



Rochester Hills

Minutes - Draft

City Council Regular Meeting

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

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

Vision Statement: The Community of Choice for Families and Business

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

Monday, February 23, 2009

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Hooper called the Regular Rochester Hills City Council Meeting to order at 7:32 p.m. Michigan Time.

ROLL CALL

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

Others Present:

*Ed Anzek, Director of Planning and Development
Bryan Barnett, Mayor
Dan Casey, Manager of Economic Development
Scott Cope, Director of Building/Ordinance Compliance
Paul Davis, City Engineer
Derek Delacourt, Deputy Director of Planning
Jane Leslie, City Clerk
Roger Rousse, Director of DPS/Engineering
Keith Sawdon, Director of Finance
John Staran, City Attorney*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion was made by Webber, seconded by Pixley, to Approve the Agenda as Presented. The motion CARRIED by the following vote:

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

PUBLIC COMMENT

William D. Carlson, 849 Fieldstone Court, spoke in support of the deer culling initiative. He thanked City Council and Mayor Barnett for their ongoing investigative efforts.

Ernest Colling, Jr., 3227 Emmons Avenue, speaking as Chairman of the Zoning/Sign Board of Appeals and Advisory Traffic and Safety, expressed his support for the deer culling initiative. He stated that from a safety standpoint, it is only a statistical matter of time until a motorist is injured and killed in car/deer accident.

David Kibby, 558 Whitney, expressed his respect for the members of City Council and stated that residents are facing too many pressing issues in these difficult times to be distracted by petty politics. He stressed the importance of City Councils' position in the City and the task that voters have entrusted to them.

Alice Benbow, 1582 Northumberland Drive, voiced her concern over false information that she stated was shared about her during the election.

Lee Zendel, 1575 Dutton Road, referred to a recent article wherein the author felt the Hamlin/Crooks/Livernois Road Project should be stopped, and the money for this project transferred to the General Fund. He pointed out that the money for this project is substantially all Act 51 money, and by law must be used only for roads.

Leonard Raffler, 921 Auburn Road, expressed that he is having difficulty obtaining an accurate assessment on his garage that was built in 1961. He requested a meeting with any Council Member, Mayor Barnett, the City's Administrative Staff or any resident that could assist him.

David Tripp, 960 East Tienken, requested that City Council initiate the inclusion of a three-lane option for the widening of Tienken Road to be considered as part of the preliminary design and evaluation process currently underway. He requested that a set of engineered drawings detailing the three-lane option be prepared and another public meeting be held so the residents could review and comment on all three designs. He provided City Council with a copy of Flexibility in Highway Design published by the Federal Highway Administration.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

Mayor Barnett made the following comments:

- Responding to Mr. Leonard Raffler, he requested that he call the Mayor's Office the following morning to set up an appointment with the City Assessor, Kurt Dawson, to help with the assessment issue relating to his garage.
- Regarding the widening of Tienken Road, he informed residents that Paul Davis, City Engineer, as a follow-up to the residents' concerns, had written a lengthy e-mail requesting the Oakland County Road Commission to consider the three-lane road as component of the environmental assessment. He reported that in response to Mr. Davis' e-mail and the public input, Mr. Tom Blusk of the Oakland

County Road Commission has responded that the three-lane option will be considered along with the four-lane boulevard and the five-lane highway in the environmental assessment process. He stated that as more information becomes available, it will be made available to the residents.

- In spite of the City's record snowfall this winter season, there have been few resident complaints. He attributed that to residents' patience and the inside storage of road salt and vehicles which aided in the efficiency of staff.

- Extended an invitation to the 2009 Community Outlook Luncheon hosted by the Rochester Chamber of Commerce on Thursday, February 26, 2009 at Oakland University.

- Announced that the 2009 State of the City Address will be held on Thursday, March 5, 2009 at Rochester College.

- Announced that for the 11th year in a row, the City is the recipient of the Distinguished Budget Presentation Award.

- Invited the City's new Finance Director, Keith Sawdon, to come forward and say a few words before City Council.

Keith Sawdon, Finance Director, stated it was his distinct pleasure to be working for his hometown, having lived in Rochester Hills since 1969. He expressed his appreciation to be working with the Mayor, City Council and the City's Administrative Staff.

Mr. Yalamanchi expressed his gratitude to Mr. David Tripp, Mr. Paul Davis and Mayor Barnett for the information regarding the three-lane road option for the Tienken Road widening project. He stated his support for the necessity of the implementation of a Deer Management Committee.

Mr. Webber echoed Council Member Yalamanchi's sentiments regarding the widening of Tienken Road and the deer management issue, and welcomed the City's new Finance Director, Mr. Keith Sawdon.

Mr. Rosen extended welcoming wishes to the City's new Finance Director, Mr. Keith Sawdon.

Mr. Pixley thanked Mr. Tripp for the research and informative e-mail regarding the widening of Tienken Road. He gave a warm welcome to the City's new Finance Director, Mr. Keith Sawdon and announced that Mayor Barnett would be presenting a check from the proceeds raised from the Fourth Annual Rochester/Rochester Hills Council Flag Football Game to Neighborhood House for the food pantry at the 2009 Community Outlook Luncheon.

Mr. Ambrozaitis thanked Mr. David Tripp for his diligent research of the three-lane road option for the widening of Tienken Road. He commented that the creation of a Deer Management Committee is necessary. He expressed concern over the City's budget and the City being able to pay its expenses.

