November 2013
(11-12-13)

11 Tax Incentive Review Committee, 5:30 p.m., Admin Conference Room ❖ CANCELED
11 City Council, 7:00 p.m., Council Chamber ◆
12 Tax Increment Finance Authority, 4:00 p.m., Admin Conference Room ❖ CANCELED
13 Retiree Health Care/Pension Board, 11:00 a.m., Admin Conference Room ❖ TIME CHANGE
14 Zoning Board of Appeals, 7:00 p.m., Council Chamber ◆ CANCELED
18 City Council, 7:00 p.m., Council Chamber ◆
19 Library Board, 4:30 p.m., Library ◼ LOCATION CHANGE
19 Beautification Advisory Commission, 6:00 p.m., Council Conference Room◆ ADDED
19 Brownfield Redevelopment Authority, 6:00 p.m., Admin Conference Room ◆ ADDED
26 Planning Commission, 7:00 p.m. Council Chamber ◆
December 2013
(11-12-13)

02 City Council, 7:00 p.m., Council Chamber

09 Tax Incentive Review Committee, 5:30 p.m., Admin Conference Room

10 Tax Increment Finance Authority, 4:00 p.m., Admin Conference Room

10 Library Board, 4:30 p.m., Library  LOCATION CHANGE

10 Planning Commission, 7:00 p.m. Council Chamber

12 Zoning Board of Appeals, 7:00 p.m., Council Chamber

16 City Council, 7:00 p.m., Council Chamber

◆ City Council Chamber (Conf. Rm.) – 1827 N. Squirrel Road

❖ Administrative Conference Room – 1827 N. Squirrel Road

◆ Public Safety Building – 1899 N. Squirrel Road

❖ Community Center – 1827 N. Squirrel Road

❖ Department of Public Services (DPS) – 1500 Brown Road

❖ Fieldstone Golf Course - 1984 Taylor Road

❖ Library - 3400 Seyburn Drive

❖ Downtown City Offices – 3395 Auburn Road, Suite A
The City of Auburn Hills
Regular City Council Meeting

Monday, November 18, 2013 * 7:00 p.m.

AGENDA

Council Chamber  ◆  1827 N. Squirrel Road  ◆  Auburn Hills MI
248-370-9402  ◆  www.auburnhills.org

1. MEETING CALLED TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL OF COUNCIL
4. APPROVAL OF MINUTES
4a. Regular City Council – November 11, 2013
5. APPOINTMENTS AND PRESENTATIONS
6. OATH OF OFFICE
7. ADJOURNMENT – Reception
8. MEETING CALLED TO ORDER
9. ROLL CALL OF COUNCIL
10. ELECTION OF MAYOR
11. ELECTION OF MAYOR PRO TEM
12. PUBLIC COMMENT
13. 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.
13a. Purchase of John Deere Tractor with Implements
14. OLD BUSINESS
14a. Public Hearing /Motion – Ordinance 13-856 Repeal Mechanical Amusement Device Licensing
14b. Public Hearing / Motion – Ordinance 13-856 Hookah Lounge Ordinance
14c. Motion - Approve Resolution MDOT/ Squirrel Court
15. NEW BUSINESS
15a. Motion – Approve City Council 2014 Meeting Schedule
16. COMMENTS AND MOTIONS FROM COUNCIL
17. CITY ATTORNEY’S REPORT
18. CITY MANAGER’S REPORT
19. ADJOURNMENT

City Council meeting minutes are on file in the City Clerk’s office.  NOTE: Anyone planning to attend the meeting who has need of special assistance under the Americans with Disabilities Act (ADA) is asked to contact the City Clerk’s Office at 370-9402 or the City Manager's Office at 370-9440 48 hours prior to the meeting.  Staff will be pleased to make the necessary arrangements.
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
   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
   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
   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
   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 Clamptt, 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 Lenawee 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 be 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, which may become unusable for humans.
- Possibility of pumping the ruined water back under the well sites with potential 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 the 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. Publicly 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, he gave a copy to City Manager Auger.

Mr. McDaniel asked both Mr. Auger and/or Mr. Beckerleg if before any drilling occurs in the City, whether private or public land, will Council have an opportunity to discuss the process or find out if the City can restrict any or all of the drilling or 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, it cannot be done.

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.

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?
City Council Minutes – November 11, 2013

Page 3

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 so as to 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, a 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, the well can be drilled within 200 feet or less of existing structures with property owner’s permission, and there are no minimum easements from sensitive areas such as DEQ conservation areas, wetlands or the Galloway Creek.

His concern, along with his neighbors, is the impact on surrounding residential areas. 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, 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 on what can be regulated and how it is regulated, but it can be done.

He too, would like 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, as short-term financial gains will be 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. 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 did not have control over the wells being drilled in their community. There is a Community Bill of Rights, developed by an environmental legal defense fund, which is available for communities to use to draw up their own bill of rights. It could list 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, and in Alabama, where a train accident left 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 to 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; 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; the 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) 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/7 days a week, without rising 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 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, such as an ambulance, 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, $45,000 machines, 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 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 believes model four would be more a wash 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 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, about 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 have 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, 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.

MOVED: 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 be responsible 100% for providing the services and being able to control what those services are.

Mayor McDonald stated he understands Mr. Kittles’ 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.

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.

MOVED: 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 public safety. 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. McDanie l 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 decided 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 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. After almost a year of staff studying and investigating, they have come up with this model. He is in favor of supporting this.

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

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, so 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 carry over 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

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 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 to 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. Kittel asked how this proposed ordinance and the repeal of the previous item dovetail 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 were 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 businesses 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 an 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. It may have something to do with the other communities closing at midnight and the customers 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. 13-857 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 who 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.

- 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 16th, 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 by 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. 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 tough choices and may have jeopardized their standing in an election. He has told people he has always made decisions that he felt was 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.
INTRODUCTION AND HISTORY
The City of Auburn Hills owns a 2002 Toro Groundsmaster, which was first examined for replacement in 2011, again in 2012 and deemed appropriate for replacement in 2013 due to its increasing maintenance fees, age, cost and inability to obtain replacement parts. This piece of equipment is used by the Parks & Grounds Division for mowing in Spring & Summer, leaf blowing in the Fall and sweeping and blowing snow in Winter.

The Fleet Division solicited for bids for a 2013 or newer tractor/loader on October 9, 2013. Fifty-six (56) vendors were sent specifications and invitations to bid. On October 23, 2013, the bid opening was held in the Clerk’s office and seven (7) bids were received. All vendors met minimum specification with the following results:

<table>
<thead>
<tr>
<th>COMPANY NAME</th>
<th>ADDRESS</th>
<th>Sub Total</th>
<th>Trade In Option</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tri-County Equipment</td>
<td>989 W. Sanilac Sandusky, MI 48471</td>
<td>$21,800.00</td>
<td>$7,700.00</td>
<td>$14,100.00</td>
</tr>
<tr>
<td>Munn Tractor Sales, Inc.</td>
<td>3700 Lapeer Road Auburn Hills, MI 48326</td>
<td>$30,475.00</td>
<td>$0.00</td>
<td>$30,475.00</td>
</tr>
<tr>
<td>Weingartz</td>
<td>5858 Dixie Highway Clarkston, MI 48346</td>
<td>$25,080.00</td>
<td>$6,000.00</td>
<td>$19,080.00</td>
</tr>
<tr>
<td>D &amp; G Equipment, Inc.</td>
<td>2 Industrial Park Dr. Williamston, MI 48895</td>
<td>$22,587.48</td>
<td>$4,300.00</td>
<td>$18,287.48</td>
</tr>
<tr>
<td>D &amp; G</td>
<td></td>
<td>$27,198.75</td>
<td>$4,300.00</td>
<td>$22,898.75</td>
</tr>
<tr>
<td>Bader &amp; Sons Co.</td>
<td>28342 Pontiac Trail South Lyon, MI 48178</td>
<td>$21,850.00</td>
<td>$3,350.00</td>
<td>$18,500.00</td>
</tr>
<tr>
<td>Wolverine Rental &amp; Kubota Sales</td>
<td>5475 S State Rd Ann Arbor, MI 48108</td>
<td>$22,971.00</td>
<td>$4,000.00</td>
<td>$18,971.00</td>
</tr>
</tbody>
</table>

Of the seven vendors who met specifications, Tri-County Equipment was low bidder. Tri-County bid a John Deere 1026R tractor, H120 loader and Sweepster broom. They also offered the highest dollar amount ($7,700) for the trade in option of our 2002 Toro Groundsmaster.
There are sufficient funds in the 2013 Fleet budget to cover the purchase of this piece of equipment.

**STAFF RECOMMENDATION**

The Department of Public Works Fleet Division and Parks & Grounds Division recommend the purchase of a 2013 John Deere tractor/loader/sweeper be awarded to Tri-County Equipment, 989 West Sanilac, Sandusky, MI 48471 at a total cost of $14,100.

**MOTION**

Move to award the bid for a 2013 John Deere tractor/loader/sweeper to Tri-County Equipment, 989 West Sanilac, Sandusky, MI 48471 at a total cost of $14,100.

I CONCUR: ______________ on behalf of

PETER E. AUGER, CITY MANAGER
INTRODUCTION AND HISTORY

Since at least 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 establishments vary slightly but currently there are about 14 places in the City with devices that fall under the ordinance. Each of these establishments must pay $250 annually to be licensed for the first device and another $50 for each additional device. The licenses expire each year on March 31. The licensing requires inspections by police, fire and building departments, a significant investment of personnel time. While there may have been a concern at one point for the welfare of the community’s youth, changes in technology and social norms have made the regulation of these devices unnecessary. While state law does not require cities to regulate the devices, it does permit them to be regulated. We have consulted with City Attorney, Mr. Beckerleg who advised that it is legally permissible to repeal.

Licensed locations include Rainforest Café, Jeepers, Bass Pro, Duffy’s Pub, Meijer’s, Red Ox, to name a few. We believe that the license serves no purpose but to unnecessarily burden businesses in the community.

Repeal requires the same process as enacting an ordinance: the proposed repeal is in an Ordinance format and should be placed on first reading at this meeting and at a second subsequent meeting there should be a public hearing and action on the repeal.

STAFF RECOMMENDATION

Staff recommends approval of the Ordinance to repeal of Articles III, Mechanical Amusement Devices, Video Games and Pool Tables, of Chapter 10, “Amusements and Entertainments.”

MOTION

Move to adopt an ordinance to amend Chapter 10, to repeal Article III “Mechanical Amusement Devices, Video Games and Pool Tables” on second reading, to be known as Ordinance No. 13-856.

