



# Rochester Hills

## Minutes - Draft

### City Council Regular Meeting

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

*Greg Hooper, Nathan Klomp, Adam Kochenderfer, James Rosen, Mark Tisdel,  
Michael Webber and Ravi Yalamanchi*

*Vision Statement: The Community of Choice for Families and Business*

*Mission Statement: "Our mission is to sustain the City of Rochester Hills as the premier  
community of choice to live, work and raise a family by enhancing our vibrant residential  
character complemented by an attractive business community."*

---

Monday, October 28, 2013

7:00 PM

1000 Rochester Hills Drive

---

## CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order  
at 7:03 p.m. Michigan Time.*

## ROLL CALL

**Present** 6 - Greg Hooper, Nathan Klomp, Adam Kochenderfer, Mark Tisdel, Michael  
Webber and Ravi Yalamanchi

**Absent** 1 - James Rosen

## Others Present:

*Ed Anzek, Director of Planning and Economic Development  
Bryan Barnett, Mayor  
Tina Barton, City Clerk  
Kurt Dawson, Director of Assessing/Treasury  
Bob Grace, Director of MIS  
Bruce Halliday, Fleet Manager  
Tara Presta, Chief Assistant  
Scott Schlagel, Rochester Hills Government Youth Council Representative  
Allan Schneck, Director of DPS/Engineering  
John Staran, City Attorney  
Laurie Taylor, Deputy Director of Assessing*

*Mr. Rosen provided prior notice that he would be unable to attend.*

## PLEDGE OF ALLEGIANCE

*Mr. Tisdel introduced **Essie Bryan**, Director of Career Services, Rochester  
College. He explained that Rochester College recently entered into an agreement  
with the Rochester Community Schools to develop a dual-enrollment program,  
allowing an early start to a college education. He stated that through this program,  
during their Freshman and Sophomore years, students can enroll in online college  
classes. In their Junior and Senior years, they attend classes on the Rochester  
College campus. A fifth year is spent full-time at Rochester College. He*

*stated that at the end of five years, students have a high school diploma, 64 college credit hours, and an Associates degree, paid for with the exception of one class by the Rochester Community School System. He invited interested parents of eligible students to contact Ms. Bryan for more information.*

*Ms. Bryan led the Pledge of Allegiance.*

## APPROVAL OF AGENDA

**A motion was made by Webber, seconded by Kochenderfer, that the Agenda be Approved as Presented. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

## PUBLIC COMMENT

**Scot Beaton**, 655 Bolinger, *stated that Consent Judgments regarding site plans should be reviewed by the Planning Commission (PC) first. He commented that while it is not a requirement, the PC should have input prior to their presentation to City Council.*

**Carole Garcia**, 1493 Carriage Lane, *stated that after she moved into her condominium in Rochester Hills a year ago, she began experiencing health issues. She commented that her doctor has suggested that her SmartMeter installed outside of her bedroom wall may be the cause of her health problems. She requested Council's support in forcing a no-cost opt-out alternative, as DTE currently requires a \$67 one-time fee and a \$9.80 per month charge to remove the meter.*

**Lorraine McGoldrick**, 709 Essex, *related difficulties she has had with trash pickup during road construction in her subdivision. She commented that the majority of people she has spoken with believe that the single waste hauler contract should have been competitively bid rather than extended and she noted that she received a letter from someone to that effect.*

**Lee Zendel**, 1575 Dutton, *noted contact he had with the waste hauler regarding items he put in his recycle bin and the manner that they were disposed of.*

**John Holeton**, Shelby Township Resident, *presented information he assembled regarding radio frequency fields (RF) in public areas, including areas he measured in schools. He stated that many things give off measurable RF waves including iPads and microwaves; and he questioned how much RF is too much. He commented that while people can shut off things that give off RF, they cannot shut off a SmartMeter.*

**Pauline Holeton**, Shelby Township Resident, *stated that it should be the City's social responsibility to minimize the public exposure to harmful things. She commented that low levels of RF can be harmful for some people and stated that the RF fields from a water meter are quite high.*

## LEGISLATIVE & ADMINISTRATIVE COMMENTS

**President Hooper** stated that voters should become informed regarding the November 5th ballot issues. In response to Public Comment, he stated that he would expect that the City is in contact with the single trash hauler regarding construction activities to mitigate problems with trash collection. He noted that Council adopted a resolution requesting DTE Energy investigate health concerns regarding SmartMeters and initiate an opt-out program for those who do not want one. He pointed out that the City has no control or jurisdiction over public utilities. He commented that the world is full of devices that emit RF and people should be aware of that.

**Mr. Webber** stated that Rochester Hills was one of many communities that passed resolutions on to the Michigan Public Services Commission (MPSC) regarding the SmartMeter program. He commented that the City will continue to work with the MPSC and State officials. He expressed his thoughts and prayers for the victims of a car accident that occurred last week in the city. He noted that the City will have Trick-or-Treat activities on Thursday, October 31st and commented that he will be taking his seven-month-old out to Trick-or-Treat with his older cousins. He mentioned that the schools' fall sports teams were wrapping up their seasons.

**Mr. Klomp** wished everyone a safe and enjoyable Halloween.

**Mr. Kochenderfer** stated that the City does not have any jurisdiction over the installation of SmartMeters. He encouraged those concerned to write to the MPSC as they are the governing body over the utilities. He echoed Mr. Webber's comments regarding last week's accident on Rochester Road.

**Mr. Tisdell** commented that although there are individuals who have a hypersensitivity to RF radiation there is simply no way to get away from these devices. He mentioned that resurfacing work to three 600 foot sections of Tienken Road near Adams Road was complete and commented that it has made a tremendous difference.

**Mr. Yalamanchi** stated that he wished that there was something that Council could do regarding SmartMeters; however, the City has no jurisdiction over their use.

**Scott Schlagel**, Rochester Hills Government Youth Council (RHGYC) Representative, reported that RHGYC members have volunteered their time at the Older Persons Center, are undertaking fund raising activities for their subcommittees and projects, and will be walking in the Rochester Hometown Christmas Parade. He stated that the RHGYC is in the process of determining the benefactor of their annual 5K Run/Walk for 2014.

**Mayor Barnett** noted that the City sent the strongest resolution it could to the MPSC regarding SmartMeters. He stated that the MPSC is appointed by the

Governor. In response to Public Comment regarding problems encountered with trash pickup during construction, he stated that residents could contact Bob White, Supervisor of Ordinance Services, as he is the liaison with the single trash hauler. He commented that the City emails a schedule of weekly construction activities to the school districts, the U.S. Postal Service, and other parties that could be affected by the work. He mentioned that occasionally, patch repair crews may move around throughout the community. He noted that he received an unsolicited letter from Tringali, a competitor of Rizzo Services, angry at Rizzo Services' actions and urging the City not to go with Rizzo for the City's single waste hauler program.

