



Rochester Hills

Minutes

City Council Regular Meeting

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

*Kevin S. Brown, Dale A. Hetrick, Greg Hooper, Adam Kochenderfer, Stephanie Morita,
Mark A. Tisdell and Thomas W. Wiggins*

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."*

Monday, January 26, 2015

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order
at 7:03 p.m. Michigan Time.*

ROLL CALL

Present 7 - Kevin S. Brown, Dale Hetrick, Greg Hooper, Adam Kochenderfer, Stephanie
Morita, Mark A. Tisdell and Thomas W. Wiggins

Others Present:

*Ed Anzek, Director of Planning and Economic Development
Paul Davis, City Engineer/Deputy Director of DPS
Chris Russell, Rochester Hills Government Youth Council Representative
Taylor Thorpe, Rochester Hills Government Youth Council Representative*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion was made by Brown, seconded by Hetrick, that the Agenda be Approved as Amended to move Legislative File 2015-0033 Request for Adoption of a Resolution to accept the resident-signed petitions for the proposed paving of Norton Lawn and Hickory Lawn north of Auburn Road and request that the Department of Public Services commence with the preparation of an Engineer's Report to immediately follow the Ordinance for Adoption. The motion carried by the following vote:

Aye 7 - Brown, Hetrick, Hooper, Kochenderfer, Morita, Tisdell and Wiggins

COUNCIL AND YOUTH COMMITTEE REPORTS

Avondale Youth Assistance:

*Ms. Morita announced that the 48th Annual Avondale Youth Assistance Awards will
be held on Thursday, March 12, 2015. She stated that if anyone knows of a*

student attending or residing in the Avondale School District who has overcome an obstacle or contributed to the community, they should submit their name for an award. She noted that information on the application form can be found on the Avondale Schools' website, at the Clerk's Office, or a link can be found on her Facebook page.

Rochester Area Youth Assistance (RAYA):

Mr. Brown reported that RAYA held successful Spaghetti Dinner and Pancake Breakfast fund raisers in conjunction with the downtown Rochester Fire and Ice Festival this past weekend.

Older Persons' Commission (OPC):

Mr. Brown announced that the date for OPC's annual fund raiser will be May 8, 2015. Details are forthcoming.

Paint Creek Trailways Commission:

Mr. Hetrick announced that the Paint Creek Trailways Commission is seeking resident volunteers for its subcommittees. Interested individuals should visit the paintcreektrailway.org for information and contact the Trail Manager. He expressed his thanks to Mike Hartner, Director of Parks and Forestry, for lending his expertise to the planning for a project of an educational pathway. He commented that his input to that potential project could save as much as several thousands of dollars.

Rochester-Avon Recreation Authority (RARA):

Mr. Wiggins reported that a SCAMP Special Needs Camp fund raiser will be held this Saturday morning from 8:30 a.m. to 11:30 a.m. at Avon North Hill Lanes.

PRESENTATIONS

2015-0021 Rochester Hills Government Youth Council's Bi-Annual Report to City Council

Attachments: [Agenda Summary.pdf](#)

Chris Russell, Chairperson, and **Taylor Thorpe**, Vice Chairperson, Rochester Hills Government Youth Council (RHGYC) were in attendance to present their mid-year report.

Mr. Russell noted that out of numerous applicants, eight new members were welcomed in August. Members formed three subcommittees this year, including Helping Hands, Green Team and Public Relations. Members also were appointed to sit on City Boards and Commissions as well. He noted that the group has been very active over the past four months providing manpower for the Kidz First Back to School Bonanza event, which provided food, haircuts, and health care to underprivileged youth, manned a water table at the Brooksie Way race, and

running games and activities at the City's Holiday Family Fun Night. In addition, members manned a warming tent at the Rochester Hometown Christmas Parade, wrapped gifts as a fund raiser at Barnes & Noble, and participated in the Rochester Area Youth Assistance's fund raisers in conjunction with downtown Rochester's Fire and Ice Festival. The group also participated in the Older Persons' Commission (OPC) Terrific Tuesday events.

Ms. Thorpe noted that the group's future plans include continued participation in OPC's Terrific Tuesdays, and fund raising for their annual 5K Walk/Run, with RHGYC members selling coupon books for Carson's Community Days. The 5K held at Borden Park each year will once again benefit Blessings in a Backpack. She stated that application packets are being prepared for next year's RHGYC.

Mr. Russell stated that RHGYC members are proud to be a part of the City and appreciate the support of Council and the Administration in making a difference in the community.

Mr. Tisdell stated that this is a great group that works together well. He noted that 760 children participated in the Kidz First event, with close to a dozen RHGYC volunteers participating for almost nine hours. He expressed his appreciation to the members for their hard work this year.

