



Rochester Hills Minutes City Council

1000 Rochester Hills Drive
Rochester Hills, MI 48309
(248) 656-4660
Home Page:
www.rochesterhills.org

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

Wednesday, March 3, 2004

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:35 p.m. Michigan Time.

ROLL CALL

Present: John Dalton, Bryan Barnett, Jim Duistermars, Melinda Hill, Barbara Holder, Linda Raschke and Gerald Robbins

Others Present:

*Pat Somerville, Mayor
John Staran, City Attorney
Bev Jasinski, City Clerk
Ed Anzek, Director of Planning/Development
Derek Delacourt, Planner
Ron Crowell, Assistant Fire Chief
Paul Davis, City Engineer
Deborah Millhouse, Deputy Director of Planning/Development
Roger Rousse, Director of DPS/Engineering
Greg Walterhouse, Fire Chief*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

**A motion was made by Duistermars, seconded by Barnett, to Approve Agenda as Amended.
Remove Item 2004-0175 Revised Conditional Land Use - First Church of the Nazarene.
The motion carried by the following vote:**

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

PUBLIC COMMENT

Mr. Lee Zendel, 1575 Dutton Road, encouraged residents who oppose the single waste hauler plan to email their opinions to rhfreedom03@yahoo.com. He assured residents that their privacy would be respected and there would be no solicitation of funds.

Mr. Robert Schlueter, 866 Green View Court, identified himself as the Knolls North Condominium Association Treasurer, and explained that he was under the impression that, with the proposed single waste hauler plan, he would be required to pay for his trash removal privately as well as be billed by the City for trash removal.

President Dalton explained that only those residents who receive City trash pickup will be billed for the service.

Ms. Susan deCaussin, 456 Wimpole Drive, informed Council of a "serious issue affecting" the Older Persons Commission (OPC). She indicated that attendance at OPC functions had decreased drastically since the implementation of a policy to charge seniors living outside the community for use of the facilities. She suggested that the Board of Directors rescind the policy.

Ms. Margie Montross, 52662 Inla, Shelby Township, indicating that she is the Director of the OPC's Heart of the Hills Players, expressed her distress that these programs are in jeopardy of continuing due to the new non-resident fees.

Ms. Margaret Coyle, 175 Manor Way, noted that her opinion was stated by the previous speakers.

Mr. John Coyle, 175 Manor Way, noted that his opinion was stated by the previous speakers.

Ms. Barbara Ensminger, 1458 Brians Way, suggested that, while it is reasonable to charge non-residents a fee for the use of the OPC facilities, the required \$150 fee is not reasonable. She suggested that a "department of volunteers" be established resulting in the eventual elimination of this non-resident fee.

Mr. Leo Oriet, Whispering Willows, noted that he supports the single waste hauler plan, expressing his belief that fewer garbage trucks traveling residential streets will preserve those streets as long as possible.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

President Dalton noted that he had just learned of the issue regarding the OPC non-resident fee policy and was interested in examining the issues and exploring solutions. He also acknowledged that the City Council meeting packet had not been loaded on the City's website because of its size. He assured residents that in the future, any delay will be noted on the website.

Mayor Somerville stated that the food drive had been a success and thanked everyone who contributed. She then announced that the City's Finance Director, Bob Spaman, has resigned to take a position with the City of Farmington Hills. She noted that Mr. Spaman has done an excellent job for Rochester Hills and will be missed.

Ms. Raschke announced that the Rochester Hills Professional Firefighters Local #3472 is sponsoring a Vegas Night at the River Crest Banquet Center March 6th from 6:00 p.m. to 11:00 p.m. to benefit the Muscular Dystrophy Association.

Ms. Hill noted that the Rochester Area Youth Assistance is sponsoring several programs at the Rochester Hills Public Library. She stressed that while the programs are free of charge, space is limited and encouraged interested parties to call 248-650-7140. After noting that the OPC pool had passed inspection and would open Monday, March 8th, Ms. Hill acknowledged that she is a member of the governing Board of the OPC. She explained that the three (3) participating communities, Rochester Hills, Rochester and Oakland Township, passed a millage to provide this facility to residents age 60 and older. She stressed that the new facility is much larger than the previous one and, thus, requires more financial support. She suggested that an organization similar to the Friends of the Library could be established to offer some solutions, and she expressed her hope that this subject not become "something negative in this community."

Mr. Duistermars stated that departing Finance Director, Bob Spaman, had "done wonderful things for the community" and wished him good luck. He also reminded residents of the Firefighter Vegas Night on March 6th. Mr. Duistermars expressed his regret that the OPC

has seen a drop-off in program participation and suggested that perhaps the non-resident fee should be re-evaluated.

Mr. Barnett announced that an Oakland County Board of Commissioners meeting will be held Thursday, March 25th to discuss water and sewer rates. He also extended his congratulations and best wishes to Mr. Spaman.

Ms. Holder explained that the Rochester Hills Fire Department has established an information number (248-841-2590) that will provide a taped message in the case of an emergency such as the previous year's ice storm and black out. She noted that when 911 is dialed from a cell phone, the call must be rerouted through Oakland County dispatch or the State Police and, thus, vital time is lost in an emergency situation. She then provided the number for the Rochester Hills Dispatch Center (248-656-0911). Ms. Holder announced that the Youth Council of the YMCA would like to challenge the Rochester Hills City Council to an as yet undecided event.

President Dalton asked Ms. Hill if the non-resident fee for participation in the OPC can be made on an installment basis.

Ms. Hill explained that the fee is paid annually.

ATTORNEY MATTERS

City Attorney John Staran had nothing to report.

PRESENTATIONS

2004-0186 Presentation on DWSD rates, by John McCulloch, Oakland County Drain Commissioner

Attachments: 2004-0186 Master Report.pdf

Mr. Roger Rousse, Director of DPS/Engineering, noted the following statements about the City's water and sewer system and rates:

- * The City is charged \$15.06 per thousand cubic feet of water.
- * The City adds \$8.62 per thousand cubic feet for maintenance, operation and capital improvements.
- * Two-thirds (2/3) of the individual charges to City residents is for the purchase of water.
- * The City ranks 109th of 121 communities with regard to rates charged, due in large part to distance from the source and elevation.
- * The City ranks 42nd of 114 communities with regard to water purchase rates.
- * The City ranks 75th of 114 communities with regard to total charges.
- * The City's water and sewer system is very young, with eighty (80%) percent to ninety (90%) percent of the system younger than twenty (20) years.
- * There are few replacement costs or capital improvement charges.

Mr. Rousse explained that the numbers presented will change in July when the new water and sewer rates take effect. He then introduced Mr. John McCulloch, Oakland County Drain Commissioner.

