



Rochester Hills

Minutes - Draft

City Council Regular Meeting

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

*J. Martin Brennan, Greg Hooper, Nathan Klomp, Vern Pixley, James Rosen,
Michael Webber and Ravi Yalamanchi*

Vision Statement: The Community of Choice for Families and Business

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

Monday, November 23, 2009

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Hooper called the Regular Rochester Hills City Council Meeting to order at 7:04 p.m. Michigan Time.

ROLL CALL

Present 7 - J. Martin Brennan, Greg Hooper, Nathan Klomp, Vern Pixley, James Rosen, Michael Webber and Ravi Yalamanchi

Others Present:

*Bryan Barnett, Mayor
Dan Casey, Manager of Economic Development
Mike Hartner, Director of Parks and Forestry
Sean Kosecki, Rochester Hills Government Youth Council Representative
Pamela M. Lee, Director of Human Resource
Jane Leslie, City Clerk
Roger Rousse, Director of DPS/Engineering
Keith Sawdon, Director of Finance
John Staran, City Attorney*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion was made by Pixley, seconded by Webber, that the Agenda be Approved as Amended to add Legislative File 2009-0532, Authorization of Purchase of Real Property under Attorney Matters. The motion CARRIED by the following vote:

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

PUBLIC COMMENT

Lynette Nitsche, 3753 Everett, stated that since the M-59 expansion began, noise levels are worse than before. She reported that most of the trees that screened her subdivision from the freeway have been removed for work on a drainage ditch.

Alice Benbow, 1582 Northumberland, commented that she has heard reports of poaching activities in Rochester Hills. She announced a blood drive would be held on November 27, 2009 at Woodside Church. She encouraged interested individuals to attend the next Oakland County Commissioner's meeting on December 9, 2009 at the Courthouse in Waterford. She stated that Taxpayers for Accountability has not yet completed statements regarding amounts spent prior to the election.

Bill Black, 2408 Jackson, commented on economic growth and development, noting that Michigan has lost 800,000 jobs since 2000, and stating that roughly fifty percent of college graduates are leaving the state. He noted that economic growth and development should be a top priority of this new Council.

Dana Gallant, 619 E. Nawakwa, expressed concerns of increased noise levels, decreasing property values and safety concerns resulting from the M-59 expansion activities. She commented that a significant portion of the vegetation that afforded her neighborhood privacy from the freeway was removed and noted that the Michigan Department of Transportation (MDOT) proposes to replace only a portion of that vegetation. She stated that high-beams of cars traveling west on M-59 are making travel on Nawakwa difficult at night.

Lee Zendel, 1575 Dutton, stated that incorporating Google Apps could result in a significant savings for the City. He noted that over one-half million companies, several large cities and school districts nationwide use Google Apps.

Peter O'Neill, 3696 Everett, commented that residents of Country Club Village were not told that the M-59 Widening Project would result in extensive vegetation removal adjacent to their subdivision and traffic on Nawakwa is now affected by oncoming lights from drivers on M-59. He stated that MDOT's plan to replace only 35 trees is insufficient and pointed out that it will take years for the saplings to provide a vegetative screen. He requested the City intervene to ensure that the vegetation is replaced after the completion of the drainage work.

Jim Kubicina, 2423 Chalet, congratulated Ravi Yalamanchi and Jim Rosen on their re-election, and Nathan Klomp, for his election to Council. He inquired as to how Council would be considering the reappointment or extension of the Deer Management Advisory Committee (DMAC). He questioned whether the current members will need to reapply or if additional citizens might be considered for DMAC membership.

Dave Kibby, 558 Whitney, commended Council for the successful Single Waste Hauler program, noting that the containers make pick-up easy, trucks are now on streets only one day a week, the automatic pick-up system allows the drivers to stay warm and dry in inclement weather and much of what used to end up in landfills now is recycled.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

President Hooper stated that the removal of vegetation along M-59 was discussed at the last MR42-E Noise Barrier/Sound Wall Technical Review Committee meeting and noted that the Administration was requested to follow up with the Michigan Department of Transportation and report back to Council. In response to Mr. Kubicina, he stated that Council will make its annual appointments to Boards, Commissions and Committees at the Regular Council Meeting on December 7, 2009. He noted that his recommendation is to keep the current Deer Management Advisory Committee intact; however, he stated that Council will discuss this further at the December 7th meeting.

Mr. Brennan reported that Oakland County Executive L. Brooks Patterson will conduct a symposium to address the problems of recession in Oakland County on December 7, 2009 and commented that Rochester Hills will continue to market itself as a great place to bring a business. He wished everyone a safe and Happy Thanksgiving.

Mr. Klomp thanked everyone for a warm welcome and stated that he looks forward to the next four years. He wished everyone a safe and happy holiday.

Mr. Pixley welcomed Mr. Klomp and welcomed the Rochester High School Golf Team in attendance. He wished everyone a safe holiday and reminded everyone to pick a designated driver.

Mr. Rosen wished everyone a Happy Thanksgiving and safe travel.

Mr. Webber welcomed Mr. Klomp to Council. He announced that Mary Lee Kowalczyk, Director of the Rochester Community House, has been named Grand Marshal for the December 6, 2009 Rochester Hometown Christmas Parade.

Mr. Yalamanchi welcomed Mr. Klomp and commented that he looks forward to working with him.

Sean Kosecki, Rochester Hills Government Youth Council (RHGYC) Member, reported that the RHGYC is preparing to march in the Rochester Hometown Christmas Parade and will participate in the City's Family Fun Night.

Mayor Barnett commented that the Forestry Department will discuss MDOT's work along M-59 with the Administration and review GIS pictures to determine what vegetation was removed. He made the following announcements:

- Road projects that have been completed in anticipation of winter include the Livernois Bridge, now open in both directions, and Hamlin Road, with the exception of the roundabout. All turn movements have been restored on Hamlin.
- The City has been written up in a national publication and nominated for an award for its Single Waste Hauler and RecycleBank programs. He reported that City residents have gone from approximately 90 pounds of recycling each

year to over 700 pounds, commenting that Rochester Hills could be considered one of the greenest cities nationwide.

- Allied Waste, the City's Single Trash Hauler, has agreed to extend leaf pickup through December 4th due to the leaves remaining on the trees longer this season.
- Avon Township became the City of Rochester Hills on November 22, 1984. To commemorate the City's 25th anniversary, the City issued a request on its website and on Facebook for residents to submit their best memories of the last 25 years in photographs, noting that those selected will be placed on the wall in the Mayor's office.
- City Hall will be closed for the Thanksgiving Holiday on Thursday, November 26th, and Friday November 27th.
- Downtown Rochester will host its annual Lagniappe event on Monday night, November 30, 2009, in conjunction with the start of the Big Bright Light Show.
- The Rochester Hometown Christmas Parade is set for December 6, 2009.

