



# Rochester Hills

## Minutes

### City Council Regular Meeting

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

*J. Martin Brennan, Greg Hooper, Nathan Klomp, 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."*

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Monday, October 18, 2010

7:00 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

*President Hooper called the Regular Rochester Hills City Council Meeting to order at 7:00 p.m. Michigan Time.*

## ROLL CALL

**Present** 7 - J. Martin Brennan, Greg Hooper, Nathan Klomp, Vern Pixley, James Rosen, Michael Webber and Ravi Yalamanchi

## Others Present:

*Bryan Barnett, Mayor  
Tara Beatty, Chief Assistant  
Scott Cope, Director of Building/Ordinance Compliance  
Paul Davis, Acting Director of DPS/Engineering  
Derek Delacourt, Deputy Director of Planning  
Deborah Hoyle, Financial Analyst  
Kelsey Jackson, Rochester Hills Government Youth Council Representative  
Jane Leslie, City Clerk  
Keith Sawdon, Director of Finance  
John Staran, City Attorney  
Bob White, Supervisor of Ordinance Services*

## PLEDGE OF ALLEGIANCE

## APPROVAL OF AGENDA

**A motion was made by Webber, seconded by Pixley, that the Agenda be Approved as Amended to add under Public Hearings, immediately following Legislative File 2010-0430 Community Development Block Grant (CDBG) Reprogramming Request for Program Year 2008, Legislative File 2010-0433 Request to Waive the Recapture of 2008 Community Development Block Grant (CDBG) Funds. The motion CARRIED by the following vote:**

**Aye** 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

## **PUBLIC COMMENT**

**Deanna Hilbert**, 3234 Quail Ridge Circle, requested an update on water rate negotiations with the Detroit Water and Sewerage Department and expressed concern that the City is considering borrowing from internal funds to construct water reservoirs. She questioned when public meetings will be held regarding water rate negotiations and whether any Council Member received any political donations from TetraTech or any PAC it is affiliated with. She mentioned that the City of Troy retained an independent firm to review departmental restructuring.

## **LEGISLATIVE & ADMINISTRATIVE COMMENTS**

**President Hooper** reported that a recent initial meeting with the Detroit Water and Sewerage Department (DWSD) included a review of contractual changes along with a brief discussion of the past year's rates. He noted that the City's water usage peaked on July 7th this year, at a level higher than it has been for the past two years. He stated that preliminary discussions have been encouraging, and commented that subject to negotiation, Peak Hour and Max Day levels could be adjusted downward from the previous contract. He pointed out that no decisions have been made regarding the construction of water reservoirs beyond awarding the design contract. He mentioned that one option being considered to fund water storage facilities is to utilize the City's fund balances. The savings the City will realize between Peak Hour and Max Day rates would then pay the funds back. He stated that public meetings will be held should this project move forward.

**Mr. Brennan** announced that the 19th annual Brookwood Subdivision Make a Difference Day Flea Market is scheduled for Friday and Saturday, October 22nd and 23rd. The event is a part of the National Day of Helping Others.

**Kelsey Jackson**, Rochester Hills Government Youth Council (RHGYC) Representative reported that the RHGYC is busy planning the year's projects. The group will participate in the City's Holiday Family Fun Night on December 10th, the Rochester Hometown Christmas Parade on December 5th, and will go Caroling at a local senior facility.

**Mayor Barnett** stated that proceeds raised by Brookwood Subdivision's Make a Difference Day Market go to charities and mentioned that in past years, the group raised in excess of \$10,000 to \$15,000. He made the following announcements:

- Rochester Hills hours for Trick or Treating will be from 6:00 p.m. to 8:00 p.m. on Sunday, October 31st.
- Absentee ballots for the November 2nd election can be obtained from the

Clerk's Office through Monday, November 1st. The polls will be open on Tuesday, November 2nd, from 7:00 a.m. to 8:00 p.m.

- Road Project Update:

\* Overnight paving work on Auburn Road will occur over the next two days.

Daytime lane closures can also be expected, as crews will be working on each mile section for approximately four days.

\* The Tienken Road bridge may be open to traffic as early as tomorrow.

\* The Nawakwa Road Resurfacing Project was completed in three days.

## ATTORNEY MATTERS

2010-0431 Consider proposed consent judgment settling SOCRRA sewer charges

Attachments: [Resolution.pdf](#)

**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 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0232-2010

**Resolved**, that the City of Rochester Hills City Council hereby approves the proposed consent judgment settling SOCRRA sewer charges and authorizes the City Attorney and Mayor to sign it and arrange for it to be entered by the Court.

## PRESENTATIONS

2010-0427 Discussion regarding the possible need for an amendment to the City's Ordinance pertaining to dangerous animals, specifically the Pit Bull dog; Scott Cope, Director of Building and Ordinance Compliance, and Robert White, Supervisor of Ordinance Enforcement, presenters

Attachments: [Agenda Summary.pdf](#)  
[Memo from Bldg Dept 100410.pdf](#)  
[Suppl Presentation 101810.pdf](#)

**Scott Cope**, Director of Building/Ordinance Compliance, stated that after a second incident of an attack on another dog by Pit Bulls in the City, the Administration was prompted to reopen its investigation on how to deal with dangerous animal issues. He gave the following presentation on the Administration's findings:

The Question:

- Do we deal with dangerous animal issues as they arise?

or

- Do we develop a more restrictive Ordinance that attempts to limit the number of incidents?

Out of 5,198 licensed dogs in the City, 76 are Pit Bulls.

Mr. Cope noted that the Administration reviewed Ordinances regarding Pit Bull dogs enacted in Dearborn Heights, Waterford, Mount Clemens, Centerline, Grosse Pointe Woods and Sylvan Lake. He outlined several options:

Four Options to Consider:

1. Rely on current Ordinance and State Law.
2. Rely on current Ordinance and State Law with specific restrictions on Pit Bull dogs.
3. Ban Pit Bull dogs over time.
4. Completely ban Pit Bull dogs.

1. Rely on current Ordinance and State Law:

- Deals with problem animals when an incident occurs.
- Court has authority to order the dangerous animal put down or place significant restrictions on the owner.
- This method was used in both recent incidents this past year.

2. Rely on current Ordinance and State Law with specific restrictions on Pit Bull dogs:

- Deals with problem animals when an incident occurs.
- Court has authority to order the dangerous animal put down or place significant restrictions on the owner.
- Identifies the Pit Bull as a public safety concern.
- Places specific restrictions on Pit Bull dogs. Types of restrictions may include:
  - \* Be under the control of a person at least 18 years of age.
  - \* Be held on a leash of adequate strength to hold the dog when in public.
  - \* Have a muzzle over its jaws sufficient to prevent the animal from inflicting any bite upon another person or animal.
  - \* Obtain liability insurance on the property of no less than one-hundred thousand dollars (\$100,000) coverage.
  - \* Specific requirements for the construction of dog pens when the dog is housed outside.

