

COMMUNICATIONS

- A) *Planning & Zoning News dated February 2015*
- B) *Response Letter from J. Jones, rec'd April 7, 2015 re: Enclaves*
- C) *Letters received concerning Enclaves of Rochester Hills (various dates):*
 - D. Hartmann, 6450 Little Creek, RH 48306 (3)*
 - M/M S. Leslie, 236 Cross Creek Blvd., RH 48306*
 - Dennis Charnesky, 21 Cross Creek Blvd, RH 48306*
 - H. Stroup, 200 Cross Creek Blvd., RH 48306*
 - S. Stroup, 200 Cross Creek Blvd., RH 48306*
 - M/M A. Amici, 6225 N. Rochester Rd., RH 48306*
 - L. Laing, 1250 Lakeview Dr., RH 48306*
 - M/M E. Boesler, 1409 Otter Dr., RH 48306*
 - J. Tsay, 60 Cross Creek Blvd., RH 48306*
 - J. Hunter, 28 Cross Creek Blvd., RH 48306*
 - M/M M. Harrison, 32 Cross Creek Blvd., RH 48306*

UNFINISHED BUSINESS

[2014-0146](#) Request for Recommendation - An Ordinance to amend Section 138-4.300, Table of Permitted Uses by District; add new Section 138-4.425; and re-number existing Sections 138-4.425 through 138-4.445 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County Michigan to regulate oil and gas wells, repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations.

(Reference: Memo prepared by Ed Anzek, dated April 2, 2015 and Draft Ordinances (2) prepared by City Attorney John Staran dated March 27, 2015 had been placed on file and by reference became part of the record thereof).

Mr. Anzek summarized that the Ordinances were discussed at length at the March 24, 2015 meeting. There were several changes suggested, and the Planning Commission wished to see the corrected Ordinances. He noted that Mr. Staran was present to answer any questions.

Mr. Kaltsounis stated that he had reviewed the documents and had seen the necessary changes. He asked if there was a Public Hearing, and Chairperson Boswell advised that there was not, but that he had received three cards. He directed Mr. Kaltsounis to proceed:

MOTION by Kaltsounis, seconded by Yukon, the Rochester Hills Planning Commission hereby recommends that City Council adopts an

Ordinance to amend Section 138-4.300, Table of Permitted Uses by District; add new section 138-4.425; and re-number existing sections 138-4.425 through 138-4.445 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to regulate oil and gas wells, repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations.

Chairperson Boswell called the first speaker at 7:12 p.m.

Lee Zendel, 1575 Dutton Rd., Rochester Hills, MI 48306. *Mr. Zendel referenced Section 138-4.425 3., which called for three documents to be furnished by the permitted drilling company: An Environmental Impact Assessment, a hydrogeological study and the test results of water monitoring. He asked if the MDEQ already required those documents, and if so, why the City also needed them. He asked who in the City would get the documents, for example, the Mayor, the City Clerk or the City Engineer, and what they would do with them afterwards. He noted that the Ordinance required reporting the results of the water analysis to the City Engineer within two days. He asked if that should be two “business” days. If the water analysis showed evidence of contamination, he asked what specific action the City Engineer would take that the MDEQ was not already in the process of taking, since the MDEQ also required the same report, and it had the power to do something. For resident comfort, he suggested that the Ordinance might read, “The City Engineer is to report the results of the water tests at the next regularly scheduled City Council meeting.” He referred to Section 6 and said that since the active drilling of a project normally took about a month, he asked why the Building Department could not go to the site not less than every three business days to monitor the site for potential dust, noise, vibration, fumes or odor that might leave the site. He remarked that the City should be proactive rather than reactive. He read Section 13 and read in part, “No tanker trucks used in conjunction with production operations of oil or gas wells shall be moved over public roads.” It sounded to him like the crude produced by the well needed to receive City permission to be trucked out of town, while the same size gasoline trucks that traveled daily in the City did not need such permission. Section 14 read in part, “The owner or operator shall provide the City and its emergency responders with an emergency response plan.” He asked who in the City, other than the Fire Chief, needed that information and why. If others, beyond the Chief, did need the information, he felt that it should be spelled out by job title. Section 16 read in part, “Owner or operator shall maintain written procedures to minimize hazards.” He thought that rather than just asking the owner to maintain procedures, the owner should send a copy to the*

Fire Chief prior to the start of drilling and thereafter when significant changes were made to the procedures. Section 16(b) stated that the City ran the 911 system, but he wondered if the County 911 system would be aware of what to ask.

