



Rochester Hills

Minutes

City Council Regular Meeting

1000 Rochester Hills Dr
Rochester Hills, MI 48309
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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, August 11, 2014

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order
at 7:00 p.m. Michigan Time.*

ROLL CALL

Present 6 - Kevin S. Brown, Greg Hooper, Stephanie Morita, Mark A. Tisdel, Michael
Webber and Thomas W. Wiggins

Absent 1 - Adam Kochenderfer

Others Present:

Ed Anzek, Director of Planning and Economic Development

Tina Barton, City Clerk

Sean Canto, Chief of Fire and Emergency Services

Ron Crowell, Deputy Fire Chief

Kurt Dawson, Director of Assessing/Treasury

Tara Presta, Chief Assistant

Charnele Sanders, Adult Advisor to the Rochester Hills Government Youth Council

Keith Sawdon, Director of Finance

Allan Schneck, Director of DPS/Engineering

Scott Schlagel, Rochester Hills Government Youth Council Representative

Leanne Scott, Deputy Clerk

Alexis Smith, Rochester Hills Government Youth Council Representative

John Staran, City Attorney

Mayor Barnett provided prior notice that he would not be in attendance.

PLEDGE OF ALLEGIANCE

*Mr. Tisdel introduced **Laura Matthews**, Rochester High School teacher of
Advanced Placement Government and Politics. He stated that she grew up in
Rochester Hills, is a Michigan State University graduate, and was one of 30
teachers nationwide selected for the Street Law Supreme Court in Washington,*

D.C., where she met with justices, lobbyists, and practiced Supreme Court arguments. He expressed his thanks for her continued support and for providing opportunities for students to get involved in local politics.

***Tina Barton**, City Clerk, noted that Ms. Matthews worked with the Clerk's Office last year, enthusiastically responding to her request for high school involvement in the election process by encouraging over 80 high school students to work at the November 2013 Election. She noted that 30 students returned of their own accord this past August to work the Primary Election. She expressed her thanks to Ms. Matthews for her support.*

***Laura Matthews** led the Pledge of Allegiance.*

APPROVAL OF AGENDA

A motion was made by Webber, seconded by Brown, that the Agenda be Approved as Amended to move Legislative File 2014-0319 Request for Approval of a five-year extension of the METRO Act Permit for AT&T to New Business. The motion carried by the following vote:

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

Absent 1 - Kochenderfer

PUBLIC COMMENT

***Andreas Mai**, 1978 Watson Circle, Rochester, stated that the oil drilling in Shelby Township is very close to his backyard and commented that fracking will drain the values of homes in the area and leases will affect the ability to get insurance or remortgage their homes. He noted that fracking will poison the air and water, and drilling will increase the chance of lightning strikes, putting people closest to the drilling at risk of burns.*

***Scot Beaton**, 655 Bolinger, stated that drivers do not heed the posted signs to yield to bikers and pedestrians at the Clinton River Trail crossings at Avon and Livernois Roads. He suggested that better signage or the Hawk crossing system be installed at these crossings.*

***Robert Kendig**, 2484 Wortham Drive, expressed his frustration that public commenters are not given another opportunity during a meeting to rebut any comments made by the City Attorney. He stated that the City Attorney recommended that the oil and gas exploration lease be signed and is now being compensated to represent the City in the lawsuit filed. He commented that he would like to hear why Council supported the lease and what benefit it is to the community.*

***Denise Doyle**, 1446 Burhaven, mentioned two accidents at drilling sites in Michigan. She commented that the residents look to City Council for safety to affect their quality of life. She noted that while Council stated that there will be no drilling or surface activities in parks or the Cemetery, she questioned what prevents a drilling site from being located in a subdivision. She commented that residents in Briarwood Subdivision in Shelby Township are looking at a brightly-lit tower all night.*

Kristen Kennedy, 750 Panorama, stated that there has never been a clear business case for oil and gas drilling. She commented that she attended an emergency meeting in Shelby Township regarding the drilling there and questioned why Council thought that the residents did not want a vote on the issue.

Erin Howlett, 3597 Aynsley Drive, noted that she is still having trouble accessing data on the website. She stated that setback requirements for drilling should be 1,000 feet from residences or public care buildings.

Jeannie Morris, 1398 Burhaven Drive, questioned why Council is not moving forward with ordinances on oil and gas drilling. She noted that the lawsuit filed was amended to include the easement granted in Bloomer Park to Sunoco for their pipeline.

Sue Barnes, 137 Foxboro, announced that the Brooksie Way Half Marathon, 10K and 5K race will be held on Sunday, September 28, 2014, along a route in Rochester, Rochester Hills, the Paint Creek Trail and the Clinton River Trail.

Tim Maurer, 854 Ravine Terrace, stated that people from all political persuasions are upset by oil and gas exploration. He noted that fracking in a high density suburban area is dangerous.

Mario DiBartolomeo, 1409 Oakbrook East, stated that he wished to add his name and presence to the discontent about what is happening here in the city with regard to oil and gas exploration. He commented that he lives in Rochester Hills because of the parks and requested Council reconsider the lease.

Joe Doyle, 1446 Burhaven Drive, stated that Shelby Township officials prevailed over the wishes of their citizens by allowing oil drilling near 25 Mile and Dequindre, and their August 7th Township meeting was filled with angry residents. He commented that a Michigan Department of Environmental Quality (MDEQ) representative stated that this is the first time an oil drilling operation is being attempted in a residential community in any of the five counties under his jurisdiction.

Mike Powers, 3632 Aynsley, noted that while it is being said that oil drilling activities are not being called fracking, it is the same process using the same amount of water with less pressure and fewer chemicals. He commented that this is a major leadership opportunity for the City and stated that the leaders should have stood up for this community.

Clark Barrett, 1376 Kingspath Drive, stated that after a June 17th permit was issued to West Bay for drilling at 25 Mile and Dequindre, operations commenced 24 hours a day, seven days a week. He noted that Jack Lanigan is one of only 29 MDEQ well supervisors in Michigan. He expressed concern that property values in the area will be affected and stated that residents should sue the State of Michigan to test the laws permitting drilling.

Lorraine McGoldrick, 709 Essex, stated that citizens should not have to become experts on a particular issue and she finds it unforgivable that the City Attorney talks down to the residents. She commented that the term “fracking” has no meaning. She stated that Council should do what it needs to do to make good decisions.

Laura Kreps, 2528 Hawthorne Dr. S., Shelby Township, stated that the drilling activities are 600 feet from her home, and 200 feet from a bicycle trail that runs into Stony Creek Metropark. She noted that a neighbor three doors down from her has dropped the price of her home for sale by \$29,000 since drilling activities began.

Denise Demak, 56163 Ashbrooke, Shelby Township, stated she lives in the neighborhood adjacent to the drilling and commented that it is an unpleasant position to be in. She listed chemicals used upon well completion. She noted that she is trying to flee Shelby Township because of the drilling and found that values on Zillow dropped between \$24,000 to \$28,000 in her neighborhood in the past couple of weeks.

Bruce Fealk, 1474 Oakstone Drive, commented that tens of thousands of Detroit residents have had their water shut off. He stated that Detroit government is dictatorial and there are similar parallels here. He encouraged civil disobedience in protest.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

Alexis Smith, Rochester Hills Government Youth Council (RHGYC) Representative, stated that the RHGYC has had a successful year and she looks forward to presenting their final report this evening.

Ms. Morita reported that she has had a meeting with the Brookedale Woods Subdivision Board regarding flooding problems that the subdivision has had. She stated that residents are working with the City to resolve problems with managing their storm water.

Mr. Brown expressed his thanks to Laura Matthews for her efforts to encourage students to help with the election process. He commented that some of the high school students put in long hours at the polls and he appreciated their support.

Mr. Webber expressed his appreciation to everyone who came out this rainy evening. He commented that he is looking forward to the RHGYC report and swearing-in of the 2014-2015 members.

President Hooper congratulated Clerk Barton on a successful election. He noted that voter turnout was 22.6 percent and the results included a successful passage of a millage repurposed for Local Roads.

ATTORNEY MATTERS

City Attorney John Staran had nothing to report.

PRESENTATIONS

2014-0291 2013/2014 Rochester Hills Government Youth Council (RHGYC) Final Report

Attachments: [Agenda Summary.pdf](#)

*Mr. Tisdell invited Rochester Hills Government Youth Council Members **Alexis Smith**, Vice Chairperson, and **Scott Schlagel**, Secretary, to present the final report for the Rochester Hills Government Youth Council.*

Ms. Smith stated that she has been a member of the RHGYC since 2012, and will be Junior at Stoney Creek High School in the fall.

Mr. Schlagel noted that he has been a member of the RHGYC for four years, graduated from Rochester High School this spring, and will be attending Central Michigan University in the fall.

Ms. Smith reported that seven members were added to the Youth Council this past year. Chairperson for the first half of the year was Scott Schlagel, with Chris Russell as Vice Chair. For the second half, Chris Russell has been the Chairperson. She noted that Mr. Russell was unable to attend tonight. She listed the following events the RHGYC participated in:

- Brooksie Way Half Marathon
- Oath of Office Ceremony
- Paint the Plow
- Rochester Hometown Christmas Parade
- Mayor's State of the City Address
- Volunteer activities at the Older Persons' Center
- Village of Rochester Hills Easter Egg Hunt
- Rochester Hills Community Garden
- RHGYC's 6th Annual 5K Run/Walk, this year donating \$15,000 to Blessings in a Backpack, with 30 local sponsors and over 200 participants

Mr. Schlagel noted that there were 30 applicants for the upcoming 2014-2015 year, and eight new members have been selected.

Ms. Smith reported that the calendar of events for the coming year is already filling up, with activities at the Village of Rochester Hills and others supporting the American Cancer Society. She expressed her thanks to Mayor Barnett, City Council, the Clerk's Office, and the entire city for the continued support of the RHGYC.

Mr. Tisdell commented that it is a great pleasure to work with these young adults. He reported that earlier this summer, Youth Council Adult Advisor Charnele Sanders and departing senior member Scott Schlagel interviewed 28 candidates for the 2014-2015 Youth Council. The selection committee read the essays and letters of recommendation, interviewed and independently scored each candidate to make the appointments. He commented that each individual selected has earned their appointment and will become sworn representatives of the City.

He listed the graduating seniors:

- Scott Schlagel, Rochester High School, attending Central Michigan University.
- Pranita Balusu, Rochester High School, attending the University of Michigan.
- Scott Difillippo, Rochester High School, attending Michigan State University.
- Michelle Zabat, Stoney Creek High School, attending Brown University.
- Kara Cendrowski, Rochester High School, attending the University of Michigan.

He mentioned that Ashish Tripathi, from Adams High School, was on his way to being a four-year member when his family relocated to India.

He introduced the returning and incoming members:

- Jasneet Aulakh, Rochester High School, District 3, returning member.
- Chris Russell, Rochester High School, District 3, returning member.
- Shreya Reddy, Rochester High School, District 4, returning member.
- Hannah Kowalski, International Academy, District 2, returning member.
- Sharanya Pai, International Academy, District 4, returning member.
- Alexis Smith, Stoney Creek High School, District 2, returning member.
- Taylor Thorpe, Adams High School, District 2, returning member.
- Ali Ahmed, Adams High School, District 1, new member.
- Omar Ilyas, International Academy, District 4, new member.
- Brianna Morris, Avondale High School, District 3, new member.
- Ramona Johnson, Rochester High School, District 4, new member.
- Lizabeth Desmet, Rochester High School, District 4, new member.
- Maura Losh, Rochester High School, District 3, new member.
- Matthew Randall, Rochester High School, District 1, new member.
- Isabella Tan, Rochester High School, District 2, new member.