Mr. Wiggins expressed his thanks to the members for their work and programs they provide for the community.

Mayor Barnett thanked Mr. Tisdell for his leadership and noted the work of the Clerk's Department. He commented that the City's Youth Council is probably the best, most organized and most effective youth council in the state. He noted that hardly a month goes by without a call from another community inquiring how the group was set up and how they interact with Council. He commented that while the City's team sets the structure, these are outstanding students that are being recognized state-wide.

President Hooper expressed his appreciation for the group's great work.

Presented.

ORDINANCE FOR ADOPTION

- 2014-0497** Request for Second Reading and Adoption - An amendment to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to rezone approximately 1.87 acres of the eastern portion of one parcel of land located at 6780 Old Orion Ct., north of Tienken, west of Rochester Rd., from R-1, One Family Residential to R-1, One Family Residential with an FB-1, Flexible Business Overlay, and to prescribe penalties for the violation thereof, Silver Spoon Ristorante Italiano, LLC, Applicant

Attachments: [012615 Agenda Summary.pdf](#)
[Ordinance \(Revised\).pdf](#)
[011215 Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[Letter of Intent 102814.pdf](#)
[Map aerial.pdf](#)
[Staff Report 121214.pdf](#)
[Minutes PC 121614.pdf](#)
[Public Hearing Notice.pdf](#)
[011215 Resolution.pdf](#)
[Resolution \(Draft\).pdf](#)

President Hooper noted that the proposed Ordinance is presented for Second Reading and Adoption. He stated that the request was recommended for approval by the Planning Commission and was accepted for First Reading at the January 12, 2015 Council Meeting.

Mr. Brown apologized for being absent at the last meeting as he was out of the country. He noted that in reviewing the 2012 update for the Master Land Use Plan, he observed that this area was planned for an FB-1 overlay. He stated that while he is sensitive to some of the comments made expressing concerns over zoning for specific developments, this request does not deviate from the Master Land Use Plan update.

President Hooper confirmed that the request is consistent with the study that was undertaken as a part of the 2012 Master Land Use Plan update.

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

Aye 6 - Brown, Hetrick, Hooper, Kochenderfer, Morita and Tisdell

Nay 1 - Wiggins

Enactment No: RES0010-2015

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 approximately 1.87 acres of the eastern portion of Parcel No. 15-03-476-013, located at 6780 Old Orion Ct., Rochester Hills, Michigan 48306, north of Tienken and west of Rochester Rd. from R-1, One Family Residential to R-1, One Family Residential with an FB-1, Flexible Business 1 Overlay, and to prescribe a penalty for violations thereof, is hereby accepted for is hereby accepted for Second Reading and Adoption and shall become effective on Monday, February 2, 2015, the day following its publication in the Oakland Press on February 1, 2015.

NEW BUSINESS

- 2015-0033** Request for Adoption of a Resolution to accept the resident-signed petitions for the proposed paving of Norton Lawn and Hickory Lawn north of Auburn Road and request that the Department of Public Services commence with the preparation of an Engineer's Report

Attachments: [012615 Agenda Summary.pdf](#)
[Hickory Lawn Petition Verification Report.pdf](#)
[Norton Lawn Petition Verification Report.pdf](#)
[SAD Process.pdf](#)
[Resolution \(Draft\).pdf](#)

Paul Davis, City Engineer/Deputy Director of DPS, stated that Council adopted a policy for Special Assessment Districts (SAD) in October of 2013 after a ten-year hiatus without any new gravel-to-pavement SADs. The process had been reviewed by the Police and Road Funding Technical Review Committee. He stated that approximately one year later, Norton Lawn resident John Meiers contacted him and expressed an interest in a Special Assessment District for paving his street. He explained that he walked Mr. Meiers through the process of informally contacting his neighbors; and subsequently, an informal petition was submitted which showed that a little over 50 percent of the residents on that street were in favor of the SAD. Engineering staff then conducted a public information meeting for residents to ask questions and review the next step in the process, which was to proceed with the submission of a formal petition. He noted that during that time, Mr. Meiers was also talking to residents of neighboring street Hickory Lawn, and found that those residents also submitted interest to warrant a public information meeting for their street. He stated that formal petitions were submitted after January 1 of this year for Hickory Lawn, noting more than 50 percent support.

He pointed out that a report is included in the meeting packet which summarizes the percentage of resident signatures received. He noted that the process includes Council's acceptance of the petition signatures to move forward with the SAD paving process. He mentioned that a second item for consideration is to determine whether Council desires to approve the preparation of an engineer's report to move forward.

