



Rochester Hills

Minutes - Draft

Brownfield Redevelopment Authority

1000 Rochester Hills Dr
Rochester Hills, MI
48309
(248) 656-4600
Home Page:
www.rochesterhills.org

Chairperson Robert Justin
Vice-Chairperson James Nachtman
Members: Werner Richard Braun III,
Mark Sera, Del Stanley, Thomas Turnbull
Council Member Stephanie Morita

Thursday, April 15, 2021

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Robert Justin called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 5 - Thomas Turnbull, Robert Justin, Stephanie Morita, Werner Richard Braun III and James Nachtman

Excused 2 - Mark Sera and Del Stanley

Quorum present.

Also present: Sara Roediger, Director, Planning & Economic Dev.
Joe Snyder, CFO, Fiscal Director
John Staran, City Attorney
Thomas Wackerman, ASTI Environmental
Maureen Gentry, Secretary

APPROVAL OF MINUTES

[2021-0133](#) September 16, 2019 Special Meeting

A motion was made by Morita, seconded by Braun III, that this matter be Approved as Presented. The motion PASSED by an unanimous vote.

COMMUNICATIONS

There were no Communications presented to the members.

PUBLIC COMMENT

Chairperson Justin opened Public Comment at 7:01 p.m. Seeing no one wishing to speak, he closed Public Comment.

NEW BUSINESS

2021-0131

Request for review and approval of the third reimbursement request associated with the costs for eligible activities completed for the Legacy of Rochester Hills (City File No. 17-043) brownfield cleanup, located at the northeast corner of Adams and Hamlin, zoned by Consent Judgment, Parcel Nos. 15-29-101-022 and -023, LRH Development, LLC, Applicant

(Reference: Memos, prepared by Sara Roediger, dated April 8, 2021 and Thomas Wackerman dated March 31, 2021, the list of eligible expenses, Brownfield Plan and IRR had been placed on file and by reference became part of the record thereof).

Present for the applicant were Brian Westhoff and Jeremy McCallion from AKT Peerless, 22725 Orchard Lake Rd., Farmington, MI 48336, Arthur Siegal, Jaffe, Raitt, Heuer & Weiss, 27777 Franklin Rd., Suite 2500, Southfield, MI 48034 and Stan Jakse, Goldberg Companies, 25101 Chagrin Blvd., Beachwood, OH 44122.

Ms. Roediger explained that there were two requests under New Business, both of which were related to the Legacy project. There had been two previous reimbursement requests for the project approved by the BRA. The applicants were present to request the third. She noted that the environmental construction had been underway and had been very successful. There was still work being done on Parcel B. She turned the discussion over to Mr. Wackerman and advised that Mr. Snyder, the City's CFO and Mr. Staran, the City Attorney were also present for any questions.

Mr. Wackerman felt that the request was very straight-forward, and he commented that the applicant's consultant had been great about working on the numbers and making sure that everything functioned. He pointed out Table 2 in the back of the memo, which was the most important. It showed all three requests compared to the Brownfield Plan, the total amount recommended for reimbursement and the remaining balance. All of the expenses were eligible under the Brownfield Plan and Act 381, with the exception of three or four, which were expenses for things that were partially complete. The applicant chose to withdraw those and will be resubmitting with the fourth request. Page three of the memo indicated the summary of \$38,821 withdrawn, which left a balance of \$2,163,850.88 eligible for reimbursement. Table 2 showed that amount in the second column. If that was approved, the total for reimbursement to date for eligible expenses, not including interest, would be \$6,486,667.73. That

would leave \$3,132,919.27. He said that he would be happy to answer any questions.

Hearing no further discussion, Chairperson Justin called for a motion.

MOTION by Nachtman, seconded by Turnbull, in the matter of City File No. 17-043, the Brownfield Redevelopment Authority approves the reimbursement request #3 dated February 16, 2021 from AKT peerless on behalf of LRH Development, LLC, with the items removed as noted in the March 31, 2021 memo from ASTI for \$2,163,850.88 for the cost of eligible activities for the Legacy of Rochester Hills project as this portion of the request is in compliance with the approved Brownfield Plan, the Reimbursement Agreement, 1996 PA 381 (Act 381) at the time of the Brownfield Plan approval, the City's cost reimbursement procedures, and generally accepted practices.

