

Rochester Hills

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

Minutes - Draft

City Council Regular Meeting

Susan M. Bowyer Ph.D., Ryan Deel, Dale A. Hetrick, James Kubicina, Jenny McCardell, Stephanie Morita and Mark A. Tisdel

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, February 5, 2018	7:00 PM	1000 Rochester Hills Drive

CALL TO ORDER

President Tisdel called the Regular Rochester Hills City Council Meeting to order at 7:00 p.m. Michigan Time.

ROLL CALL

Present 7 - Susan M. Bowyer, Ryan Deel, Dale Hetrick, James Kubicina, Jenny McCardell, Stephanie Morita and Mark A. Tisdel

Others Present:

Bryan Barnett, Mayor Bob Grace, Information Systems Director Tim Hollis, Inspection Services Manager Kristen Kapelanski, Planning Manager Kevin Krajewski, Deputy Information Systems Director Tim Pollizzi, Water Resources Coordinator Sara Roediger, Planning and Economic Development Director Allan Schneck, Public Services Director Leanne Scott, Deputy Clerk John Staran, City Attorney Tom Talbert, Strategic Innovations Specialist Audrey Weber, Rochester Hills Government Youth Council Representative Maria Willett, Chief Assistant to the Mayor

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

COUNCIL AND YOUTH COMMITTEE REPORTS

Rochester Hills Government Youth Council (RHGYC):

Mr. Deel introduced *Audrey Weber*, RHGYC Representative, and noted that she is a senior at Rochester High School, participates on Student Council and has competed in track and field for the past four years. He stated that Ms. Weber plans to attend Oakland University and major in Political Science.

Ms. Weber reported that the RHGYC members are planning their Youth Summit set for Saturday, May 5, 2018. Youth from all over the area will be encouraged to attend to learn more about the role of local government. The registration application for the Youth Summit is posted on the RHGYC page on the City's website.

She announced that the RHGYC's annual 5K will be held on Saturday, June 16, 2018 at Bloomer Park. This year, funds raised at the 5K will go toward Innovation Hills. She commented that information and registration links will be available shortly, and anyone interested in sponsoring should call the Clerk's Office.

Older Persons' Commission (OPC):

Mr. Kubicina reported that the OPC will be hosting the following events:

- OPC's Terrific Tuesday features the Boogie Woogie Kid on February 13, 2018 from 4:30 p.m. to 7:30 p.m.

- Savvy Seniors is set for Tuesday, February 27, 2018 from 1:30 p.m. to 2:30 p.m.

- Club 650 presents "Oldies but Goodies" on February 15, 2018 at 7:30 p.m. Tickets are \$15 and the event is open to the public.

- The Healthy Brain Series is set for Fridays, through February 23, 2018, from 1:00 p.m. to 2:30 p.m.

- An Evening in Paris Wine and Cheese event is set for February 15, 2018 from 6:00 p.m. to 8:00 p.m. in the dining room. Open to the public, the event is \$15 per person.

Green Space Advisory Board (GSAB):

Dr. Bowyer announced that the GSAB will host their annual Discovery Hike on May 5, 2018 at the Harding Green Space.

Paint Creek Trailways Commission (PCTC):

Dr. Bowyer reported that the section of the trail between Dutton and Silverbell will be closed from early spring through late summer for a bridge replacement project.

Rochester Avon Recreation Authority (RARA):

Mr. Deel reported that RARA will host their St. Patrick's Day Dance for special needs children on March 16, 2018. Tickets are \$15 per person, and are available on the website at www.rara.org.

He noted that Oakland County Sheriff's Deputy David Hack has been transported to Colorado to begin rehabilitation. He announced that several fund raisers are still planned to help the family, including one at the Shark Club in Waterford on February 11, 2018 from 1:00 p.m. to 6:00 p.m.; and a dinner fund raiser at Sunrise Rochester on February 8, 2018 for 6:30 p.m. to 8:30 p.m.

He announced that the Rochester Hills Public Library will host a talk on the interesting and evolving area of immigration law on February 12, 2018.

Rochester Area Youth Assistance (RAYA):

Ms. McCardell reported that RARA had a great turnout at its fund raisers during Rochester's Fire and Ice Festival. She announced that RAYA is looking for nominations of youth residing in the Rochester Community School District area that have done notable things in the community for their Youth Recognition Awards. The deadline for submitting nominations is Tuesday, February 20, 2018.

ORDINANCE FOR ADOPTION

2017-0525 Acceptance for Second Reading and Adoption - an Ordinance to add Section 138-10.108 and amend sections 138-1.203, 138-4.300, 138-4.415, 138-4.433, 138-5.101, 138-6.303, 138-8.603, 138-10.102, 138-10.104, 138-10.108, 138-11.102, and 138-13.101 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to require posting of notification signs on sites proposed for rezoning or conditional land use approval; to change regulations to places of worship, libraries and museums; to modify requirements relating to yard setbacks in residential and commercial improvement zoning districts; to modify sign regulations applicable in the Flex Business Overlay districts; to modify floor area and setback limitations applicable to detached accessory structures; to require a permit for fences over 3 feet in height or more than 16 feet in length; to modify off-street parking setback; to modify the definition of "fence" and modify the definition of "yard"; and to repeal conflicting or inconsistent ordinances, and prescribe a penalty for violations

Attachments:	020518 Agenda Summary.pdf	
	Ordinance 020518.pdf	
	Suppl Presentation 020518.pdf	
	012218 Agenda Summary.pdf	
	Ordinance 011018.pdf	
	Suppl Presentation 012218.pdf	
	Memo Kapelanski 011218.pdf	
	Staran Ltr -State Licensed Residential Facility 121517.pdf	
	Giffels Webster Ordinance Overview.pdf	
	ZO Amendments Draft for PC 121917.pdf	
	Sign Ordinance Draft for PC 121917.pdf	
	Minutes PC 121917.pdf	
	ZO Amendments Draft for PC 112117.pdf	
	Minutes PC 112117.pdf	
	PHN 112117.pdf	
	012218 Resolution (Draft).pdf	
	Resolution (Draft).pdf	

Sara Roediger, Planning and Economic Development Director, and *Kristen Kapelanski*, Planning Manager, were in attendance.

