



# CITY OF AUBURN HILLS

## Regular City Council Meeting Minutes

August 26, 2019

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**CALL TO ORDER:** Mayor McDaniel at 7:06 p.m.

**LOCATION:**

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

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

Absent: None

Also Present: City Manager Tanghe, City Attorney Beckerleg, Assistant City Manager Grice, City Clerk Pierce, Fire Chief Taylor, Police Chief Baker, Deputy Finance Director/Deputy Treasurer Farmer, Community Development Director Cohen, Recreation Director Hegdal, DPW Director Melchert, Deputy DPW Director Stahly, Director of Authorities Skopek, Engineer Cousino, Management Intern Hagge

29 Guests

#### 4. APPROVAL OF MINUTES

4a. City Council Minutes, August 5, 2019

**Moved by Verbeke, Seconded by Moniz.**

Mr. Kittle asked that his comments be clarified. They were changed to state the following;

*Mr. Kittle – Would like to see discussion, during the budget workshop, about giving the finance department the ability to ~~take action on stock options that are too good to pass up~~ act on timing for optimal disbursement of funds to the retiree benefit accounts. ~~Currently any action on stocks requires Council action.~~*

**RESOLVED: To approve the City Council Minutes of August 5, 2019 as clarified.**

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

**No: None**

**Resolution No. 19.08.111**

**Motion Carried (7 - 0)**

#### 5. APPOINTMENTS AND PRESENTATIONS

5a. Presentation of the Michigan Association of Chiefs of Police Accreditation Award by Executive Director Bob Stevenson and Director of Professional Development Neal Rossow to the Auburn Hills Police Department

Chief Baker introduced Chief Terrance McDonald, Neal Rossow and Bob Stevenson of the Michigan Association of Chiefs of Police. Retired Chief Stevenson shared that the City of Auburn Hills has an excellent police department and a great reputation around the State of Michigan. The accreditation award that was presented is an honor that is not just given, it is earned. He shared that of the 600 police agencies in the State of Michigan, Auburn Hills is the 18<sup>th</sup> municipality to receive this high accreditation. Chief Baker shared that the Lieutenants were part of the success of this accreditation and thanked Officer Brian Miller in heading up the accreditation process.

5b. Second Quarter Cash Management Report, presented by Brian Green, AndCo Consulting

Brian Green presented the 2<sup>nd</sup> quarter findings of 2019 for the cash management program which continues to be well run and well managed for the City. Everything is performing inline or above expectations. He shared that as things change at the Federal level, they are committed to continue to invest when they are able to.

**6. PUBLIC COMMENT**

Brenda Carter State Representative for District 29 was present. She shared that the goal in Lansing is not to only balance the State budget but to also find appropriate funding to not merely pave the roads but to fix the roads as well as clean water and the affordable health care.

**7. CONSENT AGENDA**

7a. Board and Commission Minutes

7a1. Public Safety Advisory Committee, July 16, 2019

7a2. Beautification Advisory Commission, July 17, 2019

7a3. Beautification Advisory Commission, August 7, 2019

7a4. Tax Increment Finance Authority, August 13, 2019

7a5. Planning Commission, August 14, 2019

**RESOLVED: To receive and file the Board and Commission Minutes.**

7b. Motion - To receive and file the AndCo Consulting 2<sup>nd</sup> Quarter Cash Management Summary and Executive reports.

**RESOLVED: To receive and file the AndCo Consulting 2nd Quarter 2019 Cash Management Summary and Executive reports.**

7c. Motion – To approve the MOU for the FBI Oakland County Gang and Violent Crime Safe Streets Task Force between the FBI and the Auburn Hills Police Department.

**RESOLVED: To approve the Memorandum of Understanding for the FBI Oakland County Gang and Violent Crime Safe Streets 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.**

**Moved by Verbeke, Seconded by Moniz.**

**RESOLVED: To approve the Consent Agenda Items.**

Ms. Verbeke noted that the PSAC agreed to change the dates of the meetings to align with the budget.

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

**No: None**

**Resolution No. 19.08.112**

**Motion Carried (7 - 0)**

**8. OLD BUSINESS**

**9. NEW BUSINESS**

9a. Motion – To approve the Special Land Use Permit, Site Plan and Tree Removal Permit / Michigan State University Federal Credit Union.