ATTORNEY MATTERS

2009-0532 Authorization of Purchase of Real Property

A motion was made by Pixley, seconded by Yalamanchi, that this matter be Adopted by Resolution that the Rochester Hills City Council approves the written Purchase Agreement for the sale to the City of the 285 Cloverport property. The motion CARRIED by the following vote:

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0299-2009

Whereas, the Green Space Board recommended, and the City Council authorized, making an offer to purchase the vacant 7.42 acre parcel of property known as 285 Cloverport; and

Whereas after extensive negotiation over a long period of time, the property owner and the City have reached a Purchase Agreement.

Therefore, it is resolved that the Rochester Hills City Council approves the written Purchase Agreement between Group 2 Associates LLC, as Seller, and the City of Rochester Hills, as Purchaser, for the sale to the City of the 285 Cloverport property.

It is Further Resolved that the Mayor or his designee is authorized to execute and deliver on the City's behalf such additional documents or agreements as may be necessary or appropriate to effectuate the Purchase Agreement and consummate the transaction.

RECOGNITIONS

2009-0515 Proclamation in Recognition of the Rochester Falcons 2009 Girls Varsity Golf Team State Champions

Attachments: [Agenda Summary.pdf](#)
[Proclamation.pdf](#)
[Suppl Meier Proclamation.pdf](#)
[Resolution.pdf](#)

Mayor Barnett introduced the Rochester High School Girls Golf Team as State Champions. He noted that a sign commemorating their championship will be installed at the entrance to the city.

Coach Jeff Haney expressed his appreciation for the team's recognition, stating that this group of girls are great representatives for the city.

Mayor Barnett recognized Christine Meier for being named Miss Golf for 2009 by the Michigan Interscholastic Golf Coaches Association, noting that Ms. Meier will be attending Michigan State University next year.

Presented.

Whereas, the 2009 Rochester High School Girls Varsity Golf Team won their second straight D-1 State Championship by a convincing 24 strokes; and

Whereas, the Varsity Golf Team became the second team in city history to win back to back championships; and

Whereas, the team did an outstanding job of representing Rochester High School all season. They set their goals high, worked hard and performed their very best when it counted most!

Now, Therefore, Be It Resolved, that the Mayor and City Council of the City of Rochester Hills hereby express our admiration of the teamwork, commitment, cooperation and talent of the 2009 Rochester High School Girls Varsity Golf Team, and express our thanks for the dedication of their coaching staff.

Be It Further Resolved, that on behalf of the citizens of Rochester Hills, we express our pride in the accomplishments of the following athletes and coach:

<u>Varsity Coach</u>	<u>Seniors</u>	<u>Juniors</u>	<u>Sophomore</u>
Jeff Haney	Dayna Drewes	Taylor Clayton	Amanda Graham
	Susan Jeong	Michaela Kastura	
	Christine Meier	Jyl Monahan	<u>Freshman</u>
		Rosalie Shyu	Hailey Bradley

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.

2009-0495 Adoption of Resolution to Dissolve the Zoning Rewrite Technical Review Committee

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

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0300-2009

Whereas, the Zoning Rewrite Technical Review Committee completed the responsibilities it was charged with, and

Whereas, Ordinance No. 532, The City of Rochester Hills, Michigan Zoning Ordinance was adopted by City Council on April 20, 2009 and became effective on April 27, 2009.

Now Therefore Be It Resolved, that the Rochester Hills City Council hereby dissolves the Zoning Rewrite Technical Review Committee.

Passed the Consent Agenda

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

The following Consent Agenda item was discussed and adopted by separate motion.

2009-0499 Request for Purchase Authorization - DPS/FACILITIES: Contract for the demolition of structures located at 1150 S. Livernois and 276 W. Auburn in the amount of \$29,700.00 plus a 10% contingency of \$2,970.00 for a not-to-exceed total of \$32,670.00; S. A. Torello, Inc., Port Huron, MI

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

Mr. Yalamanchi requested that this item be removed from the Consent Agenda.

Roger Rouse, Director of DPS/Engineering, displayed photos of the two structures to be demolished, noting that the structure on Auburn had gone through a number of different uses, including a home at one time, the Oakland County Sheriff's Office Substation, and then a storage facility for City equipment. He stated that equipment stored there was transferred to the mezzanine at the DPS Facility. He commented that the intention is to make the Auburn property available for sale, putting the property back on the tax rolls. He stated that the building at 1150 Livernois was once used by Lance DeVoe, the Environmental Education Center Coordinator and is now vacant. He commented that at some point in time the City wants to construct handicap access to the river on the site.

Mr. Yalamanchi inquired what the annual cost is to maintain the Auburn Road

property. He questioned whether the property could be sold as-is to save the demolition costs and whether the City had other similar buildings.

Mr. Rousse responded that maintenance costs primarily included utilities, and stated that a rough estimate was \$4,000 to \$5,000 per year. He noted that when the City stored computer equipment in the building, climate control was required. He commented that the building construction is block, with slab on grade, noting that the interior has been modified a number of times for the inclusion of handicap-accessible restrooms and locker areas. He pointed out that it would require complete renovation to return it to a residence or convert it for commercial use, and commented that the property would most likely be worth more after the demolition. He noted that a similar building owned by the City is Precinct Five, on Auburn Road, which is currently used by groups such as Boy Scout Troops and the Rochester Avon Recreation Authority.

President Hooper questioned whether any of the bids include asbestos removal.

Mr. Rousse responded that all bidders are capable of providing asbestos removal, and a provision in the contract specifies that the successful bidder will be required to provide an estimate for removing any asbestos encountered.

Mr. Yalamanchi questioned whether the Livernois property had a basement and what will remain after demolition.

Mr. Rousse indicated that the demolition is for complete removal, including the basement, along with compaction of the soil. He stated that an asphalt apron will be left to enter the Livernois property.

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0301-2009

Resolved, that the Rochester Hills City Council authorizes a contract to S.A. Torello, Inc., Port Huron, Michigan, for the demolition of structures located at 1150 S. Livernois and 276 W. Auburn in the amount of \$29,700.00 plus a 10% contingency of \$2,970.00 for a not-to-exceed total of \$32,670.00.

ORDINANCE FOR ADOPTION

2009-0484 Acceptance for Second Reading - An Ordinance to amend Article VI, Retiree Health Benefit Plan and Trust, of Chapter 82 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, repeal conflicting Ordinances, and prescribe a penalty for violations

Attachments: [Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[110909 Agenda Summary.pdf](#)
[110909 Resolution.pdf](#)
[Resolution.pdf](#)

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0302-2009

Resolved, that an Ordinance to amend Article VI, Retiree Health Benefit Plan and Trust, of Chapter 82 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, repeal conflicting Ordinances, and prescribe a penalty for violations is hereby accepted for Second Reading and Adoption, and shall become effective on Friday, December 4, 2009, the day following its publication in the Rochester Post on Thursday, December 3, 2009.