Drive, Waterford, indicated that he was visiting City Council to provide an update related to water and sewer rates throughout the region. He described his requests and initiatives proposed to the Detroit Water and Sewer Department regarding the following issues:

Rate Setting Process:

- 1) *Explained that the water and sewer rates are typically determined in late December and are approved in January with no input from participating communities. He has suggested that the process begin earlier in the year and provide full disclosure. He does not anticipate a change in the actual rates, but rather a better understanding of what drives the rates.*
- 2) *Has requested an independent examination of the system to dispel the public perception of inefficiency in the system. It is hoped that any actual inefficiencies could then be corrected, thus saving Detroit and, ultimately, participating communities money.*

Existing Structure:

- 1) *Need a comprehensive master plan as it relates to water and waste water as a means of determining some viable options and alternatives.*
- 2) *Communities need alternative backup systems in the event of catastrophic events. Two (\$2) million dollars has been earmarked to conduct a county-wide study on the issue perhaps working with neighboring communities to bring in alternative water lines to literally tap into the southeastern part of the county.*

Mr. McCulloch addressed the issue of suspected over charges in the amount of \$13 million dollars, noting that the City of Warren has initiated a lawsuit against Detroit. He stressed that the entire process is extremely time consuming.

With regard to issues of homeland security, Mr. McCulloch noted that Detroit has not been forthcoming with the details of their emergency action plan. He noted that other communities are exploring the option of reservoirs, as well as the development of a centralized area in the community to be accessed during emergency situations.

Mr. McCulloch acknowledged that his suggestions "have not been embraced by" Detroit, explaining that Detroit's major concern is a take-over of the water and sewer department. He stressed that "this is a regional issue and must be addressed on a regional basis."

Presented

CONSENT AGENDA

All matters under Consent Agenda are considered to be routine and will be enacted by one motion, without discussion. If any Council Member or Citizen requests discussion of an item, it will be removed from Consent Agenda for separate discussion.

2004-0201

Approval of Minutes - January 21, 2004 Regular Meeting

Attachments: Minutes CC 20040121.pdf; 2004-0201 Master Summary.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, January 21, 2004 be approved as presented.

Enactment No: RES0054-2004

2004-0113 Acceptance of Watermain Easement granted by Rochester Community Schools, Parcel No. 15-05-181-001

Attachments: Agenda Summary.pdf; Easement.pdf; 2004-0113 Master Report.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Watermain easement granted by Rochester Community Schools, 501 W. University Drive, Rochester, MI 48307 for the construction, operation, maintenance, repair and/or replacement of a watermain over, on, under, through and across land more particularly described as Parcel No 15-05-181-001.

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

Enactment No: RES0055-2004

2004-0129 Acceptance of Amended Watermain Easement granted by Michigan Christian College (Rochester College), Part of Parcel No. 15-15-451-003 and 15-15-376-001

Attachments: Agenda Summary.pdf; Amended Watermain Easement.pdf; 2004-0129 Master Report.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts an Amended Watermain easement granted by Michigan Christian College for the construction, operation, maintenance, repair and/or replacement of an Watermain over, on, under, through and across land more particularly described as Part of Parcel No 15-15-451-003 and 15-15-376-001

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

Enactment No: RES0056-2004

2004-0132 Approval of Agreement for Maintenance of Storm Water Detention Systems between J-P Property Management for CVS Pharmacies and the City of Rochester Hills

Attachments: Agenda Summary.pdf; Agreement.pdf; Exhibits.pdf; 2004-0132 Master Report.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby approves the Agreement For Maintenance Of Storm Water Detention System, for CVS Pharmacies, City File No. 78-662.3, by J-P Property Management L.L.C., 388 South Main St., Plymouth, MI 48170 affecting property identified as Parcel No 15-07-476-004.

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

Enactment No: RES0057-2004

2004-0157 Request for Purchase Authorization - FIRE: Protective Turnout Gear, blanket purchase order not-to-exceed \$30,000.00; Apollo Fire Equipment Company

Attachments: Agenda Summary.pdf; Letter Apollo 020504.pdf; 2004-0157 Master Report.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby authorizes a blanket purchase order to Apollo Fire Equipment Company, of Romeo, Michigan, as the lowest, responsive, responsible bidder for the purchase of protective turnout gear, in the amount not-to-exceed \$30,000.00 through May 1, 2004.

Enactment No: RES0058-2004

2004-0172 Request for Purchase Authorization - PLA: LDFA transfer of \$30,000.00 to be held in escrow in conjunction with closing costs for the Adams Road Right-of-Way Acquisition, Philip F. Greco Title Company, Pontiac, MI

Attachments: Agenda Summary.pdf; Agreement.pdf; 2004-0172 Master Report.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved, that the Rochester Hills City Council hereby approves a purchase order to Philip F. Greco Title Company, Pontiac, Michigan, in the amount of \$30,000.00, for deposit to an escrow account to cover expenditures related to the closing costs associated with the Adams Road Right-of-Way Acquisition, as the responsible bidder.

Enactment No: RES0059-2004

Passed The Consent Agenda

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

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

ORDINANCE FOR INTRODUCTION

2004-0026 Acceptance for First Reading - Rezoning Request - an amendment to Chapter 138 of the Code of Ordinances to rezone three parcels of land totaling approximately 5.5 acres from R-3, One Family Residential to RM-1, Multiple Family Residential District, located on the southwest corner of Hamlin and Livernois Roads, known as Parcel Nos. 15-28-226-023, -024 & -025, zoned R-3, One Family Residential, Salvatore J. Palazzolo, Applicant.

Attachments: Agenda Summary 20040303.pdf; Agenda Summary 20040204.pdf; Map aerial.pdf; Staff Report.pdf; Minutes, PC 20031202.pdf; Letter Crescentini Angeli 20031119.pdf; Letter, Metzler 20031124.pdf; Letter, Palazzolo Brothers 20031020.pdf; 2004-0026 Master Report.pdf

Mr. Ed Anzek, Director of Planning/Development, explained that this matter had been before Council at the first City Council meeting in February and it was determined then that the matter be postponed until a full Council were present to vote on the matter.

Mr. Salvatore Palazzola, Applicant, 1264 Muirwood Court, noted the merit of this proposed development, emphasizing the following points:

** Multiple curb cuts are dangerous to passing traffic.*

* *The requested rezoning would provide a transitional buffer between the existing residential and industrial zoning.*

* *This development is appropriate with the characteristics of the area and would be "harmonious."*

President Dalton requested that normal Council procedures be suspended allowing Mr. Barnett to speak prior to Public Comment, as he was the Council member absent from the previous meeting wherein this issue resulted in a tie vote.

Mr. Barnett noted that he had reviewed the tape of the previous meeting, as well as comments from a number of concerned residents. He stated that he could not base his decision on such issues as traffic safety and curb cuts when considering a rezoning request. He stressed that, while he did not question the applicants' ability to follow through with their proposed development plans, he did not believe the argument had been successfully made that this area could not be developed as presently zoned.

President Dalton asked if any of the twenty-eight (28) residents who wished to speak would like to come forward.

PUBLIC COMMENT :

Mr. Mike Beavon, 2068 Hickory Leaf Drive, indicated that he owns the lowest home in the area and expressed his concern that the proposed development would drain into his property causing flooding.

A motion was made by Robbins, seconded by Hill, that this matter be Adopted by Resolution.

Resolved, that the Rochester Hills City Council hereby denies the rezoning request for Salvatore J. Palazzolo, City File No. 03-020, to rezone three parcels of land totaling approximately 5.5 acres, identified as Parcel Nos. 15-28-226-023, -024, & -025 from R-3 One Family Residential to RM-1, Multiple Family Residential District.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill and Robbins

Nay: Holder and Raschke

Enactment No: RES0060-2004

(Recess 8:57 p.m. - 9:21 p.m.)