Nancy Lewis, 3223 Parkwood, Rochester Hills, MI 48306 *Dr. Lewis said that her comments regarded Section 2 of the proposed Ordinance, and in particular, the final sentence: "This paragraph shall not be construed to restrict or prohibit underground horizontal drilling directional or horizontal drilling where lawfully permitted by the MDEQ." She felt that it was important to realize, since priority was given to the DEQ regulations, where the DEQ allowed drilling to occur. She maintained that it allowed drilling to occur in any type of Residential as well as Industrial zoning. It allowed oil and gas wells to be located as close as 300 feet from an existing building or 450 feet from residential buildings. The way Section 2 was written, the setbacks would not be 1,000 feet; they would be what the DEQ regulated, which was 450 feet from homes and 300 feet from buildings such as schools. It appeared to her that there was a tremendous contradiction between the two sentences in Section 2. Some people had said to her that it was because horizontal drilling was the part that was horizontal to the surface, but she stated that horizontal drilling was defined as from the well site - the vertical portion down - and the horizontal part. She claimed that the entire process started with the well site, and the well site could be 300 feet from a school. Other people had said to her that the Ordinances were just like Auburn Hills' Ordinance, but Auburn Hills' said that "In addition to the spacing and setback requirements of the State of Michigan and the regulation of its Supervisor of Wells, the drilling completion or operation of oil or gas wells shall not be located within 1,000 feet of a residentially zoned building." She stated that there were specific differences from the DEQ's regulations. The proposed Ordinances said 1,000 feet and "where allowing drilling to occur wherever lawfully permitted by the DEQ." She encouraged that if the City wanted 1,000-foot setbacks that the words "where lawfully permitted by the MDEQ" should be deleted. If the City wanted oil wells to be as close as 300 feet to the schools, she suggested that they could leave the language as it was.*

Denise Doyle, 1446 Burhaven, Rochester Hills, MI 48306 *Ms. Doyle said that in comparing the previous and the new Ordinance in Section 138-4.425, number 5, it talked about the prevention or control of objectionable dust, noise, vibration, fumes, odors, etc. The previous version stated that it would be prevention and control of those items, but the draft had been changed to read prevention or control. She felt that*

was quite a difference. Also in number 2, it talked about a 1,000-foot setback from residential dwellings or schools, etc., or 330 feet from an adjoining property line. She read it several times and had spoken with several people, and she was confused because she understood it to mean that if there was a residence on a property line it was o.k. to drill 330 feet away. Number 17 read, "The requirements established in MDEQ Supervisor of Wells Instruction I-2015 applicable to oil and gas development in high population density areas are hereby adopted and incorporated herein by reference and shall apply to all new oil and gas wells wherever located in the City." In the Supervisor of Wells Instruction, it talked about taking water samplings, and the DEQ required seven days to get back to the City about the findings. In the proposed Ordinance that had been updated to two days. She questioned whether the DEQ requirements superseded what was in the proposed Ordinance, or if it was the other way around. She referred to the Pipelines Ordinance, and said that a performance guarantee was required, and if something should happen, the City would then have funds to take care of any type of emergency. There was no mention of surety bonds or letters of credit in the Oil and Gas Ordinance, and she wondered if it would be added. There was a section in Pipelines Ordinance that talked about abandoned or inactive pipelines, and she wondered if there would be any mention in the Oil and Gas Ordinance in reference to abandoned or inactive wells and how they would be handled. She thanked everyone for putting effort into the Ordinances.

