



Rochester Hills Minutes City Council Regular Meeting

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*Erik Ambrozaitis, Jim Duistermars, Barbara Holder, Greg Hooper,
Linda Raschke, James Rosen, Ravi Yalamanchi*

Wednesday, May 9, 2007

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Rosen called the Regular Rochester Hills City Council Meeting to order at 7:39 p.m. Michigan Time.

ROLL CALL

Present: Erik Ambrozaitis, Jim Duistermars, Barbara Holder, Greg Hooper, Linda Raschke, James Rosen and Ravi Yalamanchi

Others Present:

*Bryan Barnett, Mayor
Judy Bialk, Recording Secretary - Historic Districts Commission
Derek Delacourt, Deputy Director of Planning
Mike Hartner, Director of Parks & Forestry
Jane Leslie, City Clerk
Roger Rousse, Director of DPS/Engineering
John Staran, City Attorney*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Resolved that the Rochester Hills City Council hereby approves the Agenda for the May 9, 2007 Regular Meeting with the following amendment:

Remove from NEW BUSINESS Legislative File 2007-0314 - Request for Financial Support in the amount of \$5,000 for Rochester Regional Chamber of Commerce (RRCC) to update their website.

A motion was made by Raschke, seconded by Holder, to Approve Agenda as Amended.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

PUBLIC COMMENT

Ms. Melinda Hill, 1481 Mill Race, announced that the City of Rochester Hills' Historic Districts Commission would be holding a Preservation Open House on Thursday, May 17, 2007 at the Rochester Hills Museum.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

Mr. Ambrozaitis wished all mothers a Happy Mother's Day, including Ms. Holder and Ms. Raschke.

Ms. Raschke thanked Mr. Ambrozaitis for his "acknowledgement of motherhood" and also recognized nurses for Nurses Appreciation Week.

Mr. Jeff Wojcik, Representative of the Rochester Hills Government Youth Council (RHGYC), thanked Council for the opportunity to join them at the Council dais and announced that the RHGYC was recruiting new members for the 2007/2008 school year. He noted the results of the recent voter registration drive in four of the areas high schools and indicated that the RHGYC members are looking forward to working at the Festival of the Hills in June.

Mayor Barnett announced that the Festival of the Hills would be held on June 28th, noting the generous sponsorship of many Rochester Hills businesses. He then noted that he had attended an awards ceremony in conjunction with National Peace Officers Memorial Day wherein citizens were honored for assisting in solving crimes in the Oakland County community. He stated that Rochester Hills residents were honored for 16 out of 18 categories.

ATTORNEY MATTERS

2007-0333 Adoption of Resolution regarding City of Rochester Hills vs. Barton, et al, Oakland County Circuit Court Case No. 07-080234-CC

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

Resolved that the Rochester Hills City Council hereby instructs the City's Attorney to proceed according to his advice regarding his confidential communication discussed during the Closed Session meeting held on May 9, 2007 regarding City of Rochester Hills vs. Barton, et al, Oakland County Circuit Court Case No. 07-080234-CC.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0161-2007

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.

2007-0308 Approval of Minutes - City Council Regular Business Meeting - February 28, 2007

Attachments: CC Min 022807.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Rochester Hills City Council Regular Business Meeting held on February 28, 2007 be approved as presented.

