

**Whereas**, the promotion of capital improvements that are planned, designed and constructed to accomplish complete streets objectives increase the general safety and welfare for all of Rochester Hills' residents; and

**Whereas**, the State of Michigan has passed complete streets legislation (P.A. 135 of 2010, as amended); and

**Whereas**, as a matter of policy, the City should integrate and implement complete streets objectives in project decision-making and design; and

**Whereas**, at its May 3, 2011 meeting, the Planning Commission, as directed by City Council, recommended approval of the submitted Complete Streets Policy to City Council.

**Resolved**, that the Rochester Hills City Council hereby adopts the Complete Streets Policy dated March 30, 2011, in accordance with P.A. 135 of 2010, as amended, to be an element of the Master Thoroughfare Plan and Master Land Use Plan updates.

~~(President Hooper exited at 10:14 p.m. and re-entered at 10:16 p.m.)~~

2011-0297 Discussion regarding a Proposal to Amend the City Charter relative to the use and disposition of City-owned real estate

**Attachments:** [Agenda Summary.pdf](#)  
[Proposed Charter Amendment.pdf](#)  
[Presentation.pdf](#)  
[Suppl Presentation \(Revised\).pdf](#)  
[GSAB Minutes 032211 \(Excerpt\).pdf](#)  
[Staran Letter 061511.pdf](#)  
[Proposed Charter Amendment \(with Changes\).pdf](#)

Residents **Gary Uhl, Dr. Susan Bowyer, and Steve McGarry** gave the following presentation regarding a proposed Charter Amendment relative to the use and disposition of City-owned real estate.

**Mr. Uhl** began the presentation:

#### PROPOSAL FOR A NEW ROCHESTER HILLS CHARTER AMENDMENT

##### Why People Live in Rochester Hills:

- Quality of life provided here by:
  - \* Parks
  - \* Trails
  - \* Green Space
  - \* Bike Paths
  - \* Town Charm
- Acknowledged by residents over the years:
  - \* Millage to fund a bond to buy park land (1988)
  - \* Millage to purchase green space (2005)
- This fact is recognized in City's Mission Statement:
 

"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."

Background:

- Over the last few years City Councils have viewed Parks as "free land".
  - \* Riverbend Park - Lifetime Fitness
  - \* Various Parks - Water Reservoirs
- Each time citizens have strongly voiced their objections.
- Water tank proposal made it clear that park land is important and changes are needed.
  - \* 350 people crammed City Hall on January 31, 2011

Council's Efforts with City Attorney to Protect Parks and Green Spaces:

- Defined differences between parks and green spaces.
- Recommended several legal procedures.
  - \* Resolutions of Intent
  - \* Council Policies
  - \* Restrictive Covenants or preservation easements
  - \* Ordinances
- None would prohibit a Council from redesignating parks if it so chose.

Background:

- In February a group of homeowner associations met to find a way to permanently protect parks.
- Determined a City Charter Amendment was the only way to permanently address issue.
- After objective and intent was defined, a search was conducted for similar charter language that worked for other communities.
- Discovered the West Linn, Oregon City Charter that was created in 2001 due to similar circumstances.
- Contacted West Linn Parks and Rec. Director
- West Linn Experience:
  - \* Initial reaction in city was mixed, not a matter of course
  - \* Since 2001 four (4) nonauthorized park uses have been put before the voters - all passed
  - \* Weakness in this charter is that if City Council designates the use of a property, it can change its designation later

Green Space Advisory Board (GSAB) reviewed Amendment on May 24, 2011:

- Liked intent.
- Millage language to "permanently preserve" green space is stronger than proposed Amendment.
- Revise Amendment to exclude land purchased with millage.
- Concern regarding parks designated to other uses prior to Amendment taking effect.

Communication with Council:

- May 11, 2011 - First draft sent to Mayor and Councilmen.
- June 2, 2011 - Revised Amendment sent to Mayor and Councilmen with

changes addressing GSAB and West Linn concerns.