Ms. Morita noted that there had been some discussion about the change in entities and the removal of easements between the amended Plan and the existing. She wondered if Mr. Staran had had a chance to look at that.

Mr. Staran said that he had looked at Parcels A and B which were owned by separate entities. The names had changed, and although the current parcels were owned by different LLCs, there was some common ownership. He believed that Ms. Morita was referring to cross easements, which he believed still existed, even though they were not spelled out as specifically as they were before. He had not identified any concerns about the ability of the developer and the operating entity to go onto Parcel B to perform the necessary remediation and on-going maintenance.

Ms. Morita said that one of the big changes was for the upkeep of Parcel B at \$24,000 per year for the next 30 years. She went over Section 1.1.3, which currently stated that Parcel B would be owned by a to-be-determined entity and would be subject to an agreement permitting the owner of Parcel A to access and implement the remedial work described in the Plan. She said that language had been removed. With the change in the amount of money, and the fact that the owner of Parcel A no longer appeared to have the required authority in the Plan, she asked if there were any concerns about potential issues the site might have in the future and who would pay for those. There was a new shell LLC. The owner of Parcel A, according to the agreement, no longer was required to have the ability to go onto Parcel B and fix it. As much as she would like to believe that everything in the world would go well, and people

owned properties forever, and businesses stayed in business, and there were no bankruptcies and people always paid their taxes, they knew that was not always the case. Her concern was that they were putting in an apartment complex next to Parcel B, and the owner of Parcel A, according to the Work Plan they were requested to approve, would not necessarily have the ability to go onto Parcel B to do any fixes to keep their residents safe. They would also be changing the amount of money that was being held and looking at a lower amount of \$24,000 as opposed to \$30,000 for 30 years for upkeep. She asked what would happen after 30 years.

Mr. Wackerman felt that some of Ms. Morita's questions could be answered when they went through the review of the amended Act 381 Work Plan. The function of a 381 Work Plan was to spell out what was going to be done on a property. He thought that access agreement issues were external to a Plan. The Plan was a technical document stating what would be done and what the costs would be.

Ms. Morita asked if they had seen easements, and if the owner of Parcel A had provided easements that gave access to Parcel B if there was a problem.

Mr. Staran was sure he had seen them, although he did not have them in front of him. It was one of the things that they looked at when they were entering into the Consent Judgment and considering the Brownfield Plan.

Ms. Morita asked if they understood her concern about changing the amount of money to be held. Before she would be comfortable voting on a change for how much money was required to be held, she wanted to make sure that if something went wrong, there would be a fix.

Chairperson Justin asked if they could discuss the matter with the second item - the amendment to the 381 Work Plan. They were first talking about the reimbursement.

Ms. Morita stated that she was talking about the reimbursement. She said that she would not vote in favor, and she would tell City Council why she would not vote in favor, unless the issue was cleared.

Mr. Siegal believed that the Chair was correct. The motion before the BRA was to approve the reimbursement of already expended expenses relating to the cleanup of Parcel A. There would be a second motion on the amendment of the 381 Work Plan. He said that they would be happy

to address Ms. Morita's questions now or at that time, but he thought Ms. Morita had jumped one ahead on the agenda. All that they were asking for was an approval of the amounts submitted, or what had been called request for reimbursement number three so that when the tax monies were generated, reimbursement could occur.

