



The City of Auburn Hills

City Council Meeting

Minutes

August 11, 2014

EXECUTIVE SESSION – Attorney Opinion – 5:30 p.m.

CALL TO ORDER: by Mayor McDaniel at 5:30 p.m.

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

Present: Mayor McDaniel, Mayor Pro Tem Kittle, Council Members Burmeister, Hammond, Knight, Mitchell, Verbeke

Absent: None

Also Present: Acting City Manager Tanghe, Acting Assistant City Manager Grice, Director Olko, Deputy Director Manning, Assistant Fire Chief Macias, City Clerk Kowal, DPW Director Melchert, Assistant City Planner Keenan, City Attorney Beckerleg, City Engineers Juidici & Stevens

53 Guests

Moved by Knight; Seconded by Verbeke.

RESOLVED: To recess to Executive Session to discuss an attorney opinion.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.145

Mayor McDaniel reconvened the regular meeting at 7:05 p.m. with the Pledge of Allegiance.

4. APPROVAL OF MINUTES

4a. Regular City Council – July 28, 2014

Moved by Mitchell; Seconded by Kittle.

RESOLVED: To approve the July 28, 2014 City Council meeting minutes.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.146

5. APPOINTMENTS AND PRESENTATIONS - none

6. PUBLIC COMMENT

Sgt. Steve Groehn, Vice Chair of the Pension and Retiree Health Care Boards explained he has the fiduciary responsibility of administering, managing, and operate each of the programs in an ethical and lawful manner. It has been nearly four years since he brought his report, Vis Legis, to City Council, which asked the legality of the Retiree Health Care and Pension Boards to assign \$10.1 million of police tax revenue to benefit's accrued by non-police employees. The report also asked if it was legal for the City to use \$11.5 million of police tax revenue on the golf course club house, City wide fleet fund, landscaping and a transfer to the general fund. He felt the aforementioned use of police tax revenue funds to be unlawful, particularly when the City's truth in tax budget hearings informed the taxpayers the revenue would be used solely for police purposes. Former City Council members were swayed to believe the City Charter had been administered improperly for 25 years, though, the ad valorem property tax shall be for police purposes, as stated in the Charter, was not restricted to police purposes, but used for any municipal expense that Council desired.

Continuing, Mr. Groehn stated he has authored a Vis Legis II, which outlines how the City for years, knowingly levied a police tax that grossly exceeded the needs of residents for police protection. This resulted in over \$20 million surplus police revenues and demonstrates how the most recent interpretation of the Charter is being used to circumvent the constitutional and statutory provisions that limit a city's ability to raise revenue for general purposes. He is compelled to exercise his fiduciary responsibility and ask the City Council to exercise their powers in accordance with Section 4.21 of the City Charter by commissioning an independent investigation into what he perceives as an unlawful use of public money

Salvatore Petras, 186 Oakmont, thanked City Council for unanimously appointing him to the Public Safety Advisory Committee. He believes an executive search for a new city manager would be a waste of taxpayer money, noting Mr. Tanghe has been the Assistant City Manager for at least 10 years and will do a fine job. Also, on the south side of Auburn Road, between Oakmont and Cherryland the cross walk is in dire need of repair.

Richard Walker, 260 Schoolcraft, has lived in the City for 50 or so years, and he and his wife are in support of Mr. Tanghe becoming City Manager. He agrees with Mr. Petras, it would be a waste of taxpayer money to conduct an

executive search for a city manager. As an owner of a downtown business, The Toasted Bun, he appreciates everything City Council has done to enhance the downtown and making it a destination place.

Jim Endres, a Sylvan Lake resident, introduced himself as a navy veteran, a great-grandfather, retired State of Michigan prison guard and parole officer, and sits on various boards and commissions. He will be running for a Pontiac School Board position in November. He mentioned he read in the paper that Oakland University is holding a drive to provide students in the Pontiac School District backpacks and school supplies, which can be dropped off at and the Multi-Cultural Affairs Office, located at 104 N. Foundation Hall, near the main entrance.

Kay Sendegas, asked if something will be done with the golf dome on Opdyke Road, the high fence is in disrepair and the netting is blowing in the wind. She was told quite some time ago things would change, but they haven't as of yet.

Mr. Keenan stated the owners of the golf dome are in the process of purchasing a new dome, to replace the current one. As part of the new dome approval, is the removal of the outdoor driving range, resulting in the removal of the tall fence and netting. Plans are anticipated to be submitted this month.

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. Beautification Advisory Commission – June 4, 2014

7a.2. Beautification Advisory Commission – June 18, 2014

7a.3. Planning Commission – July 24, 2014

Moved by Verbeke; Seconded by Knight.

RESOLVED: To approve the Consent Agenda.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.147

8. OLD BUSINESS

8a. Public Hearing – Amending Ordinance Boundaries of the Downtown District

Ms. Carroll explained the purpose of this evening's public hearing, is to hear comments from the public, but no action by City Council is required.