- June 6, 2011 - Council advised that this presentation would be made today and asked for approval on June 20, 2011 for inclusion on November ballot.
- June 15, 2011 - City Attorney, John Staran provided legal opinion and revised Charter Amendment language.

**Dr. Bowyer continued:**

Proposed Charter Amendment:

- Taken almost verbatim from West Linn City Charter but with Mr. Staran's revisions:

1. City shall not lease, sell, transfer, exchange or use for nonauthorized use City-owned parks or open space without a vote of the people at a primary, general or special election.
2. Each proposal is separate; multiple proposals can be placed on the same election ballot.
3. Defines nonauthorized uses as:
  - \* Not directly related or incidental to the park's use or maintenance
  - \* Water reservoirs, water tanks, telecom towers, residential housing, municipal offices, commercial buildings, wind turbines, parking lots and roads not needed by park
  - \* Exempts temporary construction authorized by Parks and Rec. for picnics, fairs, sports events, parades and celebrations
  - \* Exempts temporary constructions authorized by the Mayor for emergencies or disasters
  - \* Exempts uses that exist in parks on the effective date
4. Defines "open space".
5. Excludes green spaces purchased by 2005 millage and reaffirms millage language "of permanently preserving" this property.
6. Applies to all past and future acquisitions.
7. Designates properties per the Parks and Recreation Master Plan 2011-2014.
8. Requires Council to determine property designation within 60 days of purchase.
9. Requires City to keep an inventory of parks and open spaces.
10. Once a property is designated as a park or open space, that designation cannot be changed without a vote of the people.

Intent of this Charter Amendment is to:

- Preserve City-owned park and open space for recreational use and environmental preservation and enhancement.
- Prevent parks and open space from being used for other purposes or leased, sold, transferred or exchanged without voter approval.

Dr. Bowyer commented that Mr. Staran's changes are acceptable with one exception, adding back the words "not limited to" to the paragraph that specifies nonauthorized uses. She noted that adding these words back into the proposed Amendment would cover future uses driven by advancing technologies.

**Mr. McGarry** continued:

Benefits of Charter Amendment to Rochester Hills:

- Protection of park land for its intended use.
- Transparency for any proposed park and open space use other than originally intended.
- Flexibility for possible future alternative uses.
- Resident engagement for any proposed nonauthorized use.
- Improved communication and cooperation between residents and City leaders.
- Elimination of voter outrage, antagonism and resentment.

Next Steps to Protect our Parks:

- Two Courses of Action for Proposed Amendment:
  1. Council approves Amendment to be placed on November ballot  
or
  2. Citizens obtain signatures on petitions requesting Amendment be put on ballot
    - \* Deadline for petitions is August 2nd
    - \* Petition language is largely ready
    - \* Team comprised of many Homeowner associations is ready to go door-to-door

Collaborate with Council:

- Preferred path is to work with City leaders to place amendment on the ballot.
  - \* Ballot language will have City legal review
  - \* Harmonious with City Charter
  - \* Avoid conflicts
  - \* Provide City leaders opportunity to work with residents "to do the right thing"

We Request That You:

- Approve this Charter Amendment tonight for inclusion on the November ballot with the change of adding the words "not limited to" or similar language suitable to Mr. Staran with the same intent regarding the list of nonauthorized park uses.

Public Comment:

**Alice Benbow**, 1582 Northumberland, expressed her support, stating that the proposal is representation for the people.

**Erik Ambrozaitis**, 590 Thornridge Drive, expressed his support for the residents' proposal, acknowledging that there is still some language to be cleaned up.

**Tom Ryan**, 3626 Hollensshade, stated that the proposed amendment defines and restricts how parks should be used. He requested Council's support, noting that it is not the intent to tie the hands of Council, but that nonconforming uses should be approved by a vote of the people. He commented that Ordinances and Council Resolutions can be reversed, and the Amendment is the right thing to do.