ORDINANCE FOR ADOPTION

2004-0070

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

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

Ms. Deborah Millhouse, Deputy Director of Planning/Development, indicated that City Council had approved the proposed ordinance for first reading and must now consider the matter for second reading and approval.

Mr. John Gaber of Williams, Williams, Ruby & Plunkett, 380 North Old Woodward Avenue, Birmingham, attorney for Tienken Partners, introduced Mr. Paul Aragona, Aragona Properties, 37020 Garfield, Clinton Township, and stated that they were there to answer City Council's questions in detail.

Mr. Robbins moved the motion; there was no Council discussion.

A motion was made by Robbins, seconded by Barnett, that this matter be Accepted for Second Reading and Adoption by Resolution.

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

The motion carried by the following vote:

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

Nay: Hill

Enactment No: RES0061-2004

2004-0071

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

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

Ms. Millhouse again indicated that City Council had approved the proposed ordinance for first reading and must now consider the matter for second reading and approval.

Mr. Robbins moved the motion; there was no Council discussion.

A motion was made by Robbins, seconded by Raschke, that this matter be Accepted for Second Reading and Adoption by Resolution.

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

The motion carried by the following vote:

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

Nay: Hill

Enactment No: RES0062-2004

2004-0053

Approval of Final Planned Unit Development (PUD) - City Walk

Attachments: Agenda Summary.pdf; PUD Agreement (00174317[1].pdf; 2004-0053 Master Report.pdf

Ms. Millhouse explained that the Planning Commission had recommended approval of this agreement provided certain conditions were met. She indicated that a list of those conditions had been provided to Council along with a description of the applicant's response.

Mr. Gaber acknowledged that there remain two (2) conditions--no restaurant drive-throughs and final site plan approval by Planning Commission and City Council rather than Staff approval-- imposed by the Planning Commission that the applicant still opposes. Noting that the Council packet contained two (2) separate motions, Mr. Gaber requested that Council adopt the second motion containing four (4) conditions to which the applicant would agree.

Ms. Hill expressed her opposition to this agreement stressing the following points:

** Having Planning Commission and City Council make the final site plan approval would not delay the process significantly.*

** One purpose of the PUD process is for the City Council to have greater control than in the case of standard development.*

** Far too much development in too small an area with not enough anticipated benefit to the City.*

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

Whereas, in the matter of City File No. 98-047.2 (City Walk PUD), the Planning Commission recommended that City Council approve the Planned Unit Development, subject to conditions.

Now Therefore Be It Resolved that, on behalf of the City of Rochester Hills, the Rochester Hills City Council hereby approved the Planned Unit Development Agreement and Exhibits dated received February 2, 2004 between Tienken Partners, LLC, a Michigan Limited Liability Company, Clinton Township, Michigan, and the City of Rochester Hills, a Michigan Municipal Corporation, Rochester Hills, Michigan with the following findings and subject to the following conditions.

Be It Further Resolved that approval of this Planned Unit Development Agreement is subject to finalization of the Agreement, including the incorporated Road Improvement Agreement, to the satisfaction of the City administration.

Be It Further Resolved that the Mayor and the City Clerk are authorized to execute and deliver the Agreement on behalf of the City.

Findings:

- 1. The proposed PUD has met the qualifications of Section 138-1002 of the Zoning Ordinance in that the proposed improvements to the intersection will minimize, alleviate or improve the traffic situation. Further, it provides for the appropriate redevelopment of parcels occupied by obsolete buildings.**

2. Dedication of additional road right-of-way, intersection improvements at no cost to the City, increased design and aesthetic controls, and the ability to restrict undesirable uses are substantial public benefits of the proposed PUD that could not be achieved under the B-2 district alone.
3. The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment. Moreover, the proposed PUD will improve public utility and circulation systems. Further, preservation of a vast majority of the existing vegetation along the south and east property lines and additional proposed plantings should mitigate any negative impacts on adjacent properties.
4. A judicious effort has been used to preserve as many existing trees as possible on-site.
5. The proposed PUD has been designed to promote convenient vehicular and pedestrian circulation within the site. Proposed improvements to the intersection will minimize, alleviate or improve the traffic situation to the site.

Conditions:

1. Approval of the Final PUD Plan relative to roadway improvements by the City Engineer.
2. Preliminary acceptance of the Final PUD Plan by the Michigan Department of Transportation.
3. Preliminary acceptance of the Final PUD Plan by the Road Commission for Oakland County.
4. All Final PUD Plan sheets be consistent.

The motion carried by the following vote:

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

Nay: Hill

Enactment No: RES0063-2004

2004-0068

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

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

Mr. Derek Delacourt, Planner, indicated that, like the previously discussed project, the rezoning request had already been approved for first reading and now required final approval.

Ms. Raschke confirmed that Buildings 1 and 2 would be "fully sprinkled."

Accepted for Second Reading and Adoption by Resolution.

Resolved that an Ordinance to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone four parcels of land totaling 11+ acres from O-1 (Office Business), and I-1 (Light Industrial) to B-2 (General Business), identified as Parcel Nos. 15-03-477-018, 15-03-477-019, 15-03-477-020, and 15-03-477-021, located west of Rochester Road and north of Tienken, Curtis Properties Group, L.L.C., applicant is hereby accepted for Second Reading and adopted and shall become effective on Monday, March 15, 2004 the day following its publication on Sunday, March 14, 2004 in the Rochester Eccentric newspaper.

The motion carried by the following vote:

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

Nay: Hill

Enactment No: RES0064-2004

2004-0069

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

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

Mr. Delacourt again indicated that this rezoning request had already been approved for first reading and now required final approval.

Mr. Joseph Galvin of Miller, Canfield, Paddock and Stone, PLC, 150 West Jefferson, Detroit, attorney for Curtis Properties, stated that many of the changes discussed at the previous meeting had been made.

A motion was made by Raschke, seconded by Duistermars, that this matter be Accepted for Second Reading and Adoption by Resolution.

Resolved that an Ordinance to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone seven parcels of land totaling approximately 15 acres to PUD (Planned Unit Development), located west of Rochester Road and north of Tienken, and known as Parcel Nos. 15-03-477-018, 15-03-477-019, 15-03-477-020 15-03-477-021, 15-03-477-030, 15-03-477-031 and 15-03-477-033, Curtis Properties Group, L.L.C., applicant, is hereby is hereby accepted for Second Reading and adopted and shall become effective on Monday, March 15, 2004 the day following its publication on Sunday, March 14, 2004 in the Rochester Eccentric newspaper.

The motion carried by the following vote:

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

Nay: Hill

Enactment No: RES0065-2004

2004-0052

Approval of the Final Planned Unit Development (PUD) for Papa Joe's Gourmet Market, Specialty Retail and Office Development

Attachments: Agenda Summary.pdf; Papa Joe's PUD.pdf; 2004-0052 Master Report.pdf

Ms. Hill indicated that none of the changes requested by City Council at the previous meeting had been made to the agreement contained in the Council's meeting packet. She stressed that Council should not approve a legally binding document none of them had read.