Mayor McDaniel opened the public hearing at 7:20 p.m.

Matthew Maxim, 3198 & 3200 Auburn Road, spoke on behalf of his father who owns the property, noting his concern on how this will affect the development of his property; how the flood plain will be affected and his ability to use the property.

Mayor McDaniel closed the public hearing at 7:21 p.m.

No Action Required

8b. Motion – Approve Revision to City Council's Rules and Order of Business

Ms. Kowal explained City Council discussed the Rules and Order of Business in a workshop session, resulting in an amended copy, collaborated on by herself and City Attorney Beckerleg.

Mr. Kittle asked on page 8, regarding 11. Council Action, item (b), that all the stricken language should not be removed.

Mayor McDaniel explained the purpose behind the stricken portion is because those rules are included in Robert's Rules of Order, with the exception of the five-minute speaking rule. He suggested to keep item B. as is with the exception of striking out the five minute rule.

Mr. Kittle noted item (k) (i), on page 9, Withdrawal of Motion, 'A motion may be withdrawn or amended by its maker, until the motion has received a second.

Ms. Kowal explained this is also a Robert's Rule of Order, rule.

Moved by Kittle; Seconded by Verbeke.

RESOLVED: To approve the proposed revisions to the Auburn Hills City Council Rules of Order and Business, adopted June 7, 2010 with the change requested.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.148

8c. Consideration of OU Agreement Regarding Library Drive to North Squirrel Road

Mr. Melchert explained this is an agreement to build the junction of the new Library Drive with Squirrel Road. The approximate location will be at Cross Creek Parkway. There are three key elements to the agreement; first the vacation of Lonedale Road. The University will close off Lonedale Road to keep students from accessing the road and a formal

vacation of the road will take place at a future City Council meeting. Second is the construction of the junction, which OHM has been working with OU to make sure City standards are met. This construction will be solely at Oakland University's cost. Third is a future traffic improvement which includes traffic signals. If signals become necessary due to student enrollment increases, traffic signals will be required at the City's discretion, again solely at the University's expense. As with other signals, after the installation, the signal will be maintained and controlled by the City.

Mr. Knight asked if the access to Lonedale Road will be a public right-of-way to be maintained by the City.

Mr. Melchert noted it will not be a public right-of-way; it will be the homeowner's driveway, Mr. & Mrs. Heitsch, to be maintained by Oakland University. As part of the agreement, the homeowner's driveway will have access through Oakland University's roadway system.

Responding to Ms. Verbeke, Mr. Melchert confirmed the University has been in contact with Mr. & Mrs. Heitsch; the City has not. Currently the Heitsch's don't use Lonedale Road, they use the old Library Drive, according to those at Oakland University who have been in touch with the Heitsch's.

Mr. Beckerleg noted the agreement provides assurance that there will be continued access to the home. Continuing, Mr. Beckerleg explained only the portion west of Library Drive will become the driveway and the portion to the east will continue to be a City road. There were some difficulties in determining the vacation of Lonedale Road, so not to hold up the construction of the new Library Road the vacation will be done at a later date.

Moved by Mitchell; Seconded by Burmeister.

RESOLVED: To approve the Agreement between the City of Auburn Hills and Oakland University to Connect Library Drive to N. Squirrel Road, where all associated costs for the construction of the junction of Library Drive to N. Squirrel Road per the Agreement, will be funded by Oakland University. Further, to authorize the Acting City Manager, as Street Administrator, to approve the necessary change orders submitted to bring about a successful conclusion to the project.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.149

8d. Motion – Approve EMS Collection Agency

Assistant Fire Chief Macias explained the collection service is important in the last step of cost recovery. The collection service will not begin until Mobile Health Resources (MHR), the City's billing company, has exhausted their process. The process of MHR is on day zero, the insurance company is billed; day 15, a bill is sent to the patient; the 35th day, another bill is sent; and the 55th day, a final bill is mailed. By the 75th day, a pre-collection letter is sent, advising the account is delinquent and the account is being reviewed for collections and to call and/or set up a payment plan. Within 90 more days, MHR will review the information to determine if there is a solution or if it should be sent to collection. At any time during this process, the process can be halted when a payment plan is agreed upon. It won't be until September that there is the possibility of needing a collection agency. Rochester Hills reported they have only had 7.5% of their accounts becoming delinquent over an average of three years and going to collections.

Of transports made, the largest number was that of Auburn Hills' residents, with Pontiac residents coming in second.

Four bids were received, and the lowest bidder, Penn Credit, is the recommendation of the Public Safety Advisory Committee. Considerations taken into account from the submitted bids were professionalism, approach and controls. Penn Credit offers a 2% discount, to those who pay within 30 days; there is also on-line payment available. Prior to letters being sent by Penn Credit, the City will preview and approve the letters. Penn Credit also has Spanish language capabilities if needed. Penn Credit has been in the collection business for 27 years and provides service to over 57 cities, counties and states with 16 of those accounts specifically EMS ambulance transport accounts. Penn Credit was recently awarded the contract for DTE.