**Peggy Fisher**, 3508 Wedgewood Drive, expressed her support for the proposed City Charter Amendment, noting that should Council not vote to

approve this tonight, a door-to-door campaign will begin to collect signatures to ensure the proposal is on the ballot in November.

**Lee Zendel**, 1575 Dutton Road, commented that supporters of the Amendment have a viable alternative to obtain signatures on a petition.

**Ryan True**, 440 Shellbourne Drive, stated that he moved to Rochester Hills because of its parks and green spaces and has concern that the City can make changes to its parks with very little input of its residents.

**Gordon Duda**, 340 Silvervale, stated that his subdivision, Brookdale West, strongly supports the proposed Charter Amendment.

**Scot Beaton**, 655 Bolinger, stated that when the City improves its parks, it improves residential property values. He stated that current park properties should be completed, noting that there is a lack of developed parkland on the west side of Rochester Hills.

**Paul Miller**, 1021 Harding, stated that residents were upset about the proposed water reservoirs. He stated Council should show that it is serious about protecting quality of life for its residents.

**Pamela Bratton Wallace**, 168 Cloverport, stated that she was one of the writers of the ballot language for the Green Space proposal, and commented that hundreds of hours of research was undertaken to draft a proposal to guarantee that these properties would be permanently protected. She noted that the proposal captures the needs of the community going forward and would allay resident concerns when asking for additional park funding.

**Dee Hilbert**, 3234 Quail Ridge Circle, questioned how the proposed Amendment would affect the Consent Judgment that places a three-acre retention basin in Riverbend Park.

**Charles Slattery**, 3130 Palm Aire Drive, expressed support for the proposed Amendment, noting that it would ensure quality of life and ask for a vote of the people prior to use of land.

#### **Council Discussion:**

**Mike Hartner**, Director of Parks and Forestry, expressed his appreciation for the residents' efforts to protect parks. He noted that the proposed amendment was discussed at the Green Space Advisory Board (GSAB) meeting, and GSAB members raised several questions regarding implementation and what type of activity would trigger a vote. Concerns were raised that the proposed Charter Amendment could affect potential partnerships with other communities and multi-jurisdictional entities such as regional museums or trail agencies. He pointed out that according to the proposed language, the Avon Creek Project currently underway on City property would have required a vote of the people, and stated that this raises implications for the timing of grant applications. He highlighted the push to privatize many resources, noting that Pine Trace Golf Course is a commercial operation which meets a recreational need without a burden to taxpayers for construction or operation. He stated that the language must be drafted carefully to consider these circumstances.

**President Hooper** questioned what would trigger a vote.

**John Staran**, City Attorney, responded that a vote would be triggered for any type of sale, lease, or transfer of property, along with any proposal for a nonauthorized use, such as reservoirs, cell towers or other functions not directly related or incidental to park use. He noted that the proposal does not address at what point in the process that a vote would be required. Using the example of the proposed Water Reservoir Project, he commented that Council might not have done anything differently in considering the project, and noted that a vote could have come after the January 31st meeting should Council have opted to proceed.

**President Hooper** questioned how Pine Trace would be affected by the proposed Amendment, noting that commercial buildings are considered a nonauthorized use of park property. He mentioned that a possible expansion of the clubhouse and construction of additional buildings was discussed when the Pine Trace lease was recently modified and questioned whether the proposed Amendment might put the City in conflict with the lease agreement.

**Mr. Staran** responded that while certain uses are clearly defined in the proposed Amendment, a question could be raised whether a concession stand or a ski rental facility could be considered a commercial building. He noted that the proposed Amendment grandfathers existing uses; however, it is unclear how changes or additions to these uses would be affected. He commented that modifications to Pine Trace facilities, such as the construction of a larger clubhouse could require voter approval. He noted that the proposed Amendment does not adequately address public/private partnerships. He stated that he suggested several changes to eliminate as many questions regarding interpretation as possible.

