



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, June 15, 2015

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order
at 7:02 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
Jasneet Aulakh, Rochester Hills Government Youth Council Representative
Bryan Barnett, Mayor
Tina Barton, City Clerk
Alan Buckenmeyer, Parks Operations Manager
Mike Hartner, Director of Parks and Forestry
Keith Sawdon, Director of Finance
Allan Schneck, Director of DPS/Engineering
John Staran, City Attorney
Maria Willett, Chief Assistant*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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

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

COUNCIL AND YOUTH COMMITTEE REPORTS

Rochester Hills Government Youth Council:

*Jasneet Aulakh, Rochester Hills Government Youth Council (RHGYC)
Representative, reported that the RHGYC held its annual 5K Run/Walk this past*

Saturday. She noted that 40 donors and sponsors including Title Sponsors Bar Louie and the Waller Wellness Center, contributed to the event, and over 20 student and parent volunteers helped make the event a success. She announced that at least \$9,000 will be donated to Blessings in a Backpack. She expressed her thanks to Sean Canto, Chief of Fire and Emergency Services, and Al Brown, Park Ranger II, for their help.

Older Persons' Commission (OPC):

Mr. Brown announced the following:

- The OPC will host its Be Seated and Garden Art Exhibit June 17, 2015 through June 19, 2015.
- The Henry Ford Big Band event is set for June 25, 2015.
- The Men's Softball League is in full swing. Games are at Borden Park.

PUBLIC COMMENT for Items not on the Agenda

Mayor Barnett stated that he had recently been made aware of information regarding the recording of leases, including one for a gas and oil well next to Musson Elementary School in Oakland Township. He noted that he looked into the lease recordings and noted that the recorded lease on Dutton was signed in July of 2012, before Jordan Oil approached City Council. He stated that he called the Supervisor of Oakland Township and West Bay today to inquire whether this was something new happening or if it was merely old information. He mentioned that West Bay just recorded all the leases signed in the city about two months ago. He explained that leases are not recorded right away; however, they are typically recorded at some point because they are considered an asset to the company. He noted that the lease in question is in Oakland Township; and he explained that City Council has no control of what happens in that jurisdiction. He pointed out that all 400 private leases in Rochester Hills do not have the provision to site a well.

He stated that he has good news, as according to West Bay representatives, the company has no interest in doing anything at the site in Oakland Township. He explained that they told him that because the Shelby Township well came up dry, the company is planning on pulling out of all of northern Oakland County. He noted that he asked the company to put this in writing, and he stated that hopefully this issue will be over shortly.

Public Comment:

Erin Millerschin, 3778 Summit Ridge, stated that while this seems like good news, she is curious of the origin of the information. She expressed concern as she lives close to the site on Dutton. She questioned the status of lawsuits against the City.

Linda Immers, 3247 Salem, stated that Council has the power to protect the residents, and she commented that she does not support drilling. She noted that new buyers who will send their children to the nearby school will be deterred

from purchasing a home, and stated that whatever needs to be done to shut the potential drilling down must be done.

Jerome Hunter, 3630 Salem Drive, questioned what the average decline in home value is due to fracking activities and what the potential would be for something going bad. He stated that he has three six-year-olds that attend Musson. He questioned whether the company is speaking honestly and stated that Council should do what it needs to do to terminate the leases.

Lorraine McGoldrick, 709 Essex, stated that concrete slab replacement work occurring within her sub has had poor signage and low safety. She commented on staff dress code.

Kristin Zamjahn Nahass, 3759 Newcastle Drive, stated that while she looked forward to coming back to Rochester Hills, she is disappointed to learn that the parks were leased without a vote of the people.

Gail Hammill, 1434 Burhaven, commented that the oil company should be questioned where they do plan to drill in Oakland County. She stated that she noticed 15 to 20 entry leases filed in Lake Orion and Orion Township. She questioned a lease on the Michigan State University (MSU) property near Parkdale, Dequindre and Runyon and stated that MSU was paid \$345,000 for an entry lease on that site.

Tracey Pascua, 1240 Cobridge, stated that she has two children to go to Musson and is outraged that there is the potential for an oil well to go there. She commented that there is no way that drilling is 100 percent safe and expressed concern for drilling underneath.

Lucie Groene, 1101 Cripple Creek, stated that the City is full of friendly and well-educated people and she had no idea that they had to fight against drilling. She commented that she is in the film industry and noted that bad press is the end of a political career.