I CONCUR:  

PETER E. AUGER, CITY MANAGER
Chapter 10

AMUSEMENTS AND ENTERTAINMENTS*

Article I. In General
Secs. 10-1—10-25. Reserved.

Article II. Places of Public Entertainment or Amusement
Sec. 10-26. Entry upon performance or playing area.
Sec. 10-27. Entering with beverage containers or missile-like objects.
Sec. 10-28. False reports of emergencies.
Sec. 10-29. Throwing of beverage containers or missiles.
Sec. 10-30. Spectators entering with alcoholic beverage.
Sec. 10-31. Occupying seat or area without permission.
Secs. 10-32—10-50. Reserved.

Article III. Mechanical Amusement Devices, Video Games and Pool Tables
Division 1. Generally
Sec. 10-51. Definitions.
Sec. 10-52. Penalty for violation.
Secs. 10-53—10-56. Reserved.

Division 2. License
Sec. 10-66. Operator required to obtain.
Sec. 10-67. Application.
Sec. 10-68. Proof of insurance.
Sec. 10-69. Restrictions and prohibitions.
Sec. 10-70. Fee.
Sec. 10-71. Term.
Sec. 10-72. Granting.
Sec. 10-73. Display.
Sec. 10-74. Renewal.
Sec. 10-75. Revocation or suspension.
Sec. 10-76. Inspections.
Secs. 10-77—10-90. Reserved.

Division 3. Regulations
Sec. 10-91. Gambling or intoxicating beverages.
Sec. 10-92. Redemption games.
Sec. 10-93. Frequenting of premises by minors.
Sec. 10-94. Proof of age.
Sec. 10-95. Public nuisance.
Sec. 10-96. Disorderly conduct.
Sec. 10-97. Overcrowding.
Sec. 10-98. Location.
Sec. 10-99. Variances.
Sec. 10-100. Exceptions.

*Cross references—Administration, ch. 2; alcoholic liquors, ch. 6; businesses, ch. 22.
State law references—Offenses relating to public exhibitions and entertainment, MCL 750.463 et seq., MSA 28.718 et seq.; offenses concerning coin-operated devices, MCL 752.811, MSA 25.643(101).
ARTICLE I. IN GENERAL

Secs. 10-1—10-25. Reserved.

ARTICLE II. PLACES OF PUBLIC ENTERTAINMENT OR AMUSEMENT

Sec. 10-26. Entry upon performance or playing area.

It shall be unlawful for any person to enter into or upon the performance or playing area of any theater, athletic grounds used for athletic games, stadium, arena, or place of public entertainment or amusement without the permission of the owner, lessee, operator or manager of the premises or his designee.
(Ord. No. 443, § 1, 8-1-88)

Sec. 10-27. Entering with beverage containers or missile-like objects.

It shall be unlawful for any person to enter any theater, athletic grounds used for an athletic game, stadium, arena, or place of public entertainment or amusement with beverage containers or objects capable of being used as a missile in his possession.
(Ord. No. 443, § 2, 8-1-88)

Sec. 10-28. False reports of emergencies.

It shall be unlawful for any person to knowingly utter by spoken word or otherwise any false statement or report in or about, or by communication directed to, any theater, athletic grounds used for an athletic game, stadium, arena, or place of public entertainment or amusement which, if believed, would indicate that the premises, building, structure, patrons, spectators or performers are in imminent danger.
(Ord. No. 443, § 3, 8-1-88)

Sec. 10-29. Throwing of beverage containers or missiles.

It shall be unlawful for any person to cast, throw, hurl or fling a bottle, can, receptacle, beverage container, or any other object or missile which could cause injury or damage in the spectator area, where any athletic contest, exhibition, event, or other performance is conducted, or into or upon the area used for the conduct of such contest, exhibition, event or performance.
(Ord. No. 443, § 4, 8-1-88)

Sec. 10-30. Spectators entering with alcoholic beverage.

It shall be unlawful for any person who is entering a theater, athletic grounds used for an athletic game, stadium, arena, or place of public entertainment or amusement to be a spectator to carry into or transport into such premises any alcoholic beverages.
(Ord. No. 443, § 5, 8-1-88)

Cross reference—Alcoholic liquors, ch. 6.

Sec. 10-31. Occupying seat or area without permission.

It shall be unlawful for any person to occupy a seat or area of any theater, athletic grounds used for an athletic game, stadium, arena, or place of public entertainment or amusement for which a ticket or payment is required for such occupancy, to do so without either having a ticket or having made payment for the occupancy of such seat or area, unless permission for such occupancy was given to the occupant by the person to whom the ticket was issued, or by the person who made payment for the occupancy, or by the owner, lessee, operator or manager of the premises or his designee.
(Ord. No. 443, § 6, 8-1-88)

Secs. 10-32—10-50. Reserved.
ARTICLE III. MECHANICAL AMUSEMENT DEVICES, VIDEO GAMES AND POOL TABLES*

DIVISION 1. GENERALLY

Sec. 10-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mechanical amusement device means any machine or device, mechanical or electronic, which may, upon insertion of a coin, slug or card, operate or be operated or used as a game or contest. The term "mechanical amusement device" shall also mean any machine or device, mechanical or electronic, described in the preceding sentence, which is operated without the necessity of inserting a coin, slug or card to make it operate, but for which an admission is charged to use the machine or device or to enter the room where the machine or device is located in order to use the machine or device.

Operator means a person who is responsible for supervision of the day-to-day operation of the premises upon which mechanical amusement devices, video games or pool tables are located.

Owner means an individual, corporation, partnership, an incorporated association or any other similar entity which holds the equitable title or leasehold interest in the premises upon which mechanical amusement devices, video games or pool tables are located.

Pool table means a pocketed billiard table upon which various games of pool or billiards are played, and shall include any pocketed billiard table which is operated by inserting a coin, slug or card to make it operate and shall also include any pocketed billiard table which is operated without the necessity of inserting a coin, slug or card to make it operate, but for which an admission is charged to use the pocketed billiard table or to enter the room where the pocketed billiard table is located in order to use the pocketed billiard table.

Video game means a game using computer technology, including, but not limited to, a game having a video display.

(Ord. No. 636, 11-2-98)

Sec. 10-52. Penalty for violation.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not more than $500.00 and the costs of prosecution or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this article.

(Ord. No. 636, 11-2-98)

Secs. 10-53—10-65. Reserved.

DIVISION 2. LICENSE

Sec. 10-66. Operator required to obtain.

An operator of premises wherein pool tables, video games or mechanical amusement devices are located shall be required to maintain and hold a license therefor. If an operator is not a natural person, the license shall be issued in the name of the organization, which shall designate a natural person meeting the requirements of this article to act on its behalf.

(Ord. No. 636, 11-2-98)

Sec. 10-67. Application.

Prior to the location of pool tables, video games or mechanical amusement devices on the premises, the operator thereof shall apply for a license from the city. Application shall be made upon a form provided for that purpose by the city clerk. As a minimum, the application shall contain the following information:

1. Name, address and age of operator, plus length of residence within the state.

2. Name and address of owner of premises, plus length of residence within the state.

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*Editor's note—Ord. No. 636, adopted November 2, 1998, amended Art. III in its entirety to read as herein set out. Prior to inclusion of said ordinance, Art. III pertained to similar subject matter. See the Code Comparative Table.
if not a natural person; the name and address of the organization, including the principals of the organization, and if a corporation, the state in which the corporation has filed its articles of incorporation.

(3) Name and address of the owner of mechanical amusement devices, video games and/or pool tables.

(4) Address of premises.

(5) Statement as to whether the operator and owner have ever been convicted of a crime.

(6) Operating statement—Application:
   A. Statement of nature of proposed operation.
      1. Hours and days of week of operation.
      2. Name, address and telephone number of each person who will supervise the operation.
      3. Redemption method, if any.
      4. Description of the proposed code of conduct to be posted and where on the premises it will be posted.
      5. Activities to be used by operator to prevent truancy, loitering and disorderly behavior.

(Ord. No. 636, 11-2-98)

Sec. 10-68. Proof of insurance.

With the application, the applicant shall file with the city clerk certificates of proof of insurance providing to the public general comprehensive liability insurance in the amount of at least $100,000.00 per person and $300,000.00 per occurrence. The certificates or renewals thereof shall provide that the city shall be notified upon discontinuance or alteration of any such insurance coverage for any reason.

(Ord. No. 636, 11-2-98)

Sec. 10-69. Restrictions and prohibitions.

Restrictions and prohibitions are as follows:

(1) Age. No license shall be granted to any person under 18 years of age.

(2) Criminal connection. No license shall be granted if the city council determines that the owner and/or operator have been convicted of a crime that could impact the owner's and/or operator's ability to properly conduct the proposed operation.

(Ord. No. 636, 11-2-98)

Sec. 10-70. Fee.

A fee shall be paid for a license to operate mechanical amusement devices, video games and/or pool tables within the city. The fee shall be based upon the number of mechanical amusement devices, video games and/or pool tables located on the premises under the control or supervision of the applicant. The amount of such fee shall be established on an annual basis by resolution of the city council.

(Ord. No. 636, 11-2-98)

Sec. 10-71. Term.

A license approved by the city council shall continue for a term not to exceed one year, or until March 31, whichever is sooner.

(Ord. No. 636, 11-2-98)

Sec. 10-72. Granting.

(a) Hearing within 60 days. Upon receipt of the application and information required by this division, the city clerk shall submit the same to the city council to be heard at a regularly scheduled meeting within 20 days from the date of receipt of said application and all required information.

(b) Requirements for approval. The city council shall approve a license if it finds:

(1) The applicant has met all the requirements for a license set forth in this article.

(2) The proposed operation will be in compliance with the city zoning ordinance and all other ordinances.
§ 10-72

(3) The premises which the applicant intends to operate is not likely to become a place for loitering and the congregation of persons under the age of 17 years in violation of this article. There exist no particular facts and circumstances pertaining to the premises which, considering the hours of operation and physical location of the mechanical amusement devices, video games or pool tables, would create a public nuisance or violation of the provisions of this article.

(c) Reasonable conditions. In approving the application for license, the city council may establish reasonable conditions not specifically delineated in this article.

(d) Form. A license approved by the city council shall contain the name, address, place of business of the operator and owner and the number of pool tables, mechanical devices or video games to be maintained upon the premises pursuant to such license, as well as any reasonable conditions which have been imposed by the city council. The license shall be authenticated by the signature of the city clerk and shall bear the expiration date of the license.

