



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, Greg Hooper, Adam Kochenderfer, Stephanie Morita, Mark A. Tisdel,
Michael Webber 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, March 17, 2014

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order
at 7:02 p.m. Michigan Time.*

ROLL CALL

Present 7 - Kevin S. Brown, Greg Hooper, Adam Kochenderfer, Stephanie Morita, Mark
A. Tisdel, Michael Webber and Thomas W. Wiggins

Others Present:

*Bryan Barnett, Mayor
Tina Barton, City Clerk
Jim Breuckman, Manager of Planning
Scott Cope, Director of Building/Ordinance Compliance
Shreya Reddy, Rochester Hills Government Youth Council
Allan Schneck, Director of DPS/Engineering
John Staran, City Attorney*

PLEDGE OF ALLEGIANCE

*Mr. Tisdel introduced **Tyler Wayne**, Avondale High School Junior, noting that he
was a Chrysler Automotive Design Winner for his grade in the 2014 Chrysler
Group/Center for Creative Studies design contest through Autorama. Son of Bob
and Ruth Wayne, Tyler received an iPad for his efforts, along with a scholarship for
a three-week automotive design summer course at the Center for Creative Studies
in Detroit, including housing and meals. Entrants to the contest were to design a
vehicle to satisfy the needs of young consumers, while remaining eco-friendly.
Tyler designed a Jeep.*

Mr. Tisdel extended his congratulations.

***Tyler Wayne** led the Pledge of Allegiance.*

APPROVAL OF AGENDA

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

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

PUBLIC COMMENT

Martin Peklo, representing Overhead Door of Whitmore Lake, stated that he was contracted by CMA Design Build to install two coiling doors at a cost of \$21,500 at the DPS Salt Storage Building. He explained that the company completed the two doors; and after the job was finished and accepted by the City, they were notified by CMA that they would be assessed liquidated damages in the amount of \$3,000 for the work they did. He commented that his firm told CMA that the installation would take two days, and instead it took five days due to delays in materials shipment. He stated that their doors were not a part of the completion schedule and they felt being assessed 25 percent of the damages was unwarranted. He noted that CMA was being looked at for a project at Spencer Park and his firm told CMA that they were not interested in working with them again.

The following individuals spoke on the topic of Oil and Gas Leases in Rochester Hills:

Cheryl Junker, 1079 Moran, Rochester, stated that she lives next to the Van Hoosen Jones-Stoney Creek Cemetery, and was initially concerned that there would be drilling at that location. Instead, she learned that drilling will take place one to two miles from that location in Stony Creek Park. She stated that 60 children live in their neighborhood and this would mean that drilling would go under Hart Middle School and Stoney Creek High School. She stated that Council's acceptance of the lease gives the idea that this is an acceptable industry to bring into the neighborhoods.

Clark Barrett, 1376 Kingspath, described several recent mishaps in the country due to well explosions.

Jeannie Morris, 1398 Burhaven Drive, requested a public informational meeting and presentation be scheduled after the Easter holiday where residents can be informed on the issue. She stated that ordinances should be adopted to control activities.

Lee Zendel, 1575 Dutton, pointed out that Exhibit A to the lease states that Jordan will not utilize fracking; and he noted that if they did, it would be a breach of contract. He stated that there is no documented evidence of underground aquifer contamination in the last 20 to 40 years in Michigan. He commented that opposition is emotional, not factual.

Mike Helms, 1605 Traceky, expressed concern for the health of children and requested Council ease the minds of the citizens and take drilling off the table.

Robert Kendig, 2484 Wortham, suggested Council rescind the lease and let the company sue.

Phillip Badalament, 269 Donegal, noted that the topic of oil and gas exploration in Rochester Hills creates dissention and promotes disunity. He stated that exploration imposes collateral impacts. He stated that the city is coming out of a very difficult time when property values have been greatly diminished.

Jose Ortiz, 3430 Aquinas Drive, questioned how access to the well site will be managed, noting a need for security patrols dealing with fire protection. He suggested that human error would be a factor to consider.

Mike Powers, 3632 Aynsley Drive, stated that there is a constant tug of war between the power of government and the power of people. He commented that there is a strong and growing movement toward tipping power back to the people.

Erin Howlett, 3597 Aynsley, questioned whether the full text of all documents and studies were available to council prior to voting for the lease. She stated that one document from Tom Wackerman, the City's environmental consultant, recommended that the City perform pre-drilling testing. She commented that there is no legal definition for fracking and the process of low volume well stimulation and horizontal drilling is still of concern.

Joe McEwen, 1940 Columbia Road, Berkley, commented that decisions made affect everyone else. He stated that while companies have been safely drilling for oil and gas for about 80 years, it was vertical and not horizontal drilling activities. He noted that Council could use the reason that material information was withheld as a reason to repeal the lease.

William Smarsh, 2867 Chancery Court, questioned who would want to come to Rochester Hills knowing that companies will be drilling for gas and oil here.

Sharon Whitmire, 1190 Oakwood Court, stated that she found out about fracking when she went to protest at a City of Rochester meeting in October of 2013. She commented that a town hall meeting should have been held and noted that horizontal drilling is a form of fracking. She questioned whether any City official was involved with Jordan Oil.