Mr. Brennan thanked Mr. Tripp for his e-mail and thorough research relative to the Tienken Road widening project, and welcomed the City's new Finance Director, Mr. Keith Sawdon. He announced that the Michigan United Conservation Clubs and the Department of Natural Resources (DNR) has publicized the statewide tour of public meetings on deer management. The meetings are aimed at gathering

regional input for the ongoing development of a comprehensive state deer management plan. Input from the meetings will be reviewed by a Michigan Deer Advisory Team composed of diverse stakeholders who will be charged with providing strategic recommendations for a plan to the DNR. The next meeting is tomorrow at Oakland University from 6:30 p.m. to 8:30 p.m.

President Hooper echoed the previous thanks to Mr. David Tripp, stating that no final decisions have been made as to the design of the widening of Tienken Road. He expressed a warm welcome to the City's new Finance Director, Mr. Keith Sawdon.

ATTORNEY MATTERS

None.

CONSENT AGENDA

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

2009-0074 Approval of Minutes - City Council Regular Meeting - October 20, 2008

Attachments: [CC Min 102008.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0041-2009

Resolved, that the Minutes of Rochester Hills City Council Regular Meeting held on October 20, 2008 be approved as presented.

2008-0657 Approval of Minutes - City Council Regular Meeting - October 27, 2008

Attachments: [CC Min 102708.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0042-2009

Resolved, that the Minutes of a Rochester Hills City Council Regular Meeting held on October 27, 2008 be approved as presented.

2009-0082 Approval of Minutes - City Council Special Joint Meeting with the City of Auburn Hills - October 30, 2008

Attachments: [CC Min Special Meeting 103008.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0043-2009

Resolved, that the Minutes of a Rochester Hills City Council Special Joint Meeting with the City of Auburn Hills held on October 30, 2008 be approved as presented.

2009-0050 Approval of Minutes - City Council Regular Meeting - November 10, 2008

Attachments: [CC Min 111008.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0044-2009

Resolved, that the Minutes of a Rochester Hills City Council Regular Meeting held on November 10, 2008 be approved as presented.

2009-0059 Request for Purchase Authorization - MIS: Two-Year Hardware Maintenance Support for the City's Storage Area Network (SAN) equipment and related usage licensing in the amount not-to-exceed \$29,913.00; Technical Solutions, LLC, Troy, MI

Attachments: [Agenda Summary.pdf](#)
[SAN Bid Request Memo.pdf](#)
[Bid Tabulation.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0045-2009

Resolved, that the Rochester Hills City Council hereby authorizes the purchase of two-year hardware maintenance support for the City's storage area network (SAN) equipment and related usage licensing to Technical Solutions, LLC, 1920 Livernois, Troy, MI 48083 in the amount not-to-exceed \$29,913.00.

2009-0069 Request to Rescind Traffic Control Order TM-25.1, "NO LEFT TURN" from eastbound Valley Stream Drive onto Livernois Road at their intersection between the hours of 4:00 p.m. to 7:00 p.m.

Attachments: [Agenda Summary.pdf](#)
[No Left Turn Map.pdf](#)
[AT&S Minutes \(Draft\) 120908.pdf](#)
[TCO TM-25 signed.pdf](#)
[Traffic Study Summary 112608.pdf](#)
[Sight Distance Map.pdf](#)
[Compliance Study 111108.pdf](#)
[Compliance Study 052808.pdf](#)
[RCOC Guide for Sight Distance.pdf](#)
[Traffic Count Map.pdf](#)
[Traffic Count Green Leaf Drive.pdf](#)
[Traffic Count Rochdale Drive.pdf](#)
[Traffic Count Valley Stream.pdf](#)
[Intersection Crash Report 3yr.pdf](#)
[Correspondence 100808.pdf](#)
[Complaint 110308.pdf](#)
[Resolution.pdf](#)

This Matter was Adopted by Resolution on the Consent Agenda.

Enactment No: RES0046-2009

Whereas, Traffic Control Order No. TM-25 has been issued by the City of Rochester Hills under the provisions of the Rochester Hills Code of Ordinances, Chapter 98, Michigan Vehicle Code MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

TM-25.1 "NO LEFT TURN" from eastbound Valley Stream Drive onto Livernois Road at their intersection between the hours of 4:00 p.m. to 7:00 p.m.

Whereas, local road authorities in their respective jurisdiction shall place and maintain such traffic control devices upon highways under their jurisdiction, as they may deem necessary to indicate and to carry out the provision of this ordinance to regulate, warn or guide traffic. All such controls devices hereafter erected shall conform to the Michigan Manual of Uniform Traffic Control Devices.

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Order and recommends that the Order be rescinded; and

Whereas a traffic engineering investigation was made for eastbound Valley Stream onto Livernois Road, and as a result of said investigation has determined that turning movement restrictions onto Livernois Road are no longer warranted based upon the latest traffic data,

Resolved, that the Rochester Hills City Council hereby rescinds Traffic Control Order TM-25.

Now, Therefore, Be It Resolved, that a certified copy of this Resolution is filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

Be it Further Resolved, that the proper officials and policing agencies receive a copy of the Resolution.

Be it Finally Resolved, that the existing signage and traffic control devices be removed.

