



Rochester Hills Minutes City Council

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*John L. Dalton, Bryan K. Barnett, Jim Duistermars, Melinda Hill,
Barbara L. Holder, Linda Raschke, Gerald Robbins*

Wednesday, February 18, 2004

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:37 p.m. Michigan Time.

ROLL CALL

Present: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Others Present:

*Pat Somerville, Mayor
Larry Ternan, City Attorney
Bev Jasinski, City Clerk
Ed Anzek, Director of Planning/Development
Scott Cope, Director of Building/Ordinance Enforcement
Paul Davis, City Engineer
Derek Delacourt, Planner II
Deb Millhouse, Deputy Director of Planning/Development
Roger Rousse, Director of DPS/Engineering
John Sage, Ordinance Inspector*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion was made by Council Member Robbins, seconded by Council Member Duistermars, to Approve Agenda as Amended.

Moved the following items up on the Agenda:

- * 2004-0077 Purchase Authorization: DPS Underground Utility Repairs and Related Work Services**
- * 2004-0116 Purchase Authorization: BUI No-Haz Program Agreement**
- * 2004-0073 Purchase Authorization: DPS GPS Data Collection Unit**

Omissions from Packet:

- * 2004-0070 PLA Rezoning Request - Exhibit C**
- * 2004-0116 BUI No-Haz Interlocal Agreement**

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

PUBLIC COMMENT

Mr. Lee Zendel, 1575 Dutton Road, referred to the five (5%) percent of all residents' Comcast and WOW cable bills that is paid to the City as a "stealth tax." He suggested that, since the residents will not approve any tax increases, Council should use this same "stealth tax" method when implementing the proposed single waste hauler

program for the City.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

President Dalton announced that the American Red Cross is experiencing a blood shortage and encouraged everyone to give blood.

Mayor Somerville noted that the food drive is continuing and encouraged everyone donate.

Mr. Barnett encouraged residents to get involved in all the activities sponsored by RARA.

Ms. Holder announced that the Rochester Professional Fire Fighters is having a Vegas Night, Saturday, March 6th from 6:00 p.m. to 11:00 p.m. to benefit the Muscular Dystrophy Association.

ATTORNEY MATTERS

Mr. Staran had nothing to report.

RECOGNITIONS

2004-0109 2003 Earl Borden Award Presentation - to Sharon Hatfield for historic preservation at 3030 Crooks Road

Attachments: Master Report.pdf; Agenda Summary.pdf

Mr. Mike Kilpatrick, Chairperson of the Historic Districts Committee, and Mayor Pat Somerville presented an award on behalf of the Historic Districts Committee to Ms. Sharon Bates in recognition of her efforts to improve her historic home located at 3030 Crooks Road.

Presented

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.

2004-0060 Request for Purchase Authorization - DPS: Lawn maintenance and weed mowing services for right-of-way and detention basin mowing, blanket purchase order not-to-exceed \$65,200.00; Kleen Kut, Washington, Michigan

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, sealed bids for lawn maintenance and weed mowing were solicited and awarded to Kleen Kut, the sole vendor; and

Whereas, the contract with Kleen Kut offers value to the City through price and the quality of service; and

Whereas, the City wishes to exercise its option to renew through February 28, 2005;

Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Kleen Kut, of Washington, Michigan, for the purchase of lawn maintenance and weed mowing services, in the amount not-to-exceed \$65,200.00 through February 28, 2005.

Enactment No: RES0021-2004

2004-0064

Request for Purchase Authorization: BUI: Weed Mowing & Lawn Maintenance Services, Blanket Purchase Order not to exceed \$60,000.00; Kleen Kut, Inc., Washington, MI

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, sealed bids for weed control and lawn maintenance services were solicited and awarded to Kleen Kut, and

Whereas, the City wishes to exercise its option to renew,

Now Therefore Be It Resolved that the Rochester Hills City Council authorizes the issuance of a Blanket Purchase order to Kleen Kut of Washington, MI for lawn maintenance and weed mowing services in the amount not to exceed \$60,000.00 through February 28, 2005.

Enactment No: RES0022-2004

2004-0066

Request for Purchase Authorization - DPS/FACILITIES: Janitorial Supplies, increase existing Blanket Purchase Order in the amount of \$8,000.00 to a new not-to-exceed total of \$53,000.00; Supply Pro, Flint, MI

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved, that the Rochester Hills City Council hereby approves an increase to existing \$45,000.00 Blanket Purchase Order to Supply Pro, Flint, MI for Janitorial Supplies in the amount of \$8,000.00, resulting in an amended amount not-to-exceed \$53,000.00, to expire on April 1, 2004, as the lowest, responsive, responsible bidder.

Enactment No: RES0023-2004

2004-0067

Request for Purchase Authorization - DPS/FACILITIES; Temporary Custodial Services, increase Blanket Purchase Order in the amount of \$10,000.00 for a new not-to-exceed total of \$35,000.00; Road Runr Maintenance, Pontiac, MI

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby authorizes an increase to Blanket Purchase Order to Road Runr Maintenance, of Pontiac, MI, as the lowest, responsive, responsible bidder for the purchase of Temporary Custodial Services; increase existing \$25,000.00 Blanket by an additional \$10,000.00, resulting in the amended amount not-to-exceed \$35,000.00 and to extend the expiration date for an additional 3-months to expire on June 1, 2004.

Enactment No: RES0024-2004

2004-0082

Request for Purchase Authorization - CLE: Postage permit for First Class and

Bulk Mail, Blanket Purchase Order in the amount not to exceed \$50,000.00; Postmaster, Rochester Post Office, Rochester, Michigan.

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby authorizes a blanket purchase order to the Postmaster-Rochester, Rochester, Michigan for Permit 1041, First Class presort and Permit 136, Standard/bulk presort postage in the amount not-to-exceed \$50,000.00 through December 31, 2004.