(Ord. No. 636, 11-2-98)

Sec. 10-73. Display.

A valid license shall be prominently displayed at all times within the premises.

(Ord. No. 636, 11-2-98)

Sec. 10-74. Renewal.

A license issued in accordance with this article may be renewed upon the same terms and subject to the same requirements provided by the city council in this division for the original license. No license issued pursuant to this article shall be assignable or transferable, nor shall any operator, excepting the operator to which the license was issued, be permitted to operate under this article, either directly or indirectly.

(Ord. No. 636, 11-2-98)

Sec. 10-75. Revocation or suspension.

Revocation or suspension of license shall be according to the following procedures:

(1) Basis for action. Any license may be revoked for a violation of any of the provisions of this article and/or violation of any other city ordinance and/or state statute.

(2) Written notice. If violations are observed by the enforcement officers of the city, the city clerk shall forward, by first-class mail to the licensee at the address specified in the application, the nature of the violations, along with a notice of the date, time and location of the hearing to be held on such violations.

(3) Hearing. The hearing shall be held within 14 days from mailing of such notice. The city council may act as the hearing officer or may appoint some other hearing officer to act in its stead. Following the hearing, the city council or hearing officer shall determine whether or not a violation of this article or other city ordinance or state statutes has occurred and, if so, what penalty should be evoked.

(4) Penalty. The city council or hearing officer may revoke or suspend any license issued under this provision for any violation of this article, city ordinance and/or state statute. If a violation is proven, the city council or hearing officer may assess costs for administrative expenses, fees of the hearing officer if one is appointed, and other expenses incurred in the hearing.

(Ord. No. 636, 11-2-98)

Sec. 10-76. Inspections.

The premises of any licensee shall be subject to periodic inspections by the city police department for the purpose of determining whether its operation is in compliance with this and other city ordinances.

(Ord. No. 636, 11-2-98)

Secs. 10-77—10-90. Reserved.
DIVISION 3. REGULATIONS

Sec. 10-91. Gambling or intoxicating beverages.

Gambling or intoxicating beverages shall not be permitted on the premises in which pool tables, mechanical amusement devices or video games are operated; provided, however, that intoxicating beverages may be allowed in establishments having pool tables, mechanical amusement devices and video games if the establishment holds a liquor license issued by the state. (Ord. No. 636, 11-2-98)

Sec. 10-92. Redemption games.

(a) This article does not apply to a redemption games if all of the following conditions are met:

(1) The outcome of the game is determined through the application of an element of skill by the player.

(2) The award of the prize is based upon the players achieving the object of the game or otherwise upon the player's score.

(3) The game only provides non-cash prizes, such as toys, novelties or coupons or other representations of value redeemable for non-cash prizes, toys or novelties.

(4) The wholesale value of a prize, toy or novelty awarded for the successful single play of a game is not more than $3.75.

(5) The redemption value of coupons or other representations of value awarded for the successful single play of a game does not exceed one times the amount charged for a single play of the game, or $3.75, whichever is less. However, players may accumulate coupons or other representations of value for redemption for non-cash prizes, toys or novelties of a greater value up to, but not exceeding, $250.00 wholesale value.

(b) As used in this section, "redemption game" means a single player or multi-player mechanical, electronic or manual amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, propelling or stopping a ball or other object onto, upon or against a hole or other target. Redemption games do not include either of the following:

(1) Games such as roulette, beano, cards, dice, wheels of fortune, video poker, slot machines or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.

(2) A game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player. (Ord. No. 636, 11-2-98)

Sec. 10-93. Frequenting of premises by minors.

The operator of the premises shall not permit any person under 17 years of age to remain in or loiter in or about the area on the premises where pool tables are maintained, unless such person is accompanied by a parent or guardian. Persons under the age of 17 years may be allowed in the area of the premises where mechanical amusement devices and/or video games are located when such area does not contain any pool tables and has a full-time adult attendant on duty, or a uniformed security guard in attendance during its hours of operation. (Ord. No. 636, 11-2-98)

Sec. 10-94. Proof of age.

No person under 17 years of age, unaccompanied by a parent or guardian, may remain in or loiter in or about the area of the premises where pool tables are maintained or falsely represent his age in order to gain admittance into such area of the premises. Any person allowed to remain in the area of a premises where a pool table is operated who is not with a parent or guardian shall have in his possession proof of his age. No licensee shall permit a person to remain on such area of the premises who does not have proof of age as required in this section. (Ord. No. 636, 11-2-98)
§ 10-95. Public nuisance.

It shall be unlawful to operate pool tables, video games or mechanical amusement devices, or the combination of them, so as to constitute a public nuisance.
(Ord. No. 636, 11-2-98)

Sec. 10-96. Disorderly conduct.

It shall be unlawful for the licensee to permit any disorderly conduct to occur on the premises.
(Ord. No. 636, 11-2-98)

Sec. 10-97. Overcrowding.

No licensee may permit the premises to become occupied by more individuals than that permitted for such premises under the fire code for the city.
(Ord. No. 636, 11-2-98)

Sec. 10-98. Location.

It shall be unlawful to operate any premises in which there are located any pool tables, video games and/or mechanical amusement devices within 1,000 feet of an elementary school, middle school, junior high school or high school.
(Ord. No. 636, 11-2-98)

Sec. 10-99. Variances.

An operator may petition to the city zoning board of appeals for a variance from the location requirements provided in section 10-98. The zoning board of appeals shall consider such petition under the following criteria:

(1) The proximity of the premises to nearby residential dwellings.

(2) The proximity of the premises to nearby establishments where beer, wine or other alcoholic beverages are served or where beer, wine or alcoholic beverages are sold for carryout purposes.
(Ord. No. 636, 11-2-98)

Sec. 10-100. Exceptions.

No license is required for the operation of any pool table, video game and/or mechanical amusement device in a private home, public institution, church or fraternal organization recognized as such by the Internal Revenue Service, where such pool tables, video games and/or mechanical amusement devices are incidental to the principal activity of the home, institution, church or clubhouse or fraternal organization.
(Ord. No. 636, 11-2-98)
To: Mayor and City Council
From: Peter E. Auger, City Manager; Doreen E. Olko, Director of Emergency Services; Thomas Hardesty, Deputy Director/Police
Submitted: November 14, 2013
Subject: Motion – Accepting an Ordinance to Amend Chap. No. 10 Smoking Lounges of the Auburn Hills City Code for a Public Hearing, Second Reading and Final Adoption

INTRODUCTION AND HISTORY
On August 5, 2013 City Council voted to place a moratorium on the opening of new smoking lounge businesses in the City for 180 days while staff studied the issue. We recommend that the City license the smoking lounges as defined in the draft ordinance. We propose an annual license with a fee to be determined during the time when fees are set, which will allow the City better management of these businesses.

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 qualify and were in existence on May 1, 2010, are exempt from the smoking in public prohibition. Currently there are 2 established lounges with 1 in development. It is unknown how many Tobacco Specialty Retail exemptions exist in the state. Before the moratorium licenses could be transferred into the City at any time without limit from anywhere in the state.

Potential adverse impacts associated with these establishments have been identified such as large numbers of patrons during the evening and night time, 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. The purpose of this ordinance is to regulate smoking lounges for the public health, safety, and welfare of the City.

The ordinance is designed to establish reasonable and uniform regulations to prevent potential adverse impacts.

STAFF RECOMMENDATION
Staff recommends adoption of an ordinance to regulate smoking lounge businesses in the City.

MOTION
Move to adopt an ordinance to amend Chapter 10, to add Article III Smoking Lounges, on second reading, to be known as Ordinance No. 13-857.

I CONCUR:  PETER E. AUGER, CITY MANAGER
CITY OF AUBURN HILLS

ORDINANCE NO. 13-857

SMOKING LOUNGES ORDINANCE

An Ordinance to amend Chapter 10 of the Auburn Hills Code of Ordinances, as amended, entitled Amusements and Entertainments, to add Article III, Smoking Lounges, to license and regulate smoking establishments for the public health, safety and welfare of the City and persons within its jurisdictional boundaries.

THE CITY OF AUBURN HILLS ORDAINS:

Section 1

Chapter 10 of the City of Auburn Hills Code of Ordinances, as amended, is hereby amended by adding Article III, entitled Smoking Lounges, containing sections 10-50 through 10-153, to read as follows:

ARTICLE VI. SMOKING LOUNGES

DIVISION 1. GENERALLY

Sec.10-101. Purpose.

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 qualify and were in existence on May 1, 2010, are exempt from the smoking in public prohibition. The State issues exemption certificates that may be transferred resulting in an increase in the number of establishments in the City.

Potential adverse impacts associated with these establishments have been identified such as large numbers of patrons during the evening and night time, 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. The purpose of this article is to regulate smoking lounges for the public health, safety, and welfare of the City and persons within its jurisdictional boundaries; to prevent access to tobacco and non-tobacco smoking products by minors at these establishments, and to prevent the spread of smoke fumes to adjacent properties, and persons passing by these establishments.

This article is designed to establish reasonable and uniform regulations to prevent potential adverse impacts relating to these establishments. The regulations adopted are designed to provide objective and orderly procedures for the administration of this article.
Sec. 10-102. Definitions.

For purposes of this article, the words, terms, and phrases shall be defined as follows:

*Cigar* shall mean any roll of tobacco weighing three (3) or more pounds per 1,000, which roll has a wrapper or cover consisting of tobacco.

*Cigar bar* shall mean an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars that has a State issued exemption certificate.

*Disqualifying criminal act* shall mean any of the following:

(1) Any of the following misdemeanor or felony offenses under any of the following statutes, as amended, for which less than seven (7) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

i Michigan Penal Code, Chapter X, Arson and Burning;
ii Michigan Penal Code, Chapter XI, Assaults, except MCL 750.81(1) and (2);
iii Michigan Penal Code, Chapter XVII, Bribery and Corruption;
iv Michigan Penal Code, Chapter XXII, Compounding Offenses;
v Michigan Penal Code, Chapter XXVA, Criminal Enterprises;
vi Michigan Penal Code, Chapter XXVIII, Disorderly Persons;
vii Michigan Penal Code, Chapter XXXI, Embezzlement;
viii Michigan Penal Code, Chapter XXXIII, Explosives, Bombs, Harmful Devices;
ix Michigan Penal Code, Chapter XXXIV, Extortion;
x Michigan Penal Code, Chapter XLIII, Frauds and Cheats;
xi Michigan Penal Code, Chapter XLIV, Gambling;
xii Michigan Penal Code, Chapter XLV, Homicide;
xiii Michigan Penal Code, Chapter XLVIII, Indecency and Immorality;
xiv Michigan Penal Code, Chapter LVIII, Mayhem
 xv Michigan Penal Code, Chapter LXVII, Prostitution;
xvi Michigan Penal Code, Chapter LXVIIIA, Human Trafficking;
xvii Michigan Penal Code, Chapter LXXXVI, Sexual Conduct;
xviii Michigan Penal Code, Chapter LXXXVIII, Robbery;
xix Michigan Penal Code, Chapter LXXXIII-A, Michigan Anti-Terrorism Act;
xx Michigan Compiled Laws, 333, Part 74, Controlled Substances – Offense and Penalties;
xxi Michigan Compiled Laws Section 205.27, Taxation-Prohibited Acts, including tax evasion;

(2) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

(3) Any offense enumerated in the City Code of Ordinances which substantially corresponds to one of the foregoing state offenses; or
(4) Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.