Ms. Kapelanski noted that the proposed Amendments to Chapter 138 were before Council at the January 22, 2018 meeting and were Accepted for First Reading at that time. She pointed out that a few typographical errors had been corrected to the version presented this evening for Second Reading, with no other changes made.

Public Comment:

Scot Beaton, 655 Bolinger Street, requested clarification on the removal of references to proposed right-of-way; and questioned whether the City would require future land development to respect the Master Thoroughfare Plan. He commented that he knows of several nearby communities that still use proposed right-of-way.

Dawn Harimoto, 3106 Quail Ridge Circle, questioned whether language could be added regarding posting of potential changes due to consent judgments.

Ms. Kapelanski noted that there was discussion at the last Council Meeting regarding the removal of the reference to proposed right-of-way. She commented that current case law does not allow the City to take setback measurements from a proposed right-of-way. She mentioned that the City requests that developers take the Master Thoroughfare Plan into account when proposing developments.

John Staran, City Attorney, stated that the City must respect the Constitution and the Courts, and noted that the Court has made it clear that the City must purchase any property for right-of-way. He commented that most communities' ordinances conform to case law, and those that do not are the exception.

President Tisdel questioned whether including requirements for notice signage on properties subject to a consent agreement should be considered.

Ms. Kapelanski responded that this was not considered in this amendment; however, she would point out that conditional land use was included.

Mr. Staran stated that it is not by oversight that consent decrees are not addressed in the proposed amendment. He noted that they are not, nor should they be. He pointed out that Zoning Amendments are a legislative process, regulated through the Zoning Ordinance. Postings and notice requirements are followed as specified in the Michigan Zoning and Enabling Act. He stated that consent decrees are a form of court order through the judicial process. He commented that there is no requirement whatsoever for posting or sending notice for any public input at all. He mentioned that notice was given for tonight because it has been a long-standing policy of the City as Council's way to bring the matter to the public's attention. He noted that notice was sent out and the property was posted with signs as well. He stated that it is appropriate for consent decrees not to be discussed in the Zoning Ordinance as they are not a legislative matter. He commented that notice is controlled entirely by the policy of this Council.

President Tisdel stated that while what is being requested may be an appropriate action, the Zoning Ordinance is not the place to put it. He questioned whether Council's intent could be stated by resolution at a later time to address this issue.

Mr. Staran responded that it could be; however, when entering the litigation arena it is not necessarily a "one size fits all". He commented that response times are set by the court and often do not fit neatly into the zoning process. He noted that to the extent that the City is able to reach out to the residents, it has been the tradition and practice of Council to do so even though it is not legally required.

Ms. McCardell stated that she believes that the public wants more transparency. She questioned why reference to proposed right-of-way was originally in the Zoning Ordinance.

Ms. Kapelanski responded that throughout the course of development, there was a time when proposed right-of-way was taken into account. Subsequent to case law, this is no longer.

Mr. Staran stated that it was a fairly common practice to have a thoroughfare plan with proposed right-of-ways and setback requirements to attempt to reserve right-of-way to be available if and when a roadway was expanded. Through court decisions, this is no longer possible. For years the Planning Department has been very adept at gently prodding and encouraging developers to honor the request; however, the City has occasionally run into problems such as Tienken and Rochester Roads. He noted that to do so would potentially render a property undevelopable or not as developable as it would be. He stated that this amendment has been discussed for a very long time and is overdue. He noted that it will bring the currently unenforceable requirements into conformity with Federal and State Law.

Ms. McCardell noted that the process will begin to update the Master Thoroughfare Plan this year, and questioned whether the City will attempt to purchase right-of-ways.

Ms. Roediger responded that the Master Thoroughfare Plan shows how to plan roads for the future, and she noted that part of a road project is right-of-way acquisition.

Ms. McCardell questioned whether the City would purchase right-of-way before a project commenced.

Ms. Roediger responded that it would not be prudent.

Mr. Staran stated that right-of-way acquisition is typically part of a project overall cost; and until such time that a project is planned and funded, the City would not make the purchase. He commented that there are many plans here, at Oakland County, and in Lansing for projects that may not go forward for 20 or 30 years, if ever. He stated that the acquisition is triggered when funding comes along and does not move forward until then.

Mayor Barnett pointed out that the City is often not the lead in securing right-of-way and may have no interaction in the process. He stated that the City may be a participant at only ten percent, and is rarely responsible for right-of-way.

Vice President Morita noted that she had a conversation with Mayor Barnett regarding notification on tonight's item early last week, and stated that even though it was not required, she requested notification go out to all residents within 300 feet of the proposal and placards be placed on Adams and Hamlin. She commented that she would concur with Mr. Staran that it should not be in the Ordinance unless it is required.

Mr. Hetrick commended Staff for the work completed, noting that the changes to the Ordinance simplify and remove items that are not needed. He stated that it makes it much more transparent for Council to be able to undertake approval of a particular project, and he noted that the Zoning Board of Appeals will be very happy to see the changes made.

A motion was made by Hetrick, seconded by Morita, that this matter be Accepted for Second Reading and Adoption by Resolution. The motion carried by the following vote:

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

Enactment No: RES0021-2018

Resolved, that an Ordinance to add Section 138-10.108 and amend sections 138-1.203, 138-4.300, 138-4.415, 138-4.433, 138-5.101, 138-6.303, 138-8.603, 138-10.102, 138-10.104, 138-10.108, 138-11.102, and 138-13.101 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to require posting of notification signs on sites proposed for rezoning or conditional land use approval; to change regulations to places of worship, libraries and museums; to modify requirements relating to yard setbacks in residential and commercial improvement zoning districts; to modify sign regulations applicable in the Flex Business Overlay districts; to modify floor area and setback limitations applicable to detached accessory structures; to require a permit for fences over 3 feet in height or more than 16 feet in length; to modify off-street parking setback;

to modify the definition of "fence" and modify the definition of "yard"; and to repeal conflicting or inconsistent ordinances, and prescribe a penalty for violations is hereby Accepted for Second Reading and Adoption, and shall become effective on Monday, February 12, 2018, following its publication in the Oakland Press on Sunday, February 11, 2018.