Enactment No: RES0142-2007

- 2007-0261** Approval of Minutes - City Council Work Session Meeting - March 7, 2007
Attachments: CC Min 030707.pdf; Resolution.pdf
This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Rochester Hills City Council Work Session Meeting held on March 7, 2007 be approved as presented.
Enactment No: RES0143-2007
- 2007-0266** Approval of Minutes - Regular City Council Meeting - March 14, 2007
Attachments: CC Min 031407.pdf; Resolution.pdf
This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on March 14, 2007 be approved as presented.
Enactment No: RES0144-2007
- 2007-0289** Request for Purchase Authorization - DPS/ENG: Purchase Order for manhole cover and hatch locks in the amount not-to-exceed \$60,882; Stabiloc LLC, Warren, MI
Attachments: Agenda Summary.pdf; Proposal Tabulation.pdf; Resolution.pdf
This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby approves a purchase order to Stabiloc LLC of Warren, Michigan for manhole cover and hatch locks in the amount not-to-exceed \$60,882.
Enactment No: RES0145-2007
- 2007-0270** Request for Acceptance of an Off-Site Watermain Easement granted by Thrifty Van Dyke, Inc., a Michigan Corporation, for Lowe's, for Parcel No. 15-35-100-041
Attachments: Agenda Summary.pdf; Map.pdf; off site watermain with Meijers 4-16-07.pdf; Resolution.pdf
This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts an off-site watermain easement granted by Thrifty Van Dyke, Inc., a Michigan Corporation, 2929 Walker Avenue, N.W., Grand Rapids, Michigan 49544, for the construction, operation, maintenance, repair and/or replacement of an off-site watermain easement over, on, under, through and across land more particularly described as Parcel No. 15-35-100-041.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.
Enactment No: RES0146-2007
- 2007-0285** Request for Purchase Authorization - DPS/ENG: Blanket Purchase Order for 2007 Longitudinal Pavement Marking Program in the amount of \$43,825.67 through December 31, 2007; P.K. Contracting, Inc., Troy, Michigan

Attachments: Agenda Summary.pdf; City Quantities Bid Tab.pdf; Pavement Markings Inventory.pdf; Pavement Markings Map.pdf; RCOC Bid Tab.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to P.K. Contracting, Inc. of Troy, Michigan, for the 2007 Longitudinal Pavement Marking Program in the amount not-to-exceed \$43,825.67 through December 31, 2007.

Further Resolved that the Mayor is authorized to execute the contract on behalf of the City.

Enactment No: RES0147-2007

Passed The Consent Agenda

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

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

The following Consent Agenda Items were discussed and adopted by separate Motions:

2007-0267

Request for Acceptance of a Watermain Easement granted by The Marketplace of Rochester Hills LLC, for Adams Marketplace, for Parcel Nos. 15-30-326-008 & 15-30-176-001

Attachments: Agenda Summary.pdf; Map.pdf; Balint Email.pdf; Watermain Easement 41707.pdf; Easement Replacement Pages.pdf; Resolution.pdf

Mr. Ambrozaitis requested that the record reflect that he voted no for this item.

Mr. Hooper recused himself from the discussion and vote.

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

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a watermain easement granted by The Marketplace of Rochester Hills LLC, a Michigan limited liability company, 28470 Thirteen Mile Road, Suite 220, Farmington Hills, Michigan 48334, for the construction, operation, maintenance, repair and/or replacement of a watermain easement, over, on, under, through and across land more particularly described as Parcel Nos. 15-30-326-008 and 15-30-176-001.

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

The motion carried by the following vote:

Aye: Duistermars, Holder, Raschke, Rosen and Yalamanchi

Nay: Ambrozaitis

Abstain: Hooper

Enactment No: RES0148-2007

2007-0268

Request for Acceptance of a Sanitary Sewer Easement granted by The Marketplace of Rochester Hills LLC, for Adams Marketplace, for Parcel Nos. 15-30-326-008 & 15-30-176-001

Attachments: Agenda Summary.pdf; Map.pdf; Sanitary Sewer 41707.pdf; Resolution.pdf

Mr. Ambrozaitis requested that the record reflect that he voted no for this item.

Mr. Hooper recused himself from the discussion and vote.

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

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a watermain easement granted by The Marketplace of Rochester Hills LLC, a Michigan limited liability company, 28470 Thirteen Mile Road, Suite 220, Farmington Hills, Michigan 48334, for the construction, operation, maintenance, repair and/or replacement of a watermain easement over, on, under, through and across land more particularly described as Parcel Nos. 15-30-326-008 and 15-30-176-001.

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

The motion carried by the following vote:

Aye: Duistermars, Holder, Raschke, Rosen and Yalamanchi

Nay: Ambrozaitis

Abstain: Hooper

Enactment No: RES0149-2007

2007-0292

Request for Purchase Authorization - DPS/ENG/FAC: Blanket Purchase Order for janitorial services in the amount not-to-exceed \$199,465.00 through June 1, 2010; Thundermop Maintenance Co., Waterford, MI

Attachments: Agenda Summary.pdf; Proposal Tabulation.pdf; Resolution.pdf

Mr. Ambrozaitis questioned why there was a reference to the snow plowing budget in this request for janitorial services.

