CALL TO ORDER: Mayor McDaniel at 7:00 p.m.

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

Present: Mayor McDaniel, Council Members Burmeister, Kittle, Knight, Moniz, and Verbeke

Absent: Council Member Hammond

Also Present: City Manager Tanghe, City Attorney Beckerleg, City Clerk Pierce, Lt. Gagnon, DPW Director Melchert, Director of Community Development Cohen, Management Intern Thomas.

10 Guests

4. APPROVAL OF MINUTES
4a. Regular City Council Minutes – January 8, 2018

Moved by Kittle, Seconded by Verbeke.

RESOLVED: To approve the City Council Minutes of January 8, 2018.

VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke

No: None

Resolution No. 18.01.010

Motion Carried (6 - 0)

5. APPOINTMENTS AND PRESENTATIONS

6. PUBLIC COMMENT

7. CONSENT AGENDA
7a. Board and Commission Minutes

7a1. Planning Commission – January 10, 2018

7b. Motion – Approve the Performance Resolution for Governmental Agencies Annual Permit for Work on State Highway Right-Of-Way.

RESOLVED: To approve the “Performance Resolution for Governmental Agencies” as required by MDOT for the purposes of receiving the 2018 annual permit for miscellaneous operations within the State highway right-of-way. (Attachment A)

Moved by Verbeke, Seconded by Moniz.

RESOLVED: To approve the Consent Agenda.

VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke

No: None

Resolution No. 18.01.011

Motion Carried (6 - 0)

8. OLD BUSINESS
8a. Public Hearing/Motion – Adopt an Ordinance Amending Chapter 46, Article VIII, Section 46-242, Minor in Possession of Alcoholic Liquor.

Lt. Gagnon explained that a memo was provided for Council stating the specific circumstances and changes to the ordinance regarding minors in possession.

Mayor McDaniel opened the Public Hearing at 7:04PM. Hearing no comment, he closed the Public Hearing
at 7:04PM.

Moved by Knight, Seconded by Verbeke.
RESOLVED: To adopt an ordinance to amend Chapter 46, Article VIII, Section 46-242 of the City Auburn Hills Code of Ordinances, Minor in Possession of Alcoholic Liquor.
VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke
No: None
Resolution No. 18.01.012 Motion Carried (6 - 0)

8b. Public Hearing/Motion - Adopt an Ordinance Amending Chapter 70, Article IX, Section 70-421, Traffic and Vehicles, High Bodily Alcohol Content Operating While Intoxicated offenses.
Lt. Gagnon stated that recent legislation has enabled local communities to enforce 1st offense “High BAC” or High Bodily Alcohol Content Operating While Intoxicated offenses as violations of local ordinance rather than as state law. Local adoption of an ordinance must make provisions for enhanced penalties that exceed the general 90 or 93 day maximum penalty under the City’s code of ordinances. The proposed amendment will allow for the local enforcement of High BAC violations and all other violations of the Michigan Vehicle Code punishable by 93 days or less as violations of the City’s Motor Vehicle Code.

Mayor McDaniel opened the Public Hearing at 7:06PM. Hearing no comment, he closed the Public Hearing at 7:06PM.

Moved by Knight, Seconded by Burmeister.
RESOLVED: To adopt an ordinance to amend Chapter 70, Article IX, Section 70-421 of the City Auburn Hills Code of Ordinances, Traffic and Vehicles.

Mr. Kittle asked for clarification between the two ordinances. Lt. Gagnon clarified that this ordinance is a 108 day misdemeanor while the previous ordinance is a civil infraction changed to a first offense. Lt. Gagnon stated that the difference between these two ordinances is that this current ordinance discusses the issue of operating a vehicle while being intoxicated vs. the previously discussed ordinance, a minor in possession, could be a minor just holding a case of beer or consumption but not operating a vehicle.

VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke
No: None
Resolution No. 18.01.013 Motion Carried (6 - 0)

9. NEW BUSINESS
9a. Motion - Approval of One-Year Extension of Site Plan and Tree Removal Permit / Cunningham-Limp Development Company - Pacific Drive Development
Mr. Cohen presented the request of Cunningham-Limp Development Company for a one year extension to construct a 50,000 square foot light industrial building at the northeast corner of Pacific Rd and Taylor Rd. He stated that this project was originally presented to Council on Feb 27, 2017.

Mr. Steven Schimpke the business development manager of Cunningham-Limp stated that they have several companies interested in this area and they anticipate construction to begin in the 2nd quarter of 2018.

Mr. Kittle asked why some companies wait to start building a facility while others build a speculative building first. Mr. Schimpke stated that there is a level of risk with this type of a project, but they feel confident with this site. He stated that it is nice for the builders to have a say in what they want and with the end results.
Moved by Verbeke, Seconded by Moniz.

RESOLVED: To approve a one-year extension of the Site Plan and Tree Removal Permit for Pacific Drive Development. The approval shall expire on February 27, 2019.

Ms. Verbeke stated that the resolution states that this approval will expire on February 27, 2019. She asked Mr. Cohen to clarify if this one year extension means that they have to start construction before this date or do they need to have the project complete.

Mr. Cohen clarified that the past practices of the City has been to pull a permit then begin construction within 6 months. However, the plan for this development is to start construction this year.

VOTE:  Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke

No: None

Resolution No. 18.01.014 Motion Carried (6 - 0)

9b. Motion – Approval of Special Land Use Permit / The HUB Stadium - 2550 Takata Drive

Mr. Cohen stated that this is a request for approval to add an automatic changeable copy sign to the existing sign for the HUB which is located at the south-east corner of Takata Drive. The height of the sign will remain at 18 feet with the condition that the LED portion of the sign not exceed 10 feet in height. The Auburn Hills Zoning Board of Appeals granted the applicant a height variance, allowing the height of the sign to extend an additional 8 feet beyond the 10 foot height limit. The HUB has agreed to display Amber Alerts and emergency messages when requested by the Police Department.

Mr. Gary Tenaglia, owner of the HUB stated that he is lacking signage in the front. His goal is that the message board will change from week to week to help promote events, and various food/menu items. Mr. Tenaglia stated that this sign should be a significant help to the restaurant portion of the business.

Mr. Moniz asked if there are plans for a banquet facility. Mr. Tenaglia stated that he is thinking about it. He will look at the addition of a banquet facility to make sure it is a good investment before he proceeds.

Moved by Moniz, Seconded by Knight.

RESOLVED: To accept the Planning Commission’s recommendation and approve the Special Land Use Permit for the HUB Stadium’s Automatic Changeable Copy Sign subject to the conditions of the administrative review team.

VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke

No: None

Resolution No. 18.01.015 Motion Carried (6 - 0)

9c. Motion – Approval of Special Land Use Permit and Site Plan / Mobil – 810 N. Opdyke Road

Mr. Cohen presented the request from Ghafari Realty Group, LLC for removal of the existing Mobil gas station and the construction of a ten pump gas station and convenience store located at the northeast corner of North Opdyke and Featherstone Road. To ensure the site will accommodate the proposed use the Ghafari Realty Group intends to purchase part of the vacant parcel to the east, which will be combined with the existing 0.70 acre parcel where the gas station now sits. Mr. Cohen stated that there is excitement about this project as it will help to improve the aesthetics of Opdyke Rd which has been a goal of City Council.

Mr. Cohen explained that the Ghafari Group also agreed to the removal of 2 driveway approaches, with the encouragement of the Police Department, to help improve traffic safety. Construction is expected to begin this spring and will take approximately 5 months to complete. This project is expected to be just under $1
Million dollars.

Mr. Louis Ghafari, owner of Ghafari Realty Group, stated that he is very excited to help the community and to improve the image of the City in this area.

Mr. Burmeister questioned if Mr. Ghafari was aware of the new Mobil gas station at Pontiac Rd and University Dr. and how this will effect his new gas station. Mr. Ghafari stated that this should not effect his business at all.