The recommendation is to approve a two year contract with Credit Corporation, with an option for an additional one year, for the of collecting delinquent ambulance billing accounts at the rate of 19% In-house and 29% legal action. The 19% in-house rate, means money collected without legal counsel, if legal counsel is required the percentage on recovered funds increases to 29%.

Mayor McDaniel asked of the companies submitting bids, if data is available showing the success rate of receiving payments.

Assistant Fire Chief Macias stated he has no data.

Mr. Knight asked how a hard-ship case would be determined and the fee forgiven. He also asked if there a provision for those people that have insurance, in which case insurance picks up part of the tab and those that have no insurance, asking if there is a policy to handle these two situations.

Assistant Fire Chief Macias explained there was quite a bit of time paying attention to the insurance industry standards regarding the rates being charged and what insurance companies are willing to pay.

Mr. Knight stated he would hope the City would charge the uninsured the price that the insured pays, after insurance has paid their portion.

Mr. Burmeister noted the City is three months into providing EMS to the City, and asked the percentage of rate of return.

Assistant Fire Chief Macias explained because insurance companies can run as much as six months behind, it isn't possible to give an actual figure.

Mr. Burmeister asked if there are area communities using Penn Credit.

Assistant Fire Chief Macias stated he is only aware of Penn Credit being used by DTE through their recent contract signing.

Ms. Verbeke questioned if consideration had been given to hire a more local company, noting three of the top four are Michigan businesses, and Penn Credit is not.

Assistant Fire Chief Macias explained consideration was given to all companies and not just Penn Credit because they were the low bidder. All the Penn Credit references he called had already signed for the additional year, because they have been so pleased with the work performed. Also, most of the communication is done electronically; therefore, being in State would not make a big difference. Penn Credit also stated if the City is not satisfied, the City can stop sending them accounts. He had asked for assurance that the City wouldn't get lost in the shuffle because of larger accounts. It was explained to him, all accounts are integrated, only when payment is received, does the account get separated out and payment is mailed to the specific account.

Responding to Mr. Kittle, Assistant Fire Chief Macias stated he talked with Orange County, Florida, the City of Pittsburgh, and one other, and none have had any problems and have been associated with Penn Credit for a number of years.

Mr. Kittle thought the Mayor had a very good point on the success of recovery. He also stated he will not support this, since he didn't support in-house EMS.

Mayor McDaniel understands information is currently not available, but would like future reports that include tracking of outstanding amounts compared with other area communities and to see the success rate for recovery of funds. He is also pleased if there is dissatisfaction with this company, there are other choices.

Mr. Knight observed Penn Credit 19% rate is considerably less than the others, and implies to him that there is a high level of collection, because they can charge a lower rate. Penn Credit has also been in business for quite some time, which should also be noted.

Mayor McDaniel agrees, if possible he would prefer to use a local company, but with the extreme price differences he understands the recommendation as well as distance isn't an issue.

Moved by Knight; Seconded by Hammond.

RESOLVED: To approve the contracted service of Penn Credit Corporation for the purpose of collecting delinquent ambulance billing accounts at the rate of 19% In-house and 29% legal action for a contract length of two years (2) with an option for the City to renew for an additional one (1) year period and authorize the City Manager to sign the agreement on behalf of the City.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Mitchell, Verbeke

No: Kittle

Motion Carried (6-1)

Resolution No. 14.08.150

9. NEW BUSINESS

9a. Motion – Approval of Special Land Use Permit / Zax Express Wash

Mr. Keenan explained this is a request to construct a monument style, automatic changeable copy sign at Zax Express Wash, located at 941 South Opdyke Road. The proposed sign will be placed on the south side of the southern entrance and replace the existing pole sign located along Opdyke Road. The existing wall sign located on the south side of the building will also be removed to remain in compliance with the total allowable sign area square footage. The owner has agreed to display Amber Alerts and emergency messages when asked by the City. The total investment of this project is estimated at \$20,000.

Tim Dominick, Zax Express Wash Manager explained the owner is anxious to put up the new sign.

Moved by Hammond; Seconded by Mitchell.

RESOLVED: To accept the Planning Commission's recommendation and approve the Special Land Use Permit for Zax Express Wash subject to staff and consultants' conditions.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.151

9b. Motion – Approval of Site Plan and Tree Removal Permit / Dr. Koehler Office Building

Mr. Keenan explained this is a request to construct a one-story, 2,072 sq. ft. medical office building on a 0.32 acre site zoned B-1, Limited Business district. The property is located on the south side of Walton Boulevard between Joswick and Snellbrook Roads, next to Angelica's Place, that was approved in December 2012. Construction on Angelica's Place is anticipated to begin in August.

Dr. Koehler received an eight foot, west side yard setback variance from the Zoning Board of Appeals, in lieu of the required 15 foot side yard setback. There will be an electrical vehicle charging station included on the site.