Mr. Cohen presented the plans for a 3 story 50,519 sq ft credit union. This site would a regional office for the southeast credit union members. Construction would begin March 2020 with completion of June 2021.

Scott Maynard with Neumann Smith, 400 Galleria Officentre, Suite 555, Southfield, MI was available to answer any questions.

Discussion took place regarding the 3<sup>rd</sup> floor. Mr. Maynard noted that there will be four guest suites that will be made available to executives and employees in the event of travel or extended meetings times. The suites will not be open to the public.

**Moved by Knight, Seconded by Hammond.**

**RESOLVED: To accept the Planning Commission’s recommendation and approve the Special Land Use Permit, Site Plan and Tree Removal Permit for Michigan State University Federal Credit Union subject to the conditions of the City’s Administrative Review Team.**

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

**No: None**

**Resolution No. 19.08.113**

**Motion Carried (7 - 0)**

9b. Motion – To approve the Site Plan and Tree Removal Permit / 3040 Cross Creek Parkway Parking Lot.

Mr. Cohen presented the need to construct a parking lot to aide MSU Credit Union. He noted the lot will hold 254 spaces. Construction to begin in October 2019.

Scott Maynard, Neumann Smith, 400 Galleria Officentre, Suite 555, Southfield, MI was available to answer any questions.

It was discussed that, with this project, there would be a loss of 53 spots to gain 254 in total. Mr. Maynard explained that the parking lot would be built to completeness and this is a cost savings avenue. This project will also include a pedestrian bridge over the wetlands to connect the two parcels.

**Moved by Kittle, Seconded by Burmeister.**

**RESOLVED: To accept the Planning Commission’s recommendation and approve the Site Plan and Tree Removal Permit for 3040 Cross Creek Parkway Parking Lot subject to the conditions of the City’s Administrative Review Team.**

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

**No: None**

**Resolution No. 19.08.114**

**Motion Carried (7 - 0)**

9c. Motion – To approve the Mass Grading and Tree Removal Permit / Amson Nassar Development.

Mr. Cohen explained that this is a land balancing project that is intended to prepare a building pad on the 12.4 acre on the south side of Harmon. 516 trees will need to be replaced or Amson Nassar could pay into the tree fund at the time of Site Plan approval. A cash bond will be required for the tree replacement.

Daniel LeClair, Greentech Engineering, Inc., 51147 Pontiac Trail, Wixom, MI was available to answer any questions.

**Moved by Knight, Seconded by Moniz.**

**RESOLVED: To accept the Planning Commission’s recommendation and approve the Mass Grading and Tree Removal Permit for Amson Nassar Development subject to the conditions of the City’s Administrative Review Team.**

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

**No: None**

**Resolution No. 19.08.115**

**Motion Carried (7 - 0)**

9d. Public Hearing/Motion - Revocation of Planned Unit Development Option Approval / Residences at Thirty-Two 50.

Mr. Cohen presented the agenda item regarding the residence as Thirty-Two 50. The PUD was approved in October 2015 but there has been no progress since 2016 due to a lack of financing. Staff presented two

options for Council to review; revoke the PUD or extend the approval until November 30, 2019 with conditions. The goal is to have the developer proceed with the project.

Mayor McDaniel opened the Public Hearing at 7:44PM.

Elias Xenos of Foremost 550 W. Merrill Street, Suite 100, Birmingham, MI 48009 was present and stated that he has communicated to Mr. Cohen the issues regarding the project. He feels that since the project is set for construction to begin, to halt the project would be a profound mistake. He would rather have the PUD extended to November 30, 2019. He provided the history of the project and stated that he felt the cash bond amount of \$30,000 being recommended by OHM was excessive for the grading and seeding. The amount of \$3,800.00 that Foremost is recommending is based on an actual bid from the contractor that would do the work. He shared the discrepancy he felt was in the ordinance and what was being asked of him, he asked that option B of the proposed motion be adopted without the bond requirement or a reduced bond requirement to be paid on or before November 1, 2019. He stated that they will be providing weekly status reports to Mr. Cohen.

Mark Wayne of Detroit Riverside Capital was present to show support of the project and answer any questions. He stated that they are overly confident that this project can be completed in a quick manner. They are hopeful that construction can begin within 90 days and that the appropriate meetings have taken place with contractors, architects, and property managers. Remediation documents have been reviewed by engineers and due diligence has been completed on their part to avoid any hurdles that may be in the way.