2009-0485 Acceptance for Second Reading - An Ordinance to add Article VII, Retiree Health Care Implicit Rate Subsidy Trust, to Chapter 82 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, repeal conflicting Ordinances, and prescribe a penalty for violations

Attachments: [Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[110909 Agenda Summary.pdf](#)
[110909 Resolution.pdf](#)
[Resolution.pdf](#)

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0303-2009

Resolved, that an Ordinance to add Article VII, Retiree Health Care Implicit Rate Subsidy Trust, to Chapter 82 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, repeal conflicting Ordinances, and prescribe a penalty for violations is hereby accepted for Second Reading and Adoption, and shall become effective on Friday, December 4, 2009, the day following its publication in the Rochester Post on Thursday, December 3, 2009.

NEW BUSINESS

2009-0518 Request for Nonprofit Designation for a Charitable Gaming License from the State of Michigan - Five Star Connection

Attachments: [Agenda Summary.pdf](#)
[Five Star Connection Memo.pdf](#)
[IRS Nonprofit.pdf](#)
[Bylaws.pdf](#)
[Articles of Incorporation.pdf](#)
[Profit & Loss Stmt.pdf](#)
[Flyer.pdf](#)
[Newsletter.pdf](#)
[Resolution.pdf](#)

James Blundo, 866 River Bend Drive, stated that Five Star Connection has been in existence for almost a year. The organization caters to singles, and hosts a dance every Thursday at the River Crest. He commented that the group wants to provide other services to the community, including family/youth and widows' programs.

President Hooper questioned whether they were planning for a one-time event.

Terry Mike, 1409 North Pine Street, commented that the group would like to hold the allowed four events per year.

Mr. Yalamanchi commented that upon review of the group's Profit and Loss Statement, he noted that much of the expenses were related to the dance income and the organization did not have much history of nonprofit activity. He stated that he would like to see an organization's Form 990 for two to three years.

President Hooper commented that it appears that the organization was just formed in January of this year.

Mr. Pixley questioned the group's relationship with Parents Without Partners (PWP), where the group expects to spend the money raised and why the gaming will take place in Utica or Shelby.

Mr. Blundo responded that while the group does have a family and youth program, it could do a great deal more in the community with funding. He noted plans to coordinate activities with groups such as the Rochester Area Youth Assistance, of which he is a Board member. He stated that the PWP group had a widows' program in place and this group would like to continue this, and other programs. He explained that his organization has taken over from PWP and wants to offer more services, including scholarships. He stated that the events cannot be held at the River Crest or Main Street Billiards.

Mr. Pixley questioned whether an annual renewal is required.

Jane Leslie, City Clerk, stated that once recognized initially as a non-profit, the group has a renewal process through the State.

John Staran, City Attorney, stated that once approved, the group would not come back to Council.

Discussion ensued as to whether the group had a direct connection to PWP.

Mr. Blundo stated that while PWP still exists, it is an inactive organization and their group is not connected. He noted that Five Star currently has 200 members and another 50 who come as guests, and commented that his organization does not maintain the stiff requirements that PWP had.

Mr. Webber stated that he understood that the organization needs the revenues to begin providing the services and commented that he would be more comfortable if he could see a history of one, two or three years; however, he noted that the community relies on non-profit and charity organizations to fill a void to provide services that the government cannot.

Mr. Yalamanchi stated that while he has no doubt that the services the organization is trying to provide are needed, he noted that several non-profits in the region do a great job in ensuring that the majority of their funding goes back into the community. He commented that he wants to make sure there is no duplication or replication of efforts. He made a motion to deny the request to be recognized as a non-profit.

Mr. Rosen seconded Mr. Yalamanchi's motion, and commented that it was his initial impression that the organization was a name-change from PWP rather than a different organization.

Mr. Blundo responded that PWP is a hugely declining national organization, moving from 300,000 members at one time to less than 6,000 now. He noted that the PWP structure had more restrictions creating limitations, requiring all members to have children; and that this new organization has fewer restrictions, and allows single members without children. He commented that while PWP still exists, his organization has no contact with them.

President Hooper noted that while the organization currently spends revenues on social activities, it now wants to enhance revenue to do charitable activities.

Mr. Rosen withdrew his support for Mr. Yalamanchi's motion. The motion to deny subsequently died for lack of a second.

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

Aye 6 - Brennan, Hooper, Klomp, Pixley, Rosen and Webber

Nay 1 - Yalamanchi

Enactment No: RES0304-2009

Resolved, that the request from Five Star Connection, located at 866 River Bend Drive, Rochester Hills, Michigan 48307, Oakland County, asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license, be considered for approval.

2009-0496 Request for Purchase Authorization - DPS/ENG: Extension of contract for three (3) years for catch basin cleaning services in the amount not-to-exceed \$240,000.00; National Industrial Maintenance, Inc., Dearborn, MI

Attachments: [Agenda Summary.pdf](#)
[Extension Letter.pdf](#)
[Bid Tab 2008.pdf](#)
[Resolution.pdf](#)

President Hooper stated that while he works in the construction industry and knows the firms involved, he has no connection to the contract and does not see a need to recuse himself.

Roger Rousse, Director of DPS/Engineering, stated that the City is required to clean catch basins annually as a part of the new MS-4 Permit. He noted that this contract is to clean storm water catch basins, and remove, transport and dispose of the debris. He commented that the City cleans approximately 4,000 catch basins annually, and this contract for cleaning and disposal meets all requirements and is a more economical method of processing the material.

President Hooper noted that this will extend the contract for three years, however, it does not approve the budget for the full three-year period.

Mr. Rousse responded this is a three-year proposal, and noted that the 2010 amount is included in the Budget.

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0305-2009

Resolved, that the Rochester Hills City Council hereby authorizes the extension of the contract for three (3) years for catch basin cleaning services to National Industrial Maintenance, Inc., Dearborn, Michigan in the amount not-to-exceed \$240,000.00.

2009-0517 Request for Purchase Authorization - HR: Contract Extension/Blanket Purchase Order for employee group life/ADD and disability insurance through December 31, 2010 in the amount not-to-exceed \$285,000.00; CIGNA Group Insurance, Southfield, MI

Attachments: [Agenda Summary.pdf](#)
[Cost Proposal Cigna.pdf](#)
[Resolution.pdf](#)

Pamela M. Lee, Director of Human Resources, stated that the lines of insurance coverage have been renewed with Cigna Insurance, the current carrier, without increase for 2010. She noted that the Short-Term Disability is renewed through December 31, 2010, and the Long-Term Disability and Accidental Death and Dismemberment rates are guaranteed through December 2011.

President Hooper stated that the City had a dramatic increase for last year and noted that the rates would hold for this year without increase.