Enactment No: RES0025-2004

2004-0084

Request for Purchase Authorization - CLE: Postage by Phone, Blanket Purchase Order in the amount not-to-exceed \$50,000.00; Pitney Bowes, Louisville, KY.

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, the City of Rochester Hills leases Pitney Bowes postage equipment,

Resolved that the Rochester Hills City Council authorizes a blanket purchase order to Pitney Bowes, Inc. - Postage by Phone for metered postage in the amount not-to-exceed \$50,000.00 through December 31, 2004.

Enactment No: RES0026-2004

2004-0112

Request for Purchase Authorization - BUI: 2004/2005 Plan Review Services, blanket purchase order not to exceed \$70,000.00; Code Source PC, Grandville, MI/ICC, Country Club Hills, IL

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, requests for proposals were solicited for plan review services and two vendors were selected as the most efficient and cost effective as well as meeting the criteria in the RFP, and

Whereas, both vendors will be utilized based on need and availability and

Resolved, the Rochester Hills City Council authorize a blanket purchase order for plan review services to Code Source PC as primary vendor, and ICC as secondary vendor, in the total not to exceed amount of \$70,000.00 through December 31, 2005.

Enactment No: RES0027-2004

2004-0080

Acceptance of Sanitary Sewer Easement conveyed to the City of Rochester Hills by Meadowbrook Associates

Attachments: Master Report.pdf; Agenda Summary.pdf; Easement.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Sanitary easement granted by Meadowbrook Associates, a Michigan co-partnership, of 2690 Crooks Road, Suite 400, Troy, Michigan 48084 for the construction, operation, maintenance, repair and/or replacement of a

sanitary sewer over, on, under, through and across land more particularly described as Parcel No 15-08-351-005.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0028-2004

2004-0090

Acceptance of Watermain Easement granted by Selective - Delaware, L.L.C. a limited liability company for Country Club Village

Attachments: Master Report.pdf; Agenda Summary.pdf; Easement.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts an easement granted by Delaware, L.L.C., a Delaware limited liability company, of 100 Galleria Officentre, Suite 200, Southfield, Michigan 48034, for the construction, operation, maintenance, repair and/or replacement of a watermain over, on, under, through and across land more particularly described as Parcel No. 15-35-203-001.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0029-2004

2004-0091

Acceptance of Sanitary Sewer Easement granted by Selective Delaware, L.L.C., a Delaware limited liability company for Country Club Village

Attachments: Master Report.pdf; Agenda Summary.pdf; Sanitary Sewer Easement.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts an easement granted by Selective - Delaware, L.L.C., a Delaware limited liability company, of 100 Galleria Officentre, Suite 200, Southfield, MI 48034, for the construction, operation, maintenance, repair and/or replacement of a sanitary sewer over, on, under, through and across land more particularly described as Parcel No 15-35-203-001.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0030-2004

2004-0102

Acceptance of Warranty Deed granted by Selective - Delaware, L.L.C., a Delaware limited liability company for Country Club Village

Attachments: Master Report.pdf; Agenda Summary.pdf; Warranty Deed.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Warranty Deed granted by Selective - Delaware, L.L.C., a Delaware limited liability company, 100 Galleria Officentre, Suite 200, Southfield, Michigan 48034, to the City of Rochester Hills, 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309, particularly described as Parcel No 15-35-203-001.

Further Resolved that the City Clerk is directed to record the Warranty Deed with

the Oakland County Register of Deeds.

Enactment No: RES0031-2004

2004-0103

Approval of Agreement for Maintenance of Storm Water Detention System between Selective - Delaware, L.L.C., a Delaware limited liability company and the City of Rochester Hills

Attachments: Master Report.pdf; Agenda Summary.pdf; Agreement.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, that on behalf of the City of Rochester Hills , the Rochester Hills City Council hereby approves the Agreement for the Maintenance of the Storm Water Detention System between the City of Rochester Hills and Selective - Delaware, L.L.C., a Delaware limited liability company, of 100 Galleria, Officentre, Suite 200, Southfield, Michigan 48034 affecting property identified as 15-35-203-001.

Now Therefore Be it that the Mayor and City Clerk are authorized to execute and deliver the agreement on behalf of the City.

Enactment No: RES0032-2004

2004-0081

Adoption of Michigan Department of Transportation Performance and Indemnification Resolution for 2004 to perform various maintenance activities within roads under MDOT's jurisdiction

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved Whereas, the City of Rochester Hills hereinafter referred to as the "GOVERNMENTAL BODY" periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT" for permits, hereinafter referred to as "PERMIT," to construct, operate, use and /or maintain utility or other facilities, or to conduct other activities, on, over, and under State trunkline right of way at various locations within and adjacent to its corporate limits;

Now therefore, in consideration of the DEPARTMENT granting such PERMIT the GOVERNMENTAL BODY agrees that:

1. It will fulfill all permit requirements and will indemnify, save harmless, represent and defend the State of Michigan, Michigan Transportation Commission, and the DEPARTMENT and all officers, agents, employees and those contracting governmental bodies performing permit activities for the DEPARTMENT according to a maintenance contract:

a. from any and all claims and losses occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies to the GOVERNMENTAL BODY as the result of the GOVERNMENTAL BODY's installation, construction, operation, or maintenance activities which are being performed under the terms of the PERMIT on, over, and/or under the State trunkline right of way; and

b. from any and all claims of every kind of injuries to, or death of, any and all persons, and for loss of or damage to property, and environmental damage or degradation, and from attorney's fees and related costs arising out of, under, or by reason of the GOVERNMENTAL BODY's installation, construction, operation or maintenance activities which are being performed under the terms of the PERMIT

on, over, and/or under the state trunkline right of way, except claims resulting from the direct negligence or willful acts of omissions of said DEPARTMENT performing permit activities.

c. from any and all claims made by any and all persons, firms, or corporations furnishing or supplying materials, supplies, work, or services on, over, and/or under the State trunkline right of way pursuant to an agreement with the State of Michigan, the DEPARTMENT and/or the Michigan Transportation Commission, as a result of the GOVERNMENTAL BODY's failure to move or otherwise relocate its facilities in a timely manner after being requested to do so by the DEPARTMENT.