3. Ban Pit Bull dogs over time:

- Identifies Pit Bull dogs as a public safety concern.
- Does not allow any new Pit Bull dogs in the City after a specific date.
- Allows current Pit Bull dogs to remain until they pass, with specific restrictions.
- Additional restrictions for banning Pit Bull dogs over time:
  - \* Identifying tattoo on the dog, registered with the State Department of Agriculture. Once the dog has died, then no other Pit Bull dogs may reside at the home.
  - \* If a judge rules that the Pit Bull dog, exempted by the Ordinance, is deemed a dangerous animal because of a complaint, the dog loses its exemption from the Ordinance.
  - \* Puppies born in the home must be removed as soon as they turn six (6) months old.

4. Completely ban Pit Bull dogs:

- Identifies the Pit Bull dog as a public safety concern.
- Requires current owners of Pit Bull dogs to remove dog(s) from the City.

Enforcement:

- Option 1 - Current Ordinance:
  - \* No change
- Option 2 - Current Ordinance with Restrictions:
  - \* Complaint based enforcement
  - \* Minimal change in workload
- Option 3 - Ban Over Time; Option 4 - Complete Ban:
  - \* Difficult to enforce
  - \* Would require reducing the level of enforcement in other areas

Important Note:

- There is no Ordinance or restriction that can totally prevent a Pit Bull dog or other dangerous animal attack from occurring.

Dog Bite Reports (to people only, recorded through Oakland County), 2009:

Basset - 1	Hound - 1	Pit Bull - 3
Bichon Frise - 1	Jack Russell- 1	Schnauzer - 1
Boxer - 2	Labrador - 2	Terrier - 1
Chihuahua - 1	Maltese - 1	
Chow - 1	Miniature Pinscher - 1	
German Shepherd - 2	Papillion - 1	<b><u>Total: 20</u></b>

Dog Bite Reports (to people only, recorded through Oakland County), 2010:

Beagle - 1	Cockapoo - 1	Pit Bull - 1
Bichon Frise - 1	German Shepherd - 1	Rottweiler - 1
Border Collie - 1	Golden Retriever - 1	Schnauzer - 1
Boxer - 1	Labrador - 2	Shar Pei - 1
Brittany Spaniel - 1	Malamute - 1	Springer - 1
Chihuahua - 1	Miniature Pinscher - 2	
Chow - 1	Mix - 1	<b><u>Total: 21</u></b>

Public Comment:

**Don Torchia**, 2813 Harrison, stated that in February 2010, two of his neighbor's Pit Bulls jumped over their fence into his backyard and killed his eight-month-old puppy. He stated that he favored Option Three, pointing out that 76 dogs would not substantially increase the City's workload. He reported that the owner of the two Pit Bulls that attacked his dog was a 27-year-old female and pointed out that one of the dogs was in excess of 90 pounds and could not be contained. He stated that his issue was resolved in court through City Attorney John Staran's

*exceptional efforts and mentioned that not many residents have the resolve or capability to pursue court action. He commented that this neighbor still owns three of these dogs and stated that he is still concerned for the safety of his family.*

**Diana McKay**, Redford, commented that she has worked with several rescues over the years and advocates education regarding Pit Bulls. She presented a handout with photos of many dogs that are often mistaken for Pit Bulls, noting that over 20 breeds possess similar characteristics making identification difficult. She stated that breed bans carry the potential for arbitrary and improper enforcement.

**Stephanie Feldstein**, Ypsilanti, commented that she has been involved in Pit Bull rescues for over ten years and noted that many national statistics have stopped tracking dog bites by breed because visual identification is unreliable. She reported that the American Temperament Testing Society reports that the three breeds most commonly considered as Pit Bulls test no higher in aggression than Golden Retrievers. She requested Council be proactive in strengthening its current Ordinance to penalize irresponsible dog ownership.

**Jeff Dehn**, 2600 Greenstone Boulevard, Auburn Hills, stated that he lives near the Rochester Hills border and is the responsible owner of a Pit Bull dog that runs with him on the City's pathways. He noted that several breeds such as the American Pit Bull Terrier, Staffordshire Terrier, American Staffordshire Terrier and Bull Terrier are lumped together under the label Pit Bull, and stated that negative public opinion of these dogs should not outweigh the experiences of those who work with the breeds.

**Barbara Horsey**, 10194 Old Kent Lane, Clarkston, commented that there is no such thing as a bad dog, only an irresponsible owner. She stated that the City should enforce current laws and ordinances and undertake educational and outreach programs for its residents. She explained that her Siberian Husky is often confused with a wolf hybrid.

**Scott Muschong**, 1051 Potomac, stated that his family has owned bull-breed mixes for most of their lives and commented that the family is diligent with training and has experienced no incidents. He mentioned that he rescued both of his dogs and noted that how dogs are raised is most important. He commented that one of the dogs he was most afraid of was a poodle.

**Michael Diedrich**, 11 Bellarmine, commented that he has successfully raised a Leader Dog, and recently acquired a Pit Bull Rottweiler mix who would not hurt a fly. He stated that dogs require a lot of attention and problems result from inexperienced owners.

#### **Council Discussion:**

**President Hooper** questioned if the City's existing Ordinance was applied in the court case regarding the attack on Mr. Torchia's dog, what fines are specified in the Ordinance and whether the City Ordinance could be amended to include language similar to the State's Dangerous Animal Law. He stated that he favors stronger sanctions on owners rather than enacting breed-specific limitations.

**John Staran**, City Attorney, responded that both the City Ordinance and State Law were applied in the court case involving the attack. He explained that the State Dangerous Animal Law provides for an expedited procedure to deal with a dangerous animal, which in this case allowed for a timely court hearing and a judgment rendered that the dogs were dangerous. One dog was put down immediately and one was sterilized and subjected to various conditions to prevent a recurrence. He noted that based on those actions, the City did not issue an additional citation to the dog owner for violations under the local Ordinance. He stated that the Ordinance treats violations as a misdemeanor, with up to \$500 in fines and/or up to 90 days of imprisonment. He commented that while he is not aware of anyone sentenced to a 90-day jail term on a first offense under the Ordinance, it is within the judge's discretion to do so.

**Mr. Pixley** stated that his family experienced a similar situation as their puppy died after an attack by a neighbor's dog, which was not a Pit Bull. He questioned how a breed-specific Ordinance could be enforced, how Pit Bulls would be identified by Ordinance staff, and how the Ordinance would address unlicensed dogs. He stated that while the City should provide the highest level of safety within its Ordinances, he is not in favor of the inclusion of a breed-specific limitation.