Mike Hizer, 3735 Newcastle, expressed concern that drilling in Auburn Hills or Lake Orion would be close to his home. He commented that he was amazed to hear of this potential industrial activity in a densely populated residential area.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

In response to Public Comment regarding liquidated damages on the completion of the Salt Storage Facility, **President Hooper** noted that Council voted to increase the Blanket Purchase Order to the contractor, with a tradeoff for liquidated damages for coming in behind schedule. He commented that typically liquidated damages are assessed to the main contractor, on items that are of issue on the critical path. He requested the Administration review this issue.

Regarding Public Comment on oil and gas exploration, he noted that the leases signed by the City are non-developmental leases, with no fracking allowed, and no surface activities in any park or City property. He stated that placement of wells is totally under the control of Michigan Department of Environmental Quality. He commented that Jordan would have to engage a private property owner to install a surface well, and it would be outside the control of City Council. He stated that the City can only control ancillary issues related to the effects of a well. He explained that Ms. Morita and Mr. Kochenderfer have been working with City Attorney Staran regarding the development of an ordinance for presentation at Council's April 7th meeting. He requested Mayor Barnett discuss when a public informational meeting would be held, and commented that no new documents have been presented that are not currently available on the website for public review.

Mr. Webber stated that he looks forward to the scheduling of a public informational meeting and a discussion of a proposed Ordinance.

Mr. Brown commented that he has had no involvement with, nor has he been contacted by Jordan Oil. He stated that drilling is permissible by a State Law enacted in the 1990s, and he suggested that residents take their voices to the State House and Senate to push for a legal change. He encouraged members of the public to stay beyond Public Comment to hear other items of City business.

Mr. Kochenderfer stated that an Ordinance is under development that will be valid, enforceable, real, and protect the city the best it can.

Ms. Morita noted that an Ordinance is under development that will hopefully be ready for presentation to the public at Council's next meeting. Plans for a public meeting are also underway. She encouraged the public to keep expressing their concerns on all City matters. She noted that the draft Ordinance will be available as part of the upcoming meeting packet when completed. She requested that individuals keep in mind that there is only so much Council can do without stepping on the toes of State Laws. She noted that efforts to look outside the box are underway to see what other areas may be able to be safeguarded.

Mr. Tisdell noted that the area where leases are being pursued is only a finite area of the city, and not all 20,000 households will be approached. He pointed out that Jordan Development followed a legal process by State Law, and was issued a permit for exploration in Rochester Hills. He stated that this was the situation Council was presented with, and Council cannot stop them. He commented that an Ordinance must be something incremental, sustainable in the court and enforceable. He mentioned that a City Ordinance has a maximum penalty of \$500.

Mr. Wiggins stated that it seems that the discussion has been going around in circles for the last couple of months. He pointed out that Council could have voted no and Jordan Oil would still be here. Without a contract, the City would not have been able to put any safeguards about fracking. He stated that the public needs to start with the State Legislature.

Shreya Reddy, Rochester Hills Government Youth Council Representative (RHGYC), reported that the group participated in the Mayor's State of the City Address. She noted Chris Russell is Chairperson and Alexis Smith is Vice-Chair for the second half of the year. Upcoming events include tutoring at McGregor Elementary, food packing at the Older Persons' Commission, and helping Mayor Barnett with the Easter Egg Hunt next month. She reported that two title sponsors have been named for the June 14th 5K Run/Walk, and include Michigan Property Maintenance and GLT International.

Mayor Barnett commented that the City's Youth Council is absolutely incredible. He noted that the group is well organized and encouraged those with students in eighth through twelfth grade to consider applying for next year. He reported the following:

- The City's unemployment rate is the lowest it has been in the last seven to eight years and is the second lowest in the state and lowest in the county.
- Businesses are moving in. Industrial properties have a vacancy rate which is the lowest since 2002 at 3.4 percent. Over 11,000 people work in the city.
- Over 400 homes, condos and apartments are currently under construction.
- The City is number one in Michigan for recycling.
- The City is in the top five percent of all similar communities in financial stability, with a AAA bond rating.
- The City is one of only six communities in the state to receive all three of the top financial awards.
- Budgets are balanced through 2014, 2015 and 2016. The Administration is currently working on the budget for 2017.
- Property values have increased more in Rochester Hills than neighboring communities.

He noted concerns over the condition of roads, and stated that most of the city's mile roads are County roads. A new smart phone app allows users to report concerns, or even to snap a picture of a pothole to report. He stated that some additional monies might be available for roads.

Regarding Public Comment on gas and oil exploration, he reiterated that the City did not seek the interest of the oil companies. He mentioned that these firms were here in the mid 2000s, and left because they found nothing. He stressed that the business case was shown to the Michigan State Legislature and they decided to allow exploration. He noted that a bill was introduced that increased the drilling distance to any structure to 1,000 feet; and it never made it out of committee. He suggested residents support anti-fracking candidates this election year. He explained that a public information meeting would be held hopefully in April.

ATTORNEY MATTERS

City Attorney John Staran had nothing to report.

