



# The City of Auburn Hills

## City Council Meeting

### Minutes

November 11, 2013

**CALL TO ORDER:** by Mayor McDonald at 7:00 p.m.

**LOCATION:** City Council Chamber, 1827 N. Squirrel Road, Auburn Hills, MI 48326

**Present:** Mayor McDonald, Mayor Pro-Tem Hammond, Council Members Doyle, Kittle, Knight, McDaniel, Verbeke

**Absent:** None

**Also Present:** City Manager Auger, Assistant City Manager Tanghe, Director Olko, Deputy Director/Police Hardesty, Deputy Director/Fire Manning, Director of Public Works Melchert, City Clerk Kowal, City Attorney Beckerleg, City Engineer Juidici.

19 Guests

#### 4. APPROVAL OF MINUTES

4a. Regular Council Meeting – October 21, 2013

**Moved by Kittle; Seconded by Verbeke.**

**RESOLVED: To approve the October 21, 2013 meeting minutes.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.198**

4b. Workshop – October 21, 2013

**Moved by Knight; Seconded by Hammond.**

**RESOLVED: To approve the October 21, 2013 Workshop minutes.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.199**

4c. Executive Session – October 21, 2013

**Moved by Verbeke; Seconded by Knight.**

**RESOLVED: To approve the October 21, 2013 Executive Session minutes.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.200**

4d. Executive Session – October 7, 2013

**Moved by Doyle; Seconded by Verbeke.**

**RESOLVED: To approve the October 7, 2013 Executive Session minutes.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.201**

4e. Executive Session – September 9, 2013

**Moved by Knight; Seconded by Doyle.**

**RESOLVED: To approve the September 9, 2013 Executive Session minutes.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.202**

#### 5. APPOINTMENTS AND PRESENTATIONS

#### 6. PUBLIC COMMENT

**Phillip Clampitt**, 3744 Tienken Road, noted neither he nor his wife agree with leasing any public land for exploration and/or drilling for oil or gas. He offered the following reasons:

1. Increased truck traffic; flaring of natural gas from oil wells; storage of oil tanks and other facilities; ;danger from possible spills and blow-outs. Residents of Jackson and Lenauwee County have had these experiences where there has been extensive drilling.
2. Even though oil companies are offering revenue to the City, private citizens, and organizations, he believes the gains will not out-weigh the loss of property values.

3. Hawk Woods Nature Center has been listed as a target for oil drilling in Auburn Hills, a place he frequently visits and hikes, and is near his home. Hawk Woods is a fine facility which allows residents of all ages to enjoy the atmosphere to counteract a *nature deficit disorder* that affects so many in today's society, and should be off-limits to any gas drilling.
4. Auburn Hills has many attributes of being a green city, with parks, woodlands, marshes and many other open spaces, and he likes it that way.
5. The neighboring city, Rochester, Michigan, has said no to gas leases in their city; let's follow their good example.

If the City seriously considers signing leases for exploration or drilling for oil or gas, he respectfully asks that a public hearing be held on the matter, so citizens can learn about the issues and express their views on this important topic.

**Michael Runk**, a 12 year resident of Heritage in the Hills, is concerned with the possible horizontal well drilling site at the Apostolic Church property directly across from the subdivision. His concerns include the industrial work that will part of the multi-well drilling site and is gravely concerned by the highly negative effects the drilling will have on the community and the neighborhood. Some of his concerns:

- Fumes that may harm lungs as a direct result from drilling.
- Constant air pollution and noise from the thousands of truck trips that will haul out thousands of ruined gallons of water and extracted elements from the earth.
- This will also affect the clean water under the well sites and Heritage in the Hills property, becoming humanly not useable.
- Possible of pumping the ruined water back under the well sites with possible harmful effects on streams and rivers.
- The 24 hours a day, seven days a week industrial lighting and major large truck traffic will simply overwhelm North Squirrel Road and all the connecting roads around his immediate community.
- The impact on the Auburn Hills' police, fire, and EMS services, as first responders to any possible accidents on or near the drilling sites.

With these comments in mind, linked with the most likely lowering of home property values; he sees the need for the City Council to call a public meeting for all City residents and all concerned parties to openly discuss all aspects of possible horizontal drilling and fracking on both private and public property in Auburn Hills. Publically discuss these issues and then either activate a ban or put strict regulations on drilling in Auburn Hills.

Ms. Doyle asked Mr. Runk if he had a copy of the Apostolic Church contract that may have been signed.

Mr. Runk stated his copy wasn't very legible; however, a copy can be obtained through the Freedom of Information Act.

Mr. McDaniel asked both Mr. Auger and/or Mr. Beckerleg if before any drilling occurs in the City, whether private or public land, with the Council have an opportunity to discuss the process or find out if the City can restrict any or all of the drilling or to ban it altogether.

