

A. CALL TO ORDER:

A Special Joint Meeting of the Troy City Council and Planning Commission was held on Monday, September 14, 2015, at City Hall, 500 W. Big Beaver Rd. Mayor Slater called the meeting to order at 6:01 PM.

B. ROLL CALL:

a)	<u>City Council Members</u>	<u>Planning Commission Members</u>
	Mayor Dane Slater	Chairman Donald Edmunds
	Jim Campbell	Ollie Apahidean
	Steve Gottlieb	Karen Crusse
	Dave Henderson	Carlton Faison
	Ellen Hodorek	Michael W. Hutson
	Ed Pennington – Arrived at 6:22 PM	Tom Krent
	Doug Tietz	Padma Kuppa
		Philip Sanzica
		John Tagle

C. DISCUSSION ITEMS:**C-1 Master Plan Update - Carlisle/Wortman Associates, Inc.**

Mr. Brian Kischnick, City Manager, introduced Mr. Dick Carlisle, Carlisle/Wortman Associates, Inc., who discussed the Master Plan Community Engagement and remaining tasks involved in updating the Master Plan.

C-2 Why We Are Here/Framing the Issues - City Manager Brian Kischnick

Mr. Kischnick introduced Mr. Brent Savidant, Planning Director, who provided a brief introduction to the topic of the proposed amendment to the City of Troy Zoning Ordinance in order to regulate oil and gas extraction facilities.

C-3 Presentation by Hal Fitch, Director, Office of Oil, Gas and Minerals, MDEQ

Mr. Kischnick introduced Mr. Hal Fitch, Director of Oil, Gas and Minerals, MDEQ. Mr. Fitch provided an introduction to the functions and rules of the Office of Oil, Gas and Minerals of the Michigan Department of Environmental Quality. He stated that his office seeks to strike a balance between the rights of mineral owners, surface property owners and environmental protection. Mr. Fitch explained the latest security controls on wells in regards to environmental impact. He provided a brief summary of the restrictions in place regarding wells and extraction facilities. Mr. Fitch commented that the proposed ordinance looks promising but he pointed out a couple areas that he thinks could be problematic. He said the proposed setback distance, restricting drilling to a smattering of locations in one corner of the City, and limiting drilling to a vertical hole versus a horizontal track are problematic amendments that could be liabilities.

C-4 Presentation by Jim Nash, Oakland County Water Resources Commissioner

Mr. Kischnick introduced Mr. Jim Nash, Oakland County Water Resources Commissioner, who discussed his perspective on the proposed amendment to the City of Troy Zoning Ordinance on extraction facilities. He provided a recommendation that the City contact an organization called Flow for Water. He commented that the proposed ordinance is a good idea, and limiting exposure of the residents to the environmental effects of drilling sites such as air quality. He recommended frequent testing of the ground water and wildlife in the area around the drilling site. He said the City has a lot of power in controlling the regulations of tank farms and other aspects of facilities. Mr. Nash summarized that water quality and air quality are his biggest concerns with these facilities.

C-5 Presentation by John Griffin, Executive Director, Associated Petroleum Industries of Michigan

Mr. Kischnick introduced Mr. John Griffin, Executive Director, Associated Petroleum Industries of Michigan, who discussed a handout he provided from the Energy Information Administration to the City Council and Planning Commission. Mr. Griffin explained that many communities are examining the issues of oil and gas extraction facilities. He said that national organizations are approaching individual communities in order to encourage communities to adopt restrictive ordinances and if enough communities adopt restrictions, there could be a de facto ban on extraction facilities. He said that everyone uses energy resources and products every day, and wells are necessary to provide those resources. He commented that the City of Troy proposed Zoning Ordinance Amendment seems very restrictive. Mr. Griffin said that the State restrictions are sufficient and consistent, and local restrictions will end up hurting consumers.

C-6 Questions/Discussion

Chairman Edmunds asked about the presenters' assessments of ordinances enacted in nearby cities. Mr. Fitch answered that some he has seen are pretty restrictive, and Troy's proposed ordinance prohibits development in too large of areas. Mr. Nash commented that there is always a risk of a law suit for having too restrictive an ordinance. He said Flow for Water has a lot of useful information on their website. Mr. Fitch commented that some of the suggestions from Flow for Water are questionable.

Mayor Pro Tem Campbell asked what takes precedence: mineral rights or property rights. Mr. Fitch answered that mineral rights are dominant over the surface property rights.

Ms. Kuppa asked Mr. Savidant if he compared Troy's proposed ordinance to Rochester Hills ordinance and if Troy's proposed ordinance is defensible. Mr. Allan Motzny, Assistant City Attorney, said that Troy's proposed ordinance is defensible and does not prohibit drilling beyond the subsurface property lines as long as the drilling company has documentation that they have the right to do so. Mr. Nash said that the City has the right to regulate where pipes are placed, and pipes have the potential to leak more than trucks.