Mr. Yalamanchi questioned whether the 2010 Budget would need to increase.

Ms. Lee responded that this figure reflects the amended amount for 2009,

noting that \$56,000 had to be added in 2009 to accommodate an increase. She reported that 2009 rates are based on 2008 claims and pointed out that claims have stabilized for 2009 leading to no increase for 2010. She stated that the 2009 amount had increased to a \$285,000, which will be included in a 2009 Budget Amendment.

Mr. Brennan questioned whether all employees are covered and whether the Michigan Municipal League (MML) could be a resource to consider.

Ms. Lee responded that all full-time employees are covered. She noted that the Administration will look at opportunities to pool resources through the MML for 2011.

President Hooper stated that he supports going out for bids for 2011, noting that the City's history of safety could lead to more favorable rates and reduced costs.

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0306-2009

Resolved, that the Rochester Hills City Council authorizes the Contract Extension/Blanket Purchase Order for employee group life/ADD and disability insurance to CIGNA Group Insurance, Southfield, Michigan, in the amount not-to-exceed \$285,000.00 through December 31, 2010.

2009-0511 Request to schedule a Public Hearing regarding the proposed amendments to the Rochester Hills Local Development Finance Authority Development Plan and Financing Plan

Attachments: [Agenda Summary 011101.pdf](#)
[Agenda Summary.pdf](#)
[Restated LDFA Plan Doc \(Sec 1\).pdf](#)
[Map 1.pdf](#)
[Restated LDFA Plan Doc \(Sec 2\).pdf](#)
[Map 2A.pdf](#)
[Map 2B.pdf](#)
[Map 2C.pdf](#)
[Restated LDFA Plan Doc \(Sec 3\).pdf](#)
[Map 3.pdf](#)
[Restated LDFA Plan Doc \(Sec 4\).pdf](#)
[Table 1.pdf](#)
[Restated LDFA Plan Doc \(Sec 5\).pdf](#)
[Appendix C.pdf](#)
[Appendix D-F.pdf](#)
[Public Hearing Notice.pdf](#)
[Resolution.pdf](#)

Dan Casey, Manager of Economic Development, stated that the Rochester Hills Local Development Finance Authority (LDFA) has amended its Development and Finance Plan, noting that this is the third amendment from the original Plan approved in 1995. He stated that the last amendment was in 2007. He summarized the primary changes to the Plan:

- Three new projects have been added:
 - * Project 9: Research Drive Reconstruction, in approximately three years pending Council approval and funding
 - * Project 10: Master Infrastructure Plan Update, combined with the M-59 Corridor Study to get underway in 2010
 - * Project 12: Entranceway Grant Program, a matching grant being proposed to assist the technology parks in upgrading signage and landscaping
- Three projects were eliminated:
 - * Project 4a: Alternative to Technology Drive connection to Adams Road, deemed unnecessary
 - * Project 6b: Leach Street Paving North of Clinton River Walking Trail, deemed unnecessary
 - * Project 5: Connect Waterview Drive to Leach Street has been completed and will be removed from the Plan
- Other changes to the plan encompass what are deemed housekeeping items.

He noted that this proposed amendment is an interim plan and it is anticipated that a significant amendment will be brought forward in 2011 upon completion of the M-59 Corridor Study, and will put a ten-year plan in place for the LDFA.

Council Discussion:

Mr. Yalamanchi questioned how long the M-59 Corridor Study will take to complete. He questioned whether some of the tables in the plan will be redone.

Mr. Casey responded that one year is anticipated for the project. He noted that the tables in the Plan utilize historic averages and would be looked at for the 2011 amendment.

Mr. Yalamanchi questioned what would occur with the 15.8 acres the City owns on Hamlin Road and whether the entrance road would be constructed.

Mr. Casey noted that the City has been holding off on construction for that road and is waiting for users to come forward before going ahead.

President Hooper noted that it would be prudent to wait for an appropriate applicant before building that road.

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0307-2009

Whereas, the Rochester Hills Local Development Finance Authority approved the Restated Development Plan and Financing Plan at its October 8, 2009 Board meeting; and

Whereas, Public Act 281 of 1986, Section 17 (2) requires that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection; and

Whereas, Public Act 281 of 1986, Section 16 (1) requires that that the governing body hold a public hearing prior to adopting a resolution approving a development plan or financing plan; and

Whereas, Public Act 281 of 1986, Section 16 (1) requires that notice of the public hearing be given twice in a paper of general circulation, the first of which shall not be less than 20 days before the date set for the hearing.

Resolved to schedule the public hearing for City Council's Regular Meeting of January 11, 2010; and

Be It Further Resolved to authorize the City Clerk to post notice of the Public Hearing in a paper of general circulation on Thursday, December 3, 2009 and again on Thursday, December 24, 2009; and

Be It Finally Resolved to authorize the City Clerk to notify the taxing jurisdictions of the Public Hearing by certified mail no later than Thursday, December 3, 2009.

2009-0521 Request for Approval to refund all or part of the outstanding City issued General Obligation Unlimited Tax Bonds, Series 2001 originally issued for the purpose of building the Older Persons' Commission Building

Attachments: [Agenda Summary.pdf](#)
[OPC Building Bond Refunding 2009.pdf](#)
[Resolution.pdf](#)

Keith Sawdon, Director of Finance, stated that from time to time, the Fiscal Office looks for opportunities to refinance outstanding City bonds. He noted that the Debt Policy adopted by Council requires a new present value saving of at least two percent and \$100,000. He stated that the Older Persons' Commission Building Bonds could attain a net present value savings of greater than two percent in refinancing, resulting in a savings of \$150,000 to \$300,000, depending on market timing. He pointed out that the Municipal Bond Market is like most fixed income investments and is fluid and in movement currently, making it difficult to select a date out in the future to advertise the bonds for sale in the competitive market. He recommended a hybrid negotiated sale, soliciting proposals from underwriters currently underwriting Michigan municipal debt. He stated that while this is a deviation from Council's Debt Management Policy, this approach will give the Administration the ability to time the sale.

Council Discussion:

President Hooper questioned whether the terms of the bonds will be extended.

Terry Donnelly, Bond Counsel for the City, responded that they would not.

President Hooper questioned whether the sale will allow the Older Persons' Commission to use the savings for operating and maintenance expenses.

Mr. Sawdon responded that it would be a straight savings on the millage portion.

Mr. Donnelly responded that models run two weeks ago showed a savings of approximately 3.6 percent, or \$245,000, noting that a sale should achieve the savings contemplated.

President Hooper questioned whether there would be difficulties in marketing these bonds.

Mr. Donnelly noted that the City currently has a AA+ bond rating and should have no difficulties.

Mr. Rosen questioned whether the current bond holders would be forced to surrender the bonds and what the current bond interest rate is.

