



Rochester Hills Minutes - Draft

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Green Space Advisory Board

Chairperson Gerald Carvey, Vice Chairperson Tim Gauthier

Members: Thomas Dohr, Luke Fleer, Richard Graham, Jayson Graves, Sandra Niks, Dahlvin Peterson, Samantha Phillips

Council Member Adam Kochenderfer

Youth Representatives: Shreya Reddy, Alexis Smith, Taylor Thorpe

Tuesday, January 28, 2014

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Carvey called the Green Space Advisory Board meeting to order at 7:02 p.m.

ROLL CALL

Present 7 - Gerald Carvey, Thomas Dohr, Tim Gauthier, Jayson Graves, Sandra Niks, Dahlvin Peterson and Samantha Phillips

Absent 2 - Luke Fleer and Richard Graham

Non-Voting Members Present: Mike Hartner, Adam Kochenderfer, Shreya Reddy, Alexis Smith and Taylor Thorpe

Non-Voting Members Absent: Kurt Dawson

Others Present: Ms. Melinda Hill, resident.

Committee Members Fleer and Graham provided previous notice they would be unable to attend and asked to be excused.

APPROVAL OF MINUTES

2014-0016 Regular Meeting - December 10, 2013

Attachments: [12-10-13 GSAB draft minutes.pdf](#)
[Resolution.pdf](#)

*The minutes were approved as amended with the following correction under **UNFINISHED BUSINESS**, Item 2012-0443, **Discuss Stewardship Management Plan**, page 4, paragraph 9:*

*A public forum should be held **considered** to gather input from local experts, master gardeners, as well as residents, etc.*

A motion was made by Peterson, seconded by Phillips, that this matter be Approved as Amended. The motion carried by the following vote:

Aye 7 - Carvey, Dohr, Gauthier, Graves, Niks, Peterson and Phillips

Absent 2 - Fler and Graham

Resolved that the Green Space Advisory Board hereby approves the Minutes of the Regular Meeting of December 10, 2013 as amended.

COMMUNICATIONS

Chairperson Carvey welcomed new member Ms. Sandra Niks. New member Fler was unable to make tonight's meeting.

2014-0020 Green Space Perpetual Care Trust Fund

Attachments: [01-03-14 Ltr to Sawdon re. Green Space Trust.pdf](#)

Mr. Sawdon began his update with a recap: In September 2013, Mr. Sawdon appeared before GSAB after City Council decided to place a question on the November 2013 ballot to ask citizens to give GSAB some flexibility to use green space funds for stewardship going forward. Mr. Sawdon brought forward a concept to consider using those funds within a perpetual care trust fund under Section 115 of the IRS Code if the ballot question passed, which it did pass. Section 115 extends the tax exempt status of the City to the trust itself.

Mr. Sawdon explained the next step was to seek an interpretation of Public Act 20 ("PA 20"). PA 20 is generally written for the intent to invest funds on a very short term basis. However, there is a paragraph within PA 20 that states if park funds are collected and reside in a special revenue fund, then the public entity may exempt out of PA 20 and use Public Act 314 ("PA 314"). PA 314 is the act that governs the investment of retirement funds on a long term basis which would be more conducive for a perpetual care fund. The term perpetual means everlasting.

Mr. Sawdon requested the City's retirement attorney review PA 20 to determine if green space funds fit the term "public park", which was one test. The other test that was met was that green space funds reside in a special revenue fund at the City. The definition of a park is quite broad and includes a large area of public land kept in its natural state to protect plants and animals, like green space. A further definition includes an area maintained in its natural state and be public property. Mr. Sawdon provided copies of the retirement attorney's opinion letter to GSAB members via this meeting's packet. The attorney's opinion letter concurred that a green space perpetual trust fund could operate under PA 314 and could utilize long term investments. Mr. Sawdon provided copies of a draft trust agreement to GSAB via this meeting's packet.