Mr. Davis noted that the meeting packet includes information on the SAD process. He explained that page two highlights the current phase of the process, which is receipt of signed petitions and proceeding with an engineering report. He commented that Council might consider amending the process, noting that the City typically hires a consultant to help with detailed design. He commented that a second public information meeting will be held, and he stated that the expectation at that point is for detailed design plans which include curb and gutter details and tree removals. He noted that the current process does not detail coming forward to Council with a proposal for detailed design plans. He stated that he requests Council approve moving forward with an engineer's report; however, he noted that he will return with a proposal for a consultant's preparation of design and cost details.

President Hooper noted that Mr. Meiers was in attendance. He mentioned that it was verified that 55 percent of property owners on Hickory Lawn and 70 percent of owners on Norton Lawn signed the formal petitions.

Council Discussion:

Mr. Hetrick questioned whether the request for a consultant would also include detailed budget figures for design.

Mr. Davis responded that Council has budgeted \$200,000 for 2015, 2016 and 2017 for SADs which could be used to move the design process forward. He commented that he is not sure that this amount would be enough to do construction. He noted that each road encompasses approximately 2,100 feet of paving. He pointed out that in addition the residents requested the incorporation of speed humps into the design, as these are north-south running roads off of Auburn and parallel to Rochester Road. He added that the overall project may need a future budget amendment; however, he did not expect that it would go that far this year. He commented that by the time a consultant is hired, a public information meeting is scheduled and held, the formal public hearing and objection period passes, he did not expect that the project would be completed this year.

Mr. Hetrick questioned whether the expectation would be for construction in 2016 or 2017.

Mr. Davis responded that he did not see the project going beyond next year's construction season. He stated that he would possibly expect a late start this year.

President Hooper commented that \$200,000 would be enough for the engineering, and a budget amendment would be needed for the remaining amount.

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

Aye 7 - Brown, Hetrick, Hooper, Kochenderfer, Morita, Tisdell and Wiggins

Enactment No: RES0011-2015

Whereas, the City of Rochester Hills has received petitions requesting the City to create a special assessment district for the purpose of paving on Norton Lawn and Hickory Lawn between Auburn and Wabash; and

Whereas, the City Clerk has referred the petitions to the City Assessor, who has checked the petitions to determine whether they conform to the requirements of Section 90-62 of the Code of Ordinances and has submitted his petition verification report to the Mayor;

Now, Therefore, Be It Resolved, that the Rochester Hills City Council does hereby accept the petitions to create a special assessment district for the purpose of paving on Norton Lawn and Hickory Lawn between Auburn and Wabash; and

Further Resolved, that the Mayor be and is hereby requested to refer this matter to the Department of Public Services for preparation of the City Engineer's report in accordance with and containing all the information prescribed in Section 90-63 of the Code of Ordinances.

PUBLIC COMMENT for Items not on the Agenda

Mike Powers, 3632 Aynsley, requested that Council extend the six month moratorium on oil and gas exploration as Shelby Township did last week to allow for development of Ordinances. He commented that property owners will be left to live with the decisions of Council.

Lee Zendel, 1575 Dutton Road, stated that government should operate with transparency. He questioned who comprised the acquisition team for the White property purchased with Green Space Funds. He commented that the purchase price of over a million dollars was high. He questioned how Mayor Barnett was involved in the negotiations.

Joe Doyle, 1446 Burhaven, stated that the residents' initial impression was that the Planning Commission would take a thoughtful independent look at issues surrounding oil and gas exploration in Rochester Hills, followed by an open public hearing. He commented that speakers were cut off at the January 13th meeting and questions were not answered. He stated that the moratorium should be extended and ordinances should include an increase to setbacks and a requirement to provide pre-drilling water samples.

Denise Doyle, 1446 Burhaven, stated that Council's signing of a lease for oil and gas exploration does not fit positively with Rochester Hills' green initiatives and will not promote Rochester Hills to new residents. She commented that the City and its constituents should work together to develop good ordinances and extend the moratorium.

Erin Howlett, 3597 Aynsley, commented that the City has put itself in a reactionary mode and the residents need to hear plans for a path forward. She stated that she had higher hopes for the January 13th Planning Commission meeting and requested an extension to the moratorium.

Lorraine McGoldrick, 709 Essex, stated that to promote transparency, the City's checkbook should be posted online as many communities do.

Scot Beaton, 655 Bolinger, commented that those individuals wanting to run for Council or Mayor this year should begin attending City Council meetings to speak on the issues and should study the budget and participate in the budget forums. He noted that term-limited individuals should be allowed to run as write-in candidates.

CONSENT AGENDA

All matters under Consent Agenda are considered to be routine and will be enacted by one motion, without discussion. If any Council Member or Citizen requests discussion of an item, it will be removed from Consent Agenda for separate discussion.

