

The City of Auburn Hills

City Council Meeting

Minutes

June 22, 2015

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, Mayor Pro Tem Kittle, Council Members Burmeister, Knight, Mitchell, Verbeke

Absent: Council Member Hammond

Also Present: City Manager Tanghe, Assistant City Manager Grice, Police Chief Olko, Fire Chief Manning, City Clerk Kowal, City Assessor Lohmeier, Finance Director Schulz, Deputy Finance Director Wickenheiser, Director of Community Development Cohen, Assistant City Planner Keenan, DPW Director Melchert, Management Assistant Mariuz, City Attorney Beckerleg, City Engineer Stevens, Plante Moran Auditors Watterworth, Kolbow, and Helisek.
17 Guests

4. APPROVAL OF MINUTES

4a. Regular City Council Meeting – June 8, 2015

Moved by Verbeke; Seconded by Mitchell.

RESOLVED: To approve the June 8, 2015 City Council meeting minutes.

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

No: None

Resolution No. 15.06.118

Motion Carried (6 – 0)

4b. City Council Workshop – June 8, 2015

Moved by Kittle; Seconded by Verbeke.

RESOLVED: To approve the June 8, 2015 City Council Workshop minutes.

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

No: None

Resolution No. 15.06.119

Motion Carried (6 – 0)

5. APPOINTMENTS & PRESENTATIONS

6. PUBLIC COMMENT

Tom Coolman, 848 Chase Way Boulevard, understands the reasoning behind raising the speed limits on certain roads as approved by City Council at the last meeting; however, there are other roads in the City where there are speeding issues. He suggested having additional speed limit signs posted on a road several times, not only at the start of an intersection, as well as the flashing signs that alert driver's to their speed. If the lead car is going the speed limit, it is reasonable to assume those behind the lead car are also going the speed limit.

Annett McAvoy, 3841 N. Briarvale, Avondale - What's Cool in School, noted the graduating class of 2015 was offered \$6.1 million in scholarships. She presented Council with a list of accomplishments from the school year.

7. CONSENT AGENDA

7a. Board and Commission Minutes

7a.1. Planning Commission – April 14, 2015

7a.2. Planning Commission – May 12, 2015

7b. Modification to the Emergency Water Agreement with Rochester Hills

RESOLVED: To approve the Interlocal Service Agreement between the City of Auburn Hills and the City of Rochester Hills for Emergency Water Interconnections.

Moved by Knight; Seconded by Verbeke.

RESOLVED: To approve Consent Agenda items 7a. and 7b.

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

No: None

Resolution No. 15.06.120

Motion Carried (6 – 0)

8. OLD BUSINESS

8a. Request to Revoke IFEC 2010-117 and Waive the Two-Year Business Residency required by the Tax Incentive Agreement / Magna E-Car Systems of America

Mr. Lohmeier explained this request was previously reviewed at the April 27, 2015 Council meeting, to revoke and waive the associated “claw back” provision, but no action was taken. The 81,684 sq. ft. facility is located at 4121 N. Atlantic Drive. Magna E-Car has sold the business and property to Samsung SDI Co. Ltd.; they are not abandoning the building, laying off people, mothballing operations, or taking the business outside the City.

In September 2010, Magna E-Car business opened, but unfortunately, over the past few years work declined at the facility due to poor electric vehicle sales and a decrease in contracts for battery packs. As a result, Magna has chosen to exit the battery pack business and find a suitor in Samsung SDI to acquire the unit’s assets.

Magna Car Tops, will be moving the Car Tops group to a new facility at 2725 Commerce Parkway effective September 2015.

Magna E-Car had a five year tax abatement, with \$21,323,497 for personal property and \$2,450,684 for real property. At the time, this would have qualified for an eight year tax abatement, but only a five year abatement was requested. Due to Magna’s requested revocation, full taxes will be paid by Samsung SDI beginning in the 2016 tax year for all the improvements. The 2010 incentives granted to Magna E-Car, resulted in Auburn Hills abating \$252,809.77 in total taxes for all jurisdictions, of which \$100,259.87 would have been the City’s share.

The claw back would require Magna to pay back the benefit that was received for the life of the certificate, Y2011-Y2015; the exemption is scheduled to expire December 31, 2015. The personal property component will continue, because of the change in State law, and will stay abated, phasing out naturally in 2021.

Magna is seeking to revoke the certificate, which will provide full city, county and other taxing jurisdictions; if the revocation is not approved, the abatement will continue through 2021.

In staff’s opinion, Magna’s request meets reasonable considerations for a residency claw back waiver and recommends the City Council take such action. Although no criteria exists in the City’s Property Tax Incentive Policy, justification for such action could be the following:

- The company is ceasing to operate as a result of circumstances beyond its control.
- The company sells the facility and/or operations to another company.
- The company has made a substantial investment in another project or projects in the City, i.e. Magna Electronics, P&F Systems, and Magna Car Top Systems.
- Property taxes and jobs increased at another location owned by the company in the City.
- The company has made an effort to be a part of the City and surrounding community, contributing to Focus Hope, HAVEN, Gleaners, and Habitat for Humanity. Magna Government Affairs was recently made of aware of a list of charitable opportunities specifically within Auburn Hills, including the Auburn Hills Community Foundation, Boys and Girls Club, and Meals on Wheels. Magna plans to take these and other opportunities into consideration when making charitable donation decisions in the future and provide local division leadership with this information.

Responding to Mr. Knight, Mr. Lohmeier stated the Auburn Road facility has only a personal property abatement, though significant improvements to the property were done. There were also significant personal property investments made to the vacated United Solar Ovonic building that also has personal property abatement.

Mr. Lohmeier confirmed for Mr. Kittle, that Samsung will own the building and personal property. He isn’t sure how Samsung will move forward, but they have no objection to the revocation of the abatement being sought by Magna.

Mr. Kittle asked for confirmation that if the revocation is approved, the abated values will be taxed at the full tax rates in the future.