**Influential interest** shall mean any of the following:

1. actual power to operate or control the operation, management, or policies of a current or prospective business; including the manager of the prospective business, or

2. ownership of a financial interest in the business, or ownership of an interest that is ten percent (10%) or more of the total interest of a current or prospective business, including such business entities as a firm, partnership, limited partnership, association, limited liability company, or corporation; or

3. holding an office, such as, e.g., president, vice president, secretary, treasurer, managing member, managing director, etc., in a legal entity which operates a current or prospective business.

**Minor** shall mean any person under eighteen (18) years of age.

**Non-tobacco smoking products or substances shall** include any product or substance that can be consumed by smoking such as, but is not limited to: e-cigarettes, bidis, kreteks, clover cigarettes, herbal cigarettes, electronic and herbal hookah, steam stones, smoking gels or other smoked product.

**Premises** shall mean the location for which a smoking lounge establishment operates under a State issued exemption certificate and includes the land, and all improvements located thereon, including the primary building and all accessory and out-buildings, and is not limited to the smoking area.

**Sale** shall mean, the exchange, barter, traffic, furnishing, or giving away of tobacco products and non-tobacco smoking products and substances which is regulated by the State of Michigan and pursuant to this article.

**Smoking lounge** shall mean an establishment, which has a State issued smoking ban exemption certificate, and that allows smoking of tobacco products or non-tobacco products or substances on the premises. The term “smoking lounge” includes, but is not limited to, facilities commonly described as tobacco retail specialty stores, cigar bars and lounges, hookah cafés and lounges, tobacco bars and lounges, tobacco clubs or 0% nicotine establishments.

**State** shall mean the State of Michigan.

**State issued exemption certificate** shall mean a valid exemption certificate issued by the State of Michigan for the premises, from the Public Act 188 of 2009 smoking in public ban which allows indoor smoking on the premises in compliance with the Act.

**Tobacco product** shall mean a product that contains tobacco and is intended for human consumption, including, but not limited to, cigars, cigarettes, non-cigarette smoking
tobacco or smokeless tobacco as defined by the Tobacco Products Tax Act, MCL 205.422.

*Tobacco specialty retail store* shall mean an establishment that has a State issued exemption certificate and for which the primary purpose is the retail sale of tobacco products, non-tobacco smoking products and substances, and smoking paraphernalia.

**Sec.10-102 to 10-107. Reserved.**

**DIVISION 2. LICENSE**

**Sec. 10-108. Business license required.**

A person shall not operate a smoking lounge in the City without first obtaining a smoking lounge business license issued pursuant to the provisions of this article.

**Sec. 10-109. Application.**

(a) *Information required.* An applicant for a smoking lounge license shall annually file in person at the office of the City Clerk, a completed application made on a form provided by the Clerk. The application shall be signed as required herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in paragraphs (1) through (8) below, accompanied by the required fee.

(1) The applicant's full true name and any other names used by the applicant in the preceding seven (7) years. If the applicant is a partnership, corporation, limited liability company, or other legal entity, then all persons with an influential interest in the entity shall be deemed an applicant and shall provide the information required by this article. Each applicant must be qualified under section 10-110, and each applicant shall be considered a licensee if a license is granted.

(2) Current business address or another mailing address of the applicant.

(3) Written proof of identity, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(4) The business name, location, zoning classification, legal description, parcel identification number, mailing address and phone number.

(5) A copy of the State issued exemption certificate for the premises; or if a transfer has been applied for, a copy of the application filed with the State.

(6) The name and business address of the designated local agent who is responsible to supervise the premises and activities and who is authorized to receive service of process.
(7) A statement of whether any applicant has been convicted of or has pled guilty or nolo contendere to a disqualifying criminal act as defined in this article, and if so, specify each criminal act involved, including the date, place, and jurisdiction of each, as well as, the dates of conviction and release from confinement, where applicable.

(8) A statement as to whether any business in which an applicant has had an influential interest, has, in the previous seven (7) years, and at the time during which the applicant had the influential interest:

i. Been declared by a court of law to be a nuisance, as defined under the Revised Judicature Act, MCL 600.3801; or

ii. Been subject to a court order of closure or padlocking.

(9) Statement of nature of proposed operation

The information provided pursuant to paragraphs (1) through (9) of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the City Clerk within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(b) Signature required. If a person who wishes to operate the business is an individual, the person shall sign the application. If a person who wishes to operate a business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant.

(c) Disclosure. The information provided by an applicant in connection with an application for a license under this article shall be maintained by the City Clerk’s Office and all personal information shall be deemed confidential and may be disclosed only as required by law or by court order.

Sec. 10-110. Issuance of license.

(a) Pre-existing businesses. All smoking lounges operating pursuant to a valid certificate of occupancy on the effective date of this ordinance are hereby granted a de facto temporary license to continue operating for a period of one hundred and eighty (180) days following the effective date. During this period all smoking lounge businesses shall apply for a license pursuant to this article; and by the expiration date of the one hundred and eighty (180) days shall conform to all requirements for issuance of a license.

(b) Application review. Upon the filing of a completed application for a smoking lounge business license, the City Clerk shall forward a copy to the following departments: Department of Emergency Services Administration, Community Development, Treasurer’s Office, Department of Public Works and any other Department, to review the application for compliance with the requirements of all applicable ordinances and codes.

(c) The City Clerk shall issue a license to the applicant, or issue to the applicant a written notice to deny the application. The City Clerk shall issue a license unless:

(1) Information. An applicant has failed to provide information as required by
section 10-109 for issuance of a license, or has falsely answered a question or a request for information on the application form;

(2) **Fee.** The license application fee required by this article has not been paid;

(3) **State exemption certificate.** The applicant does not have a valid State issued exemption certificate, the State has denied the application for a transfer, or the exemption has been revoked;

(4) **Code compliance.** The subject premises lacks a current certificate of occupancy or does not comply with applicable building, zoning, plumbing, mechanical, electrical, health, or fire prevention codes. Upon filing an application for a building permit, plan review, or certificate of occupancy, the applicant shall also file a copy with the City Clerk;

(5) **Ventilation and parking.** The Community Development Department has indicated that the premises lack the ventilation or parking required for the proposed use;

(6) **Unpaid fees.** The Community Development Department, the Treasurer’s Office, the Department of Public Works, or the Department of Emergency Services has indicated that there are unpaid fees or uncured violations under its purview related to the subject premises;

(7) **Taxes.** The City Treasurer’s Office has denied a real estate tax clearance pertaining to the subject premises;

(8) **Ownership/lease.** The business does not own the premises for which a license is sought or does not have a lease for the full period for which the license is sought;

(9) **Previous revocation/non-renewal.** An applicant has had a smoking exemption revoked, or not renewed for cause, in the last seven (7) years under this article or a comparable city or township ordinance or state law, whether in Michigan or otherwise;

(10) **Prior nuisance.** Any business in which the applicant has had an influential interest, has, in the previous seven (7) years, and at the time during which the applicant had the influential interest:

   i. Been declared by a court of law to be a nuisance, as defined under the Revised Judicature Act, MCL 600.3801; or

   ii. Been subject to an order of closure or padlocking.

(11) **Disqualifying criminal act.** An applicant has been convicted of, or pled guilty, or nolo contendere, or no contest or entered an Alford plea, to a disqualifying criminal act as defined in this article;

(12) **Additional licensing.** The business is not licensed to do business in Michigan or has not obtained a sales tax license;
(d) *Reservation of authority.* Notwithstanding anything to the contrary in this article, no applicant has a right to the issuance of a license; and the City hereby reserves the right to determine who, if anyone, shall be entitled to the issuance of such a license, based on the objective criteria listed in this ordinance which relate to concerns for public health, safety, and welfare as identified herein.

(e) *License contents; posting; possession.* The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, the address of the business. The business license shall be posted in a conspicuous place at or near the entrance to the business so that it may be read at any time.

(f) *Other laws applicable.* Nothing in this article shall be construed to exempt the licensee from any other requirements set forth by City ordinance, state or federal law.

**Sec. 10-111. Fees.**

The fees for a license under this article shall be established by resolution adopted by the City Council and shall be placed on file, and made available, at the office of the City Clerk.

**Sec. 10-112. Inspection.**

Filing an application for a smoking lounge shall constitute consent to inspection by City officials as provided herein, for the purpose of ensuring compliance with the specific regulations of this article. During City business hours or at other mutually agreeable time, the applicant shall allow the representatives of City departments onto the property and into the proposed licensed premises to complete an inspection. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this article.

**Sec. 10-113. Transfer of license.**

(a) A licensee shall not transfer the license to another, nor shall a licensee operate a smoking lounge under the authority of a license at any place other than the address designated in the smoking lounge license application. Any transfer shall be grounds for suspension and revocation. A proposed transfer shall require a new application be filed and shall be subject to the same procedures, standards and fees required for a new license. Each location operated by a licensee requires a separate license.

(b) Approval of the transfer of a State issued exemption certificate by the State of Michigan shall not abrogate the requirement to apply for and obtain a smoking lounge license as required by this article. There shall be no transfer into the City of Auburn Hills of a State of Michigan Exemption Permit under the Dr. Ron L. Davis Act of 2009; MCL 333.12601, et. Seq., as amended.

**Sec. 10-114. Annual license, expiration.**

Each license shall expire annually on the thirty-first day of March unless otherwise suspended.
or revoked. Such license may be renewed only by making application and payment of the fee as required by this article.

Sec. 10-115 to 10-125. Reserved.

DIVISION 3. DENIAL, SUSPENSION, REVOCATION, HEARING

Sec. 10-126. Denial.

