



**City of Rochester Hills
AGENDA SUMMARY
NON-FINANCIAL ITEMS**

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Legislative File No: 2007-0470

TO: Mayor and City Council Members
FROM: Roger H. Rousse, Director of Public Services, 248.656.4685
DATE: August 15, 2007
SUBJECT: Butler Road Right-of-way Deed

REQUEST:

City Council is requested to approve an extension of the existing right-of-way deed agreement for Butler Road by Lot 150 (3834 Thatcher) of the Butler Ridge II subdivision.

BACKGROUND:

The Rochester Hills City Council approved the final plat for the Butler Ridge Phase II subdivision on October 20, 2004. Prior to the final plat approval, City staff had discussions with the developer, Stanley Frankel with Jensam, LLC, on whether the Butler Road cul-de-sac would remain in place. In order to provide the City flexibility to have the Butler Road right-of-way covered with or without the cul-de-sac in the future and to also try and minimize the developer's arduous process of revising a subdivision plat, it was suggested that the developer provide a right-of-way deed for the existing southerly Butler Road cul-de-sac encroachment. As shown by the attached drawing, a portion of the existing cul-de-sac encroaches onto Lot 150 of the Butler Ridge II subdivision (later assigned an address of 3834 Thatcher by the City).

The removal of the existing Butler Road cul-de-sac was included in the final versions of the 2005 Capital Improvement Plan and the 2005 Budget. It was learned that Auburn Hills wanted to move forward with paving their segment of Butler Road and it was hoped that the Butler Road paving and cul-de-sac removal could be done concurrently in 2005. Although Auburn Hills states that they still plan to pave Butler Road, one of only two remaining gravel roads in the City, negotiations with Oakland University have delayed the project from moving forward.

The enclosed right-of-way deed and letter dated October 3, 2004 by Jensam, LLC provide additional information and explanation on the issue. When Mayor Somerville signed the October 3rd document, it was expected that the final decision to remove or retain the cul-de-sac would be finalized within three years. Thus, the letter includes a three-year deadline, set as October 3, 2007, for either accepting and recording the right-of-way deed or removing the cul-de-sac and negating the need for the deed.

The Department of Public Services planned to ask Council to approve an award to remove the Butler Road cul-de-sac with the intersection improvement projects at Avon/Livernois and Avon/Rochester at the July 13, 2006 regular council meeting. However, it was instead decided to remove the project from the meeting's agenda the night of the council meeting and there are currently no plans to remove the Butler Road cul-de-sac prior to the October 3, 2007 deadline.

Mr. Frankel was called on July 30, 2007 and asked whether he would be willing to extend the sunset date on the right-of-way deed and he suggested that it be extended for one year. Since the 2008 budget does not propose removal of the existing traffic island/cul-de-sac, council should consider either adding it to the proposed budget or require a longer sunset deadline for the right-of-way agreement.

RECOMMENDATION:

It is recommended that City Council agree to extend the existing right-of-way deed dated October 3, 2004 to preserve the option of removing the existing splitter island should Auburn Hills pave its portion of Butler Road. It is suggested that Council ask the City Attorney to work with Mr. Frankel in finalizing the revised agreement and that the Mayor be approved to sign it on behalf of the City.

**Attachment(s): Agreement Letter dated October 3, 2004 prepared and signed by Jensam, LLC
Right of Way Deed with Exhibit A legal description and drawing
GIS Drawing layout showing the Butler Ridge lots and Butler Road road edge**

RESOLUTION

NEXT AGENDA ITEM

RETURN TO AGENDA

APPROVALS:	SIGNATURE	DATE
Department Review		
Department Director		
Mayor		
City Council Liaison		