Passed the Consent Agenda

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

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

PUBLIC HEARINGS

2008-0652 Request for Approval of a Wetland Use Permit - Rochester College Health and Life Sciences Center

Attachments: [Agenda Summary.pdf](#)
[Map.pdf](#)
[Site Plans.pdf](#)
[Staff Report 012009.pdf](#)
[Minutes PC 012009.pdf](#)
[Public Hearing Notice.pdf](#)
[Resolution.pdf](#)

Derek Delacourt, Deputy Director of Planning, introduced Paul Cornelius, French Associates, the architect firm, Mark Johnson, Director of Facility and Operations for Rochester College, and Dave Hunter, Professional Engineering Associates, the civil engineering firm.

Mr. Delacourt gave a brief description as follows:

- Rochester College (RC) has pursued construction of an approximate 90,000 square foot health and science facility to be located on the campus just north of Avon Road.
- RC has requested and received a recommendation from the Planning Commission to fill a .5-acre mid-quality wetland located on the site in the area which they propose to build. RC has offered as mitigation, and in working with the Department Environmental Quality and City staff, to do some stabilization along the Clinton River Banks as well as will work with the City during the construction phase on best management practices for the overall storm water improvements that are going to be associated with the site.
- The site plans were approved by the Planning Commission along with the necessary tree removal permits.
- The requested wetland fill is part of the packet and was approved by the DEQ.
- The permit has been extended and the Planning Commission did recommend approval of the wetland use permit.

Mark Johnson, Director of Facility and Operations for Rochester College, described that this building project was attempted five years ago, running smoothly until the economy took a turn which affected enrollment and fundraising efforts. He explained they have a very successful basketball team and coach, but no facility to house those games. He stated that Rochester College has a new partnership possibility that has breathed new life into this project and is working to have everything in place to begin work on this project.

President Hooper Opened the Public Hearing at 8:14 p.m. President Hooper asked if there were any members of the Public that wished to speak. Seeing none, President Hooper closed the Public Hearing at 8:15 p.m.

Mr. Yalamanchi requested to see the Master Plan from the Planning Department to see what future development projects would be available to Rochester College.

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

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

Enactment No: RES0047-2009

Resolved, that the Rochester Hills City Council hereby approves a Wetland Use Permit for activities associated with the construction of a Health and Life Sciences Center for Rochester College: Approximately 20,000 square-feet of permanent wetland impacts from the construction of a softball diamond, associated grading and from the placement of two rip-rap outlet structures in Wetland B; for 100 square-feet of permanent wetland impacts from the construction of a rip-rap end section in a storm water ditch beneath Avon Road and the proposed bike path along Avon Road; for 100 square feet of temporary impacts from the construction of a catch basin and the placement of 45 lineal feet of storm water pipe associated with the bike path; and for 20 square-feet of temporary impacts from the tapping of an existing sanitary sewer line, based on plans dated received by the Planning and Development Department on December 4, 2008, with the following findings and subject to the following conditions:

Findings:

1. The Wetland and Watercourse Protection Ordinance is applicable to the subject site because it is not included within a site or preliminary subdivision plat which has received final approval prior to January 17, 1990.
2. Of the approximately three acres of City-regulated wetlands on the project site, the applicant is proposing to impact approximately .5 acre.
3. The applicant will use best management practices to ensure that flow and circulation patterns and chemical and biological characteristics of wetlands are not impacted and that impacts to the aquatic environment are minimized.
4. The storm water ditch beneath Avon Road appears to be hydrologically connected to the Clinton River, making it City regulated.
5. The temporary wetland impacts associated with the catch basin and storm sewer appear to be unavoidable.
6. Development of long-term measures planned to enhance and improve the Clinton River banks, such as vegetating slopes, stabilizing the banks and cleaning up debris can be considered as sufficient out-of-kind mitigation for the wetland losses connected with the development of the Health and Life Sciences Center.

Conditions:

1. Impacted areas must be shown on revised plans in square footage and approved by the City's Wetland Consultant, prior to Final Approval by Staff.
2. All temporarily impacted areas must be seeded with a seed mix, and be noted on the revised plans, as approved by the City's Wetland Consultant prior to Final Approval by Staff.
3. Note on plans the application of best management practices, including appropriate plant ground cover, to the soils around Wetland D and areas as detailed in ASTI's letter dated January 15, 2009, to minimize soil erosion and avoid poor water quality, prior to Final Approval by Staff.
4. Submit plan to remedy situation caused by building downspouts located near and around Wetland D that discharge into the wetland, prior to Final Approval by Staff.
5. Remove landscaping waste around the area of Wetland B and near the weir structure and consider replacing the structure because of its poor condition, prior to Final Approval by Staff.
6. Show plan to stabilize bluff and banks of the Clinton River northeast of the northern portion of Wetland D, as shown on the Mitigation Plans and approved by ASTI, prior to Final Approval by Staff.
7. Revise plans to show no wetland impact associated with the sanitary sewer tap, prior to Final Approval by Staff.
8. Devise long-term measures to enhance and improve the areas along the banks of the Clinton River, such as vegetating slopes, stabilizing the banks and cleaning up debris, which can be considered as sufficient out-of-kind mitigation for the wetland losses to develop the Health and Life Sciences Center.