2015-0024 Approval of Minutes - City Council Regular Meeting - December 8, 2014

Attachments: [CC Min 120814.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Approved as presented at the February 23, 2015 Regular City Council Meeting.

Enactment No: RES0012-2015

Resolved, that the Minutes of a Rochester Hills City Council Regular Meeting held on December 8, 2014 be approved as presented.

2015-0025 Approval of Minutes - City Council Regular Meeting - December 15, 2014

Attachments: [CC Min 121514.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0013-2015

Resolved, that the Minutes of a Rochester Hills City Council Regular Meeting held on December 15, 2014 be approved as presented.

2015-0019 Request for Purchase Authorization - CLERKS: Blanket Purchase Order for monument/marker sales in the amount not-to-exceed \$50,000.00; Patten Monument Company, Comstock Park, MI

Attachments: [012615 Agenda Summary.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0014-2015

Resolved, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Patten Monument Company, Comstock Park, Michigan for Monument/Marker Sales in the amount not-to-exceed \$50,000.00 through December 31, 2015.

2015-0022 Request for Purchase Authorization - DPS/FLEET: Blanket Purchase Order for new fleet and fire truck tires in the amount not-to-exceed \$35,000.00 through January 15, 2016; The Goodyear Tire and Rubber Company, Akron, OH

Attachments: [012615 Agenda Summary.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0015-2015

Resolved, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for new fleet and fire truck tires to The Goodyear Tire & Rubber Company, Akron, Ohio in the amount not-to-exceed \$35,000.00 through January 15, 2016.

2015-0023 Request for Adoption of the 2015 Annual Permit for Work on State Highways

Attachments: [012615 Agenda Summary.pdf](#)
[MDOT Resolution 2207B.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0016-2015

Whereas, the City of Rochester Hills hereinafter referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under State Highway right-of-way at various locations within and adjacent to its corporate limits;

Now Therefore, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY.
3. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
4. The GOVERNMENTAL AGENCY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCY'S facilities according to a PERMIT issued by the DEPARTMENT.
5. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
6. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

7. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the GOVERNMENTAL AGENCY.

NAME AND/OR TITLE:

Allan E. Schneck, P.E., Director of Public Services
Paul M. Davis, P.E., Deputy Director/City Engineer
Paul G. Shumejko, P.E., P.T.O.E., Transportation Engineer
Tracey A. Balint, P.E., Public Utilities Engineer

2015-0026 Request for Purchase Authorization - DPS/GAR: One (1) year Blanket Purchase Order for joint sealant material to National Highway Maintenance Systems, LTD (NHMS), Akron, OH in the total amount not-to-exceed \$30,000.00 through December 31, 2015

Attachments: [012615 Agenda Summary.pdf](#)
[Joint Sealant Bid Tab.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0017-2015

Resolved, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for joint sealant material to National Highway Maintenance Systems, LTD in the amount not-to-exceed \$30,000.00 through December 31, 2015.

Passed the Consent Agenda

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

Aye 7 - Brown, Hetrick, Hooper, Kochenderfer, Morita, Tisdell and Wiggins

LEGISLATIVE & ADMINISTRATIVE COMMENTS

*In response to Public Comment, **Mayor Barnett** noted that it is the Administration's intent to keep the moratorium on oil and gas exploration in place until Ordinances are adopted. He noted that he expects the extension to be on one of the next two Council agendas as the moratorium expires in February. He mentioned that he had a text communication with Rochester's City Manager, Jaymes Vettraino, who indicated that their ordinances are not complete yet. He stated that the Planning Commission takes this as seriously as Council does, and has a goal to protect the residents.*

He responded to Public Comment regarding the recent acquisition of Green Space property, noting that with any acquisition, Council authorizes the Administration to

act within a range to negotiate for a property. He stated that he made in the range of 100 calls to the property owners and led the negotiations with the permission and authorization of Council. He commented that it took approximately two years for the acquisition, with himself, Keith Sawdon, Director of Finance, Kurt Dawson, Director of Assessing/Treasury, and anyone else in the City that added value to the process participating. He pointed out that the property was listed for \$1.9 million on the market, and the City captured that value. He stated that the Administration must find a balance between transparency and representing the City's and the residents' interests, and noted that Council guides the process with the Administration executing Council's vision.

