

MINUTES
CITY OF FARMINGTON HILLS
CITY COUNCIL MEETING
JULY 8, 2019 – 7:30 PM
CITY HALL – COUNCIL CHAMBER

The regular session meeting of the Farmington Hills City Council was called to order by Mayor Massey at 7:30 p.m.

Council Members Present: Bridges, Bruce, Knol, Lerner, Massey, Rich and Steckloff

Council Members Absent: None

Others Present: City Manager Boyer, City Clerk Smith, Assistant City Manager Mekjian, Directors Barr and Gardiner, Fire Chief Unruh, City Attorney Joppich and Planning Consultant Arroyo

PLEDGE OF ALLEGIANCE

John Anhut, EDC Member, led the pledge of allegiance.

APPROVAL OF AGENDA

MOTION by Bridges, support by Steckloff, to approve the agenda as published.

MOTION CARRIED 7-0.

EMERGENCY PREPAREDNESS COMMISSION TIP OF THE MONTH

The following Tip of the Month was read by Tim Tutak, EPC member:

**CITY OF FARMINGTON and FARMINGTON HILLS
EMERGENCY PREPAREDNESS COMMISSION
Tip of the Month
JULY**

Goal for July: Family/ House Communication Plan

Communication in a disaster is key to make sure you and your loved ones are safe. We rely on cell phones to keep a physical record of numbers. Many homes either don't have a land line or only have a cordless/wireless home phone. Although digital age technology has given us many tools to connect with our loved ones these items often require power to continue to work.

Common Considerations

- Keep or memorize important phone numbers. Try dialing a number to a saved contact every once in a while to create muscle memory for that number. In disasters you may not be able to rely on that technology for the answer. Muscle memory will assist you in a stressful time to remember.
- Make sure all important communication devices have appropriate chargers in your go bag.

- During a disaster if you don't have a home phone and rely on primarily cell service as a home device that cell towers may not be working as efficiently during the disaster. Text messaging often works better as it requires less time with the tower. Make sure all family members know how to use text messaging.

In Case of Emergency (ICE)

Program a contact in your phone identified as ICE or In Case of Emergency. Responders and hospital personnel use this to reunite and contact your loved ones. Enter all of their phone numbers and contact information that you can.

CORRESPONDENCE

Councilmember Lerner acknowledged a letter that all of Council received from the Fett Family regarding the Cluster Option site plan on the agenda this evening.

Mayor Massey indicated that this letter will be made part of the public record when that item is discussed.

CONSENT AGENDA

MOTION by Knol, support by Lerner, to approve Consent Agenda as read.

Roll Call Vote:

Yeas: BRIDGES, BRUCE, KNOL, LERNER, MASSEY, RICH AND STECKLOFF
Nays: NONE
Absent: NONE
Abstentions: NONE

MOTION CARRIED 7-0.

PUBLIC QUESTIONS AND COMMENTS

There were no public comments at this time.

COUNCIL MEMBERS COMMENTS AND ANNOUNCEMENTS

There were no Council Member comments or announcements at this time.

CITY MANAGER UPDATE

City Manager Boyer provided the following update:

- Dates/times that fireworks are permitted
- Founders Festival details

PUBLIC HEARING

PUBLIC HEARING AND CONSIDERATION OF CLUSTER SITE AND OPEN SPACE PLAN 54-2-2019 TO DEVELOP PROPERTY LOCATED AT 24560 AND 24590 ORCHARD LAKE ROAD AND A VACANT PARCEL ON THE NORTH SIDE OF 10 MILE ROAD, EAST OF ORCHARD LAKE ROAD.

Ed Gardiner, Director of Planning and Community Development, explained that the item before City Council for consideration is a request for a single-family residential cluster development located on Orchard Lake and 10 Mile Roads. The proponent is Sherr Development. He presented a map of the proposed site and properties involved and explained that the Planning Commission qualified the property for the one-family cluster option and on May 16th at their public hearing meeting, the Planning

Commission reviewed the site plan and open space plan and recommended approval to City Council with a 6-2 vote. The proponent is present and will make a presentation to Council followed by a review from Rod Arroyo the City's Planning Consultant and public input should be heard prior to any action of City Council.

Roger Sherr reviewed the proposed development that consisted of approximately 21 acres with 49 detached units that he believes transitions the residential portion of the site to the commercial area. He explained that he chose the cluster option as he felt it would be the best type of development to preserve the natural features of the site and existing zoning and they are marketing to empty nesters wanting to downsize.

Council members expressed concerns with not having access from 10 Mile Road and the smaller cul-de-sacs that they felt could pose a safety concern as expressed by the Fire Marshal and engineering division.