ORDINANCE FOR ADOPTION

- 2009-0046** Acceptance for Second Reading and Adoption - An Ordinance to amend Section 106-125 of Chapter 106, Article III, Weed Control, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to adjust the amount charged to owners and occupants of land for weed cutting by the City, repeal conflicting Ordinances and prescribe a penalty for violations

Attachments: [Agenda Summary.pdf](#)
[Ordinance \(Revised\).pdf](#)
[020909 Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[020909 Resolution.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0048-2009

Resolved, that an Ordinance to amend Section 106-125 of Chapter 106, Article III, Weed Control, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to adjust the amount charged to owners and occupants of land for weed cutting by the City, repeal conflicting Ordinances and prescribe a penalty for violations is hereby accepted for Second Reading and Adoption, and shall become effective on Monday, March 2, 2009, the day following its publication in the Rochester Eccentric on Sunday, March 1, 2009.

2009-0047 Acceptance for Second Reading and Adoption - an Ordinance to amend Section 54-531 and repeal Section 54-532 of Article X, Solid Waste, of Chapter 54, Fees, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify solid waste transporting unit license fees, repeal conflicting Ordinances, and prescribe a penalty for violations

Attachments: [Agenda Summary.pdf](#)
[Ordinance \(Revised\).pdf](#)
[020909 Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[020909 Resolution.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0049-2009

Resolved, that an Ordinance to amend Section 54-531 and repeal Section 54-532 of Article X, Solid Waste, of Chapter 54, Fees, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify solid waste transporting unit license fees, repeal conflicting Ordinances, and prescribe a penalty for violations is hereby accepted for Second Reading and Adoption, and shall become effective on Monday, March 2, 2009, the day following its publication in the Rochester Eccentric on Sunday, March 1, 2009.

2009-0058 Acceptance for Second Reading and Adoption - an Ordinance to amend Sections 6-1 and 6-38 of Chapter 6, Alcoholic Liquor, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to delete and replace references to the Liquor Technical Review Committee, repeal inconsistent provisions, and prescribe a penalty for violations

Attachments: [Agenda Summary.pdf](#)
[Ordinance.pdf](#)
[020909 Agenda Summary.pdf](#)
[020909 Resolution.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0050-2009

Resolved, that an Ordinance to amend Sections 6-1 and 6-38 of Chapter 6, Alcoholic Liquor, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to delete and replace references to the Liquor Technical Review Committee, repeal inconsistent provisions, and prescribe a penalty for violations is hereby accepted for Second Reading and Adoption, and shall become effective on Monday, March 2, 2009, the day following its publication in the Rochester Eccentric on Sunday, March 1, 2009.

NOMINATIONS/APPOINTMENTS

2009-0075 Request to confirm the Mayor's re-appointments of Samuel Seabright, L. Bruce Kingery, and Dan Casey to the Economic Development Corporation for six (6) year terms to expire on March 31, 2015; and the appointment of Kurt Dawson to the Economic Development Corporation to fill the unexpired term of William Benson which will expire March 31, 2009

Attachments: [Agenda Summary.pdf](#)
[Dan Casey CQ.pdf](#)
[Kurt Dawson CQ.pdf](#)
[Bruce Kingery CQ.pdf](#)
[Samuel Seabright CQ.pdf](#)
[Resolution.pdf](#)

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

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

Enactment No: RES0051-2009

Resolved, that the Rochester Hills City Council hereby confirms the Mayor's re-appointments of Samuel Seabright, L. Bruce Kingery, and Dan Casey to the Economic Development Corporation for six-year terms to expire on March 31, 2015.

Be It Further Resolved, that the Rochester Hills City Council hereby confirms the Mayor's appointment of Kurt Dawson to the Economic Development Corporation to fill the unexpired term of William Benson which will expire March 31, 2009.

2009-0076 Request to confirm the Mayor's re-appointments of William Boswell and David Reece to the Planning Commission for three-year terms to expire March 31, 2012

Attachments: [Agenda Summary.pdf](#)
[William Boswell CQ.pdf](#)
[David Reece CQ.pdf](#)
[Resolution.pdf](#)

President Hooper stated that he serves on the Planning Commission and has

served with both Mr. Boswell and Mr. Reece and expressed his full support for their re-appointments.

Mayor Barnett expressed his full support of the re-appointment of both Mr. Boswell and Mr. Reece.

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

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

Enactment No: RES0052-2009

Resolved, that the Rochester Hills City Council hereby confirms the Mayor's re-appointment of William Boswell and David Reece to the Planning Commission for three-year terms to expire March 31, 2012.

2009-0077 Request to confirm the Mayor's re-appointment of Stephan Slavik to the Local Development Finance Authority for a four (4) year term expiring March 31, 2013

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

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

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

Enactment No: RES0053-2009

Resolved, that the Rochester Hills City Council hereby confirms the Mayor's re-appointment of Stephan Slavik to the Local Development Finance Authority for a four-year term to expire on March 31, 2013.

NEW BUSINESS

2009-0055 Request to consider opting out of a tax exemption of personal property acquired in 2008 by Energy Conversion Devices (ECD), a certified alternative energy technology business under Public Act 549, of 2002

Attachments: [Agenda Summary.pdf](#)
[MNEA Packet.pdf](#)
[Exhibit B Assessor Certification.pdf](#)
[Exhibit C.pdf](#)
[Resolution.pdf](#)

Dan Casey, Manager of Economic Development, stated that this request comes to City Council from Michigan NextEnergy Authority (MNEA), which reviews the list of purchased equipment annually every year, evaluates if the equipment is related specifically to the alternative energy portions of a company's business and determines if the equipment becomes tax exempt under State Law as personal property. The MNEA's mission is to promote research and development of alternative energy and companies engaged in those industries. Based upon the MNEA's review, Energy Conversion Devices (ECD) qualifies for an exemption

of \$228,768.00. The City Assessor has reviewed the list of equipment and is in agreement with the eligibility. Analysis shows an impact to the City of \$3,258.00 over the remaining years of the program which does have a sunset of 2013.