Mr. Lohmeier confirmed that, as of December 31, 2015, the abated values will be transferred back to the ad valorem assessment roll and, beginning with the 2016 tax year, will be taxed at the full millage rates for personal property and real property (including the improvements made by Magna.)

Clarifying Mr. Kittle’s question, Mayor McDaniel asked how much in taxes the City will receive from the the \$21 million in personal property that was invested.

Mr. Lohmeier explained the additional revenue for 2020-2021, will be about \$221,000, of which approximately \$100,000 will be City tax. If the abatement isn’t revoked, only about half would be collected.

Frank Ervin, Director of Government Affairs, Magna International, explained Magna E-Car, was one of six Magna groups internationally. At one point, it was projected there would be 1.5 million electric vehicles on the road by 2016, which has not happened. The company took a look at the different divisions, determining which aren’t profitable or sustainable with the investment that was made. The Magna E-Car unit was sold globally, which the Auburn Hills location was one of the smallest. One reason Magna sold to Samsung is the letter of intent required Samsung to own and occupy the building and retain the 35 employees.

Mr. Ervin stated Magna has no intention of abandoning their commitment to Auburn Hills. The Magna Electronics facility was transferred from Rochester Hills to Auburn Hills, including the consolidation of research and development worldwide as well as the headquarters; with discussions to expand that facility. P&F Systems is located in the old United Solar Ovonic building, purchased by Magna, which is now too small. There is a need to expand the building size, as well as increasing

the number of employees. The Magna Car Top Systems closed a facility in Kentucky and brought those employees to Auburn Hills. The facility then moved from the North Atlantic location to Lapeer Road.

Mr. Ervin believes Magna has been a good corporate resident of Auburn Hills and even with the abatements, the company has paid over \$760,000 in real property taxes and over \$400,000 in personal property taxes.

Magna is going back to the core business and continue to grow that business, not only in Auburn Hills, but in the State. When the auto industry plunged in 2009 Magna had 4,496 employees in the Michigan and now there are 12,333 employee in Michigan. Last year Magna bought more than \$1.6 billion in goods and services from Michigan based vendors, including some based in Auburn Hills.

Mr. Ervin stated he will not ask for or entertain a transfer of any tax abatement to another company that was granted to Magna, based on the commitment made to the City. Therefore, he is asking that the IFEC and PA 198 be revoked.

Mr. Ervin explained for Ms. Verbeke, the building was never leased, Magna purchased the building and has now sold the building to Samsung.

Mr. Knight stated his one concern is other taxpayers supported the abatement, a forgiveness of approximately \$150,000, an agreement that should be satisfied. However, the building was sold as well as was all the equipment and there is a commitment from the buyer, Samsung, that the 35 employees will retain their jobs. He is in favor of the request, but would like to make a few conditions to the resolution – that Magna has sold the complete business including the equipment to another company and ‘whereas’ the employees are continuing to be employed by the new company. The conditions will make other companies aware of why the revocation was supported by Council; that there were very specific measures taken to grant the revocation.

Mr. Kittle, referencing Mr. Knight’s remarks, stated the clawback is to motivate companies to not leave an abandoned building. In business, companies and divisions are bought and sold every day, and for all intent and purposes this operation is remaining intact under a different company name.

Mayor McDaniel stated this is great for Auburn Hills’ residents, because beginning next year there will be 100% of taxes collected and the business will remain in the building. Magna also did their due diligence in preserving the jobs for those employees that are currently employed at the facility.

Mr. Ervin explained Magna is located in 14 states with 62 manufacturing plants, and employs 27,000 in the United States.

Mayor McDaniel thanked Mr. Ervin for the commitment of Magna to the City.

Mr. Knight asked that the motion include a mention of why Council agreed to the revocation; because of the facts of the circumstance.

Mr. Tanghe agreed with Mr. Knight, that the reasoning be included in the motion.

Moved by Knight; Seconded by Kittle.

RESOLVED: Whereas Magna Corporation has demonstrated that the building which has been sold, the assets and the employees, will continue to be in the same location; therefore approve the request by Magna E-Car Systems of America to revoke IFEC 2010-117 by adopting the attached resolution (Attachment A).

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

No: None

Resolution No. 15.06.121

Motion Carried (6 – 0)

Moved by Knight; Seconded by Kittle.

RESOLVED: Whereas Magna Corporation has demonstrated that the building which has been sold, the assets and the employees, will continue to be in the same location; therefore approve the request by Magna E-Car Systems of America to waive the two-year business residence requirement for its tax incentive agreement pertaining to IFEC 2010-117.

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

No: None

Resolution No. 15.06.122

Motion Carried (6 – 0)

8b. Request to Approve the 2014 Plante Moran Financial Report

Michelle Watterworth, Plante Moran explained this is the financial audit for the calendar year ending December 31, 2014. There are three components to the report, an 80 page financial report, and a graph package that explains the financial information more easily which shows past year(s) comparisons and a letter package that consists of three sections of required information.

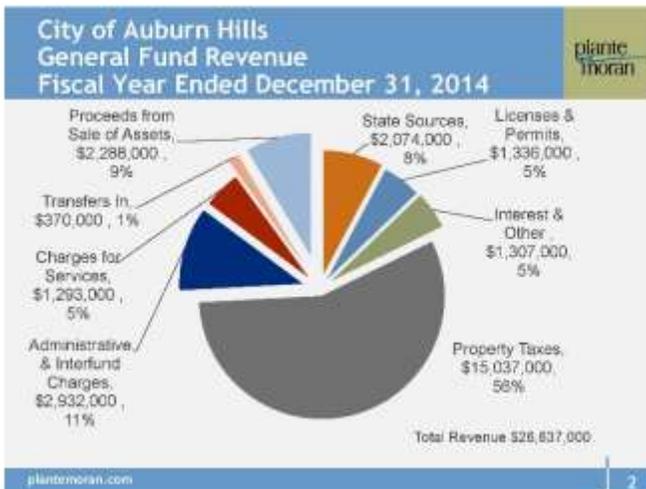
The City’s financial position is very good; much better than most communities in Michigan. There have been challenges with property taxes and state share revenue. All of the major funds in 2014 were added to the fund balance level, with the exception of Major Streets and Local Streets Fund. The General Fund continues to be very strong, adding about \$2.2 million to the General Fund. The increase was due mainly to the sale of assets. This is the second year the City is debt free with the golf course.