**Mr. Cope** responded that the most important aspect of a breed-specific Ordinance would be to define Pit Bull. He pointed out that ordinances enacted in other communities such as Waterford and Sylvan Lake are very clear in their definition, citing American Kennel Club references and specifying the person who would identify the breed. He pointed out that the Ordinance requires that all dogs in the City be licensed and stated that if a question arose, license and proof of breed would be required.

**Mr. Yalamanchi** questioned what occurs once a complaint is received by the City and whether the Ordinance language could be strengthened. He stated that he favored Option One, relying on the current Ordinance and State Law.

**Bob White**, Supervisor of Ordinance Services, explained that when any type of dog complaint is received, the City will send a letter to the dog owner outlining the City's Ordinance and the reported violation. If the owner does not comply, the City relies on the complainant to keep a log of further incidents which is then forwarded to the City Attorney to demonstrate a pattern of nuisance. Subsequently, a court citation is written, and the complainant is required to sign the citation as a witness and accompany City staff to the court hearing. He commented that almost all incidents involving a dog attack on a person or another animal are handled by Oakland County Animal Control through the District Court.

**Mr. Brennan** stated that attacks by Pit Bulls are inexcusable and intolerable, and noted that he has become aware of several recent incidents of violent dog attacks. He commented that the City prides itself as a safe place to raise a family and stated that he is not in favor of social engineering to tell owners how to raise their dogs. He stated that he is completely in favor of a breed-specific Ordinance to remove Pit Bulls from the City. He suggested that officials from Waterford be asked to address Council on how their breed-specific Ordinance is enforced and an expert be consulted as to how these dogs can genetically be identified.

**Mr. Rosen** commented that he found it interesting that numerous e-mails to Council inferred that Council was uneducated or uninformed on the subject, or were anti-animal, and noted that he has spoken with a number of dog owners, rescuers and veterinarians. He mentioned that he is not a fan of dogs in general, partly because he was bitten severely as a teenager by an unleashed dog. He stated that while he is convinced that Pit Bulls can be significantly more aggressive than other breeds, aggressive characteristics also apply to many other breeds. He recognized that not all members of a breed possess aggressive characteristics, and noted that dog owners have a very significant role in how their dogs behave under various circumstances. He stated that there is a sub-culture that will raise certain dogs for fighting, and nothing that Council would do to regulate or ban these dogs will deter that activity. He stated that Council should strive to make the consequences of aggressive dog behavior so onerous that bad owners will not want to have these dogs in Rochester Hills. He questioned whether prescribing penalties to discourage aggressive dog ownership would stand up in court.

**Mr. Webber** stated that he is not in favor of adopting a breed-specific Ordinance, noting that the responsibility should fall to the owner. He questioned what actions were taken against the owner of the dogs that attacked Mr. Torchia's puppy. He pointed out that the City has leash laws, and commented that he takes a cautious stance toward dogs when walking through neighborhoods.

**Mr. Klomp** questioned whether the Administration has breed-specific statistics for dog bites for the years before 2009. He mentioned that initially he was in favor of breed-specific legislation; however, after reviewing the information provided it is apparent that many breeds are involved in bite incidents. He noted that even though Waterford's ban has been in place for years, a baby was still attacked by a Pit Bull. He questioned whether both of the dogs that attacked Mr. Torchia's dog were Pit Bulls.

**Mr. Cope** noted that additional statistics could be assembled through Oakland County and on the Internet.

**Mr. Staran** responded that the court action for the Harrison Street attack did not reference breed-specific legislation, and the final determination was made based on conduct. He noted that the attacking dog was referred to as a Pit Bull and also as an American Bulldog.

**Mr. Klomp** stated that the City's Ordinance along with the State's Vicious Dog Law are sufficient; however, he acknowledged that those living next to Pit Bulls might have legitimate concerns.

**Mayor Barnett** stated that both the Administration and Council have become more versed in the topic based on both the research performed and e-mails received. He noted that there will never be a way to eliminate the potential for a dog attack, pointing out that Waterford has had a Pit Bull ban since 1989 and there are individuals who still possess these dogs. He observed that the consensus is to continue to review what other communities are doing and focus on ownership.



**Mr. Yalamanchi** questioned whether the City's current Ordinance points enforcement at the owner.

**Mr. Staran** reported that violations in the current Ordinance range from barking dogs, running at-large, dog bites and attacks, with enforcement and penalties directed against the owner. In the event of a serious attack, the City can take it to the next level, utilizing State Law to seek to have the offending animal destroyed. He noted that this avenue was utilized in the case of the attack on Mr. Torchia's dog. In occurrences where there is not this level of severity, the City would seek a fine or penalty against the owner.

**Mr. Cope** noted that the Ordinance language specifically states "the Owner shall not".

**Mr. Brennan** stated that while he understands he is outvoted in his opinion, his concern is that the current Ordinance addresses the problem after it has occurred. He commented that he believes that Council will be revisiting this discussion again, after a dog has killed another dog or hurt someone.

**President Hooper** stated that the Administration should work to strengthen the Ordinance for additional enforcement and ownership-related issues.

**Discussed.**

## 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.

**2010-0376** Approval of Minutes - City Council Special Meeting - August 16, 2010

**Attachments:** [CC Special Meeting Min 081610.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0233-2010

**Resolved**, that the Minutes of a Rochester Hills City Council Special Meeting held on August 16, 2010 be approved as presented.

**2010-0377** Approval of Minutes - City Council Special Meeting - August 23, 2010

**Attachments:** [CC Special Meeting Min 082310.pdf](#)  
[Resolution.pdf](#)

**This Matter was Adopted by Resolution on the Consent Agenda.**

Enactment No: RES0234-2010

**Resolved**, that the Minutes of a Rochester Hills City Council Special Meeting held on August 23, 2010 be approved as presented.