Paula Pritchard, 1915 Independence Court, stated that she concurs with those speaking this evening and commented that she cannot believe that drilling was even a consideration.

Olivia Millerschinn, 3778 Summit Ridge, stated that she recalled an incident involving a ruptured gas pipe that happened when she was nine or ten years old, and commented that she was terrified by the noise. She stated that she attended Musson Elementary and noted that the City should consider the children's safety for the future.

Phil Barker, 1434 Burhaven, expressed his appreciation to Mayor Barnett for reaching out to West Bay for clarification. He requested West Bay provide information on what leases they are considering acting upon. He questioned the stacks of yellow piping delivered along Tienken Road, noting that these are typically flow lines. He noted that the lease in question has a Rochester Hills mailing address of 3700 Dutton Road and questioned whether the Ordinance

would apply prohibiting drilling within that short distance of a school, and whether a subdivision developer who retained mineral rights could sign a lease to allow drilling under properties in the subdivision.

Peter Damato, 3700 Newcastle, stated that once a community's reputation is tainted, it is never repaired. He commented that he has three children in Musson, and stated that the City should eliminate the possibility of drilling from the area.

Lee Zendel, 1575 Dutton, stated that the fear of the unknown is very real. He mentioned a western community encompassing 5.7 square miles having over 34,000 residents and over 90 producing oil wells. He stated that this community has extremely high property values. He pointed out that the community he mentioned is Beverly Hills, California; and he noted that there are four drilling sites in the community including one on the campus of Beverly Hills High School.

Erin Howlett, 3597 Aynsley Drive, questioned how a letter received from West Bay could be legally binding. She stated that in her research, leases are typically not registered until the company desires to execute them. She commented that nothing can push aside the idea that Council ignored the voters.

Marilyn Carlstedt, 3787 Summit Ridge, stated that she spent time working for Amoco Oil and commented that there is not one oil well that has gone in that has not polluted the area in some way. She stated that it is unconscionable to put an oil well in a residential community next to an elementary school.

President Hooper responded to public comment, noting that two lawsuits were filed against the City. He stated that the Court ruled in the City's favor on both suits, and awarded damages to the City in one case. He noted that the leases that were signed by City Council were non-developmental leases, allowing no well to be sited on City property. He explained his reasoning for voting to sign the lease, noting that if the City had not signed and the company was successful in assembling the majority of property in 40 acre increments, the Supervisor of Wells could allow drilling in Rochester Hills. He pointed out that the lease signed prohibits drilling on the property, along with prohibiting fracking in Rochester Hills. He stressed that this is a State issue to be regulated.

Regarding public comment on the Dutton Road property address, he noted that the Post Office address could be different from where the property is sited. He stated that if the property is within Rochester Hills, it would be subject to the City's ordinances.

He noted that the State of Michigan has 20,000 active oil and gas wells in Michigan, with 60,000 drilled over time. He explained that wells are monitored and regulations enforced by the Michigan Department of Environmental Quality. He stated that when questioned about drilling activities, it was noted that the well typically is drilled down one-and-one-half miles and then horizontally up to two miles.

He pointed out that the lease agreement filed on the private property on Dutton Road is in Oakland Township; and he stated that the City cannot intervene.

He noted that the yellow pipe along Tienken Road is for natural gas to replace existing transmission lines.

John Staran, City Attorney, stated that the City had a moratorium in place for almost a year prohibiting any construction or installation of oil and gas wells pending the development and adoption of appropriate ordinances. He noted that the City adopted ordinances for both oil and gas wells and for pipelines. He pointed out that under the City's Well Site Ordinance, a well would be permissible only in a very small area of the City, within Industrial zoning and subject to a 1,000 foot setback from any residential properties. He noted public comment expressing concern about oil wells and drilling in parks and school properties and neighborhoods, and he stated that this has been specifically outlawed by action of City Council.

President Hooper requested Mayor Barnett and Allan Schneck, Director of DPS/Engineering, check into comments raised regarding slab replacement activities.