Dr. Koehler's business has been located in Auburn Hills for more than 15 years, and plans on relocating his business from the Walton Village Plaza to the proposed building. The ground breaking is anticipated to take place in the fall of 2014 or spring 2015 with the grand opening expected approximately six months later.

Dr. Harold Koehler, 3250 Walton Boulevard, introduced himself.

Mr. Knight explained this was reviewed at the Zoning Board of Appeals meeting and granted the variance because it will not have any negative impact on Angelica's Place to the west or any other negative impacts.

Ms. Mitchell thanked Dr. Koehler for the environmental enhancements to the project.

Moved by Burmeister; Seconded by Verbeke.

RESOLVED: To accept the Planning Commission's recommendation and approve the Site Plan and Tree Removal Permit for the Dr. Koehler Office Building subject to staff and consultants' conditions.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.152

9c. Motion – Approval of Site Plan, Special Land Use Permit, and Tree Removal Permit / TI Automotive

Mr. Keenan explained this is a request to construct a 141,480 sq. ft., three-story, office building for TI Automotive on 9.84 acres zoned T&R, Technology and Research district. The site is located on Taylor Road, adjacent to RGIS. TI Automotive is requesting to land bank 191 parking spaces which requires a Special Land Use Permit. The zoning code requires 552 spaces, but for now, TI Automotive only needs 250 based on projected employment, but are constructing 335 parking spaces. The company anticipates adding an additional 100 employees over the next five years. There is also the agreement in concept to sell 1.1 acres of Fieldstone Golf Club property, located adjacent to the south and southwest property lines. The additional property will allow TI Automotive to build out their parking in the future. The existing cart path and utilities will be relocated at the expense of TI Automotive in the near future.

TI Automotive has been located in Auburn Hills since 2004 and will be signing a 15 year lease with Cunningham-Limp. The total investment for this project is estimated at \$15 million.

Sam Ashley, Vice-President of Cunningham-Limp, stated this will be a gateway site into the City, with great visibility from I-75. Two questions were raised at the Planning Commission meeting; the first regarding LEED certification – the tally showed 14 points, but there is actually 35 points accomplished on the LEED check off list. There will be LED lighting in the parking lot as well as in the facility. LEED certification was never being sought, but to build a well performing building which includes increased thermal performance and to increase natural light.

Ms. Mitchell thanked Mr. Ashley for the follow-up since the Planning Commission meeting.

Responding to Mr. Kittle, Mr. Ashley stated yes they are five points away from LEED certification, but it would cost \$25,000 additional dollars to reach those five points and receive a plaque. That additional money is being spent in the employee wellness program. With this property not being near residential properties or mass transit, it diminishes many LEED certification points.

Ms. Hammond asked Mr. Ashley to clarify for the residents that the cost of replacing the cart path and moving utilities is being picked up by Cunningham-Limp, with no cost to the City.

Mr. Ashley stated the agreement that will come before Council, September 8, 2014, has everything outlined including associated costs.

Mr. Knight noted this facility will be in addition to the two facilities TI Automotive is currently operating in, within the City.

Mr. Ashley noted as a developer how refreshing it is to work with a City and staff that are willing to tackle challenges and work together for a common goal.

Moved by Knight; Seconded by Verbeke.

RESOLVED: To accept the Planning Commission's recommendation and approve the Site Plan, Special Land Use Permit, and Tree Removal Permit for TI Automotive – North American Headquarters subject to staff and consultants' conditions.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.153

9d. Motion – Approval of Site Plan, Special Land Use Permit, and Tree Removal Permit / HIROTEC AMERICA, Inc.

Mr. Keenan noted this request is to construct a 213,979 sq. ft. headquarters for the Americas for HIROTEC AMERICA, on a 19.85 acre site zoned T&R, Technology and Research district. The property is located in the Oakland Technology Park located on the south sides of Cross Creek Parkway and High Meadow Circle.

Although the facility will be high-tech in nature, it's technically classified as a light industrial building since more than half of the floor space will be dedicated to manufacturing and warehousing. This light industrial emphasis requires a Special Land Use Permit in the T&R District similar to the US Farathane and Visioneering projects. In terms of floor space, 40,639 sq. ft. of the building will be utilized for office and design space and 173,340 sq. ft. will be used for manufacturing and warehousing operations. Truck traffic will be minimal (around four per day). No outside storage of materials is proposed. The building has been designed to allow for an expansion up to 350,000 sq. ft. in the future.

There are 843 replacement trees required and 685 replacement trees will be planted on the site. The developer proposes to plant the remaining 158 trees within the Oakland Technology Park, pay monies into the City's Tree Fund, or a combination of both.

The new facility will be owned by HIROTEC AMERICA, with an investment of \$26 million and an anticipated ground breaking by mid September with completion by July 2015.

Mr. Burmeister asked if there are any concerns with Pontiac Road and the increased amount of traffic.