Mr. Roger Rousse, Director of DPS/Engineering, explained that the janitorial services fees were approximately \$2,500 higher than anticipated. In such a case, he and his staff will identify another area in the budget where such an overage can be balanced. In this case, as the previous winter was mild, there were excess funds in the snow plowing budget that could be transferred for janitorial services.

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

Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Thundermop Maintenance Co. of Waterford, Michigan for the purchase of janitorial services, in the amount not-to-exceed \$199,465.00 through June 1, 2010.

Further Resolved that the Mayor is authorized to execute the contract on behalf of the City.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0150-2007

RECOGNITIONS

2007-0299 Presentation of the 2007 Earl Borden Preservation Leadership Award to Lyn Seiffert by the Historic Districts Commission

Attachments: Agenda Summary Sheet.pdf

Mayor Barnett provided a brief history of the Earl E. Borden Historic Preservation Award and then introduced the Chair of the Historic Districts Commission (HDC).

Ms. Melinda Hill, Chair of the HDC, praised Ms. Lyn Seiffert for her many years of service to the community regarding historic preservation and presented her with the Earl E. Borden Historic Preservation Award.

Ms. Seiffert spoke in support of the importance of historic preservation and thanked all those involved in this endeavor.

Presented

(Recess 8:13 p.m. - 8:36 p.m.)

PRESENTATIONS

2007-0302 Green Space Advisory Board Vision Presentation, presented by Mr. Jack Robinson and Mr. Bill Windscheif, GSAB Members

Attachments: Agenda Summary.pdf; GSAB Vision Presentation.pdf

Mr. Jack Robinson and **Mr. Bill Windscheif**, representing the Green Space Advisory Board (GSAB), presented the board's vision for the future of green space preservation in Rochester Hills by asking City Council members to ". . . Imagine it's 2027":

Areas of Contribution

- Health & Recreation
- Education, Culture & Historic Preservation
- Economic Development

Expanded Trail Systems Link Green Space, Neighborhoods, Schools, Shopping

Health & Recreation - Seniors

- Heart and weight-related illness abated in seniors.
- Local doctors find strong correlation between popularity of outdoor activity and physical and mental health of seniors.
- AARP Magazine awards Rochester Hills its "Fit Senior" Award for the third year in a row.

After School Intramural Sports Managed by RARA & Parks Department**Health & Recreation - Students**

- Obesity among school children has fallen.
- Seventy percent (70%) of students 12-17 participate in at least one intramural sport -- fishing, kayaking, jogging, cross-country runs.
- School administrators report improved health and a rise in scholastic performance.

Popularity of Walking & Biking Greatly Increased**Health & Recreation - Traffic**

- Reduced vehicular traffic and congestion.
- City planners focus on road quality versus constructing expensive expanded roadways.
- Improved air quality has reduced incidences of asthma and respiratory illness.

City Experiments with Event Sponsoring**Health & Recreation - Events**

- Popularity of great trails, river sports and beautiful scenery spur City into event sponsoring.
- Local entrepreneurs organize ten major events annually; bike & half-marathon races.
- City hosts two internationally recognized training camps for young athletes; budget over \$8 million.

Educators Embrace Green Space**Education**

- Elementary students spend one week each year at an innovative outdoor program coordinated by Environmental Education Center (EEC), Boy Scouts and Clinton River Watershed Council (CRWC).
- Middle school students spend a week between the EEC, Library, Paint Creek Center for the Arts and the Museum.
- High school students team up with the Parks Department, CRWC, Oakland Land Conservancy and Oakland University integrating course work and stewardship/internships.

Interpretive Trails, Art & Historic Buildings Enhance Green Space**Culture & Historic Preservation**

- The Rochester-Avon Historical Society (RAHS), Friends of the Clinton River Trail work with the City to bring interpretive signage and art to trails and Green Spaces. The greater Rochester area has Michigan's largest network of interpretive local history trails.
- The Rochester Hills Museum, RAHS and the Michigan Barn Society assemble Michigan's largest collection of 19th and 20th Century barns along trails and within parks and Green Spaces.

