



# Rochester Hills

## Minutes

### Brownfield Redevelopment Authority

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

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Thursday, April 21, 2022

7:00 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

*Chairperson Justin called the Brownfield Redevelopment Authority meeting to order at 7:00 p.m. Michigan Time.*

## ROLL CALL

**Present** 5 - Robert Justin, Werner Richard Braun III, James Nachtman, Thomas Turnbull and Ryan Deel

**Excused** 2 - Mark Sera and Del Stanley

### **Others present:**

*Sara Roediger, Planning and Economic Development Director*  
*Jennifer MacDonald, Recording Secretary*  
*Thomas Wackerman, ASTI Environmental*

## APPROVAL OF MINUTES

[2022-0207](#) Minutes - Brownfield Redevelopment Authority Meeting of November 18, 2021

**A motion was made by Nachtman, seconded by Braun, that this matter be Approved as Presented. The motion carried by the following vote:**

**Aye** 5 - Justin, Braun III, Nachtman, Turnbull and Deel

**Excused** 2 - Sera and Stanley

**Resolved**, that the Brownfield Redevelopment Authority approves the meeting minutes of November 18, 2021 as presented.

## COMMUNICATIONS

*None.*

## PUBLIC COMMENT

*None.*

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## NEW BUSINESS

### 2022-0208

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

*(Reference: Memos, prepared by Sara Roediger, dated April 14, 2022; Thomas Wackerman dated April 18, 2022; AKT Peerless Reimbursement Request dated February 18, 2022 and letter dated April 6, 2022; Rochester IRR dated April 6, 2018; Legacy Review of IRR dated April 22, 2018, Signed Reimbursement Agreement and Brownfield Plan had been placed on file and by reference became part of the record thereof).*

*Present for the applicant were Brian Westock and Samantha Seimer with AKT Peerless, 22725 Orchard Lake Road, Farmington, MI 48336, and Stan Jaske, Goldberg Companies, 25101 Chagrin Blvd., Suite 300, Beachwood, Ohio 44122.*

*Chairperson Justin introduced the request for the reimbursement for the Adams and Hamlin Rd. project. He asked Mr. Wackerman for any comments to add.*

*Mr. Wackerman said that tonight the applicant is presenting the fourth reimbursement request for the Legacy of Rochester Hills project. He said he would like to spend a little more time tonight, since the end of the project is close and it is a little more complicated. He said there is an extra sheet of paper in front of the board members, which is a memo with four options for the board to make a decision. He said that the first option is to approve \$1.429073 million, and below he listed the remaining budget because that should also be discussed today since the project is mostly completed. He explained that the second option is that you add two of the contingent categories, and approve \$1.446373 million. The third option is that the board approves only one of those two, those are the disposal costs of the soils, \$1.44129 million, and the last option is that the board approves the other one. He said the objective today is to approve a specific amount for reimbursement. He provided a memo dated April 18, 2022, and subsequent to that the applicant's consultant, AKT, provided a letter dated April 20, 2022, which AKT will discuss.*

*Mr. Wackerman directed the board members to turn to the April 18th memo, the third item on the agenda. He said this is the fourth request for reimbursement, and he referred to the conclusion in his memo that is based on the documents, that the total amount of eligible expenses to date before interest is \$9,475,587. He explained the reimbursement also has a limit in it, Page 3 shows the summary of all of the different work plans, and it supports the amount that has been approved by the State of Michigan and the BRA. The state approved the modified amendment. The reimbursement requested today is \$1,556,659.70 for eligible activities, those are summarized on the attached Table One by line item. He said there are four items on there that he did not approve for reimbursement which he will review.*

Mr. Wackerman said the first item is lines 207 and 208, and he explained that as an invoice comes in it is given a number. The Michigan Department of Environment, Great Lakes and Energy (EGLE) limits State reimbursement for preparation of brownfield plans and 381 work plans to \$30,000. He noted the BRA had previously approved approximately \$34,730 for those, and he explained that he missed that in the last approval. What he is proposing is according to the way the brownfield plan and the reimbursement plan is written, any expense that is not approved by the State can only be paid by the City as a proportional share of the local taxes. He is proposing that the City pay its proportional share of the \$4,730 that was already approved by mistake, and the amount being requested today. So on line items 207 and 208, it says potentially eligible information needed that they have \$5,082.68 that could be approved as a proportional share of the total amount. They have an ineligible amount of \$6,227.32 that would not be approved because that would be the State share. Mr. Wackerman referred to the column called Total Amount Recommended for approval where there is a negative amount that is a correction to the previous \$34,730. So the net result is that the BRA already approved \$30,000, he is recommending that if the board would like to do that to approve the proportional share.

Mr. Wackerman directed to the board to Options 2 and 4, and explained that this is the \$5,000 line item called "Add Back in Local Only". He said the second item on Page 4, for line items 218-219, these are items where proof of payment was provided in the terms of a canceled check, but no waiver of lien was provided. The agreement requires proof of payment and doesn't specify what that proof of payment has to be. He said the BRA has previously approved landfill invoices without waivers of lien and only checks. However this continues to be an issue, and City Attorney John Staran has brought it up; and his preference is that we have waivers of lien. So for these particular items which total \$12,216.84, they need to provide additional information that is approvable. He mentioned that in the handout that is Options 2 and 3.

Mr. Wackerman noted that Item 3 is reference line 223, it is an invoice from HM Environmental which is actually an invoice from Mersino. He said that is fine, as it is for the first attempt at the slurry wall which didn't work, which AKT can explain further. However the problem is it was for the same dates as a previous invoice for the slurry wall that was already submitted and approved. He has asked the applicants for additional information on that. The applicants have said they'll withdraw that request and come back later - they can always come back later with additional information for a denied item.