PRESENTATIONS

2014-0109 Presentation on the North Oakland County Water Authority (NOCWA); Allan Schneck, Director of DPS/Engineering, presenter

Attachments: [Agenda Summary.pdf](#)
[Presentation.pdf](#)

Allan Schneck, Director of DPS/Engineering, presented a Powerpoint regarding efforts to form the North Oakland County Water Authority (NOCWA). He noted that individual communities currently purchase water from the Detroit Water and Sewerage Department (DWSD), and it is hoped that by working together, the opportunity exists to curtail future increases and reduce the revenue requirement, while providing better service to Northern Oakland County Communities. He explained that communities include Auburn Hills, Pontiac, Rochester Hills, Orion Township, and potentially Oakland Township. He stated that Phase 1 is the creation of the Authority, Phase 2 will occur as Pontiac installs SCADA upgrades, and Phase 3 will be a new water main between Pontiac and Auburn Hills to further reduce peak hour draw from DWSD. He added that SEMCOG has been of great assistance.

President Hooper requested information on the following:

- He noted that the City's contract with DWSD allows a reopener when there are significant changes to the system. He questioned whether the consortium constitutes a reason for a reopener.
- How any capital expenditures would be funded.
- Which community stands the best chance for savings.
- Whether rates would still be individual to each community.

Mr. Schneck responded with the following:

- The contract would be reopened.
- Expenditures would be kept with each respective community. Their benefit would come through rate methodology.
- By pooling, the consortium would have the ability to mitigate maximum demand. For instance, Pontiac would try to drop their maximum day to five million gallons. Right now, they are at 13 million gallons. That free-up of eight million gallons would be distributed to NOCWA.
- Rates would still be individual to each community.

Mr. Kochenderfer noted that he heard questions over increasing water rates while campaigning. He expressed concern over the potential for changes in DWSD governance. He questioned whether the consortium would be beneficial if the ownership of DWSD changes.

Mr. Schneck responded that the NOCWA collaborative could function with similar benefits regardless of the structure of DWSD.

Ms. Morita questioned what the reduction in revenue requirement meant, and if the intention is to put all four communities together to get a lower average.

Mr. Schneck responded that by coming together and managing peaks, the consortium members will get a rate benefit. He added that it will show a benefit to the DWSD of cost avoidance, and negotiating with one entity will mutually benefit all communities.

President Hooper noted that the South Oakland County Water Authority (SOCWA) serves several communities out of one authority.

Mr. Schneck noted that if DWSD can eliminate some capital improvement to deliver water to these four communities, it is a benefit for them as well.

Mr. Tisdell questioned whether Pontiac has a reliable infrastructure, if Economic Vitality Incentive Program funds might be available, and what the condition is for Pontiac's water systems receivables.

Mr. Schneck responded that he was previously in charge of water and sewer operations for Pontiac. While there, the City pursued drinking water revolving funds, that went into their pumping station. He stated that it has the capacity to do what it needs to do. Funding could also be available, most likely through the Competitive Grant Assistant Program. Pontiac's water system is a part of enterprise funds, and are not part of their general fund. The system is self-sustaining, supported by rate payers. He added that the Oakland County Water Resource Commission manages the water and sewerage assets within the City of Pontiac. They are putting some SCADA technology in order for them to be able to operate the way that they are looking for them to operate. No expense will come from Rochester Hills.

Mr. Wiggins requested the following information:

- As part of this group, with none of the four cities doing anything different than today, would there be any advantage for joining.
- What would occur if peak demand cannot be reduced.
- Whether there is any risk to infrastructure and how risk is allocated to member communities.
- How each community's vote would be counted.
- Whether there has been any cost-benefit analysis for other communities.

Mr. Schneck responded:

- DWSD will not pass along any benefit without getting some benefit of offsetting expense.
- A demonstration will be performed to determine advantages.
- Each community would be responsible for building their respective infrastructure. Their benefit would come from a rate benefit.
- Each member community would have one equal vote.
- The best example is SOCWA out of Royal Oak. They actually own their transmission and distribution system. The City's system would remain its own. SOCWA has had great success.

President Hooper noted that SOCWA has one of the cheapest rates in the system. He questioned what changes or improvements are proposed in Rochester Hills.

Mr. Schneck responded that the City will not be building any reservoirs, and this is a way to collaborate with its neighbors.

Mr. Wiggins questioned what would be the worst case scenario in terms of risk.

Mr. Schneck responded that the worst scenario would be in entering into the authority and not living up to commitments negotiated with DWSD. There are certain things such as a catastrophic watermain break in a community happening on the hottest day of summer that could be explained away to the DWSD, and provisions in the contract do recognize that possibility.

Presented.

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.

2014-0108 Approval of Minutes - City Council Regular Meeting - February 10, 2014

Attachments: [CC Min 021014.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0060-2014

Resolved, that the Minutes of a Rochester Hills City Council Regular Meeting held on February 10, 2014 be approved as presented.