He mentioned the following:

- The City received three recognitions last week for beautification projects including the redesigned roundabout at Hamlin and Livernois Roads, beautification activities at Veterans Memorial Pointe, and the Rochester Hills Museum's Calf Barn Restoration Project.
- Governor Rick Snyder attended the Mayor's Business Council last week, held at EEI Global.
- The Tienken Road Resurfacing Project was completed over the weekend, resurfacing 1,800 linear feet of some of the worst sections of that roadway. Monies utilized were allocated from Tri-Party Funds.
- Veterans Day activities will be held on Monday, November 11th at 11:00 a.m. at Veterans Memorial Pointe.
- Trick-or-Treating hours for Rochester Hills will be Thursday, October 31st from 6:00 p.m. to 8:00 p.m. Motorists are urged to be cautious on the roadways and watch for Trick-or-Treaters.
- Tienken Road east of Rochester Road is scheduled to open as early as tomorrow.
- The Concrete Slab Replacement Program, including work in Eddington Farms, Brookedale Woods, and Brookedale West Subdivisions, is on schedule.
- The DPS Salt Storage Facility framework is up. Crews are waiting for side panels and the facility will be ready for the season soon.

## ATTORNEY MATTERS

**City Attorney John Staran** stated that the regulating of public utilities, including DTE and Consumers Energy and their SmartMeter program, falls within the exclusive jurisdiction of the Michigan Public Service Commission (MPSC). He commented that the MPSC undertook an extensive investigation and conducted at least one Public Hearing; and noted that the MPSC ultimately ruled in a way that authorized the SmartMeter program to move forward, while requiring the public utilities to provide an opt-out option. The opt-out option was allowed to be developed with a charge to those who did not want a SmartMeter. He mentioned that there are at least one or more bills in the State Legislature that touch on an opt-out program; however, as far as he knows, the bills did not progress.

## CONSENT AGENDA

All matters under Consent Agenda are considered to be routine and will be enacted by one motion, without discussion. If any Council Member or Citizen requests discussion of an item, it will be removed from Consent Agenda for separate discussion.

- 2013-0381** Request for Purchase Authorization - MIS/ASSESSING/TREASURY: Purchase of an upgrade to a new version of the BS&A Assessing, Tax, Miscellaneous Receivable and Special Assessment Software and training for the new applications in the amount of \$64,035.00; BS&A Software, Bath, MI

**Attachments:** [Agenda Summary.pdf](#)  
[BSA Proposal.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0222-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes the purchase of an upgrade to a new version of the BS&A Assessing, Tax, Miscellaneous Receivable and Special Assessment Software and training for the new applications to BS&A Software, Bath, Michigan in the amount of \$64,035.00.

- 2013-0386** Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for 21AA and 22A Road Gravel in the amount not-to-exceed \$27,750.00 through December 31, 2014; Glenn Eisenhardt Excavating, Inc., Leonard, MI

**Attachments:** [Agenda Summary.pdf](#)  
[Extension.pdf](#)  
[Bid Tabulation Aggregates 2013.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0223-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for 21AA and 22A Road Gravel to Glenn Eisenhardt Excavating, Inc., Leonard, Michigan, in the amount not-to-exceed \$27,750.00 through December 31, 2014.

- 2013-0387** Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for 22X Slag in the amount not-to-exceed \$5,000.00 through December 31, 2014; Gary's Transport, Inc., Macomb, MI

**Attachments:** [Agenda Summary.pdf](#)  
[Extension.pdf](#)  
[Bid Tabulation.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0224-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for 22X Slag to Gary's Transport, Inc., Macomb, Michigan, in the amount not-to-exceed \$5,000.00 through December 31, 2014.

- 2013-0388** Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for 5G Slag in the amount not-to-exceed \$15,250.00 through December 31, 2014; Edward C. Levy Company, Dearborn, MI
- Attachments:** [Agenda Summary.pdf](#)  
[Extension.pdf](#)  
[Bid Tabulation Aggregates 2013.pdf](#)  
[Resolution.pdf](#)
- This Matter was Adopted by Resolution on the Consent Agenda.**
- Enactment No: RES0225-2013
- Resolved**, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for 5G Slag to Edward C. Levy Company, Dearborn, Michigan, in the amount not-to-exceed \$15,250.00 through December 31, 2014.
- 2013-0390** Request for Approval of the Winter Maintenance Agreement for Livernois Road between the Road Commission for Oakland County and the City of Rochester Hills for 2013/2014
- Attachments:** [Agenda Summary.pdf](#)  
[Winter Maint Agreement 2013-2014.pdf](#)  
[Resolution.pdf](#)
- This Matter was Adopted by Resolution on the Consent Agenda.**
- Enactment No: RES0226-2013
- Resolved**, that the Rochester Hills City Council hereby approves the 2013-2014 Winter Maintenance Agreement between the City of Rochester Hills and the Road Commission for Oakland County (RCOC) for Livernois Road and further authorizes the Mayor and City Clerk to execute the contract on behalf of the City.
- 2013-0383** Request for Purchase Authorization - DPS/GAR: Purchase of Mobile Column Lift Hoist System in the amount of \$38,605.00; CTT Equipment, LLC, Midland, MI
- Attachments:** [Agenda Summary.pdf](#)  
[MITN Extension.pdf](#)  
[Bid Tabulation.pdf](#)  
[Resolution.pdf](#)
- This Matter was Adopted by Resolution on the Consent Agenda.**
- Enactment No: RES0227-2013
- Resolved**, that the Rochester Hills City Council hereby authorizes the purchase of a Mobile Column Lift Hoist System to CTT Equipment, LLC, Midland, Michigan, in the amount of \$38,605.00.
- 2013-0391** Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for Original Equipment Manufacturer (OEM) Auto and Truck Parts in the amount not-to-exceed \$42,000.00 through October 31, 2016; Coach & Motor Company, Clinton Township, MI and other auto parts vendors

**Attachments:** [Agenda Summary.pdf](#)  
[Bid Tabulation.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0228-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for Original Equipment Manufacturer (OEM) Auto and Truck Parts from Coach & Motor Company, Clinton Township, Michigan, and other auto parts vendors as required, in the amount not-to-exceed \$42,000.00 through October 31, 2016.

**2013-0396** Request for Adoption of a Resolution in Support of keeping Asian carp out of the Great Lakes

**Attachments:** [Agenda Summary.pdf](#)  
[Ltr from Freshwater Future 092513.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0229-2013

**Whereas**, the Great Lakes and St. Lawrence represent the largest body of surface fresh water in the world and are a vibrant, diverse ecosystem that is critically important to the economic well-being and quality of life of the Canadian and U.S. populations in the region;

**Whereas**, over 180 invasive species have entered the Great Lakes and its connecting water ways over the years and caused widespread damage and disruption to the natural balance of the system, as well as significant economic damage;

**Whereas**, one of the most serious threats ever presented by invasive species currently comes from Asian carp, including silver, bighead and black varieties;

**Whereas**, these varieties of carp were introduced to the southern United States for use in fish farms for algae control in the 1970's and escaped into the Mississippi River system;

**Whereas**, invasive species have already inflicted hundreds of millions in damage across the Great Lakes and St. Lawrence, and invasive carp pose a serious threat to the \$7 billion sport and commercial fishery that support the economy and help define the culture of the entire region;

**Whereas**, the invasive carp have migrated northward through the Mississippi River system as far north as Wisconsin, Minnesota, Illinois, Indiana, and Ohio, reducing significantly or eliminating populations of the more desirable species of fish because of their voracious food consumption and prolific reproduction;