- 2018-0007 Acceptance for Second Reading and Adoption An Ordinance to Repeal Chapter 134, Signs, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, and replace it with new Chapter 134 to update, reorganize and clarify regulations related to signs, repeal conflicting or inconsistent Ordinances, and prescribe a penalty for violations
 - Attachments:
 020518 Agenda Summary.pdf

 Ordinance 012618.pdf

 Suppl Presentation 020518.pdf

 O12218 Agenda Summary.pdf

 Ordinance 011218.pdf

 Ordinance 011218.pdf

 Giffels Webster memo 081017.pdf

 012218 Resolution (Draft).pdf

Sara Roediger, Planning and Economic Development Director, and Kristen Kapelanski, Planning Manager, were in attendance.

Ms. Kapelanski noted that the Sign Ordinance was presented for First Reading at the January 22, 2018 meeting. She stated that the Ordinance will replace the current Sign Ordinance in its entirety, and was reorganized to make it content neutral and modify the regulatory tone.

A motion was made by Morita, seconded by Hetrick, that this matter be Accepted for Second Reading and Adoption by Resolution. The motion carried by the following vote:

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

Enactment No: RES0022-2018

Resolved, that an Ordinance to Repeal Chapter 134, Signs, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, and replace it with new Chapter 134 to update, reorganize and clarify regulations related to signs, repeal conflicting or inconsistent Ordinances, and prescribe a penalty for violations is hereby Accepted for Second Reading and Adoption, and shall become effective on Monday, February 12, 2018, following its publication in the Oakland Press on Sunday, February 11, 2018.

PLANNING AND ECONOMIC DEVELOPMENT

2006-0294 Request to approve an amended Consent Judgment pertaining to Adams/Hamlin Development Co. v. the City of Rochester Hills, Case No. 2004-060730-CZ, entered on April 20, 2006 and specifically regarding two parcels of land totaling approximately 28 acres, located at the northeast corner of Hamlin and Adams, Parcel Nos. 15-29-101-022 and -023; Rochester Hills, Oakland County, Michigan Attachments: 020518 Agenda Summary.pdf Consent Judgment 013018.pdf Suppl Presentation 020518.pdf Site Plan (SK-5) CONCEPT-17037.pdf Hamlin-Adams Brownfield Plan Final 110917.pdf Plan Comparison Table 121117.pdf Memo on Brownfield Plan 013018.pdf Legacy Introductory Cover Letter.pdf Legacy Rochester Hills FAQ.pdf Goldberg Companies - Diversified Real Estate 2017.pdf Legacy Proposed Elevations.pdf Conceptual Rendering 012618.pdf Minutes CC 41906.pdf 041906 Agenda Summarv.pdf Public Hearing Notice.pdf 041906 Resolution.pdf Resolution (Draft).pdf

Sara Roediger, Planning and Economic Development Director, and Kristen Kapelanski, Planning Manager, were in attendance representing staff. Also in attendance were Seth Mendelsohn and Eric Bell, Goldberg Companies, Tyler Tennent, Dawda, Mann, Mulcahy & Sadler, PLC, Arthur Siegal, Jaffe Law, Rachel Smith, PEA, Bret Stuntz, AKT Peerless, and Thomas Wackerman, ASTI Environmental.

Ms. Roediger stated that the subject property consists of 28.5 acres on the northeast corner of Adams and Hamlin, and is a former illegal landfill with contaminated soil. She noted that the parcels are zoned one-family residential. She explained that a consent judgment governs the site for court-ordered development of the property which is the result of a very controversial rezoning request from 2005 and 2006 to rezone the property from single family to B-2 General Business.

She stated that the City held a number of public hearings and at the time of the original rezoning request it was denied by the Planning Commission and City Council. The applicant took it to court and as a result, the Consent Judgment was entered April of 2006 outlining the rules for development of the property. She explained that in order to amend the existing Consent Judgment, an agreement is required between the property owner, the City and the court. She noted that the existing Consent Judgment allows for almost 100,000 square feet of office and 72,000 square feet of retail, with a number of buildings allowed ranging from one to two-story, with uses varied for restaurants, retail, medical office, professional office and a drive-through. She pointed out that the property owner has the right to begin construction of the site plan under the existing Consent Judgment right now.

She stated that an alternative proposed will allow for 386 luxury apartments and residential use. She noted that it would maintain many of the important elements discussed at the many meetings in 2006, including a large buffer to the north, and an entryway at the corner of Adams and Hamlin. She commented that changing the use from nonresidential to residential increases the environmental cleanup

that must be done, and she noted that **Thomas Wackerman**, ASTI Environmental, the City's environmental consultant, was also in attendance to answer any questions. She mentioned that Mr. Wackerman was on the original team for the Consent Judgment.

She reviewed the proposed plan, noting that it goes from two-story buildings along the residential line to three and four stories along Hamlin. The plan would provide for a cleanup of the property to a nonresidential standard, with the majority of the property cleaned up to a residential standard. A decree for no further action would be given from the State, and the majority of the property would be a clean site. She mentioned that the cost of cleanup increases dramatically for the proposal, from \$3.5 million to a \$12.6 million investment. An amended Brownfield Plan would be developed with the reimbursement moving from 15 to 20 years.

She commented that while increased traffic is a concern, the current Consent Judgment is estimated to increase traffic by 10,100 trips per day; while the proposed residential use would reduce that number to an estimated 2,000 to 2,700 trips per day.