Ms. Morita asked if he could answer the question about the easement. Mr. Siegal maintained that there were cross easements. He believed that it had been addressed, but if it had not been to the BRA's satisfaction, they could do that. Staff had recommended a further agreement between the City and the development team to address any lingering concerns. If the easement remained a lingering concern, it could be addressed there. He said that at the moment, Parcel A and Parcel B were owned by two separate but related entities, both subsidiaries of the same parent organization. At the current time, there was no issue in terms of going back and forth. The developer had done all of the environmental work on both Parcel A and B and would continue to do the work on Parcel B with the permission of the owner of Parcel A pursuant to an agreement and easement to complete the environmental work. The entity that had been spending the money and doing the work was the entity that was also the developer of the apartments. There was not a shell entity spending the money. For long-term monitoring and maintenance, it would be the same setup. If they needed to memorialize that in some form or fashion to the satisfaction of the BRA and Council, he stated that they could absolutely do that.

Ms. Morita asked Mr. Staran if he had seen recorded easements. Mr. Staran said that he did, but it had been a couple of years. He believed that the issue was covered, but he suggested that when they got to the second item and if there was a favorable vote of the amended Plan, they could add a condition regarding it. They could make sure that there were no issues Ms. Morita mentioned, and they could tighten it up. He felt that it was something that was easily solvable. All the intentions of the current parties were there, and it was the time to make sure that it was wrapped up. If additional documentation was needed, it was the time to make sure that any obligations and rights of access were perpetual.

Ms. Morita asked Mr. Wackerman if he had no concerns with the reimbursement request. She asked if the request should be tied to providing the BRA proof of the recorded easements.

Mr. Wackerman stated that he had no problem with reimbursement request number three. All of the expenses were in compliance with the

documents of the Act 381. As far as tie-barring to access agreements, in his experience, it would be unusual. He thought that it was a separate issue. Ms. Morita clarified that he was good with not tie-barring it and leaving it for the second item on the agenda. Mr. Wackerman agreed that was the place they wanted to “delve deep into the weeds.”

A motion was made by Nachtman, seconded by Turnbull, that this matter be Approved. The motion carried by the following vote:

Aye 5 - Turnbull, Justin, Morita, Braun III and Nachtman

Excused 2 - Sera and Stanley

Chairperson Justin stated for the record that the motion had passed unanimously.

2021-0148

Request for review of the 381 Work Plan First Amendment for Legacy Rochester Hills redevelopment

(Reference: Memos, prepared by Sara Roediger, dated April 8, 2021 and Thomas Wackerman dated March 26, 2021 and April 15, 2021 and the amended Act 381 Work Plan had been placed on file and by reference became part of the record thereof).

Present for the applicant were Brian Westhoff and Jeremy McCallion from AKT Peerless, 22725 Orchard Lake Rd., Farmington, MI 48336, Arthur Siegal, Jaffe, Raitt, Heuer & Weiss, 27777 Franklin Rd., Suite 2500, Southfield, MI 48034 and Stan Jakse, Goldberg Companies, 25101 Chagrin Blvd., Beachwood, OH 44122.

Chairperson Justin suggested that for the next item, there could be a motion on the floor and then discussion, which he said was preferable. If amendments needed to be made to the motion, they could be done afterward. The request was to amend the 318 Work Plan. It would rearrange where the money was going to be allocated, and it talked about ongoing funding after the cap on Parcel B. Currently, there was a 30-year plan at \$30k per year set aside to take care of that. The suggested change was to 24 years, and the total dollar amount was \$720k. Mr. Wackerman’s memo suggested that they keep it at \$30k for a total of \$900k. Chairperson Justin said that he would entertain a motion to get the discussion started, and then there would be questions and answers.

MOTION by Braun, seconded by Turnbull, in the matter of City File No. 17-043, the Brownfield Redevelopment Authority approves staff to submit the amended 381 Work Plan to EGLE for review and approval with the

following conditions:

- 1. Operation and maintenance obligations for Parcel B will continue well beyond the 24-year period stated in the Amended 381 Work Plan, and are a critical component of maintaining the remedy and providing public access to Parcel B. Therefore:*
 - a. to be explicit about requiring operation and maintenance beyond the duration of the Amended 381 Work Plan, ASTI recommends that the description “for at least a total of 30 years” be removed from Section 3.1.1.7; and*
 - b. to assure the maximum duration for operation and maintenance on Parcel B, cost should not be reallocated to other eligible activities but should remain at the amount of \$900,000 as indicated in the Brownfield Plan, and reimbursement should be assumed annually for a full 30 years; and*
 - c. to illustrate reimbursement to the Applicant for operation and maintenance in Parcel B for 30 years, the assumed duration of the tax capture table be extended to 30 years, with annual reimbursement of \$30,000 to cover this expense in years 25 to 30 and that the LBRF be extended during that period, but that there be no change in the total amount approved for reimbursement or the total duration of reimbursement for all other costs.*

Ms. Roediger said that she appreciated the motion being made. Since the agenda had gone out, staff had a chance to work with the applicant team, and they addressed many of the concerns noted in the conditions. They had provided supplemental information that had also been emailed. Mr. Wackerman provided an updated memo for consideration. She suggested that perhaps he could give a brief overview of what had changed, and the applicant could speak to it, as well.

Mr. Wackerman apologized for the last minute change. They had been working closely with the applicant’s consultant and attorney to try and make things work. They were on a tight timeline, and they needed to get back with their financial institution. He talked with the applicant’s environmental consultant. As Ms. Morita had said, one of the key things that jumped out was that the amended 381 Work Plan maintained a \$30k per year assumption for operation and maintenance on Parcel B, but reduced the duration to 24 years to be consistent with the Plan life. He wrote back and said that operation and maintenance on Parcel B was a critical component of the Plan. It had always been the City’s objective to get the Parcel cleaner and safer and to drop that down and allocate the

funds to something else did not make a lot of sense. Consequently, the memo recommendations just read in the motion came out. There were other things, too. Subsequent to that, he was able to talk with the applicant's consultant and go over their estimate of the real costs for annual operation and maintenance. When Brownfield Plans and 381 Work Plans were put together, often there were slags. They tried to get them right, but there were a lot they did not know until they put a backhoe into the ground. The \$30k per year used in the Brownfield Plan and the original 381 Work Plan was one of those slags. When he did his calculation, he had maintained that if the applicant said that it was \$30k, then they would keep it at 30 years. In going over the actual expenses with AKT, it turned out that it was more like \$24k per year. That was contained in his memo dated April 15, 2021 that was sent to the members around 1:00 p.m. earlier in the day. That cost consisted of three components: Inspections and miscellaneous repair, primarily associated with the monitoring of the vents as required by EGLE, which had to be done annually; annual reporting requirements, which were also required by EGLE; and a contingency for other types of repair, such as erosion and receding. They provided a detailed cost breakdown for the first and second items, which looked reasonable. The frequency of testing typically got changed when there was an understanding of the system. Once they knew what was really going on, they did not have to do it every month. It could be done every three months or so. There was a high probability that the frequency of testing in the future was going to be lower than the frequency of testing currently. That dollar item seemed more than adequate to cover the testing and reporting. The thing he was most concerned about was the miscellaneous component - contingency for repair and replacement. He did not know if that was adequate for continuing operation and maintenance on Parcel B for 30 years. He did some quick calculations, and he assumed that 10% of the cap, which was a pretty big area, had an erosion problem once every ten years. He felt that was a pretty conservative assumption. It was a flat cap without much of a slope. It was probably going to be pretty stable. When he ran those numbers, they were less than the amount being proposed for that contingency. He thought that the \$24k a year was an acceptable number to provide sufficient funding for operation and maintenance on Parcel B. There was not a lot to be maintained. It was a passive cap and vent. His recommendations changed, and the \$720k (24 x 30) was acceptable in the modified plan. It went from \$900k to \$720k, and he felt that was acceptable. He did not feel that it should be reallocated to any other expense. It should be absolutely dedicated to operation and maintenance of Parcel B. He suggested that a mechanism should be put in place to manage operation and maintenance funds beyond the

24-year life of the Plan. There were a couple of recommendations in the memo as to what that would look like. The first item was that the City and the developer enter into an agreement to put aside \$144k of the revolving loan fund to pay for the operation and maintenance in years 25-30. That recommendation required that an additional agreement be drawn, and that the funds came out of the revolving loan fund, and it assumed that there was a revolving loan fund. The City had not established one yet. One of his subsequent recommendations was that it did so, to take advantage of what that would do for the City and to provide funding for things like Parcel B. The third recommendation was that because \$144k would be reimbursed from the revolving loan fund, to keep the total amount of reimbursement the same, \$144k would be reduced from the amount that would be reimbursed under the 381 Work Plan and the Brownfield Plan. The amount of reimbursement would be the same; it was just a different mechanism for the years after the Plan sunset.