**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 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

**The following Consent Agenda Item was discussed and adopted by separate motion:**

**2010-0401** Request to schedule a Public Hearing for a Project Plan - Economic Development Corporation

**Attachments:** [Agenda Summary.pdf](#)  
[100410 Agenda Summary.pdf](#)  
[Map.pdf](#)  
[Legal Descriptions.pdf](#)  
[EDC Resolution.pdf](#)  
[John Dalton CQ.pdf](#)  
[Dr. Mary Beth Snyder CQ.pdf](#)  
[Minutes EDC 092810.pdf](#)  
[100410 Resolution.pdf](#)  
[Resolution.pdf](#)

**Public Comment:**

***Deanna Hilbert**, 3234 Quail Ridge Circle, requested a description of the project and questioned whether this item is the Medical Main Street Project and when public meetings will be held.*

***President Hooper** responded that information contained in Council's agenda packet describes the project and noted that the presentation at the Public Hearing to be held on Monday, November 8, 2010 will provide more details.*

***John Staran**, City Attorney, noted that the Economic Development Corporation (EDC) and the Planning Department have scheduled public meetings for later this month. He stated that these meetings will precede the Public Hearing before Council and explained that the request to schedule the Public Hearing must be presented tonight to allow for proper time to notice the Public Hearing. He explained that the entire project plan will be presented at the next EDC meeting, with a similar presentation before Council.*

***Mr. Webber** stated that this project does not encompass Medical Main Street.*

***President Hooper** explained that the property for the proposed project is the 15-acre parcel on Hamlin Road formerly known as the Letica Property.*

**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 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0235-2010

**Whereas**, there exists in the City of Rochester Hills, County of Oakland, Michigan (the "City") the need for programs to alleviate and prevent conditions of unemployment and to revitalize the City's economy and encourage the location, expansion or retention of industrial and commercial enterprises to provide needed services and facilities to the City and its residents and to create and retain employment opportunities in the City; and

**Whereas**, The Economic Development Corporation of the City of Rochester Hills (the "EDC") was created under Act No. 338 of the Public Acts of 1974, as amended, the Economic Development Corporations Act (the "Act"), principally for the purpose of creating and retaining employment in the City and, for that purpose, the EDC has commenced proceedings for a project that involves the construction of a new office and research and development facility for lease to a major corporate tenant (the "Project"); and

**Whereas**, in conformity with the Act, the EDC is preparing a project plan ("Project Plan") for the Project, which contemplates the issuance of tax-exempt bonds to finance the Project (the "EDC Bonds"); and

**Whereas**, as a prerequisite to the EDC's issuance of Bonds for the Project, the Act and the Internal Revenue Code of 1986, as amended (the "Code"), require that the City Council hold a public hearing concerning the Project, the Project Plan and the Bonds; and

**Whereas**, on the basis of the foregoing, the City Council deems it necessary and appropriate to schedule a public hearing for the aforesaid purposes.

**Resolved**, that pursuant to the Act, the Rochester Hills City Council hereby agrees to meet on November 8, 2010 at 7:00 p.m., at which time it shall conduct a public hearing on the Project Plan and the issuance by the EDC of the Bonds.

**Be It Further Resolved**, that in accordance with the Act and the Code, the Clerk be and is hereby directed to give notice, or cause notice to be given, of such public hearing by (1) publishing a notice thereof in the Rochester Post, a newspaper of general circulation in the City; (2) posting in at least ten (10) conspicuous and public places in the project district area; and (3) mailing to the last known owner of each parcel of real property in the project district area at the last known address of the owner of each parcel of real property in the district area at the last known address of the owner as shown by the tax assessment records, which notices shall be published and given in each case as near as possible to fourteen (14) days prior to the date set for said hearing.

## PUBLIC HEARINGS

**2010-0429** 2011 Plan Year / Annual Community Development Block Grant (CDBG) Program Application

**Attachments:** [Agenda Summary.pdf](#)  
[Public Hearing Notice.pdf](#)  
[Resolution.pdf](#)

**Joe Snyder**, Senior Financial Analyst, explained that as a part of the application

*process for Community Development Block Grant Funds, communities must hold a Public Hearing and the governing body must pass a resolution for the planned use of funds.*

**President Hooper Opened the Public Hearing at 8:21 p.m. Seeing no public input, President Hooper Closed the Public Hearing at 8:22 p.m.**

**President Hooper** invited the representatives of the organizations proposed to receive Community Development Block Grant (CDBG) Funds to address Council.

**Kay Smith**, representing the Rochester Area Neighborhood House (RANH), explained that CDBG funds are requested to subsidize the Clothes Closet Program. She stated that according to RANH records, 50 percent of their clients are residents of Rochester Hills. She reported the hours of operation for the Clothes Closet as Monday and Tuesday, 9:00 a.m. to 4:00 p.m.; Wednesday, 9:00 a.m. to 7:00 p.m.; and from 9:00 a.m. to 1:00 p.m. on the first Saturday of each month. The Clothes Closet is open to the public on Wednesdays with clothing available at reasonable prices. She commented that extended hours accommodate working clients, many of whom have two or three jobs to make ends meet. She reported that the Clothes Closet saw 1,676 visits from January to September of 2010; and is seeing unprecedented need this year. RANH has served 1,374 individuals this year, 303 of whom are new to the organization. She stated that Rochester Hills' continued support is absolutely imperative to the success of the facility, noting that these are hard times.

**President Hooper** noted that RANH is proposed to receive \$3,138.

**Jack Dalton**, representing the Avondale Youth Assistance (AYA), explained that Oakland County has a Youth Assistance program in each School District, and noted that Rochester Hills includes both the Rochester Community School District and the Avondale School District. He reported that it costs \$3,000 just to petition the Probate Court for a juvenile; and commented that AYA had contact with over 100 youth in the last year. He mentioned that these youth were at risk, and through counseling and guidance, many lives were turned around. He noted that CDBG funds are used to run AYA's program and include, in part, assisting in tutoring, scholarship and sports fees; and he requested Council's continued support.

**President Hooper** noted that AYA is proposed to receive \$2,636.

**Pam Strzalkowski**, representing Rochester Area Youth Assistance (RAYA), introduced RAYA Chairperson Jim Blundo, and Brandy Boyd, Rochester Avon Recreation Authority Recreation Supervisor. She stated that the groups partner together to provide Camp Safari every summer, funded mostly with CDBG monies, providing camp experiences to children in low income areas of Rochester Hills. She explained that the camp is targeted for specific neighborhoods for children who may not have supervision during the summer and who might not be privileged enough to have extracurricular summer activities. She expressed appreciation for Council's past support and requested it continue.

**President Hooper** noted that RAYA is proposed to receive \$9,916.

**Mr. Snyder** mentioned that the Federal CDBG program requires certain guidelines be followed and is administered through Oakland County's Home Improvement Division. He noted that while questions and comments are encouraged from all Council Members, any Council Member that sits on the board of an organization that receives funding must abstain from voting on CDBG items.

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

**Aye** 4 - Brennan, Hooper, Pixley and Rosen

**Abstain** 3 - Klomp, Webber and Yalamanchi

Enactment No: RES0236-2010

**Whereas**, Oakland County is preparing an Annual Action Plan to meet application requirements for the Community Development Block Grant (CDBG) program, and other Community Planning and Development (CPD) programs; and

**Whereas**, Oakland County has requested CDBG-eligible projects from participating communities for inclusion in the Action Plan; and

**Whereas**, the City of Rochester Hills has duly advertised and conducted a public hearing on October 18, 2010 for the purpose of receiving public comments regarding the proposed use of Program Year 2011 Community Development Block Grant funds (CDBG) in the approximate amount of \$156,896; and

**Whereas**, the City of Rochester Hills found that the following projects meet the federal objectives of the CDBG program and are prioritized by the community as high priority need.

