable performance (discretionary) pay for department directors in fiscal year 2014.

**Resolved**, that the Rochester Hills City Council hereby concurs with the recommendation of the Human Resources Technical Review Committee and that no additional budget for variable performance pay be authorized for department directors in 2014.

**2013-0240** Salary Recommendation for Mayor - 2014

**Attachments:** [Agenda Summary.pdf](#)  
[Mayor Salary Survey.pdf](#)  
[Resolution.pdf](#)

**Pamela Gordon**, Director of Human Resources, stated that the Human Resources Technical Review Committee (HRTRC) recommends a general adjustment to the Mayor's salary of one percent, consistent with that recommended for Department Directors. She explained that a comparison of the Mayor's salary to chief executives' salaries in surrounding communities in Oakland County determined that the Mayor's salary is one of the lower numbers. She noted that considering those factors, the HRTRC also recommends an equity adjustment of \$5,000.

**Mr. Rosen** commented that he did not concur with the HRTRC's recommendation.

**Mr. Klomp** thanked Ms. Gordon for her work on the HRTRC. He noted that through deliberation and spirited conversation, the committee came to a majority of opinion that the Mayor's salary needed to be increased by \$5,000 to raise it to an equitable position.

**Mr. Yalamanchi** stated that he supports the adjustment, noting that the current Council has been very cautious in its approach to the City's Budget. He commented that in fairness to the Mayor, there have been no previous adjustments other than the one percent increases.

**President Hooper** mentioned that when he was first appointed to City Council, he noted that the Mayor's salary was less than one of the City's Directors. He explained that reasoning at that time was that the joint Assessor/Treasurer position warranted a higher salary. He commented that he would support consideration of a performance bonus, stating that the Mayor has done a great job for the City.

**Mr. Kochenderfer** concurred, noting that many good things have happened for the City. He commented that he would like to see more compensation in the public sector based on merit.

**Mr. Tisdell** stated that he feels the bonus concept is too subjective. He noted that he would not deny that Mayor Barnett and Council have done an exceptional job since the start of the recession in 2008. He commented that it is not about rewarding the performance of a particular individual and stated that Council should place emphasis on the analysis of comparison to other Mayors and City Managers. He noted that it is not about this Mayor, it is about the Mayor's position.

**Mr. Webber** suggested that Council look to the HRTRC's recommendation. He commented that Council is approving the salary of someone who reports directly to the people, and stated that communities with City Managers should be viewed differently.

**Mr. Yalamanchi** stated that he would concur with the HRTRC's recommendation and hoped Council's decision would be unanimous. He commented that the City has come a long way over the years with all of its financial challenges. He noted that from a business and operational standpoint the City can justify the increase. He **Called the Question**.

There was no second.

**President Hooper** noted there was no additional discussion. He called for a vote.

**A motion was made by Yalamanchi, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Nay** 1 - Rosen

Enactment No: RES0144-2013

**Whereas**, pursuant to Article IV, Section 3 of the *City Council Policy for Salaries of Department Directors and Mayor, and Per Diem Fees for City Boards and Commissions*, the HR Technical Review Committee has met to discuss recommendations concerning the Mayor's salary for 2014.

**Whereas**, it was the general consensus of the Human Resources Technical Review Committee that the general adjustment recommended for department directors in 2014 should be applied to the Mayor's salary,

**Whereas**, in addition to a general adjustment, an equity adjustment placing the Mayor of Rochester Hills at a median salary level when compared to chief executives of adjoining communities was supported,

**Whereas**, that the recommended adjustments would further address internal department director equity considerations,

**Resolved**, that the amount of 1% shall be added to the salary of the Mayor in 2014,

**Further resolved**, that an equity adjustment in the amount of \$5,000.00 be applied, bringing the Mayor's annual base salary to \$111,199.00 for 2014.

**2013-0241** Salary Recommendation for Boards and Commissions - 2014

**Attachments:** [Agenda Summary.pdf](#)  
[Resolution.pdf](#)

**Pamela Gordon**, Director of Human Resources, stated that the Human Resources Technical Review Committee (HRTRC) recommends no changes to the per diem rate for Boards and Commissions.

**A motion was made by Webber, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0145-2013

**Whereas**, pursuant to Article VI, Section 3 of the *City Council Policy for Salaries of Department Directors and Mayor, and Per Diem Fees for City Boards and Commissions*, the Human Resources Technical Review Committee met to discuss recommendations concerning the per diem compensation for members of boards and commissions in Fiscal Year 2014.

**Resolved**, that the Rochester Hills City Council hereby concurs with the recommendation of the Human Resources Technical Review Committee and that the per diem compensation for boards and commissions remain unchanged at seventy-five dollars (\$75) for chairpersons and sixty-five dollars (\$65) for members per meeting attended for Fiscal Year 2014 for the following boards and commissions.

Building Authority  
Construction/Fire Prevention Code Board of Appeals  
Economic Development Corporation  
Planning Commission  
Zoning Board of Appeals/Sign Board of Appeals  
Historic Districts Commission

**2013-0242** Salary Recommendation for City Council - 2014

**Attachments:** [Agenda Summary.pdf](#)  
[Council History & Proposed 2014.pdf](#)  
[City Council Meeting Pay.pdf](#)  
[Resolution \(Proposed\).pdf](#)

***Pamela Gordon***, Director of Human Resources, stated that the Human Resources Technical Review Committee (HRTRC) recommends reducing the number of meetings required for Council from 32 to 24. She noted that there has been no adjustment to the pay for City Council since 2005. She pointed out that the increase will impact Council salaries by \$480.

***Mr. Webber*** stated that while he appreciates the recommendation, he does not support an increase.

***Mr. Kochenderfer*** agreed, commenting that he does not see a reason to change Council's pay.

***President Hooper*** concurred.

**A motion was made by Webber, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 7 - Hooper, Klomp, Kochenderfer, Rosen, Tisdell, Webber and Yalamanchi

Enactment No: RES0146-2013

***Resolved***, that the Rochester Hills City Council does not concur with the recommendation of the Human Resources Technical Review Committee to adjust the number of annual meetings required to qualify for meeting pay to 24 meetings for 2014, but rather maintains the number of meetings at 32, at the per diem rate of \$60,

***Further Resolved***, that the base salary in 2014 shall remain unchanged at the rate of \$7,850.48 for Council President, \$6,577.43 for Council Members.

## COUNCIL COMMITTEE REPORTS

### **Paint Creek Trailways Commission:**

***Mr. Klomp*** reported that the Paint Creek Trailways Commission recently conducted a survey of users of the Trail. He noted that residents surveyed were from Lake Orion, the Village of Oakland Township, the City of Rochester and Rochester Hills. He pointed out that 40 percent of the individuals surveyed were Rochester Hills residents. He stated that an overwhelming request from respondents was for bathroom facilities.

**ANY OTHER BUSINESS**

*None.*

**NEXT MEETING DATE**

*Regular Meeting - Monday, July 15, 2013 - 7:00 p.m.*

**ADJOURNMENT**

*There being no further business before Council, President Hooper adjourned the meeting at 11:30 p.m.*

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*GREG HOOPER, President  
Rochester Hills City Council*

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*TINA BARTON, Clerk  
City of Rochester Hills*

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*MARY JO PACHLA  
Administrative Secretary  
City Clerk's Office*

*Approved as presented at the (insert date, or dates) Regular City Council Meeting.*