Chairperson Justin asked how sure he was that there would be \$30k from the revolving loan fund. Mr. Wackerman remarked that it was a good question. He pointed to the tax table in the 381 Work Plan and Brownfield Plan and said that the way they had been set up by the applicant, annually, 3% of the available capture went into the fund every year. In some cases, the revolving loan fund would collect funds from the last five years, but they had put it in for every year. In year four, for example, it would be capturing \$20k to be deposited in the revolving loan fund. At the end of the 24-year period, there would be approximately \$1 million in the revolving loan fund from the Legacy project. That would adequately fund the \$144k that would be required in years 25-30.

Ms. Morita asked if there were any documents to look at to see what things would look like. Under the Brownfield Policy, any substantial changes needed to be provided to the BRA before the day of a meeting. She asked what they were talking about and what types of agreements they would need to enter into and what City Council would have to do. She asked how long the process would take. She asked why it was in front of them for approval when it sounded like there were a lot of other steps to go through in order to make things work.

Mr. Wackerman explained that there were two choices. The first, in his original memo, which was designed with the same objective but did not have a good mechanism for collecting the annual fee in years 25-30, was to come up with a mechanism by which those fees could be collected and used for the maintenance in years 24-30. All the other components of the 381 Plan were as in his original memo and were reallocations of funds for

actual costs. The only substantive issue he saw was the operation and maintenance. They could implement the original memo as read or take a look at what they tried to craft at the 11th hour. He said that Mr. Staran would have to discuss agreements to be crafted.

Mr. Staran said that there would have to be an agreement for some of the things they spoke about earlier. Any such agreement would be presented to City Council.

Ms. Morita said that what Mr. Wackerman was basically asking them to do was agree to amend the Work Plan conditioned upon agreements that they had not seen in a form acceptable to the City Attorney and approved by City Council. All that would have to be done before they could agree to the amended Work Plan that would then be sent to the State.

Mr. Wackerman said that it was not necessarily the only way to look at it. They were trying to craft a solution to move things forward. The BRA could accept the recommendations they had read, which would protect the City for the maintenance period. Later, they could craft an agreement for how future expenses would be allocated (in year 25). That way, they would be protected.

Ms. Morita asked if they approved the motion as read, and she would include the requirement that easements in a form acceptable to the City Attorney relative to access and management of Parcel B be provided, if they could go back later and amend the Plan again with a new agreement for years 26-30.

Mr. Siegal clarified that the BRA approved a Brownfield Plan in 2018, which provided for a reimbursement up to a certain dollar amount. There was also a 381 Work Plan previously presented to and approved by the BRA and sent to EGLE. The State came back and took off \$1.2 million for expenses they did not believe would be necessary. They wound up with two different numbers. The purpose of the request for the amended 381 Work Plan was to increase the amount on the State side. They were not talking about extending the period of reimbursement or tax capture - that would stay at 24 years. They would not be increasing the amount of local taxes captured and reimbursed to the developer for expenses. The reason for the increase of the school (State) taxes was that there had been more work done than originally projected. They found more waste. There were also some challenges with the Parcel B encapsulation. They had to go to a more expensive approach to address that, and hence, the need for additional money. That was what was on the table. His