Mr. Delacourt acknowledged that Staff had just received the final PUD agreement and was still in the process of reviewing it.

Mr. Galvin apologized for the inconvenience and assured Council that all requested changes to the agreement had been made with the exception of the number of drive-through lanes at the TCF Bank and the issue of lighting poll height. Mr. Galvin requested that the second motion contained in Council's meeting packet be approved.

Mr. Robbins and Ms. Holder expressed their trust in the recommendations of City Staff.

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

Whereas, in the matter of City File No. 02-004 (Papa Joes), the Planning Commission recommended that City Council conditionally approve the Planned Unit Development. Such approval shall include the Planned Unit Development Agreement and Exhibits dated received by January 29, 2004.

Now Therefore Be It Resolved, that on behalf of the City of Rochester Hills, the Rochester Hills City Council hereby approved the Planned Unit Development Agreement between Curtis Properties, L.L.C., Speedway Super America L.L.C., TCF Bank, Lino's Resturant and the City of Rochester Hills, a Michigan Municipal Corporation, Rochester Hills, Michigan, subject to the following findings and conditions.

Be It Further Resolved, that the Mayor and the City Clerk are authorized to execute and deliver the Agreement on behalf of the City.

Be It Further Resolved, that approval of this Planned Unit Development Agreement is subject to finalization of the Agreement, including the incorporated Road Improvement Agreement to the satisfaction the City.

Findings:

- 1. The proposed PUD has met the qualifications of Section 138-1002 of the Zoning Ordinance in that the proposed improvements to the intersection will minimize, alleviate or improve the traffic situation. Further, it provides for the appropriate redevelopment of parcels occupied by obsolete buildings.**
- 2. Dedication of additional road right-of-way, intersection improvements at no cost to the City, increased design and aesthetic controls, and the ability to restrict undesirable uses are substantial public benefits of the proposed PUD that could not be achieved under the B-2 district alone.**
- 3. The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment. Moreover, the proposed PUD will improve public utility and circulation systems.**
- 4. The proposed PUD has been designed to promote convenient vehicular and pedestrian circulation within the site. Proposed improvements to the intersection**

will minimize, alleviate or improve the traffic situation to the site.

Conditions:

1. That prior to Final Site Plan approval the applicant shall provide the minimum number of parking spaces required by ordinance on site or provide a Parking Study for the review and approval of Staff and the Planning Commission that identifies the reason for the discrepancy.
2. That approval of a Wetland Use Permit from both the City and DEQ shall be required prior to issuance of a Land Improvement Permit.
3. That vacation of Old Orion Court is approved by City Council and documentation provided by the applicant that indicates the ability to develop the entire vacated area.
4. That the City's PUD Ordinance be amended to allow B-5 zoning uses within an approved PUD prior to Site Plan Approval by City Council.
5. That the Final Site Plans and Elevations are consistent with those approved as part of the Final PUD agreement.
6. That appropriate traffic calming devices are incorporated throughout the site, to reduce potential "cut through traffic", to be reviewed and approved by Staff prior to Final Site Plan approval by City Council.
7. That both Building #1 and Building #2 shall be fully sprinkled, to be reviewed and approved by the City's Fire Department prior to Final Site Plan approval by City Council.
8. That the PUD Agreement will expressly list in words all variances or modifications that are anticipated, as agreed upon by the parties.
9. All signage is to be within the Rochester Hills Ordinance and shall require permits from the City's Building Department prior to Installation.
10. That the PUD and any related plans show canopies for the Speedway Gas Station that are within Ordinance compliance.
11. That the proposed gas station be compatible with the other structures on the site and will be approved during Final Site Plan.
12. That the drugstore has only one drive-thru lane.
13. That the PUD and the related Site Plans specifically recite and express the total maximum building area that will be included in the PUD.
14. That the other textual changes discussed on the record be corrected.
15. That no Certificate of Occupancy be issued to any new business entities until road improvements are made.
16. That the final cul-de-sac dimension be reviewed and approved by the City Engineer prior to Final Site Plan approval (Section 8 of the PUD text).
17. That language shall be changed to indicate that all signage shall conform to the City of Rochester Hills Sign Ordinance and is to be approved by the Building

Department any additional language should be removed (Section 9 PUD text).

18. That the indicated number of years be changed from 5 to 3, in conformance with the Holiday Village proposed PUD Agreement (Section 10 of the PUD text).
19. That language is revised to be consistent with the proposed condition of approval regarding parking. Any reference to exception to the ordinance needs to be removed. The change shall be made prior final approval of the PUD by City Staff (Section 11 of the PUD text).
20. That language should be changed to state that road abandonment/vacation should be done in accordance with established Rochester Hills Process.
21. Preliminary acceptance of the Final PUD Plan by the Michigan Department of Transportation.
22. Preliminary acceptance of the Final PUD Plan by the Road Commission for Oakland County.
23. Remove Exhibit D (Roadway Improvements) from the Final PUD Agreement.

The motion carried by the following vote:

Aye: Barnett, Duistermars, Holder, Raschke and Robbins

Nay: Dalton and Hill

Enactment No: RES0066-2004

UNFINISHED BUSINESS

2004-0124

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

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

Mr. Paul Davis, City Engineer, explained that the preliminary approval of the road improvement agreement was needed to move the matter on to the Oakland County Road Commission and MDOT. He stressed that he would maintain final oversight of the project following agreement by those two (2) agencies.

Mr. Gaber outlined specific changes made to the road improvement agreement since Council had seen the document at the previous meeting, specifically relating to the following:

- 1) *Added language regarding "payment and performance bonds."*
- 2) *The City has no responsibility to pay any project costs.*
- 3) *Clarification of the language regarding potential liens on the properties.*

Mr. Staran stated that the final agreement would not be signed by the Mayor until the document was complete and Mr. Staran had "signed off on it."

Ms. Hill expressed her concern that Council would be approving a legal document that was not complete at this time.

A motion was made by Duistermars, seconded by Holder, that this matter be Adopted by Resolution.

Whereas, Curtis Properties seeks to develop a planned unit development to be known as the Papa Joe's Gourmet Market on approximately 15.3 acres of land located at the northwest corner of the Rochester/Tienken Road intersection and,

Whereas, Tienken Partners seeks to develop a planned unit development to be known as the City Walk Retail Plaza on approximately 12.4 acres located at the southwest corner of the Rochester/Tienken Road intersection and

Whereas, the City believes that the intersection of Rochester Road and Tienken Road in the City is currently providing an inadequate level of service and

Whereas, a traffic impact study at the intersection of Rochester and Tienken Roads for Curtis Properties and Tienken Partners indicated that levels of service would be improved with the road improvements as set forth in the Agreement and

Whereas, construction of the road improvements described in the Agreement is a condition to the approval by the City of the Papa Joe's PUD and the City Walk PUD and Curtis Properties and Tienken Partners desire to construct the road improvements described in the Agreement in accordance with the terms and conditions of the Agreement.