**Whereas**, the invasive carp are threatening to enter the Great Lakes at a number of points across the region;

**Whereas**, many federal, state, provincial, and local government agencies in the United States and Canada have worked diligently and expended tens of millions of dollars over the past 10 years on a variety of projects to keep invasive carp out of the Great Lakes;

**Whereas**, including the invasive carp, there are 39 invasive species in the two basins that present a threat to cross over into the other basin in the near future;

**Whereas**, once an invasive species establishes itself in an ecosystem, it is exceedingly difficult, if not impossible, to eradicate it, and it often inflicts serious damage on the ecosystem and imposes major costs in efforts to control it;

**Whereas**, Asian carp pose a dangerous risk of injury to recreational users on waters invested with Asian carp;

**Whereas**, Canadian and U.S. citizens across the basin have expressed serious concern about the invasive carp and other invasive species, and are demanding prompt action;

**Whereas**, the U.S. Army Corps of Engineers is conducting a multiyear, comprehensive study across the U.S. side of the Great Lakes basin called the "Great Lakes and Mississippi River Interbasin Study" (GLMRIS) that examines 19 separate locations where invasive carp could cross from the Mississippi River Basin to the Great Lakes Basin, and considers a large number of potential ways to stop the further migration.

**Now, Therefore, Be It Resolved**, that the invasive carp in the Mississippi River system pose one of the greatest threats to the integrity and well-being of the Great Lakes and St. Lawrence ecosystem, including the 40 million Canadians and Americans who live there;

**Be It Further Resolved**, that preventing the invasive carp from entering the Great Lakes and St. Lawrence ecosystem needs to be approached with the greatest sense of urgency by all those responsible for dealing with this matter;

**Be It Further Resolved**, that physical separation is the most effective way to keep invasive carp from entering Lake Michigan through the Chicago Area Waterway System, and such barriers would also prevent the movement of many other invasive species from one basin to the other;

**Be It Further Resolved**, that physical separation is feasible and can be done in a way that maintains or enhances water quality, flood control, and transportation in the system;

**Be It Further Resolved**, that additional steps must be taken in the interim to keep invasive carp out while the long term solution is put in place;

**Now, Therefore Be It Resolved**, that the Rochester Hills City Council strongly urges all parties involved to identify a preferred solution to the invasive carp issue and move forward to implement that solution with the greatest sense of urgency.

## Passed the Consent Agenda

A motion was made by Webber, seconded by Kochenderfer, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

## PUBLIC HEARINGS

2013-0371 Public Hearing and request for approval of an Amended Consent Judgment between the City of Rochester Hills and Avon & John R Retail (formerly Avon



Country Market) and its General Partners, proposed for two parcels at the northwest corner of Avon and John R, zoned R-3, One Family Residential

**Attachments:** [Agenda Summary.pdf](#)  
[Amended Consent Judgment 103113.pdf](#)  
[Amended Consent Judgment 103113 \(Highlighted\).pdf](#)  
[Map.pdf](#)  
[Site Plans.pdf](#)  
[Public Hearing Notice.pdf](#)  
[102813 Agenda Summary.pdf](#)  
[101413 Agenda Summary.pdf](#)  
[Amended Consent Judgment \(revised 102313\).pdf](#)  
[Amended Consent Judgment.pdf](#)  
[Old Consent Judgment.pdf](#)  
[Public Hearing Notice 102813.pdf](#)  
[101413 Resolution.pdf](#)  
[Resolution.pdf](#)

**Jim Breuckman**, Manager of Planning, introduced **John Gaber**, Williams Williams Rattner and Plunkett P.C., attorney in attendance representing the property owner, and **Neil Marzella**, attorney representing the potential buyer for the Avon Country Market. He requested the City Attorney provide an overview of the history of the Consent Judgment on the property.

**John Staran**, City Attorney, explained that approximately 20 years ago, the City observed an unlawful expansion of a non-conforming use in a residential district on the subject property and commenced Ordinance Violation proceedings. At that time, the property owners challenged the validity and reasonableness of the zoning itself, and litigation ensued. The litigation was ultimately settled in 1984 as a Consent Judgment, which has governed the land use of the property ever since. The property remained zoned as single-family residential; however, the non-conforming commercial use was allowed. The Consent Judgment allowed for limited expansion, with a deadline to make various changes.

He stated that subsequent to the deadline, the City again sought to enforce the requirements of the Consent Judgment. The property owners contended at the time that it was an impossible situation as they could not secure financing to make the required improvements because of the encroachment of buildings within the proposed right-of-way. He explained that this led to additional discussions in 1999, and an amendment to the Consent Judgment was issued to allow the existing market to be torn down and a new stand-alone commercial convenience store to be built on the site with appropriate parking and setbacks. Activities never moved forward.

He stated that in recent years, the owners have once again come back to the City to discuss resurrecting that same concept from 1999. The current request proposes to tear down the existing structure and replace it with a new structure, with a new prospective owner. He added that tonight's Public Hearing is consistent with policy that when an amendment is proposed for a Land Use Consent Judgment, a Public Hearing be held to gain input from residents and neighbors.

**Mr. Breuckman** gave an overview of the proposed site plan, noting that the existing right-of-way does not fit with the current right-of-way. He displayed a site

plan which noted the proposed right-of-way, and pointed out that driveways will be moved away from the corner. He explained that the proposed site plan meets all zoning standards with the exception of setbacks. He mentioned that the proposed building is designed with windows of transparent glass on all four sides.

**Mr. Gaber** explained that the current owners, Peter and Samira Essa, are quite elderly, and pointed out that the store has not been operating for some time. He stated that the owners were not able to redevelop the site under the current Consent Judgment and have been trying to sell the property over the last few years. He mentioned that the owners have entered into a purchase agreement with Mr. Marzella's clients and while they would be party to the original Consent Judgment, Mr. Marzella and his clients have put together the project, which is quite expensive for the site.

**Mr. Marzella** stated that Jim and Jeff Allen are the proposed purchasers. He pointed out that this is a difficult site because of the County's requirement for water retention, road improvements, environmental cleanup, and the tremendous expense involved. He stated that his clients are still committed to the development and want to proceed.

**President Hooper Opened the Public Hearing at 7:59 p.m.**

**Scot Beaton**, 655 Bolinger, stated that a market has been in existence for a long time at this location. He commented that the proposed building is almost twice as big as current structure and mentioned that a B-2 zoning for this property with no conditions would allow a variety of uses, such as a bar or kennel. He noted that additional screening should be provided to the residences to the north.

**Lorraine McGoldrick**, 709 Essex, commented that she has heard concerns expressed by nearby property owners and stated that it appears that the retention pond is larger than the proposed building.

**James Keiser**, 940 John R Road, stated that he owns the property immediately adjacent to the retention pond. He questioned how far his home is from the fenced edge of the pond. He commented that he does not wish to have a wood fence installed. He added that he did not favor 24-hour operation of a market in that location as it could lead to many problems. He pointed out that there is a park at the end of John R Road and many bicycles travel that stretch. He expressed concern noting that the water table at his house is at five-foot four-inches.