2. Any work performed for the GOVERNMENTAL BODY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL BODY and not as a contractor or agent of the DEPARTMENT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL BODY. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL BODY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT.

3. The GOVERNMENTAL BODY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

4. It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation, construction, operation and/or maintenance of the GOVERNMENTAL BODY's facilities according to a PERMIT issued by the DEPARTMENT.

5. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL BODY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

6. The incorporation by the DEPARTMENT of this indemnification resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

7. This indemnification resolution shall continue in force from this date until cancelled by the GOVERNMENTAL BODY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL BODY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

Be It Further Resolved, that the following position(s) are authorized to apply to the Michigan Department of Transportation for the necessary permit to work within State trunkline right of way on behalf of the GOVERNMENTAL BODY.

Paul M. Davis, P.E. - City Engineer
Paul Shumejko, P.E. - City Transportation Engineer

Enactment No: RES0033-2004

2004-0083

Authorization to participate in the 2004 Tri-Party Program for road improvement funding with Oakland County

Attachments: Master Report.pdf; Agenda Summary.pdf; OCRC Program Information.pdf

This matter was Adopted by Resolution.

Whereas, the City of Rochester Hills has previously participated in the Tri-Party Program with the Oakland County Board of Commissioners and the Road Commission for Oakland County for road improvement projects, and

Whereas, the City desires to continue this joint participation for the 2004 fiscal year with the intent to undertake a road improvement project on Tienken Road, Livernois to Rochester Road, and

Resolved that the City of Rochester Hills agrees to participate in the proposed fiscal year 2004 Tri-Party program. The City's contribution shall equal \$104,116.00 toward the total proposed program allotment of \$312,347.00.

The motion carried.

Enactment No: RES0047-2004

2004-0105

Approval of Mechanical and Electronic Amusement Device License for Tappers Pub to be located at 877 E Auburn Rd

Attachments: Master Report.pdf; Agenda Summary.pdf; Application, Kott.pdf; Application, Union Music.pdf; Payment Receipt.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, the applicant known as Tappers Pub (James Kott, Owner) has applied for a Mechanical Amusement Device License, has met the criteria for the license pursuant to Chapter 10, Amusements/Entertainment and is in compliance with Chapter 138, Zoning Ordinance of the City of Rochester Hills Code of Ordinance;

Resolved that the Rochester Hills City Council hereby approves the Mechanical Amusement Device License as requested by James Kott, Owner, Tappers Pub; located at 877 E Auburn Rd in accordance with Chapter 138, Zoning Ordinance of the Code of Ordinances of the City of Rochester Hills

Be It Further Resolved, that the City Clerk is authorized to issue the license.

Enactment No: RES0034-2004

2004-0128

Adoption of Resolution to change location of Wednesday, February 25, 2004 City Council Work Session to the Dairy Barns at the Rochester Hills Museum at Van Hoosen Farms

Attachments: Master Report.pdf; Agenda Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby agrees to change its Regular Work Session scheduled for Wednesday, February 25, 2004 at 7:30 pm from the Rochester Hills City Municipal Offices located at 1000 Rochester Hills Drive, Rochester Hills, MI to the Dairy Barns at the Rochester Hills Museum at Van Hoosen Farms, 1005 Van Hoosen Road, Rochester Hills, MI

Further Resolved that the City Clerk shall provide proper notice of the Meeting Schedule change pursuant to 15.265, Section 5(3) of the Michigan Open Meetings Act, Public Act No. 267 of 1976 as amended.

Enactment No: RES0035-2004

Passed The Consent Agenda

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

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

2004-0097

Request for Purchase Authorization: DPS/Facilities: Two (2) digital copy machines and five (5) digital printer/copy machines, Purchase Order not-to-exceed \$72,033.42; Albin Business Centers, Farmington, MI

Attachments: Agenda Summary.pdf; Replacement Schedule.pdf; Memo J. Farris 20040220.pdf; Memo K. Krajewski 20040220.pdf; 2004-0097 Master Report 2.pdf

Council members questioned whether these purchases were necessary.

Mr. Rouse explained that, while the current copy machines scheduled for replacement were still serviceable, the frequency of failures and need for service was increasing. As the machines age, the maintenance costs increase. Mr. Rouse suggested that the matter be postponed and he would return before Council with a more detailed explanation as to the need for these new machines.

A motion was made by Council Member Barnett, seconded by Council Vice President Holder, that this matter be Postponed by Resolution. Postponed to await detailed information regarding the uses and needs for these machines.

Resolved, that the Rochester Hills City Council hereby Postpones approval of a purchase order to Albin Business Centers, Farmington, Michigan for two digital copy machines and five digital printer/copier machines with fax capabilities in the amount of \$72,033.42 from the Tri-County Purchasing Cooperative.

Be It Further Resolved that the DPS/Facilities Department return to City Council with clarification of the need for this equipment request.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Holder, Raschke and Robbins

Nay: Hill

Enactment No: RES0069-2004

2004-0110

Request for Purchase Authorization - PLA: Professional Services for preparation of construction and specification documents for Gateways Project,

blanket purchase order not to exceed \$48,750.00; Donald C. Westphal Associates, LLC, Rochester Hills, MI

Attachments: Master Report.pdf; Agenda Summary.pdf; Contract.pdf

Mr. Lee Zendel, 1575 Dutton Road, asked how much money the City had spent on this project to date.

Mr. Tom Stevenson, 708 Riverbend Drive, suggested that this project was not necessary, especially in light of the problems the City is facing such as needed road improvements and a lack of sufficient police protection.

Mr. Ed Anzek, Director of Planning/Development, noted that the City had spent approximately \$47,000 during the development phase of this project and was likely to spend approximately \$48,000 for the second phase.

A motion was made by Council Member Barnett, seconded by Council Member Hill, that this matter be Adopted by Resolution.

Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Donald C. Westphal, of Rochester Hills, MI, for the purchase of professional services for the preparation of construction documents and specifications for the gateway project, in the amount not-to-exceed \$48,750.00 through December 31, 2004.

Further Resolved that the Mayor and the City Clerk are authorized to execute the contract on behalf of the City.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill and Raschke

Nay: Holder and Robbins

Enactment No: RES0036-2004

NEW BUSINESS

2004-0077

Request for Purchase Authorization: DPS/Engineering: Public Underground Utility Repairs and/or Related Work Services, blanket purchase order not-to-exceed \$145,000.00; Man-Con Michigan, Inc., Shelby Township, MI

Attachments: Master Report.pdf; Agenda Summary.pdf; Communication, Shelby Township.pdf

Mr. Rousse, Director of DPS/Engineering, explained these construction services provide backup when City crews are unavailable for certain work that needs to be completed or if the work requires equipment that the City would have to rent. He noted that the service has been worthwhile at very competitive costs.

A motion was made by Council Member Robbins, seconded by Council Member Barnett, that this matter be Adopted by Resolution.

Whereas, in January, 2002, City Council awarded a contract for Public Underground Utility Repairs and/or Related Work Services to Man-Con Michigan, Inc., as the lowest responsive, responsible bidder for a period of one (1) year with the option to renew for an additional two (2) years; and

Whereas, on February 5, 2003, City Council approved the first year of that option to renew and extended the Man-Con Michigan, Inc., contract agreement on behalf of the City.

Resolved, that the Rochester Hills City Council authorize a Blanket Purchase Order exercising the option to renew for an additional year as set forth in the contract between the City of Rochester Hills and Man-Con Michigan, Inc. of Shelby Township, Michigan for the Public Underground Utility Repairs and/or Related Work Services in the not-to-exceed amount of \$145,000.00 and to authorize the Mayor and Clerk to execute the extended contract agreement on behalf of the City.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0037-2004

2004-0116

Request for Purchase Authorization - BUI: North Oakland County Household Hazardous Waste Program, blanket purchase order not-to-exceed \$35,000.00; Oakland County, MI

Attachments: Master Report.pdf; Agenda Summary.pdf; Agreement1.pdf; Cost Comp/recommendations.pdf; Program Costs 2004.pdf; Program Costs 2003 and Collection Report.pdf; Collection Schedule 2004.pdf; Event Schedule.pdf; Members.pdf

Mr. Scott Cope, Director of Building/Ordinance Enforcement, introduced John Sage, Ordinance Inspector and representative of the City to the North Oakland County Hazardous Household Waste Program (NO-Haz). Mr. Cope explained that Mr. Sage would be updating the Council on the program's progress in 2003 and participation for 2004.

Mr. Sage, stressing that this program is the "only real viable alternative for residents of Rochester Hills and Oakland County to dispose of their household hazardous waste in a proper manner," noted the following aspects of the NO-Haz program for the year 2003:

- * While the budget for 2003 was \$46,066, the total actual cost of the program was \$32,422.*
- * Per unit/car disposal costs were \$100.06.*
- * Rochester Hill's contributed the second largest amount of waste to the program, as it is the second largest community participating.*
- * Of the more than 94,000 pounds of waste collected by the program, Rochester Hills residents contributed approximately 18,800 pounds of that total amount.*

Mr. Sage discussed the agreement and anticipated participation for 2004:

- * Contract switched from Clean Harbor to Environmental Recycling Technical Services.*
- * Rate per car decreased from \$35 to \$30.*
- * Maximum amount of waste per unit/car increased from 50 pounds to 70 pounds.*
- * Collection schedule has been reduced from seven (7) events to six (6) events: four (4) in the spring and two (2) in the fall.*
- * To date, fourteen (14) communities have committed to the program for 2004.*
- * Total cost for Rochester Hills' participation is estimated to be \$32,205.*
- * Anticipate an increase in participation of 528 units/cars from the 324 cars in 2003.*
- * \$35,000 for 2004 equates to \$66.28 per car/unit.*

Mr. Barnett expressed his pleasure that the program had successfully dealt with approximately 18,800 pounds of hazardous waste. He voiced his support to continue with the program at least through 2004.

A motion was made by Council Member Barnett, seconded by Council Member Robbins, that this matter be Adopted by Resolution.

Whereas, the Rochester Hills City Council recognizes the continual need and is committed to the protection of the natural environment and the prevention of toxic materials from entering our waterways and landfills; and

Whereas, a No-Haz Inter-local Agreement has been drafted setting forth the administrative duties and obligations of the County, participating communities and the City of Rochester Hills under the No-Haz program.

Now Therefore It Be Resolved that the Rochester Hills City Council hereby approves the attached Inter-local Agreement and authorizes the Mayor to execute it.

Be It Further Resolved that the Rochester Hills City Council authorizes a blanket purchase order to Oakland County in the amount not-to-exceed \$35,000.00 for administration and collection costs of participation in the household hazardous waste program.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0038-2004

2004-0073

Request for Purchase Authorization: Mobile Global Position Satellite (GPS) Data Collection Unit for City Traffic Operations, Purchase Order in the amount of \$3,845.00; Environmental Systems Research Institute, Inc., Redlands, CA

Attachments: Master Report.pdf; Agenda Summary.pdf; Tabulation.pdf; Product Information.pdf

Mr. Roger Rousse, Director of DPS/Engineering, explained that these labor saving devices are used to collect GIS data for infrastructure management programs. To inquiries by Mr. Barnett and President Dalton, Mr. Rousse explained that the two (2) devices currently in use are ten (10) years old. He noted that these new devices are state-of-the-art and are expected to last another ten (10) years. He explained that he considers these two (2) requested devices a "test case," with the anticipation that, if successful, more of these devices will be purchased in the future.

A motion was made by Council Member Robbins, seconded by Council Member Duistermars, that this matter be Adopted by Resolution.