Mr. Wackerman noted that he prepared a memorandum for the meeting packet, and he commented that this property needs to be cleaned up. He pointed out that the proposed Consent Judgment includes a voluntary cleanup, with part of the property cleaned up to unrestricted residential and the rest restricted nonresidential. He explained that the Michigan Department of Environmental Quality (DEQ) will have active oversight and approval of the cleanup process. He noted that there has been some remediation since 1984; and he commented that the eastern parcel is where most of the contamination lies, with a lesser degree of concern for the western parcel. He noted that the property will be re-split, with Parcel B farthest to the east resulting in nonresidential restricted closure. Engineered, administrative and active controls will be in place, and the parcel will have casual use such as parking. The remainder of the property will have active remediation and will have unrestricted residential closure, with no need for further action to that parcel and a no further action letter issued. He noted that Parcel B will have documentation of due care compliance protective of human health and the environment. There will be removal of soil, and installation of a slurry wall and clay wall constructed around that part of the property. A cap on top will encapsulate the worst of the contamination. He stressed that engineered controls will allow use of the property, and he noted that these controls do not exist now and the property continues to deteriorate. He pointed out that vapor controls will be in place for the buildings, with optional methane or vapor vents installed if any is found. He stated that a Brownfield Plan will be the document that enforces and defines the cleanup. He mentioned that Parcel B will have a component that specifies long-term care and maintenance to provide these protections.

Ms. Roediger stated that tonight's request is to consider approval of amending the Consent Judgment. If approved, the next steps will be for the City Attorney to finalize and execute the Amended Consent Judgment with the applicant and the Court. Following that process, the site plan will be reviewed by the Planning Commission with recommendations to City Council. She pointed out that the

alternative in not amending the Consent Judgement is that the site will be developed as per the current Judgment.

Mr. Bell stated that he is one of the owners of the Goldberg Company, and he explained that it is a family-owned business that has been constructing residential properties for more than 60 years. He noted that they are generational holders of real estate and want to own and manage the properties. He stated that their properties are high-quality apartments with the best finishes and community amenities such as pools, fitness centers, and community gathering spaces. He stressed that this is important because of the environmental concerns and expectations.

Mr. Mendelsohn noted that when the company first looked to Rochester Hills, it was asked what it could do with the environmental and traffic concerns. He pointed out that cleanup for their project will cost approximately four times what cleanup for a retail project would be, and the goal will be to have unrestricted residential cleanup of the property. He noted that the project proposed will have one-quarter of the estimated traffic increase with four times the amount of cleanup. He stated that the company wants to ensure that their development will fit in with the residential character of the community.

Public Comment:

Jim Lannen, 2865 Portage Trail Drive, questioned whether the sewage plan and storm drain would impact his subdivision, if new residents will cause the schools to go over capacity, and if a four-story residence would set a precedent in Rochester Hills.

Dawn Harimoto, 3106 Quail Ridge Circle, commented that the Consent Judgment has vague terms, and questioned why the main entrances do not have to adhere to zoning requirements. She questioned whether the only exercise facilities would be outdoor, and whether the Planning Commission would have the right to make any recommendations that are contrary to the plan submitted.

Deanna Hilbert, 3234 Quail Ridge Circle, commented that she did not see a placard posted on the property; however, she knew that there had been a meeting with the neighborhood to the north. She stated that it was a contentious issue when the Consent Judgment was first made, and suggested that there might be more interest in neighborhoods beyond the 300 foot line. She questioned whether allowing four stories would lead to high rises across the street or in other places in the City, whether the residents will be safe with the additional traffic concerns, what Vice President Morita's opinion is on the safety of the development of a former superfund site.

Larry Schloss, 2851 Current Drive, stated that his home is to the northeast of the subject property, and he recalled cleanup activities to date on the site. He commented that the area has been a problem for Rochester Hills for years, and the City should not rush to accept a proposal that would seek to set aside an existing Consent Judgment.

Scot Beaton, 655 Bolinger, stated that a bad decision was made in 2006 which the City is paying for again this evening. He commented that landfill sites should be turned into parklands. He questioned what parking space sizes would be and why the applicant was asking for an additional 76 spaces beyond the 656 spaces required by the Ordinance. He mentioned that \$3,000 would be given to abutting homeowners for landscaping and questioned why the buildings would be 60 feet in height and whether there had been any discussions with mixed use buildings with the developer. He stated that a new public hearing should be held.

President Tisdel questioned what storm storage and storm drain plans are proposed.

Ms. Smith responded that the storm and sanitary sewers are separated in Rochester Hills. She noted that there are two existing sanitary sewer stubs, one on Rapids Way and one near the northeast corner of the property. She pointed out that the Master Plan provides for any development on this property to connect to those stubs and the connections are already on the site. She stated that the sanitary sewer service would be through public sewers and would flow through the neighborhoods. She noted that an underground storm detention system would provide for the release of flow to the east to the City's park property and an engineered wetlands system. She stressed that the storm flow would not go through the subdivision at all.

President Tisdel questioned whether there would be a delay in taxes collected for the school system.

Mayor Barnett responded that much of the school's funding is by pupil count. He noted that the Rochester Community School System is actually experiencing a slight decline in the school population and welcomes new students. He mentioned that School Superintendent Robert Shaner stated that the district is excited about the prospect of new students.

President Tisdel questioned what percentage of occupancy would be anticipated to be families.

Mr. Mendelsohn responded that they are not expecting more than a few students as the development would be more likely to attract empty nesters and millennials.

Mr. **Bell** pointed out that the development is covered by Fair Housing laws and the company has an absolute commitment to Fair Housing practices.

President Tisdel questioned whether there were other four-story residences in Rochester Hills.

Ms. Roediger responded that City Apartments is a four-story complex going up at the southeast corner of Tienken and Rochester Roads, and Samaritas (formerly Danish Village Apartments) is also a four-story building.

President Tisdel questioned whether there were vague terms in the proposed Consent Judgement.