Council shared their concerns regarding this project. It was stated that this has been a 4 year project. Council agreed that it has done its part with the updated Master Plan of the downtown area as well as being patient and waiting, appreciating the work that has been done to this point. However, City staff and Council members have been receiving plenty of phone calls from residents regarding the state of this site. Council is asking for a \$30,000 cash bond to be used for the property to be brought back to its original state should the project not be completed. Council stated adamantly that the fence should be maintained, in good standard and repair for the overall benefit to the residents. There was concern that if the fencing was taken down that the slopes would be too steep for pedestrians.

Mr. Wayne stated that he is currently having conversations with general contractors and would like the 90 day extension to be able to negotiate with all the legal closing procedures. He has three quotes to ensure there is a backup. Once there is a closing Mr. Wayne stated that there is a 100% chance of having a new fence due to the fence becoming a billboard for the new property. Mayor McDaniel stated that the discussion regarding the extension of the PUD should include the fence.

Mr. Knight asked if the November date was possible to be able to fulfill part one of the resolution. Mr. Wayne stated that due to the fact that things work in parallel with one another that yes, it would be possible to fulfill part one of the resolution. As well as have weekly status updates with Mr. Cohen and his team to keep them apprised to the work that is involved. They are making a conscious choice to start the project in the winter months, just to move the project along faster. It was stated that it take 14-21 days from the closing date to having shovels in the ground to move the project forward.

Mr. Wayne stated that normally a bond like this would cover the cost of a restoration and feels that they will spend that much in getting the site prepared. He does not want to put more money at risk in case an unforeseen event occurs. There is a boring test that still needs to be completed. He is hopeful that everything will come back with a positive report but if not, then the contamination is still there.

It was decided that the development company, Mr. Cohen and OHM will meet to discuss if the progress that is being made is adequate and to discuss the bond, but OHM would determine the final bond amount.

Mayor McDaniel stated that he wanted to see a bond established to ensure that the current fence is moved away and that the space is restored, if what is being said does not happen within the next 90 days. The space needs to look nice and be something that residents are going to be pleased with. Mayor McDaniel stated that he does not want any to see any costs passed on to the residents because not enough money was taken out in a bond at the beginning of the project. Attorney Beckerleg stated that the wording of the resolution could state that based on the meeting with OHM, the cash bond would not exceed \$30,000. Mr. Wayne felt that was appropriate.

It was pointed out that the site was cleaned up when asked. It was also stated that if there is no progress by November 30, 2019 then the PUD approval will self-execute, it will automatically revoke without any further action by City Council. The City Council can take whatever bond amount is determined and use it to revegetate the site. City Attorney Beckerleg clarified that if there is substantial progress to the site, then the bond would be returned.

Hearing no further comment, Mayor McDaniel closed the Public Hearing at 8:27PM.

**Moved by Kittle, Seconded by Moniz.**

**RESOLVED: To authorize the City Attorney to draft and the Mayor to execute an amendment to the Development Agreement for Residences at Thirty-Two 50 extending the Planned Unit Development approval until November 30, 2019 subject to the following conditions:**

- 1. Foremost will voluntarily terminate the Planned Unit Development approval if construction is not substantially underway by November 30, 2019. Substantially underway shall be defined as the installation of underground utilities and the completion of the building's footings and foundations.**
- 2. That the developer immediately address the fence by strengthening it and straightening it up. That the amount of the bond be determined by OHM at OHM's sole discretion after a meeting with the developer with a bond not to exceed \$30,000.00. The bond is to be paid by 5:00 PM on September 10, 2019. Foremost will submit a cash bond to the Community Development Department for the cost of regrading and revegetation of the site. The cash bond will be provided as surety for the City that the site will be restored if the project is not substantially underway by November 30, 2019. The temporary protective fencing along the perimeter of the site shall be removed upon restoration.**

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

**No: None**

**Resolution No. 19.08.116**

**Motion Carried (7 - 0)**

9e. Motion – To approve the Knight Amphitheater fee structure.

Ms. Hegdal presented that due to an interest by the residents to rent the Knight Amphitheater, a fee schedule has been suggested. She has based the fees from several other communities that have the same type of rental facility. These fees are based on a day which is from dawn to dusk. Most events will not be a full day and currently there is not enough staff for two events in one day.

There was a concern that nonprofits were granted half price for the rental of the facility. It was discussed that generally nonprofits were a fundraising event and were community minded.