Mr. Beckerleg stated not necessarily. Federal and state law restricts severely what municipalities can do in terms of regulating oil and gas drilling and fracking. Municipalities generally do not have the ability to prevent oil and/or gas drilling or fracking on private property; but have the ability to determine what is done on public property. There are some things municipalities can do by adopting ordinances pertaining to odors, dust creation and like things; but in terms of prohibiting the use on private property of oil and/or gas drilling and fracking, a municipality cannot prohibit.

Mr. Beckerleg confirmed for Mayor McDonald that a public hearing or a workshop could still be held on the topic, but it would not obligate the drilling parties to attend a meeting.

Mr. McDaniel questioned if a private property owner has signed a contract with a drilling company and the City at a later date adopts ordinances that pertain to some of the raised concerns, would those already signed contracts be exempt from new ordinances.

Mr. Beckerleg explained since it would be a regulatory ordinance, as he is currently in the process with West Bloomfield Township, the ordinance could apply to owners currently operating. Reiterating and not to be mislead the public, he stated there are very few regulations that can be required by municipalities.

Mr. McDaniel noted there are already scheduled workshops; however, Council should address this issue and gather as much information as possible.

Mr. Beckerleg stated, once finished, he can share the West Bloomfield ordinance as an example.

Mr. Kittle noted there are currently ordinances that control hours of operation, construction equipment, noise, dust control; asking if they would apply to this activity.

Mr. Beckerleg believed they would apply to the initial installation; most activity is underground with little ability to control when drilling occurs.

Mr. Kittle agrees with having a public forum prior to the other planned workshops.

**Don Hughes**, 13 year Bald Mountain Road resident, stated since speaking with Council a few meetings ago, he has continued to research and is more concerned with what he has found. He recently obtained a copy of the lease for drilling

on Squirrel Road and is concerned with some of the terms in the contract, such as: the lease has no restriction on the use of hydraulic fracturing or fracking; it allows injection, back into the ground brine, waste fluids from that planned well or other planned wells outside of the property; it allows on that property the clearing of trees and vegetation, leveling of land, building a roadways to the well pit, bringing in utilities such as power and communication lines, construction of storage pumping treatment facilities and pipelines. It also allows the use of ground water at no cost, well can be drilled within 200 feet or less of existing structures with property owner's permission, there are no minimum easements from sensitive areas such as DEQ conservation areas, wetlands or the Galloway Creek.

His concern is the impact on surrounding residential areas as are many of his neighbors. These activities will bring in air pollution, noise pollution, increased traffic, and potentially decreased home values. This isn't only through the drilling process but the production and operation afterwards.

He thinks the City should be concerned by this, this can take place anywhere in a city and the city has no control. Townships and counties can't do as much as cities; cities can control or ban drilling. Ann Arbor has recently issued a ban on all drilling activity within the city. There are restrictions what can be regulated and how it is regulated, but it can be done.

He too, would like the Council to consider having a public forum to discuss this further. He would like the City to see what options are available to ban or restrict the drilling in neighborhoods and green spaces. He is willing to share any information that he has with those interested.

Continuing, Mr. Hughes believes this drilling will be a detriment to the City, even with short-term financial gains, being outweighed by long-term impact, such as road maintenance, potential loss of tax base through decreasing property values and nuisance complaints from neighbors.

Mr. Knight was interested in Mr. Hughes' comment about Ann Arbor banning drilling, asking Mr. Beckerleg for his comment.

Mr. Beckerleg stated he doesn't know what Ann Arbor did, and any ordinance can be adopted, but it doesn't mean it is enforceable.

Sylvia Bucknavich, has lived at 3711 Crestwood Drive for nine years. She too, is concerned with the oil drilling and agrees with all the previous comments made by her neighbors. Searching for information to keep the drilling out of the City, she found an article about an Ohio town where drilling was taking place. There was an underground leak that no one knew about, and after some time, oil had seeped into the storm drains, retention ponds and sewer drains and consequently the smell was entering many homes, and the city not having control over the wells being drilled in their community. There is a Community Bill of Rights, developed by an environmental legal defense fund, is available for communities to draw up their own bill of rights for the individual communities, stating such things as who will cleanup any spills and how that will be done. Also, Ms. Bucknavich noted the crude oil is explosive, as seen in Quebec City, when a train derailed and burst into flames killing 47 people, as well as in Alabama, a train accident with the crude oil burning for hours. There is no easy cleanup in the event of a leak or a spill, it can takes years to clean everything that has been affected.

If a public forum is held, she would like representatives of the oil companies be present to answer questions and concerns. The companies state this will not be fracking, but horizontal drilling. When looking for a definition for horizontal drilling, it comes back to fracking, using a drill, sand and chemicals to break-up the bedrock underneath the ground to extract oil. Tests have been conducted in Texas where drilling takes place, and seismic equipment used underground has registered small earthquakes taking place where; they can't be felt above ground, but they are happening. Ms. Bucknavich is concerned these earthquakes could ruin the integrity of her basement, and thus her home. She asked that this be very carefully considered before allowing drilling to take place in the City.

**Mayor McDonald** asked any military service people in the audience to stand, to receive recognition for their service and thanked them.