Resolved, that the Rochester Hills City Council hereby accepts the Draft Road Improvement Agreement dated February 13, 2004, between Curtis Properties Group L.L.C., 2025 Rochester Road, Rochester Hills, MI 48307, Tienken Partners LLC, 37020 Garfield, Suite T-1, Clinton Township, MI 48036 and the City of Rochester Hills, 1000 Rochester Hills Drive, Rochester Hills, MI 48309.

Be It Further Resolved that approval of this Road Agreement is subject to finalization of the Agreement to the satisfaction of the City administration.

Be It Further Resolved that the Mayor and the City Clerk are authorized to execute and deliver the Agreement on behalf of the City.

The motion carried by the following vote:

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

Nay: Hill

Enactment No: RES0067-2004

(Recess 10:05 p.m. - 10:27 p.m.)

2004-0174

Request to Withdraw Review Rights - Historic Districts Study Committee withdraws request for review rights to be granted to the Historic Districts Commission for 3533 W. Tienken Road, Rochester Hills, MI

Attachments: Agenda Summary 20040303.pdf; Agenda Summary 20031210.pdf; Minutes CC 20031210.pdf; Minutes HDC 20030313.pdf; SHPO Surveys.pdf; 2004-0174 Master Report.pdf

Mr. Derek Delacourt, Planner II, stated that the Historic Districts Study Committee, following their ninety (90) day study, had determined that there was no evidence to support a recommendation for historic designation of this property. He asked that their review rights be withdrawn.

Ms. Hill thanked Mr. Delacourt and the Study Committee for their efforts and requested that Council be provided a copy of the final report "so we have an end in the paperwork trail."

A motion was made by Barnett, seconded by Raschke, that this matter be Adopted by Resolution.

Whereas, the owner of 3533 W. Tienken has requested a demolition permit for the structure located on said property,

Whereas, the Historic Districts Study Committee has requested review rights of the potential historic district for a period of one year,

Whereas, the City Council granted an initial determination period, not to exceed ninety (90) days, to the Historic Districts Commission to research the property further for evidence of historical significance,

Whereas, the Historic Districts Study Committee has determined there is not substantial evidence that the aforementioned property meets National Register Criteria for local historic designation and thus withdraws the request for review rights on 3533 W. Tienken Road.

Resolved the Rochester Hills City Council accepts the initial determination of the Historic Districts Study Committee regarding 3533 W. Tienken Road and accepts the withdraw of the Historic Districts Study Committee request for review rights on said property.

The motion carried by the following vote:

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

Enactment No: RES0068-2004

2004-0097

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

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

Mr. Roger Rousse, Director of DPS/Engineering, explained that Council had previously requested additional information regarding the purchase of new copy machines. He noted that the following details were contained in Staff memos provided to Council:

- * Replacements are consistent with administrative policy.
- * Some replaced machines will be moved to replace older, more obsolete machines.
- * Conversion to digital machines will provide more functionality.

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

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

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

The motion carried by the following vote:

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

Enactment No: RES0069-2004

NEW BUSINESS

2004-0188

Presentation by Trailways Commission and Adoption of Resolution approving acceptance by the Paint Creek Trailways Commission of the donation of trail segment, parking lot and trail amenities located in the Village of Lake Orion, MI

Attachments: Agenda Summary.pdf; Memo Myers 20040224.pdf; Map, Atwater Commons.pdf; Deed, Article VII.pdf; Map, OC Trail System.pdf; Letter, Makris 20040214.pdf; Agreement, Intergovernmental.pdf; 2004-0188 Master Report.pdf

Mr. David Becker, Vice Chairman of the Paint Creek Trailways Commission (The Commission), 4393 Collins Road, Rochester, and Chairman of the Committee that has been working on this project, thanked the Council for this opportunity to address this subject and introduced Ms. Kristen Myers, Trailways Coordinator for the Paint Creek Trailways Commission.

Ms. Myers, after providing a brief history of the Paint Creek Trail, listed various aspects of the Atwater Commons Land Donation from the Village of Lake Orion (The Village):

- * *Limestone fines trail from The Village border to Atwater Street.*
- * *One (1) acre of land next to trail for potential trailhead park.*
- * *Twelve (12) car parking lot, surfaced and striped.*
- * *Bicycle rack.*
- * *Signage.*
- * *Total of 1.8 acres at a value of approximately \$750,000.*

Ms. Myers described aspects of the plan:

- * *The Village will turn over ownership of the trail segment.*
- * *The Village will be permitted an ex officio non-voting member on The Commission.*
- * *Maintenance of trail will be a joint effort between The Village and The Commission.*
- * *Commission meeting packet information will be sent to The Village Manager.*

Ms. Myers outlined the donation acceptance process:

- * *Lake Orion accepts concept plan (done).*
- * *The Commission presents concept plan to four (4) communities (in progress).*
- * *Four (4) communities pass resolutions of approval (present request).*
- * *The Village and The Commission attorneys prepare legal agreement (underway).*
- * *The Village and The Commission consummate agreement (mid-March).*

A motion was made by Hill, seconded by Raschke, that this matter be Adopted by Resolution.

Whereas, the Paint Creek Trail is a valuable and unique recreational and economic asset to the citizens of the communities of Rochester, Rochester Hills, Oakland Township, Charter Township of Orion and the Village of Lake Orion; and

Whereas, the Aspen Group desires to donate to the Paint Creek Trailways Commission certain real property located within the Village of Lake Orion which is located at the north terminus of the current Paint Creek Trail; and

Whereas, the donation includes a finished trail, a railway user parking lot, and other railway amenities; and

Whereas, this donation has been valued with an approximate worth of \$750,000.00; and

Whereas, this donation will provide a vital link in the overall anticipated connection of the Paint Creek Trail and the Polly Ann Trail; and

Whereas, this donation will provide the Paint Creek Trail with a well-defined trail head; and

Whereas, this donation of land and the operation of the said parcel will be titled to and administered by the Paint Creek Trailways Commission pursuant to the Intergovernmental Agreement of December 23, 1981, as amended December 14, 1982 between the communities of Rochester, Rochester Hills, Oakland Township, and the Charter Township of Orion; and

Whereas, the Lake Orion Village Council, at its meeting of October 14, 2003, did approve the concept plan by which such donation can be completed; and

Whereas the City of Rochester Hills is a member of the Paint Creek Trailways Commission;

Now Therefore, Be It Resolved, that the City of Rochester Hills approves acceptance of the donation of the trail segment, the parking lot, and trail amenities by the Paint Creek Trailways Commission.

The motion carried by the following vote:

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

Enactment No: RES0070-2004

2004-0045

Permit - Wetland Use Permit requested for Executive Place Office Building, City File No. 02-026, a proposed 40,000 square foot office building on approximately 3.5 acres, zoned O-1, Office Business, and located on the northeast corner of John R and South Boulevard

Attachments: Agenda Summary.pdf; Map aerial a.pdf; Report Staff 20040130.pdf; Reductions.pdf; Minutes pc 020304.pdf; 2004-0045 Master Report.pdf

Mr. Ed Anzek, Director of Planning/Development, briefly described the wetland use permit request, noting that the Planning Commission had unanimously recommended approval.