**Mike McGuire**, 995 John R Road, commented that his property is across the street on the northeast corner of Avon and John R Roads. He mentioned that the lights from the commercial property on the southeast corner shine in his windows. He questioned why his property was originally designated for commercial zoning but was changed to residential and why a nearby cell tower is only 200 feet from his house when it should be 500 feet.

**Dominic Sebastiani**, 991 Pine Trail Drive, stated that his condominium is on the southwest corner of John R and Avon and commented that the current property should be demolished. He commented that proposed elevations and signage for the building should be shown.

**Lisa Winarski**, 194 Bedlington, stated that there has been a problem with the Rewold Drain which serves the area. She questioned what capacity the Rewold Drain can handle and commented that the development will further stress the Drain. She stated that the proposed changes should go to the Planning Commission first.

**Seeing No Further Public Comment, President Hooper Closed the Public Hearing at 8:12 p.m.**

**President Hooper** questioned the permitted uses related to the Consent Judgment.

**Mr. Breuckman** responded that the Judgment does state that all uses in B-2 are permitted. He noted that the proposed site plan is designed to retail parking standards. He pointed out that restaurants and bars have a higher parking standard, and stated that it is difficult to put such a use in that location.

**President Hooper** questioned who reviewed the proposed retention pond and whether it has been approved.

**Mr. Breuckman** responded that the County Drain Commissioner has reviewed and approved the retention pond. He noted that it is sized for a 100-year storm capacity.

**President Hooper** questioned the distance of the pond to the residence to the north, the fencing proposed for the property, what lighting would affect nearby properties and what the standards are for the placement of cellular towers.

**Mr. Breuckman** responded that the residence to the north is approximately 25 feet to the property line, and 35 to 40 feet from the edge of the pond. He added that lighting standards are different than they were when the property on the southeast corner was developed, and noted that the lighting proposed is fairly modest at three footcandles. He stated that he would review cellular tower placement standards.

A rendering of the proposed building elevations was displayed.

**President Hooper** questioned what the potential owner intended for the property use.

**Mr. Marzella** responded that the potential owner intends the location to be a convenience store, for the sale of public-use items and sundries, such as milk, beer and wine, Lottery tickets, pizza, candy and newspapers. He pointed out that an existing liquor license is included in the sale.

**President Hooper** noted that the proposed amendment to the Consent Judgment does not specify hours of operation. He questioned what restrictions were proposed.

**Mr. Marzella** responded that the applicant's request is that there not be any restrictions to the hours of operation, as there are none attached to a B-2 zoning. He commented that everything has been done to reduce the negative impact on the neighbors, with a proposed six foot fence and trees and bushes. He stated that the applicant would have no problem with the installation of a masonry wall on the north end; however, it is their feeling that wood would look better on the west end. He commented that he cannot imagine that someone on the site would be open all night; however, a limitation of the hours of operation would not serve to attract a national or regional convenience store tenant and secure enough funding for site cleanup. In that instance, the project would most likely not proceed.

**Mr. Gaber** noted that during the heyday of the property in the mid 1980s until the mid 2000s, the store was open until 2:00 a.m. six nights a week and until Midnight on Sunday.

**Council Discussion:**

**President Hooper** commented that the proposed amendment to the Consent Judgment still allows a non-conforming use of the site. He stated that he definitely does not want a 24-hour operation for that corner and any agreement must have a restriction on hours.

**Mr. Yalamanchi** questioned why the Consent Judgment must continue.

**Mr. Staran** responded that the property is currently governed by the 1984 Consent Judgment. He stated that there is now a proposal to modify the use to eliminate the current structure and provide a brand new convenience store building. As the site is already governed by the Consent Judgment, the most direct, expedient and reasonable way to deal with that is through an amendment to the Consent Judgment. He stated that to eliminate the Consent Judgment altogether would require the mutual agreement of all parties and the courts. Amending the Consent Judgment is the means to modify the use.

**Mr. Yalamanchi** questioned how lighting concerns would be mitigated.

**Mr. Breuckman** detailed the proposed lighting plan, noting that 20-foot full cut-off LED pole lights are planned for the west side of the parking lot. The lights are three-and-one-half foot candles, dropping to zero at the property line. He stated that ten footcandles are allowed; however, they must drop to zero at the property line. He explained that all standards are designed to eliminate the impact on neighbors.

**Mr. Yalamanchi** stated that he would like the hours of operation specified in the Consent Judgment limited to 7:00 a.m. to 10:00 p.m. on weekdays and 7:00 p.m. to 11:00 p.m. on Saturday and Sunday. He commented that he does not wish to see the property become a burden to the residents around it.

**Mr. Staran** noted that Section 3 on Page 4 of the proposed Amendment could specifically limit the B-2 general business zoning classification to a convenience store. He commented that the limitation of hours of operation could be added as well; however, whether they are acceptable and agreeable to the applicant is to be discussed.

**Mr. Kochenderfer** stated that he would love to see something happen to that building; however, he does not want to swap one problem out for another. He stated that the whole concept may not work for the applicant if there is a limitation on the hours of operation.

**Mr. Marzella** noted that a limitation of 7:00 a.m. to 10:00 p.m. and 7:00 a.m. to 11:00 p.m. are much more restrictive than what was in place for the Essa family. He pointed out that the project is estimated to be in the million dollar range. He commented that a 7-11 or QuikPik is what would be needed to cover that investment; and he stated that they will not agree to that location with a restriction in hours in place. He mentioned that attention should focus on the contamination that is traveling underground from the site.

**Mr. Klomp** stated that while he is excited about the idea of a new building in that location, he wants to see a business that fits in with the community. He commented that a 24-hour a day, seven-day a week operation does not fit in that corner. He stated that if a convenience store does not fit there, something else will.

**Mr. Tisdell** concurred, stating that the hours of operation are his primary concern. He noted that he likes the idea of a building that is built-out on all four sides. He stated that LED lighting can be focused and directed and fencing can be constructed to mitigate intrusion into the neighborhood. He noted that many unwanted activities can occur after midnight, and he pointed out that there is significant good residential property in the area.

**Mr. Webber** commented that this corner is not like others in the area, as it is very close to residential. He stated that hours of operation are a concern to him as well.

**President Hooper** stated that the applicant must determine whether he wishes to accept an Amended Consent Judgment with a limitation of hours of operation. If he does not, there is little sense to proceed.

**Mr. Gaber** commented that this would be a neighborhood store which would not attract people from across town. He stated that the Applicant wishes to have a little more flexibility than just a convenience store, and he proposes to focus on the restrictions of what is limited in B-2 zoning. He noted that the owner and proposed purchaser will have to discuss the issue, and he stated that it may kill the project. He requested that the item be postponed until they have had a chance to review their operations.