Council Member Tietz asked if the City Council passed an ordinance, and it was challenged, would the City be sued and have damages assessed to the City. Mrs. Bluhm answered that there is a risk of being sued if the City passes an ordinance that is more restrictive than the State regulations.

Mrs. Crusse asked for confirmation regarding the statement that the area of Troy does not lend itself to what hydraulic fracturing companies are looking for. Mr. Fitch answered that the land

and reservoirs in this area does not lend itself to hydraulic fracturing. Mrs. Crusse asked Mr. Fitch to confirm that hydraulic fracturing in the State of Michigan have been safe so far. He commented that there has not been an incident of environmental contamination from a hydraulic fracturing operation itself in the State of Michigan. Mrs. Crusse asked Mr. Griffin about his statement that when cities and townships create ordinances to control hydraulic fracturing, that he was of the opinion that it was better to regulate in the big picture instead of each municipality adopting individual regulations. Mr. Griffin answered that statewide regulations are best. Mr. Nash commented that most wells in Michigan were never tested, so there is no way to know if there were leaks or contamination. He said that citizen complaints need to be addressed. Mr. Griffin commented that a former EPA Administrator testified before Congress that there had been no accidents with hydraulic fracturing. He also said that new rules passed last March require baseline water testing. Mr. Nash commented that those rules are for large-scale fracking, not small-scale fracking.

Council Member Henderson asked what is meant by the phrase 40 acres under lease and 3 acres to drill. Mr. Fitch answered that a square 40 acres is the size of the tract that is needed to form one well, and leases on the land in those 40 acres are needed in order to drill.

Mr. Krent asked if the property owner owns the mineral rights or how property owners can find out if they own mineral rights on their land and how to get them if they don't own them. Mr. Fitch answered that residents can look at the Register of Deeds to see if the mineral rights have been sold at some point.

Mr. Apahidean asked Mr. Fitch knows how many wells in Michigan are horizontal wells and what percentage are in urban areas. Mr. Fitch answered that over 1,800 wells have been drilled within cities and villages. He said that horizontal drilling started around 1980, and is more the exception than the rule, so there aren't many horizontal wells.

Mr. Tagle asked how the City can know where the drilling companies may want to drill, so as to try to avoid limiting property rights. Mr. Fitch answered that you don't know until the drilling company conducts surveys and testing.

Council Member Gottlieb asked if there has been one incident of hydraulic fracking in Oakland County. Mr. Fitch answered that he is not aware of one. Mr. Griffin commented that permit applications can be found on the MDEQ website, listed by county. Mr. Fitch commented that when the MDEQ receives an application, they contact the local governing body and will attend public meetings if the local body requests their presence. Mr. Nash asked if drilling operations are exempt from FOIA. Mr. Fitch answered that the drilling sites and locations are not confidential, but the formation and character of the formation can be held confidential.

Mr. Hutson commented that if the land in Troy is no conducive to fracking, then there will be no harm in enacting the proposed ordinance. He said the State statute is general, and the proposed ordinance fills in gaps that are in the State statute. Mr. Hutson agreed with Mr. Nash that safety is most important.

Council Member Pennington asked if there's a case in Michigan where they've been doing horizontal fracturing. Mr. Fitch answered that horizontal drilling doesn't always mean horizontal fracturing takes place. He said that there have been about 80 high-volume hydraulic fracturing operations in Michigan. He said there have been about 15 large-scale horizontal wells.

Mr. Faison asked about the settlement amounts in the lawsuits and the difference in scenarios of the cases. Mr. Fitch answered that the Ludington area lawsuit was higher because of the prospective value of the operation. He said that in the Farmington Hills case, the damages to the operator were less because the value of the potential reserves was lower. Mr. Faison asked if Troy lends itself to large-scale development in terms of opportunity. Mr. Fitch answered that one of the wells in the formation in this part of the state produces about \$8000 in revenue per day.

C-7 Wrap Up/Next Steps

Mayor Slater thanked the speakers for their information. He said that he believes there needs to be more discussion, and that the ordinance amendment needs to go back to the Planning Commission for further discussion and review. Mr. Edmunds requested that the questions asked tonight be provided to the speakers for their consideration and answers. He said that perhaps this amendment could be postponed until November or December. Mrs. Crusse commented that this topic arose so that the City of Troy would not be taken by surprise by a drilling company wishing to drill in Troy. Mr. Edmunds asked if Shelby Township was notified when the exploratory drill was proposed. Mr. Fitch answered that Shelby Township was notified. Council Member Tietz asked the Planning Commission to pay attention to the fact that there were concerns tonight about the ordinance amendment being too restrictive.

D. PUBLIC COMMENT:

Janet Moore – Troy resident, is concerned about fracking in Troy.

David Riley – Engineer, is concerned about property values near extraction sites.

Marla Wills – is concerned about the hazards of extraction facilities and the surrounding area.

E. ADJOURNMENT:

The Meeting **ADJOURNED** at 7:13 PM.



Mayor Dane Slater



M. Aileen Dickson, CMC
City Clerk