Mr. Knight stated his concerns that there are too many gas stations around the City however, this addition brings a very positive aspect to the City. Mr. Knight thanked Mr. Ghafari for investing in the City. Mr. Ghafari stated that he is committed to this project and hopes to be a role model to the other gas stations in this area.

Mr. Kittle stated that he has been outspoken about gas stations but, he feels this one is state of the art and will be a great improvement to the area.

Moved by Knight, Seconded by Moniz.
RESOLVED: To accept the Planning Commission’s recommendation and approve Special Land Use Permit and Site Plan for the Mobil Gas Station and Convenience Store subject to the conditions of the administrative review team.

VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke
No: None

Resolution No. 18.01.016 Motion Carried (6 - 0)

9d. Motion – Approval of Special Land Use Permit / J.A.R. Development Company - 1220 Pacific Drive

Mr. Cohen presented the Special Land Use Permit request from J.A.R. Development Company (J.A.R.) to allow the overnight outside storage of semi-trucks on property located behind the building they are currently constructing near the southeast corner of Joslyn Road and Pacific Drive.

Mr. Jared Roth, owner of J.A.R. Development, stated that he is in the process of securing a corporate headquarters for the new facility, which was originally approved for construction by the City Council on July 24, 2017. The new tenant will need to store several trucks in the parking lot.

Mr. Cohen stated that staff has worked closely with Mr. Roth to place the semi-trucks in a location as to not be a nuisance for the residents. The trucks would primarily be utilized for testing purposes, thus will not be left running or used for loading/unloading where noise or odor could be a concern.

Mayor McDaniel asked for the process to revoke a Special Land Use Permit should it become a burden to the community. Mr. Cohen stated that the staff would ask the company to come into compliance with the approval that was given. He stated that if the company does not comply, then the Planning Commission and the City Council would be notified and would have the opportunity and the authority to revoke the permit.

Ms. Verbeke expressed concern with trucks pulling off I-75 and making this area a truck stop. She recalled that this was a large concern for many in the past and wanted to ensure that this would not happen again.

Mr. Roth confirmed that there had been a problem with this area in the past, but with the help of the Police Department, the problem was addressed. Mr. Roth stated that the area in the back is parking for the tenant. It is no longer convenient for trucks to stop where they once did.
Ms. Verbeke shared her parking concerns and asked how many trucks will be allowed in this location for parking. Mr. Roth stated that he is asking for a 10 truck parking area. Mr. Roth explained this is for large trucks. He does not have a full list of trucks but stated the variety of trucks that will be stored in this area will be only until testing is done. No testing will take place in the storage area.

Mr. Moniz questioned if Mr. Roth had a tenant. Mr. Roth stated that this is one more step in the process to obtaining the tenant.

Mayor McDaniel stated that he appreciated the diligence Mr. Roth has put into this project. He shared that by looking at the project there is a rather large buffer separating the business with the residents.

Mr. Cohen explained to Mr. Burmeister that Mr. Roth sent a notification letter to everyone within 1000 ft., and that a public notice was given as well.

Mr. Roth stated that at the request of the City he called and sought out concerns from a few residents in that area. He was informed of a few concerns, like keeping the back property mowed and has since rectified the problem. Mr. Roth stated that with the retention pond, the trees at this location and his building in relation to the neighbors, there should not be any problems.

Moved by Burmeister, Seconded by Moniz.

RESOLVED: To accept the Planning Commission's recommendation and approve the Special Land Use Permit for J.A.R. Development Company - 1220 Pacific Drive subject to the conditions of the administrative review team.

VOTE:  Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke  
No: None  

Resolution No. 18.01.017  
Motion Carried (6 - 0)

10. COMMENTS AND MOTIONS FROM COUNCIL

Mr. Knight –

• Stated his disappointed on nights like this that the roads are not striped. He wished this could have been done prior to winter. It’s hard for the older people to see without the striping.

• Shared an article on the original naming of the City of Auburn Hills.

Mr. Kittle –

• Questioned the development taking place at 3250 Auburn Rd. Mayor McDaniel shared that he will talk about this at the State of the Community Breakfast.

