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July 23, 2004

VIA FACSIMILE and MAIL

Ms. Beverly Jasinski, Clerk
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, Michigan 48309-3033

Re: ***City of Rochester Hills Charter Amendment / Primary Election***

Dear Ms. Jasinski:

For the City Council's consideration, I have prepared and enclose two alternative City Council resolutions for Charter amendment proposals concerning City Charter Section 9.9, Primary Election. The resolutions contain proposed amendments, existing provisions, statement of purpose and ballot question. Option 1 would, if adopted, eliminate the City primary election altogether. Option 2 would, if adopted, provide that a primary election shall not be held unless there are more than 3 times the number of candidates for each office. Presently, the City Charter requires a primary election if there are more than **twice** the number of candidates for each office.

It is my understanding the City Council will soon consider these Charter amendment options, and I have previously advised you about Charter amendment procedure. The Charter amendment may be initiated by resolution of 3/5 of the members-elect of the City Council (i.e., 5 votes needed). It will be necessary to publish the proposed Charter amendment in full with the existing Charter provision. This requirement can be met in several ways, including by publishing the proposed amendment and existing Charter provisions in the election notice. Additionally, once the City Council has initiated the proposed Charter amendment and approved it for submittal to the voters, it is necessary to submit the proposed Charter amendment to the Governor for approval. In an effort to expedite that process, I am, by copy of this letter, sending an advance copy of the proposed alternative resolutions to Assistant Attorney General George Elworth with a request that

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he look over the proposed Charter amendment options and statements of purpose contained in the proposed resolutions and advise whether he sees any problems with the proposed amendment.

Very truly yours,

BEIER HOWLETT, P.C.

John D. Staran

JDS/lh
Enclosures

cc: Mr. George M. Elworth, Assistant Attorney General (w/enc)

(OPTION 1)

RESOLUTION

WHEREAS, the City Council of the City of Rochester Hills desires to initiate a proposed amendment to City Charter Section 9.9, Primary Election, to eliminate the requirement for a City Primary Election for Mayoral and City Council candidates.

THEREFORE, the City Council of the City of Rochester Hills resolves:

1. The City Council, by a three-fifths vote of its members-elect, pursuant to the authority granted under the Home Rule Cities Act, MCL 117.1, et seq, proposes to amend the City of Rochester Hills Charter to delete Charter Section 9.9, Primary Election, in its entirety.

2. Provisions of existing Section 9.9 of the City of Rochester Hills Charter to be deleted if the proposed amendment is adopted now read as follows:

The City primary election shall be held on the Tuesday after the second Monday in September of each odd-numbered year. If there are not more than twice the number of candidates for each office to be filled as there are persons to be elected, the primary election shall not be held, and those persons filing valid petitions shall be declared the nominees.

3. The purpose of the proposed Charter amendment shall be stated on the ballot as follows:

A proposal by the Rochester Hills City Council to amend the City Charter by deleting Section 9.9 in its entirety to eliminate the City Primary Election for the nomination of candidates for Mayor and Council. If the proposal is adopted, there will be no City Primary Election.

4. The City Clerk shall forthwith transmit a copy of the proposed amendment to the Governor of the State of Michigan for the Governor's approval, and transmit a copy of the foregoing statement of purpose of the proposed Charter amendment to the Michigan Attorney General for the Attorney General's approval, as required by law.

5. The proposed Charter amendment shall be submitted to the qualified electors of this City at the general election to be held in the City of Rochester Hills on Tuesday, November __, 2004, and the City Clerk is hereby directed to give notice of the election

and notice of registration therefore in the manner prescribed by law and to do all things and to provide all supplies necessary to submit the proposed Charter amendment to a vote of the electors as required by law.

6. The proposed amendment shall be submitted to the electors in the following form:

**PROPOSED CITY CHARTER AMENDMENT TO
ELIMINATE CITY PRIMARY ELECTION**

A proposal by the Rochester Hills City Council to amend the City Charter by deleting Section 9.9 in its entirety to eliminate the City Primary Election for the nomination of candidates for Mayor and Council. If the proposal is adopted, there will be no City Primary Election.

Shall the City of Rochester Hills Charter be amended to delete Charter Section 9.9 to eliminate the City Primary Election?

YES NO

7. The proposed Charter amendment shall be published in full together with the existing Charter provision that will be altered or abrogated thereby as part of the election notice not less than 10 days prior to the election.

8. The canvass and determination of the votes on the proposed Charter amendment shall be made in accordance with the laws of the State of Michigan and the City of Rochester Hills Charter.

(OPTION 2)

RESOLUTION

WHEREAS, the City Council of the City of Rochester Hills desires to initiate a proposed amendment to City Charter Section 9.9, Primary Election, to eliminate the need for a City Primary election unless there are at least three times the number of candidates as there are persons to be elected.

THEREFORE, the City Council of the City of Rochester Hills resolves:

1. The City Council, by a three-fifths vote of its members-elect, pursuant to the authority granted under the Home Rule Cities Act, MCL 117.1, et seq, proposes that Section 9.9, Primary Election, of the City of Rochester Hills Charter shall be amended to read as follows:

The City primary election shall be held on the Tuesday after the second Monday in September of each odd-numbered year. ~~If~~ Unless there are ~~not~~ more than ~~twice-three times~~ the number of candidates for each office to be filled as there are persons to be elected, the primary election shall not be held, and those persons filing valid petitions shall be declared the nominees.

2. Provisions of existing Section 9.9 of the City of Rochester Hills Charter to be altered or abrogated if the proposed amendment is adopted now read as follows:

The City primary election shall be held on the Tuesday after the second Monday in September of each odd-numbered year. If there are not more than twice the number of candidates for each office to be filled as there are persons to be elected, the primary election shall not be held, and those persons filing valid petitions shall be declared the nominees.

3. The purpose of the proposed Charter amendment shall be stated on the ballot as follows:

A proposal by the Rochester Hills City Council to amend City Charter Section 9.9 to provide that a City Primary Election shall not be held unless there are more than three times the number of candidates for each office to be filled as there are persons to be elected.

4. The City Clerk shall forthwith transmit a copy of the proposed amendment to the Governor of the State of Michigan for the Governor's approval, and transmit a copy of the foregoing statement of purpose of the proposed Charter amendment to the Michigan Attorney General for the Attorney General's approval, as required by law.

5. The proposed Charter amendment shall be submitted to the qualified electors of this City at the general election to be held in the City of Rochester Hills on Tuesday, November __, 2004, and the City Clerk is hereby directed to give notice of the election and notice of registration therefore in the manner prescribed by law and to do all things and to provide all supplies necessary to submit the proposed Charter amendment to a vote of the electors as required by law.

6. The proposed amendment shall be submitted to the electors in the following form:

**PROPOSED CITY CHARTER AMENDMENT TO MODIFY
WHEN A CITY PRIMARY ELECTION MAY BE HELD**

A proposal by the Rochester Hills City Council to amend City Charter Section 9.9 to provide that a City Primary Election shall not be held unless there are more than three times the number of candidates for each office to be filled as there are persons to be elected.

Shall Section 9.9 of the City of Rochester Hills Charter be amended to provide that a City Primary Election shall not be held unless there are more than three times the number of candidates for each office as there are persons to be elected?

YES NO

7. The proposed amendment shall be published in full together with the existing Charter provision that will be altered or abrogated thereby as part of the election notice not less than 10 days prior to the election.

8. The canvass and determination of the votes on the proposed Charter amendment shall be made in accordance with the laws of the State of Michigan and the City of Rochester Hills Charter.