In the event the City Clerk issues a written notice to deny for failure to comply with the requirements of section 10-110, the provisions of section 10-129 providing for an appeal hearing shall apply.

Sec. 10-127. Suspension.

The City Clerk shall suspend the license for a period of thirty (30) days if the licensee has knowingly violated this article or has knowingly allowed an employee to violate this article. Upon receiving notice of a violation, the Clerk shall issue a written notice to suspend, which shall include the grounds for the suspension, the effective date of the suspension, and that the licensee may within twenty (20) days, request in writing, an appeal hearing before the City Council pursuant to the provisions of section 10-129. The suspension shall take effect twenty-one (21) days after the date of the notice of suspension.

Sec. 10-128. Revocation; non-renewal.

(a) Violation after previous suspension. The City Clerk shall issue a written notice of revocation if the licensee knowingly violates this article or has knowingly allowed an employee to violate this article and the licensee's license has been suspended within the previous twelve (12) month period.

(b) Grounds for revocation/non-renewal. The City Clerk shall issue written notice to revoke or non-renewal of the license if:

1) The licensee would not meet the standards set forth in section 10-110 if the licensee were an applicant for a new license.

2) The licensee has knowingly or recklessly allowed two (2) or more violations of the regulations of this article in the preceding twelve (12) month period.

3) The licensee has knowingly or recklessly allowed a nuisance, as defined under the Revised Judicature Act, MCL 600.3801, to be maintained upon the premises.

4) The subject premises have existing violations of building, zoning, plumbing, mechanical, electrical, health or fire prevention codes.

5) The operation of the licensed establishment has resulted in a pattern of patron conduct in the neighborhood of the establishment that substantially disturbs the peace, order, and tranquility of the neighborhood.

6) The licensee has failed to maintain the grounds and exterior of the licensee’s establishment by allowing litter, detritus, and/or refuse to unreasonably remain on the
property or adjoining properties.

(7) The licensee knowingly or recklessly operated the business during a period of time when the license was suspended.

(8) The licensee has knowingly or recklessly engaged in illegal activity or allowed any illegal activity to occur in or on the licensed premises.

(c) **Effect of appeal of conviction.** The fact that any relevant conviction is being appealed shall have no effect on the revocation/non-renewal of the license, provided that, if any conviction which serves as a basis of a license revocation/non-renewal is overturned or reversed on appeal, that conviction shall be treated as null and of no effect and the license shall be reinstated.

(d) **Effective date.** The revocation/nonrenewal shall not take effect for twenty-one (21) days from the date of the notice of revocation/non-renewal.

(e) **Appeal.** The written notice to revoke/non-renewal, shall include the grounds for the revocation/non-renewal, the effective date of the revocation/non-renewal, and that the licensee may request in writing, within twenty (20) days of the date of the notice of suspension, or revocation/non-renewal, an appeal hearing before the City Board pursuant to the provisions of section 10-129. If not appealed, the suspension shall take effect twenty-one (21) days after the date of the notice of suspension.

**Sec. 10-129. Appeal hearing.**

(a) **Notice of hearing.** Upon receipt of a request for appeal, the City Council shall provide the licensee with notice and an opportunity to be heard. The City Council shall serve notice upon the licensee by certified mail, not less than twenty (20) days prior to the hearing date. The notice shall state:

1. The date, time and place of the hearing.
2. A statement that the licensee may present evidence and testimony, and may be represented by an attorney.

(b) **Hearing and decision.** The hearing shall be conducted by the City Council and shall be open to the public. The City Council shall submit to the licensee a written statement of its findings, decision, specific grounds for its decision, and a statement that the decision may be appealed to a court of competent jurisdiction.

**Sec. 10-130- to 10-135. - Reserved.**

**DIVISION 4. REGULATIONS**

**Sec. 10-136. Hours of operation.**

Businesses operating a licensed smoking lounge shall be closed between the hours of 12:00 a.m. and 8:00 a.m. on any day. No one shall be allowed on the premises except employees after midnight. Only a minimum of three (3) employees shall remain on the premises after midnight and shall carry proof of employment, such as an identification badge.
The manager and/or employees shall provide proof of employment when requested to do so by a member of the Police Department.

**Sec. 10-137. Local agent on premises.**

The licensee, or the local agent designated in the application, shall remain on the premises while open for business to supervise the activities and shall be responsible to ensure compliance with the regulations of this article. In the event a licensee changes the local agent, the licensee shall immediately notify the Clerk in writing of the name and business address of the new local agent. All managers or local agents shall be over the age of twenty-one (21) years old.

**Sec. 10-138. Mechanical ventilation required.**

Mechanical ventilation shall be supplied in compliance with the Michigan Mechanical Code to ensure sufficient ventilation of the smoking lounge. The recirculation and the natural ventilation of air from the smoking lounge is prohibited; and the air supplied to the smoking lounge shall be exhausted and discharged to an approved location in compliance with the Michigan Mechanical Code.

**Sec. 10-139. Off-street parking required.**

Off-street parking shall be provided for the smoking lounge business. The minimum amount of parking shall be calculated by utilizing the parking requirements listed for sit down restaurants contained in the Auburn Hills Zoning Ordinance.

**Sec. 10-140. Storage lockers prohibited.**

Storage lockers shall be prohibited on the premises of a smoking lounge, except that on-site humidors may be permitted in the smoking area of a cigar bar.

**Sec. 10-141. Outdoor activities prohibited.**

There shall not be any outdoor activities, outdoor public admission events, or outdoor seating. The business activities shall be conducted wholly indoors. In no event shall designated on-site parking areas be used for any other purpose than parking of passenger vehicles. To ensure that the smoke is contained within the smoking area, all windows and doors shall remain closed to ensure that the smoke does not infiltrate nonsmoking areas and is not emitted to passersby.

**Sec. 10-142. Loitering, exterior lighting, and monitoring requirements.**

It shall be the duty of the licensee or the designated local agent to:

(a) *Signs.* Post conspicuous signs stating that no loitering is permitted on the premises; no minors are permitted on the premises; and patrons must leave the parking area immediately upon close of the business;

(b) *Monitor.* Designate one (1) or more employees to monitor, while the premises are open
for business, the activities of persons on the premises by visually inspecting the interior
and exterior of the premises at least once every ninety (90) minutes or inspecting the
premises by use of video cameras and monitoring;

(c) **Exterior.** Ensure lighting of the exterior premises is provided, including all parking
areas, for visual inspection and security. All exterior lighting shall comply with all
provisions of the Auburn Hills Zoning Ordinance;

(d) **Parking area.** The licensee shall ensure that patrons are not parking in adjacent or
neighboring parking lots or in residential areas that are not part of the parking area
approved on the site plan for the licensed premises.

**Sec. 10-143. Disturbing the peace.**

The licensee or local agent, shall be responsible to maintain the premises to ensure there is
not a violation of the Code of Ordinances, section 46-157, for disturbing the peace. If the
licensee or designated local agent is convicted for a violation of 46-157, the conviction
shall be grounds for revocation, denial or suspension of a license.

**Sec. 10-144. Prohibited activities.**

It is unlawful for a licensee or local agent to knowingly violate the following regulations or to
knowingly allow an employee, patron or any other person to violate the following regulations.

The licensee or local agent shall remove anyone violating the following regulations:

(a) **Minors prohibited.** No one shall be allowed on the premises of a smoking lounge
business unless the individual is eighteen (18) years of age or older. The licensee and local
agent shall ensure that identifications of individuals on the premises have been checked to
determine that every individual is eighteen (18) years of age or older before entry
into the premises. The exit doors shall be monitored to ensure that no one is attempting to
gain secret entry into the premises. A sign shall be posted near the entrance stating “No
one under the age of eighteen (18) allowed.”

(b) **Alcoholic liquor.** No person shall sell, offer for sale, trade, provide, allow, possess,
consume or attempt to consume any alcoholic liquor on the premises unless the licensee
has obtained the appropriate license from the Liquor Control Commission pursuant to
MCL 436.1101 *et seq.*, as amended.

(c) **Nudity prohibited.** No one shall be allowed on the premises of a smoking lounge
business to appear nude or in a state of nudity as defined in section 6-125 of this article.

(d) **Controlled substances prohibited.** It shall be unlawful to permit No person shall sell, sales,
offer for sale, trade, provide, allow, possession, consumption or attempt to consume any
controlled substance on the premises in violation of Article 7 of the Public Health Code,
MCL 333.1101 *et seq.*

**10-145 to 10-150. Reserved.**
DIVISION 6. PENALTIES AND ENFORCEMENT

Sec. 10-151. Penalties and enforcement.
(a) Misdemeanor. A person who violates or fails to comply with any of the provisions of this article shall be guilty of a misdemeanor, punishable by a maximum fine of five hundred dollars ($500.00) and/or a maximum of ninety (90) days imprisonment. Each day a violation is committed, or permitted to continue, it shall constitute a separate offense and shall be treated as a separate offense.

(b) Civil proceedings. The City Attorney or designee is hereby authorized to institute civil proceedings necessary for the enforcement of this article to restrain or correct ordinance violations, and for the recovery of costs and expenses incurred by the City, as authorized by law. Such proceedings, including injunctive relief, shall be brought in the name of the City, however, the institution of civil proceedings shall not preclude enforcement of misdemeanor, administrative, or any other proceeding authorized by ordinance, state or federal law.

Sec. 10-152 to 10-153. Reserved.

Section 2. Repealer
All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. Severability.
If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 4. Savings.
The proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

Section 5. Effective Date.
The provisions of this Ordinance are hereby ordered to take effect upon publication in the manner prescribed by the Charter of the City of Auburn Hills.

Section 6. Adoption.
This Ordinance is hereby declared to have been adopted by the City Council of the City of Auburn Hills at a meeting thereof duly called and held on the _____ day of _____, 2013, and ordered to be given publication in a manner prescribed by the Charter of the City of Auburn Hills.
AYES:
NAYES:
ABSTENTIONS:

STATE OF MICHIGAN )
 ) ss.
COUNTY OF OAKLAND )

I, the undersigned, the duly qualified Clerk of the City of Auburn Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete comply of Ordinance No. ____ adopted by the Auburn Hills City Council on the ____ day of ____ 2013, the original of which is in my office.