Mayor Barnett requested Ms. McGoldrick speak with Mr. Schneck regarding DPS activities. He noted that relative to gas and oil comments, it is apparent that some of the speakers this evening believe that Rochester Hills went to the gas and oil industry. He stated that nothing could be further from the truth, and he explained that the companies have come to the City multiple times in the last decade and a half. He pointed out that the City continues to have the challenge regarding the fundamental issue of rights of the homeowner. He explained that homeowners have mineral rights that are a part of their property, which are Constitutional and supersede anything Council can do to take them away. He stated that Council and the City have a desire to enact the most stringent regulations that are enforceable by law. He commented that the City had to find a place for this to happen; and he explained that while the State's regulation is a distance of 350 feet from any structure, the City's regulation is no closer than 1000 feet.

He mentioned several laws that were proposed around election time last year, noting that they were not successful. He commented that the closest well siting location to Musson Elementary that would be permissible in Rochester Hills is near M-59. He stated that he cannot speak for Oakland Township, nor any cities with populations under 70,000. He explained that a community must find a place for this to happen or it is susceptible to a lawsuit. He pointed out that West Bay did an interview with the Oakland Press today; and he commented that if the residents do not believe the information he relates, perhaps they will believe it from the press.

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.

- 2015-0228** Request for Approval of the Amendment to the Agreement for Maintenance of the Storm Water Detention System between the City of Rochester Hills and Troy Properties, LLC, a Michigan Limited Liability Company, for Crooks Road Office Buildings

Attachments: [061515 Agenda Summary.pdf](#)
[Amendment to Storm Maint Agreement.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0168-2015

Resolved, that the Rochester Hills City Council approves the Amendment to the Agreement for Maintenance of the Storm Water Detention System, from Troy Properties, LLC, 29199 Ryan, Warren, Michigan 48092, for Crooks Road Office Buildings, Parcel No. 15-29-477-000.

- 2015-0231** Request for Acceptance of a Sanitary Sewer Easement granted by S.E. Michigan Land Holding, LLC, a Michigan Limited Liability Company, for Cumberland Pointe Subdivision

Attachments: [061515 Agenda Summary.pdf](#)
[Sanitary Sewer Easement.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0169-2015

Resolved, that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Sanitary Sewer Easement granted by S.E. Michigan Land Holding, LLC, a Michigan Limited Liability Company, whose address is 51237 Danview Technology Court, Shelby Township, MI 48315, for the construction, operation, maintenance, repair and/or replacement of a Sanitary Sewer over, on, under, through and across land more particularly described as Parcel No. 15-27-151-003.

Further Resolved, that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

- 2015-0232** Request for Approval of the Storm Sewer System Maintenance Agreement between the City of Rochester Hills, Diverse Real Estate LLC, a Michigan limited liability company ("Developer"), and the Cumberland Pointe Condominium Association, a Michigan nonprofit corporation (the "Association"), with the consent of S.E. Michigan Land Holding LLC, a Michigan Limited Liability Company, for Cumberland Pointe Condominiums

Attachments: [061515 Agenda Summary.pdf](#)
[Storm Sewer System Maint Agreement.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0170-2015

Resolved, that the Rochester Hills City Council approves the Storm Sewer System Maintenance Agreement, from S.E. Michigan Land Holding, LLC, a Michigan Limited Liability Company 51237 Danview Technology Court, Shelby Township, MI 48315, for Cumberland Pointe Subdivision, for Parcel No. 15-27-151-003.

2015-0234 Request for Acceptance of a Watermain Easement granted by S.E. Michigan Land Holding, LLC, a Michigan Limited Liability Company, for Cumberland Pointe Subdivision

Attachments: [061515 Agenda Summary.pdf](#)
[Water Main Easement.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0171-2015

Resolved, that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Watermain Easement granted by S.E. Michigan Land Holding, LLC, a Michigan Limited Liability Company, whose address is 51237 Danview Technology Court, Shelby Township, MI 48315, for the construction, operation, maintenance, repair and/or replacement of a watermain over, on, under, through and across land more particularly described as Parcel No. 15-27-151-003.