2014-0095 Request for approval of Traffic Control Order SS-146-14, Streets within Vistas of Rochester Hills Subdivision - Section 23: STOP Robinson Drive for Pembroke Drive and Traffic Control Order YS-109-14, Streets within Vistas of Rochester Hills - Section 23: YIELD at designated locations and Traffic Control Order YS-108-14, Streets within Northbrooke Subdivision - Section 33: YIELD Wren Lane for Newstead Lane

Attachments: [Agenda Summary.pdf](#)
[Vista of RH Map.pdf](#)
[Northbrooke Map.pdf](#)
[TCO SS-146-14.pdf](#)
[TCO YS-109-14.pdf](#)
[TCO YS-108-14.pdf](#)
[ATSB Minutes 021114 \(Excerpt\).pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0061-2014

Whereas, Traffic Control Order No SS-146-14, YS-109-14 and YS-108-14 have been

issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98, Michigan Vehicle Code, MCL 257.1 et seq.: and

Whereas, said Traffic Control Orders cover:

Streets within the Vistas of Rochester Hills Subdivision - Section #23

| | | | |
|-----------|-------------------------------|--------------|----------------------|
| SS-146-14 | Robinson Drive | <u>STOP</u> | for Pembroke Drive |
| | (At their 4-Way Intersection) | | |
| YS-109.1 | Sheffield Drive | <u>YIELD</u> | for Queensboro Lane |
| YS-109.2 | Sheffield Drive | <u>YIELD</u> | for Pembroke Dr./Ct. |
| YS-109.3 | Queensboro Drive | <u>YIELD</u> | for Robinson Drive |

Streets within Northbrooke Subdivision - Section #33

| | | | |
|----------|-----------|--------------|-------------------|
| YS-108.1 | Wren Lane | <u>YIELD</u> | for Newstead Lane |
|----------|-----------|--------------|-------------------|

Whereas, said Traffic Control Orders shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Orders and recommends that the Orders be approved;

Resolved, that the Rochester Hills City Council approves the issuance of Traffic Control Orders SS-146-14, YS-109-14 and YS-108-14 to be in effect until rescinded or superseded by subsequent orders; and

Now Therefore Be It Resolved, that a certified copy of this Resolution is filed together with the Traffic Control Orders, with the City Clerk of Rochester Hills, Oakland County, Michigan.

Passed the Consent Agenda

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

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

ORDINANCE FOR INTRODUCTION

2014-0112 Acceptance for First Reading - An Ordinance to amend Section 102-321, Chapter 102, Utilities, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to disallow bypass of a water meter unless approved by the Department of Public Services Director, repeal conflicting or inconsistent Ordinances, and prescribe a penalty for violations

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

Allan Schneck, Director of DPS/Engineering, noted that the proposed Ordinance constitutes a minor change, with no bypass of a water meter permitted without

the approval of the DPS Director. He explained that there are sensitive structures in the city that in case of an emergency need water service maintained in the event of a problem and no City crew can get there, such as Crittenton Hospital.

Ms. Morita questioned how water use is billed if there is a bypass in place.

Mr. Schneck responded that these bypasses are typically tagged and locked out. Historical usage is estimated and billed. He noted that the bypass would be in place for only hours, and not days or weeks.

Mr. Brown questioned whether a bypass could be used and the City would not be notified.

Mr. Schneck responded that he would not know. He commented that the City cannot tell a hospital that it will have its meter interrupted for a repair.

A motion was made by Tisdell, seconded by Brown, that this matter be Accepted for First Reading by Resolution. The motion carried by the following vote:

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

Resolved, that an Ordinance to amend Section 102-321, Chapter 102, Utilities, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to disallow bypass of a water meter unless approved by the Department of Public Services Director, repeal conflicting or inconsistent Ordinances, and prescribe a penalty for violations is hereby accepted for First Reading.

2014-0119 Acceptance for First Reading - An Ordinance to amend Sections 18-3, 18-5, 18-6, 18-7, 18-8, and 18-41 of Chapter 18, Building and Building Regulations, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify contractor license registrations, and to repeal conflicting or inconsistent Ordinances

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

Scott Cope, Director of Building/Ordinance Compliance, stated that this Ordinance Amendment is requested to address changes in contractor registration and bonding.

A motion was made by Webber, seconded by Tisdell, that this matter be Accepted for First Reading by Resolution. The motion carried by the following vote:

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

Resolved, that an Ordinance to amend Sections 18-3, 18-5, 18-6, 18-7, 18-8, and 18-41 of Chapter 18, Building and Building Regulations, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify contractor license registrations, and to repeal conflicting or inconsistent Ordinances is hereby accepted for First Reading.