**Kay Sendegas** thanked the Mayor for recognizing the military personnel; she was going to do the same. Secondly, the public television station needs help; when watching a Council meeting, there are only two people that can be heard well when speaking, Ms. Doyle and Mr. Kittle. The other voices are either barely audible or not at all, she isn't sure if the microphones or not.

Ms. Sendegas asked if the public schools also use the City's channel for information.

Mr. Auger stated he believes the schools have their own channel.

Mayor McDonald stated the television issue will be investigated.

**Sally Galloway**, a Bald Mountain Road resident stated she is completely opposed to gas and/or oil drilling in the City. She hopes there is a public forum held, so more people can become informed about the dangers of the drilling. She hopes the City will take the issues presented this evening seriously.

## 7. CONSENT AGENDA

All items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

### 7a. Board and Commission Minutes

7a.1. Public Safety Advisory Committee – October 15, 2013

7a.2. Planning Commission – October 29, 2013

**Moved by McDaniel; Seconded by Knight.**

**RESOLVED: To approve Consent Agenda.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

### **Resolution No. 13.11.203**

## 8. OLD BUSINESS

### 8a. Motion – Approve Implementation of Auburn Hills Fire Department Full Transport Emergency Medical Services

Director Olko stated this has been worked on for months and months; Public Safety Advisory Committee has had at least three meetings on this topic. Since there has been so much time spent on discussing this proposal, there isn't an additional presentation, but questions are welcomed.

Mayor McDonald questioned how the City is able to run the emergency services in-house better than Troy's Alliance model that was reviewed.

Deputy Director/Fire Manning explained Troy spends over \$500,000, close to what we, here at the City spend, to have Alliance run their service. The Auburn Hills model uses our employees, who are already on duty, the full time staff and full time on-call staff, available for medical calls as well as responding to fire calls. The Troy model, even though it is called a volunteer program, is actually a combination department with a number of daytime staff on duty, but evening is a volunteer staff. The Troy staffing is very similar to Auburn Hills, just not a 24 hour/7 days a week operation. Troy does not respond to any medical calls, it is Alliance covering those calls.

Mayor McDonald asked if the model suggested is implemented, will there be a need to hire more personnel.

Deputy Director/Fire Manning stated with the model suggested there is no proposal to hire new personnel. The Department will continue to recruit paid on-call personnel and possibly part-time personnel, but no new full-time personnel.

Ms. Doyle asked Deputy Director/Fire Manning to give a brief summary of what is being proposed, for those who aren't sure.

Deputy Director/Fire Manning explained he was asked to evaluate the EMS operations and to calculate an approximate cost. In the process of the evaluation, the existing cost was looked at as well as other options for maintaining a life support system and that cost. Four different models were reviewed: 1) The current model, which is a joint venture with a private entity, Star; 2) A basic life support, non-transport, and contracting transporting services; 3) An ALS, non-transport, meaning advanced life support services, contracting transportation services; 4) Is full ALS services as well as transporting. The cost of all four models was reviewed and comparing the bottom line with the current costs to model number four, the costs are very close. There is approximately \$60,000 in possible revenue. Adopting this model will allow the residents more on duty personnel and in the City at any given time; this will allow more fire personnel on duty 24 hours/ 7days a week, without raising costs. The City owns the ambulances and hi-tech equipment; there is no need to purchase new equipment or hire new personnel. Continuing, Deputy Director/Fire Manning explained ALS is Advanced Life Support and has the abilities of administering drugs to the patient, especially cardiac arrest patients, as well as different types of heart monitors that the medics can use, unlike basic life support services.

Mr. Knight asked if he was reading the comparative correctly, thinking the City would be saving better than \$300,000 by doing the full transport service.

Deputy Director/Fire Manning stated the \$278,000 is an estimated amount for 2013 Star services. There will be a reduction in the cost of the vehicles because of age and fleet charges have decreased that is included in the cost savings.

Mr. Knight stated he is in favor of the proposal, the City doing the ALS and transport while saving approximately \$60,000.

Ms. Verbeke asked when new equipment would need to be purchased.

Deputy Director/Fire Manning stated one will be replaced in about two years and the other in approximately three years.

Lt. Milks stated the heart monitors, a \$45,000 machine, will need replacing, one in 2015 and the other in 2016. The third monitor should be good until 2020.

Ms. Verbeke if the replacement costs have been included in the projected costs.

Deputy Director/Fire Manning stated yes.

Deputy Director/Fire Manning confirmed for Mr. McDaniel, the equipment must be replaced using the same timeline. The City uses a different type of monitor than does Star. The City owned monitor is compatible with the automatic defibrillator that is distributed throughout the City as well the model the City encourages the businesses in the City to buy. By using the same type defibrillator, the pads don't have to be removed, just disconnect the automatic defibrillator and connect the pads to the paramedic's defibrillator. And yes, the ambulances would need replacing regardless of which model is approved.

Mr. Kittle asked if there was any reason or urgency why this must be decided this evening.

Deputy Director/Fire Manning stated there is no timeline urgency to implement the service.