understanding was that after all the work AKT and Mr. Wackerman had done, Mr. Wackerman recommended approval of the 381 Work Plan with the caveat and concern regarding the period of operation and maintenance. With respect to the motion, the first item, in terms of the language change to Section 3.1.1.7, they were fine with that. The remainder that the development team would like to keep was the flexibility that the Brownfield Plan provided in terms of how they could use the money. There was still a significant amount of money to be spent, and the contingency that was left was \$377k to cover unexpected expenditures. By silo-ing the money in the way that Mr. Wackerman had suggested, it might tie the hands of the developer somewhat and make it more difficult and more likely that they would come back and ask for an amendment to both Plans to increase dollars. They were trying to avoid that and stay as flexible as possible, however. The developer had no issue with continuing O&M beyond 24 years. They appreciated the suggestion that rather than trying to amend all of the various agreements, there would be a six-year agreement for the tail of the monitoring period to fund years 25-30. He felt that it would be a simple, straight-forward agreement and a benefit to the community to have a local revolving loan fund. The community could use the remainder of the money to pay for additional brownfield-related expenses. They felt that it was appropriate to have a further agreement that tied up some of the last few issues. They were a little concerned about trying to silo monies, which was generally not done in brownfield programs. They appreciated the fact that Mr. Wackerman tried to work through the issues relating to the cost of the maintenance. The Plan before the BRA reflected the \$720k amount, and they would like to keep that the way it was. He agreed that there could be a follow-up agreement that addressed the remaining issues. The developer was prepared to move forward with the encapsulation of Parcel B. The contractor was ready to go, but he stated that if he did not get started, he would have to put other jobs in front of Legacy, which might increase the cost.

Ms. Morita did not feel that anyone was contesting that Parcel B needed to be cleaned. Her concern was that the extra agreement they needed would delay the process of getting the Plan, as originally presented a week ago, approved. She was trying to not hold that up. She wanted the amendment to go through, assuming they received the easements she discussed. She still wanted to make sure that they had a hammer to make sure that the issues outlined by Mr. Wackerman in his April 15th memo were addressed. She asked Mr. Staran if he had a suggestion. She did not want to tie-bar the amendment from last week to agreements that were acceptable as to the issues raised in the April 15th memo. If

they did that, it could delay things for months. She did not think that anyone wanted that. She asked how they made sure that happened.

Mr. Wackerman pointed to the wording in the April 15th memo. The item about the additional agreement was an "if" item. It said "if a revolving loan fund was established, then a separate agreement will be made." He felt that the language might address what Ms. Morita was talking about. In the original motion, the \$900k would be changed to \$720k, which he was comfortable with, and the "if" would be added, which meant if they did decide to set up such a fund, which he would strongly recommend. It went to Ms. Morita's question about what would happen in years 31 and 32. The landowner would continue to have the obligation for due care, but things could happen. By establishing a revolving loan fund, they would have a fund that could step in and fix problems.

Ms. Morita asked where that "if" language was in his memo. Mr. Wackerman said that it was under Item 2. Ms. Morita clarified that Mr. Wackerman was asking the maker of the motion to consider amending the motion to include the language in the second paragraph #2 on page 2 of the April 15 memo and including all three sub parts. Mr. Wackerman said that he recommended that. Item 2a recognized that if there was a revolving loan fund, there was an opportunity to reimburse the developer in years 25-30 at \$24k per year for a total of \$144k for the operation and maintenance costs. 2b was if they got the funding out of the revolving loan fund, they would not also seek to get funding out of the Brownfield and/or 381 Work Plans. The third item was that in order to make the total amount the same as currently approved, which was \$9,619,586, the BRA would remove \$144k from the approval in the Brownfield and 381 Work Plan. That would be paid out of the revolving loan fund. The total amount paid to the developer would be the same.

Ms. Morita asked if the maker of the motion could just reference those paragraphs as being included. Mr. Staran agreed that it would be the simpler way.