ORDINANCE FOR ADOPTION

2014-0092 Acceptance for Second Reading and Adoption - An Ordinance to amend

Sections 54-46, 54-151, 54-154, 54-156, 54-163, 54-192, 54-197, 54-226, 54-229, 54-234, 54-261, 54-262, 54-265, 54-270, 54-302, 54-319, 54-471, 54-590, 54-711, 54-742, 54-748, 54-776 and 54-806, Section 54-193 Repealed of Chapter 54, Fees of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify fees charged for Roadside Stands, Permits, Plan Reviews, Fire Suppression, Pressure Testing, Plumbing Licenses, Electrical Service, Contractor Registration/License, Fuel Burning Equipment, Mechanical Licenses, Sports Field Rental, Other Activities, Service Calls, Public Hydrants, Tap, Municipal Water and Sanitary Sewer Connections, and to Repeal Conflicting or Inconsistent Ordinances

Attachments: [Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[030314 Agenda Summary.pdf](#)
[030314 Resolution.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0062-2014

Resolved, that an Ordinance to amend Sections 54-46, 54-151, 54-154, 54-156, 54-163, 54-192, 54-197, 54-226, 54-229, 54-234, 54-261, 54-262, 54-265, 54-270, 54-302, 54-319, 54-471, 54-590, 54-711, 54-742, 54-748, 54-776 and 54-806, Section 54-193 Repealed of Chapter 54, Fees of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify fees charged for Roadside Stands, Permits, Plan Reviews, Fire Suppression, Pressure Testing, Plumbing Licenses, Electrical Service, Contractor Registration/License, Fuel Burning Equipment, Mechanical Licenses, Sports Field Rental, Other Activities, Service Calls, Public Hydrants, Tap, Municipal Water and Sanitary Sewer Connections, and to Repeal Conflicting or Inconsistent Ordinances, is hereby accepted for Second Reading and Adoption, and shall become effective on Monday, March 24, 2014 following its publication in the Oakland Press on Sunday, March 23, 2014.

2010-0094 Acceptance for Second Reading and Adoption - An Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to rezone four parcels of land totaling approximately 27 acres (Parcel Nos. 15-23-152-022, 15-23-152-023, 15-23-301-002 and 15-23-300-035) located on the east side of Rochester Road between Avon and Hamlin from B-2 General Business with an FB-2, Flexible Business Overlay district and a Planned Unit Development (PUD) Overlay to R-4, One-Family Residential with an FB-2, Flexible Business Overlay district and to prescribe a penalty for violations thereof

Attachments: [Agenda Summary.pdf](#)
[Ordinance Amendment.pdf](#)
[030314 Agenda Summary.pdf](#)
[Map aerial.pdf](#)
[Suppl Beier Howlett Ltr 022814.pdf](#)
[Suppl Letter Staran 102413.pdf](#)
[Minutes PC 012114.pdf](#)
[Minutes PC 121713.pdf](#)
[1998 99 MLUP Corridor Study.pdf](#)
[Staff Report 121713.pdf](#)
[Letter Kragt 111913.pdf](#)
[Suppl MDOT Letter 091613.pdf](#)
[Beier Howlett Ltr 100913.pdf](#)
[102813 Agenda Summary.pdf](#)
[WWRP Request 100213.pdf](#)
[Staff Report.pdf](#)
[062413 Agenda Summary.pdf](#)
[Letter Anzek 060413.pdf](#)
[WWRP Request 061213.pdf](#)
[Beier Howlett Ltr 062113.pdf](#)
[Ltr from RH Chrysler Jeep Dodge.pdf](#)
[Ltr from Winchester Vlg HOA.pdf](#)
[Ltr from Meadowfield Condo Assn.pdf](#)
[Minutes CC 092010.pdf](#)
[Agenda Summary 030110.pdf](#)
[PUD Comparison Chart.pdf](#)
[WWRP Ltr 021610.pdf](#)
[City Place PUD Site Plan.pdf](#)
[Land Use Site Plan.pdf](#)
[PC Minutes 081809.pdf](#)
[Suppl July 2010 City Place PUD.pdf](#)
[PUD Agreement.pdf](#)
[Minutes PC 031604.pdf](#)
[030110 Resolution.pdf](#)
[102813 Resolution.pdf](#)
[030314 Resolution.pdf](#)
[Resolution.pdf](#)

Jim Breuckman, Manager of Planning, stated that the Agenda Summary recapped the timeline of events for the project.

Public Comment:

Lorraine McGoldrick, 709 Essex, stated that G&V Development should not be allowed to both abandon and benefit from a Planned Unit Development (PUD). She stated that the property should revert back to its original zoning and noted that no site plan was presented.

John Gaber, the Attorney representing G&V, stated that there is no automatic reverter to a zoning class when a PUD is abandoned. He noted that the property has been master-planned FB-2 since the 1998 Master Plan, which carried over to the 2007 Master Plan. He commented that while G&V asked for a certain underlying zoning, it encourages acceptance of FB-2.

Council Discussion:

President Hooper stated that a site plan should not be considered when zoning is discussed and any submission of one should carry no weight.

Mr. Tisdell moved to accept the second reading, and **Mr. Brown** seconded the motion.

Mr. Wiggins stated that he would like to see a zoning of R-4 with FB-1.

President Hooper requested City Attorney John Staran comment on the second reading process.

Mr. Staran stated that if the motion on floor passes, that will conclude the issue. If it fails, there would be room for an alternate motion. He noted that if Mr. Wiggins is proposing an amendment to the motion, it would require a second. He explained that the effect of an amendment to the motion would be to reject the proposed motion for second reading and require a first reading on the new proposed zoning.

Mr. Wiggins moved to amend the motion on the floor for a zoning of R-4 with FB-1.