Account Number	Project Name	Amount
731227	Minor Home Repair	\$ 109,827
732170	Yard Services	\$ 23,534
732185	Youth Services	\$ 12,552
730571	Battered & Abused Spouses	\$ 7,845
730571	Emergency Services	\$ 3,138

**Therefore, Be It Resolved**, that the City of Rochester Hills CDBG application is hereby authorized to be submitted to Oakland County for inclusion in Oakland County's Annual Action Plan to the U.S. Department of Housing and Urban Development, and that the Mayor is hereby authorized to execute all documents, agreements, or contracts which result from this application to Oakland County.

**2010-0430** Community Development Block Grant (CDBG) Reprogramming Request for Program Year 2008

**Attachments:** [Agenda Summary.pdf](#)  
[MHR Program Guidelines.pdf](#)  
[Public Hearing Notice.pdf](#)  
[Resolution.pdf](#)

**Joe Snyder**, Senior Financial Analyst, stated that this item is to request a

reprogramming of CDBG allocation amounts for Program Year 2008 from the Yard Services Program to the Minor Home Repair program.

**President Hooper Opened the Public Hearing at 8:31 p.m. Seeing no public input, President Hooper Closed the Public Hearing at 8:32 p.m.**

**Mr. Snyder** explained that if CDBG funds are not spent within a timely basis, the funds become eligible to be recaptured by Oakland County. Monies left over in the Yard Services Program can be reallocated to the Minor Home Repair Program, allowing the funds to be spent on a timely basis and avoiding recapture.

**Mr. Pixley** questioned whether the percentages to the various programs will still be in compliance after reallocation and by what date the funds must be spent.

**Mr. Snyder** responded that the City will remain in compliance after reprogramming. He noted that while the City cannot increase funding to the Yard Services Program, the monies can be reallocated toward structural improvements. He explained that the next item up for Council consideration will be to request a waiver of the requirement to utilize the 2008 Program to extend the deadline for an additional year to December 31, 2011.

**Mr. Webber** questioned why Council has not seen a request for repurposing in the past.

**Mr. Snyder** explained that a major portion of the Yard Services Program provides snow plowing services and commented that in past years, there was less need. As a balance has built up in the Yard Service Program fund, reprogramming will allow the monies to go toward furnaces and roofs.

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

**Aye** 4 - Brennan, Hooper, Pixley and Rosen

**Abstain** 3 - Klomp, Webber and Yalamanchi

Enactment No: RES0237-2010

**Whereas**, the Fiscal Division is requesting the reprogramming of CDBG funds in the amount of \$34,020.00 from Public Services-Yard Services to Minor Home Repair.

**Whereas**, the City of Rochester Hills has duly advertised a Public Hearing for the purpose of receiving comments regarding the proposed reprogramming of Program Year 2008 Community Development Block Grant funds, and;

**Whereas**, a Public Hearing was held on October 18, 2010;

**Resolved**, that at a regular meeting of the City of Rochester Hills' City Council held on October 18, 2010 at 1000 Rochester Hills Dr., the reprogramming of Program Year 2008 funds be approved as follows:

**Existing - 2008 Program Year**

Activity Number: 732170

Activity Description: Public Services - Yard Services  
Amount: \$34,020.00

**Proposed - 2008 Program Year**

Activity Number: 731227  
Activity Description: Minor Home Repair  
Amount: \$34,020.00

*Description: Fund approximately 12 home repair projects for qualifying low-moderate income residents. Due to economic conditions, demand has been high for the minor home repair services.*

**Therefore, Be It Resolved,** that the Fiscal Division of the City of Rochester Hills is hereby authorized to reprogram funding allocations in the amount of \$34,020.00 from Public Services-Yard Services to Minor Home Repair to assist with the high demand for that service.

**2010-0433** Request to Waive the Recapture of 2008 Community Development Block Grant (CDBG) Funds

**Attachments:** [Agenda Summary.pdf](#)  
[Recapture Policy 2010.pdf](#)

**Joe Snyder**, Senior Financial Analyst, explained that upon Oakland County's approval of this request for a waiver to stop the recapture of Program Year 2008 Community Development Block Grant (CDBG) funds, the City would be allowed one additional year to utilize these monies, through December 31, 2011.

**President Hooper** questioned whether there is a risk that Oakland County will not accept the request.

**Mr. Snyder** responded that as long as the resolution is enacted and the request submitted to the County, there is no risk that it will not be accepted.

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

**Aye** 4 - Brennan, Hooper, Pixley and Rosen

**Abstain** 3 - Klomp, Webber and Yalamanchi

Enactment No: RES0242-2010

**Whereas**, the U.S. Department of Housing and Urban Development (HUD) mandates that Community Development Block Grant (CDBG) balances not exceed 1.5 times the current program year allocation sixty (60) days prior to the end of the program year (February 28th); and

**Whereas**, the Oakland County Board of Commissioners adopted a policy allowing communities to protect funds from their two most recent program years to help comply with this regulation; and

**Whereas**, all unobligated 2008 and older funds are at risk of recapture December 31, 2010; and

**Whereas**, the City of Rochester Hills may protect unobligated 2008 funds from recapture for one additional year by requesting a waiver; and

**Whereas**, a separate Waiver request form must be submitted for each 2008 line item to the Manager of the Oakland County Community & Home Improvement Division no later than **December 17, 2010**.

**Now, Therefore, Be It Resolved**, that the City of Rochester Hills hereby requests to waive recapture of 2008 CDBG funds as follows:

Account Number	Project Name	Amount
<u>172170-731227</u>	<u>Minor Home Repair</u>	<u>\$34,020.00</u>

## ORDINANCE FOR INTRODUCTION

**2009-0437** Acceptance for First Reading - an Ordinance to amend Sections 118-98 and Map 118-B of Chapter 118, Historical Preservation, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to eliminate the noncontiguous Historic District identified as 2371 S. Livernois, Parcel No. 15-27-151-003, and repeal conflicting Ordinances