Mr. Donnelly responded that bond ownership is a contract between the bondholder and City and the bonds are callable with a 30-day notice.

Mr. Sawdon stated that the new rate will probably range from 1.5 to 3 percent.

Mr. Donnelly stated that the interest would cap at five percent. He stated that the savings requirements would be net of all issuance costs.

Mr. Yalamanchi questioned whether there would be a call premium.

Mr. Sawdon responded that the first call date is April 1, 2010 and at that point there will be no call premium.

Mr. Yalamanchi requested that Council be provided a spreadsheet showing the computations.

Mr. Sawdon stated that he included the savings as a range as the numbers are fluid, however he will provide a spreadsheet to Council.

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

Aye 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0308-2009

WHEREAS, pursuant to the provisions of Act 279, Public Acts of Michigan, 1909, as amended ("Act 279") and the City Charter of the City of Rochester Hills (the "City"), and as a result of the affirmative vote of the City's electors at the General Election in the City on November 7, 2000, the City issued its General Obligation Unlimited Tax Bonds, Series 2001 (the "2001 Bonds") in the aggregate principal amount of \$9,770,000 for the purpose of paying the City's share of the costs of acquiring and improving land and acquiring, constructing, furnishing and equipping a building thereon to be operated by the Rochester Hills-Oakland-Rochester Older Persons' Commission; and

WHEREAS, the 2001 Bonds remain outstanding in the aggregate principal amount of \$7,370,000, mature in various principal amounts on April 1 in the years 2010 through 2021 and bear interest at rates per annum which vary from 4.00% to 5.00%; and

WHEREAS, Part VI of Act 34, Public Acts of Michigan, 2001 ("Act 34") authorizes the City to refund all or any part of its outstanding securities; and

WHEREAS, the Finance Director has recommended that this resolution be adopted in

order to effect the refunding of all or part of the outstanding 2001 Bonds and this Council has determined that it is in the best interest of the City that such refunding be undertaken.

NOW, THEREFORE, BE IT RESOLVED:

1. AUTHORIZATION OF BONDS -- PURPOSE. Bonds of the City, aggregating the principal sum of not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000) (the "Refunding Bonds") shall be issued and sold pursuant to the provisions of Act 34, and other applicable statutory provisions, for the purpose of refunding all or part of the 2001 Bonds (the "2001 Bonds To Be Refunded"), as determined by the Finance Director at the time of sale, and paying the costs of issuing the Refunding Bonds. The Finance Director is authorized to determine the principal amount of the Refunding Bonds at the time of sale.
2. BOND DETAILS. The Refunding Bonds shall be designated "General Obligation Unlimited Tax Refunding Bonds, Series 2010"; shall be dated as of such date as shall be approved by the Finance Director at the time of sale; shall be numbered from 1 upwards; shall be fully registered; shall be in the denomination of \$5,000 each or any integral multiple thereof not exceeding the aggregate principal amount for each maturity at the option of the purchaser thereof; shall bear interest at a rate or rates not exceeding 5% per annum to be determined by the Finance Director upon the sale thereof, payable on each April 1 and October 1 as determined by the Finance Director at the time of sale; and shall be issued as serial bonds or term bonds, or both, which shall mature or be subject to mandatory redemption on April 1 in such years and principal amounts as determined by the Finance Director at the time of sale.
3. PAYMENT OF PRINCIPAL AND INTEREST. The principal of and interest on the Refunding Bonds shall be payable in lawful money of the United States. Principal shall be payable upon presentation and surrender of the Refunding Bonds to the bond registrar and paying agent as they severally mature. Interest shall be paid to the registered owner of each Refunding Bond as shown on the registration books at the close of business on the fifteenth day of the calendar month preceding the month in which the interest payment is due. Interest shall be paid when due by check or draft drawn upon and mailed by the bond registrar and paying agent to the registered owner at the registered address.
4. PRIOR REDEMPTION. (a) Optional Redemption. The Refunding Bonds shall be subject to redemption prior to maturity at the option of the City, in whole or in part, in such order of maturity as the City shall direct and by lot within a maturity, at any time on and after a date to be determined by the Finance Director at the time of sale of the Refunding Bonds, which date shall not be earlier than April 1, 2015. The redemption price shall be the par value of the Refunding Bond or portion of the Refunding Bond called to be redeemed plus accrued interest to the date fixed for redemption and a premium, if any, not to exceed 2% of the principal amount of the Refunding Bonds being redeemed, as determined by the Finance Director at the time of sale of the Refunding Bonds.
 - (b) Mandatory Redemption of Term Bonds. Any Refunding Bonds that are designated by the Finance Director at the time of sale as term bonds shall be subject to mandatory redemption prior to maturity on each April 1 at the par value thereof plus accrued interest to the date of redemption in such amounts as shall be determined by the Finance Director at the time of sale. The Refunding Bonds to be so redeemed shall be selected by lot.
 - (c) General. Refunding Bonds of a denomination greater than \$5,000 may be partially redeemed in the amount of \$5,000 or any integral multiple thereof. If less than all of the Refunding Bonds subject to redemption maturing in any one year are to be redeemed, the Refunding Bonds or portions of Refunding Bonds to be redeemed shall be selected by lot. Not less than thirty days nor more than sixty days notice of redemption shall be given to the registered owners of Refunding Bonds called to be redeemed by mail to each registered owner at the registered address. Refunding Bonds or portions of Refunding Bonds called for redemption shall not bear interest on and after the date fixed for redemption, provided funds are on hand with the bond registrar and paying agent to redeem the same.

5. BOOK-ENTRY SYSTEM. Initially, one fully-registered bond for each maturity of the Refunding Bonds, in the aggregate amount of such maturity, shall be issued in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC") for the benefit of other parties (the "Participants") in the book-entry-only transfer system of DTC. In the event the City determines that it is in the best interest of the City not to continue the book-entry system of transfer or that the interests of the holders of the Refunding Bonds might be adversely affected if the book-entry system of transfer is continued, the City may notify DTC and the bond registrar and paying agent, whereupon DTC will notify the Participants of the availability through DTC of bond certificates. In such event, the bond registrar and paying agent shall deliver, transfer and exchange bond certificates as requested by DTC and any Participant or "beneficial owner" in appropriate amounts in accordance with this resolution. DTC may determine to discontinue providing its services with respect to the Refunding Bonds at any time by giving notice to the City and the bond registrar and paying agent and discharging its responsibilities with respect thereto under applicable law or the City may determine that DTC is incapable of discharging its duties and may so advise DTC. In either such event, the City shall use reasonable efforts to locate another securities depository. Under such circumstances (if there is no successor securities depository), the City and the bond registrar and paying agent shall be obligated to deliver bond certificates in accordance with the procedures established by this resolution. In the event bond certificates are issued, the provisions of this resolution shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of and interest on such certificates. Whenever DTC requests the City and the bond registrar and paying agent to do so, the City and the bond registrar and paying agent shall cooperate with DTC in taking appropriate action after reasonable notice to make available one or more separate certificates evidencing the Refunding Bonds to any Participant having Refunding Bonds certificated to its DTC account or to arrange for another securities depository to maintain custody of certificates evidencing the Refunding Bonds.