Mr. Sherr indicated that he would have to rezone the commercial portion on 10 Mile Road in order to have access from 10 Mile to this development. He felt that the Orchard Lake Road access was better for emergency access and provided for a more aesthetic entrance to the proposed development.

City Council expressed that they would prefer two entrances; one off of 10 Mile and the other off of Orchard Lake Road as proposed. The spacing between units and density was also a concern and seemed inconsistent with surrounding lots.

Mr. Sherr explained that in trying to target a specific demographic they were trying to keep the traffic to a minimum and maintain a smaller development and the proposal meets the cluster option requirements as far as density and it is up to Council to balance the equities of the proposed site plan. He stated that he met with the Fire Department and residents of Ridgeview and felt he had addressed their concerns.

Mayor Massey pointed out that the Planning Commission recommended approval but also recommended approval of a variance to address the cul-de-sac length as 600 feet is a standard and not a guide as stated in their minutes.

Rod Arroyo, Planning Consultant from Giffels-Webster, reviewed the zoning of the property and noted that the applicant chose to retain the RA-1, single-family zoning on the property with the cluster development option. The Planning Commission agreed that it met the cluster qualifications with the higher density although at that time the density proposed was 2.2 units per acre and the developer is now proposing 2.4 units per acre. Cluster allows for a maximum of 3.1 units per acre and it is up to the approving body to determine the appropriate density for each development. He discussed his review letter with Council.

Mayor Massey opened the public hearing.

Kathy Brown, Rocky Crest, expressed concern with run-off from the proposed development as there is a stream that runs into the wetlands in that area. She also felt that the turn-around to enter the subdivision seems it could be dangerous and difficult for busses and fire department vehicles to make that turn and that an entrance off of 10 Mile Road would be preferred.

Donna Drew, Ridgeview, expressed concern with increased traffic on Ridgeview if there is no entrance from 10 Mile Road and people using that as a cut-through and speeding and with no sidewalks in the area she believes this could pose a safety issue for adults and children.

Laurel Paterson, Orchard Brook Ct., stated that she also backs to the stream in this area and is concerned with run-off from the new development and the disruption of wildlife. She questioned the duration of the construction, wetland protection in place and if these are single family homes are condominiums or would have a homeowners association that would take on some of the maintenance as the developer mentioned maintenance-free living.

Shane Tucker, Orchard Lake Road, stated that he attended the original meeting for the development and he was willing to give up his home and acre of property for a chance to live in this new community. He expressed concern with a 10 Mile Road entrance being too tight.

Patrick Hanaway, 24560 Orchard Lake Road, did not feel there was an issue with traffic entering off of Orchard Lake Road and feels it is a nice development and that City Council should consider approving the plan.

Mayor Massey acknowledged the letter that City Council received from the Fett Family expressing concerns with traffic on Ridgeview and the proposed density.

There being no further comments, Mayor Massey closed the public hearing.

Councilmember Lerner stated that he appreciates the development and plan; however, Council has received memos from the Fire Department and Engineering Division expressing concerns with the length of the proposed cul-de-sac. He added that since the proponent already owns the property on 10 Mile Road, it would not preclude the option of an entrance from 10 Mile that would be safer for the residents of the subdivision and the city's public safety personnel. He indicated that the developer can submit a revised plan to the Planning Commission that could be supported by the Fire Department and Engineering Division.

MOTION by Lerner, support by Bridges, to deny the Cluster Site and Open Space Plan 54-2-2019 to develop property located at 24560 and 24590 Orchard Lake Road and a vacant parcel on the north side of 10 Mile Road, east of Orchard Lake Road; and ask that the plan be taken back to the Planning Commission and that the Planning Commission work with the developer to find ways to accommodate the requests of the Fire Department and Engineering Division.

City Attorney Joppich suggested that the reasons for the denial as cited by Councilmember Lerner prior to his motion be made a part of the motion. He added that the Planning Commission, in their minutes, had also considered and recommended approval of a variance for the cul-de-sac length. He noted that while the proponent did not specifically request a variance in his presentation this evening, if in fact a variance for the cul-de-sac is part of the development being requested this evening, it should be addressed in the motion as well.

At the request of Mr. Sherr, Mr. Joppich clarified the ordinance provisions applicable to a variance from the cul-de-sac length requirements.

Mr. Sherr stated that he is not requesting a variance at this time.

Councilmember Knol indicated that she preferred having entrances off of 10 Mile and Orchard Lake Roads but is also concerned with the smaller lot sizes being proposed and would prefer fewer units as originally proposed at 2.2 units per acre and 42 units with larger lots, which is more compatible with the

surrounding properties. Councilmember Knol offered as a friendly amendment to the motion to include the density as outlined as an additional reason for denial.