A contract is ready to be produced that outlines the use policy and responsibilities, and any needs they might have from the City. The agreement does state that the applicant will not drive down to the

Amphitheater and that they will load and unload from the loading zone by the plaza. The damage fee would go towards any wood, electrical or other items that would need to be fixed. The contract also states that the applicant is responsible for any garbage they produce at the end of the rental. If the garbage that is left behind is excessive, then the damage fee could be used for that as well. Currently there are no fundraisers that are allowed in any rentals.

**Moved by Verbeke, Seconded by Moniz.**

**RESOLVED: To approve the Knight Amphitheater fee structure at:**

- **\$400/day as the regular rate and \$300/day as the resident rate**
- **\$100 damage deposit (refundable if no damage)**
- **Non-profit organizations based in Auburn Hills 50% off the resident rate**

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

**No: None**

**Resolution No. 19.08.117**

**Motion Carried (7 - 0)**

9f. Public Hearing/Motion – To accept the second reading and to adopt an ordinance amending Section 50-3 of the City Code prohibiting smoking in certain public parks.

Mr. Hagge presented the second reading for the adoption of the ordinance amendment to Section 50-3. The first reading of this ordinance was on July 15, 2019. Since the first reading the words *possess and/or* have been eliminated while all other language remained the same.

Discussion focused on the issue of the violation being charged as a misdemeanor or as a civil infraction. The draft states that the charge is a misdemeanor. It was discussed that it is important to have a more family friendly atmosphere but some of the parks are larger and there could be a designated area for smoking with receptacles. It was stated that the majority of smokers are respectful and that people are seen not smoking in the parks but rather on the sidewalks. The issue of vaping that was passed at the State level is not an issue for the context of this ordinance. Council discussed that to say "No Smoking" is too restrictive. Residents are reaching out to Council members regarding this issue. It was suggested that the City make events nonsmoking and include the concerts in the ordinance or make the amphitheater a nonsmoking area.

It was noted that the signs will include a map of what is considered part of the park. The Recreational Master Plan, determines the park boundaries which determines where you can and cannot smoke.

Attorney Beckerleg addressed the issue of misdemeanor vs civil infraction. He stated that if this made a civil infraction, the language at the end of the ordinance should state that "a violation of this subsection shall be a civil infraction punishable by a civil fine not to exceed \$100 and the cost of prosecution".

It was discussed that a misdemeanor seems a bit harsh for a smoking violation. A misdemeanor stays on your record and that could have an effect on a younger person trying to apply for college or a first time job. A misdemeanor stays on your record until it is expunged. Chief Baker stated that the police will handle the situation as easily as they can. This is not a situation where the police will be heavy handed but it is for the habitual offenders. This ordinance would give law enforcement the tools they need. It was stated that most people police themselves.

Mayor McDaniel stated that he has received more complaints this year than in the past regarding smoking in the park. Not everyone is considerate to those around them. This ordinance will be a tool to ask for compliance.

Mayor McDaniel opened the Public Hearing at 9:08PM. Hearing no public comment, he closed the Public Hearing at 9:08PM.

**Moved by Verbeke, Seconded by McDaniel.**

**RESOLVED: To accept the Second Reading and Adoption of an Ordinance to Amend Section 50-3, Regulations Governing City Parks and City Recreational Grounds, of Chapter 50, Parks and Recreation, of the Auburn Hills City Code.**

**VOTE: Yes: Burmeister, McDaniel, Verbeke**

**No: Hammond, Kittle, Knight, Moniz**

**Resolution No. 19.08.118**

**Motion Failed (3 - 4)**

**Moved by Kittle, Seconded by Knight.**

**RESOLVED: To accept the Second Reading and Adoption of an Ordinance to Amend Section 50-3, Regulations Governing City Parks and City Recreational Grounds, of Chapter 50, Parks and Recreation, of the Auburn Hills City Code with the understanding that a violation of this subsection is a civil infraction and subject to a \$100.00 fine plus the cost of prosecution. (Appendix A)**

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

**No: Hammond**

**Resolution No. 19.08.119**

**Motion Carried (6 - 1)**

#### **10. COMMENTS AND MOTIONS FROM COUNCIL**

Mr. Kittle – Asked for clarification to the meeting minutes of the Public Safety Advisory Committee (PSAC) where Mr. Hawkins commented that when the meeting minutes dates were changed there should have been there was a bylaw amendment that needed to occur. He also mentioned that at the PSAC meeting, Chief Taylor talked about the outdated dispatch radio communications. Chief Taylor stated that the County technology is behind times. She has presented this issue to several commission meetings and that while the county is providing a new radio system it does not include any fire service updated technology except for the actual radios themselves. At this time there is no funds to update this issue so several Fire Chiefs are looking into obtaining grant money.