The financial statements are owned by the City, the Audit Opinion is owned by Plante Moran. The Audit Opinion, the end result of the audit is an unqualified or unmodified opinion, which is the highest level of assurance that can be had on audited financial statements. The Opinion basically states the financial statements are materially accurate in all respects.

The one thing different in the Audit Opinion this year is an Emphasis of Matter paragraph, speaking to the changes because of the adoption of GASB 67. This required change resulted in significant changes to the defined benefit by comparing to the market value and not the smooth value. There will be future changes within the next few years, with another major change next year by adopting GASB 68. This will not impact the General Fund or the Special Revenue Fund, just recording the liability.

Justin Kolbow thanked Ms. Schulz and her staff and for the Treasurer’s Office for their assistance the last several weeks. Mr. Kolbow reviewed the following Power Point presentation:

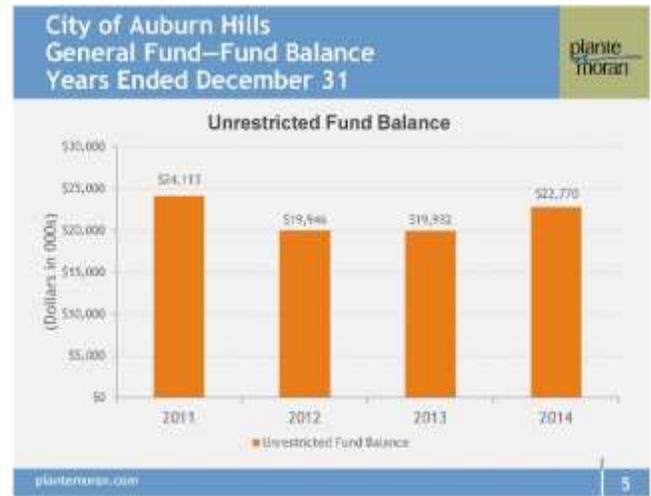
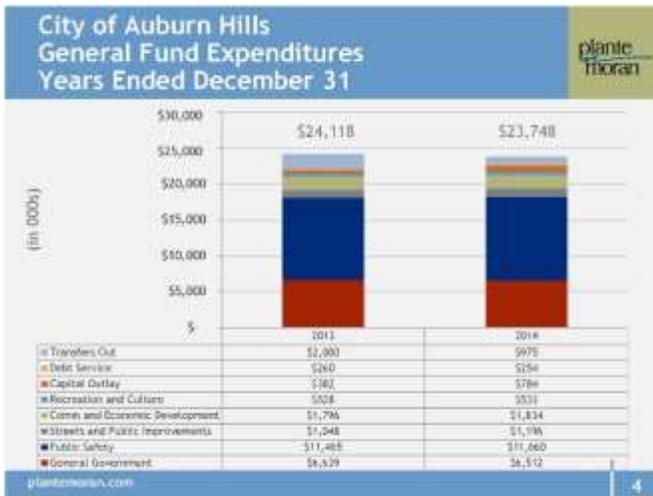
City of Auburn Hills
Audit Presentation
FOR YEAR ENDED DECEMBER 31, 2014



City of Auburn Hills
Timing of Property Tax Decreases

Budget Year	12/31/13	12/31/14	12/31/15	* 12/31/16
Assessment date (based on sales from 12-34 months prior)	12/31/11	12/31/12	12/31/13	12/31/14
Levy date	12/1/12	12/1/13	12/1/14	12/1/15
Taxable value (Effective/equivalent total taxable value)	1,551,200,000	1,499,400,000	1,437,430,000	1,509,480,000
Percent increase <decrease>	-5.54%	+3.34%	+0.79%	1.48%

* Based on information from Assessor, prior to SOR and MTT adjustments.



Mr. Kittle noted the City is consistently showing \$500,000 for recreation and asked with the golf course and other charges associated with recreation such as lawn cutting, maintenance and staff, if there should be an adjustment in the way those costs are captured. He also asked if it is appropriate for the golf course to be in an enterprise fund.

Ms. Watterworth stated yes, the enterprise fund for the golf course is appropriate. The governmental accounting rules dictate when a local unit of government is required to use an enterprise fund to capture certain activity. The government rules will not allow the golf course be put it in the general fund; the golf course needs to remain in a separate fund. Regarding the classification of the other activities, to some extent, the City is limited because the City must file the State’s chart of accounts and as accountants, they believe the classifications are reasonable.

Mr. Kittle believed the City’s recreation is extremely low in comparison to other communities, especially for all the parks and events the City offers. The expenditures don’t reflect how much the City invests in all the events and park facilities.

Ms. Watterworth suggested in the future to look at what may be included in the recreation category.

Mr. Kittle asked for clarification on the General Fund fund balance, with the five classifications, that eliminates committed and restrictive.

Mr. Kolbow stated only non-spendable are excluded, such as land held for sale and pre-paids. Money that has already been spent and not available to the City. Looking at the General Fund, there are commitments for \$148,000, the debt service related to storm water that was recently approved by City Council. Also assigned was \$3.3 million, the 2015 year’s estimated budget.

