



CITY OF AUBURN HILLS

Regular City Council Meeting Minutes

February 25, 2019

CALL TO ORDER: Mayor McDaniel at 7:00 p.m.
LOCATION: City Council Chamber, 1827 N. Squirrel Road, Auburn Hills, MI 48326
Present: Mayor McDaniel, Council Members Burmeister, Hammond, Knight, and Moniz
Absent: Council Members Kittle and Verbeke
Also Present: City Manager Tanghe, City Attorney Roberts, Assistant City Manager Grice, City Clerk Pierce, Police Chief Baker, Fire Chief Taylor, DPW Director Melchert, Deputy DPW Director Stahly, Manager of Fleet & Roads See, Manager of Municipal Properties Torres, Director of Authorities Skopek, Director of Community Development Cohen, City Engineer Juidici

7 Guests

4. APPROVAL OF MINUTES

4a. City Council Workshop Minutes – February 11, 2019

Moved by Knight, Seconded by Hammond.

RESOLVED: To approve the City Council Workshop Minutes of February 11, 2019.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.13

Motion Carried (5 - 0)

4b. City Council Minutes – February 11, 2019

Moved by Hammond, Seconded by Knight.

RESOLVED: To approve the City Council Regular Meeting Minutes of February 11, 2019.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.14

Motion Carried (5 - 0)

5. APPOINTMENTS AND PRESENTATIONS

5a. Motion – To confirm the reappointment of Dr. Patricia Dolly, Steven Goodhall and Robert Waltenspiel to the Tax Increment Finance Authority Board of Directors.

Moved by Moniz, Seconded by Knight.

RESOLVED: To confirm the reappointment of Dr. Patricia Dolly, Steven Goodhall and Robert Waltenspiel to the Tax Increment Finance Authority for a term ending February 28, 2023.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.15

Motion Carried (5 - 0)

6. PUBLIC COMMENT

7. CONSENT AGENDA

7a. Board and Commission Minutes

7a1. Planning Commission/Recreation Commission, January 16, 2019

7a2. Planning Commission, February 13, 2019

7a3. Tax Increment Finance Authority, February 12, 2019

RESOLVED: To receive and file the Board and Commission Minutes

Moved by Hammond, Seconded by Moniz.

RESOLVED: To approve the Consent Agenda Items 7a1,7a2, 7a3.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.16

Motion Carried (5 - 0)

7b. Motion - To approve and award the purchase of a MultiOne Loader Machine.

Discussion was held regarding the equipment being enclosed for the safety of the workers of the machine.

Moved by Moniz, Seconded by Burmeister.

RESOLVED: To approve the purchase of a MultiOne Articulating loader to low bidder, Carleton Equipment Company, 48135 Gratiot Ave. Chesterfield Township, MI, 48051 for \$65,999.00 and authorize the City manager to convey acceptance by purchase order. Funding is provided from the Fleet Machinery and Equipment account 661-442-977.000.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.17

Motion Carried (5 - 0)

7c. Motion - To approve and award the purchase of two Chevy Tahoe Special Service Vehicles.

Mr. Knight shared concern for the large fleet division and wanting the best for the department and conveyed that staff has been helpful in answering any questions he has.

Moved by Knight, Seconded by Hammond.

RESOLVED: To award the purchase of two Chevy Tahoe Special Service Vehicles to Berger Chevrolet, Inc. in the amount of \$70,690.00. Funding for the purchase is available via account number 661-442-981.000.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.18

Motion Carried (5 - 0)

8. OLD BUSINESS

9. NEW BUSINESS

9a. Public Hearing/Motion – To adopt an ordinance amending Chapter 18 prohibiting Marihuana Establishments and Medical Marihuana Facilities.

Attorney Roberts of Secrest Wardle stated that the ordinance is prohibiting the establishment of marihuana facilities under the new act and addresses the medical marihuana uses and prohibits the use of marijuaha in public places.

Mayor McDaniel opened the Public Hearing at 7:09PM. Hearing no comment, he closed the Public Hearing at 7:09PM.

Moved by Knight, Seconded by Burmeister.

RESOLVED: To adopt an Ordinance to amend Chapter 18-Buildings and Building Regulations, of the Auburn Hills City Code to add a new Article VIII-Prohibition of Marihuana Establishments and Medical Marihuana Facilities, on second reading, to be known as Ordinance No.19-907. (Attachment A)

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.19

Motion Carried (5 - 0)

9b. Motion – To approve a Special Land Use Permit / Nino’s Italian House.

Mr. Cohen stated that the request at this location is for an automatic changeable copy sign. The sign will only operate during the restaurants regular business hours of Monday thru Thursday 11:00AM -10:00PM, Friday thru Saturday 11:00AM – 11:00PM and Sunday 12PM -10PM. It was stated that this sign will show any Amber Alerts should there be any.

Moved by Knight, Seconded by Moniz.