Mr. Sawdon further explained that once principal funds are placed into the trust, it can be difficult to get principal funds out of the trust. GSAB can recommend what dollar amount to place in the trust as there is no set amount required. Additional funds can be added to the trust at any time, so the decision does not have to be all at once. Mr. Sawdon noted that it is reasonable to expect an average of 5% long-term return into the future. For example, if \$5 million dollars were placed into the trust, it would be reasonable to expect about \$250,000 income annually to provide stewardship activities for which the voters have

granted.

Mr. Sawdon also provided a draft resolution for GSAB to consider. If GSAB decides to move forward with a trust, the next step would be to present it to City Council for their approval. If City Council approves it, then the trust would be sent to the IRS for approval.

Mr. Sawdon opened the floor for questions. The following points were discussed:

** To date, the hard part of working on the trust document has been done which cost about \$1,000.00 and has been paid by the fund. The investment management fee would be approximately .27%, which is respectable. Currently green space funds are earning roughly .2% which is not keeping pace with inflation. The current principal in green space funds is about \$6 million which could last less than 30 years. Under a perpetual care trust, it could last forever. The trust would be accumulated with other invested funds for valuation and to achieve a lower management fee, but would be maintained as a separate account and have it's own separate report.*

** A question was raised regarding page 6, Sec. 2.5. Administration, paragraph (e) of the trust document and how the role of the Board of Trustees affect the role of GSAB. Mr. Sawdon explained that the trust document fits the November 2013 ballot question that the residents approved. The Board of Trustees act in good faith and become fiduciaries. Fiduciaries play a fairly restricted role. GSAB will provide input to the Trust Board through the GSAB representative that will serve on the Trust Board. The Trust Board will consist of a GSAB member, a City Council member and the Finance Director. Mr. Hartner added that GSAB will receive input from city staff and residents and examine projects and priorities annually and recommend a budget to the Trust Board and ultimately to City Council for final approval. The Trust Board is not intended to usurp the role of GSAB but protect the assets in the trust.*

** A minor correction was raised regarding page 3, Sec. 1.9. Year-end reports, of the trust document. It should read: "Within one-hundred eighty ~~days~~ (180) days..."*

** A question was raised regarding page 2, paragraph 4, of the trust document that defines Green Space Properties to include parks and natural areas. As discussed earlier, the definition includes parks to qualify for use of PA 314. The trust document defines how the funds are to be used and cannot be extrapolated to include park activities. It was suggested that the definition should be linked with the green space ballot language by having the paragraph read as follows: "Green Space Properties are parks and natural areas owned and/or controlled by the City which consist of green spaces and natural features, including but not limited to significant watercourses and land held under conservation easements **"consistent with the ballot language adopted by the voters on November 5, 2013."***

** The main goal of the trust is not to spend principal and use the earnings for stewardship activities. The trust document determines that earnings can leave*

the trust and anything beyond the earnings must have a replenishment plan. If a portion of principal was needed, the Trustees could design a plan with a systematic payback of that principal over a reasonable amount of time by using the earnings. A very important decision to be made down the road will be to determine how much money to place in the trust as principal. The trust will be set up to segregate principal from accumulated earnings. If, for some reason, a future City Council wanted to terminate the trust, all proceeds revert back to the confines of green space purposes.

Chairperson Carvey recognized Ms. Melinda Hill, resident of Rochester Hills in attendance as a member of the public. Ms Hill was interested knowing when GSAB was looking to implement this trust and determine the amount of principal to place in trust. She questioned whether a stewardship plan and related costs had been determined for the currently owned green space parcels and if there are other parcels available for green space acquisition and if GSAB plans to go back to the voters to renew the current green space millage.

Members explained that GSAB is in the process of outlining a stewardship management plan with city staff which will probably take six months or more to accomplish. A request for qualifications to seek the best consultant for a stewardship management plan is in process. The consultant will help determine the costs involved for a prudent stewardship management plan. GSAB has examined all available open space parcels in the city and are aware of the remaining green space parcels within the City.