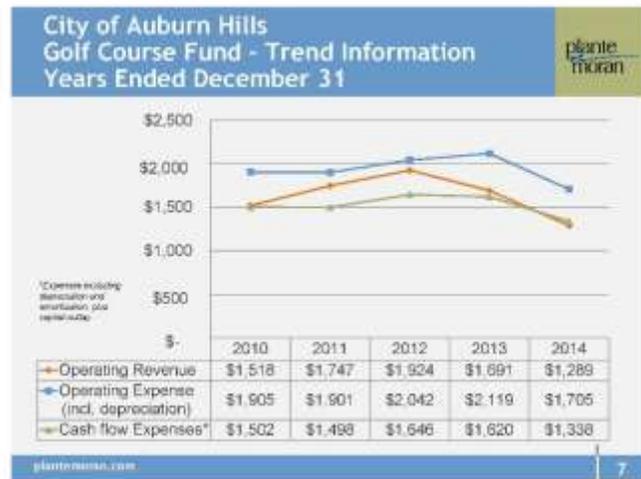
Mr. Kittle asked which, the assigned committed non-spendable restricted or un-assigned, make up the \$22,770.

Ms. Watterworth stated in the General Fund there is no restrictive fund balance; it’s committed, assigned and un-assigned represent fund balance that can be spent.

Mr. Kittle explained he is questioning how the amounts are determined, there is a discrepancy of \$1.3 million. In 2013, there is a fund balance of \$19,946 and the other source he is looking at shows a balance of \$18,657.

Mr. Kolbow explained the graphs were changed this year because the City changed commitments. Last year there was an additional commitment, so the number was changed to only show the debt service for storm management. He isn’t sure why the total number would have changed.

Ms. Watterworth stated she does not have the 2013 audit report with her, but she will look at the audit and see if the numbers need adjusting.



Mr. Knight would like to see an additional line in the Water & Sewer Fund graph, to include *cash in – cash out, and the total*. The water rates have been increased the last six or so years and this graph shows the cost of water has gone up and the use has decreased. He didn't anticipate that the revenue would be at that level.

Ms. Watterworth explained there is a schedule in the report titled Cash Flows and indicates in the Water & Sewer Fund, strictly Operations, excluding capital asset purchases, capital lateral charges, and depreciation, the cash provided by operations is a little under \$1 million. That would be receipts from the customers, minus payments to suppliers minus other operating expenses.

Mr. Knight noted the depreciation is putting money aside for the future and wanted to know if the costs are covered, except for depreciation.

Ms. Watterworth stated depreciation is \$1.9 million.

Mr. Kolbow noted the operating revenue and expenses declined in 2014 for the golf course because of out-sourcing the concessions.

Ms. Watterworth clarified for Mr. Knight, that the letter written in the audit report is not a private letter to City Council.

Mr. Knight asked for clarification of the account dispute of approximately \$400,000.

Ms. Watterworth explained that was regarding the valuation of alternative investments. The City receives quarterly statements from the investment advisors, and only at year-end do those funds have audited financial statements. There was a difference in the fourth quarter Capital Statement that amounted to merely a timing issue.

Ms. Verbeke recalled Findings in last year's report and asked if there were any this year.

Ms. Watterworth stated yes and they can be found in the letter package, under Section I – Internal Control Related Matters Identified in an Audit. It was the same finding as last year, journal entries to adjust year end balances with some unusual circumstances.

Continuing, Ms. Watterworth explained Section II – Required Communications with Those Charges with Governance; reflects the adoption of the new pension standards. The significant accounting estimates relate to the actuarial valuations of the pension and retiree health care. The pension plan adopted a 7.5% discount rate assumption that resulted in a net pension liability of approximately \$1.9 million. Had that assumption rate been decreased by 1%, to 6.5%, the pension liability would have gone up by \$6 million. It was suggested that management take a look at the assumption rate prior to the new GASB 68 being adopted. Two things should be looked at, the portfolio investment mix and second, a requirement of the accounting standards - the capital market assumptions on a forward looking basis, 10, 20, 30 years out. Section III – Legislative and Informational Items, the impact of GASB 68 will have on the City, with the new retiree health care standards, will result in a significantly reduced unrestricted net position. There will also be significant changes in receiving of federal grants and may require some policy changes. There will be new MDOT requirements pertaining to Act 51 Performance Audit, effective in 2016.

Mr. Kittle stated it is worth noting that the City's government long term debt is decreasing substantially year after year.

Moved by Knight; Seconded by Verbeke.

RESOLVED: To accept and approve the City's Financial Report with Supplemental Information for the year ending December 31, 2014 and the related communications letter as presented by the City's independent auditors, Plante Moran.

Mr. Knight stated he appreciated the very concise and excellent presentation.

**VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None**

Resolution No. 15.06.123

Motion Carried (6 – 0)

8c. Receive and File the Investment Report

Ms. Schulz explained the 2015 Interim Cash and Investment Performance Report, new format includes additional detail about cash on hand. The most recent quarter is summarized in the report as well as month end values and performance. The report is presented in four sections. The first section indicates the City's investments with Cutwater Asset Management, an accumulative total with all funds from within the City and the library. Section two includes the newest endeavor, the Local Government Investment Pool, through Oakland County. This fund was approved by Council in April, and holds cash from selected City funds. Cash is expected to be transferred in and out on an interim basis, depending on the needs. This is an alternative to the cash sitting in a checking account. Section three are the Certificates of Deposits and listed are the current principle values of each of the CD's held by the City. The fourth section has listed the reconciled cash balances of the operating cash.

Mr. Knight suggested it will take about a year for the certificates of deposits to mature, and then transferred to the Oakland County fund.

Ms. Schulz stated it depends on what options are available at maturity; it may be reinvested into a certificate or rolled into the Oakland County fund. Flagstar recently matured and was rolled into the Oakland County fund.

Ms. Mitchell appreciates the format of the summary and asked what frequency Council will be receiving the reports.

Ms. Schulz explained they will be available at least quarterly, though she is able to get certificates of deposit and County information monthly. She suggested quarterly reports would be most valuable and could appear on the Consent Agenda, but asked what Council would prefer.

Ms. Mitchell is comfortable with quarterly reports.

Mayor McDaniel agreed with quarterly reports. Regarding the interest earned from the Oakland County fund, he asked how long money had been invested.

Ms. Schulz noted it was for 12 days.

Mr. Tanghe asked if is acceptable to Council for the report to be placed on the Consent Agenda; if need be, it can always be removed.