Chairperson Justin confirmed that Mr. Braun would like to amend the motion to include paragraph 2 with subparts a., b., and c. as part of the motion. It would change the dollar amount as requested. Mr. Braun agreed. Chairperson Justin asked Mr. Wackerman and Mr. Staran if they were okay with that, which they confirmed. The amended motion:

MOTION by Braun, seconded by Turnbull, in the matter of City File No. 17-043, the Brownfield Redevelopment Authority approves staff to submit

the amended 381 Work Plan to EGLE for review and approval with the following conditions:

- 1. To assure the maximum duration for operation and maintenance on Parcel B, the modified cost of \$720,000, which is based on 30 years at an average of \$24,000 per year, not be reallocated to other eligible activities; and*
- 2. That if a Local Brownfield Revolving Fund is established, a written agreement be developed and approved by counsel, Developer, and the City to provide reimbursement of Parcel B operation and maintenance costs for years 25 through 30 of the plans from that Local Brownfield Revolving Fund. This agreement should include the following:*
 - a) Reimbursement for Parcel B operation and maintenance costs at a not-to-exceed amount of \$144,000, based on \$24,000 per year for years 25 to 30 of the plans, from the Local Brownfield Revolving Fund;*
 - b) The applicant would not seek reimbursement under the approved Brownfield Plan or 381 Work Plan for Parcel B operation and maintenance costs for years 25 to 30; and*
 - c) The total amount of reimbursement for eligible costs (not including interest) under the approved Brownfield Plan and 381 Work Plan would be reduced by \$144,000 to a maximum of \$9,475,587.*
- 3. Applicant to provide documents indicating that there are recorded easements in place allowing access to Parcel B that are acceptable to the City Attorney.*

Chairperson Justin said that they had consolidated a bunch of numbers, and he was curious if there was enough money in the Plan to finish the work that needed to be done.

Mr. McCallion said that the last step in the process would be to get the slurry wall end cap installed. They were trying to utilize the conditionally approved amount - the \$1.2 million and convert that to use to get the job done. The Work Plan showed about \$376k contingency. With the proposed motion, that would reduce the contingency by \$144k. That would be the challenge they would be facing to get the job done. They had contractors lined up and a rough time frame for EGLE to approve the

amended Work Plan of 60 days. They hoped that it could be done sooner. The longer they had to wait, the contractor might move on to another project. Labor and materials were through the roof, and they were a little concerned that reducing the \$376k contingency would put them in a smaller window to get things done.

Mr. Wackerman said that the reduction would actually be in the operation and maintenance cost for Parcel B. It would go from \$720k minus \$144k, and that task would no longer be under the 381 Work Plan. There would still be the remaining contingency. The \$381k contingency was originally \$1.2 million, and it had been reallocated to other activities. He said that hopefully, it would still fit their plan.

Mr. McCallion said that it would be great if they were reducing the \$720k by \$144k. He felt that it would be a perfect resolution. As mentioned, there was an overarching requirement of due care to maintain operation and maintenance for the longevity of the property.

Chairperson Justin asked when he thought the project would be done. Mr. Jakse responded that they were very proud to be an owner in Rochester Hills, and looked forward to being part of the community. They had spent \$15 million to date so far on the project. They hoped to have their first occupancies in the spring of 2022 and by the end of the year, complete the project. They hoped to go vertical next month. He indicated that it would go very quickly with the type of construction proposed. He remarked that once it started, people would not believe how fast it went.

Mr. Nachtman asked what happened with the first attempt at the slurry wall. Mr. Westhoff explained that they attempted to use the one pass technology. It was like a giant chain saw that went into the ground. They encountered several obstacles and a couple of large boulders. They tried it in three different areas. They had a new method that was listed in the Work Plan. It was a panel method, done in 40-foot sections with a long arm excavator that was able to reach down. If it encountered any obstruction, it could pick it out and set it aside, and they could keep going.

Chairperson Justin asked how long it would take to get that job done. Mr. Westhoff said that the slurry wall section would take five weeks. Mr. Nachtman asked if there had been extra costs and more debris than estimated for removal. Mr. Westhoff agreed that they had to remove about 17% more landfill material. He added that it had been a great project.

A motion was made by Braun III, seconded by Turnbull, that this matter be Approved. The motion carried by the following vote:

Aye 5 - Turnbull, Justin, Morita, Braun III and Nachtman

Excused 2 - Sera and Stanley

Chairperson Justin stated for the record that the motion had passed unanimously.