Mayor Barnett made the following announcements:

- The City is off to a fantastic start; its team has been recognized already for many outstanding accomplishments.
- Winter has been kind to the City's budget. Fifteen months ago, the City spent \$221,000 on snow removal in December. This past December, it spent less than \$21,000. To date, it has spent one-tenth of last January's expenditure as well.
- Winter activities are ongoing at Spencer Park, with ice skating and fishing; and at Bloomer Park with sledding.
- The Rochester Hills Museum at Van Hoosen Farm will host a Stupendous Snow environmental program on Saturday, January 31st, from 1:00 p.m. to 2:00 p.m.
- The Boy Scouts will host a fishery event at Spencer Lake on Saturday, February 7th from 10:00 a.m. to 4:00 p.m.
- The Spencer Park Hockey Classic will be held on Carter Lake on February 15th.
- The Mayor's Business Council held a meeting at the Detroit Auto Show. This year's Auto Show enjoyed the second highest attendance on record. The Equus Bass automobile, produced in Rochester Hills, was showcased at the downtown Detroit event.
- Rochester College and Oakland University hockey teams will once again participate in a five-game tournament this weekend at the Onyx Ice Arena for the Battle for the Jug. Oakland University won last year.

Ms. Morita questioned whether oil and gas ordinances would come to Council for consideration before March.

Mr. Brown apologized for his absence last week, noting that he was on a business trip to India.

Mr. Tisdell responded to Public Comment on property rights, and questioned whether four votes of Council should be allowed to take away a property owner's mineral rights. He pointed out that the City did not sign a lease for oil drilling; it signed a lease for mineral rights, which also negotiated specific prohibitions for drilling or any surface activities on City-owned properties identified in the lease. He stated that the City must have specific reasons to extend any moratorium in order to have the moratorium hold up to a court challenge. He mentioned that Scio Township's moratorium was not structured properly, and there is now drilling in Scio Township.

President Hooper noted that when Council directed the Planning Commission to develop Ordinances for oil and gas exploration, it was publicly stated that the moratorium would be extended if needed. He stated that after the Planning Commission was given direction, it held a meeting in November to gather input, and requested the Michigan Department of Environmental Quality (MDEQ) attend a meeting to answer questions raised by Commission members and by residents. He stated that questions were gathered from the website and from resident submissions and were submitted via the Planning Commission for the MDEQ to provide answers. He commented that he suspects that perhaps while not by March, shortly thereafter Ordinances should be ready for Council. He noted that a moratorium extension should be on Council's agenda within a meeting or two. He added that with the current price of oil, he does not see any push to drill.

In response to Public Comment, he noted that any term-limited person is free to file as a write-in candidate for this year's City election.

ATTORNEY'S REPORT

City Attorney John Staran responded to Public Comment regarding an extension of the moratorium on oil and gas exploration, noting that the current moratorium does not expire until February 26th. He stated that a resolution to extend will be presented for Council's consideration most likely at the next meeting, but certainly before the moratorium's expiration. He noted that it must be kept in mind that no development leases have been obtained or signed to permit drilling in the city, nor have any permits been applied for to date; and he pointed out that under existing regulations and existing State Law, there are very few places in the city where drilling could occur. He commented that the City is being proactive. He explained that the Public Hearing recently held by the Planning Commission was clearly set up and was clearly announced as to what the purpose of the meeting was. He noted that it was the request of the Planning Commission members that a representative from the Michigan Department of Environmental Quality attend to give a presentation and provide a forum where Commission members and residents could ask questions and have their questions answered. He stated that he attended the meeting and noted that every question that was presented was answered. In response to comments that residents were cut off from speaking, he noted that only one person's comment was cut short, and he explained that it was a member of the public who stood up and asked an argumentative and inappropriate question, and was told he was out of order. He stated that other questions asked by that individual were answered. He mentioned that questions received ahead of time were forwarded by staff to the MDEQ and were addressed as a part of their presentation.

He pointed out that the meeting was not the end of the process, but part of the information gathering and vetting toward development of ordinances. He stated that it is expected that at subsequent Planning Commission meetings specifics of the Ordinances will be tackled and a recommendation will be provided to Council. He commented that it may not be possible to complete the process in one to two meetings before the current moratorium expires, and it is most likely a good idea

for Council to consider an extension of the moratorium. He stated that he would expect something from the Planning Commission to come to Council within the next few weeks, noting that it may not be before March 1st, but shortly thereafter.

He reported that Governor Rick Snyder signed into law some fairly significant changes to the Freedom of Information Act (FOIA), which will change how things are done. He noted that he and City Clerk Tina Barton have held some discussions about the changes, which may have some budgetary impacts moving forward. He added that the new legislation goes into effect July 1st. He stated that he will provide more information at a later date, and noted that it will also involve Council's consideration of a modified FOIA policy.