Mr. Wackerman said Item 4 is for lines 229-272, which are listed as ASTI but they are actually payments of invoices to the City of Rochester Hills for ASTI's services. Mr. Wackerman said his view on these are that is that those are administrative costs that the City has incurred and they are not reimbursable. He said the applicant responded and said that Act 381 permits cost accounting even if it's municipal, and he would say that's true; however he pointed out that most of these charges are not for cost accounting, they are for the review of work plans, for attending meetings, for field inspections, and things like that. Secondly, this is more of a contractual issue and not an issue with the work

*plan. In other words the question is the terms of the agreement between the City and the applicant. The applicants have agreed to bring this request back to the table with additional information.*

*Mr. Wackerman noted Items 3-4 do not appear on the option sheet he provided today, only Items 1 and 2 which he put in as potentially eligible if additional information is provided. He said on page 5 it shows reimbursements to-date and it summarizes the three previous reimbursement approvals plus this one. He said that it is prudent that the BRA makes sure to preserve the \$576,000 that was allocated to Parcel B operation and maintenance, and make sure that does not get expended on any other eligible expense. On the supplemental handout he provided he pointed out that on the bottom he took out \$576,000 from the budget and provided what is remaining. Mr. Wackerman said that in addition to providing the four options for the approval of reimbursable expenses, he also provided the corresponding remaining budget. He said that he expects there will be at least one more application for reimbursement. He said the applicant provided in their letter that Parcel A is 100% complete, and Parcel B is 80%, he said he thinks now it is 90.765% completed. The applicant stated that the cover is in place. Mr. Wackerman noted there are little things left to do. So he wanted to be really clear about what the remaining budget is. He asked the board members for any questions.*

*Chairperson Justin asked about the split of costs between the State and the City, and whether is that adjusted in the numbers shown in Options 1, 2, 3 and 4?*

*Mr. Wackerman responded yes, the \$5,082.68 is just the proportional share of the amount that they're requesting in Request #4. He said that he has already taken into account backing out the \$4,000 that was unintentionally approved with the last agreement.*

*Chairperson Justin asked for additional questions from the board. Seeing none he asked for comments from the applicant, particularly about Parcel B and how much money will be required to pay off the additional work, and whether it can be accomplished within budget.*

*Brian Westock, Senior Project Manager with AKT Peerless, explained that they installed the two engineered covers, the Bentomat material and the flexible membrane layer over the highly contaminated areas of Parcel B that are within the slurry walls. Those are in place and were finished today. HM Environmental is the general contractor, they are bringing in sand and topsoil to the site. Mr. Westock stated that they will bury those two layers 3.5 ft. per the specifications in the 381 Work Plan Amendment that was approved by the State and the City. That will take approximately 3-4 more weeks to complete. He said the last main task in the field is burying the material and putting seed cover over it, and then the project will transition into Operations & Maintenance, and they will monitor landfill gases to see what the concentrations are. And then they will submit documentation for due care compliance as soon as the field work is completed. He said they anticipate the field work to be completed just before Memorial Day, with the documentation of due care compliance to be submitted to the State at*

*the end of June.*

*Mr. Wackerman asked if the City could review the due care compliance documentation before it goes out, noting that it is very important for the city's ongoing obligations, and to allow the City to make comments on it.*

*Mr. Westock responded that there would be no problem with that.*

*Chairperson Justin asked if anyone else on the panel had any comments to add.*

*Samantha Seimer, Vice President of Economic Development Services with AKT Peerless, introduced herself to the Board.*

*Stan Jakse said that he represents Goldberg companies on the construction side and said he has been working with Brian and AKT for the last three years, he is glad to see the cover on the site and hopes to see some grass growing in June.*

*Chairperson Justin asked how soon do they expect to be taking residents for Parcel A.*

*Mr. Goldberg responded that by mid-summer should be able to get some of the first units occupied, and they hope to get the last units occupied by the same time next year.*

*Chairperson Justin asked for any other questions or a motion from the Board. There were no further questions.*

*Motion was made by Nachtman and seconded by Turnbull to approve the request for \$1,446,373.12.*

*Chairperson Justin asked for any discussion of the motion. There being none, he called for a roll call vote.*

*After the vote, he announced that the motion passed unanimously.*

**MOTION by Nachtman, seconded by Turnbull, that this matter be Approved. The motion carried by the following vote:**

**Aye** 5 - Justin, Braun III, Nachtman, Turnbull and Deel

**Excused** 2 - Sera and Stanley

**Resolved**, in the matter of City File No. 17-043, the Brownfield Redevelopment Authority approves the fourth reimbursement request associated with the cost for eligible activities completed for the Legacy of Rochester Hills brownfield

cleanup, with any items removed as requested by ASTI, for \$1,446,373.12, as this portion of the request is in compliance with the approved Brownfield Plan, the Reimbursement Agreement, 1996 PA 381 (Act 381) at the time of the Brownfield Plan approval, the City's cost reimbursement procedures, and generally accepted practices.

## **TRAINING**

*Ms. Roediger mentioned that staff together with ASTI would be preparing training for the next meeting.*

## **ANY OTHER BUSINESS**

*Ms. Roediger noted that staff has been talking with Mr. Wackerman for a while with regard to reviewing BRA policies and the bylaws and this should be discussed in the near future.*

*Motion was made by Deel, support by Braun, to direct staff to review the BRA bylaws and come back with recommendations.*

*The motion passed unanimously.*

## **NEXT MEETING DATE**

*July 21, 2022*

## **ADJOURNMENT**

*There being no further business it was moved by Deel, seconded by Nachtman, to adjourn the meeting at 7:23 p.m.*

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*Robert Justin, Chairperson  
Rochester Hills Brownfield Redevelopment Authority*

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*Jennifer MacDonald, Recording Secretary*