The motion died for lack of a second.

Ms. Morita requested Mr. Wiggins explain why he wished to have an overlay of FB-1 versus FB-2.

Mr. Wiggins responded that FB-1 is more restrictive, benefitting the community.

Mr. Brown requested clarification that the main difference between FB-2 and FB-1 is the commercial retail allowance.

Mr. Breuckman confirmed that it is.

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

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

Nay 1 - Wiggins

Enactment No: RES0063-2014

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 four parcels of land totaling approximately 27 acres (Parcel Nos. 15-23-152-022, 15-23-152-023, 15-23-301-002 and 15-23-300-035) located on the east side of Rochester Road between Avon and Hamlin from B-2, General Business with an FB-2, Flexible Business Overlay district and a Planned Unit Development (PUD) Overlay to R-4, One-Family Residential with an FB-2, Flexible Business Overlay district and to prescribe penalties for the violation thereof, is hereby accepted for Second Reading and Adoption and shall become effective on Monday, March 24, 2014, the day following its publication in the Oakland Press on Sunday, March 23, 2014.

It is also Resolved, that in furtherance of this Resolution and the City Council's earlier October 28, 2013 Resolution wherein the City Council decided to terminate the PUD Agreement between G&V Investments and the City pending referral to, and report and recommendation from, the Planning Commission as to the appropriate zoning designation for the subject property, the City Council hereby authorizes the City Administration and City Attorney to prepare, execute and record any necessary and appropriate documents to terminate the PUD Agreement.

NOMINATIONS/APPOINTMENTS

2014-0100 Confirmation of the Mayor's reappointment of Gerard Dettloff, C. Neall Schroeder, and Emmet Yukon to the Planning Commission, each for three-year terms to expire March 31, 2017

Attachments: [Agenda Summary.pdf](#)
[Dettloff CQ.pdf](#)
[Schroeder CQ.pdf](#)
[Yukon CQ.pdf](#)
[Resolution.pdf](#)

President Hooper noted that he has the pleasure of serving on the Planning Commission with these gentlemen, and noted that Mr. Yukon is here tonight.

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

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

Enactment No: RES0064-2014

Resolved, that the Rochester Hills City Council hereby confirms the Mayor's reappointment of Gerard Dettloff, C. Neall Schroeder, and Emmet Yukon to the Planning Commission, each for three-year terms to expire March 31, 2017

2014-0101 Confirmation of the Mayor's reappointment of Michael Ellis to the Local Development Finance Authority (LDFA) for a four-year term to expire March 31, 2018

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

Ms. Morita stated that her law firm has had Mr. Ellis as an opposition expert on a legal matter. She stated that as such, she would recuse herself from any discussion and vote.

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

Aye 6 - Brown, Hooper, Kochenderfer, Tisdell, Webber and Wiggins

Abstain 1 - Morita

Enactment No: RES0065-2014

Resolved, that the Rochester Hills City Council hereby confirms the Mayor's reappointment of Michael Ellis to the Local Development Finance Authority (LDFA) for a four-year term to expire on March 31, 2018.

- 2014-0102** Confirmation of the Mayor's appointment of Dianah Foster and Johnathan Muenk to the Economic Development Corporation (EDC), each for a six-year term to expire March 31, 2020

Attachments: [Agenda Summary.pdf](#)
[Foster CQ.pdf](#)
[Muenk CQ.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0066-2014

Resolved, that the Rochester Hills City Council hereby confirms the Mayor's appointment of Dianah Foster and Johnathan Muenk to the Economic Development Corporation (EDC), each for a six-year term to expire March 31, 2020.

- 2014-0070** Request for Appointment of a Planning Commission Representative to the Zoning Board of Appeals for a one-year term to expire March 31, 2015

Attachments: [Agenda Summary.pdf](#)
[Minutes PC 022514 \(excerpt\).pdf](#)
[Memo PC Rep to ZBA 022514.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0067-2014

Resolved, that the Rochester Hills City Council hereby appoints Deborah Brnabic as the Planning Commission representative to the Zoning Board of Appeals for a one-year term to expire March 31, 2015.

NEW BUSINESS

- 2013-0357** Request for Conditional Land Use Approval - To construct two restaurant drive-throughs at a proposed 8,095 square-foot retail outlot building at the Campus Corners shopping center, located on the east side of Livernois, between Walton and Avon, Parcel No. 15-15-101-024, zoned B-3, Shopping Center Business, Campus Corners Associates, Inc., Applicant

Attachments: [Agenda Summary.pdf](#)
[Map aerial.pdf](#)
[Revised Site Plans.pdf](#)
[Site Plans.pdf](#)
[Staff Report 022514.pdf](#)
[Traffic Study 020414.pdf](#)
[Minutes PC 022514 \(Excerpt\).pdf](#)
[PHN 022514.pdf](#)
[Resolution.pdf](#)

Jim Breuckman, Manager of Planning, explained the location of the proposed development and noted that an island would be added to direct traffic and eliminate any point of conflict. He pointed out a modification recommended by the Planning Commission to reduce the number of stacking spaces. As the exact users are not known yet, the Planning Commission has delegated approval for the stacking reduction to staff. He added that should staff not feel comfortable with a recommendation, it could forward the item back to the Planning Commission for review. Eight spaces are recommended for the north drive through and nine spaces for the south drive-through. He introduced property owner, **Stuart Frankel**.