**President Hooper** questioned how the proposed Amendment defines park properties.

**Mr. Staran** responded that if the Charter Amendment is approved by voters, Council must develop an inventory and designation of properties currently shown in the City's Parks and Recreation Master Plan, in addition to any other properties the City would put in this category.

**Mr. Hartner** questioned whether the entire 113-acre City Hall site would be considered a park.

**President Hooper** questioned whether the proposed Amendment would prohibit or enhance partnering with other communities, how grants could be affected, or whether creative ways to raise revenue utilizing park space such as lining ballfields with advertising or placing billboards on park lands would be prohibited.

**Mr. Staran** responded that if there are concerns about how much time a vote would take or whether there would be political controversy or additional expense involved, it might become a deterrent to a project. He stated that placing signs inside a ball diamond would not necessarily invoke the Amendment; however, a billboard could arguably be an implementation of an additional use.

**President Hooper** questioned whether placing a retention pond on Riverbend Park would be prohibited without a vote.

**Mr. Staran** replied that at the time that the retention pond was proposed, both Mr. Hartner and a representative of the Clinton River Watershed Council mentioned that the proposal could be considered an enhancement rather than something inconsistent with the property. He stated that to his knowledge, the City cannot affect court orders by simply passing Ordinances or Charter Amendments.

**President Hooper** questioned whether a conservation easement donated to the City would fall under the auspices of the proposed Charter Amendment.

**Mr. Staran** stated that consideration would vary from property to property and case to case. He stated that it would also depend on how the acquisition was financed and whether Federal or State funding was involved. He noted that a number of properties given to cities have rights to revert to prevent any non-park use and would go back to the donor. He noted that those kinds of restrictions would always trump an ordinance or charter amendment.

**Mr. Klomp** stated that he is in favor of doing everything to support protecting parks; however, he wants to avoid the unintended consequences an amendment could cause. He suggested intensive wordsmithing be undertaken before presenting the Amendment to the voters.

**Mayor Barnett** suggested that the proposed Charter Amendment should be refined further to consider ancillary uses, noting that the Museum property will soon host the William S. Broomfield Center for Leadership. He stated that the proposed Charter Amendment as presented could open the City to possible litigation and may hamper grant funding, pointing out that a grant cycle can open and close in as few as sixty days.

**Mr. Pixley** questioned how ballot proposals were developed previously. He suggested that a committee be formed to research and draft wording.

**Mr. Rosen** stated that he originally thought that an Ordinance would be warranted to address park usage. He commented that a Charter Amendment would render a much higher level of restriction. He stated that one of the challenges of a City Charter is to not carve out too much detail, and suggested that a simpler Charter Amendment could be drafted. He questioned what the City's option would be if the residents' proposed Amendment was placed on the ballot; and, if approved, whether the City would be obligated to draft ordinances to define the intent of the Amendment.

**Mr. Staran** stated that a residents' initiative must be submitted to the Governor's Office for review of legal consistency and approval. Once the Governor's Office approves the proposal, it is placed on the ballot for a vote. If approved by a vote, it becomes the constitution for the City and would have to be interpreted and defended by the City. He stated that the City could draft ordinances to be consistent with, but not to limit or expand the Amendment.

**Mr. Rosen** suggested that Council could approve the proposed Amendment, adding back the wording "such as but not limited to", subject to Mr. Staran working with the residents' proposed language to simplify the proposal and correct typographical errors or misstatements.

**Mr. Yalamanchi** stated that the proposed Amendment does not prohibit improvements to parks and should not hamper grants or partnering with other communities. He questioned the timeline for a ballot proposal and whether the County must approve the ballot language.

**Mr. Staran** explained that the Clerk has 45 days to authenticate signatures on the petition, and a 90-day period for review by the Governor's Office begins after that. He mentioned that typically, the Governor's review takes approximately 30 days. He added that once the Clerk has verified the petitions, the certification must be made at least 90 days before the General Election. He stated that if done by petition, Council would not be a part of the approval process. He commented that he did not believe County approval of the petition form is required.