Health, Recreation, Education, Culture & Historic Preservation Create Thriving Tourism & Related Local Business**Economic Development - Tourism**

- Popular interpretive trails and pathways link shopping districts, museums, art, schools, event locations, artisans and lodging.
- Restored barn collection attracts visitors from around the world.
- Successful marketing of trails, historical buildings, cultural events and parks increases demand for lodging, supports two new hotels and ten bed & breakfasts.

Average Weekend Spending: Family of Four

- Accommodations = \$210
- Meals = \$220
- Shopping = \$175
- Events, Activities = \$105

- Total = \$710

Economic Development - Education

- Oakland University tops the country in environmental engineering and green technology, attracting investment in Rochester Hills. One of every thirty jobs in the area is related to the environment.
- 1,500 students and professionals train at Oakland University sports camps -- soccer, cross-country and cycling.
- Meadowbrook music program and center for theater studies hosts prestigious seminars for students and amateurs; top guest artists attract thousands of tourists to restaurants, shops and hotels.
- Oakland University's sixteen miles of trails now linked to the City's trail network.
- Rochester College's preservation program boasts 50+ students and three artisan-instructors. Students and community volunteers are stewards for the areas collection of historic barns.
- LEEDS restored and adaptively reused barn collection attracts visitors from around the world.

Economic Development - Businesses

- Local retail businesses specialize in quality sporting goods, clothing, artwork and handicrafts.
- Diverse lodging and dining facilities abound.
- Crittenton is a leader in sports medicine; bone and joint research and replacement.

Economic Development - Investment

- The sensible use of local resources produce an unparalleled quality of life, attracting diversified investment to the local economy and raising property values.

- *Automotive jobs have declined, but diversification has brought us good jobs in tourism, retailing, medicine, education, environmental engineering, science and technology.*

Making the Vision a Reality

Immediate Actions

- *Green Space acquisition*
- *Continued support for Green Space acquisitions proposed by GSAB (City Council).*
- *Integrate the pathways network.*
- *Improved pathway connections with neighborhoods, parks, schools and commercial centers (Planning Commission and City Council).*
- *Partnerships with Oakland University and Rochester College.*
- *Parks and Recreation programs and internships.*
- *Trail linkages.*
- *Tourism consultancy; cooperation on cultural events.*
- *Pathway and trail signage.*
- *Public-private partnership to develop interpretive pathway and trail signage -- RAHS, EEC, OPC, Museum (City Council and Mayor).*
- *Ensure signage highlights parks, shopping and restaurants as well as historical, cultural and natural assets.*
- *Encourage citizen input regarding Green Space.*
- *Utilize strategic planning to solicit citizen advice on achieving a greener, healthier community with a more diverse economy (City Council).*

Actions for the Future

- *Work with Rochester Community Schools to integrate trails and green spaces into science and history curricula, offering students meaningful opportunities to gain knowledge/experience and contribute to the community via internships and volunteerism (Mayor/City Council).*
- *Create an ad hoc committee to explore the acquisition and preservation of historic barns - Rochester-Avon Historical Society, Historic Districts Commission, Oakland County Historical Society (City Council/GSAB).*
- *Utilize "Sister City" committees to collaborate on tourism projects: event sponsoring, trail sports, music, theater (Mayor/City Council).*

In closing, Mr. Windscheif reminded Rochester Hills residents that GSAB meetings are open to the public and their input is welcome.

Council members praised GSAB members for their hard work and vision, and thanked them for their efforts.

President Rosen noted that GSAB would be bringing forward the results of their efforts in terms of green space acquisition recommendations at the next City Council meeting.

Mr. Windscheif explained that it is not the prerogative of GSAB to enter into monetary discussions with property owners, but rather to bring forward recommendations to the City Council. It is then City Council's prerogative to choose whether the acquisition process should move forward.

Presented

ORDINANCE FOR ADOPTION

2006-0791

Acceptance for Second Reading and Adoption - An Amendment to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to Conditionally Rezone four parcels of land at the northeast corner of Crooks and South Boulevard, Parcel Nos. 15-33-351-008, -009, -018, and part of -019 from R-4, One Family Residential to O-1, Office Business, and to prescribe penalties for the violation thereof - City File No. 02-028 A (Crooks and South Boulevard Conditional Rezoning) MJMS, LLC, applicant

Attachments: Agenda Summary A 2nd.pdf; Agenda Summary.pdf; Map.pdf; Application.pdf; Plans.pdf; Rev. Staff Report 030607.pdf; Ordinance.pdf; PC Minutes.pdf; Resolution 040307.pdf; Resolution.pdf

Mr. John Gaber of Williams, Williams, Ruby & Plunkett, PC, 380 North Old Woodward Avenue, Birmingham, Attorney for the applicant and *Mr. Joe Paluzzi, III*, of Michigan Commercial Construction, 13400 Canal Road, Sterling Heights, representing the applicant, noted that nothing had changed since Council's previous discussion of this rezoning issue.

