



June 28, 2006

The Honorable Bryan K. Barnett
Mayor of the City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, Michigan 48309-3033

John P. McCulloch
DRAIN COMMISSIONER
OAKLAND COUNTY

Kevin R. Larsen
CHIEF DEPUTY
DRAIN COMMISSIONER

Re: Discussion about public financing of the environmental redevelopment of the Madison Park project in Rochester Hills

Dear Mayor Barnett:

Thank you for your letter of June 16, 2006, in which you asked several questions relating to the Oakland County Drain Commissioner's ("OCDC") proposed support for public financing of the environmental redevelopment of the Madison Park project through Chapter 20 drain bonds. We appreciate how important this project is to the City of Rochester Hills and look forward to working together to address the environmental protection of the Clinton River Watershed and the support of important new investments within Oakland County. We have prepared responses to your questions and, for ease of reference, your questions are reproduced in bold face type below, with responses immediately following each question.

- 1. Is the Chapter Twenty process, if utilized, contingent on the Oakland County Brownfield Redevelopment Authority (OCBRA) reviewing and approving separate plans? What is the process for adopting or incorporating the plans currently approved by the City regarding Tax Increment Financing and remediation of this site?**

If this project utilizes Chapter 20 of the Drain Code to bond the remediation of the site, there is no requirement that the OCBRA be utilized in lieu of the Rochester Hills Brownfield Authority. However, because the project involves remediation of a brownfield, a Brownfield Redevelopment Authority, whether it is the county's or the city's, will be required to review and approve plans for the remediation.

If the OCBRA is asked to move forward on this project Oakland County will require that the city's brownfield plan be amended under a process with the OCBRA (see attachment A).

The OCBRA will review and recommend changes as necessary in accordance with its procedures for approving brownfield redevelopment plans.



- 2. If so, where in the review process is the City involved in concurring resolutions, review of the remediation and reimbursement agreement, and to what extent can the proposed remediation be modified or materially changed without the City's approval?**

If Rochester Hills requests the OCBRA to proceed, the city still will be involved with the project in a number of ways. First, as is with all cases, the OCBRA requires the establishment of a "local host committee." This committee consists of at least one elected official from the city along with at least one member from the OCBRA. The primary purpose of the committee is to meet and discuss any issues concerning the brownfield plan.

Second, it is important that we obtain staff concurrence and recommendation for support when any approval is requested from city council. Recognizing that final approval rests with the city council (via concurrence in the brownfield plan amendment and the Development and Reimbursement Agreement (DAR)) we recognize that what is produced must be prepared consistent with city objectives. Accordingly, the OCBRA requests that the local unit of government pass a resolution requesting OCBRA to adopt a plan amendment.

- 3. Also, the original proposal regarding OCDC's involvement did not include the County's Brownfield Authority. Why is it necessary or why is it preferred over the City's Brownfield Authority since the bonding will be through the OCDC for the proposed remediation?**

While the initial discussion of utilizing the Chapter 20 to bond the remediation of the site did not include the OCBRA, the recommendation to transfer jurisdiction from the city's Brownfield Redevelopment Authority to the OCBRA was the result of informal discussions between me and the city's staff. I was asked to explore whether Oakland County would be interested in assuming jurisdiction over the project. Oakland County is willing to assume jurisdiction subject to the procedures set forth above.

- 4. If OCDC bonds for the project, will they be responsible for bidding the project and serve as the authority responsible for review of the work site? Will OCDC replace REI as the on-site manager of the remediation project and be responsible to insure the work is conducted in accordance with and completed with approved Due Care Plans?**

It should be clarified that it is not the Oakland County Drain Commissioner's office that will bond for the project. Any bonding will follow the Chapter 20 process and will therefore be backed by the full faith and credit of Oakland County. The drain district created under Chapter 20 will administer the project along with all bond and financing requirements including the State Revolving Fund (SRF) bidding process.

We have been engaged in discussions with the staff from the Michigan Department of Environmental Quality (MDEQ) to ensure compliance with SRF conditions. These discussions also were intended to establish the amount of SRF funding. The Brownfield Redevelopment Authority

(either the city's or the county's, as applicable) would administer all funds, and, by contract under a DAR, would ensure that the developer properly documents all requests for reimbursement. The terms of the DAR will govern the standards and conditions that the developer must meet in order to receive any reimbursement. Therefore, if the OCBRA is involved, the city would only be required to administratively ensure tax revenues are properly collected and forwarded to the OCBRA, otherwise, the city's Brownfield Redevelopment Authority will administer the funds and the project. By contract through the DAR, the developer will be responsible for all work on site and will be asked to indemnify both the city and the county for any work performed on site.