**President Hooper** noted that when the item returns to Council, another Public Hearing would be noticed.

**Discussed.**

## ORDINANCE FOR INTRODUCTION

**2013-0360** Acceptance for First Reading - an Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling approximately 2.5 acres, known as Parcel No. 15-34-352-012, located on South Boulevard, east of Livernois from R-2 (One-Family Residential) to R-2 (One Family Residential) with FB-1 (Flexible Business Overlay) and to prescribe penalties for the violation thereof

**Attachments:** [Agenda Summary.pdf](#)  
[Ordinance.pdf](#)  
[102813 Agenda Summary.pdf](#)  
[Staff Report.pdf](#)  
[Letter of Intent.pdf](#)  
[Map Aerial.pdf](#)  
[Minutes PC 10-15-13.pdf](#)  
[EIS.pdf](#)  
[PHN Rezoning.pdf](#)  
[102813 Resolution.pdf](#)  
[Resolution.pdf](#)

**Jim Breuckman**, Manager of Planning, introduced **Tom Kenny** and **Chuck Sekrenes**, Representatives, AGE of Rochester Hills, Inc., in attendance representing the Applicant.

**Mr. Breuckman** showed an aerial photograph of the subject property, noting it consists of two-and-one-half acres just to the east of the Moose Lodge on South Boulevard. He stated that the request is to add an FB-1 overlay on top of the existing R-2 residential zoning, and he noted that it is the applicant's intent to construct a senior housing project. He commented that the request was reviewed by the Planning Commission, which recommended approval.

**President Hooper** mentioned that the property was studied earlier by the Historic Districts Study Committee and yielded the recommendation that it not be listed as historic.

**Mr. Kenny** stated that two partners own the company, which has operated in Lapeer and Genessee County, and in Clarkston in Oakland County. He explained that the facilities go by the name "Pines", and provide assisted living and memory care in two separate distinct buildings set up as a campus environment. He noted that the facility is very residential in scope, with 26 residents or fewer in each building. He stated that the company had 11 locations, and recently sold two because they did not allow the campus environment. He mentioned that the facility operates under adult foster care or home for the aged licensing, and should not be confused with a rehabilitation center or nursing home. He added that the memory care building is a secured facility, hosting residents with dementia or Alzheimer's; and the assisted living portion allows residents to come and go as long as they sign out. He commented that once a resident requires assisted living, they typically do not drive anymore. He stated that he has had the chance to knock on

the doors of bordering properties, including 880 South Boulevard and the resident behind the property on Grace Street. Letters of explanation were left on other homes on Grace. He added that the property is directly across the street from the Hartland Medical Center in Troy.

**Mr. Breuckman** noted that consideration of the request for the FB-1 overlay must consider all potential uses, including residential single family, attached housing, bed and breakfasts, inns up to 20 to 25 bedrooms, with conditional use required for bars, restaurants or drive-throughs. Offices would be permitted, as would child care centers, community facilities, recreational facilities, essential services or educational uses such as learning centers. Places of worship would require conditional use approval. No retail, open air or general commercial would be permitted.

**Public Comment:**

**Melinda Hill**, 1481 Mill Race, discussed the historic review of the property and questioned whether the FB-1 overlay is appropriate for the property. She stated that the discussion should focus on a general discussion of all FB-1 uses, and she commented that approval will not further the stability of the city.

**President Hooper** noted that the Planning Commission's recommendation for approval received a 7-1 vote with one abstention. He confirmed that the rezoning request is not for a site-specific plan. He stated that the property has been vacant for the past six or seven years.

**Council Discussion:**

**Mr. Yalamanchi** questioned whether the only zoning option for the proposed development is FB-1.

**Mr. Breuckman** responded that there are a couple of other options under the City's standard zoning districts, noting that Special Purpose (SP) permits senior housing, along with a few other uses. He commented that the benefit of an FB overlay is that there are more flexible setback requirements. He added that SP zoning would push the buildings back, while FB would allow the buildings to be located closer to the street and pushed away from neighboring residential properties. He stated that senior housing is also permitted in B-2, B-3, and multiple family zoning; however, that would be a straight rezoning.

**Mr. Yalamanchi** questioned whether the FB-1 overlay can be accommodated with other types of zoning.

**Mr. Breuckman** responded that it could not.

**Mr. Yalamanchi** questioned whether the project is being financed through tax credits.

**Mr. Kenny** responded that it is being financed through private funding.

**Mr. Yalamanchi** questioned how many residents would be served and whether it would be a home-like facility.

**Mr. Kenny** stated that the assisted living would have 26 or fewer, and the memory care would have 26 or fewer. He stated a staff of 35 or 40 total would be required, to provide 24 hours of care, seven days a week, for a total of roughly 80 employees. A residential director would be hired.

**Mr. Tisdell** noted that the proposed use is a demographic reality and commented that these homes must go someplace. He stated that they are an enhancement to a community and will fill a need for upcoming baby boomers.

**A motion was made by Yalamanchi, seconded by Tisdell, that this matter be Accepted for First Reading by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0247-2013

**Resolved**, an Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone one parcel of land totaling approximately 2.5 acres, known as Parcel No. 15-34-352-012, located on South Boulevard, east of Livernois from R-2 (One-Family Residential) to R-2 (One Family Residential) with FB-1 (Flexible Business Overlay) and to prescribe penalties for the violation thereof is hereby accepted for First Reading.

**2013-0342** Acceptance for First Reading - an Ordinance to amend Chapter 138 Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to revise screening for outdoor storage and trash storage areas, to revise the established building line setback requirements, to allow for 60-foot wide lots in certain locations, to clarify stormwater management pond landscaping requirements, to eliminate plant spacing requirements from fire hydrants, curbs, and public walkways, and to add dry cleaners as a permitted use in the B-1, B-2 and B-3 Districts subject to specific standards, and to repeal conflicting Ordinances and prescribe a penalty for violations

**Attachments:** [Agenda Summary.pdf](#)  
[Ordinance.pdf](#)  
[102813 Agenda Summary.pdf](#)  
[Minutes PC 101513.pdf](#)  
[Memo Breuckman 101113.pdf](#)  
[PHN 101513.pdf](#)  
[2013 Zoning Amendment Introduction.pdf](#)  
[102813 Resolution.pdf](#)  
[Resolution.pdf](#)

**Jim Breuckman**, Manager of Planning, stated that the proposed changes are housekeeping items or the tweaking of existing standards. He noted that the largest and most involved change is related to outdoor storage, dumpsters and trash receptacles. He commented that the standards are currently located in five or six separate sections, and the proposed Amendment will consolidate them into two separate sections. He noted that there are no changes proposed



to the method or requirements. He added that there is an adjustment proposed to established building line standards, closing a loophole where a setback less than the minimum could result. He mentioned an exception for a 60-foot wide lot, explaining that it will pertain only to subdivisions platted prior to 1962. He commented that with the uptick in the economy, there has been an interest in the older subdivisions to split to 60-foot wide lots.

He noted additional items included stormwater management, pond landscaping requirements for adding buffers, taking out spacing requirements for trees and shrubs from walkways and curbs as these standards are already included in other Ordinances. He stated that drycleaners have been added as a permitted use, in order to call out additional standards for their inclusion.

**Council Discussion:**

**Mr. Yalamanchi** questioned whether the allowance of a 60-foot lot pertains to R-4 districts only.

**Mr. Breuckman** responded that it is for R-4 districts only and pertains to areas platted prior to 1962 where the existing platted single family lots are platted for lot widths less than 80-feet. He gave the example of lots in the Brooklands area, where three 40-foot lots can be split to two lots of 60-feet each.

