



Rochester Hills

Minutes

Economic Development Corporation

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*Dan Casey, Kurt Dawson, Tim Jacobson, L. Bruce Kingery, Vince Mungoli, Ralph Pisani,
Michael Powning, Keith Sawdon, Samuel Seabright*

Tuesday, September 28, 2010

5:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Dan Casey called the Special Meeting to order at 5:35 p.m. in Conference Room 221.

ROLL CALL

Present 6 - Kurt Dawson, L. Bruce Kingery, Michael Powning, Samuel Seabright, Dan Casey and Keith Sawdon

Absent 3 - Vince Mungoli, Ralph Pisani and Tim Jacobson

Quorum Present

Also present: Ed Anzek, Director of Planning and Development
John Staran, City Attorney
John Dalton, Past City Council President and

Resident

Bob Schwartz, Attorney at Clark Hill, PLC
Maureen Gentry, EDC Secretary

APPROVAL OF MINUTES

2010-0400 April 22, 2010 Regular Meeting

A motion was made by Kingery, seconded by Seabright, that this matter be Approved as Presented. The motion CARRIED by the following vote:

Aye 6 - Dawson, Kingery, Powning, Seabright, Casey and Sawdon

Absent 3 - Mungoli, Pisani and Jacobson

COMMUNICATIONS

There were no Communications brought forward.

NEW BUSINESS

2010-0399 Request for Resolution of Inducement and Intent to Issue Revenue Bonds to proceed with a Project under the Economic Development Corporations Act and to appoint bond counsel

After introductions, Chairperson Casey gave some historical background and summarized that the purpose of the Economic Development Corporation (EDC) was to generate projects that would result in new jobs and investment in the City. The EDC was formed in the early 1970's, and since that time, the Board had funded over 40 projects - typically industrial buildings and also some non-profits. The EDC had been largely inactive for many years, because the industrial corridor of the City had been built out. In recent years, the Board met annually to approve its budget and minutes, and to pass ownership interest in projects back to the property owners after bond closeouts.

Chairperson Casey revealed that the City had a new project to present. Bond counsel representative Mr. Schwartz was present to help educate the Board as to how bonds for the project would work and about the process, which would take about 60 days. Chairperson Casey recalled that the City purchased the property in 1999. It included four parcels, housing two smaller facilities and a manufacturing building. The two smaller parcels were sold, and the manufacturing building was demolished about three years ago, and two parcels totaling 15.65 acres remained. The City had marketed the properties for sale since 2002. The City Council wished to see a single user or a campus-style development on the properties, which were in the LDFA district. A few years ago, the LDFA approved a plan to fund \$751,000 of site improvements such as a road or an environmental study as a precursor to development.

Chairperson Casey advised that the project would be going public soon, but there were restrictions relating to announcing the company's name since it would be going to the State's MEGA board for incentives. That process required that the project not be announced at the local level prior to the Governor announcing it on October 26th. The companies involved had five operations currently located in Troy. They planned to consolidate those operations into a single building, and originally approached Troy. The site was not big enough, and it required a Zoning Variance, which was denied. They looked at opportunities in other cities and at the subject site. Rochester Hills proposed using Recovery Zone Bonds as one incentive, and the company liked the savings that would

offer and also has a very good relationship with Rochester Hills.

City Council had been meeting about the project, and the majority of the members were in favor of using EDC bonds in a unique proposal as a way to fund the project. The EDC would issue the bonds and ultimately own the building. The City would deed the land to the EDC on a land contract, but the EDC would not pay any money to the City for the land until the bonds had been retired. From the 16th year of the lease, the EDC would pay the revenues generated from the project directly to the Water and Sewer Fund, from which the land was purchased. That was a critical issue for City Council, given the fact that the land value today was not nearly as high as what was owed to the Water and Sewer Fund. This method made a lot of sense; the company would generate savings on the bonds, and the City would generate enough revenue to repay the W&S fund. At the end, the EDC would own a building and the land. It could continue to lease it or sell it beginning in the 16th year. The company was willing to commit to a 15-year lease, with two five-year extensions.

Chairperson Casey believed the process would be a natural role for the EDC. He noted that the project would generate 302 new jobs transferred to Rochester Hills and create 50 new jobs. The cost for the building was estimated at \$14,500,000, and the proposed bond issue was \$16,000,000. Mr. Anzek explained that the \$14,500,000 was a working number based on a program analysis of the spatial requirements, and the company wanted another \$500,000 for onsite retention. Chairperson Casey concluded, and asked if there were any questions.

Mr. Seabright asked the product/process that would be used at the site. Chairperson Casey said that it would be a corporate headquarters and research and development facility. There would be four stamping presses used for prototype development; they might also do some limited production runs for local customers on an as needed basis. The building would house the engineering, administrative and technical staff. Mr. Seabright asked if they would use any hazardous materials during testing, which was denied. Mr. Anzek noted that the company started with manufacturing of truck chassis and had evolved into other commercialization, such as solar panels and R&D development.