Resolve, that the Rochester Hills City Council awards the bid for a Mobile Global Position Satellite (GPS) Data Collection Unit for the management of the City's traffic operations to Environmental Systems Research Institute, Inc. as the lowest responsive, responsible bidder in the amount of \$3,845.00.

The motion carried by the following vote:

Aye: Duistermars, Hill, Holder, Raschke and Robbins

Nay: Dalton and Barnett

Enactment No: RES0040-2004

2004-0124

Approval of Road Improvement Agreement made by and among Curtis Properties (Curtis Properties) Group, L.L.C., Tienken Partners, LLC, (Tienken Partners) and the City of Rochester Hills as a condition of approval of the Papa Joe's Planned Unit Development and the City Walk Planned Unit Development

Attachments: Agenda Summary.pdf; TIENKEN-REZONING - Road Agreement (00196148[2].pdf; 2004-0124 Master Report.pdf

and cannot be approved until the respective PUD agreements are approved.

Mr. Ed Anzek, Director of Planning/Development, indicated that the next six (6) agenda items are inner-related and explained the order in which they would be presented to Council. He noted that the road improvement agreement would be handled jointly by the two applicants, Curtis Properties and Tienken Partners.

Mr. John Gaber of Williams, Williams, Ruby & Plunkett, 380 North Old Woodward Avenue, Birmingham, identified himself as representing Tienken Partners (the City Walk development); Mr. Joseph Galvin of Miller, Canfield, Paddock and Stone, PLC, 150 West Jefferson, Detroit, identified himself as representing Curtis Properties (the Papa Joe's development); Mr. Michael Labadie, Traffic Engineer from Tetra Tech MPS, 26600 Telegraph Road, Southfield, identified himself as the traffic consultant representing both parties.

Mr. Labadie explained that all of the road improvements outlined in the agreement will be funded by the two (2) applicants. He then presented a brief overview of the proposed improvements, which included the following:

- * A right-turn lane on Rochester Road for north bound right turns.
- * East and west bound Tienken will have dual left turn lanes.
- * East and west bound Tienken will have a through lane and a through right turn lane on each approach to allow significantly more capacity to the intersection.
- * The center lane for left turns will be extended to accommodate the driveways, with appropriate tapers on either end to allow transition from the two lanes back to one lane east and west of both developments.
- * Significant changes in the signal timing phasing.

Mr. Labadie described the road improvements as "fairly significant and expensive," and estimated that they would cost between \$800,000 and \$1 million. He assured Council that concerns regarding such issues as taper lanes and the preservation of two oak trees will be addressed in the final road improvement agreement.

Mr. Paul Davis, City Engineer, stressed that these plans are very preliminary and this portion of Rochester Road is under the jurisdiction of MDOT. Thus, any decision must still be approved by that body. The intent is only to agree to move forward with the road agreement. He noted that prior to the issuance of final permits by MDOT and the Oakland County Road Commission, other plan changes may be mandated. Mr. Davis assured Council that the resolution states that the City Engineer will be involved in this process until completion, thus maintaining a certain level of control. Mr. Davis also stressed that, with the implementation of the proposed changes, road conditions would "still be lousy" but they would be slightly better and will not be made worse. He acknowledged that there are existing traffic problems in this area that are beyond the scope of the applicants, and he noted that it cannot be predicted how these changes will impact areas beyond that which was specifically studied in the traffic model. In response to specific concerns raised by Ms. Hill, Mr. Davis further noted that the proposed resolution mandates the involvement of the City Engineer throughout the entire process and that the proposed tapers will result in as smooth a traffic transition as possible.

Mr. Gaber offered the following observations and perspective on the road agreement:

- * The applicants are donating the right-of-way.
- * Dual left-hand lanes were added to east bound Tienken at the behest of City Council and the Planning Commission.
- * The final road improvement agreement will assure the City that the improvements will be made.
- * The applicants have agreed to deposit escrow funds for road improvements.
- * No construction permits will be issued unless the escrow money is set aside.

* If the developers do not follow the road improvement agreement, the City can assume control of the project using the applicants' escrow funds.

PUBLIC COMMENT:

Ms. Sue Cline, 420 Cherry Blossom, questioned whether the traffic changes suggested can accommodate the new traffic generated by the proposed retail. She expressed her concern for traffic and safety issues if Papa Joe's customers can access Rochester Road directly. She noted the traffic congestion created by Papa Joe's in Birmingham.

Mr. Pasquale "Lino" Borraccio, 50 West Tienken Road, owner of Lino's Restaurant, noted that he has been observing the traffic at this intersection for twenty-three (23) years and expressed his belief that these developments "will be a great improvement."

Discussed

Enactment No: RES0067-2004

(Recess 9:11 p.m. to 9:27 p.m.)

ORDINANCE FOR INTRODUCTION

2004-0070

Rezoning Request (City File No. 98-047.2, City Walk) - a request to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone three parcels of land totaling approximately 12.4 acres from ORT (Office, Research, Technology) to B-2 (General Business), located east of Rochester Road and south of Tienken, known as Parcel Nos. 15-11-101-027, 15-11-101-029 and 15-11-101-030, Tienken Partners, L.L.C., applicant

Attachments: Agenda Summary 20040303.pdf; AgendaSummary 20040218.pdf; Map, Aerial.pdf; Staff Report.pdf; Minutes, PC 20040113.pdf; 2004-0070 Master Report 2.pdf; Ord 1 City Walk.pdf

Mr. John Gaber of Williams, Williams, Ruby & Plunkett, 380 North Old Woodward Avenue, Birmingham, briefly explained Tienken Partners' plans for the new development:

- * Demolish the existing building and redevelop a blighted part of the City.
- * Build a neighborhood center that would draw from a three-mile radius.
- * Create a unique seven (7) building development of 107,000 square feet.
- * Maintain the same quality architecture and improvement in the tax base.

Mr. Gaber then introduced Mr. Greg Tysowski of JPRA Architects, 31000 Northwestern Highway, Farmington Hills, architect of the proposed development, and Mr. Paul Aragona, Aragona Properties, 37020 Garfield, Clinton Township.