Ms. Verbeke – Shared that she would like to take a few minutes at the next workshop to share what she has been learning about trapping stray cats and the concerns surrounding this issue.

Mr. Moniz – Asked Mr. Melchert for an update regarding the lighting concerns on Walton Blvd as well as other streets. Mr. Melchert stated that it is in the process of being rectified. Mr. Moniz also shared that a long time City Employee had a house fire and lost everything so DPW is hosting a fundraiser to help the family during this time.

Ms. Hammond – Asked about the striping on the roads and the ability for the buses to get to the school without any difficulty. Mr. Melchert reported that the project should be completed after Labor Day. He also reported that the buses should be able to get in and out of the school area via Waukegan St. She also questioned the current status of the party store located at Adams and Auburn. It has been vacated for some time. Mr. Cohen stated that he will have the Ordinance Officers look into it.

Mr. Knight – Shared that he would still like the City to be a part of Munitrex. He also shared that Thursday is the first football game at Avondale High School.

Mr. Burmeister – Shared that the AHPD has a good reputation for being brutal with traffic violations.

**11. CITY ATTORNEY REPORT**

**12. CITY MANAGER REPORT**

**13. CLOSED SESSION**

13a. Motion - To meet in closed session to discuss labor negotiations pursuant to MCL 15.268 8(c) of the Open Meetings Act.

**Moved by Moniz, Seconded by Verbeke.**

**RESOLVED: To meet in closed session to discuss labor negotiations pursuant to MCL 15.268 8(c) of the Open Meetings Act.**

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

**No: None**

**Resolution No. 19.08.120**

**Motion Carried (7 - 0)**

The meeting was recessed to Closed Session at 9:28 PM.

The meeting was reconvened in Open Session at 10:27 PM.

**14. ADJOURNMENT**

Hearing no objections, the Mayor adjourned the meeting at 10:27PM.

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Kevin R. McDaniel, Mayor

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Laura M. Pierce, City Clerk



**APPENDIX A**

**CITY OF AUBURN HILLS**

**ORDINANCE NO. 19-911**

**AN ORDINANCE TO AMEND SECTION 50-3, REGULATIONS GOVERNING CITY PARKS AND CITY RECREATIONAL GROUNDS, OF CHAPTER 50. PARKS AND RECREATION OF THE AUBURN HILLS CITY CODE, AS AMENDED, TO ADD A NEW SUBSECTION (J) PROHIBITING SMOKING IN CERTAIN PUBLIC PARKS**

THE CITY OF AUBURN HILLS ORDAINS:

Section 1.

Section 50-3. Regulations Governing City Parks and City Recreational Grounds, of Chapter 50. Parks and Recreation, of the Auburn Hills City Code, as amended, is hereby amended to add a new subsection (j) to read as follows:

- (j) It shall be unlawful for any person to use and/or smoke a cigarette, e-cigarette, cigar, hookah, pipe, or other device that contains tobacco or any other similar combustible product where signs are posted prohibiting smoke and/or smoking, as determined by the City Manager, within the following City of Auburn Hills public parks: Civic Center Park (not including the Community Center and the portion of the Civic Center Campus North of the Community Center), Riverside Park, River Woods Park, Manitoba Park, E. Dale Fisk Hawk Woods Nature Center, Auburn Hills Skate Park, Dennis Dearing Jr. Memorial Park, and the Clinton River Trail. A violation of this subsection shall be a civil infraction punishable by a civil fine not to exceed One Hundred Dollars (\$100) and costs of prosecution.

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.

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 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 26<sup>th</sup> day of August, 2019, and ordered to be given publication in the manner prescribed by the Charter of the City of Auburn Hills.

**AYES:**                    7 6

**NAYES:**                None 1 (Hammond)

**ABSTENTIONS:**    None

STATE OF MICHIGAN )

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. 19-911 adopted by the Auburn Hills City Council on the 26<sup>th</sup> day of August, 2019, the original of which is in my office.

Laura M. Pierce, City Clerk