**John Staran**, City Attorney, stated that this provision was in the previous Zoning Ordinance. When last updated and recodified, the provision was left out. He stated that it is considered a housekeeping item to add it back in. He commented that it is not used frequently, except in older areas dealing with existing small lots. He stated that it will not lessen the standards, but will restore flexibility that had always been in the Ordinance.

**A motion was made by Webber, seconded by Kochenderfer, that this matter be Accepted for First Reading by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0248-2013

**Resolved**, that an Ordinance to amend Chapter 138 Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to revise screening for outdoor storage and trash storage areas, to revise the established building line setback requirements, to allow for 60-foot wide lots in certain locations, to clarify stormwater management pond landscaping requirements, to eliminate plant spacing requirements from fire hydrants, curbs, and public walkways, and to add dry cleaners as a permitted use in the B-1, B-2 and B-3 Districts subject to specific standards, and to repeal conflicting Ordinances and prescribe a penalty for violations is hereby accepted for First Reading.

## NEW BUSINESS

**2010-0094** Request by G&V Investments for termination of the existing City Place Planned Unit Development (PUD)

**Attachments:** [Agenda Summary.pdf](#)  
[WWRP Request 100213.pdf](#)  
[Beier Howlett Ltr 100913.pdf](#)  
[Suppl MDOT Letter 091613.pdf](#)  
[062413 Agenda Summary.pdf](#)  
[Letter Anzek 060413.pdf](#)  
[WWRP Request 061213.pdf](#)  
[Beier Howlett Ltr 062113.pdf](#)  
[Ltr from RH Chrysler Jeep Dodge.pdf](#)  
[Ltr from Winchester Vlg HOA.pdf](#)  
[Ltr from Meadowfield Condo Assn.pdf](#)  
[030110 Agenda Summary.pdf](#)  
[PUD Comparison Chart.pdf](#)  
[WWRP Ltr 021610.pdf](#)  
[Map \(aerial\).pdf](#)  
[City Place PUD Site Plan.pdf](#)  
[Land Use Site Plan.pdf](#)  
[PC Minutes 081809.pdf](#)  
[Suppl July 2010 City Place PUD.pdf](#)  
[PUD Agreement.pdf](#)  
[030110 Resolution.pdf](#)  
[Resolution.pdf](#)

**Ed Anzek**, Director of Planning and Economic Development, stated that a request was received from G&V Investments (G&V) to terminate the City Place Planned Unit Development (PUD). He introduced **John Gaber**, Attorney for G&V, and **Bill Gilbert**, G&V.

**Mr. Gaber** stated that he and his client were before Council on June 24th, where a request was made to process the rezoning for the subject property, terminate the PUD and confirm underlying FB-2 zoning. He noted that his client has been trying to market the property for the last three years and has not been successful. He commented that the PUD is too restrictive. Subsequent to the June 24th meeting, Council recommended that they approach the Eddington Property Owners Association (EPOA) with proposed designs to show the road realignment of Eddington Boulevard, including details of signage and entrance features.

He explained that several concept plans were developed to show road realignment and potential buildings on the site and were presented to the EPOA at a meeting at City Hall on August 5th. The EPOA made no commitment to the realignment and asked that the plan be presented to the entire association at a meeting on September 19th. The EPOA attorney subsequently submitted a letter to the City against the traffic signal installation and road realignment.

He stated that G&V has taken a hard look and would like to reiterate its position to request a termination of the PUD effective November 16th. He pointed out that the PUD Agreement states that if the developer does not submit site plans within a three-year period of time and does not request an extension, the City can send an abandonment agreement and initiate a rezoning of the property. He commented that based on the reasons discussed, the site cannot be developed according to the PUD agreement and users cannot be found of a quality desirable to both the

property owner and the City. Therefore, the developer is abandoning the PUD and requests it be terminated effective November 16th, on the three-year anniversary. He requested that a referral be made to the Planning Commission for discussion of the proper underlying zoning of the property, noting that G&V believes that it should be FB-2. He noted that a draft resolution included in the meeting packet does not fully terminate the PUD.

**John Staran**, City Attorney, stated that there are three options that Council has this evening. The first is to concur with the request to terminate the PUD and to refer the matter to the Planning Commission for the preparation of a report and recommendation for a final decision. The second option is to not concur and not grant the request; however, he noted that the developer states that they are not going to develop the property under the PUD. Denial of the termination will result in a future return to council dealing with land use. The third option is as presented in the draft resolution in the packet, which tentatively terminates the PUD pending a report and recommendation from the Planning Commission as to what the Planning Commission would like to see done with the property. He noted that Council would make the final determination whether to terminate or rezone the property.

**President Hooper** noted that as Mr. Gaber's presentation was approximately nine minutes long, he would allow the EPOA's Attorney ten minutes for his comments.

**Public Comment:**

**Jeff Kragt**, 25156 Carriage Lane, South Lyon, Michigan, stated that he is the attorney representing the EPOA. He made the following comments:

- While the developer states that they are unable to develop the property under the current PUD, it is significant that the property is listed for a price of approximately one million dollars per acre.
- The EPOA was only presented with conceptual drawings, and not a full site plan. He stated that the EPOA's feedback to Council was that they were not ready to make a commitment to the realignment with the information provided.
- By abandoning the PUD, the association's input into the development is eliminated.
- The only reason that the property was listed in the Master Land Use Plan as B-2 was to allow the developer to proceed with the PUD. Under the PUD, it was negotiated that the property would fall under the regulations of Overlay District 1. A memo prepared back in 2010 by Mr. Anzek stated that the B-2 designation was only to support the PUD. It was common knowledge at that time that if the PUD were eliminated, the property would revert back to single family R-4.
- The developer should not be rewarded with a better zoning treatment by abandoning the project.
- The original parties to the PUD in 2010 were Fifth Third Bank, the City and the developer. The bank's position on the abandonment should be noted.
- The parcel within the property that includes the detention basin has not been kept up.
- A new buyer would be in the same position that the current developer is in now.

**William Karam**, 1710 Farnborough Drive, noted that his property is contiguous with the property and should Eddington Boulevard be abandoned, it would open up the possibility of a large store such as a Costco. He expressed concern over the types of businesses that could go into that location.

**Lorraine McGoldrick**, 709 Essex, stated that limitations need to be placed concerning this vacant land. While the application states that the neighbors won't be affected, this is not the case. The property should revert back to R-4 and a light is needed at Meadowfield.

**Scot Beaton**, 655 Bolinger, commented that the entire list of possible uses of a property should be discussed when considering rezoning. He stated that the property should revert to R-4 if the PUD is abandoned.

**Michael Corless**, 1590 Farnborough Drive, noted that at least 20 vacant commercial properties are situated along the stretch of Rochester Road from Auburn Road to Avon Road. He commented that the proposal is not a proper use for the property.

**Council Discussion:**

**President Hooper** noted that if Council determines that the PUD is abandoned, one of the recommendations is to refer the item back to the Planning Commission.

**Mr. Staran** stated that while the Planning Commission would provide a recommendation based on Council's input; Council would ultimately make the final decision.