Mr. Keenan noted the subject has not come up at any of the team meetings; the engineers don't see that as being a problem.

Mr. Keenan explained for Ms. Verbeke, payment to the tree fund will be the same process as has been in the past, if payment is necessary. He believes most of the trees will be able to fit in Oakland Technology Park.

Bruce Brickman, General Development Co. and **Brian McGinnity**, HIROTEC Development Company introduced themselves.

Ms. Verbeke asked Mr. Brickman if he would be able to plant all the necessary trees, or would he be contributing to the tree fund.

Mr. Brickman believes he will be able to plant the trees, but there are other options. He would like to sit down with Mr. Cohen and Mr. Keenan and a study group; he has a few ideas of building up the tree fund for other purposes.

Ms. Hammond asked about truck traffic.

Mr. Brickman explained HIROTEC has a facility off of Glenmeade which will continue with operations. This new facility will only have a few semi-trucks a day coming and going, it is not a production manufacturer, more of a custom build operation.

Mr. Kittle noted the building is attractive and asked if any of the leadership from Japan will be living in the area and if the assembly lines ship globally.

Mr. McGinnity stated yes, the plan is to bring workers from around the world to this facility. HIROTEC AMERICA, used to be called Tesco Engineering and was a training ground for many of the Japanese employees who are now in senior positions across the globe. This facility will be mainly supplying both North America and South America, though products may be shipped globally.

Moved by Verbeke; Seconded by Knight.

RESOLVED: To accept the Planning Commission's recommendation and approve the Site Plan, Special Land Use Permit, and Tree Removal Permit for HIROTEC AMERICA, Inc. subject to staff and consultants' conditions.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.154

9e. Motion – Adopt Resolution Regarding the Open Burning of Leaves and Brush on Single-Family Residential Properties in the City

Mr. Keenan explained the Committee met recently to discuss a recommendation to City Council. Taken into consideration were the comments received from residents at the two, town hall meetings, the phone calls received and the survey the City had sent to residents. The response from the survey exceeded 700 resident replies; better than expected. Many of the survey returned suggested taking the issue to a vote of the residents.

The last meeting held by the Committee, supported the residents request and to place the issue on the November 2014 ballot.

Mr. Kittle, Committee Chairperson, explained this issue has come up many times over the years. A committee was formed a year and a half ago, comprised of residents, City staff, emergency services personnel, and elected officials. The pros, cons, and alternatives were discussed. The decision was unanimous to place the question on the ballot by the Committee.

The City's Public Safety personnel become intermediaries between residential disputes. The data shows the number of incidents decreasing, but there is no good alternative. Mr. Knight had some suggestions and concerns which were all discussed by the Committee. Adopting a stricter ordinance would only put additional strain on the police and fire departments.

Mayor McDaniel noted this is specific to single family residential properties because leave burning is banned from other zoning districts.

Mr. Burmeister stated he has been struggling with this issue for the last 20 years; as a resident he likes the availability of burning leaves and if voted on by City Council he would vote to keep burning. As a retired employee of the Fire Department, it was non-stop utilization of resources. The call numbers go up; fire personnel checking on the burns, some of which were legal. If an emergency call came in for another location of the City, it was a tremendous drain on the safety service system.

Mr. Kittle stated burning tree limbs wasn't legal, only leave burning. This will not preclude chimineas or having hotdog roasts in your backyard. Two years ago when the trash hauling was implemented, the trash pickup included leave and composting services. The composting services were included because of previous discussions of banning leave burning and being able to give the residents an alternative.

Ms. Hammond agrees the residents should be able to voice their opinion and asked if the ban is voted down, will the current burning schedule continue or will there be open burning whenever one wants.

Mr. Kittle stated regardless of the outcome, the ordinance will be amended.

Mr. Knight suggested there aren't more than 100 residents that burn leaves in the City and has advocated a burning permit system. The permit would be of no charge, but the resident must alert emergency services that they are going to burn leaves and give their address. He would prefer Council take action, and not put it on a ballot.

Mayor McDaniel stated a committee was formed including residents, City staff, emergency personnel, and elected officials asking them for a recommendation. It wouldn't be proper to dismiss their work and recommendations, so Council could take sole action.

Ms. Verbeke asked if the question should pass, then City Council is to follow the exact wording. If the question fails, then the ordinance would have to be amended to include enforcement issues.

Mr. Beckerleg stated if the question passes, the City Council will have to adopt an ordinance prohibiting open burning of leaves and brush in single family residential areas; if it fails, the ordinance wording would be amended.

Ms. Verbeke noted if banning leave burning passes, she believes more discussion will be needed to help the residents with leave disposal.

Ms. Mitchell couldn't find any state law to help her with a decision, and is satisfied to hear the feedback from the voters. She has an issue with the proposal language; if voting yes on the proposal it means no to burning and voting no, means yes.