Mayor McDaniel confirmed after a quick poll, there are no objections from Council to place this item, quarterly, on the Consent Agenda.

Moved by Kittle; Seconded by Mitchell.

RESOLVED: To receive and file the 2015 Interim Cash and Investment Performance Report.

**VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None**

Resolution No. 15.06.124

Motion Carried (6 – 0)

8d. Approve the 2015 West Nile Virus Program

Mr. Keenan explained this is the 12th year Oakland County is providing funding to implement this program in combatting the West Nile Virus. The City's program has been approved by the Oakland County Health Department, being effective in reducing the number of mosquitos that carry the virus. There hasn't been a death from West Nile Virus in over 10 years and very few have contracted the disease in Oakland County.

Moved by Burmeister; Seconded by Verbeke.

RESOLVED: To adopt the attached resolution to authorize and direct the City Manager, as agent for the City of Auburn Hills, to request reimbursement of eligible mosquito control activity under Oakland County's West Nile Virus Fund Program (Attachment B).

**VOTE: Yes: Burmeister, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None**

Resolution No. 15.06.125

Motion Carried (6 – 0)

9. NEW BUSINESS

9a. Approval of Special Land Use Permit / Cellar Door

Mr. Keenan explained this is request for a Special Land Use Permit to allow an event space use on a site zoned I-1, Light Industrial District, located at 1091 Centre Court. The business has a showroom and display, which is used for private and public functions, such as bridal showers and wine education/tasting classes. The floor plan allows for 72 seats; 24 parking spaces are required to accommodate the number of seats. Cellar Door has 29 parking spaces, with an additional 20 parking spaces available for after business hours and weekend use. Overall, the site has 176 parking spaces, which could be used for after business hour use. Cellar Door has received approval from the other businesses within the building. Events are limited to weekends and after 5:30 p.m., business hours, during the week. Generally, there will be two or three events per week and limited to indoor events only.

Cellar Door has provided a letter stating a third party will be providing the food and beverages for the events; the food will not be prepared on site.

Mr. Keenan stated comments were received from David Miles, the President of the Auburn Centre Industrial Park Subdivision Association objecting to the proposed event hall use, based on the fact that the proposed event space is prohibited under the protective covenants for the Auburn Centre Industrial Park. However, City Attorney Beckerleg indicated consideration should not be taken when considering the proposed Special Land Use.

This type of use already exists in another building within the industrial park. Trevarrow, located 1295 N. Opdyke Road, utilizes their facility for cooking classes and seminars to demonstrate their products. They also offer their space for private and special events, such as business meetings, fund raisers, private parties, and corporate team building sessions; the auditorium seats 85 people. Full food service is available at the events through properly licensed third party caterers and restaurants.

Susan A. Arnold from Distinctive Development LLC, located in the Auburn Centre Industrial Park, also objects to this special land use based on the covenants and traffic issues. Lieutenant Gagnon has provided a memo indicating there shouldn't be any traffic issues since the event sizes are not large and the events will take place after business hours and on weekends. Lieutenant Gagnon indicated the Police Department will continue to monitor traffic flow in this location and make recommendations if problems arise.

Mr. Keenan noted this project was reviewed by the City's Administrative Site Plan Review Team and the Planning Commission who recommend approval.

Responding to Mr. Kittle, Mr. Keenan isn't sure if Trevarrow serves alcohol at their events or if there is a special land use permit.

Mr. Kittle asked why it is necessary for Cellar Door to seek a special land use permit, if Trevarrow being a similar use and does not have a special land use permit.

Mr. Keenan stated Trevarrow may have evolved over time into their current business use. Cellar Door is going through the proper approval process; the proposed use is an accessory use to the industrial use. The special land use permit will clarify the use of the facility and what is expected.

Police Chief Olko stated she has recently learned that Trevarrow does serve alcohol to their guests as part of their kitchen equipment sales. Trevarrow has been in this location and doing business for as long as she can remember. There is no liquor license; alcohol is given to the guests, not sold.

Mr. Knight noted Mr. Miles was one of the first developers in the City. The Trevarrow's have been demonstrating their kitchen equipment in that location for a very long time, though he isn't sure about when alcohol began to be served. He doesn't understand why this has been supported if there is a covenant prohibiting events and believes the City should support the covenant.

Mr. Beckerleg explained the restrictive covenants are private covenants that can be enforced by the declarant, Mr. Miles or his company. The only thing the City can consider in the context of the special land use is whether this meets the City's ordinance requirements. The City can approve the special land use, but Mr. Miles can enforce the covenants; noting the City cannot take the covenants into consideration.

Mr. Kittle asked how serving food and alcohol fits into an industrial district.

Mr. Beckerleg explained whether Council decides to grant or not grant the special land use, it is a legislative decision, and cannot be based on private covenants. He is not suggesting to either approve or deny, but to only base the decision on the guidelines set forth in the zoning ordinance.

Mayor McDaniel stated he doesn't understand the difference between allowing this business to have events, when another already exists in the industrial park, with the exception that the zoning ordinance requires a special land use.

Mr. Keenan stated that is correct. Trevarrow has events where their products are not directly being showcased, but with other events taking place there is hope the event goers will be aware of the Trevarrow products available.

Ms. Mitchell see the benefits of having a special land use permit for this business, which allows the City to know what is happening in the City as well as stipulating in the special land use of what is expected and what is not.

Mayor McDaniel is appreciative of Cellar Door following the proper process to allow them to run their business. By going through this process, it allows the Administrative Site Plan Review Team to make recommendations and suggestions. Although Trevarrow is already located and evolved in an industrial district, this special land use will help to shape the area and note what is acceptable in an industrial area. Cellar Door could have possibly operated without the knowledge of anyone in the park, since the events are held after work hours and on weekends.

Mr. Knight would like to know what Trevarrow is doing at their location and if alcohol is being used; however, Trevarrow's business isn't necessarily setting a precedence.

Mr. Keenan stated he has talked with Trevarrow and the events have food provided through a third party and wine was mentioned.