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

Resolved, that the Rochester Hills City Council hereby grants a Wetlands Use Permit for the Executive Place Office, City File 02-026, an approximately 40,000 square foot office building located on the northeast corner of John R and South Boulevard, zoned O-1, Office Business district, known as Parcel Nos. 15-36-352-018 & -019, based on plans dated received by the Planning Department on December 15, 2003, with the following findings and subject to the following conditions.

Findings:

- 1. The impacted wetlands are of a low quality (road ditch along South Boulevard).**
- 2. The proposed plans minimize the impact to regulated wetlands.**

3. The wetlands are impacted only for the proposed drive crossing on South Boulevard.
4. No mitigation is requested for the proposed impact.

Conditions:

1. Reduce the enclosure of the regulated drain from 435 feet to 255 feet on revised plans, to be reviewed and approved by the City Staff prior to final approval, to minimize adverse impacts.
2. Obtain all applicable MDEQ wetland permits prior to issuance of a Land Improvement Permit.

The motion carried by the following vote:

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

Enactment No: RES0071-2004

2004-0051

Preliminary Site Condominium Plan - City File No. 02-029 - Grandview Site Condominiums, a proposed 15-unit development on approximately six acres, located east of Crooks and north of Auburn, zoned R-4, One Family Residential, Parcel No. 15-28-300-033, Grand View Construction, applicant

Attachments: Agenda Summary.pdf; Map aerial.pdf; Report Staff 20040213.pdf; Report Staff 20031112.pdf; Memo Millhouse 20040116.pdf; Minutes pc 20040120.pdf; Minutes pc 20031118.pdf; Minutes pc 20040217.pdf; Reductions grandview.pdf; 2004-0051 Master Report.pdf

Ms. Deborah Millhouse, Deputy Director of Planning/Development, briefly described the development under consideration, noting that the agreement had been revised in accordance with Planning Commission recommendations.

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

Resolved that the Rochester Hills City Council hereby approves the Preliminary Plan for Grandview Site Condominiums, City File No. 02-029, a proposed 15-unit single family condominium development on six acres, located north of Auburn Road and east of Crooks Road, identified as Parcel No. 15-28-300-033 and zoned R-4, One Family Residential, based on plans received by the Planning Department on February 19, 2004, with the following findings and subject to the following conditions:

Findings:

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and the One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are currently available to properly service the proposed development.
3. The preliminary plan represents a reasonable and acceptable plan for developing the property.
4. The preliminary plan represents a reasonable street and lot layout. In addition, all lots access the interior local street.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

Conditions:

1. Delete 76.23' dimension for Unit 8.
2. Correct the lot averages calculations table as follows: width for unit 8 is 72.37 feet; total unit widths provided is 1200.37 feet; and, average unit width provided is 80.02 feet.
3. The applicant shall develop some type of visual method of denoting the open spaces as areas for walking, but no other activities.
4. Approval of the north-south street name by the City prior to final plan approval.

The motion carried by the following vote:

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

Enactment No: RES0072-2004

2004-0161

Hearing and consideration of Agreement to Opt Out of a Personal Property Exemption between the City of Rochester Hills and Michigan Next Energy Authority for Energy Conversion Devices, LLC (ECD)

Attachments: Agenda Summary.pdf; Letter MEDC 010504.pdf; Resolution NextEnergy 121603.pdf; Property Listing.pdf; State Tax Information.pdf; 2004-0161 Master Report.pdf

Mr. Kurt Dawson, Director of Assessing/Treasury, briefly explained that the Council was to consider two (2) Alternative Energy Personal Property Exemption requests by Ovonic Battery Company and Energy Conversion Devices, LLC. for which both entities qualify. However, it was Mr. Dawson's recommendation that the City opt out of this exemption, noting that this would "still grant an economic incentive more consistent with our current tax abatement program." He explained that the City's recent incentive programs, specifically the IFT abatement, result in a reduction in personal property taxes of approximately 44% over six (6) years, among other reductions.

Mr. Dan Casey, Economic Development Manager, explained that the Michigan Next Energy Authority program was initiated by the State legislature to promote jobs and investment. He stated that this project was unlikely to result in new jobs. Also, Ovonic Battery Company has already been the beneficiary of previous tax abatements.

Mr. Scott Aston, Deloitte & Touche LLP, 600 Renaissance Center, Detroit, representing Ovonic Battery Company and Energy Conversion Devices, LLC., disputed the claim that no new jobs would be created as a result of granting this exemption. He stressed that the State granted the Next Energy exemption to alternative energy companies because the majority of those companies were locating outside of Michigan, primarily in Canada, Europe and California.

Ms. Hill agreed it is important to attract business to Michigan, but noted that "we've done our share," citing SmartZone and Brownfield Redevelopment. She expressed concern that, if granted, this tax exemption would result in "some taxing burdens on the City" in the future.

A motion was made by Hill, seconded by Raschke, that this matter be Adopted by Resolution.

WHEREAS the Michigan Next Energy Authority has notified the City that Energy Conversion Devices, LLC has been certified as an alternate energy technology business under Public Act 593 of 2002, as amended; and

WHEREAS the Michigan Next Energy Authority has certified certain personal property owned by Energy Conversion Devices, LLC as alternate energy personal property exempt from certain property taxes; and

WHEREAS the maximum value of the said exempted personal property is \$6,277,091; and

WHEREAS the removal of said personal property from the personal property tax roll would create an economic burden on the City of Rochester Hills and other local taxing units, and result in the potential shift of the tax burden to other residential, commercial and industrial properties within the City; and

WHEREAS, PA 593 of 2002, MCL 211.9i (4), allows the governing body of the local tax collecting unit in which the alternative energy personal property is located to adopt a resolution to not exempt that alternative energy personal property from taxes collected in that local tax collecting unit, except taxes collected under sections 1211 and 1212, of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1212, a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness, or the tax levied by the State under the State Education Act, 1993 PA 331, MCL 211.901 to 211.906; and

WHEREAS the Mayor and the City Assessor have recommended that the City Council, acting as the governing body of the local tax collecting unit, resolve to not exempt from taxes collected in that local collecting unit for this personal property.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Rochester Hills that the City Council hereby determines to not exempt the alternative energy personal property of Energy Conversion Devices, LLC as certified by the Michigan Next Energy Authority Certificate Resolution 2003-08 from the taxes collected in the City of Rochester Hills as provided by PA 593 of 2002, MCL 211.9i (4); and

BE IT FURTHER RESOLVED the City Clerk is hereby authorized and directed to file with the Michigan Economic Development Corporation a certified copy of this resolution.

The motion carried by the following vote:

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

Enactment No: RES0073-2004

2004-0162

Hearing and consideration of Agreement to Opt Out of Personal Property Exemption between the City of Rochester Hills and Michigan Next Energy Authority for Ovonic Battery Company

Attachments: Agenda Summary.pdf; Letter Ovonic 010504.pdf; Resolution Ovonic 121603.pdf; Property Listing.pdf; State Tax Information.pdf; 2004-0162 Master Report.pdf

Mr. Dawson again recommended the City opt out of this exemption for the same reasons noted previously.

Council members questioned the anticipated benefit to the City if this exemption were granted.

