

Oakland County Register of Deeds.

Enactment No: RES0238-2005

### Passed The Consent Agenda

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

Aye: Hill, Barnett, Duistermars, Holder, Raschke and Robbins

Absent: Dalton

## PUBLIC HEARINGS

2005-0312

Public Hearing regarding a request by Energy Quest LLC to lease oil and gas rights for 141.7 acres on Hamlin Road, including Borden Park for the exploration and mining thereof; Energy Quest, Inc., applicant

**Attachments:** Agenda Summary.pdf; Public Hearing Notice.pdf; 070605 Agenda Summary.pdf; 051805 Agenda Summary.pdf; Energy Quest Oil Gas Lease1.pdf; Memo Casey 20050426.pdf; Resolution to Set Public Hearing.pdf; 0312 Resolution.pdf; Final Signed Lease.pdf

**Mr. Dan Casey**, Economic Development Manager, indicated that Energy Quest approached the City several months earlier to lease the City's mineral rights under Bloomer Park for the exploration for oil and/or gas. Addressing issues raised by Council during a previous Work Session meeting, Mr. Casey described four facilities in Troy, Sterling Heights, Shelby Township and Novi that operate in a similar fashion to that proposed for Rochester Hills. He then addressed specific questions raised during the previous meeting:

\* Energy Quest is responsible for acquiring any necessary rights-of-way for the transportation of the oil and/or gas product.

\* Dearborn appears to be one of the only other municipalities that has entered into such a lease agreement.

\* With regard to complaints generated by this type of facility, Mr. Casey was only able to identify two:

- Lyon Township - Occasional oil spillage resulting in odor complaints.

- Kensington Park - Noise complaint during the initial drilling process.

**Mr. Jeff Schwartz** and **Mr. Frank Noverr** of Energy Quest, 3016 Casey Road, Traverse City, Michigan; **Mr. Trey Brice** of the law firm Beier Howlett, and **Mr. Casey** responded to various questions posed by Council members:

\* The process for transporting the product from the facility will depend on what is found. Oil will likely be trucked away, while gas will likely be piped away.

\* The most likely location for a facility, should a marketable product be found, would be in a light industrial area.

\* The lease provides for a finite amount of time to locate any marketable product. Should this time frame expire, all mineral rights revert back to the original owners.

\* The City will receive 1/6th of the profits for the entire time that the facility is in operation.

- \* *The location of the product will not impact the location of the facility, as Energy Quest will employ directional drilling to access the gas and/or oil.*
- \* *The lease with the City does not permit drilling on City property.*
- \* *Facility plans must be submitted and approved by the Michigan Department of Environmental Quality (MDEQ).*
- \* *Once the minerals are depleted and the facility is closed, the MDEQ requires that all lands be restored to their original state.*
- \* *Energy Quest will determine when the facility should close.*
- \* *The seismic testing merely sends energy waves into the ground and is unlikely to damage ball fields, etc.*
- \* *The City's Director of Parks & Forestry will have the final approval for all testing in the park.*
- \* *As the product in question is approximately 4,000 feet below ground, there is no danger of it "percolating" to the surface and causing a hazard.*
- \* *It is impossible to estimate the potential economic outcome of this project until a marketable product is identified.*

**Mr. Robbins** asked Mr. Hartner his opinion of this proposed plan.

**Mr. Hartner**, Director of Parks & Forestry, stated that while he initially had many of the same concerns that Council has expressed, he has come to the conclusion that the checks and balances are in place to protect the park and this could result in an innovative source of revenue for the City.

**Mr. Staran** noted that Mr. Hartner will be responsible for determining the timing of testing within the park to ensure the least amount of interference in park activities. Furthermore, there is a provision in the lease that all reasonable precautions will be taken to avoid damage to any property.

**President Hill** Opened the Public Hearing at 9:06 p.m.

**Mr. Gary Grabaum**, 1563 Nadine, a homeowner near Borden Park, raised the following questions:

- \* *How much damage will be done to park grasses and wooded areas?*
- \* *Will this facility have a negative impact on surrounding property values?*
- \* *Could removing the product from under the ground cause damage such as shifting soils?*

**Ms. Donna Kelel**, 1803 Bliss Court, raised concerns about the annual fireworks display near natural gas, as well as children being hurt by large equipment in the area.

**Mr. Scott Hunter**, 2057 Roundtree, raised the following questions:

- \* *How much noise will a pumping facility generate?*
- \* *What is the environmental impact of hazardous materials?*

\* *What mechanism is in place were Energy Quest unable financially to repair any damage caused by their actions?*

**Mr. John Abdella**, 1120 Sugarcreek, asked how homeowners can prevent Energy Quest from drilling into their mineral rights without permission, notification or compensation.