President Hooper inquired if the tax period ends after six years in 2014, or in 2013.

Mr. Casey confirmed that it would end in 2014.

Mayor Barnett spoke about the economic importance of ECD and some of its subsidiaries. He stated that many companies are interested in the work that ECD is doing in the alternative energy field. He commented that retaining ECD's employment of approximately 200 employees, many of whom are scientists and engineers, would be worth the City's investment of \$3,258.00.

Mr. Ambrozaitis asked Mr. Casey if it was his recommendation to allow the exemption as well.

Mr. Casey concurred and added that ECD recently moved their sales office from another community to Rochester Hills.

Mr. Rosen commented that his usual practice is not favorable toward tax abatements but because ECD made the equipment investment regardless of the outcome of City Council's vote, he would be in support of allowing the exemption.

Mr. Yalamanchi inquired as to the sustainability of ECD.

Mr. Casey responded that ECD is a parent company and basically a holding company for Unisolar which is doing extremely well and their stock has virtually doubled. ECD has a partnership in Cobysis which is struggling in competition with other companies developing battery technologies. ECD is also involved with Ovonic Hydrogen Systems which is currently a research and development company but has goals of surpassing the lithium ion battery phenomena and will someday be the favored technology for fueling vehicles in the future.

Mayor Barnett added that ECD is before Congress on a weekly basis because of their leadership in the components of energy efficiency, has incredible influence in the alternative energy market, and is listed as top performers weekly in Crains Business News.

A motion was made by Ambrozaitis, seconded by Webber, that this matter be Adopted by Resolution to not Opt Out of the Tax Exemption. The motion CARRIED by the following vote:

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

Enactment No: RES0054-2009

Whereas, on December 15, 2003 the Michigan NextEnergy Authority (MNEA) certified Energy Conversion Devices, Inc. as an Alternative Energy Technology Business as permitted by Public Act 549 of 2002; and

Whereas, on December 15, 2008 the MNEA certified a list of equipment (See Exhibit A - MNEA packet for list of equipment) as Alternative Energy personal property (the "property") making it exempt from taxes levied before January 1, 2013 as permitted by Public Act 549 of 2002; and

Whereas, notice of this action was received by the City of Rochester Hills Assessing Department on January 13, 2009; and

Whereas, the City Assessor has made the following determinations regarding the certified property (See Exhibit B):

1. It is property classified as personal rather than real property
2. It has not been previously subject to taxation under the general property tax act, and
3. It has not previously been exempted from taxes under the general property tax and; and

Whereas, exemption of the property will not impede the City's ability to provide service or have a detrimental impact on its fiscal stability.

Resolved, that the City of Rochester Hills is not opting-out of the exemption of the alternative energy personal property from local personal property taxes of Energy Conversion Devices, a certified Alternative Energy Technology Business, as permitted by Public Act 549 of 2002; and

Be It Further Resolved, that the City Clerk should forward a certified copy of this Resolution to the Michigan NextEnergy Authority no later than Friday, February 27, 2009.

2009-0084 Request to Accept the Dance-Entertainment Permit Agreement between the City of Rochester Hills and Selke Restaurant Enterprises, LLC, 2145 Avon Industrial Dr., Rochester Hills, MI

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

President Hooper invited Mr. James Selke to come forward and express his business intent.

Mr. Selke stated that it is his intent to continue the operation of Classic Lanes as a bowling center in the community and emphasized making it more of a family-friendly institution.

President Hooper inquired about the status of the liquor license.

Mr. Selke responded that he has purchased the liquor license but it will remain in escrow until the closing which is subject to City Council's approval.

Mr. Ambrozaitis asked City Attorney Staran if the application met with his approval.

City Attorney Staran stated he has no objection to the application.

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

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

Enactment No: RES0055-2009

Whereas, the Rochester Hills City Council accepts the Dance-Entertainment Permit Agreement between the City of Rochester Hills and Selke Restaurant Enterprises, LLC, 2145 Avon Industrial Dr., Rochester Hills, Michigan

Now, Therefore, Be It Resolved, that the Mayor and the City Clerk are hereby authorized to execute and deliver the agreement on behalf of the City.

2009-0083 Request for a transfer of a Class C License with Dance-Entertainment Permit located at 2145 Avon Industrial Dr., Rochester Hills, from Classic Bar, Inc. to Selke Restaurant Enterprises, LLC

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

See Legislative File Number 2009-0084.

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

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

Enactment No: RES0056-2009

Resolved, that the request to transfer ownership of 2008 Class C licensed business with Dance-Entertainment Permit, located at 2145 Avon Industrial Dr., Rochester Hills, MI 48309, Oakland County, from Classic Bar, Inc. to Selke Restaurant Enterprises, LLC. be considered for approval.