**Attachments:** [Agenda Summary.pdf](#)  
[HDSC Final Report 090910.pdf](#)  
[SHPO Comments 082710.pdf](#)  
[Ordinance Amendment.pdf](#)  
[Minutes HDSC 090910.pdf](#)  
[Minutes HDSC 081210.pdf](#)  
[2002 Survey Sheets.pdf](#)  
[1978 Survey Sheets.pdf](#)  
[Letter Mangla 082410.pdf](#)  
[Memo HDSC Actions Taken 080410.pdf](#)  
[Email SHPO 073010.pdf](#)  
[Minutes HDSC 051310.pdf](#)  
[Letter Mangla 051210.pdf](#)  
[Memo HDSC 050710.pdf](#)  
[Minutes CC 041210.pdf](#)  
[041210 Resolution.pdf](#)  
[041210 Agenda Summary.pdf](#)  
[Minutes HDSC 031110.pdf](#)  
[Memo HDSC Actions Taken 030310.pdf](#)  
[Letter Kidorf 020810.pdf](#)  
[Motion CC 102609.pdf](#)  
[Minutes CC 102609I.pdf](#)  
[Minutes HDSC 011410.pdf](#)  
[Minutes HDSC 111209.pdf](#)  
[Preliminary Report 2371 S. Livernois.pdf](#)  
[Request to Delist 101309.pdf](#)  
[City Visions Report 100509.pdf](#)  
[Title Insurance 092809.pdf](#)  
[Museum Documentation.pdf](#)  
[Minutes HDSC 111104.pdf](#)  
[Minutes PC 011805.pdf](#)  
[Memo HDSC 110309.pdf](#)  
[102609 Agenda Summary.pdf](#)  
[102609 Resolution.pdf](#)  
[Resolution.pdf](#)



**Derek Delacourt**, Deputy Director of Planning, reported that after a full review by the Historic Districts Study Committee (HDSC) and the State Historic Preservation Office (SHPO), the HDSC recommends that this property be delisted. He stated that the report finds the property does not maintain the significance originally designated.

**Mukesh Mangla**, property owner, stated that he has learned much through this delisting process. He pointed out that the original designation incorrectly listed the property as over 50 years old. He commented that the City should verify that its current Noncontiguous Districts meet SHPO's requirement that they be exclusive and meet the criteria for the National Registry.

**Mr. Delacourt** responded that the City has expended much effort to ensure that all of its Noncontiguous Districts meet all of the requirements. He pointed out that the City's Historic Districts Ordinance has been evaluated at the State level and is one of 19 Ordinances deemed appropriate and certified.

**Public Comment:**

**Alice Benbow**, 1582 Northumberland, questioned whether the owner has paid full property taxes over the years, noting that if he has not, he should be required to pay back taxes. She commented that the property has been subject to blight with many vehicles and a dumpster.

**President Hooper** questioned whether the property owner has received any tax breaks because of the Historic Designation.

**Mr. Delacourt** responded that a Historic Designation does not provide any property tax breaks.

**Mr. Mangla** responded that his property taxes have been raised to four-times what they were when he acquired the property. He commented that a dumpster was in place for a period of time one year ago when he was cleaning out the home; however, it is not there now. He noted that a tenant currently resides in the home and any vehicles belong to the tenant or his guests.

**John Staran**, City Attorney, stated that there is no property tax reduction given to a historically-designated home. He commented that income tax credits are available in some cases when work is done to the home; however, these credits do not affect property taxes paid to the City.

**A motion was made by Yalamanchi, seconded by Webber, that this matter be Accepted for First Reading by Resolution. The motion CARRIED by the following vote:**

**Aye** 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0288-2009

**Whereas**, Division 4 of the City's Historical Preservation Ordinance (Chapter 118) establishes the procedure for the establishment, modification or elimination of Historic Districts; and

**Whereas**, Section 118-130 of the City's Historical Preservation Ordinance (Chapter 118) identifies the duties of the City's Historic Districts Study Committee and the process for elimination of an existing historic district; and

**Whereas**, in 1978 Avon Township (now Rochester Hills) designated a local Historic District identified as:

2371 South Livernois Road, Parcel Identification Number 15-27-151-003; and

**Whereas**, in compliance with the requirements of the City's Historical Preservation Ordinance with respect to the elimination of an Historic District, the City's Historic Districts Study Committee conducted research on the above identified property; prepared a Preliminary Report; transmitted a copy of the Preliminary Report to the State Historic Preservation Office; held the required and properly noticed Public Hearing on August 12, 2010, and submitted a Final Report to City Council; and

**Whereas**, based on the determination of the Study Committee that the resource is not significant in the way previously defined, and the resource does not have any association with a person or event significant to the history of the City of Rochester Hills.

**Resolved**, that the City of Rochester Hills City Council concurs with the recommendation of the City's Historic Districts Study Committee to delist the property identified above as a local Historic District within the City of Rochester Hills and that an Ordinance to amend Sections 118-98 and Map 118-B of Chapter 118, Historical Preservation, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to eliminate the noncontiguous Historic District identified as 2371 S. Livernois, Parcel No. 15-27-151-003, and repeal conflicting Ordinances is hereby accepted for First Reading.

**It Is Further Resolved**, that upon final adoption of the proposed Ordinance, the City shall, in accordance with City Code Sect. 118-113(b) record notice of the elimination of the Historic District at the Register of Deeds.

## NEW BUSINESS

**2010-0346** Request for Approval of the Final Preliminary Plat for Rochester Meadows, a 47-lot subdivision located on four parcels east of Rochester Road, south of Avon, zoned R-3, One Family Residential, Rochester Meadows LLC, applicant

**Attachments:** [Agenda Summary.pdf](#)  
[Staff Report 100510.pdf](#)  
[Map.pdf](#)  
[Site Plans.pdf](#)  
[Landscape Plans.pdf](#)  
[Back up Documents.pdf](#)  
[Minutes PC 100510.pdf](#)  
[Minutes PC 102009.pdf](#)  
[Minutes PC 032106.pdf](#)  
[Resolution.pdf](#)

**Derek Delacourt**, Deputy Director of Planning, stated that the Applicant has been through the construction review process with the City's Engineering Department and has been before the Planning Commission where preliminary plat approval was granted. He noted that the final Preliminary Plat is consistent with the preliminary approvals.

*Attending on behalf of the applicant were **Joseph Check and Roy Rathka**, agents for Rochester Meadows LLC.*

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

**Aye** 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0238-2010

**Resolved**, that the Rochester Hills City Council hereby approves the Final Preliminary Plat for Rochester Meadows, a 47-lot subdivision on 22 acres located east of Rochester Road, south of Avon, zoned R-3, with the following findings and subject to the following conditions:

Findings:

1. The Final Preliminary Plat is consistent with the street and lot layout of the previously approved Tentative Preliminary Plat.
2. The Final Preliminary Plat conforms to all applicable City ordinances, standards, regulations and requirements.