Police Chief Olko spoke with the folks at Trevarrow several months ago and was told wine is served on occasions to the guests, but she isn't sure if liquor is served.

Mayor McDaniel noted Trevarrow is having similar events and is serving wine and Cellar Door is seeking the same type of business. The City knows what type of business Cellar Door is and what to expect and is therefore comfortable with the special land use permit.

Mr. Kittle questioned why Cellar Door should go through this process, when it is known another business is doing the same thing without going through the process. He asked if there is a restriction on offering a glass of wine, not for sale, at a barber or beauty shop.

Police Chief Olko stated there are some restrictions. The Michigan Liquor Control Commission (MLCC) has recently stated serving a beer at a barber shop is no longer permitted, because it is a paid-for service. The MLCC has asked local law enforcement agencies to report those establishments to the prosecutor's office for serving beer without a license. Police Chief Olko stated it would depend on the circumstances and what a person is doing at any particular business whether alcohol can be served.

Mr. Knight noted City Council has paid attention to subdivision restrictions and if this is approved by City Council, then Mr. Miles covenant is being over ridden by the City and he has very little opportunity in court to enforce his covenant.

Mr. Tanghe explained the City is not overriding the covenant, it is a private matter between Mr. Miles and his tenants. The two are separate and distinct, one is a zoning issue and the other a private covenant.

Responding to Ms. Verbeke, Mr. Keenan explained if the special land use is approved for Cellar Door and Cellar Door moves out, the special land use is extended to the new occupant if a similar business moves in, otherwise the special land use would expire.

Mr. Knight noted Cellar Door rents the building from Mr. Miles, it is not the building owner seeking the special land use.

Randy Dzierzawski, representative of Cellar Door, explained the reason for the request is for complete transparency. He also noted Mr. Miles does not own the building, K-S Group, LLC, owns the building who fully supports Cellar Door operations. There are 14 surrounding tenants, in close proximity, who also support Cellar Door. Cellar Door is requesting the special land use permit, ensuring to be in compliance with state, county and local government requirements.

Mr. Dzierzawski explained this business isn't about parties, they have been in business for four years and are the largest wine supplier in the Midwest, including the Meijer stores. Currently, Cellar Door operates, distributes and sells in 20 states, with their largest client in Texas. The core of the business is wine education and showcasing their product.

Mr. Dzierzawski stated he and Mr. Miles had never talked prior to Mr. Miles, June 3rd letter submitted to the City. Since that time Mr. Miles has toured the facility to get a better understanding of the facility. The business is consistent with the lease that was signed two years ago, wine education and showcasing the product. Mr. Miles notes in the second paragraph of his letter to the City, 'We understand that Cellar Door has functions to promote their wine products that we have no objection to.' That is all Cellar Door is trying to do, promote the product. Cellar Door manufactures the product in California, there is no production at this location. The decision was made several years ago to not move the operation to Nappa Valley, but to move to Auburn Hills and stay rooted in the community.

Mr. Dzierzawski stated Faurecia, Chrysler and Continental have held meetings at the facility; most of the events are with reputable, Fortune 500 companies. This facility is an asset to the community. The Auburn Hills Chamber of Commerce ambassadors have asked to use the facility in a non-drinking fashion. The facility is offered to non-profits and other businesses for use.

Mr. Kittle asked if the facility is already being used as an event hall, why now request a special land use permit.

Mr. Dzierzawski stated he met with the City and there was some confusion over the space and the City suggested applying for a special land use permit, to allow clarity to the use. Because the company wants to be transparent, they proceeded with the process and paid their fees. Two years ago when the tenant application was completed, it was specifically stated this business is a product showroom and available for small events; no different than what it is today.

Mayor McDaniel understood the logic behind applying for the special land use, spelling out that the City is aware of the use and is okay with the use, as well as clear documentation for a business plan.

Ms. Verbeke too is concerned with the covenant issues, but understands Mr. Beckerleg's assessment of that being a private matter between the tenant and the owner. She asked Mr. Dzierzawski if he had talked with Ms. Arnold, who too, had concerns with the special land use.

Mr. Dzierzawski explained he has had some conversations with Mr. Miles and believes some of Mr. Miles' fears have been put to ease. He assured Ms. Verbeke he does not want to have any negative issues with the other tenants, but will address issues if and/or when they arise.

Ms. Mitchell noted at the Planning Commission meeting there were some conditions attached to the special land use permit approval, including all the wine events would include some type of wine education, there will be no food preparation on site and the exit will be made ADA compliant.

Mr. Dzierzawski assured Ms. Mitchell all of the conditions discussed at the Planning Commission will be adhered to.

Mr. Knight questioned how far the City should go allowing a commercial business in an industrial area. He also noted Mr. Miles most recent letter from this afternoon, that he has not changed his position on the special land use.

Mr. Dzierzawski appreciates everyone's opinion, but Mr. Miles does not own the building. Owners, K & S Group, supports the request and a 15 year lease has been signed between them.

Mayor McDaniel explained this process tonight is the right course of action and every decision made by Council, either corporate or residential, allows for the public to know what is happening. This evening is a good example of everyone having a voice, reflecting the transparency of decisions made by the City. He is very appreciative of Cellar Door coming to the City and being transparent.

Mr. Knight noted this business is not competing with other businesses or restaurants in the area.

Mr. Dzierzawski stated the business hours are after 5:30 p.m., Monday through Friday. Weekend times are Saturday, generally between 7:00 p.m. and 11:00 p.m. and Sunday's 11:00 a.m. and 3:00 p.m. Typically there are only two or three events a week. Those are the general times for events, though he works from 7:00 a.m. until 7:00 p.m. most days.

Responding to Mr. Burmeister, Mr. Dzierzawski stated there will be no exterior improvements to the site.

Moved by Mitchell; Seconded by Burmeister.

RESOLVED: To approve the Special Land Use Permit for Cellar Door, located at 1091 Centre Court Suite 150, subject to staff and Planning Commission conditions.