President Hooper mentioned that a condition regulating the hours of deliveries was also included.

Mr. Breuckman stated that deliveries to restaurant back doors will be restricted to non-operating hours.

Mr. Frankel stated that the property previously contained the old vacated Big Boy, which was in deplorable condition. He stated that the new building will add 8,000 square feet of additional retail space. He commented that a user has been secured for the south side, which requires a drive through. They are currently talking to potential occupants for the north side.

President Hooper questioned what the potential maximum number of tenants is for the space.

Mr. Frankel responded that the space would house four tenants maximum, and three minimum.

Mr. Tisdell noted that the trend in the restaurant business is to shrink down the size the interior space and add volume by adding a drive-through. He questioned whether other retail businesses are looking at adding drive-through capacity and shrinking their interior footprint.

Mr. Frankel stated that the businesses are not shrinking the size of the in-line facility; however, they want to be competitive in the marketplace. He noted that the design allows them to be more customer friendly; and space for a drive-through is becoming a requirement for companies, such as Starbucks. He stated that drive-throughs allow customers to remain in their cars, allowing them to circulate quickly.

Mr. Webber noted that one or two of the tenants will not have a drive-through.

Mr. Frankel responded that a center tenant could be a retail establishment such as a mobile phone store. He pointed out that the shopping center encompasses two separate owners, with the property divided into CVS South including the bank, and the area north of CVS. He stated that there is one integrated cross-easement agreement, sharing parking and curb cuts.

Mr. Webber noted that there is more traffic in that complex because of the location of the newer Taco Bell and questioned what impact additional retail space would add.

Mr. Breuckman responded that the City's Traffic Engineer required a traffic impact study and found that the site would work.

Mr. Webber questioned whether there are similar examples of buildings with two drive-throughs.

Mr. Breuckman responded that every site is unique. He mentioned that Livernois is a boulevard at that location, and many factors come into play. He commented that everyone is requesting drive-throughs.

Ms. Morita pointed out that the former Big Boy was a one-user building. She questioned whether more cars are expected.

Mr. Breuckman responded that this is a difficult question to answer. He explained that the Big Boy, was a 4,000 square foot restaurant, which generates more parking demand than 4,000 square foot of retail. He commented that not knowing how many seats the restaurants will contain makes parking estimates more speculative. He stated that drive-throughs may lead to less parking demand.

Ms. Morita questioned whether noise was considered and questioned where the nearest residences are.

Mr. Breuckman responded that the City has noise ordinances. He pointed out that the apartments to the south are probably 300 feet away from the closest drive-through.

Ms. Morita questioned how foot traffic will be routed and noted the site plan contains a proposed walkway. She expressed concern over the proximity of the high school.

Mr. Breuckman noted that the City's Ordinance requires a direct pedestrian route from any bike path to the building. He pointed out that there is a traffic light at the northern driveway to help pedestrians get across.

President Hooper noted that when the Taco Bell site plan was approved, it was discussed that the traffic light at Livernois would be a point for pedestrians to cross Livernois. He mentioned that the City has several drive-throughs located in proximity to residences.

Mr. Breuckman responded that noise is always a concern; however,

drive-through speaker technology has advanced a significant amount. He stated that the City does not hear complaints from drive-throughs.

Mr. Wiggins questioned whether Mr. Frankel has worked with drive-throughs on any of his other properties.

Mr. Frankel responded that he has.

Mr. Brown commented that there is one turnaround near the development for traffic exiting to go south.

Mr. Kochenderfer stated that it does not make sense to approve two drive-throughs without knowing what business plans to locate there.

Mr. Frankel responded that they have confirmed one tenant to the south side; and this tenant has written a letter to state that they only need seven stacking lanes. Staff will have the authority delegated by the Planning Commission to evaluate another drive-through operator and determine whether their proposal will work.

Mr. Kochenderfer questioned whether the City would have any discretion to deny a second drive-through if other factors come up.

Mr. Breuckman responded that should Council approve the motion as presented in the meeting packet, Council would not have any discretion. The approval will be subject to staff approving a potential user demonstrating that the number of spaces will meet their plans.

Mr. Tisdell commented that the Planning Commission retains discretion over a second drive-through client.

Mr. Breuckman reiterated that if staff is uncomfortable making the call that a potential user meets the requirements for a drive-through, it can forward the matter to the Planning Commission.

Ms. Morita stated that while she likes the idea of redeveloping a site, she has concerns, citing the first finding in the proposed resolution that states that the traffic generated by the proposed development is not expected to be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.

President Hooper noted that this is a standard finding in motions.