John Staran, City Attorney, explained that the mandated Consent Judgment is intended to be a blueprint with an authorization to proceed with the concept and parameters presented. He noted that some parameters are general and some are specific, and should be considered step one. He stated that should the Amended Consent Judgment be approved this evening, the next step would be for the applicant to go further in the planning process including engineering and presentation of a detailed site plan which will go to the Planning Commission for fine-tuning of the project. He noted that while the look and layout would have to be consistent with the general concept presented here, the Planning Commission would work with the developer to come up with plans to come before City Council for final approval. He pointed out that the cleanup activities would have to go through a review of the Brownfield Redevelopment Authority with public hearing and recommendations to come back to City Council at a later date. He stressed that there will be a number of additional public meetings, public hearings and refinements, and noted that Council will have all the details on what the look and layout of these buildings will be for final approval.

President Tisdel questioned whether this item should have been posted as a public hearing.

Mr. Staran responded that it is being conducted similar to a public hearing; however, there is no requirement for a public hearing on a consent decree. He stated that Council is consistent with past practice and is obviously listening to residents and obtaining feedback. He commented that this is the first of several more public meetings that will be occurring before anyone puts a shovel in the ground.

President Tisdel requested information on the continuity of look to the development and where the workout and gathering facilities would be located.

Mr. Mendelsohn responded that these will be luxury apartments with interior corridors. He noted that modification must be made from the way it was originally written to account for the interior entry. He explained that code is written referencing entryway to apartments, and stated that the interior entryways to each apartment may not face the street. He stated that a large three-story clubhouse will be approximately 10,000 square feet in size and will have a pool, gym with fitness equipment, meeting spaces, leasing office and outdoor space for gas grills.

President Tisdel questioned whether the applicant considered adding retail and restaurants.

Mr. Mendelsohn responded that while that was considered, that style does not work with most developers and these types of developments have not succeeded throughout the country. He pointed out that a mixed use would add a tremendous amount of extra traffic that the community does not want.

President Tisdel stated that status quo is off the table and the area will be developed. He noted that Council can move forward with the Amended Consent Judgment or move on with development under the current Consent Judgment.

Ms. Roediger concurred, noting that the Consent Judgment currently dictates what will happen. She stated that the developer's team approached the City approximately one year ago with a concept plan, and once Staff felt comfortable with what was being proposed, it is being brought to Council. She mentioned that two closed sessions of Council were held in December, and a neighborhood open house was held in January to present the project and receive input from the 13 abutting homes. Furthermore, a mailing was undertaken to all properties within 300 feet and an additional email to those attending the open house. Two new four-by-six-foot signs were placed on the property facing Hamlin and Adams last Tuesday. Staff has been working with the applicant to finalize the Consent Judgment.

President Tisdel noted that cleanup funds ran out previously for the property and efforts are being undertaken to prevent that from happening again.

Mr. Wackerman pointed out that this was not a Federally-listed Superfund site. He explained that cleanup was attempted by the DEQ; however, funds ran out. He stressed that this is why a development is necessary as it generates the needed tax increment financing. He noted that part of the Brownfield Plan is to estimate what those costs will be and make sure that the project will be funded.

President Tisdel questioned the number of parking spaces requested.

Ms. Roediger responded that parking will be reviewed as a part of the site plan process. She noted that guest parking will be needed as well. She pointed out that the applicant is proposing a number of garages.

Council Discussion:

Vice President Morita stated that under this plan, a provision calls for payment for landscaping to the 13 abutting landowners. She explained that as she is one of those landowners. As such, she has asked for a provision to be included to remove her and her husband from this provision as long as she has an interest in their home. She stated that the draft Consent Judgment does not have this provision included, refers to the wrong number of property owners, and does not refer to the elevations. She noted that because Council's draft resolution is missing some significant terms, she is not comfortable approving it as currently drafted. In response to Ms. Hilbert, she stated that she thinks it is a great project and is excited that the developer is coming to the community and will be making the property safe. She commented that while she does not think anyone is thrilled with the prospect of a four-story development, the density is required in order to support payment for the cleanup. She noted that the four-story buildings will be closer to Hamlin, and will hopefully block freeway noise in the adjacent subdivision. She commented that it is certainly better than what is under the existing Consent Judgment. She stated that she is in agreement with moving forward; however, she suggested that the resolution language be changed to accommodate what needs to be accomplished tonight taking into consideration that there is more information needed.

Mr. Staran stated that Council is aware of the project and there has been discussion among the development team and City Staff for several months. He

noted that the City would receive the input from the public and Council tonight and discuss and incorporate this input into the document. He stated that the resolution gives the Mayor and Staff the flexibility to work with the applicants.

Vice President Morita stated that she would prefer to have the Consent Judgment amended to take tonight's discussion into consideration and return it to Council at the next meeting. She suggested that the resolution be revised to reflect Council's approval of moving forward with an Amended Consent Judgment which will be subject to final approval of Council at a subsequent meeting.

She mentioned that the right turn lane heading north on Adams currently ends at Portage Trail. She commented that neighbors have been trying to work with the Road Commission for Oakland County to try to get a dedicated right turn lane for this entrance; however, there has been no funding for its development. She questioned whether consideration of this lane could be added as a part of the Consent Judgment. She commented that it is a dangerous corner when people are turning, and the development will add 2,000 to 2,500 more trips in and out of the property. Perhaps the developer would consider this as well.

Dr. Bowyer commented that it is a beautiful development and will benefit from cleanup monies increased to \$12.67 million. She questioned who would be performing the testing, whether the clay wall installed would be deep enough to encapsulate the contamination, and who will be in charge of maintenance going forward.

Mr. Wackerman responded that as it would be a voluntary action program, the developer would be doing all testing and documentation to send to the DEQ. The DEQ would review the documentation and determine the adequacy of the cleanup. He noted that the walls and slurry wall will tie in with the underlying clay and provide a box to contain the contamination.

Mr. Stuntz stated that much of this will be determined in the field; however, he would estimate at least 15 feet of clay. He noted that the clay will be two-foot in width all around the contamination. He stated that the property owner of the parcel will have due care and compliance. He commented that within the Brownfield Plan itself, there is 30 years of operation and maintenance for that parcel specified, and he stated that it would include inspection and repair of the cap. He noted that once in place and field testing completed in the first year or two, the cap will be fairly stable over time. He stated that funding would be provided by the property owner going forward.