ANY OTHER BUSINESS

Mr. Staran mentioned the concept of creating a local brownfield development fund. He commented that they had given it lip service over the years, but it was always put aside for later. Especially in the last few days, the consulting team felt that it would have a lot of merit for the BRA to consider. He suggested that it might be something for the next agenda where they could discuss and undertake the necessary steps to establish a revolving loan fund. The BRA, under the statute, was the authority responsible for creating it. It would have a lot of advantages to the City, not only for the Legacy project, but for future projects. They knew that Avon Township had been heavily landfilled. There were a lot of areas in the City for which the revolving fund could be very useful in the future. He thought that it was a worthwhile topic, and that the time had come for them to give it serious consideration.

Chairperson Justin agreed with that and also recommended it, after hearing the economics Mr. Wackerman had pointed out. Chairperson Justin recalled asking some previous Legacy folks how long the cap would be good, and he was told 50 years, if they were lucky. He felt that having some dollars in place to be able to deal with issues that came sounded good, and the economics sounded like they would work. He asked staff to tell the BRA what they needed to do. He took a straw poll to see if the members thought it would be a good idea, and they unanimously agreed.

Mr. Staran said that he would take it as a directive, and they should have something for the BRA at the next meeting. Chairperson Justin asked Mr. Staran how long it would take him to get a recommendation to them. Mr. Staran believed that the next regular meeting was not until July. He claimed that they did not need anywhere near that long, and he thought that within a couple of weeks, they would have everything figured out and ready to go. He could assist with the legal aspect, and Mr. Snyder would actually manage the accounts and make it work. He said that it was a

multi-faced thing, but they could get back with them relatively quickly. He stated that there was a good reason to do it sooner rather than later. Chairperson Justin agreed, and he believed that City Council needed to approve it in the end. Mr. Staran thought that Council needed to be involved, and even though the statute said that the BRA would create the fund, Council needed to be on board.

Chairperson Justin suggested that they should schedule a special meeting in a month to consider the issue. Ms. Roediger said that they had been talking about it pretty aggressively recently, and they would pull the information together. Once they were ready, they would poll the members about meeting.

2021-0132

Request for Election of Officers for 2021 - Chairperson, Vice Chairperson, Secretary and Treasurer for term to expire the first meeting in 2022.

MOTION by Morita, seconded by Turnbull, that the Rochester Hills Brownfield Redevelopment Authority hereby re-appoints the current slate of officers, including Robert Justin as Chairperson, Thomas Turnbull as Vice Chairperson, the Planning and Economic Development Department (currently Maureen Gentry representing) as Secretary and Joe Snyder as Treasurer to serve for a term to expire the first meeting in 2022.

A motion was made by Morita, seconded by Turnbull, that this matter be Approved . The motion PASSED by an unanimous vote.

2021-0147

Request for approval of the 2021 Meeting Schedule

MOTION by Turnbull, seconded by Braun, the Brownfield Redevelopment Authority hereby approves the 2021 meeting schedule at its April 15, 2021 Regular Meeting, consisting of four quarterly meetings to be held on January 21, 2021, April 15, 2021, July 15, 2021 and October 21, 2021, and acknowledges that Special Meetings may be scheduled throughout the year if necessary.

A motion was made by Turnbull, seconded by Braun III, that this matter be Approved . The motion PASSED by an unanimous vote.

NEXT MEETING DATE

Chairperson Justin reminded the members that the next Regular Meeting was scheduled for July 15, 2021, but there was a possibility for a Special Meeting prior to that.

ADJOURNMENT

Hearing no further business to come before the Brownfield Redevelopment Authority and upon motion by Mr. Nachtman, seconded by Ms. Morita, Chairperson Justin adjourned the Regular Meeting at 8:02 p.m.

Robert Justin, Chairperson
Rochester Hills
Brownfield Redevelopment Authority

Maureen Gentry, Secretary