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

Aye 5 - Brown, Hooper, Tisdell, Webber and Wiggins

Nay 2 - Kochenderfer and Morita

Enactment No: RES0068-2014

Resolved, that the Rochester Hills City Council hereby approves a conditional land use to construct two drive-throughs at a proposed 8,095 square-foot outlet retail building at the

Campus Corners shopping center on the east side of Livernois, between Walton and Avon, zoned B-3, Shopping Center Business, part of Parcel No. 15-15-101-024, with the following findings and conditions:

Findings:

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

Conditions:

1. Deliveries to the restaurants' back doors will be restricted to non-operating hours.
2. Reduce the stacking lanes for the northern restaurant to eight spaces and to the southern restaurant to nine spaces based upon proof provided to and approved by staff or brought back to the Planning Commission for review to ensure those numbers are satisfactory.
3. Place an island on the southeast corner of the building to reduce traffic conflict.

2014-0063 Request for Conditional Land Use Approval - To construct a drive-through at a proposed Tim Hortons restaurant at the northwest corner of Crooks and Avon Industrial Dr., south of Hamlin, Parcel No. 15-29-228-004, zoned B-3, Shopping Center Business, Tim Hortons, Applicant

Attachments: [Agenda Summary.pdf](#)
[Map aerial.pdf](#)
[Site Plans.pdf](#)
[Colored Elevations.pdf](#)
[Staff Report 022514.pdf](#)
[Review Comments.pdf](#)
[Minutes PC 022514 \(Excerpt\).pdf](#)
[PHN 022514.pdf](#)
[Resolution.pdf](#)

Jim Breuckman, Manager of Planning, explained that Tim Horton's has proposed the redevelopment of the former Bank of America building located at Crooks and Avon Industrial Drive. He pointed out that the former bank had a drive-through.

He mentioned that the Zoning Board of Appeals granted a variance for setbacks, reducing the requirements by one or two feet to allow for a better site layout and circulation on the north side of the building. He commented that this is a clean recommendation by the Planning Commission with some conditions; however, none related to any expected troubles. He noted that all 10 stacking spaces required by the Ordinance are included.

***Patrick Bell**, representing Tim Horton's, stated that this is another great redevelopment project; and noted that the proposed restaurant will be larger than the Rochester Road store, with more interior amenities including soft screening, a fireplace, a large screen television and free WiFi. He stated that the restaurant is looking to open prior to the holidays.*

***Mr. Webber** commented that he appreciates the opportunity to redevelop a parcel in that area. He noted previous discussions regarding the size of the Rochester Road location.*

***Mr. Bell** responded that the Rochester Road site hampered the restaurant size in that location. He mentioned that the Rochester Road location is a different style of restaurant.*

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

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

Enactment No: RES0069-2014

Resolved, that the Rochester Hills City Council hereby approves a Conditional Land Use to construct a drive-through at a proposed 1,950 square-foot Tim Horton's restaurant at the northwest corner of Crooks and Avon Industrial Dr., south of Hamlin, Parcel No. 15-29-228-004, zoned B-3, Shopping Center Business, with the following findings:

Findings:

1. The proposed building and other necessary site improvements meet or exceed the standards of the Zoning Ordinance.
2. The expanded use will promote the intent and purpose of the Zoning Ordinance.
3. The proposed building has been designed and is proposed to be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the hospital, the general vicinity, adjacent uses of land, the natural environment, and the capacity of public services and facilities affected by the land use.
4. The proposal should have a positive impact on the community as a whole and the surrounding area by further offering jobs and another dining option.
5. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.
6. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.

7. The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

2014-0106 Request for Purchase Authorization - DPS/ENG: Blanket Purchase Order for As Needed Construction Inspection Services in the amount not-to-exceed \$100,000.00; Spalding DeDecker Associates, Inc., Rochester Hills, MI

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

Allan Schneck, Director of DPS/Engineering, stated that there is much development and redevelopment going on in the City; and these services are necessary.

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

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

Enactment No: RES0070-2014

Resolved, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Spalding DeDecker Associates, Inc., Rochester Hills, Michigan for As Needed Construction Inspection Services in the amount not to exceed \$100,000.00 through December 31, 2014.

COUNCIL COMMITTEE REPORTS

Avondale Youth Assistance (AYA):

Ms. Morita reported that the AYA awards dinner featured Olympian Peter Vanderkaay. She noted that he practiced at Avondale High School and is involved in Detroit Swims, a charity which is striving to have every child in the City of Detroit swimming by fifth grade.

Brownfield Redevelopment Authority (BRA):

Ms. Morita reported that the BRA would hopefully be adopting its latest policy this week. She noted that the plan is to have the policy come for Council review sometime next month.

Rochester Area Youth Assistance (RAYA):

Mr. Brown reported that RAYA's recognition dinner will be held on Tuesday, March 25th.

Older Persons' Commission (OPC):

Mr. Brown reported that the OPC has negotiated with the City of Rochester to have waiver for a pavement issue in their parking project, saving a significant amount of money.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

Regular Meeting - Monday, April 7, 2014 - 7:00 p.m.

ADJOURNMENT

There being no further business before Council, President Hooper adjourned the meeting at 10:09 p.m.

*GREG HOOPER, President
Rochester Hills City Council*

*TINA BARTON, Clerk
City of Rochester Hills*

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

Approved as presented at the April 28, 2014 Regular City Council Meeting.