Mr. Kittle stated he had asked a series of questions related to data during the workshop and was curious if any answers were available.

Director Olko stated questions asked by Mr. Kittle were used to compile some of the data on pages 15 and 16 of the report that is included in the packet.

Mr. Kittle stated he saw the 401k expenditures reference in the Public Safety Advisory Committee meeting minutes; that being just one aspect of employer cost relative to the resources we would have typically 25% to 33% are for FICA and withheld type items. He doesn't believe some the statistical data was addressed. Also, he agrees with model four, it would be more awash than a \$60,000 positive gain. He would like to know what the benefits are by changing the services, since the current service is above average, noting also the Star contract has been expired for quite some time.

Deputy Director/Fire Manning stated the contract isn't canceled, it is ongoing until one side or the other decides to cancel. The contract was negotiated in 2006 and funding numbers are based on the call volume from 2006.

Mr. Kittle stated Star is quite conservative; chances are the revenue figures would be higher if based on a renegotiated contract with Star. Continuing, he also noted there are other companies are available to offer the same type services and is curious of what other options are available from a fiscal standpoint. He is pleased with the Public Safety Advisory Committee's work on this, but believes there is still more to learn. When speaking with other communities throughout the State about the City running the EMS, the response from the others is disbelief. He asked if the City receives remuneration from mutual aid calls.

Deputy Director/Fire Manning stated not on medical runs.

Mr. Kittle suggested the possibility of sharing services and or equipment with the surrounding communities. There will also be the need to hire a billing service, but he didn't recall seeing a line item for that expense.

Deputy Director/Fire Manning stated the billing costs are included.

Mr. Kittle noted great work was done on compiling and presenting the information; however, he would like to see the additional data he had requested and asked Council to postpone a decision until a better analysis can be done on some of the numbers.

Ms. Doyle asked Deputy Director/Fire Manning if he has talked with other communities and if he has gotten the same reactions as Mr. Kittle, and running in the other direction. Is that an accurate summary from your research?

Deputy Director/Fire Manning stated there are fire departments across the nation that has been involved in EMS operations that have struggled. Auburn Hills has the benefit of a very positive working relationship between the full time union staff and the on-call personnel. There aren't the constraints that larger metropolitan fire departments have under union contract and minimum staffing levels.

Ms. Doyle commenting on Mr. Kittle's question, of why is a decision is needed this evening, she supports making a decision tonight for the following reasons: 1. The work has all been done, crunching numbers and evaluations can continue but eventually you come to a point when enough of that has been done. The staff has been working on this for almost a year of analyzing all the data from every possible way. She is the Council Representative on the Public Safety Committee, and this has been reviewed three times, several hours with the Committee and again several hours with Council. She believes this Council is most prepared and knowledgeable of the work that has gone into understanding this issue and making a good decision. This could be delayed and put off for the next Council, but then the entire process must be revisited so they would be able to make a knowledgeable decision. She will vote in favor of the change and she believes this Council is very prepared to make an excellent decision tonight.

Mr. Kittle stated the amount of work that is in the analysis that has been done is good, but this is basically looked at as a revenue generator.

Ms. Doyle doesn't believe that is accurate, there is no reference that this will be a revenue generator, it is break even; money won't be lost.

Mr. Kittle stated it is break even on outdated and inaccurate numbers. The numbers area based on a 2006 contract numbers and that is what is driving this analysis, a number that is seven years old.

Mr. McDaniel believed the drive behind this was never revenue generating system; it was to give a better level of service, at the same or better cost. He asked Deputy Director/Fire Manning if Star was willing to share updated information if the contract was renegotiated.

Deputy Director/Fire Manning stated today's numbers were requested from Star; however, they would not reveal those numbers.

Mr. McDaniel stated the \$60,000 is a very conservative number and is likely to be higher. Continuing, he believes the City of Rochester Hills just went to a transporting model, after leaving a privatizing model; another community moving in the same direction as Auburn Hills.

Ms. Doyle stated you can only learn so much by looking at the numbers and evaluating from the outside. There is learning to be done from doing it; which is the next piece. This model can always be changed; contract negotiations can easily be opened if this model doesn't work.

Deputy Director/Fire Manning stated that is always an option.

Mr. Kittle stated governments don't change change very effectively. He asked how many providers there are that offer these types of services and supposed they all delivered quality care.

Deputy Director/Fire Manning stated in this area there would be six or so that would submit a bid, it is a competitive market and all maintain the same licensing, but he isn't sure of the level of services.

Mr. Kittle stated he isn't against the proposal, but he still has a lot of questions.

**Moved by Kittle; Seconded by Ms. Verbeke.**

**RESOLVED: To delay action on this until some day certain, so further research can be done.**

Ms. Verbeke felt since Mr. Kittle didn't get the answers to his questions, she felt the need to support him and wait on moving forward. She realizes Ms. Doyle has done a lot of work on this and wants action to take place, but if there is something missing that someone requested she feels it can wait.

Ms. Doyle stated she thought this Council is most prepared, it isn't about her.