**There being no further Public Comment, President Hill Closed the Public Hearing at 9:14 p.m.**

**Mr. Casey, Mr. Schwartz, Mr. Noverr and Mr. Staran** addressed the questions and concerns raised during the Public Hearing:

\* *It could be suggested that Energy Quest provide a plan prior to testing indicating their intentions of where trucks will be located.*

\* *While the MDEQ does not require it, Energy Quest conducts a meeting with the Fire Chief and an emergency plan is established.*

\* *The lease agreement can require that Energy Quest post a bond for restoration purposes, although that is governed by the MDEQ with their own insurance and bonding requirements.*

\* *It would not be possible to drill beyond the leased production unit as the MDEQ audits the drilling continuously and requires GPS information as to where the drill bit is located.*

\* *There is no danger of sinkholes as a result of drilling as the drilling area is porous rock, not cave-like structures.*

\* *The facility would be housed to reduce any noise.*

\* *There have been no noise complaints from the Troy facility, which is located in a more residential setting than that proposed for Rochester Hills.*

**Mr. Robbins** questioned whether the funds generated by this project would go into the City's General Fund or could be earmarked for park development.

**Mr. Staran** stated that Council would make that determination.

**President Hill** noted that residents would have difficulty understanding that the City will not be overseeing this operation and will have to be directed to contact the MDEQ with complaints, questions or concerns.

**A motion was made by Duistermars, seconded by Barnett, that this matter be Adopted by Resolution.**

**Whereas, Energy Quest, Inc., a Michigan Corporation, has requested to enter into a lease agreement ("the Lease") with the City of Rochester Hills for the right to explore and mine oil and gas and their byproducts on city land; and**

**Whereas, City property covered under terms of the Lease, including optional lands, are held under clear title by the City of Rochester Hills; and**

**Whereas, the Lease identifies various terms and conditions, including lease rates, royalty shares and primary terms; and**

**Whereas, the location of oil and gas facilities on the property is prohibited, subject to the terms of the Lease; and**

Whereas, the City retains ownership of all mineral rights on the property, subject to the terms of the Lease; and

Whereas, Energy Quest, Inc. will notify and receive permission from the Parks and Recreation Department Director prior to entering the property under terms of the Lease for purposes of seismic and other testing; and

Whereas, Energy Quest, Inc. has agreed to minimize impacts to the operation of Earl E. Borden Park during testing and fully repair any land disturbed during the testing phase.

Resolved, to lease 141.777 acres of property owned by the City of Rochester Hills, identified as, Parcel # 70-15-25-100-012, and further identified as:

Township 3 North-Range 11 East

Section 25:

N 62 acres of W/2 of NW/4, th S 89°39'58" E 120', th S 00°06'36" E 60', th N 89°39'58" W 60' th S 00°06'36" E 140' th N 89°39'58" W 60', th N 00°06'36" W 200' to beginning, also W/2 of E/2 of NW/4, also part of NW/4 beginning at point dist S 00°31'00" E 450.65' from N/4 corner, th S 00°31'00" E 2246.64', th S 88°35'00" W 674.41', th N 00°17'00" W 2713.90', th E 280', th S 00°17'00" E 450.65', th E 385.13' to beginning

to Energy Quest, Inc. of Traverse City, for a primary term of three (3) years, subject to the terms and conditions of the Lease, including optional lands; and

Be It Further Resolved to direct the Mayor and City Clerk to sign the Lease on behalf of the City after review by the City Attorney's office as to form.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Holder, Raschke and Robbins

Absent: Dalton

(Recess 9:41 p.m. - 9:55 p.m.)

2005-0455

Public Hearing to consider the establishment of an Industrial Development District (IDD) at 3098 Research Dr.

Attachments: Agenda Summary.pdf; 072005 Agenda Summary.pdf; Public Hearing Notice.pdf; 070605 Agenda summary.pdf; Resolution to Set Public Hearing.pdf; 0453 Resolution.pdf

Mr. Dan Casey, Economic Development Manager, explained that the request was for a six-year tax abatement for up to 50% of local mills, which would include local schools, the community college, the County, the City and the intermediate school district. As the applicant is proposing to purchase a building currently under construction, the request falls under the category of "speculative." An Industrial Development District needs to be in place, therefore, Council needs to create one in order to facilitate the abatement request.

Mr. Casey indicated that while the abatement application requested a six-year abatement of both real and personal property, it was his recommendation that a six-year abatement for only real property be approved. Utilizing charts found in the City's Tax Abatement Policy, he was able to demonstrate that the applicant did qualify for a real property abatement, but did not meet the criteria for personal property.