Mr. Tysowski, using visual aids displayed before Council, described the architectural plans for the new development:

- * Group of seven (7) buildings surrounded by perimeter lighting with pass-throughs between buildings.
- * Mixed development to include such uses as cafe dining, small dental office and retail as well as large users.
- * Multi-building configuration consists of a community drugstore.
- * Frontages will be combined to "read" as one continuous store front with entrance arches.
- * Non-conventional community CVS drugstore.

- * A gateway corner with landscaping, benches, signage, as well as different types of paving, colored concretes and paving materials promoting pedestrian access.
- * All four (4) sides of buildings will be pleasant in appearance, with a portal frame work for the back sides of buildings.
- * Main driveway access into the development will be respectful of pedestrian traffic.
- * Pallet of materials to include metal, stucco, cast stone, glass.
- * A flexible pallet of choices from which tenants can choose.
- * Signage criteria will all meet City ordinance requirements.
- * Landscaping will include benches and fountains.
- * Each different elevation with the development will have a different appearance.
- * Design plays down the size of the drugstore, thus it does not appear as the most prominent building in the development.
- * All store fronts will have some type of display either via window or entrance.
- * One (1) two-story building in the back of the development will offer second-floor office space and first-floor retail space.
- * A contemporary as well as traditional look for the development.

Mr. Gaber asked Council's approval for the zoning change, stressing the time constraints of completing the necessary road improvements during the upcoming summer months. He explained that the Planning Commission requested some conditions be placed on the approval of this development. He noted that several of the conditions had been met, however, the developers "respectfully disagreed" with some of those conditions. He requested that they be permitted to have restaurant drive-throughs, specifically for coffee shops. Mr. Gaber explained their desire that final site plan approval be made administratively rather than returning to Planning Commission and to Council, thus increasing the developer's ability to complete the project in as timely a manner as possible.

PUBLIC COMMENT:

Rev. Dr. Pamela Whateley, 1600 North Livernois, questioned where the dumpsters for the proposed development will be located in the plan.

Mr. Gaber explained that the dumpsters are built into the buildings themselves along with screening from the front.

COUNCIL DISCUSSION:

Ms. Hill explained that a similar request for rezoning of this area had come before Council approximately five (5) years before and it had been denied. Stressing that zoning is attached to the land, she questioned the need for this amount of retail development in this location.

A motion was made by Council Member Robbins, seconded by Council Member Duistermars, that this matter be Accepted for First Reading by Resolution.

Resolved that an Ordinance to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone three parcels of land totaling 12.4± acres from ORT (Office, Research, Technology) to B-2 (General Business), identified as Parcel Nos. 15-11-101-027, 15-11-101-029, and 15-11-101-030, located east of Rochester Road and south of Tienken, is hereby accepted for Second Reading and adopted and shall become effective on Monday, March 15, 2004 the day following its publication on Sunday, March 14, 2004 in the Rochester Eccentric newspaper.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Holder, Raschke and Robbins

Nay: Hill

Enactment No: RES0061-2004

2004-0071

Rezoning Request (City File No. 98-047.2, City Walk) - a request to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone three parcels of land totaling approximately 12.4 acres to PUD (Planned Unit Development), located east of Rochester Road and south of Tienken, known as Parcel Nos. 15-11-101-027, 15-11-101-029 and 15-11-101-030, Tienken Partners, L.L.C., applicant

Attachments: Agenda Summary.pdf; 2004-0071 Master Report.pdf; Ord. 2 Papa Joes.pdf

Ms. Deborah Millhouse, Deputy Director of Planning/Development, clarified that Council could not approve the PUD agreement until the second reading and approval of the rezoning and PUD overlay zoning for this development had been approved. Thus, the PUD agreement would not be addressed until the next Council meeting.

Ms. Hill indicated that the Planning Commission was adamant that there be no drive-throughs in this development.

Mr. Paul Aragona, Aragona Properties, 37020 Garfield, Clinton Township, explained that the applicants had no intention at this time of including a drive-through in the plans, however, they were requesting that the option be included in the PUD agreement if, at a future date, a drive-through use became appropriate.

Ms. Hill expressed her disapproval of certain aspects of the proposed plan:

- * Entrance off Rochester Road brings visitors down "dumpster row."*
- * Walkways between buildings may become "places for teens to hang" or collectors of trash.*
- * Questioned if there would be any plantings along the walkways near the right-of-way.*
- * Entrance to the drugstore could be misconstrued as the main entrance to the development.*

Ms. Millhouse clarified two (2) points:

- * The proposed PUD agreement requests "specialty" drive-throughs, rather than drive-throughs in general.*
- * The PUD agreement would require the applicant to appear before Planning Commission to seek approval for any revised site plan that included drive-throughs.*

Ms. Hill noted that the Planning Commission had specifically indicated that the drugstore would have no more than one (1) drive-through and the plans before Council indicated two (2) drive-throughs.

Mr. Aragona explained that what appeared on the plans to be a second drive-through was actually a bypass lane to allow cars the option of leaving a long drive-through queue.

It was briefly discussed and determined that several plan drawings before Council were inconsistent with regard to the number of drugstore drive-through lanes.

Mr. Barnett questioned how drive-throughs could be accommodated at some point in the future.

Mr. Aragona hypothesized that a building may have to be demolished to accommodate a

drive-through on the site at some point in the future. He noted that any change in the site plan such as this would require approval from the Planning Commission.

Mr. Barnett questioned the request that final site plan approval be granted by City Administrative Staff.

Mr. Gaber explained that the applicant was seeking two (2) accommodations:

- 1) Eventual approval of a PUD agreement that would permit the potential for specialty drive-throughs at some point in the future, assuming Planning Commission approval.
- 2) Approval of the final site plan by City Administrative Staff only, as the plans had been scrutinized to a degree that only minor changes were anticipated and this expedited approval would accelerate the beginning of construction.