Tina Barton, City Clerk, congratulated the students and thanked their parents for their support and participation in many of the RHGYC events. She administered the Oath of Office to the incoming RHGYC members.

Mr. Tisdell invited those in attendance to greet the outgoing and incoming members during a brief reception during the recess.

Presented.

2014-0290 Swearing in Ceremony - 2014/2015 Rochester Hills Government Youth Council (RHGYC)

Attachments: [Agenda Summary.pdf](#)

See Legislative File 2014-0291.

Presented.

(Mr. Kochenderfer entered at 7:58 p.m.)

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

(Recess 8:10 p.m. to 8:33 p.m.)

UNFINISHED BUSINESS

2014-0314 Discussion relative to Fire Department Staffing needs

Approved as presented at the September 22, 2014 Regular City Council Meeting.

Attachments: [Agenda Summary.pdf](#)
[Council Questions from 072814 Mtg.pdf](#)
[Fiscal Response #1.pdf](#)
[Fiscal Response #2.pdf](#)
[Staran Response.pdf](#)
[Canto Response.pdf](#)
[9_12_15 Comparison.pdf](#)
[Mutual Aid Coverage Log.pdf](#)
[072814 Agenda Summary.pdf](#)
[PSITRC Fire Staffing Presentation 072814.pdf](#)
[Suppl Fire Operational Staffing \(Revised\) 072814.pdf](#)
[Fire Operational Staffing 072814.pdf](#)
[ISO PPC Information.pdf](#)
[Survey Monkey-Dept Information.pdf](#)
[New Hire-Operating & Cap Fund Charts.pdf](#)
[Comparison of Local Municipal Fire Depts.pdf](#)
[Fire Dept Staffing Questions-061114.pdf](#)
[Additional Questions.pdf](#)
[Avg Start Up Cost of a POC Member.pdf](#)
[RH Population Projections-SEMCOG 061014.pdf](#)
[Facil Improvement & Personnel Staffing Rept 051614.pdf](#)
[Dept of Assg Work Load-Perf Indicators 1st Qtr Update 2014.pdf](#)
[ISO Report Letter 101111.pdf](#)
[Michigan's Fire Service 2011.pdf](#)
[Supp Draft Minutes 070914.pdf](#)
[Supp PSITRC Draft Minutes 070214.pdf](#)
[Supp PSITRC Draft Minutes 061814.pdf](#)
[Suppl PSITRC Draft Minutes 061114.pdf](#)
[PSITRC Draft Minutes 052814.pdf](#)
[2013 Public Opinion Survey on Fire Department Issues.pdf](#)
[2011 Public Opinion Survey on Fire Department Issues.pdf](#)
[2009 Public Opinion Survey on Fire Department Issues.pdf](#)
[Troy Contract 090909.pdf](#)
[Troy Contract 090908.pdf](#)
[Public Hearing Notice.pdf](#)
[072814 Resolution.pdf](#)

President Hooper noted that after presentations were made at the July 28th meeting regarding Fire Department Staffing needs, Council requested several questions be addressed. He asked Chief Canto to review the information presented in response to Council's questions.

Sean Canto, Chief of Fire and Emergency Services, stated that after consultation with legal representatives, it was determined that there is no ability to charge an assessment or additional fees to generate revenue beyond the standard fees charged.

John Staran, City Attorney, added that there does not appear to be any statutory or legal authority to do a special assessment for Fire/EMS services, particularly on a specific user basis as opposed to citywide. He stated that in addition, the City does currently have an Ordinance and a contractual commitment with a number of the senior housing facilities that are financed by MSHDA or Federally-backed mortgages to charge them a service fee in lieu of taxes; and the City is bound to maintain that service fee level for the duration of the mortgage, which is typically 30 years or so. He noted, therefore, that the answer is no.

Chief Canto responded to the question whether contract EMS services could be used for senior housing calls to free up personnel for other calls. He explained that under the Oakland County Medical Authority System Protocol Agency and EMS Personnel Criteria for Participation, when department staff are responding to a non-emergency facility such as a nursing home or urgent care facility to a patient with a potentially life-threatening condition, EMS personnel from the agency must be activated. Upon identification of a potentially life-threatening condition, personnel from the primary life support agency from that geographic area to the incident must respond. He noted, however, that it does state that a private provider can be contacted for a non-emergency or life threatening condition to make transport. Should their dispatch center find that the event is potentially life threatening, the incident would have to be transferred back to EMS personnel. He noted that time would be lost. He pointed out that mutual aid contracts would be utilized if Rochester Hills personnel were not available to respond.

He responded to the question whether the City could contract with a private EMS transport service for transfers, and what that would do to response times, revenues and costs. He referred to the statistics gathered on transfers, noting that in 2011, staff performed 693 transfers, or approximately two per day. This number decreased to 661 for 2012, and 508 in 2013, or 1-1/2 per day. He noted that of the 508 transfers performed in 2013, 74 were ALS transfers, equating to one every four days. He noted that although he cannot determine how those transfers occurred, he will be evaluating the entire transfer operation to identify any deficiencies. He repeated the example he used at the last meeting of a child who sustained a head injury that was taken to the hospital by his parents and then deemed to need transferring to an appropriate facility, versus calling 911 and being taken to the appropriate facility by EMS personnel when the injury first occurred. He noted that in 2013, the City generated \$136,000 in transfer revenues, which paid for the two-person EMT basic truck that works 40 hours per week. He added that the average personnel cost is \$106,000 for that truck, with the remainder of revenues covering fuel, maintenance and supplies. He commented that while not generating profits, revenues are utilized to make ends meet. He pointed out that if available, that truck also responds to 911 incidents.

Chief Canto responded to a question raised as to what a contract for supplemental EMS services would cost. He stated that the only way to identify potential costs would be for the City to go out for a request for proposal and compare the difference. He added that consideration should also be given to the dual role played on behalf of the City's Firefighter/Paramedics. He noted that in addition to providing EMS coverage to the City, they also are cross-trained to provide fire coverage. With contract EMS medical services, firefighters would remain in the fire stations.

He noted that questions were raised as to what improvements would be realized for response times by adding nine new employees, 15, or a number in between. He displayed a map showing the various 2-1/2 mile service areas of each fire station and how districts respond from other service areas when Station 5 is not

staffed. He mentioned that Station 5 can respond to the farthest portion of the district within four minutes with a Basic Life Support (BLS) unit; however, after 11:00 p.m. and until 6:00 a.m. it is not staffed. He discussed various response times to the farthest portion of the district served by Station 5, noting that it is a 14 minute response time from Station 1 for Advanced Life Support (ALS) or fire, a 12 minute response time from Station 2, and a 13 minute response time from Station 4. He reiterated that by staffing that station, a unit would arrive within four minutes. He added that Station 3 is only staffed with a BLS unit, and response times to the farthest part of that district are five minutes. He reviewed response times from other stations to the area covered by that station, noting that from Station 1 to the Station 3 coverage area, an ALS unit would respond in an 11 minute timeframe; from Station 2 it is a 13 minute response time; and from Station 4, an 11 minute response time.

He noted that the question was raised whether the Department runs out of units because of transfers. He stated that the stations do not directly run out of units due to transfers, and he explained how the five staffed units are sent in response to calls. He commented that one transfer and two 911 calls for respiratory distress, for instance, would result in the City running out of units. He stressed that this is in part due to Station 5 and Station 3 units being BLS only, and two units are being sent to emergencies in those areas. He pointed out that with additional staffing, one ALS unit could be sent with three people on it. He added that having three staff in a station, a structure fire would be responded to with three members. He stated that the City runs out of units more often due to having to send two units to a call.

President Hooper questioned whether a solution would be to convert Paid on Call (POC) members to part time.

Chief Canto responded that converting POC members to part time along with adding staff to be able to make every station's unit an ALS unit would cut down response times dramatically. He noted that ALS response times from Station 3 could range from six to nine minutes, depending on traffic conditions. He pointed out that Station 5 would have a huge change in response times for ALS units, as currently there is an eight to 13 minute response time to the farthest portion of that district.

President Hooper questioned what adding nine employees would do.

Chief Canto responded that this would allow for four cross-staffed ALS units, with one still having only two members. Station 5 would still have a BLS unit. One engine company would have two personnel on it as well as a dedicated shift supervisor. He noted that this would allow Station 5 to provide fire and BLS only coverage 24 hours a day. He explained that on fire and BLS incidents, times would be reduced by as much as 12 minutes. All the stations with the exception of Station 5 would be staffed with 3 members each. Station 3 response times would go down. He noted that two units would still have to be dispatched to Station 5's area.

President Hooper questioned what adding 12 employees would yield.

Chief Canto responded that adding 12 employees would allow for five cross-staffed fire companies/ALS units with three members, one 40 hour BLS unit, a dedicated two-person engine company and a dedicated shift supervisor. Station 5 and Station 3 response times for ALS would go down as ALS units would be staffed directly at those stations. All stations with the exception of Station 1, which would have additional staff as it is in the center of town, would have three people in it. The engine company at Station 1 would still only respond with two members.

President Hooper questioned what 15 employees would yield.

Chief Canto stated that the only change for 15 is that the engine company would respond with three members instead of two; all ambulances would be cross-staffed, fire and EMS, with three members. Response time to the Station 5 and Station 3 areas would decrease for ALS coverage.

President Hooper noted that several finance-directed questions were asked. He questioned whether the millage could be spread in 2015 if successful.

Keith Sawdon, Director of Finance, stated that Kurt Dawson, Director of Assessing/Treasury did verify with the County that they would allow the City to file an amended 4029 if the ballot question was approved in November.

President Hooper questioned what the potential millage rate would be if a Charter Amendment was approved to achieve 15, 12 or nine new employees.

Mr. Sawdon responded that based on assumptions in the model, to achieve the 15 member force and provide proper funding for fire equipment capital, 2.85 mills would be required going out the length of the model. For 12 employees, it would be in the area of 2.7 mills, and for nine employees, it would be 2.6 mills.

President Hooper noted that a question was raised whether additional language could be incorporated to the Charter Amendment proposal to further convey the tax implications to voters.

Mr. Staran responded that he included an alternate version in the meeting packet for a Charter proposal which does just that.

President Hooper questioned what dollar amounts would be necessary for nine or 15 employees if added in the middle of a year.

Mr. Sawdon responded that this would depend on when they come on board. He explained that nine new employees would cost \$1.2 million for Fiscal Year 2015, and 15 would cost \$1.9 million. He stated that the actual amount would depend on when they actually start.

Mr. Brown noted that he asked that question in the event that the levy could not be spread for 2015. The fact that it appears that it can be levied makes that question moot.