Mr. Beckerleg stated he has drafted a lot of ballot language over the years and the general rule of thumb when drafting ballot language is a yes vote requires an affirmative action of some sort.

Ms. Kowal noted on the ballot, language can be included explaining the proposal.

Mr. Beckerleg noted there isn't time to make changes; this must be sent to the State first thing in the morning.

Ms. Kowal stated she would be delivering the ballot language to Oakland County in the morning.

Mayor McDaniel suggested the explanation could be added before tomorrow morning.

Ms. Kowal explained that language must be approved by City Council, so there wouldn't be time to include additional language before delivering to the County in the morning. The language could be changed to 'Do you want to allow burning in the City of Auburn Hills – vote yes or no'.

Mr. Beckerleg noted an explanation is generally included with a constitutional or charter amendment.

Mayor McDaniel asked if the language can be changed to something as simple as 'I wish to see burning continue, yes or no'.

Mr. Beckerleg advised against it, but will do what Council requests.

Mr. Kittle read the proposed ballot language – '*Shall the City Council of the City of Auburn Hills adopt an Ordinance completely prohibiting the open burning of leaves and brush on all single-family residential properties in the City of Auburn Hills? Yes _____ No _____*'. He believes the language is straight forward.

Mr. Knight doesn't believe brush should be included in the ballot language.

Mr. Beckerleg stated brush is included in the language because the current ordinance allows open burning of leaves and brush during certain periods of time. The words are patterned exactly as the current ordinance reads.

Mr. Knight suggested eliminating *brush* from the language; brush is not the problem.

Mr. Beckerleg explained by removing the word brush, there is a discrepancy between the prohibition of the current ordinance and what the ordinance reads; brush is still dangling in the ordinance.

Mayor McDaniel stated then there will be a debate as to what brush is.

Deputy Director/Fire Manning explained the State legislation that allows local ordinances to adopt leave burning ordinances only allows for leave burning, brush is not included in the State statute.

Mr. Beckerleg concurred with Deputy Director/Fire Manning stating the current City ordinance is in conflict with State laws regarding brush burning.

Mr. Knight suggested holding off and putting this on next year's primary election, it won't have any effect on this year's leave burning. He feels it is being rushed through and should be looked at more carefully.

Mayor McDaniel stated this committee has been formed and discussing leave burning for two or so years and this is the recommendation that has been made, so Council should act on the recommendation and not dismiss the recommendation. Though it seems like a last minute decision, the Committee used all the available time they had to make a recommendation; not rushing to push this through. It was intended to go to the voters in November when more voters tend to vote.

Mr. Beckerleg stated every word in the ballot language is there for a specific reason, this was not a rushed process.

Mayor McDaniel asked if Director Olko or Deputy Director/Fire Manning would like to add anything, since enforcement will come from Public Safety.

Deputy Director/Fire Manning stated from being a participant on the Committee, due process was completed and agreed with Mr. Burmeister that services are stretched, but they will continue to do what they need to do.

Harold Smith, 3093 Bessie Street, believes the ordinance should be left as is.

Ron McCann, 125 N. Squirrel Road, agrees the ordinance should remain as it is. He has many trees and isn't sure what he will do with all his leaves and asked if there can be residents grandfathered-in to allow leave burning or issue him a permit.

Ms. Hammond noted the City has the SHARP program that helps residents with such things as yard work.

Karen Roach, 915 S. Squirrel Road suggested leaving things as is because the data shows a decrease in the number of complaints. Also as new residents move into neighborhoods they are removing trees, lessening the leave fall, as well as people being more aware of the environment.

Clarence Bennett, 3814 Tienken Road, stated he is too old to rake leaves, so he uses the lawn mower to mulch the leaves that then settle into the lawn, then the soil and fertilize the lawn. He does burn parts of the oak tree in a burner, that he isn't able to mulch.

Moved by Kittle; Seconded by Verbeke.

RESOLVED: To adopt the attached resolution (Attachment A), placing the issue of Leave Burning on the November 4, 2014 election ballot.

Mayor McDaniel stated this is the process that Council follows on a regular basis, though the end result may be different. In the past a committee was formed to discuss single trash hauler which resulted in a recommendation to City Council to adopt a single waste hauler and Council followed that recommendation. With this, leave burning, again a committee was formed with a recommendation to City Council to place the item on the November 2014 ballot for the citizens to decide. Council is now following that recommendation.

VOTE: Yes: Burmeister, Hammond, Kittle, McDaniel, Mitchell, Verbeke

No: Knight

Motion Carried (6-1)

Resolution No. 14.08.155

9f. Motion – Approve the Memorandum of Understanding for the Detroit Metropolitan Identity Theft and Financial Crimes Task Force between the Federal Bureau of Investigation and the Auburn Hills Police Department

Director Olko explained there is an increase in fraud crimes which tend to be wide spread and is difficult for investigators to pursue these criminals. This Memorandum of Understanding and the City joining this Task Force will increase the City's capability through interaction with other governmental agencies to pursue and prosecute these criminals. Since the Memorandum of Understanding is with the FBI, there will be more options to prosecute the criminals federally as well as within the state.