PUBLIC COMMENT:

Ms. Melinda Hill, 1481 Mill Race, expressed her opposition to this rezoning, noting that it does not meet the criteria as the current zoning makes sense for this location. She noted that she was not as concerned about the rezoning of the corner parcels, but rather the parcels where the senior housing would be constructed. She stressed the amount of time and money expended for the updated Master Land Use Plan (MLUP), noting that the City would be gaining nothing from honoring this request and asked that Council deny it.

Ms. Raschke noted that she has always viewed the MLUP as a guide and that she felt the senior housing would be a good addition to the community.

Mr. Derek Delacourt, Deputy Director of Planning, indicated that the MLUP does identify senior housing as a permitted use in this district, but at the discretion of the Planning Commission or City Council. He also noted that while this use is identified in the recently updated MLUP, the City is currently in the process of rewriting the zoning ordinance that defines it.

Mr. Ambrozaitis questioned whether granting this requested rezoning could set a precedence that may cause problems for the City in the future.

City Attorney John Staran, noting that any zoning decision always impacts the City into the future, stated he did not feel this rezoning would set a bad precedent as long as Council was satisfied.

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

Resolved that an Ordinance to Amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to Conditionally Rezone 1.62± acres, known as Parcel Nos. 15-33-351-008, -009, -018 and part of -019 from R-4, One Family Residential to O-1, Office Business and to prescribe penalties for the violation thereof, is hereby Accepted for Second Reading and Adoption, and shall become effective on Friday, May 18, 2007, following its publication on Thursday, May 17, 2007 in the Rochester Eccentric with the following conditions:

Conditions:

1. The size of the building on the Property shall not exceed 10,000 square feet, unless otherwise approved by City Council after recommendation from the Planning Commission.
2. The Property shall comply with the floor area ratio requirements of the Flexible Use 1 category of the City's Master Land Use Plan.
3. The orientation of the building on the Property shall be at approximately a 45 degree angle to the intersection of Crooks Road and South Boulevard, as approved by the Planning Commission as part of site plan approval for the Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
4. The height of the building on the Property shall be a minimum of 16 feet and a maximum of 30 feet as provided in the building height requirements of the Flexible Use 1 category of the City's Master Land Use Plan, and as approved by the Planning Commission as part of site plan approval for the Property, unless otherwise approved by City Council after recommendation from the Planning Commission
5. The elevations of the building on the Property shall substantially consist of brick, stone or similar materials approved by the Planning Commission as part of site plan approval for the Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
6. The architecture and surface materials of the buildings on the Property and the Adjacent Property shall be complimentary and compatible to each other as approved by the Planning Commission as part of site plan approval for the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
7. The perimeter street frontage Type C requirements of the Flexible Use 1 category of the City's Master Land Use Plan will be used for both the Crooks Road and the South Boulevard frontages of the Property, as approved by the Planning Commission as part of site plan approval for the Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
8. There shall be only a single access drive from South Boulevard to both the Property and the Adjacent Property, as approved by the Planning Commission as part of site plan approval for the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
9. There shall be a cross access drive(s) between the Property and the Adjacent Property for vehicular access, at a location(s) to be determined on the site plan for the Property and the site plan for the Adjacent Property approved by City Council after recommendation from the Planning Commission.