___________________________________
Terri Kowal, City Clerk
To: Mayor and City Council  
From: Peter E. Auger, City Manager; Don Grice, Deputy Director, DPW  
Submitted: November 14, 2013  
Subject: Resolution Approval Recommendation  

INTRODUCTION AND HISTORY  
In January 2013, the City of Auburn Hills was awarded a Transportation Alternatives Program (TAP) Grant in the amount of $194,589.00; these federal funds will be administered by the State of Michigan, Department of Transportation (MDOT) as part of the City’s River Walk Master Plan. In addition to these federal funds, the City has committed $208,876.00 through TIFA-A, to complete the $403,465.00 project. The goal of the project is to improve pedestrian access, reduce stormwater impacts and enrich the overall aesthetic appeal of the area. The project will accomplish these goals by reducing the roadway surface of Squirrel Court, installing a 17.5 foot wide pedestrian pathway on the west side of the road, adjacent to Riverside Park, installing a six foot wide sidewalk on the east side behind the businesses on Auburn and add streetscape features to match those along Auburn Road. In addition to improving walkability, the design will include the installation of a transit pull up for SMART buses, Oakland University’s student bus, and the City’s senior bus, improving access to Downtown. Stormwater impacts to the Clinton River will be reduced by incorporating pervious pavers and new tree plantings into the design. Stormwater from the project area will flow through two new catch basins with a filtration system designed to filter and cool the runoff before entering the river.

STAFF RECOMMENDATION  
The City has been very successful in leveraging our local investment dollars with State and Federal funds to bring down the costs of capital improvements to our community. Partnering with the Michigan Department of Transportation on this project will provide significant savings for City residents and provide much needed improvements to the project area. The Department of Public Works recommends moving forward with this agreement. Following approval MDOT will release the project for public bids; once the bids are received, the DPW will return to Council for project approval.

MOTION  
Move to approve the attached Resolution, Contract No. 13-5658, Control Section TA 63459, Job No. 119507, between the Michigan Department of Transportation and the City of Auburn Hills.

I CONCUR:  

PETER E. AUGER, CITY MANAGER
RESOLUTION

Be it resolved that

CONTRACT No. 13-5658, Control Section TA 63459, Job Number 119507

By and between the

MICHIGAN DEPARTMENT OF TRANSPORTATION

and the

City of Auburn Hills

is hereby accepted.

The following Officials are authorized to sign the said contract:

Peter E. Auger, City Manager
Ronald J. Melchert, Director DPW

Moved by:

Supported by:

ADOPTED:  AYES:

NAYES:

Absent:

I hereby certify that the forgoing is a true and correct copy of a resolution made and adopted at a regular meeting of the Auburn Hills City Council, on the EIGHTEENTH DAY of NOVEMBER 2013.

Signed ________________________________

Terri Kowal, City Clerk, City of Auburn Hills
INTRODUCTION AND HISTORY
Attached is the proposed schedule for 2014 City Council Meetings. Council Meetings have traditionally been held on the first and third Mondays of the month, and this proposed calendar holds to that practice with exceptions in September and November, as noted below:

<table>
<thead>
<tr>
<th>Regularly Scheduled</th>
<th>Proposed Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 7</td>
<td>Monday, July 14</td>
</tr>
<tr>
<td>Monday after Friday, July 4th</td>
<td></td>
</tr>
<tr>
<td>August 4</td>
<td>Monday, August 11</td>
</tr>
<tr>
<td>Night before Primary Election</td>
<td></td>
</tr>
<tr>
<td>September 1</td>
<td>Monday, September 8 &amp; 22</td>
</tr>
<tr>
<td>City Offices closed in observance of the Labor Day Holiday</td>
<td></td>
</tr>
<tr>
<td>November 3</td>
<td>Monday, November 10</td>
</tr>
<tr>
<td>Night before the General Election</td>
<td></td>
</tr>
</tbody>
</table>

STAFF RECOMMENDATION
Staff recommends approval as submitted.

MOTION
Move to approve the 2014 City Council Meeting Schedule as submitted.

I CONCUR:

PETER E. AUGER, CITY MANAGER
### Proposed 2014 Council Calendar

#### January
- **1st to 31st**

#### February
- **1st to 28th**

#### March
- **1st to 31st**

#### April
- **1st to 30th**

#### May
- **1st to 31st**

#### June
- **1st to 30th**

#### July
- **1st to 31st**

#### August
- **1st to 31st**

#### September
- **1st to 30th**

#### October
- **1st to 31st**

#### November
- **1st to 30th**

#### December
- **1st to 31st**
Former coach Beckie Francis, OU to meet in court this week

By MEGAN SEMERAZ and PAUL KAMPE

It has been more than five months since Oakland University fired former women's basketball coach Beckie Francis with no reason given. A brief press release stated simply: “Beckie Francis has been relieved of her duties.”

Earlier in the day, her husband and former longtime OU president Gary Russi, announced his retirement.

Francis herself says in a lawsuit she does not know why she was fired, but the answer could be revealed this week.

Nov. 1 against Oakland University.

An “emergency hearing” was originally scheduled for Nov. 6, but was postponed to Wednesday, Nov. 13 at the request of OU. Gordon has said she wants this to be the only

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COACH

FROM PAGE A-1

for cause,” Gordon said of Francis. “Well, let’s see it.”

A spokesman from Oakland University declined to comment on the situation.

Internal investigation of Francis

OU has paid nearly $100,000 to investigate Francis, according to documents obtained by The Oakland Press through a Freedom of Information request, but Gordon said the university isn’t revealing details of the internal review.

According to the lawsuit, a heavily redacted version of the report was supplied to Francis and her attorney.

The payments were made to Detroit law firm Miller, Canfield, Paddock and Stone, P.C. for services rendered over the past two months.

An attorney from the firm Butzel Long, however, is representing Oakland University in the suit. His absence was the reasoning behind the hearing’s postponement, Gordon said.

Ann Arbor-based attorney Robert Boonin was unavailable for comment.

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Heavily redacted, though states her Twitter account is mostly about women’s basketball, OU, biblical quotes, references to Lent and other Christian holidays.

Gordon said they have requested Francis’ employment records five times. The Oakland Press obtained a copy of at least one such request.

In a June 29 email to Ronald Watson, assistant vice president for university human resources, obtained by The Oakland Press via FOIA, Francis wrote: “Per our discussion and pursuant to the Hurlin-Plawecki Employee Right to Know Act, I would like a copy of my personnel file. When can I pick it up? Please send me a copy electronically as well.”

The university released Francis’ employment records to The Oakland Press and various media outlets June 21 in response to FOIA requests.

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FROM PAGE ONE

May 30, as it read in her personnel file. The university went a step further, noting allegations of potentially harmful misconduct had been made about her and an internal review would be launched.

Gordon noted employers are not required to inform employees of the reason for termination, but Oakland went out of its way to say Francis had been fired with cause.

“They could’ve kept it close to the vest,” she said. “At the beginning, all I wanted was her personnel file. But now I’m wondering what they were doing when they fired her.”

Gordon said she has sent the school multiple letters citing case law in attempt to get an unredacted copy of Oakland’s internal review. She reiterated she is not seeking players’ names and has never had such difficulty obtaining records.

“We didn’t want to go to court,” Gordon said. “(Francis) wants to apply for other jobs. She wants to go on with her life.”
Judge orders OU to release review of fired coach

By PAUL KAMPE and MEGAN SEMERAZ
Of The Oakland Press

After several months of headlines, the issue of former Oakland University women’s basketball coach Beckie Francis was in Oakland County Circuit Court Wednesday morning, although Francis was not present for the hearing.

Judge Martha Anderson ordered the school to turn over an uncensored copy of its internal review of Francis and the women’s basketball program to her. Anderson will redact the review before disseminating it to Francis and her attorney Deborah Gordon.

Gordon said she expects Anderson will deliver the report by the end of the week, adding she and Francis are waiting to read the report before deciding a course of further legal action.

Francis was fired June 13 after 15 seasons at the school, the same day her husband and longtime Oakland University President Gary Russi announced his resignation, effective Aug. 1.

The media release announcing her firing simply said “Beckie Francis has been relieved of her duties.”

She and Gordon sought a more thorough explanation in a Nov. 1 court filing. Specifically, the suit was seeking the release of an internal review conducted by the school since her firing.

They want to keep Beckie Francis in a box,” Gordon said of the school withholding the records of the review. “If (the records) even exist.

“If they have just cause for a for-cause termination, turn it over.”

Robert Boonin, the Ann Arbor-based attorney representing the school in the case, said, “She was given those reasons ... It was no secret to her as to why she was fired.”

“Those records are complaints by students by how they were treated as part of the university’s program,” Boonin said. “The redactions were made because we felt (Francis) would be able to identify with whom they relate.

Boonin dedicated much of his time decrying the legality of Francis’ suit and the time frame with which it should be heard in court.

“This is not a wrongful termination case,” he said. “This is not a case about discovery. This is not prohibiting (her) from taking other legal action.”

Anderson heard extensive arguments from each side before ruling.

“Beckie Francis was a 15-year top-flight coach with Oakland University,” Gordon said in her opening remarks. “There was not a single negative comment, discipline or warning in 13 years.

“Oakland University decided to take upon themselves to tell everyone she was terminated for cause.”

“Can what she say to the record? What can she say to a future employer (about why) she was fired for cause?”

Francis and Gordon claim a heavily redacted version of the review’s findings is insufficient and have even offered to agree to view a confidential version of the report. Oakland University contends the release of the report would compromise the privacy of the students involved in the review.

The school announced June 21 Francis had been fired with cause after allegations of misconduct were brought to an administrator in April. She was placed on leave May 30, when Oakland University says they had meetings with her totaling two hours explaining the reasons for her suspension.

Boonin said the individual in those meetings took personal notes, which do not have to be given to Francis under the Ballard-Pawlowski Employee Right-to-Know Act.

“There’s a lot in that (personal) record that do not have to do with Ms. Francis, or nothing to do with her termination,” Boonin said.

The school implied in its Friday response to the Nov. suit that Francis had been fired for emotionally abusing players, calling her a “master manipulator.”

Boonin would not comment on Francis’ conduct or behaviors.

“I’m only here to talk about the Ballard-Pawlowski matter,” he said.

Francis’ subsequent response filed Tuesday also sought an extension in the time frame in which she has to file litigation against the school, which she contends currently expires Nov. 30.

Had she been fired without cause, Francis would have been eligible to receive her base annual salary of more than $120,000. Gordon reiterated Francis offered to resign from her position rather than being terminated.

“When she offered to resign, they have it in writing, what are they hiding? This has become almost laughable if it wasn’t so tragic,” Gordon said.

Gordon said Francis has been “out of town looking for jobs and such” but could attend possible future proceedings.

The school has sought outside counsel in the ongoing review, paying nearly $100,000 in the past two months, according to documents obtained by The Oakland Press through a Freedom of Information request. Boonin belongs to a separate firm, however, which is representing Oakland University in Francis’ suit.