Conditions:

1. Address comments from the Parks and Forestry memo dated May 10, 2010, prior to Final Approval by Staff.
2. Provide cash bond in the amount of \$11,058.00 for transplanting trees, prior to Final Plat Approval.
3. Provide a performance guarantee in the amount of \$116,856.00, as adjusted if necessary by Staff, to ensure the proper installation of replacement trees and other landscaping, prior to issuance of a Land Improvement Permit.
4. Payment by the applicant of \$9,400.00, as adjusted if necessary by Staff, for one street tree per lot. Such payment to be provided prior to issuance of a Land Improvement Permit.
5. Address comments from the Public Services memos dated August 2 and August 5, 2010, prior to Final Plat Approval.
6. Install tree protective fencing, as reviewed and approved by City Staff, prior to issuance of the Land Improvement Permit.
7. Prior to issuance of the Land Improvement Permit, Submission of a letter of Warranty to the City for the 12 regulated trees being transplanted onsite, stating that the trees will be warranted for a period of two years and if, at the end of the warranty period, the trees are dead or declining, they will be replaced on an inch for inch basis. The tag numbers of the transplanted trees are to be listed in the letter (#243, 250, 322, 357, 515, 525, 620, 1007, 1077, 1080, 1090 and 1092). The letter will also state that the City Staff has final approval on the inspection and approval rights for the type, size and location for any replacement trees necessary.
8. Payment into an escrow, amount to be determined by Engineering Services prior to issuance of a Land Improvement Permit, to remove temporary tee turnarounds on Robinson Dr. when it is connected to future development.

**2010-0379** Request for Approval of Conditional Land Use to allow an in-home day care for up to 12 children at 28 Montmorency, on the northwest corner of Montmorency and Rochester Road; Diane Kapanka and Kristen Parker, applicants

**Attachments:** [Agenda Summary.pdf](#)  
[Staff Report 100510.pdf](#)  
[Map.pdf](#)  
[Letter Parker 091010.pdf](#)  
[Minutes PC 100510.pdf](#)  
[Back up Documents.pdf](#)  
[Floor Plans.pdf](#)  
[EIS.pdf](#)  
[PHN CLU 100510.pdf](#)  
[Resolution.pdf](#)

**Derek Delacourt**, Deputy Director of Planning, explained that prior to the adoption of the Zoning Ordinance rewrite last year, daycares with more than six children were prohibited in the City. He stated that the new Zoning Ordinance now reflects the State requirements and includes a conditional land use component for the approval of daycares serving six to 12 children. He noted that there is no site plan requirement for conditional land use approval. He reported that the Planning Commission held a Public Hearing and no public comments or resident concerns were received. He stated that the Applicant is applying for licensing through the State and has submitted information to support that they meet the City's Ordinance.

**President Hooper** noted that the only concern raised by the Planning Commission was for the inground pool on the property and questioned whether the applicant has taken any additional safety measures.

**Kristen Parker**, applicant, responded that the pool is covered for nine months of the year. She noted that the State requires a four-foot fence and stated that the pool is surrounded by an ornamental fence without point ends which is impossible to climb. She explained that the play area will have a chain link fence and be separated from the pool area and interior doors will have high locks. The day care area in the basement of the home will have a child gate at the bottom of the steps and an additional French door at the top of the stairs.

**President Hooper** questioned whether the pool cover is the type that can be walked upon.

**Ms. Parker** responded that the existing pool is covered with a strong bolted-down mesh which allows water to fall through and not puddle on the surface.

**Mr. Klomp** questioned whether the property's close proximity to Rochester Road will allow for adequate parking for drop-off and pick-up times.

**Ms. Parker** responded that the driveway has sufficient parking with six spaces.

**Mr. Pixley** questioned whether the proposed operating hours meet Ordinance requirements, noting that the projected closing time of 5:30 p.m. seems early.

**Ms. Parker** noted that the State requires a 12-hour window and commented that this time could be adjusted once children are enrolled.

**Mr. Delacourt** responded that the proposed operating times meet the City's Ordinance. He commented that the Conditional Land Use approval will not limit or mandate the hours of operation.

**Mr. Yalamanchi** questioned what additional safety measures will be in place for the summer months when the pool is open.

**Ms. Parker** responded that safety measures of fencing, locks and additional vegetation are already in place, with additional locks and fencing to be constructed as a part of the facility.

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

**Aye** 7 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0239-2010

**Resolved**, that the Rochester Hills City Council hereby approves a Conditional Land Use for an in-home day care for up to 12 children at 28 Montmorency, Rochester Hills, Michigan 48307, Parcel No. 15-27-276-025, located west of Rochester Road, south of Hamlin with the following findings:

1. The use is consistent with the intent and purpose of the Zoning Ordinance in general, and of Section 138-4.300 in particular.
2. The proposed development has been designed to be compatible, harmonious, and appropriate with the existing character of the general vicinity and adjacent uses of land.
3. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.
4. The development should not be detrimental, hazardous, or unreasonably disturbing to existing land uses, persons, property or the public welfare.
5. The development does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

**2010-0382** Request for Purchase Authorization - MAYOR/FISCAL: Contract for professional financial auditing services for City's fiscal years ending December 31, 2010, 2011 and 2012 in the amount not-to-exceed \$215,514.00 with the right to exercise an option to renew for years 2013, 2014 and 2015; Plante & Moran PLLC, Southfield, MI

**Attachments:** [Agenda Summary.pdf](#)  
[P&M Amended Fee Proposal.pdf](#)  
[092710 Agenda Summary.pdf](#)  
[Proposals Tabulation.pdf](#)  
[092710 Resolution.pdf](#)  
[Resolution.pdf](#)

**Keith Sawdon**, Director of Finance, stated subsequent to the October 4, 2010 Regular City Council Meeting, as requested, he contacted Plante & Moran (P&M) to request a renegotiation of their proposal for Auditing Services. He explained that the revised proposal from P&M reduces their original bid by eight percent for Fiscal Years 2010 and 2011 and 11 percent for Fiscal Year 2012. He pointed out that the Administration has full faith in P&M and stated that transitioning to a new firm would require expenditures in City staff time.

**Mr. Webber** expressed his appreciation for Mr. Sawdon's efforts and stated that he was in agreement with a three-year contract with P&M. He commented that it is important to go out for bids again in three years, noting that some of the other firms providing qualified bids might be further along in their company's development and become viable for selection. He suggested that no renewal option language be included in the contract.

**Mr. Yalamanchi** requested confirmation that it is still appropriate for him to vote on this item even though the organization he works for has dealings with P&M.

**Mr. Staran** confirmed that it is appropriate for Mr. Yalamanchi to vote on this item.

**Mr. Rosen** questioned whether discussions with P&M were dependent on the inclusion of a renewal option. He stated that the renewal option could be left in to lock in a price, and then simply not be exercised.

**Mr. Sawdon** responded that the inclusion of a renewal option is not a condition to accept the contract. He explained that he would return to Council at the conclusion of the 2012 Audit to inquire if Council wished to rebid or exercise the option to renew.

**Mr. Pixley** commented that leaving this language in could allow the City the option to buy at a lower rate if prices rise.

**John Staran**, City Attorney, responded that there is no downside to leaving the renewal language in, stating that Council could decide not to exercise the option. Removing the language will mean Council will have no prices locked in for 2013 and beyond.