• Questioned if Clubhouse 81 ever received their State approval and opened their cigar bar. Mr. Cohen will check on it.

• Stated that he is not able to make it to the State of the Community Breakfast.

Ms. Verbeke –

• Commented on the recognition breakfast held at the Community Center for the Martin Luther King Holiday. She thought it was great and thoroughly enjoyed it. Thank you to Karen Adcock and Pastor Johnson for all that they did.

Mr. Moniz –

• Agreed with Ms. Verbeke and thought the event at the Community Center was a great program, very well done.

• Questioned how the DPW equipment was holding up. Mr. Melchert stated that the equipment is holding up well and that there was only one major repair that was needed, a transmission on a dump truck. All the other repairs that were needed were minor and have been done in house.

• Questioned if there has been enough salt or if there is a shortage. Mr. Melchert shared that this winter
there has been less plowing and scrapping and more chemical use due to the cooler temperatures. Last week an order was placed to the Detroit Salt Company to replenish the supplies. At this time they have not received the order but there is no reason to be concerned. He will follow up with the salt company to make sure the order is fulfilled.

- Asked Mr. Melchert to inform the DPW staff that City Council appreciates the great job with the roads.

Mr. Burmeister –
- Questioned the site on Walton, Northern Sign. Mr. Cohen stated that this property has struggled with different issues. They are a small business and did not have all the proper permits pulled. They have been struggling with delays with the utilities.
- Questioned if there are any other delays with projects in the City. Mr. Cohen will send a list of projects through Mr. Tanghe to the Council as to what projects have been approved and where they are in the process of construction.

Mayor McDaniel -
- The State of the Community Breakfast will be held Thursday at 8AM at Baker College. He shared that the staff has been working hard this past year and the City will be impressed with the developments. He shared that building permits are on the rise and that there are great things going on in the City.

11. CITY ATTORNEY’S REPORT
12. CITY MANAGER’S REPORT
13. EXECUTIVE SESSION
13a. Consideration and Discussion of City Attorney’s Opinion Letter
    Moved by Kittle, Seconded by Verbeke.
    RESOLVED: To meet in Executive Session to consider and discuss the City Attorney’s Opinion Letter.
    VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Moniz, Verbeke
    No: None

Resolution No. 18.01.018

Motion Carried (6 - 0)

City Council recessed to executive session at 7:44 PM.
City Council reconvened in open session at 8:48 PM

14. ADJOURNMENT
    Hearing no objections, the Mayor adjourned the meeting at 8:48 PM.
PERFORMANCE RESOLUTION
FOR GOVERNMENTAL AGENCIES

This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Highway Right of Way", or an "Annual Application and Permit for Miscellaneous Operations within State Highway Right of Way".

RESOLVED WHEREAS, the City of Auburn Hills (city, village, township, etc.)

hereinafter referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party here-to a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

2. If any of the work performed for the GOVERNMENTAL AGENCY is performed by a contractor, the GOVERNMENTAL AGENCY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the GOVERNMENTAL AGENCY. Failure of the GOVERNMENTAL AGENCY to require its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.

3. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY.

4. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
5. The GOVERNMENTAL AGENCY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCY’s facilities according to a PERMIT issued by the DEPARTMENT.

6. With respect to any activities authorized by a PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

7. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

8. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the GOVERNMENTAL AGENCY.

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<th>Title and/or Name</th>
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<tr>
<td>City Manager</td>
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<td>Assistant City Manager</td>
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<td>Director of DPW</td>
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<td>Deputy Director (s)</td>
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<td>Manager of Municipal Properties</td>
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<td>Manager of Fleet &amp; Roads</td>
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<td>Manager of Public Utilities</td>
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I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by the 

CITY COUNCIL

(Name of Board, etc)

of the CITY OF AUBURN HILLS of OAKLAND COUNTY

(Name of GOVERNMENTAL AGENCY)

(County)

at a REGULAR meeting held on the 22nd day

of JANUARY A.D. 2018.

Signed ________________________ Title ______________

LAURA M. PIERCE