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Two suspects charged in thefts, home invasion in Auburn Hills

By JOHN TURK

Two suspects have been charged following a string of thefts from cars and a home invasion in Auburn Hills.

Andrew Barrett, 23, of Auburn Hills, was charged Wednesday in the 55-5 District Court with first-degree home invasion and larceny from a vehicle tied to a Nov. 2 home invasion and seven thefts from cars.

Barrett stole a chainsaw and backpack leaf blowers from a family’s home in the 300 block of Henryville Road, police say. When the 23-year-old was arrested, authorities found items taken in the thefts at his home.

Barrett, whose bond was set at $50,000 cash, no surety, faces a possible 20-year felony prison stay if convicted in the home invasion. He is set to return to court Nov. 12.

Pontiac resident Henry Howard, 17, on Nov. 2 was given one count of breaking and entering a motor vehicle to steal less than $200 — a charge that carries a potential 15-day misdemeanor or a $500 fine.

His bond, handed down at the 55-5 District Court, was set at $5,000 cash, or 10 percent. He will appear in court again Nov. 19.

Howard was arrested on Nov. 1 after reports that two suspects were breaking into cars in the Bloomfield Orchards neighborhood — located in the area of Odyke Road and South Boulevard, officials say. Upon police arrival to Liverpool Street, Howard was found with stolen items from several cars in the area. The suspects got into six unlocked cars, authorities say.

Another suspect who was with Howard — a teen who stands about 5-foot-7 and was wearing a white hat and dark clothes during the thefts — fled before officers arrived. He is still at large, police say.

Those with information about these separate inci-

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Barrett
Howard

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Staff writer John Turk covers the Oakland County Board of Commissioners, police and general assignment. He can be reached at 248-745-4613.
Deputies: Auburn Hills man hit by motorist while biking in Rochester Hills, hospitalized

By JOHN TURK
john.turk@oakpress.com, @jpturk

An Auburn Hills man has been hospitalized with critical injuries after he was hit Thursday trying to bike across a Rochester Hills road, officials said.

According to Oakland County Sheriff's deputies, the motorist who hit the 22-year-old was driving through a green light.

Around 6:30 a.m., the bicyclist was riding eastbound on the south side of Walton Boulevard, then entered the roadway in the crosswalk, attempting to cross Livernois Road, reported Sheriff's Office officials.

"The bicyclist entered the roadway on a red signal and was struck by a 2012 Volkswagen GTI," investigators said. "According to the driver ... and several witnesses, the VW was driving northbound on Livernois and was proceeding through the intersection on a green light when she struck the bicycle."

"The man wasn't wearing a helmet and sustained a head injury."

Rochester Hills firefighters and emergency personnel arrived to treat the bicyclist, who was unconscious at the scene.

Responders then took the man to McLaren Oakland Hospital. He has since regained consciousness and has been talking. He was listed Friday in stable but critical condition.

The Volkswagen driver was not injured, and was wearing a seat belt, deputies reported. Investigators don't believe alcohol was a factor in the crash, which remains under investigation.

Staff writer John Turk covers the Oakland County Board of Commissioners, police and general assignment. He can be reached at 248-745-4613.

AUBURN HILLS/SOUTHFIELD
Medical centers host holiday toy drive

Michigan Surgery Specialists and Oakland Regional Hospital are hosting a toy drive, Nov. 15 to Dec. 1, to benefit Big Family of Michigan. Individuals are asked to drop off new, unwrapped toys or Target and Walmart gift cards for children, infants to 18 years of age. Stuffed animals are not needed at this time. Collection site includes Oakland Regional Hospital, 2201 Ryder Winter Drive, Southfield and Michigan Surgery Specialists Offices, 3100 Cross Creek Pkwy., Suite 150 in Auburn Hills. Big Family of Michigan is a nonprofit organization that serves the needs of Michigan's foster children and young adults. Visit www.BigFamilyofMichigan.org.

— Staff writer Kathy Blake

AUBURN HILLS
Hip hop group hosts Mothers Against Violence event

H. Hunter of local hip-hop group Citi Lights and Kara Chase of World Star Hip Hop are hosting the inaugural showcase for Mothers Against Violence from 5:30-10 p.m. Sunday. Guest speakers will be Chrysalis Knight of WWJ 950 AM and Vivian Steinblip of Common Ground.

Admission cost is a $10 donation for adults and $5 donation for children age 17 and younger, which will go into the 50/50 raffle. There will also be food and live entertainment. The event will take place at Hoops Sports Bar and Grill, 2705 Lapeer Road, Auburn Hills.
Faurecia honored with two supplier diversity awards by Michigan Minority Supplier Development Council

AUBURN HILLS, Mich., Nov. 7, 2013 /PRNewswire via COMTEX/ -- Faurecia, North America’s fifth-largest automotive supplier, was honored with two awards at the annual recognition program held by Michigan Minority Supplier Development Council (MMSDC). The company earned Corporation of the Year in the Manufacturing - Level II division, while Harold Cook, senior global commodity buyer at Faurecia, was named as Corporate Buyer of the Year in the Local category. The awards were presented at the 30th annual MMSDC awards program, held Oct. 1 at the Fox Theatre in Detroit. The event was attended by more than 1,000 business leaders from industries such as automotive, healthcare, construction, education, information technology, and consumer products.

Faurecia’s supplier diversity efforts were recognized by the MMSDC as the company earned Corporation of the Year in the Manufacturing - Level II division, in part for its joint venture with Rush Group, Detroit Manufacturing Systems. First announced in 2012, the joint venture has created hundreds of jobs in Detroit and was a factor considered by the MMSDC for the achievement. Also, Faurecia’s spending with diverse suppliers grew significantly between 2011 and 2012.

“Faurecia’s winning of the prestigious Michigan Minority Supplier Diversity Council Corporation of The Year Award is a true message to our customers, and communities that Faurecia understands the value diversity plays in our continued growth,” said Charles Perkins, director, diversity management at Faurecia. “We are proud of our record of promoting diversity as a tool for achieving best-in-class quality, cost and delivery. This award is confirmation of the value we place on a diverse, extended enterprise that reflects our employee and customer base.”

Faurecia honored with two supplier diversity awards by Michigan Minority Supplier Dev... Page 1 of 3

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latest news

November 7, 2013

New York
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Tokyo
Over Closed
Closed

OPO - 0.92%
NASDAQ - 0.93%
S&P 500 - 0.06%

Dow Jones with pulls the GDP back from the brink

press release

Nov. 7, 2013, 1:00 p.m. EST

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Harold Cook, Faurecia senior global commodity buyer, was named Corporate Buyer of the Year in the Local category. Cook, a former university instructor of Business Management, has more than 30 years of experience in the automotive and manufacturing industries with companies such as Petronin and Ashland Oil, including nearly 15 years in the automotive industry with Faurecia and another Tier 1 supplier. He joined the Faurecia non-production purchasing team in 2005. He has been developing diverse suppliers and adding them to Faurecia North America's NPO supply chain for the last seven years.

The Faurecia North America diversity program recognizes and promotes suppliers in the categories of minority, disadvantaged, women-owned, HubZone, veteran-owned and service disabled veteran-owned small businesses, among others. Faurecia North America is an active participant in multiple councils and chambers of commerce that focus on minority business ownership, ranging from organizations for Asian-Pacific, Native American and Canadian Aboriginal businesses, to minority supplier development councils located in states where Faurecia has a geographic presence and the Women's Business Enterprises National Council.

About Faurecia

Faurecia North America had sales of $5 billion in 2012. Faurecia has 47 locations in the United States, Canada and Mexico and employs more than 20,000 people in the region.


Lawsuit reveals why OU coach was fired

‘Emotional abuse’ among reasons for Beckie Francis’ termination

By MEGAN SEMERAZ and PAUL KAMPE

Oakland University has responded to a lawsuit filed by former women’s basketball coach Beckie Francis, which stated that she did not know why she was fired more than five months ago.

The school responded in court filings by saying that Francis was made aware of why she was being fired in two separate meetings, totaling two hours. University representatives say they told Francis the reasons she was suspended, while listening to her responses and explanations.

Francis filed suit Nov 1 in Oakland County Circuit Court, requesting an emergency hearing in an attempt to obtain her complete employee file from the school.

“Plaintiff knows very well why Oakland terminated her employment,” OU’s response stated.

Shortly after those meetings, Francis was terminated. In the lawsuit, the university writes that Francis even sent a several page rebuttal to the reasons given for her suspension and review.

Oakland in court filings said they “duly considered” her rebuttal, alone with her responses and

PLEASE SEE COACH/A-5
COACH
FROM PAGE 1-1

explanations. OU has spent nearly $100,000 in an internal investigation of Francis and her program, according to documents obtained by The Oakland Press through a Freedom of Information request. However, another firm is handling the lawsuit on the school's behalf.

The university cited several reasons for her firing including emotional and mental abuse of her players and tweeting of a religious nature.

“That statement, without context, is meaningless,” Francis’ attorney Deborah Gordon said. “Did she lock people in a closet or did she say ‘watch your feet’?”

“This is the smear Beckie Francis is living with,” said Francis. Previously, Francis and Gordon said they received only redacted versions of the report, according to the initial lawsuit filed by Francis earlier this month.

In response to Francis’ lawsuit, the school accuses her of failing to follow protocol in her court filing.

“The plaintiff finds her situation so desperate that she cannot be bound by court rules.”

“Calling the matter an ‘emergency’ does not necessarily mean that it is a true ‘emergency’.”

Interviewees and witnesses in the internal investigation provided to Francis “made no allegations (against Francis) as forms of mental and emotional abuse. Francis is a ‘master manipulator.’”

In her rebuttal to the school’s internal investigation, Francis said she felt like her suspension was a “witchcraft” against her: “I have high standards and expectations, not all student-athletes can perform to those,” she wrote in an email to Victor Zambesi, Oakland University’s vice president for legal affairs and general counsel.

The two sides are expected to meet in Oakland County Circuit Court Wednesday at 8:30 a.m. in front of Judge Matthew Anderson.

The school is being represented by Ann Arbor-based attorney Robert Booin of the firm Butzel Long.

‘Obsessed with nutrition’

The review alleges Francis is “obsessed with nutrition and body fat.” It says Francis wanted “a small, light and lean team.”

Unofficial reviews were quoted in the internal review, saying they did not think student-athletes were receiving enough calories in their team-provided meals. That person had “never seen such fear with ‘kids’ and would eat by herself at night and then throw up” and “the fear and phobia are through the roof.”