Notwithstanding any other provision of this resolution to the contrary, so long as any bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of, interest on and redemption premium, if any, on the Refunding Bonds and all notices with respect to the Refunding Bonds shall be made and given, respectively, to DTC as provided in the Blanket Issuer Letter of Representations previously entered into by the City and DTC, and the Finance Director is authorized to enter into any additional documents with DTC as deemed to be appropriate in order to accomplish the issuance of the Refunding Bonds in accordance with law and this resolution.

6. BOND REGISTRAR AND PAYING AGENT. Huntington Bank is hereby appointed as bond registrar and paying agent for the bonds, and the Finance Director may enter into an agreement with the bond registrar and paying agent. The Finance Director from time to time may designate, and may enter into an agreement with, a new bond registrar and paying agent, which shall be a bank or trust company authorized to do business in the State of Michigan which is qualified to act in such capacity under the laws of the United States of America or the State of Michigan.

7. EXECUTION, AUTHENTICATION AND DELIVERY OF BONDS. The Refunding Bonds shall be executed in the name of the City by the facsimile signatures of the Mayor and the City Clerk and authenticated by the manual signature of an authorized representative of the bond registrar and paying agent, and the seal of the City (or a facsimile thereof) shall be impressed or imprinted on the Refunding Bonds. After the Refunding Bonds have been executed and authenticated for delivery to the purchaser thereof, they shall be delivered by the Treasurer to the purchaser upon receipt of the purchase price. Additional Refunding Bonds bearing the facsimile signatures of the Mayor and the City Clerk and upon which the seal of the City (or a facsimile thereof) is impressed or imprinted may be delivered to the bond registrar and paying agent for authentication and delivery in connection with the

exchange or transfer of the Refunding Bonds. The bond registrar and paying agent shall indicate on each Refunding Bond the date of its authentication.

8. **EXCHANGE AND TRANSFER OF BONDS.** Any Refunding Bond, upon surrender thereof to the bond registrar and paying agent with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered owner or his duly authorized attorney, at the option of the registered owner thereof, may be exchanged for Refunding Bonds of any other authorized denominations of the same aggregate principal amount and maturity date and bearing the same rate of interest as the surrendered Refunding Bond.

Each Refunding Bond shall be transferable only upon the books of the City, which shall be kept for that purpose by the bond registrar and paying agent, upon surrender of such Refunding Bond together with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered owner or his duly authorized attorney.

Upon the exchange or transfer of any Refunding Bond, the bond registrar and paying agent on behalf of the City shall cancel the surrendered Refunding Bond and shall authenticate and deliver to the transferee a new Refunding Bond or Bonds of any authorized denomination of the same aggregate principal amount and maturity date and bearing the same rate of interest as the surrendered Refunding Bond. If, at the time the bond registrar and paying agent authenticates and delivers a new Refunding Bond pursuant to this section, payment of interest on the Refunding Bonds is in default, the bond registrar and paying agent shall endorse upon the new Refunding Bond the following: "Payment of interest on this bond is in default. The last date to which interest has been paid is _____."

The City and the bond registrar and paying agent may deem and treat the person in whose name any Refunding Bond shall be registered upon the books of the City as the absolute owner of such Refunding Bond, whether such Refunding Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Refunding Bond and for all other purposes, and all payments made to any such registered owner, or upon his order, in accordance with the provisions of Section 3 of this resolution shall be valid and effectual to satisfy and discharge the liability upon such Refunding Bond to the extent of the sum or sums so paid, and neither the City nor the bond registrar and paying agent shall be affected by any notice to the contrary. The City agrees to indemnify and save the bond registrar and paying agent harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence hereunder, in so treating such registered owner.

For every exchange or transfer of Refunding Bonds, the City or the bond registrar and paying agent may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The bond registrar and paying agent shall not be required to transfer or exchange Refunding Bonds or portions of Refunding Bonds which have been selected for redemption.

9. **FORM OF BONDS.** The Refunding Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF ROCHESTER HILLS
GENERAL OBLIGATION UNLIMITED TAX REFUNDING BOND, SERIES 2010

INTEREST RATE MATURITY DATE DATE OF ORIGINAL ISSUE CUSIP

_____, 2010

Registered Owner:

Principal Amount:

The City of Rochester Hills, County of Oakland, State of Michigan (the "City"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner identified above, or registered assigns, the Principal Amount set forth above on the Maturity Date specified above, unless redeemed prior thereto as hereinafter provided, upon presentation and surrender of this bond at the corporate trust office of Huntington Bank, Grand Rapids, Michigan, the bond registrar and paying agent, or at such successor bond registrar and paying agent as may be designated pursuant to the Resolution identified below, and to pay to the Registered Owner, as shown on the registration books at the close of business on the 15th day of the calendar month preceding the month in which an interest payment is due, by check or draft drawn upon and mailed by the bond registrar and paying agent by first class mail postage prepaid to the Registered Owner at the registered address, interest on such Principal Amount from _____, 2010, or such later date through which interest has been paid until the City's obligation with respect to the payment of such Principal Amount is discharged, at the rate per annum specified above. Interest is payable on the first days of April and October in each year, commencing on _____, 20___. Principal and interest are payable in lawful money of the United States of America.

This bond is one of a series of bonds aggregating the principal sum of _____ Dollars (\$_____) issued by the City under and pursuant to and in full conformity with the Constitution and Statutes of Michigan (especially Act No. 34, Public Acts of 2001, as amended) and a resolution adopted by the City Council of the City and an order executed by the Finance Director of the City (said resolution and order are herein collectively referred to as the "Resolution") for the purpose of refunding the City's outstanding General Obligation Unlimited Tax Bonds, Series 2001 maturing in the years ____ through _____. The full faith and credit of the City are hereby pledged for the prompt payment of the principal of and interest on this bond. The City is required to levy annually ad valorem taxes, without limitation as to rate or amount, to pay such principal and interest as the same shall become due.

This bond is transferable, as provided in the Resolution, only upon the books of the City kept for that purpose by the bond registrar and paying agent, upon the surrender of this bond together with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered owner or his attorney duly authorized in writing. Upon the exchange or transfer of this bond a new bond or bonds of any authorized denomination, in the same aggregate principal amount and of the same interest rate and maturity, shall be authenticated and delivered to the transferee in exchange therefor as provided in the Resolution, and upon payment of the charges, if any, therein provided. Bonds so authenticated and delivered shall be in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount for each maturity.