Councilmember Lerner and Mayor Pro-Tem Bridges accepted the friendly amendment as part of the motion.

Councilmembers expressed the desire to have the property developed but in a way that could be supported by the Fire Department and Engineering Division and to address the concerns of City Council.

Affordability was also noted as an item to be considered for developments targeting empty nesters and those wanting to downsize.

Mayor Massey addressed the questions asked during the public hearing.

The final motion as amended to include reasons for denial:

MOTION by Lerner, support by Bridges, to deny the Cluster Site and Open Space Plan 54-2-2019 to develop property located at 24560 and 24590 Orchard Lake Road and a vacant parcel on the north side of 10 Mile Road, east of Orchard Lake Road for the following reasons: the proposed cul-de-sac length exceeds ordinance requirements and the resulting safety concerns for residents and emergency services personnel as mentioned by the Fire Department and Engineering Division in their memos to City Council, preference for a second entrance off of 10 Mile Road in order to address safety concerns, and the density being too high and lots sizes too small for the property and surrounding areas with a preference for the density to remain at 2.2 units per acre and 42 units as originally proposed with larger lots so that they are more compatible with surrounding properties; and

FURTHER, ask that the plan is taken back to the Planning Commission and for the Planning Commission work with the developer to find ways to accommodate the requests of the Fire Department and Engineering Division.

MOTION CARRIED 7-0.

UNFINISHED BUSINESS

CONSIDERATION OF APPROVAL OF THE ENACTMENT OF ORDINANCE C-9-2019 AUTHORIZING THE CONVEYANCE OF LOT 36 OF ASSESSOR'S GRAND RIVER HOMES STATE SUB TO THE PAUL BUCHANAN GROUP, LLC. CMR 7-19-76

Assistant City Manager Mekjian noted that the ordinance was introduced by City Council at their last regular session meeting of June 24, 2019. The property was acquired by the City in August, 2019 from Oakland County on tax reversion. Mr. Buchanan was interested in purchasing the property from the City and has signed a purchase agreement in the amount of \$2,000. Staff is recommending enactment of the ordinance at this time by City Council.

MOTION by Bruce, support by Knol, that the City Council of Farmington Hills hereby approves the ENACTMENT of Ordinance C-9-2019 authorizing the conveyance of property located at T1N, R9E, Section 35 Assessor's Grand River Homes State Sub Lot 36, Parcel #22-23-35-278-013 (vacant land) to Paul Buchanan Group, LLC; and approval of summary for publication.

Roll Call Vote:

Yeas: BRIDGES, BRUCE, KNOL, LERNER, MASSEY, RICH AND STECKLOFF
Nays: NONE
Absent: NONE
Abstentions: NONE

MOTION CARRIED 7-0.

NEW BUSINESS

CONSIDERATION OF APPROVAL OF APPOINTMENT TO THE ECONOMIC DEVELOPMENT CORPORATION.

MOTION by Lerner, support by Rich, that the City Council of Farmington Hills hereby confirms the Mayor's recommendation to reappoint John Anhut to the Economic Development Corporation with the term ending February 1, 2025.

MOTION CARRIED 7-0.

CONSIDERATION OF AN APPEAL TO THE PARTIAL DENIAL OF A FREEDOM OF INFORMATION ACT (FOIA) REQUEST OF MAY 30, 2018.

Mayor Massey acknowledged information submitted by the City Clerk to Council and asked Mr. DeWard, who had filed the appeal, if he had any further information or comments at this time.

Mr. DeWard provided documentation relating to the appeal of Item #10 of his May 30, 2018 FOIA request and drainage costs for various special assessment districts. He expressed concern with the costs he has been charged for FOIA requests for staff time and the fringe benefits included.

Mayor Massey asked Mr. DeWard to stay on topic as to the appeal he has submitted and to provide any further information as it relates to the appeal.

Mr. DeWard commented that he is unable to understand how the city claims to have no documentation on drainage problems and the exclusion of funding as it relates to these special assessment district projects or why the city has paid for drainage as part of other developments. He does not believe that no documentation exists.

With regard to Item #11 of his May 30, 2018 FOIA request and appeal, Mr. DeWard stated that the Association President was confident there was an agreement by the city to replace some of the culverts in the Independence Commons Subdivision.

Councilmember Lerner clarified Mr. DeWard's specific request as it related to Item #11 and culvert replacement. He added that there are no such documents as requested and that is the reason for the denial.