**Mr. Yalamanchi** stated that his preference would be to collaborate with the residents to ensure that the language is best reflective of the intent.

**President Hooper** concurred, noting that adding a comma or a word could significantly change the Amendment. He stated that while he agrees with the intent of the proposed Amendment, he has concerns that including a reference to commercial buildings could seriously hamper Pine Trace's operations. He commented that in the past, Council took the time to review proposed Charter Amendments over a three or four meeting period.

**Mr. Klomp** stated that while he supports the Amendment, he wants to ensure that it will work. He pointed out that the Velodrome would have had to go for a vote of the people. He urged the residents to allow the opportunity for Council and the Administration to work on the language.

**Mr. Rosen** questioned whether Council could approve the proposed Charter Amendment for the November ballot tonight, subject to review during the next Council meeting. He stated that he did not wish to spend a couple of months working on language only to determine that it is too late to submit a proposal for the November ballot.

**Mr. Pixley** stated that a simpler proposal would be better, pointing out that the length of the proposal as submitted would be frustrating for the voters. He commented that an expeditious review should be undertaken to arrive at something that everyone wants.

**Mr. Staran** pointed out that if language is approved tonight, Council could come back at a later date to revise, reconsider, rescind or replace the language. He noted that the opportunity exists to revisit the language up until September, when the Clerk must submit the certified ballot question to the County and the ballots are printed.



*Jane Leslie, City Clerk, noted that the deadline falls within the first week of September.*

*Mr. Rosen questioned when the language would be submitted to the State if approved tonight.*

*Clerk Leslie responded that if approved by Council resolution tonight, the ballot language would be submitted to the Governor and the Attorney General. Once a response is received, the language would be certified and submitted to the County Clerk for printing to the ballot on August 30th.*

*Mr. Staran mentioned that the Governor can take as much time as he wishes for review. He stated that a proposed ballot question can be submitted within the 90-day period; however, that timeframe leaves no margin for error.*

*Mr. Rosen stated that if Council agrees in principle with the residents, it should act tonight.*

*Mr. Yalamanchi commented that he wants to make sure that Council is collaborating with the residents.*

*Mr. Pixley mentioned that Council is placing undue time constraints in trying to rush approval. He stated that while this is an important step to take, he believes that Council should take the time to collaborate together to get the wording right.*

*President Hooper questioned whether a supermajority vote of Council is needed to approve a ballot question.*

*Mr. Staran responded that under the Home Rule Cities Act, a three-fifths vote is required, or five votes.*

*President Hooper stated that while he cannot support the proposed Amendment as presented, if not approved tonight, he has some suggestions for moving forward.*

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

**Aye** 2 - Rosen and Yalamanchi

**Nay** 4 - Brennan, Hooper, Klomp and Pixley

**Absent** 1 - Webber

Enactment No: RES0128-2011

**Resolved**, that the revised Charter Amendment included in the City Council Meeting Packet, with the addition of the words "such as but not limited to", be submitted for the November 2011 General Election, subject to the City Attorney working with the City Clerk to make any typographical corrections.

**2011-0297** Discussion regarding a Proposal to Amend the City Charter relative to the use and disposition of City-owned real estate

**Attachments:** [Agenda Summary.pdf](#)  
[Proposed Charter Amendment.pdf](#)  
[Presentation.pdf](#)  
[Suppl Presentation \(Revised\).pdf](#)  
[GSAB Minutes 032211 \(Excerpt\).pdf](#)  
[Staran Letter 061511.pdf](#)  
[Proposed Charter Amendment \(with Changes\).pdf](#)

**President Hooper** stated that while he supports the intent of the proposed Charter Amendment, he is concerned that it will inhibit Pine Trace or the Velodrome, and will hamper additional improvements to existing parks. He suggested that a Public Hearing be held at the July 18th Regular Council meeting to review revised language prepared by Mr. Staran based on input and recommended changes. He commented that a vote could be taken at that meeting.