Mr. Aston indicated that both entities, Ovonic Battery Company and Energy Conversion

Devices, LLC., qualify for both the Next Energy exemption and the previously granted tax abatements. He noted that, as these types of companies are typically investor funded and initially do not earn profits, this exemption assists them in remaining viable in the community, thus allowing them the opportunity to create jobs. In addition, the money saved can be reinvested into the company. He stressed that, over the long term, "if the cost of doing business in Michigan is higher than other states, the companies [will] invest where they have a lower cost structure."

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

WHEREAS the Michigan Next Energy Authority has notified the City that Ovonic Battery Company has been certified as an alternate energy technology business under Public Act 593 of 2002, as amended; and

WHEREAS the Michigan Next Energy Authority has certified certain personal property owned by Ovonic Battery Company as alternate energy personal property exempt from certain property taxes; and

WHEREAS the maximum value of the said exempted personal property is \$1,048,874; and

WHEREAS the removal of said personal property from the personal property tax roll would create an economic burden on the City of Rochester Hills and other local taxing units, and result in the potential shift of the tax burden to other residential, commercial and industrial properties within the City; and

WHEREAS, PA 593 of 2002, MCL 211.9i (4), allows the governing body of the local tax collecting unit in which the alternative energy personal property is located to adopt a resolution to not exempt that alternative energy personal property from taxes collected in that local tax collecting unit, except taxes collected under sections 1211 and 1212, of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1212, a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness, or the tax levied by the State under the State Education Act, 1993 PA 331, MCL 211.901 to 211.906; and

WHEREAS the Mayor and the City Assessor have recommended that the City Council, acting as the governing body of the local tax collecting unit, resolve to not exempt from taxes collected in that local collecting unit for this personal property.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Rochester Hills that the City Council hereby determines to not exempt the alternative energy personal property of Ovonic Battery Company as certified by the Michigan Next Energy Authority Certificate Resolution 2003-10 from the taxes collected in the City of Rochester Hills as provided by PA 593 of 2002, MCL 211.9i (4); and

BE IT FURTHER RESOLVED the City Clerk is hereby authorized and directed to file with the Michigan Economic Development Corporation a certified copy of this resolution.

The motion carried by the following vote:

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

Enactment No: RES0074-2004

2004-0159

Request for Purchase Authorization - FIRE: one (1) Rescue Pumper and one (1) Pumper/Tanker, purchase order not-to-exceed \$515,970.00; American LaFrance, Wixom, MI

Attachments: Agenda Summary pdf; Letter, American LaFrance 20031223.pdf; Letter, Americ LaFrance 20040112.pdf; PS Minutes 020204.pdf; 2004-0159 Master Report.pdf

Mr. Greg Walterhouse, Fire Chief, explained that while the two (2) vehicles were originally scheduled for replacement in 2005, the truck vendor had offered the replacement trucks at the 2003 prices, thus resulting in a savings of approximately \$60,000.

Council members questioned the purpose and need for the larger capacity water tank on the requested pumper tanker.

Mr. Ron Crowell, Assistant Fire Chief, explained that the increased water capacity--from 500 gallons to 1,500 gallons--is necessary because Station 5 is located in an area of the City that is not protected by hydrants. He also noted that the larger capacity would be beneficial during widespread power outages or other major catastrophes.

Mr. Robbins questioned the Fire Department's plans for dealing with the lack of hydrants in that portion of the City.

Chief Walterhouse expressed his belief that the City's policy is that water mains are extended along with development. He suggested that those decisions would be made by the Council and the Water Department.

Ms. Hill noted that it was determined at the most recent CIP meeting that the area in question was unlikely to receive water and sewer service prior to 2008 or 2010.

A motion was made by Robbins, seconded by Raschke, that this matter be Adopted by Resolution.

Resolved, that the Rochester Hills City Council hereby approves a purchase order to American LaFrance, Wixom, Michigan for a Rescue Pumper and a Pumper/Tanker in the amount of \$515,970.00, as the best value for the City.

The motion carried by the following vote:

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

Enactment No: RES0075-2004

2004-0181

Approval of Contract between Michigan Department of Transportation (MDOT) and the City of Rochester Hills for the City's share of the M-59/Adams Road Interchange

Attachments: Agenda Summary.pdf; MDOT Contract.pdf; 2004-0181 Master Report.pdf

Mr. Paul Davis, City Engineer, explained that this is a typical contract between MDOT and the City for improvements made to State trunk lines. He noted specific aspects of the contract:

** Act 51 monies were received in anticipation that the City will participate in improvements at a local level.*

** This contract, while the first of two (2), is just for the bridges.*

** MDOT will seek to recover funds in April for previously completed engineering.*

** This project was originally anticipated for years 2005 and 2006, until the Governor accelerated the program.*

Mr. Davis noted that if the project is deferred the contract would become "a moot point."

PUBLIC COMMENT:

Mr. Lawrence Schloss, 2851 Current Drive, citing issues regarding the Grand Sakwa development, asked that Council "defer" this matter.

Mr. Davis and Council members explained to Mr. Schloss that the contract in question was unrelated to the Grand Sakwa project.

A motion was made by Hill, seconded by Duistermars, that this matter be Adopted by Resolution.

The Rochester Hills City Council approves the contract between the Michigan Department of Transportation and the City of Rochester Hills for the City's obligations of the M-59/Adams Interchange and authorizes the Mayor to execute the contract on behalf of the City.

The motion carried by the following vote:

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

Enactment No: RES0076-2004

2004-0034

Council Appointee Performance Review

Attachments: Agenda Summary.pdf; policy.pdf; Self Evaluation Form.pdf; Draft.pdf; 2004-0034 Master Report.pdf; Memo Lee 030404.pdf; Dawson Self-Evaluation.pdf; Jasinski Self-Evaluation.pdf

Mayor Somerville suggested that appointees may object to all of Council viewing their performance appraisals.

Ms. Hill explained that there was a great deal of discussion by the Administration & Information Services (AIS) Committee regarding this issue. She stressed that City Clerk Jasinski is a member of the AIS Committee and was included in all discussions. She noted that the process is primarily to provide Council an overview of appointees and gain feedback from those individuals. She assured the Mayor that all materials would be kept confidential and no one other than Council members would have access to the files.

Ms. Holder confirmed that the only concern expressed by appointees was that the materials be kept confidential.

President Dalton stressed that there was no intention of interfering with the review process, but merely to provide a review by the Council members who appoint these individuals.

Mr. Duistermars indicated that, while Council appoints these individuals, there is no other mechanism in place to assess their performance.

Ms. Jasinski confirmed that the only concern she and the City Treasurer expressed was that of confidentiality.

A motion was made by Barnett, seconded by Duistermars, that this matter be Adopted by Resolution.

ARTICLE I: PURPOSE

Section 1. Section 8.7 of the Charter of the City of Rochester Hills provides that certain department directors, i.e. Clerk and Treasurer shall be appointed by and serve at the discretion of a majority of City Council.

Section 2. It is the desire of the City Council AIS Committee to periodically monitor the performance of its appointed directors based on a bi-annual review of the performance

appraisal completed by the Mayor, as well as a self-evaluation and/or additional comments provided by the Council appointee.