Dr. Bowyer mentioned comments made this evening encouraging mixed use.

Mr. Mendelsohn responded that mixed use encourages more a transient type of resident. He noted that they have found that the type of tenant attracted to their development wants a nice quiet neighborhood as opposed to the hustle and bustle of retail.

Dr. Bowyer commented that while the City would like landfills to go "green", the City does not own them. She stated that by moving to apartments rather than

retail, traffic would be reduced. She noted that while Hamlin can handle the traffic, Adams cannot.

Mr. Hetrick agreed with Vice President Morita's changes to the resolution presented. He noted that the property must meet residential standards once cleaned up, and he questioned whether any venting would be above and beyond what is required.

Mr. Deel exited at 8:52 p.m.

Mr. Wackerman concurred, noting that it would result in unrestricted residential closure of the property allowing anything that would be allowed in a residential setting. He stated that venting would be an extra precaution for lenders.

Mr. Hetrick questioned whether the Planning Commission will have any influence as to how the site plans will be developed.

Ms. Roediger responded that it should be viewed similar to a Planned Unit Development process, with conceptual, planning and final stages.

Ms. McCardell commented that environmental cleanup is important to her and she is grateful to see a residential cleanup happening to this property. She stated that she has learned that having this type of cleanup provided by Federal agencies is nearly impossible. She noted that she is glad to see this will result in fewer trips for vehicle traffic. She commented that she would concur with Vice President Morita's suggested changes to a resolution for approval; and would like to see some sort of contribution toward a turn lane, noting that it would show good faith on the part of the developer.

Mr. Deel re-entered at 8:55 p.m.

Mr. Kubicina stated that he is excited about the cleanup of this area, and noted that the project will be right next to Innovation Hills. He commented that this will make the park that much more attractive.

Mayor Barnett stated that when first contacted by the developer, the City was interested to see if this would move forward. He noted that market conditions are hot in the City right now. He commented that it is evident that if Council does not move forward this evening, the developer is ready to move forward with the current Consent Judgment within 60 to 90 days. He noted that viewing the proposed project renderings next to each other gives a perspective of the differences. He stressed that this particular residential project will result in one-quarter of the traffic of the previously-approved Consent Judgment. He mentioned that two weeks ago Council heard from residents expressing traffic concerns regarding the Premier Academy project, and he noted that residents prefer less traffic over more, residential development over commercial, and more cleanup of the site over less.

Ms. McCardell stated that this decision is not fear-based and Council has looked at the project individually. She commented that it appears that it will be a good deal for Rochester Hills.

Mr. Deel expressed his thanks to Vice President Morita for suggesting language for the resolution, noting that he wants to have the full and final version of the Amended Consent Judgment in front of him before he approves it. He stated that Council is left with a legacy of an illegal dumpsite and wants to leave a legacy of a clean site for future generations. He commented that while it is not a problem that the City has created, it will be a problem that it will solve.

President Tisdel stated that this is not a lesser of two evils and is a good thing for the City. He commented that obviously the applicant will be a part of the final edits to the Consent Judgment and will be fully aware and in agreement before it comes to Council for approval.

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

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

Enactment No: RES0023-2018

Whereas, in settlement of zoning litigation in the case styled Adams/Hamlin Development Co v City of Rochester Hills, Oakland County Circuit Court Case No. 2004-060730-CZ, a Consent Judgment was entered on April 20, 2006 concerning the approximately 28 acres of real property located at the northeast corner of Adams and Hamlin Roads; and

Whereas, that Consent Judgment contemplated and permitted environmental remediation and mixed-use office/commercial development of the subject property pursuant to a brownfield redevelopment plan; and

Whereas, the contemplated remediation and redevelopment has not occurred, the subject property has changed ownership and a new prospective developer proposes to remediate and develop the subject property with a higher level clean-up and a multi-family residential development pursuant to a brownfield redevelopment plan; and

Whereas, the City Council supports the proposed project, and in order to proceed it is necessary to modify and amend the 2006 Consent Judgment.

Resolved, that the Rochester Hills City Council hereby approves moving forward with an Amended Consent Judgment which will be subject to final approval of Council at a subsequent meeting.

Be It Further Resolved, that the Mayor, City Administration and City Attorney are authorized to move forward with preparing an Amended Consent Judgment for presentation to and final approval by City Council at a subsequent meeting and to prepare any other documents necessary to effectuate and implement the Amended Consent Judgment on behalf of the City.

Be It Finally Resolved, that the City Attorney is authorized to undertake the necessary actions to arrange for the Amended Consent Judgment to be entered by the Court and recorded at the Register of Deeds.

2018-0027 Request for termination of the Brownfield Plan for the Hamlin/Adams site, two parcels of land totaling approximately 28 acres at the northeast corner of Hamlin and Adams, zoned by Consent Judgment, approved by City Council on November 29, 2006

Attachments: 020518 Agenda Summary.pdf 843 Brownfield Redevelopment Fund.pdf Property Owner Letter Approval.pdf Approved BRA plan final 112906.pdf Minutes BRA 092806.pdf Minutes CC 111506.pdf Minutes CC 112906.pdf Resolution (Draft).pdf

Sara Roediger, Planning and Economic Development Director, stated that there is a current Brownfield Plan on the Adams and Hamlin property which has resulted in approximately \$500,000 in taxes taken. She noted that the State Act states that after two years with no construction, the City has the right to terminate a Brownfield Plan and allocate the monies back to the taxing jurisdictions. She commented that originally it was thought that the City would receive interest on the monies; however, that is not the case. She pointed out that the City will receive a little over \$100,000 back.

Mr. Hetrick questioned whether the ability to terminate the Brownfield Agreement was at all related to the Consent Judgment.

Ms. Roediger responded that the City could have terminated the Brownfield Agreement at any point in the past nine years. She stated that any project going forward will have a new Brownfield Plan.