Mr. Seabright mentioned that the property was low, and he was concerned about flooding. He asked who would be liable for fire or other disasters. Chairperson Casey advised that the company would be responsible for all building maintenance costs, insurance and property maintenance. He agreed that the property sloped, but said that it was not in a flood zone.

Mr. Seabright asked about fire or wind damage, and Mr. Anzek assured that the company had to maintain insurance on the building for everything. Everything out of pocket, from fixing things to mowing the grass, would be the responsibility of the company.

Mr. Staran indicated that there would be a number of details worked out over the next few weeks. The City would be the insured party, but the lease would be triple net, and the cost of insurance would be paid by the company. The EDC would want to ensure that it did not absorb the risk of loss. Mr. Seabright confirmed that the EDC would be named as an additional insured party for any liability.

Mr. Dalton asked if the property would generate property taxes. Mr. Staran agreed, and said it was one of the benefits. The City was not getting tax money because the property was currently tax exempt. Mr. Anzek said that even with a short-term abatement, the City would start out receiving about \$100,000 per year, which would double after the abatement expired. Chairperson Casey noted that a portion of the taxes would be collected by the SmartZone and transferred to the OU INCubator at Oakland University.

Mr. Seabright asked what would happen if the total cost was more than \$16,000,000. Chairperson Casey advised that the company would be required to pay any cost overruns. Mr. Powning asked if there was a timeframe for the project. Chairperson Casey said that the company would pick the developer, and that it would take about a year. The bonds would be issued and sold by the end of this year; the architectural design would be done during the winter months and the Site Plan process done in the spring. The construction phase would take about six months.

Mr. Sawdon advised that he had been going through the application process with Oakland County, and they found an underwriter (Fifth Third) to give a soft letter to the City. He explained that the bonds were tax exempt, and that the City could not generate revenue from the project until the bonds retired, which was why they set up a land contract.

Mr. Schwartz discussed tax exempt Recovery Zone Bonds, which were first introduced in President Obama's stimulus bill in 2008. The EDC could not issue bonds to private companies that performed functions other than manufacturing until the law changed. He reminded that the EDC would be acting like a private developer. Tax exempt bonds represented borrowing by a municipal entity. They would use the lease revenues to pay off the bonds. They would want the interest rate as low as

they could get and to protect the City and the EDC. Mr. Staran added that they were looking at the parent company to guarantee the lease.

Chairperson Casey noted that City Council brought up the risk of bankruptcy. He stated that the subject company was the number one automotive supplier in the world, and they were the strongest financially of existing suppliers. They were sitting on about \$6 billion of cash and \$1.4 billion of unencumbered cash. They were very conservative, and they did not want to own the building. The City pursued selling the land to a developer, but the lease rates would have been passed along to the company, and the costs and timeframe would have put it over what the company was willing to pay for the lease. It made sense to do bonds, and he emphasized that the EDC would generate significant revenue some day from the project through the sale of the building and land.

Mr. Dalton asked what the interest rate would be, and Mr. Schwartz said it was very hard to determine at this point. It depended on the security and how the financing was structured, which were being worked on.

Mr. Seabright asked if the EDC would own the stamping presses, and Chairperson Casey advised that the equipment purchases would not be included in the bond. Mr. Schwartz added that the \$16,000,000 included room to add things like furniture without having to amend the resolution. He stressed that the resolution did not commit the EDC to anything. The members would just be preliminarily approving the project, thereby "inducing" the company to come, but they did not have to do it. He explained the process the EDC and City Council would go through, and said that City Council would eventually hold a Public Hearing regarding approving the project plan.

Mr. Seabright questioned how they arrived at the project cost, and Mr. Anzek said that the company had done a great deal of preliminary design. Chairperson Casey noted that the City had received quotes from five developers for the project, from \$12.5 to \$23 million, and two came in at \$14.5 million.

Mr. Schwartz stated that everything had to be signed and delivered before December 31. The legislation could be extended, but they could not count on that. Chairperson Casey discussed other deadlines: The City had to have a soft letter by October 8; the bond counsel had to issue a letter indicating that the project was feasible and eligible; City Council had to do a Resolution of support; and the application had to be submitted. They should be ready for the bond sale by the middle of

November, which would give only about six weeks for the issuance.

Mr. Seabright asked if an environmental study would be submitted, and Chairperson Casey said that process had started for a Phase One study. There was a study done in 1999 when the City purchased the property.

Hearing no further questions, Chairperson Casey asked for consideration of the first motion.