10. There shall be a sidewalk(s) or other pathway(s) between the Property and the Adjacent Property for pedestrian access, at a location(s) to be determined on the site plan for the Property and the site plan for the Adjacent Property approved by the Planning Commission, unless otherwise approved by City Council after recommendation from the Planning Commission.
11. There shall be cross easements granted for vehicular and pedestrian access between the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
12. A Level 1 Gateway sign shall be constructed at owner's expense at a location on the Property to be determined on the site plan for the Property approved by the Planning Commission, in accordance with the City of Rochester Hills Comprehensive Gateways Plan.
13. Either (i) a single site plan for the Property and the Adjacent Property shall be submitted for approval; or (ii) separate site plans for the Property and the Adjacent Property shall be submitted simultaneously for approval, provided that elevations and floor plans for the Adjacent Property may be submitted and approved by the Planning Commission at a later time, prior to the issuance of any building permits for the Adjacent Property. In the event that a single site plan is submitted, and the owner of either the Property or Adjacent Property desires to amend the site plan as it applies to such owner's parcel in the future, then such owner may apply for a site plan amendment or modification without the consent of the owner of the other parcel being required, provided that such requested amendment does not affect the approved site plan for the other parcel.
14. The landscaping for the Property and the Adjacent Property shall be complimentary and compatible, and the landscape materials and screening used to comply with the landscape screening and buffer requirements of Section 138-1216 of the City's Zoning Ordinance for the Property and the Adjacent Property shall be either substantially identical, or complimentary and compatible, as approved by the Planning Commission as part of site plan approval for the Property and the Adjacent Property unless otherwise approved by City Council after recommendation from the Planning Commission.
15. The Property and the Adjacent Property shall share common storm water detention facilities to the extent permitted by the Oakland County Drain Commission, the City Engineer and any other applicable governmental authority with jurisdiction over the parcels, as approved by the Planning Commission as part of site plan review for the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
16. Owners shall work with the City Engineer to investigate and consider the implementation of best storm water management practices and alternative storm water distribution and infiltration systems and methods that differ from or exceed the requirements of City Ordinances, provided, however, that owners shall only be required to comply with the City Ordinance requirements and engineering design standards in effect at the time of such submittal.
17. The applicant and the City shall enter into the Conditional Zoning Agreement in the form presented, and the applicant shall record the Agreement at the Register of Deeds. This Conditional Rezoning Agreement shall be signed by the Mayor.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0151-2007

2006-0790

Acceptance for Second Reading and Adoption - An Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to Conditionally Rezone six parcels of land totaling approximately 3.28 acres, located north of South Boulevard, east of Crooks, known as Parcel Nos. 15-33-351-003, -004, -005, -006, -007 and a portion of -019, from R-4, One Family Residential to SP, Special Purpose, and to prescribe penalties for the violation thereof - City File No. 02-028 B (Crooks and South Boulevard Conditional Rezoning), MJMS, LLC, applicant

Attachments: Agenda Summary B 2nd.pdf; Agenda Summary.pdf; Map.pdf; Site Layout.pdf; CR Agreement.pdf; Senior Housing Info.pdf; PC Minutes.pdf; Ordinance.pdf; Resolution 1st Rdg.pdf; Resolution.pdf

This item was considered and discussed under Agenda Item 2006-0791.

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

Resolved that an Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to Conditionally Rezone six parcels of land totaling approximately 3.28 acres, located north of South Boulevard, east of Crooks, known as Parcel Nos. 15-33-351-003, -004, -005, -006, -007 and a portion of -019 from R-4, One Family Residential to SP, Special Purpose, and to prescribe penalties for the violation thereof, is hereby Accepted for Second Reading and Adoption, and shall become effective on Friday, May 18, 2007, the day following its publication on Thursday, May 17, 2007 in the Rochester Eccentric newspaper with the following conditions:

Conditions:

- 1. The elevations of the building on the Property shall substantially consist of brick, stone or similar materials approved by the Planning Commission as part of site plan approval for the Property, unless otherwise approved by City Council after recommendation from the Planning Commission.**
- 2. The architecture and surface materials of the buildings on the Property and the Adjacent Property shall be complimentary and compatible to each other as approved by the Planning Commission as part of site plan approval for the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.**
- 3. There shall be only a single access drive from South Boulevard to both the Property and the Adjacent Property, as approved by the Planning Commission as part of site plan approval for the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.**
- 4. There shall be a cross access drive(s) between the Property and the Adjacent Property for vehicular access, at a location(s) to be determined on the site plan for the Property and the site plan for the Adjacent Property approved by City Council after recommendation from the Planning Commission.**