In response to questions regarding mutual aid rendered, **Chief Canto** reviewed

the coverage log. He noted that there were times that the City was without coverage and although it did not have to call any other community in, it had the potential of needing aid. He pointed out that in 2013, the City provided mutual aid 68 times: 36 times to Oakland Township, 19 times to Auburn Hills, 11 times to the City of Rochester, and two times to Shelby Township. He mentioned that during the period of May 1 to May 31 of this year, the City was without coverage and had to have another community come in eight times. In June, there were 26 times that the City did not have coverage, and aid was called in six times. He stated that there was one time where a fire response had to rely on a neighboring department. He stated that in a two month period, the City was without coverage 54 times; and he noted that the City ran out of units today.

President Hooper questioned whether notification of other municipalities that mutual aid is needed is given verbally.

Chief Canto responded that this is correct. He explained that if mutual aid is requested for Rochester Hills to cover Oakland Township, the Department will sometimes move a unit up to Station 5 just in case, to be closer to the Township. He mentioned a June incident where there was a structure fire in Oakland Township, and the closest EMS unit available was in Addison Township.

President Hooper commented that the biggest benefit is gained by adding Firefighter/Paramedics and changing POCs to part time, allowing the availability of ambulances for runs to double.

Chief Canto responded that this is correct for concurrent runs, especially if all ALS units are available.

Public Comment:

Melissa Mocabee, 759 Kentucky, stated that her brother is former member of the Fire Department who is now serving with the Border Patrol in Texas. She commented that he always spoke so passionately, expressing a great concern for coverage.

Liz Loria, 3039 Rolling Green Circle S., questioned whether all options and alternatives have been considered, what happens in the future if the money runs out, and how much taxes would be raised. She commented that she does not understand the Charter Amendment.

Lee Zendel, 1575 Dutton, commented that this is an indictment that the community's lack of awareness and pennywise policies have allowed these conditions to develop. He noted that statistics for 2013 show that the department only has full staffing 27 percent of the time due to vacations and sick times. He noted that since the beginning of 2014, the department had calls to 17 structure fires, responding to all 17 calls outside of the four minutes or less criteria. He noted that five of those incidents took eight minutes or longer. He stated that the addition of nine firefighters would only provide a bandaid, and adding 15 Firefighter/Paramedics is just the start on solving the problem.

Paul Wright, 10077 Scenic Ridge, Holly, expressed his thanks to the PSITRC and Chief Canto for the tremendous amount of information they provided.

Linda Raschke, 1599 Dutton Road, expressed her appreciation for an in-depth report. She stated that as former POCs, she and her late husband knew they were always running against the clock. She asked for a unified cohesive vote supporting three mills to hire 15 new firefighters.

John Sage, 1920 White Birch Court, stated that fire services throughout many communities have been dwindling in manpower, equipment and infrastructure. He expressed support for 15 new employees. He suggested looking to Staffing for Adequate Fire and Emergency Response (SAFER) Grants available to communities for infrastructure, and requested a move to upgrade and cross-train volunteers to be Paramedics instead of basic EMTs. He stated that if the residents want to have the service available, they will have to pay for it.

Scot Beaton, 655 Bolinger, stated that the City is proud of the fact that its millage rate is 9.8 or 9.9. He stated that City Council needs to set the policy for Rochester Hills and needs to educate the residents that the millage rate must be raised to save lives.

In response to public comment, **President Hooper** requested that the above questions be addressed, including the options and alternatives that were explored.

Chief Canto noted that several options were discussed with the PSITRC. He mentioned SAFER Grants are typically used to bring back people who were laid off, save those about to be laid off, and promote hiring through volunteer recruitment. He commented that the grant money is typically allocated to communities laying off. He stated that fund balance is taken into consideration in the grant application process, and he noted that Rochester Hills has a large fund balance. He pointed out that several alternatives were considered, including going back to a POC department or becoming an entirely paid department. He noted that the proposals were brought forward from the PSITRC after the options were considered.

President Hooper noted that City Council allocated \$15 million of its Fund Balance toward replacement of the Local Road system, and recently allocated \$6.8 million for infrastructure improvements to fire stations from the General Fund and Fire Department Fund Balance.

Chief Canto noted that the Fire Department's Fund Balance is for replacement of apparatus, and is not designed to be an ongoing fund for personnel.

President Hooper questioned when funding will run out with the Headlee Override option.

Mr. Sawdon noted that when the Headlee Override was considered to restore the 2.5 mill Charter limit, it funded operations for a while; however, the Fire Capital Fund would be depleted by 2023 or 2027 and the Department would have to search for another funding source. He noted that this would also provide for nine staff members and not 15.

President Hooper explained that the Charter originally set the Fire Millage at 2.5 mills. Since the Headlee Amendment was passed in 1984, that has reduced the millage to 1.956 mills. The Headlee Override proposed would reset the Fire Millage back to 2.5; the Charter Amendment proposed would set the Fire Millage to a new rate. Three mills was proposed to be a permanent millage rate; however, 2.85 would be needed to be spread for 15 employees.

Mr. Sawdon noted that if reset to three mills, the City could spread 2.85 mills out to 2050 and fund the additional employees without ever spreading the full three mills.

President Hooper questioned how much taxes would rise with the Charter Amendment. He noted that with both the Charter Amendment and the Headlee Override, taxes would rise.

Mr. Sawdon responded that if Council was asking for three mills, and the City spread the 2.85 mills needed, the normal home with a market value of \$200,000 and a taxable value of \$100,000 would pay an additional \$90 per year. Spreading 2.6 mills for nine employees would see that increase be \$65; and 2.7 mills would see the increase be \$75.

President Hooper questioned what the current status of fire equipment is and if it is adequate for the future staffing level.

Chief Canto responded that an engine that was scheduled to be replaced in 2014 will be requested for inclusion in the 2015 Budget for replacement, along with a ladder truck. He noted that a right-sizing of the fleet is being proposed for 2016, where three units will be replaced with one multi-function unit. He commented that the Department will not have to buy new fire apparatus due to personnel changes.

Council Discussion:

Mr. Tisdell reviewed population over the years, noting that the 1980 Census had Avon Township's population at 41,000. He pointed out that the 2010 Census and projections have the City's population closing in on 73,000, a 78 percent increase. He noted that in 1989, the City's Fire Department was volunteer. He expressed support for a three mill Charter Amendment.

Chief Canto noted that in 1980, the Department responded to 978 incidents; that number was 6,152 in 2013.

Mr. Wiggins questioned how response times would differ between 12 and 15 employees.

Chief Canto responded that response times would be the same between adding 12 and 15. He pointed out that the difference is that the engine company at Station 1 would go from two to three members.

Mr. Brown commented that when he first reviewed the information, he questioned why taxes would need to be raised to hire nine people. He stated that over the course of last couple of weeks, this has been the most intense communication period of City Council since he first began, with quick responses to questions. He pointed out that in having a dedicated millage specific to the Fire Department, the public is giving trust that their money will be spent for fire services, taking the gray area out of shifting priorities. He commented that his first thought of taking money out of the General Fund would present problems should another economic downturn begin. He mentioned that he recently spent a weekend camping with several Harrison Township fire personnel, and their concerns and complaints of depleted resources and staffing problems are the same. He stated that it is worth the investment and will allow the communities around Rochester Hills to also improve. He supported the three mill Charter Amendment.

Mr. Webber expressed his appreciation for the robust conversation. He commented that the City is at the current millage rate because some requests in the past for increases have not passed at the polls. He stated that there is a compelling case to put something on the ballot and noted that the PSITRC's recommendation is to propose the Headlee Override. He mentioned that the Sheriff's Department is understaffed.

Mr. Kochenderfer commented that he has never seen an issue where the data was so one-sided and compelling. He stated that the response times that the residents are living under are unacceptable, and he pointed out that Fire Department services should be viewed separately from all of the other services of the City. He commented that while he would love to say that nine firefighters is enough, he is not convinced that this is true, especially when considering the protection of the northeast portion of the City. He pointed out that it does not mean that all three mills need to be levied right away. He stated that there is a cost incurred by not doing anything.

Ms. Morita commented that while she really dislikes new taxes, she dislikes unsound financial decisions even more. She pointed out that the City would run out of money in 12 years with the 2.5 mill proposal. She expressed her support for the three mills, noting that in her home, if it concerns health, safety or welfare, the money is spent to do things right. She commented that she still struggles with how many people the Department actually needs, as well as struggling with the fact that the Department is still performing transfers. She stated that she would like to see a discussion by Council whether it is willing to condition the three mills on how much it is actually willing to levy. She commented that this would provide information to the voters that while the City is asking to amend its Charter, it plans to levy 2.5 or 2.6 mills, and provide information on what it will cost each homeowner. She noted that the difference between 2.5 and 2.6 mills is only \$10. She requested other Council members weigh in on the subject and suggested a Council resolution in addition to the resolution approving the ballot language limiting how much would actually be levied.

President Hooper commented that he supports a Charter Amendment for three mills for several reasons. He noted that when the City was created in

1984, the Charter Commission at that time determined that 2.5 mills was sufficient to plan for the future for a volunteer fire department; and only levied one mill. He stated that this is similar, as Council is looking ahead to a long-range projection, and three mills will keep the Fire Department solvent for 30 years. He noted that it is appropriate for long-term planning. He pointed out that the Headlee Amendment will begin working on that three mills and whittling it down over time. He stated that to Council Member Morita's point, nine individuals for a 2.6 mill rate is not a solution, as it still leaves the response time problems in District 2. He noted that it is the addition of 12 full-time Firefighter/Paramedics that provides for five ALS units and improves response times. He commented that his goal is to have someone knocking on anyone's door who calls for help within five minutes; and to do that, the City needs 12 firefighters, equating to 2.7 mills. He stated that he would agree and support a separate resolution limiting the levy to 2.7 mills for a specified number of years. He noted that one cannot compare police and fire. He pointed out that the City has not asked a Fire Millage question since 1984, and noted that it will require proper information and education of the voting public.

Mr. Webber stated that a resolution of the intent of Council would help his decision, and would go a long way toward helping voters understand what is being requested. He pointed out that last week's ballot included a question for Local Roads which did not raise taxes, and still had 27 percent of the voters saying no.

Mr. Tisdell noted that at the last meeting there was a question raised on the timing for a Charter Amendment proposal and asked if this is still an issue.

Mr. Staran noted that while the timing cuts it close, if Council acts this evening, things are in place to act quickly. He stated that he has a high confidence level that the issue will appear on the November ballot. He pointed out that if a decision is not made tonight, Council will have missed the window of opportunity by not meeting the deadline.

Mr. Brown commented if voters are given the opportunity to approve a Charter Amendment for three mills, it could begin in 2015. He noted that adding a dozen individuals would take most of next year, and the City would not see the full impact until 2016.

Chief Canto responded that once the application process begins, it is a six-month testing and selection process, plus four to six weeks to get people in. He stated that the total process would be eight to nine months.

Mr. Brown stated that Council should at a minimum commit to a 2.7 mill levy to provide the chance to get a dozen new firefighters plus a transition from POC to part time. He noted that this would provide a solid year of operating in that mode to review the performance level. At that point, an additional three individuals could be added to improve performance, and the millage rate could increase to 2.85. He commented that he would be comfortable supporting the Charter Amendment and spreading 2.7 mills for two years.

Mr. Wiggins concurred, stating that the City could start with 12 and increase to 15. He commented that he believes that the City would be going to 15.