**Mr. Yalamanchi** questioned whether approving language on July 18th will allow enough time for a proposal to be submitted for the November ballot. He commented that he wants the residents to be involved and work collaboratively with Council.

**President Hooper** stated that it is incumbent on Council to transmit suggestions to Mr. Staran individually, so he can assemble them and return to Council with a revised Amendment that could be placed in the meeting packet for review by Council and residents prior to the meeting on July 18th.

**Mr. Pixley** questioned whether a committee should be assembled to collaborate together on the language.

**Mr. Yalamanchi** suggested that Mr. Uhl, Dr. Bowyer and Mr. McGarry, and Tom Ryan be considered for the committee. He stated that Mayor Barnett and Mr. Hartner should also be included, along with any Council members that wish to participate. He questioned how the Velodrome or Pine Trace could be affected.

**Mr. Staran** responded that the proposed Amendment does not affect the Velodrome or Pine Trace in their current form; however, it would raise a question whether these facilities would require a vote if proposed as new today, or future changes are proposed. He stated that the language could be clarified to clearly state what should be included or excluded.

**President Hooper** suggested an informal committee be assembled, noting that there is no time for a formal City Council Committee, including a nomination process.

**Mr. Yalamanchi** stated that the Mayor's office should initiate a meeting with the residents as quickly as possible.

**Mr. Uhl** commented that while he is open to anything that would improve the proposed Charter Amendment language, he is concerned that the residents might forego the opportunity to place a proposal on the ballot should Council change its stance or rescind approval up to a September date. He commented that the residents have no choice but to start a petition drive.

**Mr. Yalamanchi** stated that the intent is to collaborate and make it happen.

**Mr. Uhl** stated that the resident's intent was to urge Council to direct Mr. Staran to work in a timely manner to develop language which would make ballot deadlines. He noted that Mr. Staran's suggestions were wonderfully worded with one exception, and noted that the West Linn, Oregon, Charter Amendment has led to a vote required in only four instances in ten years.

**Mayor Barnett** suggested that three resident volunteers, three staff members, three Council members and Mr. Staran be included on an Administrative committee.

**Mr. Klomp, Mr. Rosen and Mr. Yalamanchi** indicated that they are willing to participate in the committee discussions.

**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 - Brennan, Hooper, Klomp, Pixley, Rosen and Yalamanchi

**Absent** 1 - Webber

Enactment No: RES0128-2011

**Resolved**, that the Rochester Hills City Council will hold a Public Hearing on July 18, 2011, to discuss the revised Charter Amendment Language compiled by a committee comprised of three (3) Administrative members, three (3) residents, three (3) City Council members and the City Attorney.

~~(Mr. Pixley exited at 12:19 a.m.)~~

~~**Present** 5 - J. Martin Brennan, Greg Hooper, Nathan Klomp, James Rosen and Kavi Yalamanchi~~

~~**Absent** 2 - Tom Pixley and Michael Webber~~

~~**2011-0026** Request for Approval of an amendment to the City Pension Plan Document allowing for the incorporation of Older Persons Commission (OPC) full-time employees into the plan document.~~

- ~~Attachments: [Agenda Summary.pdf](#)  
[Updated OPC Amendment.pdf](#)  
[012411 Agenda Summary.pdf](#)  
[OPC Amendment.pdf](#)  
[012411 Resolution.pdf](#)  
[Resolution.pdf](#)~~

~~**Keith Sawdon**, Director of Finance, explained that the Older Persons Commission (OPC) Board met on June 2nd and adopted a resolution approving the incorporation of OPC full-time employees into the City's Pension Plan Document.~~

~~**Mr. Yalamanchi** questioned whether the City would incur any liability if the OPC found itself unable to fund its liability.~~