The following preamble and resolution were offered by Director Kingery and supported by Director Powning:

WHEREAS, *there exists in the City of Rochester Hills (the "City") and the State of Michigan (the "State") the need for programs to alleviate and prevent conditions of unemployment, to assist and retain local industrial and commercial enterprises, and to encourage the location and expansion of such enterprises in order to strengthen and revitalize the City's and State's economy and to provide needed services and facilities to the City and its residents; and*

WHEREAS, *the Economic Development Corporations Act, Act No. 338 of the Michigan Public Acts of 1974, as amended (the "Act"), provides a means for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing and equipping facilities in the City; and*

WHEREAS, *The Economic Development Corporation of the City of Rochester Hills (the "EDC") has preliminarily determined to undertake a "project" within the meaning of the Act in the City of Rochester Hills (as further described below, the "Project") for the benefit of Vehma International of America, Inc., and/or one or more of its affiliates (collectively, the "Company"), which Project is designed for and capable of providing needed services, facilities and employment to the residents of the City; and*

WHEREAS, *the Project will consist of the construction of an approximately 180,744 square foot building suitable for engineering, research and development and general office activities desired by the Company and will be leased to the Company by the EDC pursuant to mutually agreeable terms and conditions; and*

WHEREAS, *the costs of the Project, including land, construction,*

equipment, architectural, administrative, legal and financial costs, are estimated not to exceed \$16,000,000; and

WHEREAS, *the EDC is authorized by the Act to issue revenue bonds to finance the costs of the Project and to lease the Project to the Company; and*

WHEREAS, *the issuance of revenue bonds by the EDC for the Project will induce the Company to establish and/or expand its business within the City; and*

WHEREAS, *all administrative, legal, financial or other costs incurred by the EDC are includable in the costs of the Project and will be repaid out of the proceeds of the bonds and/or lease payments by the Company; and*

WHEREAS, *the EDC deems it desirable, reasonable and necessary to commence the appropriate proceedings pursuant to which bonds may be issued by the EDC to finance the Project under the Act;*

RESOLVED:

The EDC finds that there is a public purpose in the Project.

In order to induce the Company to consolidate its business in the City and lease the Project from the EDC, and subject to the provisions of this Resolution, the EDC will issue its limited obligation economic development revenue bonds in an amount presently estimated not to exceed \$16,000,000, for the purpose of paying all or part of the costs of the Project and the costs incidental to the issuance of the bonds. Such bonds will be issued pursuant to the Act in form and substance acceptable to this EDC, its counsel and Bond Counsel, subject to the completion of all necessary proceedings, hearings, approvals and other requirements of the Act.

The proceedings and agreements relating to the EDC's involvement with the Project and issuance of the bonds shall contain such provisions and details as shall absolutely and unequivocally make certain that under no circumstances will the EDC or the City or any of the City's taxpayers or citizens, ever be required to pay the principal of and interest on, or any costs relating to, the bonds from tax revenues or other funds of the EDC or the City, shall contain provisions fully protecting the EDC and the City against any other liability and all costs relating to the

bonds and the Project, and shall provide for the payment of all debt service on the bonds from lease revenues or other sources acceptable to the EDC.

By adoption of this resolution the EDC assumes no obligation or liability to the Company for any loss or damage that may result to the Company from the adoption of this resolution, from costs and expenses in connection with the Project, and from costs of the issuance of the bonds. Any and all costs relating to the acquisition, financing, ownership or operation of the Project shall be paid from the proceeds of sale of the bonds or by the Company.

Each revenue bond, when, as, and if issued in connection with the Project, shall clearly recite in substance that the principal of, interest, and premium, if any, on such bond are payable solely from the revenues received from the Project or the Company, and do not constitute a debt or liability of the EDC or the City. The property which constitutes the Project may be pledged or mortgaged as security for the payment of the bonds, as permitted by the Act.

The firm of Clark Hill PLC, Birmingham, Michigan, is hereby designated and retained by the EDC as Bond Counsel with respect to the revenue bonds to be issued in connection with the Project, and is authorized and directed to prepare and submit to all appropriate parties all proceedings, agreements and other documents as shall be necessary or appropriate in connection with the issuance of such bonds, to make application on behalf of the EDC to the United States Internal Revenue Service and other governmental agencies for such income tax and other rulings and approvals as may be necessary in relation to the issuance of such bonds, and any one or more officers of this EDC are authorized to execute such powers of attorney and other documents as may be appropriate in connection with the foregoing. The legal fees of Bond Counsel for work done in connection with the Project shall be paid from the proceeds of sale of such bonds or by the Company and in no event shall be a liability of the EDC or the City.

The EDC makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

This declaration of official intent is specifically made pursuant to Treas. Reg. § 1.150-2.

The EDC reasonably expects to reimburse itself with proceeds of the bonds for the expenditures related to the Project, including costs of issuing the bonds.

The maximum principal amount of debt expected to be issued for reimbursement purposes described herein is \$16,000,000.