Mr. Tisdell moved the original proposed resolution for a Charter Amendment, noting that he did not wish to consider the alternate version that Mr. Staran provided.

Mr. Brown supported the motion. He questioned whether the alternate version included information that was not required.

Mr. Staran responded that it did. He explained that the Headlee Override question requires certain information that is not required in Charter Amendment language. He stated that he believed the simplest form is recommended. He noted that the alternate version added another sentence that indicated what the current rate has been rolled back to and what additional revenue would be generated. He commented that if Council prefers, the information can be added; however, it appears that Council's preference thus far is to go with the simpler form.

Mr. Brown stated that he supports going with the simpler form, along with the understanding that a follow-up would be a resolution for restriction of the levy to 2.7 mills to convey to the voters how much this will actually cost them.

Ms. Morita expressed concern with voting on the ballot language first before agreeing to a limit to 2.7 mills. She stated that she is unwilling to support three mills without an understanding that the City will not be levying the full amount. She noted that other members of Council are interested in knowing what the levy will be before voting on the motion. She asked if Council could be polled before voting.

President Hooper polled the other Council members. He stated that he would support 2.7 mills as a separate resolution.

Mr. Webber, Mr. Wiggins, Mr. Brown and Mr. Kochenderfer confirmed that they supported up to 2.7 mills.

Mr. Tisdell stated that he supported up to 2.7 mills, noting that it could be even less.

Mr. Staran pointed out that a previous Council passed a companion resolution regarding a past millage question authorizing a levy, and expressing an intent not to levy more than a capped amount, to give voters a clear understanding of Council's intent.

Ms. Morita moved resolution language expressing Council's intent not to levy more than up to 2.7 mills should the ballot language pass, for one year.

The motion was supported by **Mr. Webber**.

Mr. Tisdell suggested that language be included regarding a historical indication that the City has never levied all taxes available to it.

Mr. Sawdon noted that it is true that the City has had millages available that it has not spread. He pointed out that it is only in the last three years that the Fire levy has been brought up to its full amount, noting that this increase was countered with a corresponding reduction in the General Fund levy. He commented that the City has a history that clearly shows fiscal responsibility.

Ms. Morita questioned whether Mr. Tisdel was asking for an amendment to the motion.

Mr. Tisdel requested the addition of a sentence, stating "Whereas, historically, since becoming a city, Rochester Hills has never levied all authorized and available taxes and Council intends to maintain that legacy".

Ms. Morita responded that she would be in agreement with this addition.

Discussed.

2014-0315 Discussion and consideration of ballot proposal language recommended by the Public Safety and Infrastructure Technical Review Committee for Fire Department Staffing Needs

Attachments: [Agenda Summary.pdf](#)
[Proposal Headlee Override.pdf](#)
[Proposal City Charter Amendment \(Alternate\).pdf](#)
[Proposal City Charter Amendment.pdf](#)
[Charter Amendment Resolution \(Draft\) \(Alternate\).pdf](#)
[Charter Amendment Resolution \(Draft\).pdf](#)
[072814 Agenda Summary.pdf](#)
[Public Hearing Notice.pdf](#)
[Resolution.pdf](#)

See Legislative File 2014-0315 for Council Discussion.

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

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

Enactment No: RES0182-2014

WHEREAS, the City Council of the City of Rochester Hills desires to initiate a proposed amendment to subsection .4 of City Charter Sections 4.2, Charter Tax Rate and Special Voted Millages Limitation, to increase the amount the City may levy for funding of the Fire Department from 2.5 mills to 3 mills.

THEREFORE, the City Council of the City of Rochester Hills resolves:

1. The City Council, by a 3/5 vote of its members-elect, pursuant to the authority granted under the Home Rule Cities Act, MCL 117.1, et seq, proposes to amend the City of Rochester Hills Charter to amend subsection .4 of Charter Section 4.2, Charter Tax Rate and Special Voted Millages Limitation.
2. Provisions of existing Section 4.2 to be amended if the proposed amendment is adopted now read as follows:

Section 4.2 Charter tax rate and special voted millages limitation

.1 The annual ad valorem tax levy shall be sufficient to provide funding to adequately cover only budgeted expenditures for the fiscal year but in no case shall the levy exceed five-tenths of one percent (5/10 of 1%) or five (5) mills of the assessed valuation of all real and personal property subject to taxation in the City, except for tax levies authorized in subsections .2 through .7 of this Section. This maximum levy shall be known and referred to

as the Charter Tax Rate Limit of the City and shall be subject to all provisions of the Constitution of the State of Michigan and the statutes pertaining thereto.

.2 The City may levy such amounts as are required for the payment of principal and interest on outstanding bonds of the City.

.3 The City shall levy special voted millages currently in effect authorized by the electors of the Charter Township of Avon in the amounts and for the duration authorized, as follows: Up to 0.5 mills for road chloride and repair through the year 1986 inclusive (approved by the electors on August 7, 1980).

Up to 1 mill for police purposes through the year 1993 inclusive (approved by the electors on August 8, 1974).

Up to 0.25 mills for older persons activities and general community recreation, such as the Rochester-Avon Recreation Authority, through the year 1985 inclusive (approved by the electors on August 4, 1976).

Up to 0.25 mills for older persons transportation activities and services through the year 1991 inclusive (approved by the electors on August 10, 1982).

.4 The City may levy up to 2.5 mills for funding of the Fire Department.

.5 The City shall levy up to 1 mill for library purposes, pursuant to Public Act No. 164 of 1877(MCL 397.201 et seq., MSA 15.1661 et seq.), as amended.

.6 The City may levy such taxes as may be authorized by statute to be made beyond the Charter Tax Rate limit.

.7 The City may levy taxes for general purposes or for any specially designated purpose for a stated period of time not to exceed twenty (20) years, if approved by a majority of the registered electors voting on the proposition. Such election may be authorized by a majority vote of the Council or shall be called if an initiatory petition is filed as described in Sections 2.9 through 2.13 of this Charter. Where any special tax levy shall be approved by the electorate for a specially designated purpose, such funds shall not be used for other than the designated purpose, and all interest accruing on the investment of such funds shall be credited to that fund and not to the general fund of the City.

3. As amended, Section 4.2 of the City of Rochester Hills Charter would read as follows:

Section 4.2 Charter tax rate and special voted millages limitation

.1 The annual ad valorem tax levy shall be sufficient to provide funding to adequately cover only budgeted expenditures for the fiscal year but in no case shall the levy exceed five-tenths of one percent (5/10 of 1%) or five (5) mills of the assessed valuation of all real and personal property subject to taxation in the City, except for tax levies authorized in subsections .2 through .7 of this Section. This maximum levy shall be known and referred to as the Charter Tax Rate Limit of the City and shall be subject to all provisions of the Constitution of the State of Michigan and the statutes pertaining thereto.

.2 The City may levy such amounts as are required for the payment of principal and interest on outstanding bonds of the City.

.3 The City shall levy special voted millages currently in effect authorized by the electors of the Charter Township of Avon in the amounts and for the duration authorized, as follows: Up to 0.5 mills for road chloride and repair through the year 1986 inclusive (approved by the electors on August 7, 1980).

Up to 1 mill for police purposes through the year 1993 inclusive (approved by the electors on August 8, 1974). Up to 0.25 mills for older persons activities and general community recreation, such as the Rochester-Avon Recreation Authority, through the year 1985 inclusive (approved by the electors on August 4, 1976).

Up to 0.25 mills for older persons transportation activities and services through the year 1991 inclusive (approved by the electors on August 10, 1982).

.4 The City may levy up to ~~2.5~~3.0 mills for funding of the Fire Department.

.5 The City shall levy up to 1 mill for library purposes, pursuant to Public Act No. 164 of 1877 (MCL 397.201 et seq., MSA 15.1661 et seq.), as amended.

.6 The City may levy such taxes as may be authorized by statute to be made beyond the Charter Tax Rate limit.

.7 The City may levy taxes for general purposes or for any specially designated purpose for a stated period of time not to exceed twenty (20) years, if approved by a majority of the registered electors voting on the proposition. Such election may be authorized by a majority vote of the Council or shall be called if an initiatory petition is filed as described in Sections 2.9 through 2.13 of this Charter. Where any special tax levy shall be approved by the electorate for a specially designated purpose, such funds shall not be used for other than the designated purpose, and all interest accruing on the investment of such funds shall be

credited to that fund and not to the general fund of the City.

4. The purpose of the proposed Charter amendment shall be stated on the ballot as follows:

A proposal to amend the City Charter by modifying Section 4.2, subsection .4. This subsection authorizes the City to levy up to 2.5 mills for funding of the Fire Department. If adopted, the charter amendment will increase the amount the City may levy for funding of the Fire Department to 3 mills.

5. The City Clerk shall forthwith transmit a copy of the proposed amendment to the Governor of the State of Michigan for the Governor's approval, and transmit a copy of the foregoing statement of purpose of the proposed Charter amendment to the Michigan Attorney General for the Attorney General's approval, as required by law.

6. The proposed Charter amendment shall be submitted to the qualified electors of this City at the general election to be held in the City of Rochester Hills on Tuesday, November 4, 2014, and the City Clerk is hereby directed to give notice of the election and notice of registration therefore in the manner prescribed by law and to do all things and to provide all supplies necessary to submit the proposed Charter amendment to a vote of the electors as required by law.

7. The proposed amendment shall be submitted to the electors in the following form:

**PROPOSED CITY CHARTER AMENDMENT
TO AUTHORIZE ADDITIONAL MILLAGE
FOR FUNDING THE FIRE DEPARTMENT**

A proposal to amend the City Charter by modifying Section 4.2, subsection .4. This subsection authorizes the City to levy up to 2.5 mills for funding of the Fire Department. If adopted, the charter amendment will increase the amount the City may levy for funding of the Fire Department to 3 mills.

Shall the City of Rochester Hills Charter be amended to modify Section 4.2 to authorize the City to levy up to 3 mills for funding of the Fire Department?

Yes ___

No ___

8. The proposed Charter amendment shall be published in full together with the existing Charter provision that will be altered or abrogated thereby as part of the election notice not less than 10 days prior to the election.

9. The canvass and determination of the votes on the proposed Charter amendment shall be made in accordance with the laws of the State of Michigan and the City of Rochester Hills Charter.

2014-0315 Adoption of City Council Resolution of Intent relative to funding Fire Department staffing

Attachments: [Agenda Summary.pdf](#)
[Proposal Headlee Override.pdf](#)
[Proposal City Charter Amendment \(Alternate\).pdf](#)
[Proposal City Charter Amendment.pdf](#)
[Charter Amendment Resolution \(Draft\) \(Alternate\).pdf](#)
[Charter Amendment Resolution \(Draft\).pdf](#)
[072814 Agenda Summary.pdf](#)
[Public Hearing Notice.pdf](#)
[Resolution.pdf](#)

See Legislative File 2014-0315 for Council Discussion.

A motion was made by Morita, 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: RES0183-2014

Whereas, historically, since becoming a city, Rochester Hills has never levied all authorized and available taxes and Council intends to maintain that legacy.

Therefore, Be It Resolved, that the Rochester Hills City Council expresses its intent to not levy more than 2.7 mills of the authorized 3 mills, in the first year, to fund the Fire Department if the Proposed Charter Amendment to Authorize Additional Millage for Funding the Fire Department is approved by the voters at the November 4, 2014 general election.