Further Resolved, that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

2015-0237 Request for Purchase Authorization - DPS/PARKS: Purchase of five (5) utility vehicles in the not-to-exceed amount of \$45,227.60 and one (1) utility vehicle in the amount not-to-exceed \$7,608.50, for a combined total not-to-exceed \$52,836.10; Rochester Lawn Equipment Center, Rochester Hills, MI; E-Z-GO Division of Textron, Inc., Augusta, GA

Attachments: [061515 Agenda Summary.pdf](#)
[MiDeal Quote.pdf](#)
[NIPA Quote.pdf](#)
[Resolution \(Draft\).pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0172-2015

Resolved, that the Rochester Hills City Council hereby authorizes the purchase of five (5) utility vehicles from Rochester Lawn, Rochester Hills, Michigan in the not-to-exceed amount of \$45,227.60 and one (1) utility vehicle from E-Z-GO Division of Textron, Inc., Augusta, Georgia in the not-to-exceed amount of \$7,608.50, for a combined total not-to-exceed \$52,836.10.

Passed the Consent Agenda

A motion was made by Brown, seconded by Hetrick, 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

Mr. Tisdell commented that the drilling setback of 1,000 feet is within Industrial zoned areas. He noted that Council considered the impact of the lease on the Parks Amendment, and commented that it was determined that mineral rights can be separated from surface rights. He pointed out that Council could have done nothing, or sign a lease that specifically prohibits certain activities.

Mr. Hetrick reported that the Clinton River Trail has been resurfaced and is beautiful.

Mayor Barnett announced that the City's Department of Public Services received Community Excellence Awards for the North Oakland County Water Authority agreement and for the Calf Barn Adaptive Reuse Project. He displayed several photographs, noting:

- When the company Kostal first came to Rochester Hills, it had eight employees. It now employees 165 and is looking to grow and expand. Staff are working to find them more space within the City.
- The Tienken Road rehabilitation project from Livernois to Adams will begin on Wednesday.
- Millings taken from asphalt rehabilitation work throughout the City was used to resurface the Clinton River Trail.
- The Youth Council's 5K held last Saturday was well-organized and well-run.
- The Festival of the Hills is slated for Wednesday, June 24, 2015, beginning at 6:00 p.m. at Borden Park.
- The Tons of Trucks event hosted last weekend was successful and fun for all.

ATTORNEY'S REPORT

2015-0242 Adoption of Resolution to Adjourn to Closed Session immediately following the adjournment of the Regular Meeting held Monday, June 15, 2015 at 7:00 p.m. for the purpose of discussing a written attorney/client privileged communication

Attachments: [Resolution.pdf](#)

A motion was made by Morita, 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: RES0173-2015

Resolved, that the Rochester Hills City Council hereby agrees to meet in Closed Session, as permitted by State Statute MCL 15.268 on Monday, June 15, 2015 immediately following the adjournment of the Regular Meeting held Monday, June 15, 2015 at 7:00 p.m., Michigan Time, at the Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, Michigan. The purpose of the Closed Session is to discuss a written attorney/client privileged communication.

NOMINATIONS/APPOINTMENTS

2015-0240 Request to Appoint Tracey Balint, Public Utilities Engineer, to represent the City of Rochester Hills as a member representative for the North Oakland County Water Authority (NOCWA), and Paul Davis, City Engineer, as alternate

Attachments: [061515 Agenda Summary.pdf](#)
[Resolution \(Draft\).pdf](#)

A motion was made by Hetrick, seconded by Morita, 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: RES0174-2015

Resolved, that the Rochester Hills City Council appoints Tracey Balint, Public Utilities Engineer, to represent the City of Rochester Hills as a member representative for the North Oakland County Water Authority (NOCWA), and Paul Davis, City Engineer, as alternate.

NEW BUSINESS

2014-0305 Request for Approval of additional funding of the Green Space Perpetual Care Trust

Attachments: [061515 Agenda Summary.pdf](#)
[Niswander Presentation 120814.pdf](#)
[090814 Agenda Summary.pdf](#)
[Worksheet of Available Fund Balance for Trust.pdf](#)
[GSPCT draft resolution.pdf](#)
[GSAB Resolution adopted 072214.pdf](#)
[090814 Resolution.pdf](#)
[Resolution \(Draft\).pdf](#)

Gerald Carvey, Chairperson, Green Space Advisory Board, noted that he was being joined by **Keith Sawdon**, Director of Finance, and **Mike Hartner**, Director of Parks and Forestry. He expressed his appreciation for the opportunity to address Council.