Mr. Kittle asked how many communities will be participating in this.

Director Olko stated as of now, the Task Force includes Auburn Hills, Troy, FBI, Secret Service, and a few other federal agencies. The FBI prefers to keep this a smaller group; Troy and Auburn Hills form a corridor along I-75 and both communities have large retail basis, which is where and many of the crimes are coming from.

Harold Smith, 3093 Bessie Street, complained about receiving fraudulent phone calls.

Mayor McDaniel asked Mr. Smith to stay after the meeting to gather more information.

Moved by Verbeke; Seconded by Knight.

RESOLVED: To approve the Memorandum of Understanding for the Detroit Metropolitan Identity Theft and Financial Crimes Task Force between the Federal Bureau of Investigation and the Auburn Hills Police Department and direct the Chief of Police to sign the agreement on behalf of the City.

Mr. Kittle asked Mr. Tanghe if this has any budgetary impacts.

Mr. Tanghe stated it does not.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Motion Carried (7-0)

Resolution No. 14.08.156

10. COMMENTS AND MOTIONS FROM COUNCIL

Ms. Hammond:

- Noted all the site plans this evening are not LEED certified with the developers explaining it is cost prohibitive to receive a plaque. She asked if the City could present appreciation plaques to those businesses that are trying to be environmentally friendly.
Mr. Keenan stated it can be investigated.

Mr. Knight:

- He isn't sure if demolition has begun, but there are vehicles at the Mound Steel site looking like they are ready to proceed with the demolition.
- The Dollar Store site is completely leveled.
- The Morning Optimist Club is having a picnic at the park on Friday night at 6:00 p.m. at the gazebo, and all are invited. The concert begins at 7:00 p.m.
- He would like to see permits issued to those wishing to burn leaves this fall. The Fire Department would have a list of addresses of those burning, and possibly use those licensees as watchdogs for the neighborhoods. Those with permits would agree to and follow to the terms of the ordinance.
- He lost a telephone pole for nine days, he had no phone or internet, and accessed the internet at the DEN. He recently read that Oakland County is giving up on having free wi-fi throughout the County. He suggested the possibility of the City providing free wi-fi for residential areas throughout the City.

Ms. Verbeke:

- Mr. Petras earlier this evening commented about the sidewalk issue and it has been brought up in the past. She asked if anything has been done, realizing there was an issue with a property owner.
Mr. Herczeg explained the problem with the Auburn Road, in order to be ADA compliant there is much more property needed than the City's current road right-of-way. The City has approached at least one business owner about gaining more property, and the request wasn't well received. It isn't a forgotten problem and signs have been posted alerting pedestrians of the stairs. There haven't been any additional complaints until this evening. The area will be looked at again, but the City is limited on what can be done because of the space.
Mayor McDaniel noted the stairs are quite steep and if it would be possible to remove the steps and put in an asphalt pathway.
Mr. Herczeg explained the slope is too great for a pathway and meet ADA standards.
Mr. Knight stated the same can be said for Adams and Auburn Roads; the tree should be removed and a walkway installed.
- Congratulated Clerk Kowal on a well run election.
- Asked at what point does City Council get notified of funds being deposited into the Tree Fund or the alternate fund, or does the Council get notified.
Mr. Tanghe explained a report to City Council will be provided quarterly, showing revenue coming in and expenses going out; there will be ongoing information of the account balance.
Ms. Verbeke stated this evening Council didn't approve where the Tree Fund money would be going, only site plan approval.
Mr. Tanghe stated the money allocated to the Tree Fund is formula driven. This evening, Council approved the tree removal permit, a count of trees will be done and the formula will result in how many trees must be planted and/or funds contributed to the Tree Fund.
Mayor McDaniel explained there are two choices for a developer; replant trees or pay into the Tree Fund, as required by ordinance. As noted by Mr. Brickman, if there are creative thoughts in lieu of the plantings or Fund, then Council discussion and approval is needed.

Mr. Burmeister:

- At the last meeting a resident complained about trees on Tienken Road and asked if there has been a resolution.
Mr. Grice stated that was addressed within a few days of the meeting and the trees have been trimmed.
- Asked Mr. Keenan if the residents can be alerted to the e-coli counts in the River, noting the high counts in the water report.

Mr. Keenan stated the best advice he can give to anyone who wants to play in any river, is to not go in after a major rain storm. A heavy rain can cause detention ponds to flow into the river, which has goose waste, as well as other areas having contaminated runoff into a river. The data comes from the County, and has a lag time of at least 24 hours to have accurate counts.

Mr. Keenan stated he will include some information on river use in the next newsletter and/or the web site.

Mayor McDaniel suggested including something in the next water bill.