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

No: Knight

Resolution No. 15.06.126

Motion Carried (5-1)

9b. Motion – Adopt New FOIA Policy, Procedures and Fees

Ms. Kowal noted these are the first significant changes to the FOIA laws since 1986; the main theme of changes is transparency. The laws are going to be standardized across the State. Some of the bigger changes include how the time spent gathering the information is calculated; if less than 15 minutes there will not be a charge. Many of the current FOIA's are less than 15 minutes. The FOIA Procedures and Guidelines, and a Public Summary must be available to the requestor at no charge. An alternative option, which will be used, is to provide a link to the City's website where the two documents can be found.

The five day response time hasn't changed and a 10 day extension may be taken; however, with the extension the requestor must be given an approximate number of additional days needed to complete the FOIA. A fee calculation form is now needed with each request, specifically showing the actual charges.

All of the changes will take place July 1, 2015. Both she and Mr. Beckerleg worked closely on the revisions.

Responding to Mr. Kittle, Ms. Kowal stated the most asked for FOIA's are site plans and zoning information from Community Development and Fire is second with requests for hazardous materials.

Moved by Knight; Seconded by Kittle

RESOLVED: To adopt the attached resolution approving the written FOIA Procedures and Guidelines, Public Summary of FOIA Procedures and Guidelines, the Fee Calculation Form, and appointing the City Clerk as Auburn Hills Freedom of Information Act Coordinator.

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

No: None

Resolution No. 15.06.127

Motion Carried (6 – 0)

10. COMMENTS AND MOTIONS FROM COUNCIL

Mr. Knight:

- The Summerfest was a great success.
- On behalf of himself and Ms. Hammond, he thanked staff for the work and striping being done on Auburn Road.

Mr. Kittle:

- Would like to hear a road work update.
- Regarding the backflow preventers, he understood communities are able to choose their own duration for inspections; every year every few years, there is some flexibility. He had his inspection done, at a reasonable rate and learned quite a bit from the plumber. The plumber stated Bloomfield Township has an informational brochure on their website, explaining the process. It might be something the City could look at as a communication item for the residents

Mr. Melchert explained an RFQ is being worked on for the backflow prevention testing, and should be released in the next week or two. The results will be posted on the website, with prices and those qualified to do the testing and repairs. He believed annual testing is required, but will investigate further.

Regarding roads, the University Drive bridge was closed at 11:00 a.m., today and at 5:30 p.m., there was heavy traffic on Opdyke Road, heading north either towards Lake Orion or the Lapeer Road/I-75 interchange.

Two eastbound lanes on Featherstone were opened today, and there is one lane opened for westbound traffic. There will not be a push for the contractor to open a second westbound lane unless traffic starts backing up in that location. In two weeks all the westbound lanes should be opened and restoration should begin.

Northbound Squirrel Road, the contractor has begun to remove the tree stumps and is stripping top soil on the east side of the road, where the majority of the road widening will take place. Underground work should begin Wednesday; storm sewer installation, water main lowering and crossover of utilities, which will take approximately two weeks. The project is running about a week behind schedule, due to the delay in shipment of underground materials. A meeting is scheduled for Wednesday with the contractor to discuss the delays and what can be done to get the project back on track. Substantial completion of the project is scheduled for November 3, 2015; there is a \$1,550 fee that can be assessed daily for each day substantial completion has not been achieved. He has asked OHM to document, in detail, any delays in the event the City requests the liquidated damages from MDOT; the documentation will be used to back-up the request if needed.

Mr. Knight asked how the hump on Squirrel Road at Shimmons Road will be eliminated, if the northbound lane will be done first and then the southbound lane.

Mr. Stevens confirmed that is the plan, because there will be a three to four foot reduction in the road height, with possible intermittent lane closures.

Mr. Kittle noted the project is only into the second week and already running a week behind. He appreciates staff keeping on the contractor to keep the project moving along.

Mayor McDaniel thanked Mr. Melchert for keeping an eye on the traffic situation with all of the detours.

Ms. Verbeke:

- Thanked staff for all the efforts on a wonderful Summerfest.

Mr. Burmeister:

- Asked if the attendance for the Summerfest had increased or decreased from previous years.

Most agreed the attendance was up.

- Thanked Ms. Carroll with the follow-up for the complaint he had from a resident.

Mr. Tanghe noted the 5k run was held in a different location this year and the number of runners doubled from 350 last year to about this year 700.

Ms. Mitchell:

- Summerfest was awesome this year and the weather cooperated. She thanked staff for helping to make the event run smoothly.
- The May 18th City Council meeting is still on the City's website and would like the website updated.
- Thanked the Fire Department for showing and explaining the new fire engine and its different features.
- Thanked the Code Enforcement department for all the extra effort in helping her solve some issues residents have brought to her attention.
- Noted she takes her commitment of City Council very seriously, however, due to professional obligations, she will not be attending the July Council meetings.

Mayor McDaniel:

- He too, extends his appreciation for all the hard work put into the Summerfest. In his seven years of being on Council he has never received so many positive comments and feedback for the Summerfest. Not only for the children's activities but also how meticulous all aspects of the festival were. He asked Mr. Tanghe to extend his and City Council's appreciation to all the City staff.

11. CITY ATTORNEY'S REPORT – none

12. CITY MANAGER'S REPORT

- Apologized for the lack of air conditioning in the Council Chamber. There is an electrical issue that will be repaired tomorrow.
- He provided information to Council from Crain's Detroit Business magazine about the efforts underway to redevelop the Silverdome property.
- The new Administrative Assistant in the City Manager's office began today, Alanna Stockley. He will introduce Ms. Stockley at the next Council meeting.

13. ADJOURNMENT

Meeting adjourned at 9:16 p.m.