2014-0316 Request for Approval of funding in the amount of \$35,000.00 for an educational campaign relative to the Fire Department Funding Ballot Proposal

Attachments: [Agenda Summary.pdf](#)
[072814 Agenda Summary.pdf](#)
[Resolution.pdf](#)

Ms. Morita questioned whether the request for \$35,000 would provide enough funding for a proper educational campaign.

Mr. Webber noted that the most recent educational campaign targeted every registered voter, with the first wave going out to those requesting absentee ballots. He stated that one mailing piece is all that is needed.

Ms. Morita questioned whether lawn signs could be utilized.

John Staran, City Attorney, stated that all the City should do with taxpayers' money is provide information that is objective and factual. He stated that the campaign cannot advocate for or against a ballot question or a candidate. He noted that information can include postcards, answers to frequently asked questions, or brochures, and would not involve yard signs.

Mr. Wiggins questioned how much was spent in the past for these types of ballot issues.

Tara Presta, Chief Assistant, stated that for the last educational campaign, the entire amount of \$35,000 was used for one mailing to registered voters, including absentee voters. She added that information was included on Rochester Hills TV, and the City website, and was strictly for educational purposes. She stated that most of the funds went to postage. She commented that \$35,000 would be appropriate, unless a second mailing to the same individuals would be desired.

Mr. Wiggins stated that this is an important issue that the residents should understand the importance of. He stated that if it does not pass, the process would have to be repeated.

Ms. Presta suggested that the amount could be increased, knowing that it would not be used unless it was needed.

President Hooper questioned whether an allocation of \$70,000 was preferred.

Ms. Morita stated that \$70,000 was the amount that she was thinking of.

A motion was made by Morita, seconded by Wiggins, 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: RES0184-2014

Resolved, that the Rochester Hills City Council hereby approves funding for an Educational Campaign in the amount not-to-exceed \$70,000.00 to educate voters on the details of the fire department funding ballot proposal that will appear on the November 4, 2014 General Election ballot.

NEW BUSINESS

The following Consent Agenda Item was moved to New Business at the request of Council.

2014-0319 Request for Approval of a five-year extension of the METRO Act Permit for AT&T

Attachments: [Agenda Summary.pdf](#)
[5-Yr Permit Extension.pdf](#)
[METRO Act Permit AT T Contract.pdf](#)
[METRO Act Permit AT T Documents.pdf](#)
[AT T Certificate of Liability Insurance.pdf](#)
[Staran_email_073014.pdf](#)
[Resolution.pdf](#)

Ms. Morita noted that she requested this item be removed from the Consent Agenda for a couple of reasons. She questioned whether AT&T was requesting a reapproval of the original contract; if so, Council was not provided with a copy of the original contract. She noted that Council was not provided with a letter from the City Attorney indicating that he had reviewed and approved the contract. She commented that she was able to obtain a copy of the contract, and noted upon review that there was some outdated information in it. Furthermore, she was not able to obtain updated insurance certificates from the utility. She noted that these items should be reviewed prior to approval; and if these items had been included in the meeting packet, she would not have requested the item be pulled from the Consent Agenda.

John Staran, City Attorney, responded that he reviewed the contract and had submitted his comments to staff. He explained that this is an extension request for the original permit that was issued to AT&T on the Michigan Public Services Commission (MPSC) Standard Form Unilateral Agreement; and he noted that the unilateral permit form has not changed since 2002. He stated that there is an insurance requirement, and he noted that while he is sure that the updated contract information and proof of the satisfaction of insurance requirements are available, it was unclear as of this afternoon whether the City has been receiving the information and certificates from AT&T. He pointed out that the City has a 45 day period to act on the application for the extension, and commented that this timeframe has passed. He noted that the actual permit, as extended, runs through the end of August. He mentioned that the City is not asking AT&T to remove its infrastructure. He commented that if Council is not comfortable acting tonight, there is no harm in postponing this item until the next meeting. He suggested that if it prefers, Council could act with a conditional resolution of approval subject to the items that Ms. Morita mentioned being taken care of to the satisfaction of the City Administration.

Ms. Morita stated that she would like to see a copy of Attorney Staran's review comments and the original contract needs to be provided to Council. She commented that she did not want this to be a situation where it is suggested that Council did not do its homework before acting on something.

President Hooper noted that this item would be postponed and could be added to the August 18, 2014 Special Budget Meeting Agenda. He questioned whether Mr. Staran thought that the information would be available by that meeting.

Mr. Staran responded that he thought that AT&T could provide the City with an insurance certificate quickly, and the rest of the information could be assembled.

Postponed.

(Mr. Webber exited at 10:12 p.m. and re-entered at 10:15 p.m.)
(Mr. Tisdell exited at 10:12 p.m. and re-entered at 10:15 p.m.)

(Mr. Kochenderfer exited at 10:29 p.m.)

Present 6 - Kevin S. Brown, Greg Hooper, Stephanie Morita, Mark A. Tisdell, Michael Webber and Thomas W. Wiggins

Absent 1 - Adam Kochenderfer

2014-0267 Request for Approval of the Preliminary Site Condominium Plan for Cumberland Pointe - an 18-unit site condo development on 9.9 acres located on the east side of Livernois, north of M-59, zoned R-3, One Family Residential, Lombardo Homes, Applicant

Attachments: [Agenda Summary.pdf](#)
[Map aerial.pdf](#)
[Prelim. Staff Report 071514.pdf](#)
[Minutes PC 072214.pdf](#)
[Review Comments.pdf](#)
[PSC Plans.pdf](#)
[Homeowner's Assoc. Letter 071414.pdf](#)
[Public Hearing Notice.pdf](#)
[Resolution.pdf](#)

Ed Anzek, Director of Planning and Economic Development, explained that the request is for approval of a preliminary single-family site condominium plan proposed for ten acres including 18 units.

Mr. Windlingland, Lombardo Homes, introduced Don Westphal, Donald C. Westphal Associates. He reviewed the proposed development, noting that an 18 unit site condominium plan is proposed for the east side of Livernois, north of

the M-59 overpass and just south of Taj Drive, with road connections to Livernois and Corbin as well as a stub street to the south. He explained that a lot-averaging formula was used, far exceeding the minimum square footage and frontage requirements, and complying with tree preservation requirements. He pointed out that the proposal has gone through the engineering review comment phase and can comply, or during engineering approval will comply with all of their concerns. He noted that the Planning Commission reviewed the request at their July 22nd meeting and recommended approval with six conditions and two additional conditions, including addressing concerns with traffic calming issues. He explained that one condition added resulting from the Planning Commission review is for the developer to work with the City's Engineering Department to review traffic calming issues, including the possibility of the installation of adding speed humps. He noted that the Developer will agree to the addition of speed humps; however, would request that installation be allowed to delayed until after construction traffic is complete to avoid damage. He mentioned that concerns regarding headlight intrusion raised by residents in the subdivision across the street have been addressed as the developer has agreed to plant 13 spruce trees to block the lights of vehicles leaving the development.

Mr. Anzek commented that the larger issue encountered is the resistance or nonsupport of Cumberland Hills residents to accepting the continuation of the Corbin Road connection to the existing stub street. He pointed out at the Planning Commission meeting that in the Land Division and Subdivision Control Act, these connections have been required for 30 years. He mentioned that when the Cumberland Hills Subdivision was built, connections were made to Juengle Orchards; along with connections to Cumberland Woods to the south when that subdivision was built. He stated that it is an Ordinance requirement. He noted that there is a provision in the Ordinance for a variance; however, the City Attorney's opinion is that the request for a variance is reserved for the applicant in the event that undue hardship is encountered. He mentioned that Council may have received emails from residents in opposition to the connection of this street; however, he noted that this is contrary to what staff supports. He added that Bill Cook, the City's Fire Inspector, also supports the connection, stating that it would save response times.

Public Comment:

Melissa Mocabee, 759 Kentucky, stated that she lives at the corner of Corbin and Kentucky, and expressed opposition to the street connection, noting that cut-through traffic is a problem and the streets are used for children to walk to school.

Scott Farley, 5450 Livernois, noted that Ms. Mocabee is his daughter, and he expressed concern that his grandchildren will be walking down Highsplint to the elementary school. He noted that Highsplint parallels the main artery. He commented that the connection should not be granted, as it will put pressure on Highsplint.

Jason Carlock, 321 Union, stated that he moved to this subdivision because of the serenity and quietness. He stated that many children live there, and he expressed concern over traffic cutting through from Livernois to Hamlin, as the subdivision

has no sidewalks. He commented that the Corbin Road connector is only 27 feet wide, barely leaving enough room for children to walk.

Susan Bowyer, 2145 Cumberland Road, stated that she is the President of the Cumberland Hills Subdivision Board, and expressed the Board's extreme concern over the hazards of opening Corbin Road. She stated that Cumberland Hills has 516 homes, and commented that both existing homeowners and homeowners of the new subdivision will be affected. She requested a variance to keep the road closed, or have a street barrier gate installed to prevent traffic while allowing emergency vehicles to get through.

John Gaber, 1024 Adele Court, stated that he is the President of the Covington Subdivision Number 3 Homeowners Association. He commended and extended his thanks to Mr. Windingland and Lombardo Homes for working with their association, and noted that the association is glad that a plan is in place to deal with their concerns.

President Hooper questioned whether the Applicant is requesting a variance to waive the requirement for connection of Corbin.

Mr. Windingland responded that the Applicant is not.

President Hooper noted that a comparison was made to a barrier gate installed at Sanctuary at River's Edge.

Mr. Anzek noted that River's Edge is a private street. He pointed out that Corbin is a public street.

Council Discussion:

Mr. Webber noted that residents contacted him several months ago to express their concerns. He commented that while he understands that a variance is not being requested, he would like the developer to elaborate on what benefit there is to having the road opened.

Mr. Windingland responded that the developer would lose density if a variance were requested as the lot configuration would change. He pointed out that during preliminary discussions, they were told, and would agree, that a connection to Corbin as well as a stub street to the south is necessary.

Mr. Tisdell questioned how long the stub road has been in place, noting that he believes Corbin Road has been in place for 25 years.

Mr. Anzek responded that the road can be viewed on a 1980 aerial photograph.

Mr. Tisdell questioned whether the City provided any assurances to residents that this road would remain closed.

Mr. Anzek responded that the City has never provided those assurances, as it has always been the City's plan to connect these streets.

Mr. Tisdell commented that while the City is the recipient of many requests to think outside the box, it has been the tradition by Ordinance since the City was founded to connect these streets.

Mr. Brown stated that he is a resident of Covington Place, the subdivision due west of the proposed development. He commented that while he would admit that before the traffic circle at Hamlin was installed, northbound Livernois Road could be backed up all the way to Lake Ridge; now traffic is fairly consistent and it is difficult to think that Cumberland would be a cut through to get to Wabash Park or to Hamlin Road. He stated that it is his belief that any additional traffic in that area will come from the residents of the immediate area. He questioned whether the roadway widths are standard.

Mr. Anzek responded that 27 feet is the engineering standard. He pointed out that the proposed new development will have sidewalks and pedestrians are not expected to be walking in the street.

Mr. Brown commented that if a cut-through were taken, it would most likely be Cumberland rather than Highsplit; as there would be fewer speed humps on Cumberland than would be encountered in the new development. He added that in his opinion neither route to Hamlin is efficient.