NEW BUSINESS

2015-0032 Request to Schedule a Public Hearing regarding a request to vacate the Gilbert Avenue right-of-way between Auburn and June Roads

Attachments: [012615 Agenda Summary.pdf](#)
[Homeowner Application Request.pdf](#)
[1713 Auburn ROW Vacate Request.pdf](#)
[Sunnydale Gardens Plat.pdf](#)
[Engineering Report.pdf](#)
[Resolution \(Draft\).pdf](#)

Paul Davis, City Engineer/Deputy Director of DPS, stated that the City received a request from a property owner to vacate a portion of a right-of-way immediately east of her property. He noted that the right-of-way was included in the initial plat for the Sunnydale Gardens Subdivision. He explained that the City has a process to check both externally and internally whether it wishes to move forward on a parcel that the City owns. He stated that letters were sent to utilities to inquire whether there was a reason to have the right-of-way stay in existence, and no objections were received. He pointed out that the City actually has a second public water system within Rochester Hills, the Sunnydale Gardens Public Well System consisting of a four-inch watermain; and it was determined that the system came to a dead end at that point. He mentioned that the City's water system includes a stub for a watermain on the right-of-way. He commented that the City did not develop the right-of-way as a road, and has determined that there is no need for the City to extend the stub down to June. He added that the Fire Department was consulted and had no objection, and the City's Transportation Engineer provided a couple of suggestions as to the future of the watermain stub. He noted that Engineering is supportive, and he stated that the stub will most likely be abandoned at some point when the watermain is replaced in Auburn Road. He stated that if vacated, the property owner to the west would get the entire 30 feet of right-of-way, as it is included in the Sunnydale Gardens plat. He noted that the next step in the process is to hold a Public Hearing.

President Hooper questioned whether there is a need to reserve an easement.

Mr. Davis responded that there is. He noted that the Transportation Engineer stated that right-of-way should be preserved for Auburn Road, and a 20-foot easement should be reserved for the existing watermain stub.

Ms. Morita noted that if the City agrees to vacate the right-of-way, it only vacates its interest in the property. The property owner would still have to go forward with a vacation action to obtain full title.

John Staran, City Attorney, confirmed that was correct. He noted that by Council resolving to vacate and abandon, the City and the general public's interest in the property is vacated as a potential right-of-way or a road. He stated that it does not terminate what Michigan Case Law has recognized as a private right-of-way that the other residents of the subdivision may have. He noted that the vacation will cause the property to attach to the lot adjacent, subject to the private easement. He stated that to receive full title, they would have to file a Circuit Court lawsuit under the Land Division Act.

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

Aye 7 - Brown, Hetrick, Hooper, Kochenderfer, Morita, Tisdell and Wiggins

Enactment No: RES0018-2015

Whereas, the City Council of the City of Rochester Hills has considered vacating, discontinuing or abolishing the following described street, alley, public ground or part thereof, located in the City of Rochester Hills and subject to the jurisdiction and control of the City of Rochester Hills:

Whereas, Ms. Catherine Hayes owner of 1713 W. Auburn has requested that the City approve the vacation of the unimproved right-of-way of Gilbert Avenue, immediately east of 1713 W. Auburn Road in Section 33 between the Parcels 15-33-101-016 and 15-33-126-049, in the Sunnydale Gardens Subdivision,

Description: The Gilbert Avenue Right-of-Way immediately east of 1713 W. Auburn Road in Section 33 between Parcels 15-33-101-016 and 15-33-126-049

Now, Therefore, Be It Resolved:

1. That it is hereby deemed advisable to vacate, discontinue or abolish the above-described street, alley, public ground or part thereof, and the City Council hereby declares its intention to do so.
2. That a Public Hearing is scheduled for Monday, February 23, 2015 at 7:00 p.m., Michigan Time, at the City of Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan for the City Council to hear and consider comments and objections submitted in writing or orally pertaining to the proposed vacation, discontinuance or abolition.
3. That the City Clerk is hereby directed to give notice of the Public Hearing in the time and manner specified in Section 94-175 of the Code of Ordinances.

2010-0102 Request for Adoption of an Amended Resolution to vacate a portion of Bendelow Road east along Graham Drive in Section 35, south of Auburn Road and west of John R Road

Attachments: [012615 Agenda Summary.pdf](#)
[Bendelow Map.pdf](#)
[Bendelow exhibits.pdf](#)
[031510 Agenda Summary.pdf](#)
[Memo to Clerk.pdf](#)
[Engineering Report.pdf](#)
[Location map.pdf](#)
[Aerial Map.pdf](#)
[Legal description and sketch.pdf](#)
[Application.pdf](#)
[041210 Public Hearing Notice.pdf](#)
[031510 Resolution.pdf](#)
[041210 Resolution.pdf](#)
[Resolution \(Draft\).pdf](#)

Paul Davis, City Engineer/Deputy Director of DPS, explained that the request regarding the Bendelow road vacation item is housekeeping to amend previous action Council took four years ago. He noted that there was an effort to vacate a portion of Bendelow Road previously as a part of the Country Club Village development, where the existing roadway was rerouted into a "T" into Graham Road. He stated that existing properties that fronted Bendelow were affected, and Council at the time agreed to go forward and vacate a combined area that covered both of these properties. He noted that the road vacation did not determine the individual property splits that were attributed to each parcel, and 820 Auburn Road and 3065 Bendelow did not have their legal descriptions updated with the area intended to be vacated to them. He stated that this request amends the intent from the original resolution to split the property into two separate descriptions, and modify the legal descriptions for both properties.