The bond registrar and paying agent shall not be required to transfer or exchange bonds or portions of bonds which have been selected for redemption.

Bonds maturing prior to April 1, _____, are not subject to redemption prior to maturity. Bonds maturing on and after April 1, _____, are subject to redemption prior to maturity at the option of the City, in such order as shall be determined by the City, on any one or

more dates on and after _____, _____. Bonds of a denomination greater than \$5,000 may be partially redeemed in the amount of \$5,000 or any integral multiple thereof. If less than all of the bonds maturing in any year are to be redeemed, the bonds or portions of bonds to be redeemed shall be selected by lot. The redemption price shall be the par value of the bond or portion of the bond called to be redeemed plus interest to the date fixed for redemption and a premium as follows:

___% _____ of the par value if called for redemption on or after _____, _____, but prior to _____, _____;

No premium if called for redemption on or after _____.

Bonds maturing on April 1, _____ and _____ are subject to redemption commencing on April 1, _____ and _____, respectively, in accordance with redemption requirements set forth in the Resolution at a redemption price of par, without premium, plus accrued interest to the date of redemption.

Not less than thirty nor more than sixty days' notice of redemption shall be given to the registered owners of bonds called to be redeemed by mail to each registered owner at the registered address. Bonds or portions of bonds called for redemption shall not bear interest on and after the date fixed for redemption, provided funds are on hand with the bond registrar and paying agent to redeem the same.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds of this series, existed, have happened and have been performed in due time, form and manner as required by law, and that the total indebtedness of the City, including the series of bonds of which this bond is one, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the City of Rochester Hills, County of Oakland, State of Michigan, by its City Council, has caused this bond to be executed in its name by facsimile signatures of the Mayor and City Clerk and its corporate seal (or a facsimile thereof) to be impressed or imprinted hereon. This bond shall not be valid unless the Certificate of Authentication has been manually executed by an authorized representative of the bond registrar and paying agent.

CITY OF ROCHESTER HILLS

(SEAL)

By: _____

By: _____
City Clerk Mayor

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within mentioned Resolution.

Huntington Bank,
Bond Registrar and Paying Agent

By: _____
Authorized Representative

AUTHENTICATION DATE:

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ (please print or type name, address and taxpayer identification number of transferee) the within bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed: _____

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

END OF BOND FORM

10. SECURITY. The full faith and credit of the City are hereby pledged to the payment of the principal of and interest on the Refunding Bonds. There shall be levied upon all taxable property in the City upon the tax roll of the year 2010 and upon the tax roll of each year thereafter while any of the Refunding Bonds shall be outstanding, an amount such that the estimated collections therefrom will be sufficient to pay promptly at maturity the principal and interest maturing on the Refunding Bonds prior to the time of the following year's tax collections. Taxes required to be levied to pay principal of and interest on the Refunding Bonds shall be levied without limitation as to rate or amount.

11. PRINCIPAL AND INTEREST FUND. There shall be established for the Refunding Bonds a Principal and Interest Fund. From the proceeds of the sale of the Refunding Bonds there shall be set aside in the Principal and Interest Fund any accrued interest received from the purchaser thereof at the time of delivery of the same. The proceeds of the taxes (both current and delinquent) to be used to pay the principal and interest on the Refunding Bonds when due shall be deposited as collected in the Principal and Interest Fund and so long as the principal or interest on the Refunding Bonds remain unpaid, no moneys shall be withdrawn from such fund except to pay such principal and interest or to pay from any investment earnings on such fund the fees and expenses of the bond registrar and paying agent.

12. DEFEASANCE. In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come

due at times and in amounts sufficient to pay, at maturity or irrevocable call for earlier optional redemption, the principal of, premium, if any, and interest on the Refunding Bonds, shall have been deposited in trust, this resolution shall be defeased and the owners of the Refunding Bonds shall have no further rights under this resolution except to receive payment of the principal of, premium, if any, and interest on the Refunding Bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange bonds as provided herein.

13. PAYMENT OF ISSUANCE EXPENSES -- ESCROW FUND. The remainder of the proceeds of the Refunding Bonds shall be used to pay the issuance expenses of the Refunding Bonds and to establish an escrow fund for the 2001 Bonds To Be Refunded. After the issuance expenses have been paid or provided for the remaining proceeds shall be used to establish an escrow fund (the "Escrow Fund") consisting of cash and investments in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or other obligations the principal of and interest on which are fully secured by the foregoing and used to pay the principal of and interest on the 2001 Bonds To Be Refunded. The Escrow Fund shall be held by Huntington Bank, which is hereby appointed as escrow agent (the "Escrow Agent"), in trust pursuant to an escrow agreement (the "Escrow Agreement") which irrevocably shall direct the Escrow Agent to take all necessary steps to pay the principal of and interest on the 2001 Bonds To Be Refunded when due prior to redemption and to call the 2001 Bonds To Be Refunded for redemption at such time as shall be determined in the Escrow Agreement. The Finance Director shall approve the Escrow Agreement at the time of sale of the Refunding Bonds. The amounts held in the Escrow Fund shall be such that the cash and the investments and the income received thereon will be sufficient without reinvestment to pay the principal of and interest on the 2001 Bonds To Be Refunded when due at maturity or call for redemption as required by the Escrow Agreement.

14. APPROVAL OF DEPARTMENT OF TREASURY. The issuance and sale of the Refunding Bonds shall be subject to permission being granted therefor by the Department of Treasury of the State of Michigan and the Finance Director is authorized and directed, if necessary, to make application to the Department of Treasury for permission to issue and sell the Refunding Bonds as provided by the terms of this resolution and by Act 34.

15. SALE, ISSUANCE, DELIVERY, TRANSFER AND EXCHANGE OF REFUNDING BONDS. The Refunding Bonds shall be sold pursuant to a negotiated sale to an underwriter to be selected by the Finance Director (the "Underwriter") as hereinafter provided, and it is hereby determined that such negotiated sale is in the best interests of the City and is calculated to provide the maximum flexibility in pricing the Refunding Bonds. The Finance Director is authorized to enter into a Bond Purchase Agreement with the Underwriter, such Bond Purchase Agreement to set forth the principal amount, principal maturities and dates, interest rates and interest payment dates, redemption provisions, if any, and purchase price to be paid by the Underwriter with respect to the Refunding Bonds and such other terms and provisions as the Finance Director determines to be necessary or appropriate in connection with the sale of the Refunding Bonds. The approval of the Bond Purchase Agreement, as well as the foregoing provisions with respect to the Refunding Bonds, shall be set forth in an order authorizing the sale of the Refunding Bonds to be executed by the Finance Director. The Mayor, the City Clerk, the Finance Director and the Treasurer are each hereby authorized to do all things necessary to effectuate the sale, issuance, delivery, transfer and exchange of the Refunding Bonds in accordance with the provisions of this resolution. In making the determination in the order authorizing the sale of the Refunding Bonds and in the Bond Purchase Agreement with respect to principal maturities and dates, interest rates, redemption provisions, purchase price of the Refunding Bonds and compensation to be paid to the Underwriter, the Finance Director shall be limited as follows:

- (a) The interest rate on any Refunding Bond shall not exceed 5.0% per annum.