*Chairperson Carvey asked if members felt comfortable to move forward with the trust by considering the resolution before them. It was noted that the resolution was revised to include "**as amended**" in the second to the last paragraph. The trust will likely be presented to City Council in April for review and recommendation.*

A motion was made by Peterson, seconded by Graves, that this matter be Recommended for Approval. The motion carried by the following vote:

Aye 7 - Carvey, Dohr, Gauthier, Graves, Niks, Peterson and Phillips

Absent 2 - Fleer and Graham

Whereas, in September of 2005, Rochester Hills' residents passed a 0.3 mill 10-year millage to acquire and preserve natural green space in the community, and

Whereas, Rochester Hills City Council created a special revenue fund for these assets and established a nine member Green Space Advisory Board to develop strategies and make recommendations regarding the expenditure of the millage funds, and

Whereas, in November of 2013, Rochester Hills residents voted to approve revising the permissible use of the tax revenues derived from the millage, so that the tax revenues may also be used for the stewardship of the green space properties, which includes the protection, care and maintenance of, and to

improve pedestrian accessibility to and within the green spaces properties owned, acquired or controlled by the City, and

Whereas, the Green Space Advisory Board believes that stewardship responsibilities for Green Space defined properties should be an on going process lasting for many generations into the future, and

Whereas, the Green Space Advisory Board believes that using available Green Space generated principle to pay for stewardship activities will not provide for the multi generational funding source needed to provide stewardship for Green Space defined properties into the future, and

Whereas, the Green Space Advisory Board is recommending that a perpetual care trust fund be formed so that earnings from certain Green Space generated principle be used to provide that long-term funding source for multi generational stewardship activities, and

Now, Therefore, the Green Space Advisory Board, working in coordination with the City's Finance Director and the City's Retirement Attorney, have completed the trust documents, as amended, needed to meet their desired goal, and

Be It Resolved, the Green Space Advisory Board supports and recommends the creation of the perpetual care trust fund to provide a permanent funding source for stewardship activities.

PUBLIC COMMENT

As a member of the Friends of the Clinton River Trail, Ms. Melinda Hill invited GSAB to attend a meeting on January 29, 2014 at 7:00 p.m. in Auburn Hills.

Board members expressed their appreciation to Ms. Hill for her participation in tonight's meeting.

UNFINISHED BUSINESS

2008-0130 GSAB Administrative & Strategic Sub-Committee

No report at this time.

Discussed

2008-0131 GSAB Communication, Promotion & Education Sub-Committee

No report at this time.

Chairperson Carvey commented that this sub-committee would need a new member to replace former member Tilove. Member Niks volunteered to serve. Youth Representative Shreya Reddy also volunteered to serve.

Discussed**2008-0132** GSAB Property Nominations & Acquisitions Sub-Committee

No report at this time.

Chairperson Carvey commented that he wanted to walk the Karas parcel, but the weather has not been cooperative. Ms. Hill asked why GSAB was interested in the Karas property again. Mr. Hartner explained that Mr. Karas approached GSAB recently. The parcel runs along a utility easement. Currently Consumers Energy has a willingness to put easements on their pipeline parcels for recreation. GSAB would like to evaluate the possibilities.

Discussed**2008-0133** GSAB Stewardship & Advocacy Sub-Committee

No report at this time. Chairperson Carvey noted that perhaps Member Fler could serve on this sub-committee to replace former Member Loeb.

Member Peterson commented that meetings will continue with City staff to discuss stewardship plans.

Discussed**2012-0443** Discuss Stewardship Management Plan

Member Peterson commented that meetings will continue with City staff to discuss stewardship plans.

Discussed**NEW BUSINESS****2014-0017** Election of GSAB Chairperson - 2014

Attachments: [Chairperson Nomination Form.pdf](#)
[Resolution to appoint Chair.pdf](#)

Chairperson Carvey opened the floor for nominations for Chairperson for 2014 and expressed his willingness to continue. Members unanimously nominated Mr. Carvey. Mr. Carvey accepted the nomination and expressed his appreciation for the Board's support.

