



# Rochester Hills

## Minutes - Draft

### Brownfield Redevelopment Authority

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

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Monday, September 16, 2019

7:00 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

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

## ROLL CALL

**Present** 7 - Mark Sera, Del Stanley, Thomas Turnbull, Robert Justin, Werner Richard Braun III, James Nachtman and Ryan Deel

Quorum present.

Also present: Sara Roediger, Director of Planning & Economic Dev.  
Joe Snyder, Director of Fiscal and Treasury  
Thomas Wackerman, ASTI Environmental  
Maureen Gentry, Recording Secretary

## APPROVAL OF MINUTES

[2019-0406](#) March 26, 2019 Special Meeting

**A motion was made by Nachtman, seconded by Deel, that this matter be Approved as Presented. The motion PASSED by an unanimous vote.**

## COMMUNICATIONS

*There were no Communications presented to the BRA members.*

## NEW BUSINESS

[2019-0136](#) Request for review and approval of the second reimbursement request associated with the costs for eligible activities completed for the Legacy of Rochester Hills (City File No. 17-043) brownfield cleanup, located at the northeast corner of Adams and Hamlin Roads, zoned by Consent Judgment, Parcel Nos. 15-29-101-022 and -023, LRH Applicant.

*(Reference: Memos, prepared by Sara Roediger, dated September 11, 2019 and Thomas Wackerman, dated August 6 and September 9, 2019, including the list of eligible expenses, and the Reimbursement Agreement and Brownfield Plan had been placed on file and by reference became part of the record thereof).*

*Present for the applicant was Kirstie Hardy from AKT Peerless, 22725 Orchard Lake Rd., Farmington, MI 48336.*

*Ms. Roediger outlined that the City had received a second request for reimbursement for the Legacy project. She recalled that the board had met back in March for their first request, and since then, there had been quite a bit of work done on the site. The second request was submitted on July 22, 2019 for a little over \$3.6 million for environmental cleanup. She noted that Thomas Wackerman from ASTI Environmental and Joe Snyder, the City's CFO were present. The first summer tax bill had been paid by the applicant, and she remarked that it was great to see improvement and progress on the property which had been sitting undeveloped for quite a long time. She had prepared a memo with a motion, but advised that there had been an inaccuracy in terms of the reimbursement, and she asked Mr. Wackerman to clarify.*

*Mr. Wackerman stated that in general, the request for reimbursement was consistent with Act 381, the City's policies, the Brownfield Plan and the Reimbursement Agreement. However, there were two areas for which he had requested additional information or recommended that they be made ineligible. He pointed out that his memo was simply a recommendation, and the BRA members had the final say on how to allocate the reimbursement dollars. The vast majority of the expenses, \$3,573,829.54, were eligible. They were expenses listed in the Plan that had been anticipated in the Reimbursement Agreement, and they were eligible under the Act. Of those, there was a subset of expenses for which he had requested additional documentation from AKT - proof of payment. In the previous request, that had not been done, and it slipped through. AKT provided a Waiver of Lien, which satisfied, and Mr. Staran reviewed and approved it as proof of payment. There was an amount of \$44,275.50, which Mr. Wackerman had listed as ineligible, and there were issues associated with expenses to date. The site was divided into two parcels: Parcel A, which was the development for the apartments, and Parcel B, which would retain the waste material in a capped and covered state. There had been some problems with Parcel B relative to the technology for the slurry wall, and they were looking at creating a solution. One of the concerns had always been that as the project progressed, and*

*all of the environmental work was done on Parcel A and the development was constructed, that there would be enough money in the Plan to complete the solution on Parcel B. That had been a major concern, and he had talked with the applicants about it.*

*Mr. Wackerman advised that the \$44,275.50 was for legal services associated with the Brownfield Plan. There were two reasons why he was recommending that it be ineligible. First, it was for a series of invoices where some of the work had been redacted, but the price had not changed. That made no sense to him, because only a portion of the line items were for work done. ACT 381 limited Brownfield Plan costs on a State level to \$30,000, and that had already been expended. He said that it led into the question about managing the money for both Parcels A and B. He referred to Table 2 in his memo, which was a summary of expenses to date. The total to date was \$4,322,816.85, which included the amount approved at the last meeting, and the amount he was recommending for approval. He pointed out the second to last column on the right. There were individual line items which were over budget. Overall, the project was not over budget, and he was not currently concerned. They were within the Brownfield Plan, and all of the expenses approved had been anticipated. Some of the items were largely over, such as \$103,000 and \$233,000. It was a total of \$427,000 over budget. They wanted to make sure that there was enough reimbursement in the Brownfield Plan to complete the remedy on Parcel B, which was critical to the Agreement. They could easily begin expending additional funds in other areas, and it would creep up on them. The funds were legitimate; they found additional waste material, which always happened in such cases. The fourth from the bottom line showed \$1.2 million in contingency, and they were not even into the contingency yet. He said that he would rather bring it up now than bring it up four times from now so that as they went along, they would be good stewards of the budget. He recommended that the motion be changed to not allow the \$44,275.50 as eligible. He advised that the applicant could resubmit, or the BRA could approve it, however.*

*Chairperson Justin said that the overages on project management and administration seemed high if they only planned \$25k. He wondered why it would go to \$128k so quickly, which was \$103k over budget.*