Mr. Aragona clarified the timing issue, explaining that the applicants hoped to complete the road improvements during the summer months when weather is more accommodating and schools are closed

A motion was made by Council Member Robbins, seconded by Council Member Raschke, that this matter be Accepted for First Reading by Resolution.

Resolved that an Ordinance to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone three parcels of land totaling 12.4± acres to PUD (Planned Unit Development, identified as Parcel Nos. 15-11-101-027, 15-11-101-029, and 15-11-101-030, located east of Rochester Road and south of Tienken, is hereby accepted for Second Reading and adoption and shall become effective on Monday, March 15, 2004 the day following its publication on Sunday, March 14, 2004 in the Rochester Eccentric newspaper.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Holder, Raschke and Robbins

Nay: Hill

Enactment No: RES0062-2004

PUBLIC HEARINGS: Opened - 10:38 p.m. / Closed - 10:39 p.m.

2004-0065

Brownfield Redevelopment Plan Approval for City Walk a commercial retail development on approximately 12.4 acres located on the southeast corner of Rochester Road and Tienken.

Attachments: Master Report.pdf; Agenda Summary.pdf; Map aerial.pdf; Report Staff BRA.pdf; BRA Plan.pdf; Figures 1,2 - BRA Plan.pdf; Minutes 20030918.pdf

President Dalton opened the Public Hearing at 10:38 p.m.

There being no Public Comment, President Dalton closed the Public Hearing at 10:39 p.m.

Mr. Derek Delacourt, Planner II, explained that the Brownfield Development Plan under consideration has met the requirements to apply for a single business tax (SBT) credit and was approved for such by the Brownfield Redevelopment Authority (BRA). Thus, the plan can be moved on to the Michigan Economic Development Corporation (MEDC), which has the authority to grant the requested SBT credit.

Ms. Hill questioned whether the change in square footage from 115,000 square feet of

commercial use, as indicated in the original plan, to the current approximately 107,000 square feet of commercial use would affect the SBT credit.

Mr. Jim Linton, AKT Peerless Environmental Services, 105 East Michigan Avenue, Jackson, explained that the SBT credit is related to the developer's investment in the property and has no relation to the square footage of the development.

Ms. Hill asked that the City Attorney review the wording in the plan that indicates that any environmental contamination found on the property be dealt with through the City's BRA

Mr. Linton confirmed it is statutorily required that any change to the plan go through the BRA and then back to City Council regardless of the language in the Brownfield Development Plan.

A motion was made by Council Member Robbins, seconded by Council Vice President Holder, that this matter be Adopted by Resolution.

Whereas the Brownfield Redevelopment Authority of the City of Rochester Hills held a meeting on September 18, 2003 and approved the Brownfield Redevelopment Plan for City Walk (formerly known as Holiday Village Square), City File No. 98-047.2;

Resolved that the Rochester Hills City Council hereby approves the Brownfield Redevelopment Plan for City Walk, City File No. 98-047.2, a proposed Planned Unit Development located on the southeast corner of Tienken and Rochester Roads, based on the plan dated received by the Planning Department on August 26, 2003 with the following finding.

FINDING

1. That the submitted plan meets the requirements for a Brownfield Plan under State Act 381 and the City of Rochester Hills.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0044-2004

(Recess 10:47 p.m. - 10:55 p.m.)

ORDINANCE FOR INTRODUCTION

2004-0068

Rezoning Request (City File No. 02-004) - Papa Joe's Gourmet Marketplace - a request to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone four parcels of land totaling approximately 11 acres of land from O-1 (Office Business) and I-1 (Light Industrial) to B-2 (General Business) district, located west of Rochester Road and north of Tienken, and known as Parcel Nos. 15-03-477-018, 15-03-477-019, 15-03-477-020 and 15-03-477-021, Curtis Properties Group, L.L.C., applicant

Attachments: Agenda Summary second reading.pdf; Map aerial.pdf; Staff Report.pdf; Minutes PC 20040113.pdf; 2004-0068 Master Report 2.pdf; Ord. 1 Papa Joes.pdf

Mr. Joseph Galvin of Miller, Canfield, Paddock and Stone, PLC, 150 West Jefferson, Detroit, attorney for Curtis Properties (the Papa Joe's development), briefly described

the new development stating it would "make things better than they are," specifically noting the anticipated road improvements and the raising of the underutilized industrial buildings at the site. He clarified a discrepancy in square footage between the site plan and the PUD agreement. He noted three (3) issues that remain outstanding:

- 1) Request that final approval be granted through City Administration to avoid the delays of returning to the Planning Commission and/or City Council.*
- 2) TCF Bank is not amenable to reducing their number of drive-through lanes.*
- 3) Request for "some relief" from the lighting restrictions.*

Mr. Galvin then introduced Mr. Roman Bonislawski, 111 Williams Street, Petoskey, who he identified as the architect of the plan.

Mr. Bonislawski noted the unique challenges of incorporating the existing uses, such as the TCF Bank, Lino's Restaurant and the Speedway gas station, into the new development. He then described some specific features of the proposed Papa Joe's development:

- * Very high quality market center.*
- * Second floor of incidental office and business uses.*
- * High-volume space.*
- * Limited, high-quality materials pallet, such as custom copper awnings, perforated metal canopies.*
- * Consistency of materials and landscaping.*
- * Sensitivity to pedestrian walkways.*
- * Controlled environment.*
- * Adherence to the signage ordinance.*
- * Matured landscape.*
- * Standard brick around the perimeter.*
- * Predominantly green building.*

Mr. Derek Delacourt, Planner II, explained that the plan must return to City Council for approval of two (2) items:

- 1) road vacation*
- 2) wetlands permit*

Mr. Robbins questioned the plans for the existing Papa Joe's store and whether the community could support both stores.

Mr. Tony Curtis, owner of Papa Joe's Gourmet Market, 34244 Woodward Avenue, Birmingham, noted his intention of maintaining the existing store, explaining that downtown Rochester creates a consumer barrier. He expressed his contention that customers will not travel through downtown Rochester to shop Papa Joe's.