Francis sent her email of rebuttal to Zambardi after she was placed on suspension on May 30 with several points including she had no written nutrition policy; eating habits were discouraging because she felt sugar crashes could impede athletic performance; the team was served buffet-style meals at “high-end” hotels; an outside nutrition counselor was brought in to speak to players; and that Francis incorporates a “comprehensive wellness component” to her program.

Oakland University included multiple examples of eating disorders in its review.

Francis wrote she is aware of female eating disorders, especially in athletes. She said she is also aware of correlating conditions such as depression and anxiety.

She said she tried “to lead by example” in personal eating habits. Francis said no player had ever come “directly” to her with eating problems. “You don’t introduce an eating disorder in a 20-year-old,” Gordon said. “If a player needed one, it has nothing to do with Beckie Francis.”

‘Intolerable’ behaviors

The review also alleges that traces of the issues have always been present, but increased during the past two basketball seasons and were “intolerable” and “all staff feared for their jobs.”

OU says that student-athletes and whistleblower reports began two months prior to Francis’ firing.

The internal review says “Francis believes she is special and requires excessive and constant attention” plus has “a sense of entitlement.”

It also says that Francis did not tolerate disagreements—saying anyone who disagrees with her is “Satan.” Allegedly, Francis thought that evil was conspiring against her saying, “Satan is after me and I cannot let Satan win.”

The report says that Francis expects that others will comply with her instructions or expectancies and “exploits personal relationships to achieve her own ends.”

It also says Francis lacks empathy and “is unwilling to recognize or identify with the feelings or needs of others.”

There is also talk about how she treated assistant coaches in an “insulting” and “demanding” way in front of student-athletes. Other behaviors include: expecting special privileges; assuming her priorities and judgments are more important and that others should “defend without question and (she) gets irritated when questioned,” denouncing others’ contributions; and thinking all differences in opinion are disloyal.

Separation of church and state

The response states that Francis was sending “unbridled and demas- trating a total disregard of her direct supervisor’s reasonable instruction that she keep her religious proselytizing separate from her activities as Oakland’s basketball coach.”

Gordon calls the biblical references “innocuous.”

“Also quotes (Reg. Assistant Coach) Mike Ditka, too,” Gordon said of Francis’ timeline.

Oakland University says in its response that Francis has told to “cease and desist” from making religiously-themed references from her personal Twitter. Gordon said there is no record of any such request.

Info goes public

Francis’ personally-recorded conversations to The Oakland Press through a FOIA request contain some documentation and statements Francis as anything other than a model employee. In fact, her only negative performance review came after the 2011-12 season.

Francis’ second losing sea- son at Oakland.

“You can’t have someone with a good record and then one day say she’s a pariah,” Gordon said.

Francis was fired at 10 a.m. on June 12, although her termination was not made public until 6 p.m. that evening. Earlier in the afternoon, Francis’ husband and longtime Oakland University president Gary Russo announced she would be retiring, effective Aug. 1.

In the next week, Oakland University released a statement saying Francis had been fired with cause after allegations of misconduct were brought to an administrator in April. The statement also added that an internal investigation of the basketball program had commenced in the meantime. Francis was placed on leave May 31 and served in a consultant role to Gordon when asked for comment Monday.

In late June, former player Jalen Bachrocque told The Oakland Press that Francis, an outspoken Christian, was discriminated on her Islamic beliefs from 2010-12 when the former North Farmington star played for her. He also said Francis forced players to attend Christian church service as well as a Christianity-based class at the campus home Russi and Francis shared.

Bachrocque also said Francis made embarrassing remarks about her weight, saying Francis went as far as to weigh men in a weight loss competition with Bachrocque.

In denying Francis and Gordon access to its internal review, Oakland said the following in its response. “The report at issue details an investiga- tion that was not just regarding plaintiff, but also concerned the program and the conduct of other employees. The allegations triggering the investigation — particularly the allegations relating to plaintiff — were asserted by students about plaintiff’s treatment of them.

“While the plaintiff may feel put by not getting the keys to the proverbial candy store, Oakland has to be mindful of its legal obligation to keep records related to students confidential.”
KAMPE'S CORNER

Oakland University is home sweet home for veteran coach

By PAUL KAMPE of The Oakland Press

Having been at the Rochester-area school for 30 years, tales about Greg Kampe have become folklore.

He said he wants his program to be like UCLA. He used to drive fancy sports cars. He once had a tryout with an NFL team but chose to stay as a graduate assistant at Toledo.

There are also the sweater-vests and the hair — both standout features of the Greg Kampe bobblehead doll distributed during the 2006-07 season, the same year he first took his Golden Grizzlies to go play at No. 1 UCLA.

Everyone has their favorite tale of the affable veteran coach, who steered the school from the depths of Division II to a regular contender at that level and now as a Division I mid-major program capable of pulling upsets against the nation's best teams.

Those unfamiliar with the Defiance, Ohio, native always want to know the same two things: "Why does he schedule so many difficult non-conference games for his school?" followed by some variation of "Why hasn't he ever coached at another school?"

The nomadic, job-hopping career path of some big-name coaches is unfathomable for Kampe.

"I don't know what the positives of that are," he said. "I don't know what you see in that because I've never done it."

"Maybe I'm just scared to go somewhere else. Maybe I'm in a comfort zone here. There's a lot of gratification to see the growth of this university and to be a part of it."

"There's a lot to be said for having a gratifying job." Offers from other schools have come and gone over the years, though.

"I've got a lifetime here," Kampe said. "There's a commitment to the school I have. I'm not saying I wouldn't leave, but I feel like there's still stuff to accomplish here."

Two of those feats include obtaining a national ranking and an NCAA tournament Sweet Sixteen berth.

The veteran coach does not shy away from the motives behind such chaotic scheduling — or much of anything for that matter. He often spells out the multitude of reasons for scheduling those games — which have included the college basketball elite such as North Carolina, which Oakland lost to Friday to open the season — mainly name recognition for the school, exposure for the players to the best teams and biggest arenas and money.

When Oakland advanced to the Division I level in 1999-2000, it was looking to brand itself.

"We had to make a name for ourselves," he said. "People didn't know where Oakland University was. So, I said 'We'll play anybody, anywhere.'"

The branding efforts were not just focused on eyes and ears off campus, as Kampe instituted a rule during his turn as interim athletic director in the mid-2000s which banned student-athletes from wearing attire bearing logos of other schools.

As recently as September, he removed a spectator from practice for allegedly wearing a University of Detroit T-shirt.

The Golden Grizzlies have faced ranked teams more than 30 times since, pulling off upsets over No. 25 Oregon at The Palace in 2007 and over No. 7 Tennessee in 2010. In an effort to schedule more home games in future seasons, Kampe is likely to scale back the number of big-name opponents, but still expects to schedule a couple of marquee matchups.

Along with the notoriety that comes with those games, they drive a great deal of athletic funding to the school. This year's take for non-conference games at North Carolina, UCLA, California, Gonzaga, Indiana and others: roughly $450,000.

Kampe arrived at Oakland in 1984 as one of the youngest coaches in college basketball at the time, just 26 years old. He admitted he viewed the position as a stepping stone to his ultimate destination.

"I thought in two to three years I was going to go to UCLA and win a national championship," he said. When he earned his 500th victory last season, some 850 games later, Kampe was quick to deflect attention, thanking everyone involved with his team, saying he's fortunate to still be employed coaching college basketball.

"Being a head coach is a humbling experience,"
he said. "Once you become a head coach, the world changes."

Kampe, who doesn't hesitate to make a self-deprecating joke, often talks about his loyalty to the school. In fact, there are only two coaches in Division I college basketball with longer tenures at their current program: Duke's Mike Krzyzewski and Syracuse's Jim Boeheim.

"(Retirement) has never even crossed my mind," he said. "That isn't even on my radar."

The coach who expressed trepidation about advancing into Division I athletics in the late 1980s after becoming one of the nation's best Division II programs now has nearly 250 wins at that level. Kampe is new 906-386 overall, 242-204 in Division I.

Also known for his boisterous sideline behavior, Kampe long ago ditched the old suit and tie routine for a more freeing sweater-vest.

The switch just so happened to coincide with the Golden Grizzlies' Cinderella run to the 2005 NCAA tournament, the program's first at the Division I level, so the wardrobe change stayed. His fashion shortcomings are well-documented, and he was recently voted one of college basketball's worst-dressed coaches. The list is a who's who of college basketball coaches, including Kampe's friend and West Virginia coach Bob Huggins.

"Why does a basketball coach have to wear a suit and tie?" he said. "A baseball manager wears a uniform. Bill Belichick wears a hoodie.

"It's my job to help our team win, not to look pretty."

For the first time since 2007, Kampe won't have the in-game counsel of Jeff Tungate, his highest-ranking head coach for the last seven seasons. Tungate accepted the head coaching job for Oakland's women's program in July, replacing Beckie Francis, who was fired in June after 15 seasons.

"It was very hard to lose Tungate," Kampe said. "But it was the right thing. He was the perfect guy to take over because of his demeanor, but that was a big blow to me personally. Jeff and I have been together for a long time and he and I were a really, really good team. His strengths and my weaknesses were a good fit."

Longtime assistant Sadd Washington has been promoted to replace Tungate as associate coach. Kampe also added former Kentucky graduate assistant Brandion Weems, on a recommendation from Wildcats coach John Calipari, to round out his coaching staff.

Since 2005, Oakland has made the Big Dance on two more occasions, nearly pulling an upset over Texas in 2011, a loss that left Kampe beside himself because it possibly could have been his best Division I team to date.

The past two seasons have not been as successful for his teams, but have resulted in postseason berths, making that five consecutive to date.

Coaching is just one of the many hats Kampe has worn at Oakland University over the past three decades.

Among his alternative pursuits: athletics director, parking committee chair (a full-time position at the congested campus) and sports writing instructor.

By his estimate, more than 30 of Kampe's former players have gone on to play professionally. The first to reach the NBA, Rawle Marshall of the 2005 NCAA tournament squad, is still playing overseas, as are several other Kampe disciples.

There is one version of the Greg Kampe story you may never get to read. Like retirement, the noted author, who recently revealed he penned an unpublished fiction novel in the 1980s, also doesn't have any plans to chronicle his years on the sidelines.

"There's never going to be an autobiography," he said. "I'm not interesting enough for one of these."

Despite that fact, Kampe gets another opportunity to rewrite his story against the same program that helped in part spawn the reputation that now precedes him, when the Grizzlies face No. 23 UCLA, Tuesday.