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

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

Enactment No: RES0024-2018

Whereas, on November 29, 2006, the Rochester Hills City Council approved a Brownfield Plan for the environmental remediation and mixed use office/commercial redevelopment of approximately 28 acres of real property located at the northeast corner of Hamlin and Adams Roads in the City of Rochester Hills, Oakland County, Michigan, more particularly described as:

Parcel No. 15-29-101-022

T3N, R11E, SEC 29 PART OF W 1/2 OF NW 1/4 BEG AT PT DIST S 00-33-37 E 120.85 FT FROM NW SEC COR, TH N 88-30-46 E 836.53 FT, TH S 38-06-17 E 750.59 FT, TH S 76-30-50 W 1327.14 FT, TH N 00-33-37 W 878.45 FT TO BEG 18.80 A 1-24-00 FR 002

Parcel No. 15-29-101-023

T3N, R11E, SEC 29 PART OF W 1/2 OF NW 1/4 BEG AT PT DIST N 88-07-26 E 841.94 FT FROM NW SEC COR, TH N 88-07-26 E 759 FT, TH S 01-26-07 W 674.52 FT, TH S 76-30-50 W 291 FT, TH N 38-06-17 W 750.59 FT, TH N 01-50-10 E 126.65 FT TO BEG 9.20A 01-24-00 FR 002

Whereas, the Brownfield Redevelopment Financing Act, at MCL 125.2664(8)(b), provides that a brownfield plan may be terminated by the City Council for an eligible property if the

project for which eligible activities were identified in the brownfield plan fail to occur for at least 2 years following the date of the resolution approving the brownfield plan; and

Whereas, in accordance with statute, the previous owner/developer, the current owner, and the prospective purchaser of the subject property have been given more than 30 days advance written notice and an opportunity to be heard at a public meeting prior to termination of the Brownfield Plan; and

Whereas, the remediation and redevelopment of the subject property contemplated under the Brownfield Plan never commenced nor occurred, and upon information and belief, the prior owner/developer no longer owns nor has an interest in the subject property. Furthermore, neither the prior owner/developer, the current owner, nor the prospective purchaser have objected to termination of the Brownfield Plan.

Resolved, that the Rochester Hills City Council hereby terminates the Brownfield Plan previously approved on November 29, 2006 for the subject property.

PUBLIC COMMENT for Items not on the Agenda

Scot Beaton, 655 Bolinger Street, stated that instead of informing residents of who owns and controls the roads, it should tell residents that the roads can be fixed but it will cost the residents money. He noted that there is momentum in Washington to create new infrastructure, and there may be some opportunities to improve Adams Road. He suggested Council and the Administration look for a funding source for road improvements, and perhaps ask the residents whether they want to pay for the repairs.

Edward Capa, 270 Maple Hill, stated that he has had a problem on his property with water flow which has been worse since the construction of a new home next to his. He provided Council with photographs of the water problems he has been experiencing, and stated that the new driveway is too high channeling water onto his property. He commented that it was mentioned that a French Drain would be installed. He asked for Council's help in the matter.

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.

2018-0030 Approval of Minutes - City Council Regular Meeting - January 22, 2018

<u>Attachments:</u> <u>CC Min 012218.pdf</u> Resolution (Draft).pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0025-2018

Resolved, that the Minutes of a Rochester Hills City Council Regular Meeting held on January 22, 2018 be approved as presented.

Passed the Consent Agenda

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

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

LEGISLATIVE & ADMINISTRATIVE COMMENTS

Mr. Kubicina expressed his thanks to the Moceri family for their philanthropic activities in the area. He thanked Mr. Capa for coming this evening and noted that he distributed the photos he brought tonight to Council, Tim Pollizzi, Water Resources Coordinator, and Tim Hollis, Inspection Services Manager. He stated that a Civil Engineer was out at Mr. Capa's home last week with his plan to keep the water away from his house and the new homeowner is paying for a French Drain to be installed between the driveways that will address the problem. He mentioned that the homeowner has temporary permits and has more grading to do. He noted that he will be in contact with Mr. Capa in the spring once the grading is complete, and Mr. Pollizzi will need to visit after a major heavy rainfall.

Tim Hollis, Inspection Services Manager, stated that he has been to the site and knows that there is a history of water issues on the property. He commented that the Building Department believes that when the final grading is done on the new home it will address all Ordinance requirements. He noted that the ground is currently frozen and the homeowner next door intends to proceed with a target date of June 1.

Tim Pollizzi, Water Resources Coordinator, stated that the final grade will be reviewed for the property so both homes end up with a positive outcome.

Ms. McCardell echoed Mr. Kubicina's sentiment regarding the Moceri family's generosity. She stated that she is glad to see many of the City's business leaders give back to the community. She reported that she and Dr. Bowyer participated in a Women in Politics discussion panel at Oakland University last week, speaking with students about their experiences. She mentioned that she will have a coffee hour for residents that wish to speak with her on Saturday, February 24, 2018 at 9:00 a.m. at the Half Day Cafe on Walton Boulevard.

Vice President Morita thanked Mr. Kubicina, Mr. Deel, Dr. Bowyer and Mayor Barnett for attending the Avondale Youth Assistance appreciation dinner. She noted that the attendees heard from Auburn Hills Police Chief Doreen Olko on making a better community.

Dr. Bowyer expressed her thanks to the Moceri family for their donation to Innovation Hills. She stated that she enjoyed participating in the Women in Politics forum at Oakland University, and attending the Avondale Youth Assistance dinner. She announced the following:

The Green Schools program is ongoing and residents can donate their RecycleBank points to the schools between now and March 16, 2018.
The City will host a Community Blood Drive on February 28, 2018 from 10:00 a.m. to 4:00 p.m. - Outdoor Engagement activities are filling up fast. Maple Syrup Pancake Breakfast spots are still open on March 17, 2017 at 10:00 a.m. and 11:00 a.m. at the Museum. Fly Tying is scheduled for February 17, 2018. Programs on Bird Watching and an Antler Amble are available, with information on the Parks portion of the City's website.