We expect MDEQ will remain involved to confirm that the developer's due care obligations are properly met. Under the approved Public Act 381 work plan, all responsibility and liability for the remedy and development will be solely the developers.

5. If drain bonds are issued, how will the City be assured that if there is not sufficient TIF generated from the subject site that the City would not be responsible at any point in the future for repayment of the bonds. How will this be accomplished?

As a binding condition of the DAR, the developer would cover any shortfall in tax increment revenues required to pay the bond debt. The DAR must be executed before Oakland County will approve the sale of any bonds (either State Revolving Fund or Chapter 20). The OCDC will support a specific provision in the DAR acceptable to the city providing the city with the assurances that the city requires on this point.

6. Has OCDC been in contact or held meetings with the DEQ regarding this proposal? Does the DEQ feel that the proposed process is acceptable to ensure that school tax capture and proposed repayment of interest will be approved?

We have been in contact with the MDEQ and we understand that, with a properly designed methane gas management system, appropriate leachate control and a secure final cap, that the MDEQ is expected to approve a Public Act 381 work plan that includes payment of interest using school taxes. No bonds will be sold until such a plan is approved by the MDEQ.

7. The City's Consent Agreement with REI discusses a proposed Covenant Not to Sue between REI and the DEQ, will the County now be a party to this agreement?

If required by the MDEQ, both the drainage district created to administer the project, and the OCDC would be a party to the covenant not to sue. As evidence of its agreement to provide long-term operation and maintenance, and to facilitate the cleanup and provide for related Clinton River Watershed benefits, the OCDC has offered to assume certain long-term operation and maintenance obligations related to the methane gas management system and the leachate collection and management system. Those costs could be paid by TIF, with any shortfall paid by the developer of the project. The financing proposed by Oakland County, with no financial risk to the city, also would

appear to satisfy the city's obligations to assist the developer in securing public financing as set forth in the consent agreement.

8. What assurances would be put in place that the work is completed and should the worst-case scenario happen that the developer couldn't complete the work for whatever reason?

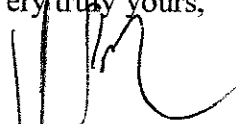
The DAR provides a vehicle to secure commitments from the developer, which are anticipated to include completion and performance bonds. More importantly, the developer has indicated he cannot move forward until the bonds are sold and other MDEQ funding sources are secured. Given that the Public Act 381 work plan, and related activities, will be defined and the work will be subject to a public bidding process, the total cost will be known before the work is begun. We expect that the required work will be fully financed before it is begun. That provides us with the confidence that the work will not stop after partial completion.

9. What role does the OCDC envision for the City in terms of coordination and communication regarding reviewing and commenting on plans, monitoring the work, and general involvement?

We expect the city to be involved in the Brownfield Plan amendment process. The city will be asked to formally concur in the Brownfield Plan amendment before the Public Act 381 work plan can be formally approved by the MDEQ. We also expect that the city will negotiate with the OCDC and the developer to reach acceptable terms for the DAR before it is approved by the city council. Once these documents are approved, the OCDC will sell the bonds and the OCBRA (or the City Brownfield Redevelopment Authority if it chooses to remain involved instead of the OCBRA) will administer the reimbursement payment process. The developer will conduct the cleanup in accordance with the MDEQ-approved work plan. Other development activities will be conducted by the developer subject to normal site plan and building permit requirements. The city would not be required to engage in any activities to monitor or ensure that the remedial work is properly performed. However, the developer, the contractor(s) and the OCDC staff would provide oversight and establish communication and response plans with city emergency service providers in order to ensure proper coordination of these activities.

I hope this letter adequately responds to your questions. I look forward to working with city officials to facilitate this important redevelopment project. I know it will have a lasting benefit for the Clinton River Watershed and for the entire region. After you have had a chance to review this matter, please contact me so I can better understand the city's timing requirement for providing the necessary resolution and petition.

Very truly yours,



John P. McCulloch

ATTACHMENT A
Madison Park Brownfield Plan Process