**President Hooper** noted that the homeowners' association has the opportunity to express its input at every single meeting. He questioned whether the detention pond is being mowed.

**Mr. Staran** explained that the Eddington Woods Subdivision was developed with open spaces including a larger wetland area. He stated that by oversight the deed restrictions and the creation of the homeowners association incorporation was not done before the homes were sold to the residents. As a result, the common space was not conveyed to the homeowners association by the developer. Mr. Gilbert was receiving bills for the maintenance of the retention pond. Efforts by the developer to form a homeowners association after the fact were for reasons unclear rejected by the homeowners. An association, which should be responsible for the maintenance of the common area, has not accepted title. The City has mowed the grass, bills have gone delinquent, and the property is now going to the County for tax foreclosure.

**Mr. Anzek** stated that the property is 98 percent wetlands and encompasses a drain that comes through behind the car dealerships. The commons includes the linear strip behind the powerlines and the retention pond area. He noted that after several years of unsuccessfully trying to get a homeowners association formed, it is still unclear how the matter will be resolved.

**Mr. Gilbert** noted that his company has formed 30 to 40 subdivisions and documents were approved; however, they were never recorded. The residents would not agree to accept them.

**Mr. Tisdell** stated that the PUD agreement contains a section relative to abandonment. He noted that once the 10-year requirement has passed, the City then has the opportunity to go through with a notice of abandonment. He commented that the property owner is notifying the City that they are abandoning the PUD. He stated that at that point, the PUD contract states that the City may initiate the rezoning of any of the land which has not been developed due to a site plan. He commented that to follow the contract as written, it would be referred to the Planning Commission to rezone it.

**Mr. Staran** stated that to initiate the process, the referral could be made to the Planning Commission for a full review, public hearing, report and recommendation. It would then come back to the City Council for final decision. He noted that any site planning related to development would be a subsequent phase.

Discussion ensued whether the draft resolution presented in the packet should be considered, as it discusses the termination of the PUD pending the Planning Commission recommendation.

**Mr. Webber** stated that the referral should be made to the Planning Commission. He commented that a better plan would most likely come forward from the Planning Commission rather than having a judge decide.

**Mr. Yalamanchi** commented that this has been going on for some time and it must come to some progress.

**Mr. Kochenderfer** noted the extensive history of the project. He commented that there needs to be a deliberate public process through the Planning Commission to set a zoning designation that will satisfy as many parties as possible.

**Mr. Klomp** pointed out that the economy was turbulent from 2004 to 2008 and this turbulence contributed to the development's inability to proceed.

**Mr. Gaber** noted that Fifth Third Bank has been notified and concurs with the request. He requested termination of the PUD, noting that the developer has had opportunities for some sporadic development.

**President Hooper** noted that the PUD could be considered abandoned after November 16th.

**Mr. Staran** responded that there is no automatic expiration of the PUD. He explained that three years without a site plan triggers the City's option to declare abandonment, or at least notify the applicant and hold a hearing whether to determine if the PUD has been abandoned. He stated that if the draft Resolution was drafted with three alternatives in mind: 1) Abandon the PUD; 2) Not declare it abandoned; or 3) Tentatively declare the PUD abandoned pending the Planning Commission's recommendation. He noted that Council will have the whole package when it comes back including input from the Planning Commission and

*the residents. He added that it should not be overlooked that once terminated, the property is not unzoned. He explained that there is no automatic reverter; and he stated that should the PUD be declared abandoned this evening, the property is zoned B-2 with an FB-2 overlay. By tying it all together Council would resolve that it should be abandoned; however, but the whole package would come back from the Planning Commission before Council would declare the abandonment and determine what that zoning should be. He commented that this could be a very appropriate circumstance to utilize conditional rezoning. He noted that this could be a tool much like a PUD that can be used as a legal way to impose specific conditions and limitations of what can ultimately be done with this property. He added that it could alleviate concerns as to what could happen when the property is sold.*

**President Hooper** commented that while it could be viewed as abandoned, he wants to see a traffic light and identity for the subdivision. He stated that he wants to see one development rather than piecemeal. He added that it is his opinion that R-4 is not appropriate for the parcel.

**Mr. Yalamanchi** suggested that the PUD agreement and its 2010 amendment should be taken into consideration by the Planning Commission.

**Mr. Staran** responded that they will be provided to the Planning Commission along with detailed minutes of this meeting.

**A motion was made by Tisdell, seconded by Yalamanchi, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0230-2013

**Whereas**, in 2004, the Rochester Hills City Council approved the City Place Planned Unit Development Agreement between G&V Investments and the City of Rochester Hills for a proposed mixed use land development with a mixture of commercial, office and multi-family residential uses on G&V's property on the east side of Rochester Road, north of Bordines; and

**Whereas**, in 2010, the City Council approved the City Place Amended and Restated Planned Unit Development Agreement; and

**Whereas**, under Section 18.C of the City Place Amended and Restated PUD Agreement, if the project is not substantially completed within 10 years and the City believes the Developer has abandoned the project, the City may take action to terminate the PUD Agreement and rezone the property; and

**Whereas**, the Developer G&V acknowledges that it has not substantially completed the project, and G&V has notified the City Council in writing that they are unable to develop or submit a site plan for the development of the property pursuant to the PUD Agreement; that they do not request an extension of time because the property cannot be developed under the PUD Agreement, so an extension would be pointless; that they are abandoning the PUD Agreement, effective November 16, 2013, and waive their right under the Agreement to an abandonment notice; and that they request the City Council to terminate the PUD Agreement.

**Resolved**, that the Rochester Hills City Council determines the owners of the City Place PUD are abandoning the project; consequently, the City Council hereby decides to terminate the PUD Agreement between G&V Investments and the City of Rochester Hills, pending referral to and report and recommendation from the City Planning Commission as to the appropriate zoning designation for the property; and

**Be It Further Resolved**, that the City Council refers this matter to the City Planning Commission to evaluate the area, the Master Land Use Plan and the zoning to determine and initiate the appropriate zoning designation(s) for the property and to make a report and recommendation to City Council.

**2013-0195** Request for Approval of the Amended Clinton-Oakland Sewage Disposal System Inter-Municipal Contract

**Attachments:** [Agenda Summary.pdf](#)  
[COSDS Inter-Municipal Contract 090813.pdf](#)  
[Exhibit A 2013 C-O Contract.pdf](#)  
[Exhibit B Capacity Summary.pdf](#)  
[Exhibit C COSDS Contract.pdf](#)  
[Fact Sheet Amended Contract.pdf](#)  
[Sample Resolution.pdf](#)  
[052013 Agenda Summary.pdf](#)  
[Contract Overview.pdf](#)  
[COSDS Inter-Municipal Contract.pdf](#)  
[052013 Resolution.pdf](#)  
[Resolution.pdf](#)

**Paul Davis**, Deputy Director of DPS/Engineering, noted that Council approved the adoption of an amended contract for the Clinton-Oakland Sewage Disposal System (COSDS) back in May; however, the City of Rochester did not support the amendment, making the contract invalid. The proposed contract removes the references to the City of Rochester and to the Perry Street Contract. He stated that the Water Resources Commission plans to build the project out of its fund reserves instead of the State revolving loan fund.