Mr. Wiggins questioned whether there are similar instances where a stub has been in place for 25 years and a developer wishes to remove it, and why the Ordinance has no flexibility.

Mr. Anzek responded that the City learned early on that it needed connectivity, as neighborhoods were found to be piecemeal. He stated that it is a standard city ordinance in many areas to require connection for efficiencies. He commented that the traffic intended to use these connections are from the neighborhoods themselves, and he noted that the route is not direct. He commented that the City has never passed on the opportunity to connect stub routes.

President Hooper commented that when Hawthorn Hills Subdivision was constructed, every stub street was connected. He added that Clear Creek Subdivision has similar connections for all phases. He noted that the same arguments were made when Cumberland Woods was constructed. He stated that he believes the best solution is to add traffic calming devices, and commented that people who use the roadway will be those from the immediate vicinity.

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

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

Nay 1 - Webber

Absent 1 - Kochenderfer

Enactment No: RES0185-2014

Resolved, that the Rochester Hills City Council hereby approves the request for Preliminary Site Condominium Plan Approval for Cumberland Pointe, an 18-unit site condo

development on 9.9 acres located on the east side of Livernois, north of M-59, zoned R-3, One Family Residential, Parcel No. 15-27-151-003, based on plans dated received by the Planning and Economic Development Department on July 9, 2014, with the following findings and conditions:

Findings:

1. Upon compliance with the following conditions, the proposed condominium plan meets all applicable requirements of the zoning ordinance and one-family residential detached condominium.
2. Adequate utilities are available to properly serve the proposed development.
3. The preliminary plan represents a reasonable street layout.
4. The Environmental Impact Statement indicates that the development will have no substantially harmful effects on the environment.
5. Remaining items to be addressed on the plans may be incorporated on the final condominium plan without altering the layout of the development.

Conditions:

1. Provide all off-site easements and agreements for approval by the City prior to issuance of a Land Improvement Permit.
2. Provide landscape cost estimates for landscaping, replacement trees, and irrigation on the landscape plans, and landscape bond in an amount equal to the cost estimates for each, prior to issuance of a Land Improvement Permit.
3. Payment of \$3,600 into the tree fund for street trees prior to issuance of a Land Improvement Permit.
4. Approval of all required permits and approvals from outside agencies.
5. Compliance with the Engineering Department memo dated June 17, 2014 and Building Department memo dated June 5, 2014, prior to Final Site Condo Plan Approval and Building Permit Approval.
6. Submittal of By-Laws and Master Deed for the condominium association along with submittal of Final Preliminary Site Condo Plans.
7. The addition of a traffic calming plan/device shall be developed and approved by staff, prior to Final Approval by staff.
8. A plan for appropriate screening headlights shall be installed for the Covington Place Subdivision as approved by staff, prior to Final Approval by staff.

(Mr. Wiggins exited at 10:41 p.m. and re-entered at 10:43 p.m.)
(Ms. Morita exited at 10:42 p.m. and re-entered at 10:44 p.m.)
(Mr. Webber exited at 11:38 p.m. and re-entered at 11:41 p.m.)

2010-0094 Discussion relative to a conceptual road layout plan for approximately 27 acres of property located on the east side of Rochester Road, between Hamlin and

Avon, zoned FB-2, G&V Investments, Applicant

Attachments: [Agenda Summary.pdf](#)
[Letter Gaber 072314.pdf](#)
[Map aerial.pdf](#)
[Suppl Eddington Square Drawings 081114.pdf](#)
[Concept Plan.pdf](#)
[PC Memo 072214.pdf](#)
[PC Minutes 072214.pdf](#)
[Email Cleary 072214.pdf](#)
[Emails.pdf](#)
[McGoldrick Letter 071814.pdf](#)
[031714 Agenda Summary.pdf](#)
[Ordinance Amendment.pdf](#)
[030314 Agenda Summary.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](#)
[Letter Hughes 011414.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](#)
[031714 Resolution.pdf](#)

*In attendance were **Bill Gilbert**, G&V Investments, **John Gaber**, Williams, Williams, Rattner & Plunkett, P.C., and **Robert Gibbs**, Gibbs Planning Group.*

***Ed Anzek**, Director of Planning and Economic Development, noted that this*

item is presented at the request of G&V Investments. He summarized the proposed development, noting that in late October of 2013, the City received a letter from Mr. Gaber on behalf of G&V Investments indicating that the developer's intention was to let the Planned Unit Development (PUD) agreement expire as the development was not marketable for a variety of reasons. He noted that at issue was the realignment of Eddington Boulevard, as several residents have expressed their concerns over the realignment. At that time, the issue also was the underlying zoning. Council referred the matter to the Planning Commission to come back with a recommendation for zoning, which occurred in March of this year. Also at that time, Council informed Mr. Gilbert that it is very difficult to evaluate the street realignment unless a comprehensive idea was presented to get a better understanding of how the buildings would work and the what the roadways would look like.

He noted that Mr. Gilbert retained the services of Mr. Gibbs, who worked with City staff in utilizing the FB-2 overlay to show how the property might be developed. He explained that this was taken to the Planning Commission on July 22, 2014, and he noted that the discussion was not so much about the actual use, but of the form and structure of the layouts and buildings. He noted that the concept presented tonight is not to be considered a binding plan; and is to be considered as an idea of how the site might work.

Mr. Gaber stated that he would remind City Council that this is part of a process that the developer is going through. He noted that at the rezoning stage, the PUD was rezoned to the resulting R-4 with the FB-2 overlay, and now the developer has moved to the stage where a discussion is requested about the realignment of the road and traffic signal. He stated that Council wanted to see how the road and infrastructure of the development would lay out before it would decide whether to move forward with the road and the traffic signal and alignment issues. He noted that the traffic signal and relocation of the road will enable the developer to present a higher quality development with better users, and provide a public benefit to health, safety and welfare of the residents of the City of Rochester Hills. He stated that Mr. Gibbs will present concept plans to try to move the development forward with respect to the road layout that substantiates the location of the traffic signal.

Mr. Gibbs explained that he is a landscape architect and professional planner. He noted that his firm was asked to take a look at providing an intersection at Drexelgate so that the intersection could be signalized. He noted that this portion of Rochester Road is heavily traveled by 60,000 cars each day, and is one of the longest sections of the highway without a signal. He stated that it is his understanding that Eddington Boulevard had to be moved directly across from Drexelgate in order for a signal to be installed. He explained that the goal was to get Eddington Boulevard to a relocated point as seamlessly as possible. He mentioned that a number of other alternatives were reviewed including a T-intersection or a roundabout; however, it was felt that both those alternatives would cause the residents of Eddington Farms to have to make two hard turns. He noted that a single radius is proposed going from Rochester Road toward the existing Eddington Boulevard, with one right-hand turn at Eddington Boulevard. He explained that an "S-turn" is not allowable due to engineering standards for the radius required for posted speed of 25 miles per hour. He added that a right-hand

turn is shown to the south, eventually connecting to Farnborough Drive, with a stub street shown to the south end of the property. He mentioned that a site plan has not been developed; this submission is only to show how the property could be developed with the street alignment. He stated that the plan provided shows that the property can be developed per the existing Ordinance to provide access to the south parcel, which is intended to remain residential, and to the north parcel near where the bank is currently located, which is also intended to remain residential. He mentioned that with the street realignment, the entire parcel can be developed in a safe and walkable manner. He commented that as a part of a placemaking scheme, an acre of parkland is proposed for residents to drive through. He displayed a rendering with a town square and a large triangular park behind the square to allow for headlight buffering for the residents in the back. He noted that it is his understanding that the existing Drexelgate Boulevard would have to be removed to meet the Michigan Department of Transportation standards. He displayed a rendering showing the proposed relocation and landscaping, and a rendering on how a stone entryway could look. He indicated that the drawings show that the relocation can provide for a signal, safe access, and allow the client's property to be developed under FB-2 zoning without any variances.

Public Comment:

Donna Drogosh, 448 Farmridge Court, stated that she is the President of the Winchester Village Homeowners Association, and commented that the proposal will increase traffic on Drexelgate, a street that has no sidewalks. She questioned why the light cannot be placed at Meadowfield, noting that the Wellbridge development under construction will increase traffic on that street, and pointing out that Meadowfield is already aligned with Yorktowne. She questioned what G&V Investments proposes for alterations to the Drexelgate entryway.

Scot Beaton, 655 Bolinger, stated that he is not seeing a solution here, and wants to see Rochester Road reconstructed as a four-lane commercial boulevard.

Teresa Storinsky, 153 Grosvenor Drive, noted that six driveways will share a center turn lane at Meadowfield and Yorktowne, which is already aligned. She mentioned that a head-on collision occurred at Yorktowne three weeks ago because the center turn lane is not being used properly by motorists, and she stated that a light belongs at that intersection.

Lorraine McGoldrick, 709 Essex, pointed out that the property is zoned R-4 with an FB-2 overlay. She noted that MDOT approved a traffic light based on the original PUD agreement that was in place with the corresponding projected traffic numbers from that PUD, and that MDOT would not have to pay anything toward the light. She questioned why the City has abandoned a 20-year CIP plan to put a light at Meadowfield, and noted that eliminating access points to Rochester Road is the only way to improve safety. She noted that the Chrysler dealership has five driveways accessing Rochester Road.

Hector Urteaga, 1578 Farnborough Drive, stated that he has not seen a common-sense business plan that considers safety as a priority. He commented that this section of roadway is the most dangerous area in Michigan.

Scott Armstrong, 625 Lexington Drive, stated that if Eddington Boulevard is being realigned for the purposes of development, he would like to know what is ultimately going to be developed. He asked G&V to produce any letters from MDOT indicating that a light would be placed if the road were realigned. He stated that the subdivision is losing its identity with nothing being purposely set to go there. He commented that the light should be installed at Meadowfield as the roadway is already aligned.

President Hooper noted that the last letter he has reviewed from MDOT was from September of 2013 and questioned whether any additional communication has been received.

Mr. Anzek noted that City Engineer, Paul Davis, may have received a more recent email communication from MDOT which was shared with staff.

President Hooper read from MDOT's September 2013 letter, noting that it states that MDOT would permit a signal at Rochester Road and Drexelgate Parkway under the condition that Eddington Boulevard is realigned to be directly across from Drexelgate, and that two approach lanes be constructed in either direction. He noted that the letter states that the signal will be installed within 60 days of the completion of the realignment, with cost split 50-50 between the City and MDOT. He added that the letter states that MDOT will not permit a signal at Meadowfield Drive.

Mr. Anzek noted that three alternatives for the site were looked at, including two T-intersections and two roundabouts. He commented that the alternative presented tonight is predicated on the 1990 Master Land Use Plan for mixed-use development, to have that mixed-use flow work together. He noted that this is one possibility presented in concept form.

In response to public comment asking what will be developed, **President Hooper** noted that the best answer is that development can be whatever is permissible under the zoning.

Mr. Anzek pointed out that FB-2 zoning has a specific list of permitted uses, and is not as intense as FB-3. He commented that the City worked hard with Mr. Fetsco of the Chrysler dealership to close his southernmost access point; however, he would not agree to this unless he was able to have access to Yorktowne. The Yorktowne Homeowners Association said no, so the access remains open. Furthermore, MDOT wanted to see the south access to the Winchester Mall developed closed as well, and Mall owners would not agree to that.