Ms. Verbeke asked where she could find the out-sourced billing, she didn't see it on page 15.

Deputy Director/Fire Manning explained it may not be an actual line item, but is included in the \$500,000 total cost which is located on page 7 of the report. The going rate right now, depending on the length of the contract is between 7% and 7.5% of the collectible. The estimated cost is the same as presented at the last meeting.

Mayor McDonald noted there is a motion on the floor and the debate should end until a vote is taken.

Mr. Kittle stated two new Council members are sitting in the audience and he isn't sure if they are aware of this subject, and it will be something they too will have to live with the decision that is made this evening.

**VOTE: Yes: Kittle, Verbeke**

**No: Doyle, Hammond, Knight, McDaniel, McDonald**

**Motion Failed (2-5)**

**Resolution No. 13.11.204**

Mr. Knight stated he had never understood this to be a revenue generator. He noted in the past the City has had to rely on an outside company and he is pleased that this model will make the City will be responsible 100% for providing the services and being able to control what those services are.

Mayor McDonald stated he understands Mr. Kittle's concern of government having a difficult time changing and would like to include in the motion that at the end of four or five years, an evaluation be done to see if this program is cost effective.

Ms. Verbeke asked at what time frame should there be a review to see how the model is doing financially.

Deputy Director/Fire Manning explained numbers will be watched on a monthly basis with a report to the City Manager's office on a quarterly basis. Other models down the road can also be investigated.

**Moved by Hammond; Seconded by Doyle.**

**RESOLVED: To direct the City Manager to implement full transport emergency medical services by the AHFD; terminate the current contract with Star Ambulance; negotiate a contract for ambulance back up services and seek bids for ambulance billing services, with a review at the end of four years for costs and service provided.**

Mr. Kittle stated Council is going to vote on something that isn't broken and from a service delivery standpoint, the City frequently gets accolades for as a government, we are going to add a \$600,000 cost to the government of the City of Auburn Hills for perceived benefits that are not totally understood. He will not support this, not to say it isn't a good idea in the end, but we are rushing to judgment on a decision.

Mr. Knight noted there is the four-year review; however, during each budget year this will also be reviewed.

Mr. McDaniel appreciates all the work that everyone has done on this matter, including staff, Public Safety Advisory Committee and Council. The big picture of any revenue won't be determined until it is determined how much Star has been billing the City. Staff has tried to get that information; however, it isn't freely available. This plan goes back a few years ago at the suggestion by Mr. Auger to revamp the public safety system and how it operates. We, the Council agreed it was a good idea and put our trust in the hands of those staff members that do that work on a daily basis, and

after almost a year of staff studying and investigating, have come up with this model. He is in favor of supporting this model.

Ms. Verbeke is in support of this model and the reason she supported Mr. Kittle, is because she thought his questions deserved an answer.

Ms. Doyle noted Mr. Kittle commented with implementation of this model it would add \$600,000 to cost, asking if that is correct.

Deputy Director/Fire Manning stated not the way this report was compiled and he isn't sure where Mr. Kittle got that number.

Mr. Kittle corrected himself, \$500,000 and some change.

Ms. Doyle asked if that was correct.

Deputy Director/Fire Manning stated the total expenses will be \$513,000 for ALS transport; the City is currently paying \$313,000 and the cost would be off-set by a collection of revenue; therefore that is where the \$61,000 revenue comes in.

Mr. Kittle stated there is an expense line item of \$213,000, he wasn't including revenue. The net amount can't be calculated because we are dealing with projections from Star that can't be substantiated.

Ms. Doyle stated that is why it must be implemented to find out.

Mr. Kittle stated he would rather know the cost of something before he buys it.

**VOTE: Yes: Doyle, Hammond, Knight, McDaniel, McDonald, Verbeke**

**No: Kittle**

**Motion Carried (6-1)**

**Resolution No. 13.11.205**

**9. NEW BUSINESS**

**9a. Motion – Approval of OHM Scope of Engineering Services for the Galloway Drain Stormwater Management Plan - Phase II and Preliminary Road Design for Squirrel Road and Tienken Road Intersection**

Mr. Melchert explained this scope of engineering encompasses two projects, the first Phase II of the Galloway Drain, where property was acquired, through a tax sale, east of Lapeer Road, north of the I-75/M-24 connector and adjacent to the Galloway Drain. The preliminary design includes restoring wetlands on the parcel which will improve storm run-off quality and increase capacity in the drain. The second part is a preliminary road design for the Squirrel and Tienken Roads intersection, which will be part of the 2015 project of reconstructing Squirrel Road from Walton Boulevard to Dutton Road. The intersection, once under construction will encroach into the wetlands, mitigation is necessary. The Galloway Drain location will be the perfect place to mitigate those wetlands.

There is adequate funding in the 2013 budget and this will into the 2014 budget where there is also adequate funding available.

Ms. Hammond asked what portion of the wetlands will be mitigated.