**CITY OF AUBURN HILLS
RESOLUTION 15.06.121
REVOKING AN INDUSTRIAL FACILITY EXEMPTION CERTIFICATE
FOR MAGNA E-CAR SYSTEMS OF AMERICA**

At a regular meeting of the City Council of the City of Auburn Hills, Oakland County, Michigan, held in the Council Chambers at 1827 N. Squirrel Road, Auburn Hills MI 48326 on the 22nd day of June, 2015

The following resolution was offered by **Council Member Knight** and supported by **Mayor Pro Tem Kittle**:

WHEREAS, Magna E-Car Systems of America has vacated the facility 4121 N. Atlantic Drive and has ceased to operate the facility,

and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Auburn Hills hereby determines that Industrial Facility Exemption Certificate 2010-117, including the real property and personal property component, be revoked according to the provisions of Public Act 198 as amended, for failure of the holder to proceed in good faith with the operation of the new facility in a manner consistent with the purposes of the act, and

That the City Assessor submits a copy of this resolution to the State Tax Commission with a request to revoke the certificate.

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

NAYS: None

ABSENT: Council Member Hammond

ABSTENTIONS: None

RESOLUTION 15.06.121 APPROVED (6-0)

STATE OF MICHIGAN)

)SS

COUNTY OF OAKLAND)

I, the undersigned, the duly qualified and appointed 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 at a regular meeting of the City Council held on the 22nd day of June, 2015, the original of which is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on this 23rd day of June, 2015.

Terri Kowal, City Clerk

**CITY OF AUBURN HILLS
RESOLUTION 15.06.125
AUTHORIZING WEST NILE VIRUS
FUND EXPENSE REIMBURSEMENT REQUEST**

At a regular meeting of the City Council of the City of Auburn Hills, Oakland County, Michigan, held in the Council Chambers at 1827 N. Squirrel Road, Auburn Hills MI 48326 at 7:00 p.m., on the 22nd day of June, 2015

The following resolution was offered by **Council Member Burmeister** and supported by **Council Member Verbeke**:

WHEREAS, upon the recommendation of the Oakland County Executive, the Oakland County Board of Commissioners has established a West Nile Virus Fund Program to assist Oakland County cities, villages and townships in addressing mosquito control activities; and

WHEREAS, Oakland County's West Nile Virus Fund Program authorizes Oakland County cities, villages and townships to apply for reimbursement of eligible expenses incurred in connection with personal mosquito protection measures/activity, mosquito habitat eradication, mosquito larviciding or focused adult mosquito insecticide spraying in designated community green areas; and

WHEREAS, the City of Auburn Hills, Oakland County, Michigan will incur expenses in connection with mosquito control activities believed to be eligible for reimbursement under Oakland County's West Nile Virus Fund Program.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Auburn Hills City Council authorizes and directs the City Manager, as agent for the City of Auburn Hills, to request reimbursement of eligible mosquito control activity under Oakland County's West Nile Virus Fund Program

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

NAYS: None

ABSENT: Council Member Hammond

ABSTENTIONS: None

RESOLUTION 15.06.125 APPROVED (6-0)

STATE OF MICHIGAN)

)SS

COUNTY OF OAKLAND)

I, the undersigned, the duly appointed City Clerk for the City of Auburn Hills, Oakland County, Michigan do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the Auburn Hills City Council held on the 22nd day of June 2015.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on this 23rd day of June, 2015.

Terri Kowal, City Clerk

Attachment C

CITY OF AUBURN HILLS

RESOLUTION ADOPTING WRITTEN FOIA PROCEDURES AND GUIDELINES, PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES AND FREEDOM OF INFORMATION ACT FEE CALCULATION FORM AND APPOINTING CITY CLERK AS AUBURN HILLS FREEDOM OF INFORMATION ACT COORDINATOR

At a meeting of the Auburn Hills City Council held on the 22nd day of June, 2015 at the City Hall at 1827 N. Squirrel Road, Auburn Hills, Michigan, 48326.

It was moved by Council Member Knight and seconded by Mayor Pro Tem Kittle.

WHEREAS, in January of 2015 the Michigan Legislature adopted Act 563 of the Michigan Public Acts of 2014, which made several amendments to the Michigan Freedom of Information Act that become effective on July 1, 2015; and

WHEREAS, the amendments to the Michigan Freedom of Information Act require that the City adopt written Procedures and Guidelines, a written Public Summary of the Procedures and Guidelines, and a Standard Fee Itemization Form/Freedom of Information Act Fee Calculation Form; and

WHEREAS, in order to comply with the amendments to the Michigan Freedom of Information Act and to ensure the Act and its amendments implementation by the City July 1, 2015, the City Council is desirous of adopting the required written Procedures and Guidelines, written Public Summary of the Procedures and Guidelines, and a Standard Fee Itemization Form/Freedom of Information Act Fee Calculation Form and is also desirous of confirming the appointment of the City Clerk as the Freedom of Information Act Coordinator.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE AUBURN HILLS CITY COUNCIL THAT:

1. Pursuant to Act 563 of the Michigan Public Acts of 2014, the Auburn Hills City Council adopts the written FOIA Procedures and Guidelines, Public Summary of FOIA Procedures and Guidelines and Freedom of Information Act Fee Calculation Form, all of which are set forth in Attachment A which is attached hereto and incorporated herein by reference, which attached written FOIA Procedures and Guidelines shall replace and supersede the existing Auburn Hills Freedom of Information Act Policies and Procedures and any amendments thereto which were previously adopted by the Auburn Hills City Council.

2. It is confirmed that the City Clerk is appointed as the Auburn Hills Freedom of Information Act Coordinator and shall continue to act in that capacity.

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

NAYS: None

ABSENT: Council Member Hammond

ABSTENTIONS: None

RESOLUTION 15.06.127 APPROVE (6-0)

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 the Resolution Adopting Written FOIA Procedures and Guidelines, Public Summary of FOIA Procedures and Guidelines and Freedom Of Information Act Fee Calculation Form and Appointing City Clerk as Auburn Hills Freedom Of Information Act Coordinator adopted by the City Council of the City of Auburn Hills at a duly called meeting held on the 22nd day of June, 2015, the original of which is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 23rd day of June, 2015.

Terri Kowal, City Clerk