Reimbursement of the expenditures described in (b) above with the proceeds of the borrowing described herein will occur not earlier than the date on which the expenditure is paid and not later than (1) the date that is 18 months after the date on which the expenditure is paid, or (2) the date on which the project is placed in service (but in no event more than 3 years after the original expenditure is paid), and the reimbursement will comply with the rules described in Treas. Reg. § 1.150-2(d).

The expenditures described in (b) above are "capital expenditures" and costs of bond issuance as defined in Treas. Reg. § 1.150-2(d)(3).

All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and they are hereby rescinded.

YEAS: Directors: Casey, Dawson, Kingery, Powning, Sawdon, Seabright

NAYS: Directors: None

ABSENT: Directors: Jacobson, Mungoli, Pisani

ABSTENTIONS: Directors: None

RESOLUTION DECLARED ADOPTED

A motion was made by Kingery, seconded by Powning, that this matter be Approved. The motion CARRIED by the following vote:

Aye 6 - Dawson, Kingery, Powning, Seabright, Casey and Sawdon

Absent 3 - Mungoli, Pisani and Jacobson

Chairperson Casey stated for the record that the motion had passed unanimously. He asked for a motion for the second request. Mr. Dawson made corrections to the Parcel Numbers in the legal description.

2010-0401 Request for Resolution Designating Project Area and Project District Area and Requesting Appointment of Additional Directors

The following preamble and resolution were offered by Director Seabright and supported by Director Kingery:

WHEREAS, *there exists in the State of Michigan (the "State") and in the City of Rochester Hills (the "City") the continuing need for projects to alleviate and prevent conditions of unemployment, to assist and retain local industrial and commercial enterprises, to strengthen and revitalize the economy, and to encourage the location and expansion of industrial and commercial enterprises to more conveniently provide needed services and facilities to the State and to the City; and*

WHEREAS, *the Economic Development Corporations Act, Act No. 338 of the Michigan Public Acts of 1974, as amended, (the "Act") provides a means for the encouragement of such projects in the City by this Economic Development Corporation ("EDC") through the issuance of its revenue bonds for the benefit of such projects; and*

WHEREAS, *this EDC has commenced proceedings under the Act by adoption of a Resolution of Inducement for the benefit of the captioned Project (the "Project") and desires to continue such proceedings as hereinafter provided;*

RESOLVED:

In accordance with Section 8(1) of the Act, the EDC hereby designates a Project Area as set forth in "Exhibit A" annexed hereto.

The territory surrounding said designated Project Area will not be significantly affected by the Project because the surrounding territory is devoted to uses deemed compatible with the nature of the Project and, therefore, this EDC recommends to the City Council of the City of Rochester Hills (the "City Council") that it designate a Project District Area having the same description as and boundaries coterminous with the Project Area herein designated.

The EDC commence preparation of a Project Plan, as defined in the Act.

The Secretary be instructed to direct a request to the City Council to certify its approval of the designation of said Project Area and to designate the Project District Area as recommended, without the formation of a Project Citizens District Council as further recommended, all in accordance with the requirements of Section 8(1) and 12(1) of the Act.

Pursuant to Section 4(2) of the Act, the Secretary of this EDC be further directed to deliver a copy of this resolution to the Mayor of the City with the request that the Mayor promptly appoint two (2) additional directors to this EDC with the advice and consent of the City Council, in accordance with the requirements of Section 4(2) of the Act, all upon the conditions that such two (2) additional directors be representative of neighborhood residents and business interests likely to be affected by the Project, be authorized to serve and to vote only on issues that directly affect the subject Project, and be authorized to serve only until the earlier of the time the Project is completed in accordance with its Project Plan or the Project is abandoned by the EDC.

All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and they are hereby rescinded.

YEAS: Directors: Casey, Dawson, Kingery, Powning, Sawdon, Seabright

NAYS: Directors: None

ABSENT: Directors: Jacobson, Mungioli, Pisani

ABSTENTIONS: Directors: None

RESOLUTION DECLARED ADOPTED

A motion was made by Seabright, seconded by Kingery, that this matter be Approved. The motion CARRIED by the following vote:

Aye 6 - Dawson, Kingery, Powning, Seabright, Casey and Sawdon

Absent 3 - Mungioli, Pisani and Jacobson

Chairperson Casey again stated for the record that the motion had passed unanimously.

ANY OTHER BUSINESS

There was no Other Business discussed.

NEXT MEETING DATE

To be determined as necessary.

ADJOURNMENT

Hearing no further business to come before the Economic Development Corporation and upon motion by Powning, seconded by Kingery, the Chair adjourned the Special Meeting at 6:40 p.m., Michigan time.

Respectfully Submitted,

Daniel B. Casey, Chairperson
Rochester Hills
Economic Development Corporation

Maureen Gentry, EDC Secretary