*Mr. Wackerman said that AKT would have to answer that. He warned that the allocation of expenses was somewhat loose. The City did not get a specific list of tasks; they got invoices and checks. There was a lot of need onsite to address issues as they arose. He was sure that was part of*

*the contingency, and it was not allocated to line items. They did get surprises with such projects, which took a lot of management. He asked Ms. Hardy to explain.*

*Ms. Hardy advised that she was the person who prepared the request. She said that Mr. Wackerman was right. They over exceeded the budget because of the extra unknowns that came up. The AKT Peerless invoices went through May of 2019. The invoices for environmental activity costs, the removal of the soil and the costs associated with disposal at the landfill were through 2018. There had been a little timing difference. The third request in the future would help explain the overage for project management.*

*Mr. Braun said that the other big thing that stood out was the \$233k that was over to import clean fill for land balancing. He asked if that was all related. Ms. Hardy agreed, and said that they dug out more than they had anticipated, and they then had to backfill more in the excavation areas.*

*Chairperson Justin asked if there were any other surprises likely to come up. Ms. Hardy said that Parcel A was cleaned, and they were working on vertical construction. Any unforeseen issues would be related with Parcel B. They were dealing with some current problems with the slurry wall. She did not have a technical update, but they were working with the contractor and their client to find a solution.*

*Mr. Wackerman said that they found additional materials by area D, and he asked if that had been remediated. He wondered if that was additional discovery that happened a few weeks ago. Ms. Hardy confirmed that it had been.*

*Chairperson Justin said that the dollars that had been consumed were through May of 2019, and the rest of the invoices went through December of 2018. He asked how many dollars had been expended since 2019. Ms. Hardy believed that it was \$6 million in total. Chairperson Justin said that left about \$2 million for the cleanup of Parcel B. Ms. Hardy agreed. He asked the budget for the cleanup of Parcel B. Ms. Hardy said that they anticipated that they would hit or come very close to the budget that had been approved in the Brownfield Plan when the project was completed. Mr. Braun reminded that was without surprises, and Ms. Hardy agreed, and said that current surprises had been accounted. Chairperson Justin asked what the largest expenditure would be for Parcel B. Ms. Hardy was not sure. They would put in the slurry wall and*

*cap it. Chairperson Justin asked if there would be anything else done on Parcel B, and Ms. Hardy advised that there would be ongoing, long-term monitoring for the system installed.*

*Mr. Wackerman said that he could provide an update on the slurry wall. He had been talking with Mr. Anthony at AKT. The original approach was to use a very long extending arm with rotating teeth. The problem was that the cobbles and the gravel on the site tore all the teeth off of the machine. It could not do what was intended. They were looking at an alternative of backhoe and application of something in smaller rises. They were in the process of putting together a modified work plan to address that, which he would get a chance to comment on. The big issue was how deep they could really go with a bucket as opposed to using the trenching tool they had out there. They had to go deep enough to tie it into the underlying clays. AKT was preparing that, and they should see something in a week or so.*

*Chairperson Justin asked if \$2 million seemed enough to cover what needed to be done on Parcel B. Mr. Wackerman felt that the issue was not just whether \$2 million was enough, but whether \$2 million in total, given what had already been expended, was enough. There had already been some expenses for Parcel B. In the Brownfield Plan was a summary of the original estimated cost. He could answer the question better once he knew what the new estimated cost for the slurry wall installation would be. He anticipated that it would be more expensive - there would be a lot more hand work and digging than if they used the trenching tool. It might not be, but he did not know yet.*

*Seeing no further discussion, Mr. Sera moved the following:*

***MOTION*** by Sera, seconded by Deel, in the matter of City File No. 17-043, the Brownfield Redevelopment Authority approves the reimbursement request #2 dated July 22, 2019 from AKT peerless on behalf of LRH Development, LLC for \$3,573,829.54 for the cost of eligible activities for the Legacy of Rochester Hills project as this portion of the request is in compliance with the approved Brownfield Plan, the Reimbursement Agreement, 1996 PA 381 (Act 381) at the time of the Brownfield Plan approval, the City's cost reimbursement procedures and generally accepted practices. Further, the Brownfield Redevelopment Authority approves the remaining \$44,275.50 pending receipt of the documentation with review and approval by City staff and consultants.

**A motion was made by Sera, seconded by Deel, that this matter be Approved. The motion PASSED by an unanimous vote.**

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

## **ANY OTHER BUSINESS**

2019-0410 Request for approval of the 2020 BRA Meeting Schedule

***MOTION** by Nachtman, seconded by Turnbull, the Brownfield Redevelopment Authority hereby approves the 2020 meeting schedule at its September 16, 2019 Special Meeting, consisting of four quarterly meetings to be held on January 16, 2020, April 16, 2020, July 16, 2020 and October 15, 2020, and acknowledges that Special Meetings may be scheduled throughout the year if necessary.*

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

## **NEXT MEETING DATE**

Chairperson Justin reminded that BRA members that the next Regular Meeting was scheduled for January 16, 2020 (subsequently cancelled).

## **ADJOURNMENT**

Hearing no further business to come before the Brownfield Redevelopment Authority, Chairperson Justin adjourned the Special Meeting at 7:20 p.m.

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Robert Justin, Chairperson  
Rochester Hills  
Brownfield Redevelopment Authority

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Maureen Gentry, Recording Secretary