**Mr. Yalamanchi** questioned whether the costs for all participating communities will increase with Rochester's lack of participation.

**Mr. Davis** responded that they would not. He explained that the City of Rochester will still contribute sewage to the system and pay for the use. He noted that the City of Rochester has a contract that does not expire until 2034 and wanted to stay with their current contract.

**A motion was made by Yalamanchi, seconded by Tisdell, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0231-2013

**Resolved**, that the Rochester Hills City Council hereby approves, in the substantial form as presented, the "Clinton-Oakland Sewage Disposal System 2013 Inter-Municipal Contract" between the County and the Municipalities to, among other things, replace and

supersede the 1967 COSDS Contract and the capacity allocations set forth therein; the COSDS Paint Creek Interceptor Contract, and the capacities set forth therein; the COSDS Gibson-Avon Arm and the capacities set forth therein; the Rochester Connection contract; and the COSDS Management Agreement dated January 1, 1996; establish allocations of contract capacities, provide for the method of cost allocation and/or reallocation of capital and interest charges on existing and future System and OMIDDD facilities; and provide for the imposition of charges for sewage treatment services, and costs associated with administration, operation and maintenance.

**2013-0389** Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for water meters and equipment in the amount not-to-exceed \$155,000.00; ETNA Supply Company, Grand Rapids, MI

**Attachments:** [Agenda Summary.pdf](#)  
[Meter Cost Tabulation.pdf](#)  
[Resolution.pdf](#)

**President Hooper** stated that while he works in the construction industry and deals professionally with the vendors, he has no connection to the contract or bid process; and, therefore, does not see a need to recuse himself from this item.

**Allan Schneck**, Director of DPS/Engineering, explained that the request encompasses the annual purchase of water meters and supplies. He noted that there are 33,000 meters currently in the system; and due to age and consumption, replacements are needed, along with new installations.

**Public Comment:**

**Lee Zendel**, 1575 Dutton Road, questioned whether this particular brand of water meter is incompatible with any competitors. He questioned whether this is an example of a no-bid contract.

**Mr. Schneck** responded that other meters can be installed into the system; however, the conversion of data for billing purposes is not feasible. He noted that the Fiscal Department is looking toward a new billing system to mitigate that incompatibility.

**A motion was made by Yalamanchi, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0232-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for water meters and equipment to ETNA Supply Company, Grand Rapids, Michigan in the amount not-to-exceed \$155,000.00 through December 31, 2014.

**2013-0392** Request for Purchase Authorization - DPS/GAR: Blanket Purchase Order for Controls Upgrade and Wireless Communications for the Truck Scale at the DPS Maintenance Facility in the amount not-to-exceed \$17,754.00; Cech Corporation, Livonia, MI



**Attachments:** [Agenda Summary.pdf](#)  
[Cech Repair Quote 93013.pdf](#)  
[Resolution.pdf](#)

**Allan Schneck**, Director of DPS/Engineering, stated that this upgrade will allow a resolution to an ongoing communication problem with the truck scale. He explained that communications with the scale has been lost on a number of occasions, and the upgraded technology will provide a wireless solution.

**A motion was made by Webber, seconded by Kochenderfer, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0233-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order for Controls Upgrade and Wireless Communications for the Truck Scale at the DPS Maintenance Facility to Cech Corporation, Livonia, Michigan in the amount not-to-exceed \$17,754.00.

**2013-0395** Request for Purchase Authorization - DPS/FLEET: Purchase of four (4) tandem axle truck chassis in the amount of \$394,600.00 and four (4) prewet tandem axle dump body systems in the amount of \$368,168.00 for a combined total of four (4) complete tandem axle dump trucks in the not-to-exceed amount of \$762,768.00; Wolverine Freightliner-Eastside, Inc., Mount Clemens, MI; Truck and Trailer Specialties, Dutton, MI

**Attachments:** [Agenda Summary.pdf](#)  
[Cost Tabulation.pdf](#)  
[Resolution.pdf](#)

**Allan Schneck**, Director of DPS/Engineering, introduced **Bruce Halliday**, Fleet Manager. He noted that the budget included four tandem trucks, and explained that the City partnered with a multitude of agencies for a combined purchase of 25 trucks through this solicitation.

**President Hooper** questioned why the purchase is \$40,000 over budget.

**Mr. Halliday** responded that while emission control issues were addressed previously, the budget did not include the technological advances in hydraulics, touch screen controls in the cab, and reporting features to provide instantaneous feedback to the operator on the prewet and salt distribution systems. He noted that future purchases will address the cost differential for these items with budget amendments.

**President Hooper** questioned when the City would take delivery.

**Mr. Halliday** responded that the trucks would be delivered before the snow flies next year. He explained that the timeline for a new chassis is approximately 90 days. He noted that many of the participating entities have not had new trucks in six or seven years, and the City is deferring to those communities to take delivery first.

**President Hooper** pointed out that monies budgeted in 2013 would not be spent until 2014.

**Mr. Halliday** noted that this is correct. He explained that the City began efforts to secure the trucks in March; however, the benefit will be well worth the effort.

**Mr. Webber** questioned whether the budget shortage could be made up from another area.

**Mr. Halliday** responded that he has been working with Fiscal to secure funds to cover the shortage. He commented that it is his understanding that the Fleet Replacement Fund is in good shape. He mentioned that funding will be rolled into 2014 to cover the purchase.

**Mr. Yalamanchi** questioned whether the purchase order had to be given now as the purchase won't occur until 2014.

**Mr. Halliday** responded that the budget would be amended in 2013 and rolled into 2014.

**A motion was made by Yalamanchi, seconded by Klomp, that this matter be Adopted by Resolution. The motion carried by the following vote:**

**Aye** 6 - Hooper, Klomp, Kochenderfer, Tisdell, Webber and Yalamanchi

**Absent** 1 - Rosen

Enactment No: RES0234-2013

**Resolved**, that the Rochester Hills City Council hereby authorizes the purchase of four (4) tandem axle truck chassis from Wolverine Freightliner-Eastside, Inc., Mount Clemens, Michigan in the amount of \$394,600.00 and four (4) prewet tandem axle dump body systems from Truck and Trailer Specialties, Dutton, Michigan in the amount of \$368,168.00 for a combined total of four (4) complete tandem axle dump trucks in the not-to-exceed amount of \$762,768.00.

## COUNCIL COMMITTEE REPORTS

### Brownfield Redevelopment Authority:

**Mr. Webber** reported that proposed amendments to the City's Brownfield Policy resulting from changes at the State level would be coming to Council for consideration in 2014.

## ANY OTHER BUSINESS

None.

## NEXT MEETING DATE

Regular Meeting - Monday, November 11, 2013 - 7:00 p.m.

## ADJOURNMENT

*There being no further business before Council, President Hooper adjourned the meeting at 10:31 p.m.*

---

*GREG HOOPER, President  
Rochester Hills City Council*

---

*TINA BARTON, Clerk  
City of Rochester Hills*

---

*MARY JO PACHLA  
Administrative Secretary  
City Clerk's Office*

*Approved as presented at the (insert date, or dates) Regular City Council Meeting.*