Mr. Sawdon explained that the Green Space Trust was put into place to provide a steady stream of funding sources to undertake stewardship work. He explained that Council added \$1 million to the trust in 2014, and that tonight Council's approval is sought to amend the Budget for 2015 to add an additional \$2 million, to work toward the goal to provide a stream of revenue earnings. He stated that Green Space Fund ended Fiscal Year 2014 with a fund balance of \$5.8 million, and will end Fiscal Year 2015 with a fund balance just short of \$5.6 million, after the initial \$1 million Trust funding. He commented that the request to add \$2 million to the Trust is to secure a permanent funding source for stewardship activities of Green Space properties and natural features.

Mr. Kochenderfer stated that as Council representative to the Green Space Advisory Board, he can attest that the group has been doing significant work on this. He added that this was evident when the group met with the consultants to review each property and prioritize what needs to take place. He commented that the proposed amount would still leave the Green Space Fund with ample amounts for purchase.

Mr. Hetrick commented that he reviewed a worksheet that notes that the total contribution will ultimately be \$4 million.

Mr. Sawdon responded that this amount may be necessary to have ongoing stewardship, noting that the funding need is estimated in today's dollars at \$150,000 per year in the initial phases, leveling off to the range of \$200,000 in the longer term. He commented that to have that funding in a Trust, \$5 million is needed in total to maintain activities long into the future.

Mr. Hetrick questioned whether the long term goal is \$5 million rather than \$4 million.

Mr. Sawdon confirmed that \$5 million will ultimately be needed considering a long term rate of return of approximately five percent.

Mr. Hetrick questioned whether \$2 million remaining in the Green Space Fund is adequate for any potential purchases.

Mr. Sawdon stated that some funding would remain available for acquisitions. He commented that it will take two to three years for the Trust to have earning power to provide the steady stream of earnings.

Mr. Hetrick questioned whether it would be better to fund the Trust entirely at this time.

Mr. Sawdon responded that the sooner the Trust is funded, the quicker it will begin earning. He commented that should Council wish to move quicker it would be great in the long-term. He pointed out that a staged process was proposed.

Mr. Hetrick questioned when the next opportunity would be to make an adjustment.

Mr. Sawdon responded that it would be in the Budget process, for 2016 or 2017. He commented that if he were asked for his opinion, he would suggest it be done in 2016.

Mr. Wiggins questioned what acquisition costs are estimated and if any properties are under consideration.

Mr. Carvey responded that there are just a few pieces of property to consider. He stated that the Administration is working on a couple of small properties, and he noted that the Green Space Advisory Board is considering a small property next Tuesday. He mentioned that there is probably less than a half-million in property acquisitions being considered.

Mr. Wiggins commented that it is his thought that the funding is being undertaken gradually to allow the Administration to get an idea of expenses needed.

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: RES0205-2014

Resolved, that the Rochester Hills City Council hereby approves additional funding of \$2 million dollars to the Green Space Perpetual Care Trust for Fiscal Year 2015.

2015-0241 Request for Approval of the revised Freedom of Information Act (FOIA) Procedures and Guidelines, FOIA Public Summary and FOIA Cost Itemization

Attachments: [061515 Agenda Summary.pdf](#)
[FOIA Procedures & Guidelines.pdf](#)
[FOIA Public Summary.pdf](#)
[FOIA Fee Itemization Form.pdf](#)
[Resolution \(Draft\).pdf](#)

Tina Barton, City Clerk, reported that the Freedom of Information Act (FOIA) underwent a major change last year, and noted that a bill was passed in January of 2015. She expressed her appreciation to Bill Bullard and Strategic Communication Solutions, for their efforts to inform the City of the upcoming FOIA changes even before the lobbyist representing the Clerk's organizations had the information. She noted that as of today, over 200 FOIA have been processed so far this year. She explained that Public Act 563 of 2014 brings consistency and uniformity to the way government entities and public bodies process FOIAs in the State of Michigan, bringing consistency to fee structures, policies and procedures. The proposed FOIA Procedures and Guidelines will bring the City into compliance with the changes mandated by law, and must be effective by July 1, 2015.

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

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

Resolved, that the Rochester Hills City Council hereby approves the revised Freedom of Information Act (FOIA) Procedures and Guidelines, FOIA Public Summary and FOIA Cost Itemization with an effective date of July 1, 2015.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

Regular Meeting - Monday, June 29, 2015 - 7:00 p.m.

ADJOURNMENT

There being no further business before Council, President Hooper adjourned the meeting to Closed Session at 8:32 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 August 10, 2015 Regular City Council Meeting.