5. There shall be a sidewalk(s) or other pathway(s) between the Property and the Adjacent Property for pedestrian access, at a location(s) to be determined on the site plan for the Property and the site plan for the Adjacent Property approved by the Planning Commission, unless otherwise approved by City Council after recommendation from the Planning Commission.
6. There shall be cross easements granted for vehicular and pedestrian access between the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
7. Either (i) a single site plan for the Property and the Adjacent Property shall be submitted for approval; or (ii) separate site plans for the Property and the Adjacent Property shall be submitted simultaneously for approval, provided that elevations and floor plans for the Adjacent Property may be submitted and approved by the Planning Commission at a later time, prior to the issuance of any building permits for the Adjacent Property. In the event that a single site plan is submitted, and the owner of either the Property or Adjacent Property desires to amend the site plan as it applies to such owner's parcel in the future, then such owner may apply for a site plan amendment or modification without the consent of the owner of the other parcel being required, provided that such requested amendment does not affect the approved site plan for the other parcel.
8. The landscaping for the Property and the Adjacent Property shall be complimentary and compatible, and the landscape materials and screening used to comply with the landscape screening and buffer requirements of Section 138-1216 of the City's Zoning Ordinance for the Property and the Adjacent Property shall be either substantially identical, or complimentary and compatible, as approved by the Planning Commission as part of site plan approval for the Property and the Adjacent Property unless otherwise approved by City Council after recommendation from the Planning Commission.
9. The Property and the Adjacent Property shall share common storm water detention facilities to the extent permitted by the Oakland County Drain Commission, the City Engineer and any other applicable governmental authority with jurisdiction over the parcels, as approved by the Planning Commission as part of site plan review for the Property and the Adjacent Property, unless otherwise approved by City Council after recommendation from the Planning Commission.
10. Owners shall work with the City Engineer to investigate and consider the implementation of best storm water management practices and alternative storm water distribution and infiltration systems and methods that differ from or exceed the requirements of City Ordinances, provided, however, that owners shall only be required to comply with the City Ordinance requirements and engineering design standards in effect at the time of such submittal.
11. The applicant and the City shall enter into the Conditional Zoning Agreement in the form presented, and the applicant shall record the Agreement at the Register of Deeds. This Conditional Rezoning Agreement shall be signed by the Mayor.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke and Yalamanchi

Nay: Rosen

Enactment No: RES0152-2007

2007-0024

Acceptance for Second Reading and Adoption - An Amendment to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to rezone approximately 25.7 acres, located north of School Road and east of John R, from R-3, One Family Residential, to PUD, Planned Unit Development, known as Parcel Nos. 15-24-100-019; 15-24-100-018; 15-24-100-029; 15-24-100-028; 15-24-100-040; 15-24-100-037; 15-24-100-038; 15-24-100-009 and 15-24-100-010, and to prescribe penalties for the violation thereof - City File No. 04-037 (Oakville Estates PUD), Oakville Estates, LLC, applicant.

Attachments: Agenda Summary 2nd.pdf; Agenda Summary.pdf; Map.pdf; Staff Report.pdf; Site Plans.pdf; CC Minutes 071906.pdf; Ordinance.pdf; Resolution 040307.pdf; Resolution.pdf

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

Resolved that an Ordinance to Amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to Rezone 25.7± acres, known as Parcel Nos. 15-24-100-019, -018, -029, -028, -040, -037, -038, -009 and -010 from R-3, One Family Residential to PUD, Planned Unit Development, and to prescribe penalties for the violation thereof is hereby Accepted for Second Reading and Adoption, and shall become effective on Friday, May 18, 2007, the day following its publication on Thursday, May 17, 2007 in the Rochester Eccentric newspaper.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0153-2007

UNFINISHED BUSINESS

2007-0027

Request for Wetland Use Permit - City File No. 04-037 - Oakville Estates, located east of John R, north of School, to construct a 6-foot wide by 12-foot long boardwalk over a wetland at the northeast corner of the property over Wetland A to the natural open space area, affecting Parcel Nos. 15-24-100-028 and -038

Attachments: Agenda Summary.pdf; MDEQ Permit.pdf; WUP Notice.pdf; PC Minutes Re Oakville.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby approves a Wetland Use Permit for Oakville Estates PUD, City File No. 04-037, for the installation of an elevated pedestrian bridge at the northeast corner of the property over Wetland A to the natural open space area, affecting Parcel Nos. 15-24-100-028 and -038, based on plans dated received by the Planning Department on December 1, 2006, 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 plan or preliminary**

subdivision plat which has received final approval prior to January 17, 1990.