Mr. Melchert explained the scope of engineering will include the delineation of the wetlands in that area and determine how many acres will have to be relocated. There was approximately 3.7 acres of wetlands that were filled in on the Lapeer Road parcel, in the mid to late 1980's and part of the Galloway Drain project is to restore those 3.7 acres. He believes there will be less than 3.7 acres impacted by the Squirrel - Tienken Road intersection.

Mr. Kittle requested that as the preliminary design for north Squirrel Road is complete, that the residents in that area are informed of what the project will entail.

**Moved by Knight; Seconded by Kittle.**

**RESOLVED: To approve the costs associated with the Scope of Engineering Concept Design Services provided by OHM Engineering Services, for the Galloway Drain Stormwater Management Plan – Phase II and Preliminary Road Design for Squirrel Road and Tienken Road Intersection in the not-to-exceed amount of \$91,500.00.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.206**

**9b. Repeal of Article III, Mechanical Amusement Devices, Video Games and Pool Tables of Chapter 10, "Amusements and Entertainments"**

Deputy Director/Police Hardesty explained since the mid 1980s the City has licensed and regulated mechanical amusement devices, pool tables and video games in places open to the public. The numbers of businesses vary, but currently there are about 14 businesses fall under the ordinance. Each establishment must pay \$250 annually to be licensed for the first device and another \$50 for each additional device. The licensing requires inspections by police, fire and building departments. While there may have been a concern of arcades in the past, there has been a change in society that makes regulation of these devices unnecessary as well as causing an undue hardship on some the businesses. The City Attorney Mr. Beckerleg, has been consulted and advised it is legally permissible to repeal.

If Council chooses to do so, a repeal requires the same process as enacting an ordinance, with a first reading this evening and at a second subsequent meeting there should be a public hearing and action on the repeal.

Mayor McDonald asked if this must be posted.

Ms. Kowal explained there will be a publication in the newspaper of a public hearing, if Council chooses to move forward with this request.

Ms. Hammond asked how the repeal of this ordinance would affect Game Works and any problems.

It was noted Game Works has gone out of business.

**Moved by Verbeke; Seconded by McDaniel.**

**RESOLVED: To place the Ordinance repealing Article III, Mechanical Amusement Devices, Video Games and Pool Tables of Chapter 10, “Amusements and Entertainments” of the Auburn Hills Code of Ordinances on the first reading with a public hearing and action on the item at the next Council meeting on November 18, 2013.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.207**

9c. Motion – Accept an Ordinance to Amend Chapter 10 as amended to add Article III, Smoking Lounges to the Auburn Hills City Code

Deputy Director/Police Hardesty explained Since the State of Michigan enacted Public Act 188 of 2009 to prohibit smoking in public places, smoking lounges have become increasingly popular. Cigar Bars and Tobacco Specialty Retail Stores that were in existence prior to May 1, 2010, are exempt from the smoking in public prohibition. Currently there are two established lounges in the City with one in development. It is unknown how many Tobacco Specialty Retail exemptions exist in the state. Licenses can be transferred from community to community within the State and unless there is a local ordinance, there is no regulation process. The State has no process or criteria for removing any license.

On August 5, 2013 City Council placed a moratorium on the opening of new smoking lounge businesses in the City for 180 days. At that time Staff examined area cities and laws that were being reviewed, and in conjunction with the City Attorney, are making a recommendation that the City enact a regulatory ordinance to limit the negative aspects of these businesses. There is no suggestion to close the current businesses. Currently, the City has no power to regulate any aspect of a smoking lounge and no voice in how many lounges can locate in Auburn Hills. The proposed ordinance, modeled on current ordinances from Troy and West Bloomfield, provides for an annual license with a fee to be determined. The fee would offset the cost to regulate and inspect the businesses.

Some of the adverse impacts associated with these establishments are later in the evening from 11:00 p.m. until 2:00 a.m. Issues have included overcrowding above the limit set by the Fire Department, underage people inside the establishment, crowds overflowing into parking areas, trash, alcohol bottles and debris, alcohol possession, drug possession, traffic and noise complaints from neighboring residents. Based on the impacts, the proposal is for the City to establish an ordinance to allow for regulation and if there are problems with the current businesses, Council would have the opportunity to suspend, review, or require the business owners address Council as necessary, and also to not allow any more of the businesses to come into the City.

Mr. Beckerleg clarified for Mayor McDonald, that if approved this evening by Council, there will be a second reading and a public hearing at the next Council meeting.

Mr. Kittle asked how this proposed ordinance and the repeal of the previous item, dovetails together; both items are referring to Amusements and Entertainments.

Mr. Beckerleg explained Article III is the Mechanical Amusement section and by repealing that Article III, then this will become the new Article III, Smoking Lounges.

Mr. Knight noted in other ordinances there was after hour time frames, such as clearing the parking lot, but didn't see anything similar in the Auburn Hills proposed ordinance and thought it was a good idea.

Deputy Director/Police Hardesty stated because the existing businesses are located in plazas with multiple businesses and the proposed third establishment is downtown where there is public parking and street parking.

Mr. Knight asked if the ordinance could include language such as *'if there is parking under your control'*.