Mr. Gilbert noted that Winchester Village was developed by G&V in the early 1980s, as the first zero lot line development in the area. He stated that the biggest benefit to development is the light, which will prevent gridlock and opposing left turns. He noted that the light will be an improvement for those who use Rochester Road in this area and without its installation, he will plan to sell the three parcels

separately which will lead to a lack of a cohesive development. He noted that FB-2 does allow flexibility of development. He commented that MDOT has never stated that the development had to be completed before they would permit a light.

Council Discussion:

Mr. Wiggins stated that he has been in contact with Ms. Montez at MDOT, and requested that she review the traffic study again, especially at Yorktowne and Meadowfield. He commented that he knows it is frustrating. He noted that MDOT is working on a scope study from M-59 to downtown Rochester to see what type of infrastructure the road could take, which will be completed within next few weeks and presented to City Council. He questioned whether Mr. Gilbert sees no option to develop the property separate from the realignment.

Mr. Gilbert commented that the option presented is the best option. He pointed out that everyone is complaining about all the access drives; and he noted that if he sells the parcels separately, there will be even more drives. He commented that MDOT wants a light close to the half-mile point and the proposed location is at that point.

Mr. Wiggins commented that selling off parcels individually will make things worse.

Ms. Morita questioned what the City Attorney knows about the ownership of Eddington Boulevard.

John Staran, City Attorney, responded that Eddington Boulevard is a public road under the City's jurisdiction, and is part of the Eddington Farms plat.

Ms. Morita stated that the road has been accepted by the City; however, if it were vacated, the ownership would go back to the subdivision.

Mr. Staran responded that it would go to the adjoining property owners within the subdivision. He noted that he believes that Mr. Gaber has obtained title work and an opinion from the title company that the property would actually go to Mr. Gilbert.

Ms. Morita questioned if Mr. Gilbert's property is in the subdivision.

Mr. Gaber responded that Mr. Gilbert's property is not in the subdivision. He explained that the way the subdivision is laid out, that property from Rochester Road is part of the platted subdivision, going into the residential component, and part of the residential component is a part of that plat as well. He noted that the entire Eddington Farms Subdivision is three separate plats. The first plat is what is being dealt with, relative to the plat that created the road and led to the dedication of the road. He noted that in answer to the question, he has done some research and talked to title companies as obviously the land must be insured for future development to take place. What his understanding is through research at the title companies, essentially, if this were a road between two houses, the property is split down the middle and divided between the adjacent owners.

He noted that this property is unique as there are no lots adjacent to the road being vacated. He mentioned case law, noting that a consideration is given to where the property came from in the first place. He explained that G&V were the proprietors of the plat, creating it out of the larger property it owned. He stated that based on the fact that the property came from them, and there are no lots adjacent to the road to be abandoned and vacated; and because it is their property adjacent to it, they, along with the title company, believe that the property would go to G&V. The courts would be asked during the plat amendment process to do quiet title to the property to G&V.

Ms. Morita questioned whether the roadway between Rochester Road and the subdivision is part of a recorded plat.

Mr. Gaber responded that it is.

Ms. Morita stated that she would assume that on the face of the plat there is language that states that the roadways in the plat are dedicated to the use of the public, which is standard.

Mr. Gaber stated that he does not recall that this is in the plat; however, the roadways have been dedicated.

Mr. Staran responded that this is in the plat.

Ms. Morita stated that the lot owners in the plat have an undivided base fee in the roadway. She questioned whether a title company would insure over that; and whether the developer does not think that any of the lot owners in the subdivision would make a claim for ownership of that roadway.

Mr. Gaber responded that what it would entail is a plat amendment process under the Land Division Act that must be pursued. He explained that this is a two-step process, with the City first vacating public rights into the roadway and then the rights under the Plat must be vacated or abandoned. In this case, it would be amended as the developer is proposing to relocate the existing roadway to the new location. For that to be effective, it would be a legal action under the Land Division Act that would be filed, and this is the procedural method that will be pursued. The action would name all the parties of interest, which would include those lot owners that are required under statute, including the utilities and anyone else that has an interest in the property. Title searches must be undertaken to ensure that the proper parties are named and the lawsuit will have quite a few parties in it. He noted that it is a procedural matter that will happen; everyone must be named in order to amend the plat. The developer will proceed with the procedural lawsuit to ask the Court to amend the plat and quiet title in the roadway to G&V. All those parties will be named and will have an opportunity to voice their opinion through this process to move forward. The Court would render its decision on the amendment of the plat at that time.

Ms. Morita questioned whether the developer plans to go through this process before or after the new roadway is constructed.

Mr. Gaber responded that the amendment process has to be done after the

new road is built, as City Council must vacate the public rights in the roadway. A new roadway must be dedicated for the public before City Council would vacate the roadway.

Ms. Morita commented that this would be a wise assumption.

Mr. Gaber noted that a new roadway must be in existence before an amendment to the plat could change the private rights in that stretch of roadway.

Ms. Morita questioned whether the developer is asking the City to be involved in the lawsuit to sue its residents.

Mr. Gaber responded that the City must be involved in the lawsuit as a procedural matter because of the way the statute in the Land Division Act reads.

Ms. Morita questioned whether the City would be a Plaintiff or a Defendant.

Mr. Gaber stated that the City would have to be a claimant by the language in the statute.

Mr. Staran noted that the road vacation lawsuit that is being discussed can only be brought by the municipality, a lot owner, or someone claiming under the lot owner. That person or persons would be the Plaintiff, and the lot owners would be the Defendants.

Ms. Morita commented that basically if Council proceeds with this, the City would be placed in a position where it has to sue its own residents.

Mr. Staran stated that it would have to sue its own residents as named defendants, along with the Road Commission and the various public utilities, who would all be party defendants.

Ms. Morita questioned who would pay for the lawsuit against its own residents.

Mr. Gaber stated that this is an issue that would have to be discussed. He commented that jumping ahead, there are items that must be discussed relative to the road relocation. He stated that with regard to a lawsuit against residents, it is a procedural matter required under the Land Division Act. He noted that there is no request for damages and residents will not be asked to do anything. It is a mechanism that must be followed under statute to amend the plat. A declaration is requested by the Court to amend the plat. There are several issues to discuss including the amendment of the plat, the vacation of the road, and the relocation of the road including the intersection improvements and traffic signal. He suggested a committee be set up to discuss these issues and report back to Council.

Mr. Gilbert stressed that this road is part of the plat of the first phase, which does not include the houses that back up to the property. He explained that the first phase is several hundred feet to the east of the entry to Eddington Farms.

Ms. Morita stated that she understands the complexities of plats and understands what the developer is trying to do. She commented that it is her concern that the City is going to be put into a position where it must sue its own residents to get what the developer needs to develop the property, and the City will have to pay for the action. She commented that it is not something she would want the City to be involved in. She mentioned that she has been involved in plat vacations where it is a very expensive process especially dependent upon the number of lots. She stated that managing the litigation can be cumbersome. She noted that it is not a cheap prospect and will require a significant amount of work; and she is not wanting the City to be placed in a position where it feels it needs to accommodate the developer. She stated that until Mr. Gilbert can tell her how this can be done at no cost to the City, without having to sue its residents, this may not be something that the City is interested in. She questioned whether this can be accomplished by talking to the residents ahead of time, getting consent, and having a friendlier lawsuit, not requiring the City to chase down its own residents and serve them with papers. She stated that she appreciates the plan and understands what the developer is trying to do; however, she must ask if there is a way to do it without vacating that roadway.

Mr. Gilbert responded that he does not know how that could be done. He noted that MDOT indicated it would not grant a light or permit without removing the existing Eddington Boulevard, as neither road would meet the warrants due to competing turns in and out of the project. He commented that if the City does not believe the light is important, his business with the property is done. He commented that he is trying to do the right thing; however, if this is something that this Council does not want, he would like to know. He stated that he believes this is a reasonable plan, and the only way to accomplish it is through a procedural lawsuit. He noted that if the City wants this to be considered as a paper street, where the pavement is merely taken up and improvements moved, nothing will have been accomplished. He added that that portion of roadway would not be taxed or maintained, and questions would be raised as to who has liability if someone is hurt on the property.

Ms. Morita questioned who is paying for the proposed light.

Mr. Gilbert responded that this is part of what will need to be negotiated.

Ms. Morita stated that while she understands the developer wants to put the project in, she would question whether it is legally feasible and who will pay for it. She stated that she would want to know if there is any agreement by the City that it is willing to take on any of these costs. She pointed out that the City is struggling to pay for new firefighters and noted that the developer is asking for the City to take on a lawsuit against its own residents.

Mr. Gaber stated that the developer is asking the City to participate in a project which has been stated to be a public benefit as it improves public safety along this corridor. He noted that if Ms. Morita and her colleagues on Council do not believe this is important, then the City should not participate and nothing should go any further. He pointed out that while the project does have some benefit to the developer, it has benefit to the community at large as well. He noted that the

developer is trying to work together and develop a process; and he stated that cost issues and details will need to be discussed. He stated that this is why he believes a smaller forum is best to discuss these issues.

Mr. Gilbert stated that there are residents of Eddington that are not being represented here. He commented that two, three or four residents who back up to the project have the benefit of a berm on G&V's property. He pointed out that with his plan, a park, buffers and improvement of the berm is proposed. He stated that he cannot guarantee what will happen, noting that if this development cannot be accomplished, he will go and market the property for apartments, or retail shops, or whatever the zoning allows. He commented that if a proposed site plan meets the Ordinance requirements, the City will be required to approve it. He added that there will be no guarantees that the berm will remain backing up to the 20 or 30 residences. He repeated that if Council is not interested in negotiating these points and installing a light, that opportunity will be gone forever. He stated that it is absurd to consider that damages are being sought in a lawsuit against residents.

Ms. Morita stated that any time residents are named in a lawsuit, there is a certain amount of distress, and this must be recognized. She commented that she is asking for a concrete plan as to how the developer plans to proceed, what will be asked of the City, and what the City is expected to contribute.

Mr. Gilbert responded that this is why negotiations take place.

Ms. Morita stated that the developer is foisting negotiations that it should be having with the residents of the City, and it is not the City's responsibility. She stated that if G&V is looking to vacate that roadway for its benefit, it should start talking to those residents and see what they want to do.

Mr. Gibbs commented that he would like to highlight two public advantages to this: He noted that there are 1,000 or more homes that use the intersection right now; and the studies have found that a traffic signal can decrease injury accidents and fatalities by up to 67 percent. He stated that this is a significant public improvement at this intersection which serves 1,000 or more homes. He added that with Eddington Boulevard as it is, the commercial buildings could be constructed almost right up to the right-of-way. He pointed out that an acre park is proposed with a square as a placemaking gesture.

President Hooper stated that he wants to see Eddington Boulevard relocated with a traffic light. He commented that he does not care where the light goes; and it is MDOT that has determined that the light should go at a relocated Eddington and Drexelgate. He added that the City should not pay for it; the developer should pay. He questioned why the current road cannot be made the park.

Mr. Gibbs said they could look at this; however, he would rather have the park at the entryway.