**Mr. Brennan** thanked Mr. Sawdon for negotiating a reduction from the original bid, and stated that he supports not including a renewal option.

**President Hooper** concurred, noting that the current bid calls for a 15 percent increase after three years and stating that he did not believe that Council could justify an increase of that magnitude.

**Mr. Webber** stated that he wished to make it perfectly clear that the City should go out for bids again for years 2013, 2014 and 2015. He commented that he did not believe that the economy will turn around so drastically that the City would regret not including an option.

**Mr. Rosen** commented that he will vote no as he does not support removing the option language from the contract.

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

**Aye** 6 - Brennan, Hooper, Klomp, Pixley, Webber and Yalamanchi

**Nay** 1 - Rosen

Enactment No: RES0240-2010

**Resolved**, that the Rochester Hills City Council hereby authorizes the execution of a contract to Plante & Moran PLLC, of Southfield, Michigan for professional financial auditing services for the fiscal years ending December 31, 2010, 2011 and 2012 in the amount not-to-exceed \$215,514.00.

**Be It Further Resolved**, that the Mayor is hereby authorized to execute the contract on behalf of the City.

**2010-0420** Request for Purchase Authorization - DPS/ENG: Acceptance of the terms of the U.S. Fish and Wildlife Services Grant and award of a Contract for Avon Creek water quality enhancements and pond restoration in the amount of \$180,111.80 plus a 10% contingency in the amount of \$18,011.18 for a not-to-exceed amount of \$198,122.98; Inland Lakes Landscaping Corporation, Pontiac, MI

**Attachments:** [Agenda Summary.pdf](#)  
[GIS Map.pdf](#)  
[Agreement.pdf](#)  
[Agreement Attachments.pdf](#)  
[BidTabs.pdf](#)  
[Resolution.pdf](#)

**President Hooper** noted that while he works in the construction industry, he has had no discussions with the recommended firm and has no financial interest in the project; and as such, sees no reason to recuse himself from this item.

**Paul Davis**, Acting Director of DPS/Engineering, introduced Michelle Arquette-Palermo, Education and Stewardship Director for the Clinton River Watershed Council (CWRC). He explained that the project area is from Rochester Hills Drive east toward the Clinton River and will help reduce sediments, restore fish habitat and reduce water temperatures in the Lower Avon Creek Watershed. He noted that the City must undertake Phase 1 of the project at its own expense and stated that the grant award will fund 100 percent of the costs for Phase 2 of the project, up to a total amount of \$135,000. He reported that originally four bids were received, and the low bid of \$212,000 plus contingency was substantially above the \$160,000 project estimate included in the 2010 Budget. A reduced project scope acceptable to both the recommended contractor and the Michigan Department of Natural Resources and Environment (DNRE) is proposed, bringing the total project amount including contingency to just under \$200,000.

*He explained that work deemed necessary to repair the deterioration of the steel sheeting seawall and concrete ledge was not included in the original project estimate. He noted that the basin will be dredged to its full depth of eight feet, removing approximately one- to five-feet of sediment that has settled over the years and allowing the water temperature to decrease.*

*He stated that the project will satisfy Municipal Separate Storm System (MS-4) requirements and provide education in stormwater issues as required in the Phase 2 National Pollutant Discharge Elimination System (NPDES) Permit. The project will also improve the way that sediment and stormwater is handled and will allow for habitat improvement of the wetland, with much of the existing invasive vegetation killed with a herbicide and replanted with native vegetation during Phase 2. He pointed out that with the CWRC relocating to the Environmental Education Center, the resource can be utilized for public education.*

**Mr. Yalamanchi** requested the following information:

- *Whether the City must undertake Phase 1 before receiving grant funds.*
- *Whether there is an estimate for Phase 2 work.*
- *Whether any leftover funds for Phase 2 could be used toward Phase 1 expenses.*
- *Whether the project will reduce the Drain Fund Fund Balance.*

**Mr. Davis** responded that Phase 1 must be entirely funded by the City, presenting a good-faith effort to improve the habitat and stream. He stated that the City will create a Phase 2 project for an expense of \$135,000 including items identified in the grant application. He explained that funding will come out of the Water Resources Fund Fund Balance, noting that there is currently \$4 million in this Fund.

**President Hooper** stated that a Budget Amendment is required for the additional cost.

**Mr. Davis** responded that it will be included in a Budget Amendment subsequent to when the work will be done.

**John Staran**, City Attorney, confirmed that the City has funded other projects in this manner.

**Keith Sawdon**, Finance Director, explained that the State Budget Act requires a Budget Amendment prior to remitting the monies and commented that the appropriation will be included in the Budget prior to the dollars being expended.

**Mayor Barnett** stated that once it was recognized that this project was going to come in over budget, the Administration reviewed the project with respect to its priority and noted that from a City-wide perspective, the project rates very high.



**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 - Brennan, Hooper, Klomp, Pixley, Rosen, Webber and Yalamanchi

Enactment No: RES0241-2010

**Resolved**, that the Rochester Hills City Council accepts the terms of the U.S. Fish and Wildlife Services Grant and awards a Contract for Avon Creek water quality enhancements and pond restoration to Inland Lakes Landscaping Corporation, Pontiac, Michigan, in the amount of \$180,111.80 plus a 10% contingency in the amount of \$18,011.18 for a not-to-exceed amount of \$198,122.98.

## COUNCIL COMMITTEE REPORTS

*None.*

## ANY OTHER BUSINESS

**Mayor Barnett** reported that the Rochester Hills team came in first in its division in the recent Amazing Race Event benefitting Special Olympics, beating several other municipalities. The City's team consisted of Lisa Cummins, Purchasing Analyst; Derek Delacourt, Deputy Director of Planning; Tim Pollizzi, Engineering Technician, and himself.

**Mr. Yalamanchi** questioned whether the City's Ordinance banned feeding geese.

**John Staran**, City Attorney, responded that the City currently has no Ordinances that regulate the feeding of geese.

**Mayor Barnett** mentioned that subdivisions can apply to undertake a program to destroy nests and habitats and noted that several have come before Council for approval in the past.

## NEXT MEETING DATE

*Regular Meeting - Monday, October 25, 2010 - CANCELLED; Regular Meeting - Monday, November 8, 2010 - 7:00 PM*

## ADJOURNMENT

*There being no further business before Council, President Hooper adjourned the meeting at 9:37 p.m.*

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GREG HOOPER, President  
Rochester Hills City Council

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*JANE LESLIE, Clerk  
City of Rochester Hills*

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*MARY JO WHITBEY  
Administrative Secretary  
City Clerk's Office*

*Approved as presented at the December 6, 2010 Regular City Council Meeting.*