Ms. Mitchell:

- Requested the public be made aware of leave burning question that will be on the November ballot. Information could be put on the web site and possibly the water bill. She'd like to make sure everyone is aware of the issue and understands the yes/no vote, and maybe include the clarification language that Ms. Kowal had mentioned.
- Now that the Michigan Legislature is back in session, she would like to find out the State's rational of not mandating base line water testing for oil and gas drilling, where there is no site processing. It has been discussed in the past and she doesn't want the topic to get lost in the shuffle.
- Wants to congratulate Mr. Cohen on a strong delivery and representing the City well at the Oakland County's One Stop Ready meeting.
- Though she had to miss the National Night Out, she understood it went very well and stayed informed through the Twitter feed.

Mayor McDaniel:

- Thanked the Staff for their hard work as represented by this evening's agenda with all the new development and companies coming to, or staying in Auburn Hills.
- Apologized for not clarifying earlier during the Memorandum of Understanding with the FBI, but Mr. Smith had spoke earlier prior to the meeting regarding his fraud issue. It wasn't the time for his discussion because it doesn't directly correlate with the Memorandum of Understanding. He thanked Mr. Smith for staying and will talk with him after the meeting and put him in touch with the appropriate people.

11. CITY ATTORNEY'S REPORT - none

12. CITY MANAGER'S REPORT

- The City's Blog has been re-launched and can be found on the City's website or through insideauburnhills.com. It will be more of a collaboration of all departments, not just from the City Manager's office. One day a week will be specific to economic development activity.
- Towards the end of the month, Mr. Barnes and Ms. Schulz will be preparing a summary of the budget, with a quick overview to be presented at the August 25th meeting, prior to the seeing the budget in detail at the September 8th workshop. Budget workshops will be scheduled at 5:30 p.m. on both September 8th and September 22nd. Also, on August 25th he will be out of town, and Mr. Grice will be present.
- This year's farmers market has been discontinued, because of the sudden departure of the market master and the declining vendor participation. The process will be reviewed, but it isn't decided when there may be another attempt for the market. There is \$90 million investment of residential construction scheduled to begin in 2015, in the greater downtown area, east to Adams Road. The farmers market should have greater success in a few years when there are more residents in the area.
- Tonight, there was approximately \$40 million in construction projects approved; we as a City appreciate and thank these companies for choosing Auburn Hills.
- Tomorrow the TIFA board will be holding their annual budget workshop, starting at 4:00 p.m. City staff will attend as well as Mr. Barnes who will be presenting the proposed budget. The TIFA totals are down, so there will be less spending.

13. ADJOURNMENT

Hearing no objection the meeting adjourned at 9:22 p.m.

Kevin R. McDaniel, Mayor

Terri Kowal, City Clerk

**RESOLUTION 14.08.155 REGARDING THE OPEN BURNING OF LEAVES AND BRUSH
ON SINGLE-FAMILY RESIDENTIAL PROPERTIES IN THE CITY**

WHEREAS, Subsection F-307.2.2.3 of Section 38-11 of the Auburn Hills City Code of Ordinances, as amended, provides that open burning is prohibited on commercial, industrial, multiple-family residential and mobile home properties in the City; and

WHEREAS, Subsection F-307.2.2.2 and F-307.2.2.4 of Section 38-11 of the Auburn Hills City Code of Ordinances, as amended, allows open burning of leaves and brush on single-family residential properties in the City provided said open burning is conducted by the property owner on the owner’s property, in between the hours of dawn and dusk with the days of open burning being limited to Monday, Wednesday, Friday and Saturday only during the periods from May 1st through May 31st and October 15th through November 30th; and

WHEREAS the City Council is desirous of submitting to the electorate of the City of Auburn Hills at the November 4, 2014 election a proposal to completely prohibit the open burning of leaves and brush on all single-family residential properties in the City of Auburn Hills.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Auburn Hills City Council that the following language is hereby certified to the County Clerk for the County of Oakland to be placed on the November 4, 2014 election ballot to be submitted to the electors of the City of Auburn Hills:

Shall the City Council of the City of Auburn Hills adopt an Ordinance completely prohibiting the open burning of leaves and brush on all single-family residential properties in the City of Auburn Hills?

Yes _____ No _____

This Resolution is declared to have been adopted by the City Council of the City of Auburn Hills at a meeting thereof duly held and called on the 11th day of August, 2014, in order to be certified to the County Clerk for the County of Oakland in the manner prescribed in the election laws of the State of Michigan.

AYES: Mayor McDaniel, Mayor Pro Tem Kittle, Council Members Burmeister, Hammond, Mitchell, Verbeke

NAYS: Council Member Knight

ABSENT: None

ABSTENTIONS: None

RESOLUTION 14.08.155 APPROVED (6-1)

STATE OF MICHIGAN)

)ss.

COUNTY OF OAKLAND)

I, Terri Kowal, the duly qualified and acting Clerk of the City of Auburn Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Auburn Hills on the 11th day of August, 2014, the original of which is on file in my office.

Terri Kowal, City Clerk