2009-0085 Request to Accept the Dance-Entertainment Permit Agreement between the City of Rochester Hills and Chapman's Mill, LLC, 2086 Crooks Road, Rochester Hills, MI

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

President Hooper asked Mr. Nichols and Mr. Jarman to come forward and introduce themselves.

Mr. Jim Nichols, the owner of Chapman's Mill LLC, introduced his operating partner and manager, Mr. Randy Jarman.

President Hooper stated that the Planning Commission has approved the site plan and renovations are under way.

Mr. Webber inquired when the business would be open and ready for business.

Mr. Nichols responded the approximate date is May 15, 2009.

Mr. Ambrozaitis asked City Attorney Staran if the application met with his approval.

City Attorney Staran stated he has no objection to the application.

Mr. Pixley complimented Mr. Nichols and Mr. Jarman on the design of the establishment utilizing its proximity to the Clinton River Trail to incorporate outdoor seating.

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

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

Enactment No: RES0057-2009

Whereas, the Rochester Hills City Council accepts the Dance-Entertainment Permit Agreement between the City of Rochester Hills and Chapman's Mill, LLC, 2086 Crooks Road, Rochester Hills, Michigan

Now, Therefore, Be It Resolved, that the Mayor and the City Clerk are hereby authorized to execute and deliver the agreement on behalf of the City.

2009-0086 Request for a Transfer of a Class C License with Dance-Entertainment Permit from Baez Enterprises, Inc. to Chapman's Mill, LLC, located at 2086 Crooks Road, Rochester Hills, MI

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

President Hooper inquired about the status of the liquor license from the previous owner Baez Enterprises, Inc.

Mr. Jim Nichols, owner of Chapman's Mill, LLC, responded that Baez Enterprises, Inc. has the liquor license in escrow pending approvals from the City of Rochester Hills' and the State of Michigan.

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

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

Enactment No: RES0058-2009

Resolved, that the request to transfer ownership of a 2008 Class C licensed business, with a Dance-Entertainment Permit, located at 2086 Crooks Road, Rochester Hills, Michigan, 48309, Oakland County, from Baez Enterprises, Inc. to Chapman's Mill, LLC be considered for approval.

2009-0060 Request for Participation - DPS/ENG: Participation in the proposed fiscal year 2009 Tri-Party Program with the Oakland County Board of Commissioners and the Road Commission of Oakland County for road improvement projects.

Attachments: [Agenda Summary.pdf](#)
[RCOC Tri-Party Ltr.pdf](#)
[Resolution.pdf](#)

Mr. Paul Davis, City Engineer, explained that each year this opportunity comes before City Council to allow the City of Rochester Hills to elect to participate in the Tri-Party Funding Program with the Oakland County Board of Commissioners and

the Oakland County Road Commission. This year's allotment is approximately \$490,000.00. He stated that this program allows the City flexibility to address specific areas of road in need of repair within the City. He stated the monies used the previous year funded some of the repairs on Hamlin Road at the west end of the City boundary. He further stated that the City's Engineering Department has begun work for the engineering preliminary approval for resurfacing of Walton Boulevard as well as the section on Crooks Road. He recommended City Council's approval for continued participation in this program.

Mr. Yalamanchi stated his support of the motion and inquired as to the City's planned use for the Tri-County Funds for this year.

Mr. Davis stated his recommendation would be for the repaving of Crooks Road from M-59 up to Hamlin Road. He noted that monies had been appropriated for the engineering design portion but the City would have to fund the actual construction work; the Tri-Party Funds could pay for this construction. He recommended the paving of Walton Road since the engineering design has been approved and could be paid by Tri-Party Funds as well.

President Hooper mentioned that City Council's packet contained a list of potential project locations as well as a cost breakdown. He stated that Council would have to independently approve each of these projects as they come before City Council.

Mr. Ambrozaitis questioned if City Council were to pass the motion to participate in the Tri-County Funding Program, would the City be obligated to do these projects.

Mr. Davis stated that there is no obligation, but the purpose of the Tri-County Funding Program is to enable the City to take advantage of these funds to make needed repairs to roads within the City. He explained that as project recommendations come forward to be funded by these monies, City Council will have the opportunity to review and approve each project.

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

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

Enactment No: RES0059-2009

Whereas, the City of Rochester Hills has previously participated in the Tri-Party Program with the Oakland County Board of Commissioners and the Road Commission of Oakland County for road improvement projects; and

Whereas, the City desires to continue this joint participation for the 2009 fiscal year

Now, Therefore, Be It Resolved, that the City of Rochester Hills agrees to participate in the proposed fiscal year 2009 Tri-Party Program. The City's contribution shall equal \$163,468.00 toward the total proposed program allotment of \$490,403.00.

2009-0073 Request for Approval of the amended Bylaws of the Economic Development Corporation

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

Mr. Dan Casey, Manager of Economic Development, gave the following overview:

- The Board has been dormant and met infrequently.
- In 2007, the City could not locate a copy of the Boards' By-laws that were amended in 1984 changing references from 'township' to 'city' in the original By-laws although there were Board Minutes indicating approval of the 1984 amendment to the By-laws.
- It was the consensus of the Board to go through the legislative process and amend the By-laws once again and file them with the Secretary of State's Office as required by State Law.
- The amendment to the By-laws changed references from Avon Township to City of Rochester Hills, references to Township Supervisor were changed to Mayor; and references to Township Board were changed to City Council.
- The two additional amendments to the By-laws were the official business address was changed from 1275 West Avon Road to 1000 Rochester Hills Drive, and the \$50 per member per diem was changed to \$65 per member per diem, as reflected in the City's annual budget.
- Additional research is being done to determine whether the EDC's Articles of Incorporation were amended in 1984. If the Articles of Incorporation have not been amended, this matter will return to City Council for approval of an amendment to the Articles of Incorporation.