President Hooper stated that this would avoid the potential lawsuit issue. He stated while he supports the light for public safety and supports the

improvement, he does not want to see the City part of a lawsuit. He suggested other creative things be explored for that section of land.

Mr. Gaber responded that this would cause the developer to lose too much land.

Mr. Gilbert stated that if Eddington Boulevard is left as a paper street, he would question who maintains or develops it. He noted that if this happens, the property will be developed to the max.

President Hooper noted that it would be whatever is permissible under the Zoning Ordinance that would pass the Planning Commission scrutiny.

Mr. Gilbert stated that it would, therefore, not be the plan viewed tonight. The property would be developed to its max and the berm would be removed. He suggested that he would like to see a committee discuss this.

Mr. Tisdell commented that the discussion is losing sight of the overall objective of developing the property and adding value to the city. He requested that a review of G&V's adjacent developments back in the 1980s be mentioned.

Mr. Gilbert responded that G&V began in the area in the mid-1970s and never had a problem building in Rochester Hills. He noted that G&V built Rochester Glens, Grosse Pines, Brookwood, Winchester Village, the Sycamores, Eddington Farms, Eddington Woods, East Hampton, Sargents Crossing, and also built the beach house at Thelma Spencer Park. He stated that G&V has been involved in the community for a long time, and the very people here complaining about him and the things he is trying to accomplish had their neighborhoods built by G&V. He stated that they take pride in what they have done and what they plan to do. He noted, however, that there does come a point where it is time to cut losses and sell something. He commented that he thought that they were coming with something the City wanted; and he pointed out that it is in the CIP for a light at Meadowfield and Yorktowne. He noted that now it appears that nobody wants to pay for anything. He pointed out that the development will create more tax dollars and permit fees. He noted that he has spoken with plat engineers in Lansing and these procedural Court actions happen every day. He commented that he does not know what the claim would be by the residents to oppose this as it is for public safety and welfare. He noted that landscaping around the entranceway as it is right now would be removed with a 30 day notice and the identity would be lost. He stated that it will not be worth it to absorb all the costs.

Mr. Tisdell cited the May 2012 true value study which promoted safety and walkability, and he noted that this development would front Rochester Road. He stated that the greatest value per acre of development in the City is Barclay Square. He commented that focus should be on the opportunity to add significant value with what is 27 acres of empty field. He pointed out that the places in Rochester Hills that are perceived to have parking problems are the most valuable per acre, including Barclay Square, the Village of Rochester Hills, and the Papa Joe's complex. He noted that Mr. Gibbs was involved in the Village of Rochester Hills and requested he review some of the thinking that went into that development.

Mr. Gibbs noted that his firm was the planner/developer for the Village of Rochester Hills; and at the time it was looked at to make the development mixed use. He commented that the concept was ahead of its time and he is very proud of what was developed. He noted that if that development were built today anywhere in the country, it would include residential development, senior housing, or a hotel. He pointed out that the square proposed is the caliber of development done around the country and something the City and residents would be very proud of.

Mr. Tisdell noted that Mr. Gibbs' firm worked in the redevelopment of downtown Birmingham and some of the things brought up as concerns there are being heard here. He questioned what happened to property values in Birmingham after the placemaking mixed-use plan was introduced.

Mr. Gibbs responded that Birmingham has the 14th highest office rents in the United States, and residential values are through the roof.

Mr. Tisdell noted that he was in Asheville, North Carolina, over the Memorial Day weekend and saw that Mr. Gibbs' firm participated in Biltmore Park.

Mr. Gibbs noted that Biltmore Park is a mixed use development based on form based zoning, and stated that it is very progressive of a City to have form based code, as it allows for creative thinking and mixed use and a walkable town center. He noted that research shows that 50 to 70 percent of households have no children; and there is a mass movement for people to live in mixed use communities.

Mr. Tisdell stated that the FB-2 in this development can be viewed as a good thing.

Mr. Gibbs responded that it is one of the most progressive zoning codes in the United States. He noted that the plans show how it could be developed under FB-2.

Mr. Tisdell questioned how far people will walk.

Mr. Anzek responded that one-quarter mile is the standard.

Mr. Tisdell questioned what the physical or visual barriers are that could be imposed.

Mr. Anzek noted that a road that takes a long time to cross could be deemed a barrier. He stated that the strategy is to narrow streets and make them more comfortable, including traffic calming.

Mr. Gibbs stated that people feel silly when driving less than five minutes and they tend to park once and walk more.

Mr. Tisdell questioned whether the walkability would be disrupted if the paper street were left in place.

Mr. Gibbs responded that it would take from the walkability of the site. He expressed concern that the radius of the road relocation compromises that portion of the parcel and could make a building hard to locate on the parcel. He stated that if a building had to be squeezed in next to a radius, it might yield an unbuildable site.

Mr. Tisdell stated he believes that what the City is looking at is a 21st century design for mixed use. He expressed his thanks to Mr. Gibbs and Mr. Gilbert, noting that they have added value to the community already and he does not want to lose sight of that. He commented that obviously there are a lot of details to be worked out here; one must also consider the added value and tax base a development like this could bring.

Mr. Brown stated that from his standpoint, the one thing missing is a summary as to how the legal proceedings would occur. He commented that efforts to develop the property have been going on as long as he has been in the City and he does not know how the legal proceedings would proceed if they are not amicable. He stated that he wants to understand the cost associated with those proceedings, along with the costs to install a traffic light along with fees to operate it, before coming to a resolution. He commented that if a boulevard design for Rochester Road was in the long-range plan, it could solve a lot of the problems for Rochester Road. He stated that the next step for him would be to see detail on what the next plan would be and the costs associated with it.

Mr. Staran stated that in discussing the vacation of the existing entrance to Eddington Boulevard, it is acknowledged that the City would have to do that and file and prosecute the lawsuit; or the alternative is that the development does not happen and Mr. Gilbert markets the property. He noted a third option is that the existing Eddington Boulevard is physically and legally closed, but the plat is not actually vacated or amended. He stated that the significance of that option is under the law, this is a public road, and there are public rights to use road, and long-standing Michigan case law states that there are also private rights that every lot owner in the plat has a private right to use all the sidewalks and rights-of-way that are shown. The City controls the public rights, and the City could theoretically go out and barricade the boulevard tomorrow. However, what is not within the City's control without the lawsuit to extinguish the private rights that all the lot owners in the Eddington Farms Subdivision have to use that for access. That could only happen as a result of the lawsuit. He noted that a third alternative, which may or may not be feasible, and definitely would have an impact on the development because it would reduce the area of the development and the intensity of it, is to relocate the road and built a new road, close the existing Eddington Boulevard

entrance; however, that entranceway could not be built upon without the next step which is the lawsuit that extinguishes the private rights. It could be a park, open field or treed area, or courtyard, other than a building or less likely, a parking lot. By filing the plat vacation lawsuit, it vests title free and clear in G&V to build, assuming everything Mr. Gaber and the title company have analyzed to be true. Simply closing the road could be done by Council resolution without a lawsuit.

President Hooper questioned whether it could be a parking lot.

Mr. Staran stated that it is possible and he would not rule it out; however, it would have to be something that would not interfere or obstruct the private rights of the lots owners if they desired to use that for access.

Mr. Gaber noted that part of the amendment process would not only be to terminate rights in the old roadway, but to add the new roadway.

Mr. Staran responded that he would not recommend amending the plat, noting that this would be a part of G&V's site plan.

Mr. Webber expressed his appreciation for the presentation, noting that he likes the idea of having the concept of a continuous development rather than a piecemeal approach. He expressed support for a traffic light in that area; noting that there are details to be worked out.

Mr. Wiggins noted that based on what Council has heard so far, selling off the parcels might not be best option.

President Hooper noted that the applicant is proposing a committee be formed. He noted that Mr. Wiggins and Mr. Tisdell noted that they would be in agreement to work with Mr. Anzek and the applicant, with Mr. Staran's review, to look into the details. He pointed out that any meetings held would be open, noticed, and everyone who has spoken tonight would be contacted with notice of the meeting.

Mr. Gaber noted that the applicant came here this evening to discuss the concept of a road layout. He questioned whether the general consensus is that the road layout is generally acceptable.

President Hooper questioned if anyone on Council objected to the road layout. He saw no response from any member of Council.

Discussed.

- 2014-0106** Request for Purchase Authorization - DPS/ENG: Increase to Blanket Purchase Order for as-needed Construction Inspection Services in the amount of \$50,000.00 for a new not-to-exceed amount of \$150,000.00; Spalding DeDecker Associates, Inc., Rochester Hills, MI

Attachments: [Agenda Summary.pdf](#)
[031714 Agenda Summary.pdf](#)
[031714 Resolution.pdf](#)
[Resolution.pdf](#)

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

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

Absent 1 - Kochenderfer

Enactment No: RES0186-2014

Resolved, that the Rochester Hills City Council hereby authorizes the increase to the Blanket Purchase Order to Spalding DeDecker Associates, Inc., Rochester Hills, Michigan for As-Needed Construction Inspection Services in the amount of \$50,000.00 for a new not-to-exceed amount of \$150,000.00 through December 31, 2014.

2014-0317 Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for rock salt in the not-to-exceed amount of \$155,000.00; Detroit Salt Company LLC, Detroit, MI

Attachments: [Agenda Summary.pdf](#)
[Bid Tab Salt corrected 2014.pdf](#)
[Resolution.pdf](#)

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

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

Absent 1 - Kochenderfer

Enactment No: RES0187-2014

Resolved, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Detroit Salt Company LLC, Detroit, Michigan for the purchase of rock salt in the not-to-exceed amount of \$155,000.00 through June 30, 2015.

2014-0320 Mayor's 2015 Proposed Budget
a. Presentation
b. Adoption of Resolution acknowledging receipt of the 2015 Proposed Budget and 2015 and 2017 Projected Budget and setting the Budget Public Hearing for September 8, 2014

Attachments:

[081114 Agenda Summary.pdf](#)
[081114 Resolution.pdf](#)

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

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

Absent 1 - Kochenderfer

Enactment No: RES0188-2014

Whereas, the City of Rochester Hills City Council have worked to develop City goals for the Fiscal Year 2015; and

Whereas, based on these City goals, the Mayor's Fiscal Year 2015 Proposed Budget and 2016 and 2017 Projected Budget was developed; and

Whereas, at the August 11, 2014 City Council Meeting, the Mayor delivered the 2015 Proposed Budget Plan for the Fiscal Year beginning January 1, 2015.

Be It Resolved, that the Rochester Hills City Council acknowledges receipt of the 2015 Proposed Budget and the 2016 and 2017 Projected Budget and hereby gives notice of Public Hearing to be held at 7:00 p.m. on Monday, September 8, 2014 at the Rochester Hills City Hall, 1000 Rochester Hills Drive, for the purpose of discussing the 2015 Budget and providing opportunity to all interested parties to present comments thereon prior to formal adoption by the Rochester Hills City Council.

Be It Further Resolved, that the publication of the Notice of Public Hearing is hereby authorized.

COUNCIL COMMITTEE REPORTS

None.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

Special Budget Meeting - Monday, August 18, 2014 - 5:30 p.m.

ADJOURNMENT

There being no further business before Council, President Hooper adjourned the meeting at 12:32 a.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 September 22, 2014 Regular City Council Meeting.