Mr. Deel stated that it is fantastic to see private-public partnerships come together such as the Moceri family donation. He commented that he had a great time at the Avondale Youth Assistance banquet, and noted that in his profession in juvenile law he sees first hand what part youth assistance plays in helping youth in the community.

Mr. Hetrick commented that the Moceri family deserves thanks from everyone in the City. He stated that he sent a suggestion to Public Service Director Allan Schneck and Chief Financial Officer Joe Snyder on ways that the City might be able to fund road improvements in the future. He announced that he attended the Southeast Michigan Council of Government's (SEMCOG) meeting at the end of January at the Detroit Historical Museum, and noted that the Museum has a great SEMCOG 50th Anniversary Exhibit on display.

Mayor Barnett expressed his thanks to Mr. Kubicina for his leadership in addressing Mr. Capa's concerns. He noted that last Thursday the City announced the gift that the Moceri family was so generous to provide to the City. He commented that the Moceri family is wonderfully entrenched in the community with a history of charitable giving. He pointed out that not all of development for Innovation Hills has been funded as yet; and he explained that an announcement of the funding total will be made soon. He mentioned that the Children's Garden and Sensory Garden have been partially funded by Chief Financial Credit Union. He noted that funding for a 15-foot high treehouse has now been achieved, and he thanked the Moceris for their generosity. He expressed his appreciation to Council for their continued support of Innovation Hills.

He made the following announcements:

- Rochester Hills was represented by a large group at the Detroit Economic Club last week.

- Injured Oakland County Sheriff's Deputy David Hack has arrived at Craig Hospital in Colorado. The hospital specializes in major trauma and brain injuries. Mrs. Hack posts updates of his progress on Facebook. The City's Casual with a Cause fund raisers on Fridays in February raised \$800.00 for Deputy Hack.

- The Mayor's Office receives many inquiries as to when the roadway on Livernois will be fixed. The City has voiced its concern, and residents can register their own complaints with the Road Commission of Oakland County (RCOC). The RCOC is submitting a Federal Aid application to the Oakland County Federal Aid Committee to fund the repairs; and once funded, the City can look toward advance funding for a better solution. It most likely will not be a curb-to-curb renovation at this time.

President Tisdel stated that future infrastructure funding is a concern of Washington DC, and the City is fortunate to have Mayor Barnett on the U.S. Conference of Mayors. He noted that Mayor Barnett has been at the White House and in Washington DC many times where there have been discussions regarding infrastructure.

Mayor Barnett commented that his position on the U.S. Conference of Mayors allows him incredible access to great people. He noted that he has met with the President, Vice President, and others in Washington. He explained that the President proposes a \$1.7 trillion dollar plan, and calls for public/private partnerships and participation from local units. He pointed out that the City has been one of the communities who have been in a position to leverage funds from Oakland County. He mentioned that 2018 is a political year with mid-term elections, and it will be a challenge to get the necessary votes of support. He noted that the Conference is advocating that funds are distributed as quickly as possible to the cities; and he pointed out that President Obama's infrastructure plan distributed funding to the states and did not directly fund cities.

ATTORNEY'S REPORT

City Attorney John Staran had nothing to report.

NEW BUSINESS

2018-0020 Request for Purchase Authorization - MIS: Purchase Authorization of twenty-one (21) multi-function devices in the amount of \$117,159.00 and approval of a Blanket Purchase Order for a maintenance agreement in the amount of \$150,000.00 for a total amount of \$267,159.00 through April 1, 2023; Applied Imaging, Grand Rapids, Michigan

 Attachments:
 020518 Agenda Summary.pdf

 City Purchase Summary.pdf

 Farmington Hills Agenda Report CMR1978.pdf

 Farmington Hills CC-minutes 082817-Approved.pdf

 Farmington Hills Summary of Council Action 082817.pdf

 Resolution (Draft).pdf

Bob Grace, Information Systems Director, and **Kevin Krajewski**, Deputy Information Systems Director, were in attendance.

Mr. Grace stated that the City's copiers and multifunction printers are five years old and are showing signs of wear and tear. He noted that the maintenance contract on these machines expires in March of this year. He explained that bids were requested with vendors supplying information for both lease and purchase, and once reviewed it was determined that it would be advantageous for the City to purchase the equipment outright. He pointed out that the expected life span of these machines is five years; and as support is desired to cover this time period, a waiver is requested of the three-year requirement for long-term contracts.

Vice President Morita noted that she had some questions on this item that were answered by Chief Financial Officer Joe Snyder regarding how the purchase would be funded and if budget amendments would be necessary. **Mr. Grace** responded that funds were included in the 2018 Budget for leasing this equipment. He noted that once the proposals were reviewed with Mr. Snyder, it was determined that if approved this evening the purchase would be included in the 1st Quarter Budget Amendments to move monies from retained earnings to the appropriate areas.

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

Aye 7 - Bowyer, Deel, Hetrick, Kubicina, McCardell, Morita and Tisdel

Enactment No: RES0026-2018

Resolved, that the Rochester Hills City Council hereby waives under Section 2-273(b), the three-year requirement for long term contracts, under Section 2-281, which allows City Council the authority to waive any regulation or procedure pertaining to purchasing, deeming it to be in the best interest of the City.

Further Resolved, that the Rochester hills City Council hereby authorizes the purchase of twenty-one (21) multi-function devices in the amount of \$117,159.00 and a Blanket Purchase Order for the maintenance agreement for the multi-function devices in the amount of \$150,000.00 to Applied Imaging, Grand Rapids, Michigan through April 1, 2023 for a total amount of \$267,159.00 and further authorizes the Mayor to execute an agreement on behalf of the City.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

Regular Meeting - Monday, February 26, 2018 - 7:00 p.m.

ADJOURNMENT

There being no further business before Council, it was moved by Morita and seconded by Bowyer to adjourn the meeting at 9:54 p.m.

MARK A. TISDEL, President Rochester Hills City Council

LEANNE L. SCOTT, CMC, Deputy Clerk City of Rochester Hills MARY JO PACHLA, CMMC Administrative Coordinator-City Council City Clerk's Office

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