President Hooper inquired about the status of EDC's two remaining projects and how frequent the Board has held meetings.

Mr. Casey responded with the following reports:

CRS Services:

- The bonds have been retired and awaiting the final documentation to release the City's interest in this asset.

Peachwood:

- This is a non-profit housing development; its last project was bonded through the EDC and those bonds are scheduled to retire in 2014.

Mr. Casey stated that the Board met infrequently, however, last year made a commitment to commence meetings on an annual basis in November of each year to approve its annual budget.

Mr. Yalamanchi requested clarification regarding City Council's legal authority to approve the EDC's By-laws as they are a separate, independent corporation.

Mr. Casey explained that although the EDC is a separate, independent corporation, State Law provides the process; the EDC Board approves the amendments to their By-laws, then the municipality is required to approve

by-law amendments and upon approval, the amended by-laws have to be filed with the Secretary of State.

City Attorney Staran commented that there is a state enabling law that this comes from and while the EDC used to be a very active Board, it now exists only until the CRS Service and Peach Tree projects close out.

Mr. Yalamanchi inquired if it would be a conflict of interest for City employees and EDC Board Members, Dan Casey and Kurt Dawson, to be paid the \$65 per diem amount per meeting.

Mr. Casey responded that as City employees they would not accept the per diem pay. Mr. Casey reported that while the EDC has been a dormant board, there is some pending federal law that may loosen up the criteria to allow EDCs to bond projects. He stated that manufacturing projects in which 75% of the building use is core manufacturing would have bond eligibility, and then the second would be non-profit housing. He explained that the consideration at the federal level for change is to provide for high technology projects to be bonded which would be more applicable to the City today than the way the Act currently reads.

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

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

Enactment No: RES0060-2009

Resolved, that the Rochester Hills City Council hereby approves the amended Bylaws of the Rochester Hills Economic Development Corporation, and directs the City Clerk's office to file a copy with the Secretary of State's office, as required by Public Act 338, of 1974.

2009-0081 Request for Purchase Authorization - DPS/ENG: Amendment to project construction budget for the Austin Avenue Extension

Attachments: [Agenda Summary.pdf](#)
[Reimbursement Agreement Signed.pdf](#)
[Amendment to Reimbursement Agreement.pdf](#)
[Revised Cost Proposal 020909.pdf](#)
[Resolution.pdf](#)

Paul Davis, City Engineer, explained that this amendment is being requested for the following reasons:

- The Department did not have the final figures for reimbursement to Kirco. The original agreement approved by City Council on January 6, 2009 indicated that upon acceptance of the bid and before entering into a construction contract for the road project, the Mayor, on behalf of the City, and Kirco Construction (Kirco) shall execute a written memorandum to be attached to the agreement setting forth the precise amount to be reimbursed by the City. The original estimate in the payback agreement was based on an in-house engineer's estimate in July 2008, prior to the geotechnical analysis being done.

- The construction costs were higher than originally estimated because of the need to remove peat material from the site, the installation of swamp back fill, and the required installation of a box culvert rather than the originally anticipated culvert.

President Hooper inquired about the use of cold rolled steel pilings in lieu of hot rolled.

Mr. Davis commented that the geotechnical consultant had expressed concern for joint integrity, but that the use of the cold rolled steel pilings would present a \$61,000.00 cost savings and that information from some of the contractors indicated that a quality joint could be produced with the cold rolled method.

Mr. Ambrozaitis stated that when City Council voted on this in January 2009, he did not recall Mr. Davis alluding to Council that Kirco Construction's service fees were not in that portion of the bid. He inquired if this is normal procedure.

Mr. Davis stated that the original engineering estimate was thought to accommodate the Kirco fee as presented before Council. He pointed out that this is not a typical project, that the City generally does not have a company like Kirco, that is both constructing and performing a project management function, on a project. He stated the normal procedure is for the Engineering Department to bid out this type of project and for the City to be responsible for the complete construction engineering associated with the project. The reason the City used Kirco was because of the expedited time factor. The Department attempted to think out of the box in order to move this project along quicker than government is accused of working. The service fee to Kirco was not known beforehand.

Mr. Ambrozaitis questioned why Kirco was used.

Dan Casey, Manager of Economic Development, responded that Kirco has a reputation as a good company and developer of record for RayConnect, the specific project that the City was expediting. The reason the City escalated the road project was to accommodate RayConnect's scheduled goal of opening their building by May-June, 2009. It was determined that Kirco's bidding process was quicker than the City's bidding procedure, and Kirco had the potential to get the project bid for a lower cost.

Responding to Mr. Rosen, **Mr. Davis** stated that a ten percent contingency fee is normal and that the City usually budgets fifteen percent for construction engineering costs. He stated that Kirco's fees are not unreasonable because they have performed work over and above construction engineering, such as the bid submittal and review process. He noted that it is coincidental that the ten percent contingency is ten percent of the cost for their services.