ARTICLE II: PROCEDURE FOR REVIEW OF PERFORMANCE APPRAISALS FOR CLERK AND TREASURER

Section 1. The Mayor shall complete an annual performance appraisal for each Department Director, including those appointed by Council, based on the anniversary of their date of appointment as director. The Mayor shall review the appraisal with each director and both the Mayor and the director shall sign the appraisal document.

Section 2. Each Council-appointed director shall be given the opportunity to complete a self-assessment of his or her performance and/or attach additional comments. The Director of Human Resources shall copy the attachments to the Mayor and forward the appraisal and attachments to City Council members bi-annually by the end of the January following the appraisal period.

Section 3. Although Council shall not have the authority to modify appraisals for Council appointees, City Council members may advise the AIS Committee of any questions, comments or concerns they have regarding the appraisals, self-assessments or attached comments.

Section 4. Copies of the attachments shall be provided to the full AIS Committee for review and discussion. However, the appraisal document itself will be provided only to City Council members. The AIS Committee shall recommend to Council what, if any further action is deemed appropriate.

The motion carried by the following vote:

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

Enactment No: RES0077-2004

2004-0208

Adoption of Resolution to change the March 2004 City Council Meeting Schedule

Attachments: Agenda Summary.pdf; 2004-0208 Master Report.pdf

A motion was made by Duistermars, seconded by Holder, that this matter be Adopted by Resolution.

Resolved that the Rochester Hills City Council hereby agrees to cancel its Regular Work Session of Wednesday, March 24, 2004 because of the Michigan Municipal League Legislative Conference and reschedule the Work Session for Wednesday, March 31, 2004 at 7:30 pm, 1000 Rochester Hills Dr., Rochester Hills Michigan.

Further Resolved, that the Rochester Hills City Council schedules a Special Work Session for Wednesday, March 10, 2004 for the purpose of discussing the sign ordinance.

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

The motion carried by the following vote:

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

Enactment No: RES0078-2004

2004-0222

Consider Policy regarding City Council setting public hearings for Brownfield Redevelopment Plans

Attachments: Agenda Summary.pdf; State Statute.pdf; Draft Policy.pdf; 2004-0222 Master Report.pdf

Ms. Hill explained that, while it is not required by State statute, Council may wish to revise their policy to require that they set the Public Hearings for Brownfield Redevelopment projects, as these are often large projects and this action would "give the public a heads up" to know when these types of projects are coming before Council. She stressed that it would be a means "to further the communication with the community."

PUBLIC COMMENT:

Mr. Lawrence Schloss, 2851 Current Drive, again addressed the Council with regard to the Grand Sakwa matter.

President Dalton explained that this was a general policy discussion and did not apply to the Grand Sakwa matter specifically.

A motion was made by Duistermars, seconded by Hill, that this matter be Adopted by Resolution.

Resolved: that the Rochester Hills City Council adopts the City Council Brownfield Redevelopment Plan Public Hearings Policy as follows:

Purpose and Intent

The purpose of the City of Rochester Hills' Brownfield Redevelopment Plan Public Hearings Policy is to set forth the requirement that the Rochester Hills City Council shall establish the date, time and place for the required Public Hearings for all Brownfield Redevelopment Plans required by MCL 125-2663, Section 13 by resolution.

Upon adoption of a resolution establishing the date, time and place for the Public Hearing, the City Clerk shall, cause notice of the Public Hearing pursuant to MCL 125-2663, Section 13.

The motion carried by the following vote:

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

Enactment No: RES0079-2004

2004-0223

Set Public Hearing for Madison Park Brownfield Redevelopment Plan

Attachments: 2004-0223 Master Report.pdf; Agenda Summary.pdf

The Public Hearing was set to be held Wednesday, April 7, 2004 at 7:30 p.m.

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

Resolved: That the Rochester Hills City Council shall hold a Public Hearing on the Madison Park Brownfield Redevelopment Plan on Wednesday, April 7, 2004 at 7:30 PM at the Rochester Hills Municipal Offices, 1000 Rochester Hills Drive,

Rochester Hills, MI 48309.

Be It Further Resolved that the Clerk shall cause notice of the Public Hearing pursuant to MCL 125-2663, Section 13.

The motion carried by the following vote:

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

(Recess 11:48 p.m. - 11:51 p.m.)

2004-0223

Rescind Vote to Set Public Hearing for Madison Park Brownfield Redevelopment Plan

Attachments: 2004-0223 Master Report.pdf; Agenda Summary.pdf

A resident indicated that he had intended to speak on the previous subject.

Mr. Duistermars acknowledged the oversight and rescinded his motion to allow the resident to present his public comment.

A motion was made by Duistermars, seconded by Barnett, that this matter be Adopted by Resolution.

Whereas the Rochester Hills City Council neglected to allow Public Comment prior to their discussion and vote on the matter to Set a Public Hearing for Madison Park Brownfield Redevelopment Plan;

Be It Resolved that the Rochester Hills City Council shall rescind their vote to set a Public Hearing on the Madison Park Brownfield Redevelopment Plan on Wednesday, April 7, 2004 at 7:30 PM at the Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, MI 48309 and allow Public Comment to proceed prior to any subsequent discussion and vote.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill and Raschke

Nay: Holder and Robbins

Attachments: 2004-0223 Master Report.pdf; Agenda Summary.pdf

PUBLIC COMMENT:

Mr. Lawrence Schloss, 2851 Current Drive, questioned the use of the name Madison Park in identifying the project. He suggested that the "commonly known name" of Suburban Softball be included in all communications regarding this project to avoid confusion on the part of interested parties.

City Attorney John Staran explained that Madison Park is the name of the proposed development. He stressed that when notices go out they typically include the legal description of the project as well as the Sidwell number and a map.

A motion was made by Duistermars, seconded by Barnett, that this matter be Adopted by Resolution.

Resolved: That the Rochester Hills City Council shall hold a Public Hearing on the Madison Park Brownfield Redevelopment Plan on Wednesday, April 7, 2004 at

7:30 PM at the Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, MI 48309.

Be It Further Resolved that the Clerk shall cause notice of the Public Hearing pursuant to MCL 125-2663, Section 13.

The motion carried by the following vote:

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

COUNCIL COMMITTEE REPORTS

Mr. Duistermars noted that, due to scheduling conflicts, the upcoming Public Safety Committee meeting would be rescheduled from March 8th to March 15th. He then indicated that the Leisure Activities Committee meeting scheduled for March 15th had been cancelled and would possibly be rescheduled as well.

Mr. Barnett announced that the Community Development & Viability Committee and the Financial Services Committee conducted a joint meeting at which the local road funding issue was discussed. He stated that an informative presentation was provided by a consulting firm and that this information would be disseminated to residents through a public meeting to be held in the City Council auditorium at a yet to be determined date. He assured Council more information would be forthcoming.

NEXT MEETING DATE

Special Work Session Meeting - Wednesday, March 10, 2004 at 7:30 p.m.

ADJOURNMENT

There being no further business before City Council, President Dalton adjourned the meeting at 11:58 p.m.

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

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

*MARGARET A. STRATE
Administrative Secretary
City Clerk's Office*

Approved as presented at the May 5, 2004 Regular City Council Meeting.