John Staran, City Attorney, stated that it cannot be determined that the original resolution was ever recorded with the County, although it must be recorded within 30 days of adoption. He explained that tonight's resolution accomplishes what Council thought it was doing in 2010, and the City's action terminates this portion of Bendelow as a public right-of-way. He noted that if the property owners that benefit from the action wish to have that additional property free and clear of any private rights, they will need to file a Circuit Court lawsuit under the Land Division Act. He stressed that the onus is on the owners to complete the process.

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

Aye 7 - Brown, Hetrick, Hooper, Kochenderfer, Morita, Tisdell and Wiggins

Enactment No: RES0019-2015

Whereas, at its April 12, 2010 regular meeting, after conducting a public hearing in accordance with City Code Chapter 4-10 (which has since been re-codified as Article IV of Chapter 94), the Rochester Hills City Council resolved that the portion of Bendelow Road right-of-way, bounded on the west by Graham Drive, shall be vacated, discontinued or abolished; and

Whereas, according to that resolution and state statute, MCL 560.256, said resolution would be effective upon recording at the Oakland County Register of Deeds within 30 days; and

Whereas, by operation of Michigan law, title to the vacated portion of the road vests in the owners of the abutting lots in the subdivision plat and becomes part of those abutting lots (per Michigan Land Title Standards 6th Ed., Standard 13.4); and

Whereas, upon information and belief, the April 12, 2010 City Council Resolution may not have been recorded, and county and city parcel maps and property descriptions for the abutting lots, 820 E. Auburn and 3065 Bendelow, have not been revised to reflect that part of Bendelow Road has been vacated; and

Whereas, the purpose of this amended resolution is to adopt a new resolution to be recorded at the Register of Deeds and to provide exact legal descriptions of the portion of Bendelow to be vacated and added to the abutting lots.

Now, Therefore, Be It Resolved, that:

1. The parts of Bendelow Road described in attached Exhibit A for P.I.D. 70-15-35-226-001 and Exhibit A for P.I.D. 70-15-35-226-007 are declared to be vacated, discontinued and abolished.
2. The City reserves an easement in the vacated part of Bendelow Road for public utility purposes.
3. The City Clerk is directed to, within thirty (30) days, record a certified copy of this resolution with the Oakland County Register of Deeds and send a copy to the State Treasurer, as required by statute.
4. Upon recording, this resolution shall have the force and effect of vacating, discontinuing and abolishing the described parts of Bendelow Road.

2015-0034 Request for Purchase Authorization - DPS/ENG: Cost Participation Agreement for right-of-way acquisition related to the reconstruction and widening of Dequindre Road from North of Long Lake Road to North of Auburn Road in the amount of \$299,880.00; Road Commission for Oakland County

Attachments: [012615 Agenda Summary.pdf](#)
[Cost Participation Agreement.pdf](#)
[Resolution \(Draft\).pdf](#)

Paul Davis, City Engineer/Deputy Director of DPS, stated that this project has been under consideration for some time, with a City file beginning in 2002. He highlighted the project's history and Federal funding allocation, noting that an overlay was done within the City in 2011 as the Road Commission felt that the road had deteriorated to the point that it could not wait any longer for the work to begin. As the project is now moving forward, a local cost participation agreement is presented tonight for the right-of-way acquisition. He noted that the request is a little unusual, as normally there is an agreement for preliminary engineering and design; however, there has not yet been a preliminary engineering phase. He explained that the environmental assessment was finalized in September, 2014, with updated right-of-way costs in total of \$6.125 million determined at that point. He stated that Rochester Hills' share is \$299,880.

President Hooper questioned how the Master Thoroughfare Plan depicts that section of Dequindre Road.

Mr. Davis responded that it is included for five lanes and is considered the highest priority road for improvement of the Dequindre corridor.