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

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

Enactment No: RES0061-2009

Resolved, that the Rochester Hills City Council hereby authorizes the amendment to the project construction budget for the Austin Avenue Extension in the amount of \$1,317,421.51 plus a 10% contingency of \$131,742.15, plus the Kirco fee of \$131,742.51, for a total not-to-exceed construction budget of \$1,580,905.81.

COUNCIL COMMITTEE REPORTS

Mr. Webber reported that the Brownfield Redevelopment Authority met Thursday, February 19, 2009 to work with the consultant that was in attendance at the Joint City Council Brownfield meeting in November 2008. He expects to bring the Policy back to City Council within the next couple of months.

ANY OTHER BUSINESS

President Hooper explained that he had a matrix of the Boards and Commissions and Technical Review Committees. He went down the list of Committees and identified which Council member would be responsible for taking the lead and reporting back to Council as to their progress.

Mr. Webber reported that Council will be holding a joint meeting with the City of Rochester. More information will be forthcoming.

President Hooper announced that City Council will also be holding a joint meeting with Historic District Commission and the Historic District Study Committee.

Mayor Barnett announced the following:

- *The gravel road speed limits for Dutton Road, Washington and Winkler Mill are 55 mph.*
- *The new speed limit on Livernois, north of Tienken to Dutton is 45 mph.*
- *The City can no longer enforce the 25 mph signs because new legislation passed in 2006 eliminating the 25 mph for residential roads on gravel and paved roads.*
- *In December 2006 legislature was passed which would have grandfathered speed limits in place prior to November 9, 2006 for two years, but it was subsequently vetoed by the Governor.*
- *The only way the speed limits could be reduced would be to pave the gravel roads and concerned residents would have to arrange for speed studies to be performed.*

Mr. Yalamanchi questioned if the City could set up speed limits at 35, 30 or 40, or if they automatically go to 55.

Roger Rouse, Director of DPS/Engineering, responded that the roads in question are Oakland County roads and Oakland County has jurisdiction for setting the guidelines for setting the speed limits. He stated that the City did appeal this, however, all of the City's requests have been denied.

Mr. Pixley inquired as to what the State's rationale was for setting those speed limits at 55.

Paul Davis, City Engineer, stated that motorists have to drive based on the conditions of the road, that while the posted speed limit is 55 mph does not mean a motorist must drive at 55 mph. He stated driving too fast on icy gravel roads can be dangerous. He stated that this is an effort to attempt to achieve consistency throughout the state.

Mr. Rousse stated that the Sheriffs' Department could not enforce the 25 mph because the legislation had changed in 2006. However, if motorists were engaged in an accident or drove off the road, they could be ticketed based upon unsafe driving due to the road conditions.

Mayor Barnett requested Ed Anzek, Director of Planning and Development to join Mr. Rousse and Mr. Davis at the front table while he announced the following benefits to the City from the Economic Stimulus Package as signed by President Obama:

- On January 16, he commissioned a group of City employees to prepare a Capital Improvement Project list to take to the U.S. Conference of Mayors in Washington, D.C.
- He met with three of President Obama's cabinet's picks, prior to their confirmation, for discussions on the type of stimulus package local governments would wish for.
- He requested an initial \$400,000,000.00 in January 2009, but then refined the list to 'shovel ready' projects ready to go in 90 days.
- He and Roger Rousse met with Congressman Peters the next day with a revised realistic list based on projects ready to move forward.
- The State of Michigan has received about \$850,000,000.00 for infrastructure in three stages: component for infrastructure, component for extending benefits to unemployed workers and a tax relief component for businesses and individuals.
- He met with the Mayor of Troy, Mayor of Rochester and members of Congressman Peters' staff to discuss how to regionally work together to draw attention to local projects.
- Federal Government monies will be moving through the existing agency channels of Michigan Department of Transportation (MDOT) and SEMCOG; the City has benefitted from working with both entities.
- The M-59 widening project was announced by Governor Granholm as the number one priority in the State. The Mayor signed permission for the work to be conducted 24 hours a day, 7 days a week which was a condition of funding for the project.
- He will be obtaining letters of support from both the Mayors of Troy and Rochester for the second part of the project, the Crooks Road Bridge over M-59, which was not included, and an approximate \$32 million add-on for the bridge and 'on' ramps as the design was originally proposed.
- The City received information that projects funded by the Federal Stimulus Package would be fully funded by the stimulus package, therefore, the City's local share would be available for use on other projects.

Mr. Rousse stated that each year the City has the Community Development Block Grant and that the proposal is to add \$1,000,000.00 million to that program in order to boost some of the City's local programs.

Mr. Yalamanchi expressed his gratitude to Mayor Barnett, Ed Anzek, Mr. Rousse and Mr. Davis for their pro-active federal funding action. He inquired if M-59 starting at Adams Road going toward Dequindre would become a three-lane road.

Mr. Anzek responded that it would encompass Crooks to Ryan Road all the

way through Pontiac to Selfridge Airforce Base.

NEXT MEETING DATE

Regular Meeting - Monday, March 2, 2009 - 7:30 PM

ADJOURNMENT

There being no further business before Council, President Hooper adjourned the meeting at 10:12 p.m.

*GREG HOOPER, President
Rochester Hills City Council*

*JANE LESLIE, Clerk
City of Rochester Hills*

*CHRISTINE A. WISSBRUN
Administrative Secretary
City Clerk's Office*

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