Chairperson Boswell closed the public comments at 7:22 p.m. He asked Mr. Staran about Mr. Zendel's questions about reporting redundancies. He thought that was the way the City wanted it. Mr. Staran agreed, and recalled that it was discussed at the last meeting. The purpose of the Ordinance was to get the City involved, even if it meant that the City was, to some degree, duplicating the State's efforts. There was some question about making sure that when the City imposed requirements and asked for information that there was a legitimate City purpose for doing so and also that the City had the personnel and expertise to actually make sense out of it. It was the consensus of the Planning Commission that the information would be useful to the City to have a baseline established before any oil exploration commenced and to have an ongoing process to hopefully be able to determine if there was any deviation or problems resulting from an operation. He commented that time would tell; there was no company that had applied for a drilling site to be located in Rochester Hills. If the Ordinance was ultimately adopted by City Council, it would impose some additional layers and limitations that would influence the ability to locate a well in Rochester Hills.

Chairperson Boswell noted that Dr. Lewis asked about horizontal drilling. If the State law was followed, he asked if that meant that a company could drop a well within 300 feet of a residence. Mr. Staran believed that the operative language in the proposed Ordinance was identical to what was in the Auburn Hills Ordinance. He did not believe that the language in Section 2 was conflicting. He thought that it read very clearly that there would be a 1,000-foot separation from residential. In the last sentence it talked about the horizontal drilling process, or the drilling done under the ground. It was not talking about a well site location, which was addressed in the preceding sentences. The setbacks did not apply to the actual horizontal drilling. That would be regulated and permitted by the MDEQ.

Mr. Anzek mentioned the question about changing prevent and control to prevent or control. He said that it was also discussed at the last meeting, and Chairperson Boswell had pointed out that if something was prevented, it did not need to be controlled. Mr. Staran pointed out that the change from "and" to "or" was specifically requested by the Planning Commission at the last meeting.

Regarding surety bonds, Mr. Staran explained that they were not required because under the proposed Ordinance, unlike the Pipelines Ordinance, regulations were being imposed in terms of setbacks and so on, but it was not requiring a permit from the City to locate an oil well. He stated that there was no other permitted use in the Zoning Ordinance where bonding and insurance was required. Sometimes a bond was required in connection with certain permits such as building permits, but there were no other examples under the Zoning Ordinance where it was required for a permitted use. He wanted to be consistent with that.

Ms. Brnabic thought that it was a good suggestion to add that two business days were required for results of water testing rather than just two days. If a water sample was received on a Friday, it would clarify. Mr. Kaltsounis and Mr. Yukon agreed to the added condition as shown below:

MOTION by Kaltsounis, seconded by Yukon, the Rochester Hills Planning Commission hereby recommends that City Council adopts an Ordinance to amend Section 138-4.300, Table of Permitted Uses by District; add new section 138-4.425; and re-number existing sections 138-4.425 through 138-4.445 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to regulate oil and gas wells, repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations with the following condition:

Condition:

1. Page five, Section 138-4.425 (3), add the word "business" before days in the last sentence.

A motion was made by Kaltsounis, seconded by Yukon, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:

Aye 9 - Boswell, Brnabic, Dettloff, Granthen, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2015-0097

Request for Recommendation - An Ordinance to add new Article VI Pipelines to existing Chapter 94, Street, Sidewalks and Certain Other Public Places to the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to regulate the construction and permitting of pipelines in the City, repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations.

MOTION by Kaltsounis, seconded by Schroeder, the Rochester Hills Planning Commission hereby recommends that City Council adopts an Ordinance to add new Article VI Pipelines to existing Chapter 94, Streets, Sidewalks, and Certain Other Public Places, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to regulate the construction and permitting of pipelines in the City, repeal conflicting or inconsistent Ordinances and prescribe a penalty for violations.

A motion was made by Kaltsounis, seconded by Schroeder, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:

Aye 9 - Boswell, Brnabic, Dettloff, Granthen, Hooper, Kaltsounis, Reece, Schroeder and Yukon

Chairperson Boswell stated for the record that the motions had passed unanimously. He thanked Mr. Staran, the Planning Commission and the citizens involved, and advised that the matter would move back to City Council.

NEW BUSINESS

2015-0093

Public Hearing and request for Rezoning Recommendation - An Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to rezone two parcels of land totaling approximately 1.06 acres, located on the east side of Rochester Road (3841 S. Rochester Road and vacant), south of M-59, Parcel Nos. 15-35-352-019 and 15-35-352-067 from B-5, Automotive Business to B-2, General Business, Dave Leshock on behalf of Auto City Investments, Inc., Applicant