Ms. Hammond noted the proposed ordinance states the business will be closed between 2:00 a.m. and 8:00 a.m. She is curious if the current business have been approached with the proposed hours. When she and Ms. Doyle visited one of the businesses, they were told it doesn't get busy until after 11:00 p.m.

Deputy Director/Police Hardesty didn't disagree that the busier times are after 11:00 p.m., but that is generally when the issues begin. With the other communities cutting their hours, those customers then come to Auburn Hills, particularly Exhale, and the overcrowding begins as well as a number of other issues.

Ms. Hammond questioned the line in the ordinance *'only three (3) employees shall remain on the premises after midnight'*.



Deputy Director/Police Hardesty explained the idea is a cleaning crew; not one or two that may be in the business under other circumstances that might not be appropriate.

Ms. Hammond understands it to read that there must be three employees after midnight.

Deputy Director/Police Hardesty stated it isn't an integral part of the ordinance.

Ms. Hammond hopes it will be corrected before adoption at the next meeting.

Ms. Doyle believes it is a good idea for Council Members to visit these establishments prior to voting on an ordinance, such as she and Ms. Hammond did.

Continuing, Ms. Doyle read from the memo *crowds overflowing into parking areas and impeding on nearby businesses, leaving behind trash, broken alcohol bottles and debris, incidents requiring police response, fights, alcohol possession on unlicensed premises, traffic, noise, and complaints from neighboring businesses and residents* and asked if the same doesn't apply to bars.

Deputy Director/Police Hardesty stated he didn't have specific data with him, but what law enforcement does have is the ability to cite those with a violation and to bring them before City Council or the State to repeal their license. Currently while a ticket can be written, there is no ability to bring a smoking lounge owner before Council and the State has not offered the conditions of how a license from a smoking lounge can be repealed.

Ms. Doyle stated this ordinance would then give the City the ability to enforce violations.

Deputy Director/Police Hardesty stated the ordinance would allow enforcement action and if the business doesn't operate within the confines of the law, that Council could take action to either suspend or repeal the license.

Ms. Doyle is concerned with the City arbitrarily determining the businesses close at midnight. West Bloomfield allows these businesses to stay open until 2:00 a.m. as are bars. With Auburn Hills now being known as a university community, this is one place where young people under the age of 21 can legally gather. Not all the people smoke, it is a gathering place for young people. She supports and ordinance, but staying open until 2:00 a.m.; the ordinance can always be amended.

Mr. Auger stated research data shows after midnight is when the City spends an exorbitant amount of patrol time at the businesses between midnight and 2:00 a.m. It may have something to do with the other communities closing at midnight and then coming to Auburn Hills. Many calls come in after midnight from residents for disturbances in the neighborhood.

Deputy Director/Police Hardesty confirmed for Ms. Doyle the other smoking lounge has received no complaints. The complaints come from residents behind Exhale, but he doesn't know the exact number. There have been citations issued for an underage occupant; once for overcrowding, and cited people outside for noise complaints.

Director Olko explained the individual who lives behind Exhale did not call the police directly; instead the complaints were directed to the City Manager, the Community Development department and herself. The individual didn't want to call the police directly for fear of retribution.

Ms. Doyle noted one of the other community's ordinance mentioned people needed to leave the facility by a certain hour, not the closing time; would this ordinance contain the same provision.

Deputy Director/Police Hardesty stated there would be the closing time for customers to leave, but allow time for staff to close up and then to leave.

**Moved by Knight; Seconded by Verbeke.**

**RESOLVED: To approve Ordinance No. 13-856 to amend Chapter 10 of the Auburn Hills Code of Ordinances, as amended, to add Article III, "Smoking Lounges Ordinance" and to place the Ordinance on first reading with public hearing and action at the next Council meeting November 18, 2013.**

Ms. Doyle asked if Council was open to changing the closing time to 2:00 a.m.

**Moved by Doyle; Seconded by Hammond.**

**RESOLVED: To amend the previous motion to extend the hours of operation, being closed from 2:00 a.m. until 8:00 a.m.**

**VOTE: Yes: Doyle, Hammond**

**No: Kittle, Knight, McDaniel, McDonald, Verbeke**

**Motion failed (2-5)**

**Resolution No. 13.11.208**

*Mayor McDonald asked for a vote on the main motion.*

Mr. Knight explained he voted against extending the hours, noting the ordinance can be amended.

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.209**

**10. COMMENTS AND MOTIONS FROM COUNCIL**

Mr. McDaniel:

- Thanked his father and all the veterans for their service and their families, and for all the sacrifices made to keep all us free in the United States of America.
- This is the last full Council meeting that Mayor McDonald and Ms. Doyle will be attending to conduct City business. He thanked Mayor McDonald for his 24 years of service on Council, with half of that time serving as the Mayor. Thanked Ms. Doyle for her contributions on Council for the last four years.

Mr. Kittle:

- Applauded those residents who came to this evenings meeting and spoke out on the oil/gas drilling and fracking. He is looking forward to becoming more educated on the subject in a public forum and on his own.
- He had asked at the last meeting about the Orion Township fire department situation and asked Mr. Auger if he had any new information.