Mayor Massey confirmed that all appropriate FOIA procedures were followed and if records do not exist they cannot be provided.

Councilmember Bruce clarified for Mr. DeWard that the reason for the appeal is for him to have the opportunity to provide evidence that the records do exist and should be provided.

Mr. DeWard answered that this is why he asked for the records and it does not make sense that there would be no documentation when City Council approved the costs as part of the project.

Mayor Massey inquired if City Clerk Smith, as the FOIA Coordinator for the City, had additional information to add at this time. City Clerk Smith had no additional information to submit at this time.

MOTION by Bruce, support by Lerner, that the City Council of Farmington Hills hereby rejects and denies this appeal for the reason that it was filed over a year after the final decision of denial by the FOIA Coordinator and is therefore untimely, and even if it were timely, hereby uphold and affirm the decision of the FOIA Coordinator denying item #10 and item #11 of Mr. DeWard's May 30, 2018 FOIA request for the following reasons:

- Item #11 of the request asks for an agreement that relates to the replacement of four culverts in the Independence Commons Subdivision that was rescinded by the City, but there has been no evidence in the record of this appeal that such an agreement exists or was rescinded. There is also no indication in the record of this appeal that City Council, the City Manager, or any other authorized Department Director approved any such agreement or rescinded it. As such, there is no basis to reverse or overturn the determination by the FOIA Coordinator that the records described in Mr. DeWard's FOIA request do not exist. Mr. DeWard's appeal is based on the premise that he asked for "any" records regarding culverts, but that is not consistent with the limited scope of his May 30, 2018 request, which references and only requests an agreement and a rescinding of that agreement. It is noted, if you look at the records, that Mr. DeWard submitted a subsequent FOIA request on January 14, 2019 that includes a much more broadly worded request that does essentially encompass "any" records relating to culvert replacements in the Independence Commons Project, which is fundamentally different from his May 30, 2018 request, and that subsequent request would have been timely granted by the FOIA Coordinator but he has refused to pay for the records. It is further noted that Mr. DeWard would have been charged an additional amount for that record search and disclosure in 2018 if he had asked for them at that time.
- Item #10 of the request sought records of the City that explain why certain listed costs were not included as part of the costs for several SADs in the City. While Mr. DeWard's appeal poses a number of statements essentially arguing that there must be an explanation for the alleged exclusion of such costs, he provides no evidence that there must be some actual documents in the City's files that any sort of explanation in writing, nor is there any evidence showing that a written explanation was required or referenced by anyone.
- What the evidence shows is the FOIA Coordinator followed the protocols of the City in terms of ensuring that each department involved with the subject matter of the request thoroughly searched for any record that might be responsive and provide the records that Mr. DeWard was seeking if they existed. After doing so and confirming there were no such records fitting the description contained in Mr. DeWard's request, the FOIA Coordinator responded to Mr. DeWard certifying the absence of any City records providing the agreement and explanation Mr. DeWard was seeking.

MOTION CARRIED 7-0.

CONSENT AGENDA
RECOMMENDED APPROVAL OF AWARD OF BID FOR UNIFORM RENTAL AND CLEANING TO CINTAS CORPORATION FOR A PERIOD OF FIVE (5) YEARS WITH POSSIBLE EXTENSIONS. CMR 7-19-77

MOTION by Knol, support by Lerner, that the City Council of Farmington Hills hereby authorizes the City Manager to approve all budgeted purchase orders for uniform rental and

cleaning with Cintas Corporation for five (5) years and for one (1) additional two (2) year options under the same terms and conditions through mutual consent between the City and Cintas Corporation.

Roll Call Vote:

Yeas: BRIDGES, BRUCE, KNOL, LERNER, MASSEY, RICH AND STECKLOFF
Nays: NONE
Absent: NONE
Abstentions: NONE

MOTION CARRIED 7-0.

RECOMMENDED APPROVAL OF THE CITY COUNCIL REGULAR SESSION MEETING MINUTES OF JUNE 24, 2019.

MOTION by Knol, support by Lerner, that the City Council of Farmington Hills hereby approves the regular session meeting minutes of June 24, 2019, as submitted.

Roll Call Vote:

Yeas: BRIDGES, BRUCE, KNOL, LERNER, MASSEY, RICH AND STECKLOFF
Nays: NONE
Absent: NONE
Abstentions: NONE

MOTION CARRIED 7-0.

ATTORNEY'S REPORT

The City Attorney's report was received by City Council.

ADJOURNMENT

Mayor Massey adjourned the regular City Council meeting at 9:45pm.

Respectfully submitted,



Pamela B. Smith, City Clerk