RESOLVED: To accept the Planning Commission’s recommendation and approve the Special Land Use Permit for the automatic changeable copy sign for Nino’s Italian House restaurant subject to the conditions of the City’s administrative review team.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.20

Motion Carried (5 - 0)

9c. Motion – To approve a Special Land Use Permit and Site Plan / Bob’s Discount Furniture.

Mr. Cohen shared that the request at this location is for a height variance that will maintain the same footprint on the property.

Moved by Moniz, Seconded by Hammond.

RESOLVED: To accept the Planning Commission’s recommendation and approve the Special Land Use Permit and Site Plan for Bob’s Discount Furniture subject to the conditions of the City’s administrative review team.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.21

Motion Carried (5 - 0)

9d. Motion – To approve a Site Plan and Tree Removal Permit / Harmon Road Development.

Mr. Cohen stated that the approval for this industrial development permit will result in the replacement of 766 trees. Of this requirement, 254 trees will be planted. Due to the fact that not all the trees can be replaced, the remaining 512 trees will be paid into the tree replacement fund at \$194,560.00 bringing the tree fund balance to \$600,000. Construction on the development will not begin until a tenant is secured.

Moved by Burmeister, Seconded by Hammond.

RESOLVED: To accept the Planning Commission’s recommendation and approve the Site Plan and Tree Removal Permit for Harmon Road Development subject to the conditions of the City’s administrative review team.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.22

Motion Carried (5 - 0)

9e. Motion – To approve a PUD Step Two – Site Plan / Taco Bell at Dutton Corporate Centre PUD.

Mr. Cohen shared this permit will allow indoor as well as outdoor seating. Mr. Knight shared that the Planning Commission has done an outstanding job of reviewing the petitions as they are presented.

Moved by Hammond, Seconded by Knight.

RESOLVED: To accept the Planning Commission’s recommendation and approve the PUD Step Two – Site Plan to construct a Taco Bell restaurant subject to the conditions of the City’s administrative review team.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.23

Motion Carried (5 - 0)

9f. Motion – To prohibit through truck traffic in downtown Auburn Hills by way of TCO TT-01.

Chief Baker presented the history of the project and the concerns regarding the truck traffic in the downtown area. Local deliveries are the only exception to this new ordinance. The GPS systems have been alerted and truck drivers will not be routed this direction. There was a statement made that this ordinance does not apply to construction matters. The Mayor stated that there has been positive feedback to this decision that was made and the downtown area is more walkable and safer for the patrons.

Moved by Knight, Seconded by Burmeister.

RESOLVED: To adopt Traffic Control Order TT-01 prohibiting truck traffic on Squirrel Road from 150 feet south of M-59 to Auburn Road, limiting truck traffic to local deliveries only on Auburn Road from Churchill to Adams Road, on Squirrel Road from South Boulevard to Auburn Road, and on Squirrel Court from Auburn Road to Squirrel Road, and prohibiting truck traffic turns from listed businesses on Auburn Road for purposes of through traffic.

VOTE: Yes: Burmeister, Hammond, Knight, McDaniel, Moniz

No: None

Resolution No. 19.02.24

Motion Carried (5 - 0)

10. COMMENTS AND MOTIONS FROM COUNCIL

Ms. Hammond – Stated that there is a potential bill to review which would allow for alcohol sales to be sold until for 4AM. The City should be proactive with the issue.

Mr. Knight – Stated his concerns with the Christmas tree and the trees in the downtown area and the poor quality of the display.

Mr. Moniz – Questioned when Opdyke would be repaved. Mr. Juidici commented on the Road Commission project which is likely to begin in May.

Mr. Burmeister – Shared concern regarding not having computer access in the Council Chamber to the sites that are up for discussion. He also shared his frustration with newspapers being thrown in people’s driveway. It was noted that complains have been made in the past, but unfortunately, nothing can be done.

11. CITY ATTORNEY REPORT

12. CITY MANAGER REPORT

Mr. Tanghe shared that offers have been extended to candidates to fill the Police and Fire Department responsibilities. 2019 to start off slowly with development but has been pleasantly surprised with the flurry of development activity. He congratulated Esys Automation located at 1000 Brown Road, for the recent grand opening. He noted that the City is creating a Complete Count Committee for the 2020 Census and it will be headed up by Stephanie Carroll.

13. ADJOURNMENT

Hearing no objections, the Mayor adjourned the meeting at 7:44PM.

Kevin R. McDaniel, Mayor

Laura M. Pierce, City Clerk

ATTACHMENT A

CITY OF AUBURN HILLS ORDINANCE NO. 19-907

AN ORDINANCE TO ADD AN ARTICLE VIII – PROHIBITION OF MARIHUANA ESTABLISHMENTS AND MEDICAL MARIHUANA FACILITIES, TO CHAPTER 18 – BUILDINGS AND BUILDING REGULATIONS, OF THE AUBURN HILLS CITY CODE, AS AMENDED, TO PROVIDE FOR THE DEFINITION OF WORDS, THE PROHIBITION OF MARIHUANA ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE CITY OF AUBURN HILLS PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW 1 OF 2018, MCL 333.27951 *ET SEQ.*, AS MAY BE AMENDED, THE PROHIBITION OF MEDICAL MARIHUANA FACILITIES WITHIN THE BOUNDARIES OF THE CITY OF AUBURN HILLS, THE PROHIBITION OF SALE AND CONSUMPTION OF MARIHUANA IN PUBLIC PLACES AND PROVIDING PENALTIES FOR VIOLATION OF THE ORDINANCE.