Mr. Auger explained it was an already done-deal with a developer in a land swap on Silverbell, at Eagle Valley. There will be more conversations on service sharing.

- Received a phone call from Rizzo, a trash hauling company and are looking at a waste transfer station at the old Fiero plant on Baldwin. There could be traffic concerns and something that may be developing.
- Asked if there is a requirement for commercial and residential back-flow testing for the lawn sprinkler control valves on the sides of people's houses.

Mr. Melchert stated yes there is, typically every three years.

Mr. Kittle stated he received a letter for both his business and his home, and has lived in Auburn Hills for 15 years and has never received a letter in the past.

Mr. Melchert stated the test must be done for the sprinkler systems. The tests were initiated five years ago, starting at one area of the City and working through the City; not everyone all at one time.

Ms. Hammond:

- Reminded everyone there is a craft fair at the Community Center this Saturday, November 16<sup>th</sup>, from 9:00 a.m. until 5:00 p.m.
- She has noticed heading west on Auburn Road, from Adams Road, there a number of cars that continue to travel side-by-side when there are no cars parked. She believes the lines are not as visible to drivers as they need to be.
- Thanked the Veterans for their service.
- Thanked Ms. Doyle and Mayor McDonald noting they will both be missed.

Mr. Knight:

- Noted he attended a fundraiser for the Optimist Club, at a poker parlor in Utica, and asked if they were allowed in the City.
- Read recently that Ford released a natural gas taxi fleet that are being used in several large cities.
- GM at their Toledo transmission plant is going to generate 3% of their energy from the solar panels on their building roof. As the City continues talking about green buildings, he would hope to include greater use of solar panels.
- He was in the Thumb area and noticed there are almost 200 windmills there. A few years ago he inquired if one or two windmills could be constructed new the water tower and asked if that was a dead issue.
- He wanted to commend the Planning Commission for putting together an outstanding plan of what they will be pursuing over the next several meetings.
- Noted in the newspaper today there was an article about Oakland University, and the address published was Auburn Hills, MI.
- Referring to the hot topic of oil drilling, he asked that the City Attorney check with Ann Arbor to see what type of ordinance they have adopted restricting the oil drilling.
- Thanked Mayor McDonald and Ms. Doyle for their splendid service.

Ms. Verbeke:

- She would like to have a workshop discussion regarding the oil drilling sooner than later.
- Asked about the pothole on southbound Joslyn Road and when it should be expected to be fixed.  
Mr. Melchert stated he will get back with the Road Commission and get an answer.

Ms. Doyle:

- This is her last official business meeting of her four year term on the City Council and she wants to thank everyone. First the residents who trusted her to be a voice on Council for them. Second the staff, for educating her. This is an incredible City and she has always been proud to live in Auburn Hills and proud to be a City Council person, because of the integrity, the financial strength, the wisdom, the excellent decisions that have

been made. Lastly, her incredible Council Members, this has been an excellent Council, with respect for each other and each bring a different experience to the table and people don't always agree, but they listen and have healthy discussions.

- She cares about the drilling and fracking and hopes the residents will keep her informed with developments.
- Thanked Mr. Kittle for the Squirrel Road point of keeping residents informed.
- Keep the heat on Oakland University to remind them of where they are really located.

Mayor McDonald:

- It has been an honor and a privilege to serve the residents of the City for the last 24 years. The staff has been great; the City Manager and the Assistant City Manager are two of the best City Managers around. Council has made some good decisions on tuff choices and may have jeopardized their standing in an election, He has told people he has always made decisions that is best for the City. He thanked everyone and asked Council to keep the City moving forward.

**11. CITY ATTORNEY'S REPORT** – none.

**12. CITY MANAGER'S REPORT**

- In reviewing some issues with staff this morning, and there are about a dozen new projects that will be coming before Council soon

**13. EXECUTIVE SESSION** – Labor Negotiations

**Moved by McDaniel; Seconded by Hammond.**

**RESOLVED: To adjourn to Executive Session to discuss labor negotiations.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.210**

*City Council adjourned to Executive Session at 8:52 pm. and reconvened the regular meeting 9:33 pm.*

**Moved by McDaniel, Seconded by Knight.**

**RESOLVED: To approve the collective bargaining agreement between the City of Auburn Hills and the Auburn Hills Police Officers' Labor Council representing Police Officers and Police Service Officers, as presented by Assistant City Manager Tanghe, for the period covering January 1, 2014 through December 31, 2017. Furthermore, authorize the Mayor, City Clerk, and Assistant City Manager to execute the agreement on behalf of the City.**

**VOTE: Yes: Doyle, Hammond, Kittle, Knight, McDaniel, McDonald, Verbeke**

**No: None**

**Motion Carried (7-0)**

**Resolution No. 13.11.211**

**14. ADJOURNMENT**

The meeting adjourned at 9:34 pm.

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James D. McDonald, Mayor

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Terri Kowal, City Clerk