- (b) The final maturity date of the Refunding Bonds shall not be later than April 1, 2021.
- (c) The present value of the savings (net of issuance costs) to be realized by the issuance of the Refunding Bonds shall be equal to or greater than 2.0% of the principal amount of the 2001 Bonds To Be Refunded and in any event no less than \$100,000.
- (d) The purchase price of the Refunding Bonds shall not be less than 98.5% of the principal amount thereof.
- (e) The Underwriter's discount with respect to the Refunding Bonds or the compensation to be paid to the Underwriter shall not exceed 1.5% of the principal amount of the Refunding Bonds.

If the Finance Director determines at the time of the sale of the Refunding Bonds that a negotiated sale as provided herein is not in the best interest of the City, the Finance Director is authorized to sell the Refunding Bonds at a competitive sale at not less than 98.5% of the par amount thereof in accordance with the laws of this state. If a competitive sale is chosen, the Finance Director is authorized to prescribe the form of notice of sale for the Refunding Bonds to be published prior to the sale thereof in accordance with Act 34.

16. REPLACEMENT OF BONDS. Upon receipt by the City Clerk of proof of ownership of an unmatured Refunding Bond, of satisfactory evidence that the bond has been lost, apparently destroyed or wrongfully taken and of security or indemnity which complies with applicable law and is satisfactory to the City Clerk, the City Clerk may authorize the bond registrar and paying agent to deliver a new executed Refunding Bond to replace the Refunding Bond lost, apparently destroyed or wrongfully taken in compliance with applicable law. In the event an outstanding matured Refunding Bond is lost, apparently destroyed or wrongfully taken, the City Clerk may authorize the bond registrar and paying agent to pay the Refunding Bond without presentation upon the receipt of the same documentation required for the delivery of a replacement Refunding Bond. The bond registrar and paying agent, for each new Refunding Bond delivered or paid without presentation as provided above, shall require the payment of expenses, including counsel fees, which may be incurred by the bond registrar and paying agent and the City in the premises. Any Refunding Bond delivered pursuant to the provisions of this Section 16 in lieu of any Refunding Bond lost, apparently destroyed or wrongfully taken shall be of the same form and tenor and be secured in the same manner as the Refunding Bond in substitution for which such Refunding Bond was delivered.

17. TAX COVENANT. The City covenants to comply with all applicable requirements of the Internal Revenue Code of 1986, as amended, necessary to assure that the interest on the Refunding Bonds will be and will remain excludable from gross income for federal income tax purposes. The Mayor, the City Clerk, the Finance Director, the Treasurer and other appropriate City officials are authorized to do all things necessary (including the making of such covenants of the City as shall be appropriate) to assure that the interest on the Refunding Bonds will be and will remain excludable from gross income for federal income tax purposes.

18. OFFICIAL STATEMENT. The Finance Director of the City is authorized to cause the preparation of an official statement for the Refunding Bonds for the purpose of enabling compliance with Rule 15c2-12 issued under the Securities Exchange Act of 1934, as amended (the "Rule") and to do all other things necessary to enable compliance with the Rule. After the award of the Refunding Bonds, the City will provide copies of a "final official statement" (as defined in paragraph (e)(3) of the Rule) on a timely basis and in reasonable quantity as requested by the purchaser thereof to enable the purchaser to comply with paragraph (b)(4) of the Rule and the rules of the Municipal Securities Rulemaking Board.

19. CONTINUING DISCLOSURE. The Mayor and the City Clerk are hereby authorized to execute a certificate of the City to comply with the continuing disclosure undertaking of the City with respect to the Refunding Bonds pursuant to paragraph (b)(5) of the Rule, and amendments to such certificate from time to time in accordance with the terms of such certificate (the certificate and any amendments thereto are collectively referred to herein

as the "Continuing Disclosure Certificate"). The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate.

20. **PROFESSIONAL SERVICES.** The following are appointed to act in the following capacities with respect to the Refunding Bonds:

As financial consultant: Public Financial Management, Inc.
Ann Arbor, Michigan

As bond counsel: Dickinson Wright PLLC
Bloomfield Hills, Michigan

21. **CONFLICTING RESOLUTIONS.** All resolutions and parts of resolutions insofar as they may be in conflict herewith are hereby rescinded.

COUNCIL COMMITTEE REPORTS

President Hooper requested a list be provided of the requests for charitable gaming licenses that have come before Council.

MR42-E Noise Barrier/Sound Wall Technical Review Committee:

President Hooper reported that the MR42-E Noise Barrier/Sound Wall Technical Review Committee will hold meetings on November 30, 2009 and December 8, 2009 and will develop a recommendation to present to Council.

Planning Commission:

President Hooper reported that the Planning Commission approved a senior development for Oakmont Boulevard Hills, located on the site of the old Peachwood facility, including a single-story memory care unit and three-story senior assisted living.

Advisory Traffic and Safety Board:

Mr. Webber reported that the Advisory Traffic and Safety Board met earlier this month and noted that discussions took place regarding concerns about the bridge on Avon Road and what the Administration's efforts are to secure repair of this bridge.

Brownfield Redevelopment Authority:

Mr. Webber reported that the Brownfield Redevelopment Authority met last Thursday and will move to a reduced meeting schedule for 2010.

Zoning/Sign Board of Appeals:

Mr. Brennan reported that the Zoning/Sign Board of Appeals granted a variance to the Chrysler Dealership on Rochester Road for expansion. He noted that several Chrysler executives were in attendance and are looking at this city as a significant market to sell cars.

Cemetery Citizens Advisory Technical Review Committee:

Mr. Pixley reported that the Cemetery Chapel construction is progressing and will provide a great addition to the Cemetery.

Mr. Yalamanchi questioned whether the Administration had any information about the proposed Lorna Stone development, noting a sales sign is on the property.

Mayor Barnett reported that the City has seen an increase in new home permits, noting that approximately one-dozen permits were pulled in the past month. He stated that after the Zoning/Sign Board of Appeals meeting, comments from Chrysler executives centered around how accommodating the City has been. He reported that over \$25,000 in citizen donations have been received for the Cemetery Chapel project.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

Regular Meeting - Monday, December 7, 2009 - 7:00 PM

ADJOURNMENT

There being no further business before Council, President Hooper adjourned the meeting at 9:00 p.m.

GREG HOOPER, President
Rochester Hills City Council

JANE LESLIE, Clerk
City of Rochester Hills

MARY JO WHITBEY
Administrative Secretary
City Clerk's Office

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