The City of Auburn Hills ordains:

Section 1.

Chapter 18 – Buildings and Building Regulations, of the Auburn Hills City Code, as amended, is hereby amended to add a new Article VIII – Prohibition of Marihuana Establishments and Medical Marihuana Facilities, to read as follows:

ARTICLE VIII. – PROHIBITION OF MARIHUANA ESTABLISHMENTS AND MEDICAL MARIHUANA FACILITIES

Sec. 18-226. – Title.

This Ordinance shall be known as and may be cited as the City of Auburn Hills Prohibition of Marihuana Establishments and Medical Marihuana Facilities Ordinance.

Sec. 18-227. – Definitions.

As used in this Ordinance:

- (a) "Act" means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*
- (b) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.
- (c) "Department" means the Michigan Department of Licensing and Regulatory Affairs.
- (d) "Industrial hemp" means a plant of the genus *cannabis* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus *cannabis* regardless of moisture content.
- (e) "Licensee" means a person holding a state license.

- (f) "Marihuana" means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of the Act and this Ordinance, marihuana does not include:
 - (1) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
 - (2) industrial hemp; or
 - (3) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.
- (g) "Marihuana accessories" means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.
- (h) "Marihuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.
- (i) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.
- (j) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (k) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.
- (l) "Marihuana microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- (m) "Marihuana processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (n) "Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (o) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (p) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (q) "Michigan Medical Marihuana Facilities Licensing Act" means P.A.2016, No. 281, as amended, MCL §333.27101, *et seq.*

- (r) "Municipal license" means a license issued by a municipality pursuant to Section 16 of the Act that allows a person to operate a marihuana establishment in that municipality.
- (s) "Municipality" means a city, village, or township.
- (t) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
- (u) "Process" or "Processing" means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.
- (v) "State license" means a license issued by the department that allows a person to operate a marihuana establishment.
- (w) "Unreasonably impracticable" means that the measures necessary to comply with the rules or ordinances adopted pursuant to the Act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

Sec. 18-228. – No Marihuana Establishments.

The City of Auburn Hills hereby prohibits all marihuana establishments within the boundaries of the City of Auburn Hills pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, as may be amended.

Sec. 18-229. – No Medical Marihuana Facilities.

Pursuant to Section 205 of the Michigan Medical Marihuana Facilities Licensing Act (MCL §333.27205) the City may adopt an Ordinance to authorize 1 or more types of marihuana facilities within its boundaries and may limit the number of each type of marihuana facility. Pursuant to this authority, the City of Auburn Hills has refused to adopt an Ordinance to authorize 1 or more types of marihuana facilities within its boundaries. The City of Auburn Hills, therefore, specifically prohibits within the boundaries of the City of Auburn Hills any type of marihuana facility described in the Michigan Medical Marihuana Facilities Licensing Act, including but not limited to, "Medical Marihuana Growing Facilities" "Medical Marihuana Processing Facilities," "Medical Marihuana Provisioning Centers," "Medical Marihuana Safety Compliance Facilities," and "Medical Marihuana Secure Transport Facilities."

Sec. 18-230. – Prohibition on Sale and Consumption of Marihuana in Public Places.

- (a) In conformance with Sections 4.1(e) and 6.2(b) of the Act, the sale or consumption of marihuana in any form and the sale or display of marihuana accessories, as defined by the Act, is prohibited in any public places within the boundaries of the City of Auburn Hills.
- (b) Any person who violates any of the provisions of this Section shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs.
- (c) This section does not supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided in and authorized by the Act, and does not supersede rights and obligations with respect to the use of marihuana for medical purposes as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.

Sec. 18-231. – Violations and Penalties.

1. Any person who disobeys, neglects or refuses to comply with any provision of this Ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this Ordinance. A violation of this Ordinance is deemed to be a nuisance per se.

2. Except as otherwise provided in Section 18-230 for violations of Section 18-230, a violation of this Ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the City incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the City may seek injunctive relief against persons alleged to be in violation of this Ordinance, and such other relief as may be provided by law.

5. This Ordinance shall be administered and enforced by the Ordinance Enforcement Officers of the City of Auburn Hills, the Auburn Hills Police Department and its officers, or by such other person (s) as designated by the Auburn Hills City Council from time to time.

Secs. 18-231–18-242. – Reserved.

Section 2. Repealer

All ordinances or parts of ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. Savings

All 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 are commenced.

Section 4. 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 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 _____, 2019, and ordered to be given publication in the 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 copy of Ordinance No. 19-907 adopted by the City Council of the City of Auburn Hills on the 25th day of February, 2019, the original of which is in my office.

Laura M. Pierce, City Clerk