Public Comment:

Scot Beaton, 655 Bolinger, stated that he is not a fan of turning the City's mile roads into five-lane highways. He noted that as a Council Member, he passed a resolution to not build five-lane highways unless as a last resort. He pointed out that Hamlin, Livernois and Crooks were reconstructed as boulevards and since then, the City has gone backward in constructing Adams south of Walmart as a five-lane road. He stated that he does not want to see Rochester Hills cemented over and requested Council approach the Road Commission about constructing Dequindre as a boulevard. He stated that a boulevard would provide sound urban planning as it would divide Rochester Hills' residential properties from Shelby Township's hodgepodge of uses. He commented that a greenbelt in the center would separate and preserve property values.

President Hooper questioned what the difference in cost would be for a four-lane boulevard versus a five-lane road.

Mr. Davis responded that the differences were reviewed in the Environmental Assessment. He noted that the preferred alternative was the five-lane road. He noted that a four-lane boulevard typically takes more land and is more expensive.

President Hooper noted that more utilities and roadway would be required.

Council Discussion:

Mr. Wiggins questioned whether the project will end at Auburn Road or continue up through Hamlin.

Mr. Davis responded that it will end just north of Auburn Road. He explained that eventually a 96-inch Detroit Water and Sewerage watermain will require replacement north of Hamlin, and he noted that replacement of that large pipe is planned for the center of the road. He commented that if that watermain project ever proceeds, coordination would be recommended with the Road Commission to continue the road work up to Avon Road in conjunction with the watermain replacement.

Mr. Wiggins questioned whether the cost sharing would be apportioned at a fifty-fifty share if the cost exceeds \$299,000.

Mr. Davis responded that estimates are preliminary at this point, as there have been no meetings with any property owners yet. He stated that cost sharing for any excess would be similar to the percentage breakdown presented.

Mr. Hetrick noted that the previous estimate included in the budget for preliminary engineering was \$100,000. He questioned what prompted the increase to almost \$300,000.

Mr. Davis responded that a budget amendment will be required, as the 2015 Budget includes \$100,000. He explained that the project was submitted to the Capital Improvement Plan back in 2008, and since then the figures have been updated. He noted that 94 parcels will require some sort of right-of-way acquisition, including 68 in Oakland County and 46 in Rochester Hills. He stated that the amount included in the budget was a token placeholder, and the current CIP will be updated to include the information contained in the Environmental Assessment this past September. He pointed out that the construction cost share was originally estimated at \$280,000 and is now \$250,000. He mentioned that as of right now, Federal Funding is set for 2016, and realistically could extend to 2017 or 2018.

Mr. Tisdell addressed Public Comment relative to expanding mile roads and pointed out that Tienken Road was originally proposed by the County for expansion to five lanes. The City was able to encourage three lanes, with a compromise of the inclusion of the roundabout at Tienken and Livernois.

Mr. Davis responded that Tienken Road was a Federal earmark specially-funded project. He noted that the project had to have a capacity improvement to receive funding. Once the City was able to convince the County that the community did not want a five-lane road, without the roundabout there was no capacity improvement.

Mr. Tisdell questioned whether Mr. Davis was familiar with any other projects where the County recommended five lanes that was altered to reflect a boulevard development, and what kind of compromises were required.

Mr. Davis explained that there is a process of how Federal funding is distributed and how these projects compete against each other. He noted that the Oakland County Federal Aid Task Force rates the projects and assigns point values based on what is proposed to be built. He pointed out that Hamlin Road was originally submitted as a four-lane boulevard, and former Mayor Sommerville asked if it could be switched to a five-lane road. While the committee agreed, it was eventually constructed as a four-lane. He commented that while projects can be changed, they run the risk of losing the Federal funding. He stressed that the funding categories are typically associated with improving capacity.

Mr. Wiggins questioned how public input determined that a five-lane road was not wanted on Tienken, and how public input was incorporated into this project.

Mr. Davis responded that residents were encouraged to participate during the Environmental Assessment period, and public information meetings were held at Reuther Middle School. He noted that the meetings were sparsely attended by residents.

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

Aye 7 - Brown, Hetrick, Hooper, Kochenderfer, Morita, Tisdell and Wiggins

Enactment No: RES0020-2015

Resolved, that the Rochester Hills City Council approves the Cost Participation Agreement between the Board of Road Commissioners for the County of Oakland and the City of Rochester Hills for right-of-way acquisition related to the reconstruction and widening of Dequindre Road from North of Long Lake Road to North of Auburn Road in the amount of \$299,880.00 and further authorizes the Mayor to execute a contract on behalf of the City.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

Regular Meeting – Monday, February 9, 2015 – 7:00 p.m.

ADJOURNMENT

There being no further business before Council, President Hooper adjourned the meeting at 8:34 p.m.

*GREG HOOPER, President
Rochester Hills City Council*

*TINA BARTON, MMC, Clerk
City of Rochester Hills*

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

Approved as presented at the February 23, 2015 Regular City Council Meeting.