The resolution carried by the following vote:

Aye 7 - Carvey, Dohr, Gauthier, Graves, Niks, Peterson and Phillips

Absent 2 - Fler and Graham

Resolved that a unanimous ballot be cast and Member Gerald Carvey be appointed as Chairperson of the Green Space Advisory Board for 2014.

2014-0018 Election of GSAB Vice Chairperson - 2014

Attachments: [Vice Chairperson Nomination Form.pdf](#)
[Resolution to appoint Vice Chair.pdf](#)

Chairperson Carvey opened the floor for nominations for Vice Chairperson for 2014. Mr. Peterson expressed his willingness to serve. Members unanimously nominated Mr. Peterson. Mr. Peterson accepted the nomination.

The resolution carried by the following vote:

Aye 7 - Carvey, Dohr, Gauthier, Graves, Niks, Peterson and Phillips

Absent 2 - Fleeer and Graham

Resolved that a unanimous ballot be cast and Member Dahlvin Peterson be appointed as Vice Chairperson of the Green Space Advisory Board for 2014.

2014-0019 Adopt GSAB Meeting Schedule - 2014

Attachments: [Meeting schedule memo.pdf](#)
[Resolution - 2014 meeting schedule.pdf](#)

The Board concurred with the proposed 2014 meeting schedule. Chairperson Carvey noted that he will not be present to chair the February 25 meeting.

A motion was made by Graves, seconded by Niks, that this matter be Approved. The motion carried by the following vote:

Aye 7 - Carvey, Dohr, Gauthier, Graves, Niks, Peterson and Phillips

Absent 2 - Fleeer and Graham

Resolved that the Green Space Advisory Board establish the 2014 meeting schedule as the fourth (4th) Tuesday of each month at 7:00 PM, Michigan time, at 1000 Rochester Hills Dr., Rochester Hills, Michigan, Oakland County, with the understanding that any meeting dates conflicting with holidays of elections will be scheduled as needed. The exception will be November and December which will be the second (2nd) Tuesday due to the holidays.

The 2014 meeting dates are as follows: February 25, March 25, April 22, May 27, June 24, July 22, August 26, September 23, October 28, November 11, December 9, 2014.

Further Resolved that the meeting schedule will be posted in accordance with the Public Act 267 of 1976 as amended.

ANY OTHER BUSINESS

Mr. Hartner explained that a volunteer note taker is needed during the meetings. He suggested that perhaps the youth representatives would like to take turns volunteering as a way to be more engaged in meetings. Staff provides an agenda template to use at each meeting. The youth representatives were very receptive and all three volunteered. The Board liked the idea and expressed their appreciation.

Member Gauthier provided an e-mail explaining a new project headed by

Rochester College to improve their land where the Clinton River Trail crosses the Clinton River. It will be called Lake Norcentra Park. Mr. Hartner added they are looking for some assistance from the City and also realize that GSAB is dedicated to that corridor and would like input from this Board. Their focus will be on pathways, signage, access, etc.

Ms. Hill suggested that the GSAB Communication, Promotion & Education sub-committee team up with the Clinton River Watershed to bring more awareness.

Mr. Hartner noted that the City has not begun the process of replacing Mr. Roger Moore, City Surveyor, who recently retired after almost 30 years. Mr. Moore was a valuable asset to the City as well as GSAB.

NEXT MEETING DATE

- Tuesday, February 25, 2014 at 7:00 p.m.

ADJOURNMENT

There being no further business to discuss, Chairperson Carvey adjourned the meeting at 8:28 p.m.

Minutes prepared by Denise Mertz.

Minutes were approved as presented/amended at the _____ 2014 Regular Green Space Advisory Board meeting.

Gerald Carvey, Chairperson