Ms. Hill questioned whether this amount of commercial retail development is needed in the community and noted specific concerns with the following aspects of the proposed development:

- * too much square footage*
- * poor parking*
- * poor layout*
- * too many structures*

Mr. Delacourt noted that the parking aspect of the plan still requires technical review.

A motion was made by Council Member Robbins, seconded by Council Member Duistermars, that this matter be Accepted for First Reading by Resolution.

Resolved that an Ordinance to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone four parcels of land totaling 11+ acres from O-1 (Office Business), and I-1 (Light Industrial) to B-2 (General Business), identified as Parcel Nos. 15-03-477-018, 15-03-477-019, 15-03-477-020, and 15-03-477-021, located west of Rochester Road and north of Tienken, Curtis Properties Group, L.L.C., applicant is hereby accepted for First Reading.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Holder, Raschke and Robbins

Nay: Hill

Enactment No: RES0064-2004

2004-0069

Rezoning Request (City File No. 02-004) - Papa Joe's Gourmet Marketplace - a request to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone seven parcels of land totaling approximately 15 acres to PUD (Planned Unit Development), located west of Rochester Road and north of Tienken, and known as Parcel Nos. 15-03-477-018, 15-03-477-019, 15-03-477-020 15-03-477-021, 15-03-477-030, 15-03-477-031 and 15-03-477-033, Curtis Properties Group, L.L.C., applicant

Attachments: Agenda Summary second reading.pdf; 2004-0069 Master Report 2.pdf; Ord. 2 Papa Joes.pdf

Ms. Hill stated that she would like the square footage discrepancy noted earlier corrected in the final PUD agreement. She expressed several concerns with the plans for the Papa Joe's development, including the following issues:

- * *The request for a Class C Liquor License.*
- * *Whether there would be a CVS drugstore.*
- * *The TCF Bank's need for five (5) drive-through lanes.*
- * *The parking layout and the placement of dumpsters.*
- * *The appearance of the Speedway building; does not want a "big brick box."*
- * *The lighting must comply with City standards.*

Ms. Hill stressed that there are too many "unknowns" to leave the final approval of the site plan to the City Staff, as opposed to the Planning Commission and City Council.

Mr. Joseph Galvin of Miller, Canfield, Paddock and Stone, PLC, 150 West Jefferson, Detroit, attorney for Curtis Properties, noted that the parking is designed to meet the needs of different potential uses, as the final tenants have not been determined.

Mr. Tony Curtis, owner of Papa Joe's Gourmet Market, 34244 Woodward Avenue, Birmingham, addressed the drugstore issue, noting that the Planning Commission was opposed to a drugstore on this corner. He explained that the Liquor License was in anticipation of a possible Pub use or perhaps a wine bar in the Papa Joe's unit.

Mr. Michael Rein, Bowers & Rein Associates, Inc., 2400 South Huron Parkway, Ann Arbor, representing TCF Bank, explained that TCF Bank's standard national business model building design utilized six (6) drive through lanes, with the first lane dedicated to ATM access. He noted that TCF Bank's current business philosophy is dedicated to 1) increased daily hours, 2) increased weekend hours and 3) increased number of drive through lanes to better compete with the recent bank industry trend toward on-line banking. Mr. Rein did acknowledge that TCF Bank could reduce the size of the proposed canopy.

Mr. Matthew Brown and Mr. Graham Roach, representing Marathons Ashland Petroleum, LLC, 539 South Main street, Findlay, Ohio, explained that their firm had attempted with their building designs to maintain the standard of their facilities so that the gas station is recognizable as a Speedway by passing motorists, while still "attempting to meet the desires of the City." They noted the following design concessions they had made:

- * Altered brick color.*
- * Different roofing material.*
- * No canopy signage.*
- * Lowered canopy.*

Mr. Barnett questioned the construction time table for these projects as well as the details of the escrow agreement between the two (2) developments described earlier.

Mr. Curtis acknowledged that they intended to pursue an "aggressive time table" in the hopes of opening the new Papa Joe's unit by the beginning of November prior to the holiday season.

Mr. Galvin described the escrow agreement as a "self-executing mechanism." The City "makes the call each step of the way" with funds being distributed by the title company based on approved invoices. He noted that along with the City of Rochester Hills, MDOT and the Oakland County Road Commission are "signing off on it together." He further noted that City Attorney John Staran had approved the agreement.

Mr. Derek Delacourt, Planner II, affirmed that John Staran was involved in the process, having reviewed the agreements and agreed to the mechanisms.

Mr. Galvin stressed again that his clients would request relief from compliance to the lighting requirements.

Mayor Somerville congratulated the applicants on their "hard work" and for maintaining the existing Papa Joe's unit.

A motion was made by Council Member Robbins, seconded by Council Member Duistermars, that this matter be Accepted for First Reading by Resolution.

Resolved that an Ordinance to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone seven parcels of land totaling approximately 15 acres to PUD (Planned Unit Development), located west of Rochester Road and north of Tienken, and known as Parcel Nos. 15-03-477-018, 15-03-477-019, 15-03-477-020 15-03-477-021, 15-03-477-030, 15-03-477-031 and 15-03-477-033, Curtis Properties Group, L.L.C., applicant, is hereby accepted for First Reading.

NEXT AGENDA ITEM

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Holder, Raschke and Robbins

Nay: Hill

Enactment No: RES0065-2004

COUNCIL COMMITTEE REPORTS

NEXT MEETING DATE

Wednesday, February 25, 2004 - Regular Work Session at 7:30 p.m.

ADJOURNMENT

There being no further business before Council, President Dalton adjourned the meeting at 12:05 a.m.

*JOHN L. DALTON, President
Rochester Hills City Council*

*BEVERLY A. JASINSKI, Clerk
City of Rochester Hills*

*MARGARET A. STRATE
Administrative Secretary*