2. Approximately 160 square feet of temporary wetland impacts to Wetland A will result from construction of an elevated boardwalk. Such a boardwalk would allow Wetland A to be crossed and would keep pedestrian impacts to a minimum, thereby preserving wetland functions and allowing access to open space east of Wetland A.
3. An elevated walk across Wetland A would allow the natural drainage patterns to remain unimpeded and pedestrian access is preferable.

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.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0154-2007

2007-0023

Request for Approval of Final Planned Unit Development (PUD) Agreement - City File No. 04-037 - Oakville Estates PUD, 122 ranch condos on 25.7 acres, located east of John R, north of School Road, Parcel Nos. 15-24-100-037, -038, -009, -010, -040, -028, -019, -018, and -029

Attachments: Agenda Summary FPUD2.pdf; Agenda Summary.pdf; Final PUD Agreement.pdf; PC Minutes.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby approves the Final Planned Unit Development (PUD) Agreement, revised February 28, 2007, for Oakville Estates PUD, a 122-unit ranch condominium development on 25.7 acres, located east of John R., north of School, Parcel Nos. 15-24-100-037, -038, -009, -010, -040, -028, -019, -018 and -029, with the following findings and subject to the following conditions.

Findings:

1. The proposed Final PUD is consistent with the proposed intent and criteria for utilization of the PUD Process.
2. The proposed Final PUD is consistent with the Preliminary Approval for utilization of the process and the Preliminary PUD plan.
3. The proposed plan has not been utilized to avoid applicable requirements of the City's Ordinance.
4. The PUD will not create an unacceptable impact on public utility and circulation systems, surrounding properties, or the environment.

5. The proposed PUD promotes the goals and objectives of the Master Plan as they relate to providing varied housing for the residents of the City.
6. The proposed plan provides appropriate transition between the existing land uses surrounding the property.
7. That utilization of the PUD process allows the City additional controls to ensure quality building design and site development.

Conditions:

1. The appropriate sheets from the approved plan set shall be attached to the PUD Agreement as exhibits, including the color elevation of the buildings previously provided by the Applicant to the Planning Commission, as approved by Staff prior to submittal to City Council for final action.
2. Developer shall provide Staff a yearly written report of the PUD project status, as added to the PUD Agreement. Which shall be forwarded to the Planning Commission.
3. Add note to Section 10a. of PUD Agreement stating that developer has agreed to seed the undeveloped portions of Phase Two when the landscaping is installed, as reviewed and approved by Staff.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0155-2007

2007-0022

Request for Final Site Plan Approval - City File No. 04-037 - Oakville Estates PUD

Attachments: Agenda Summary FSP2.pdf; Agenda Summary.pdf; Site Plans.pdf; PC Minutes.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby approves the Final Site Plans for Oakville Estates PUD, a 122-unit development on 26 acres located east of John R, north of School, Parcel Nos.15-24-100-037, -038, -009, -010, -040, -028, -019, -018, and -029, based on plans dated received December 1, 2006 by the Planning and Development Department, with the following findings and subject to the following conditions.

Findings:

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards and requirements can be met subject to the conditions noted below.
2. The location and design of driveways providing vehicular ingress to and egress from the site will promote safety and convenience of both vehicular and pedestrian traffic both within the site and on adjoining streets.
3. Automobile parking areas have been designed to avoid common traffic problems and promote safety. Further, deferred parking spaces have been

identified on-site for future consideration.

4. There will be a satisfactory and harmonious relationship between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
5. The proposed development does not have an unreasonably detrimental, nor an injurious, effect upon the natural characteristics and features of the parcels being developed and the larger area of which the parcels are a part.
6. The proposed Final Plan promotes the goals and objectives of the Master Plan that the City provides a variety of housing.
7. The proposed plan provides appropriate transition between the existing land uses surrounding the property.

Conditions:

1. That any remaining engineering issues identified in the HRC letter dated January 4, 2007 be addressed prior to issuance of a Land Improvement Permit.
2. That all proposed landscaping, material and tree protective fencing be reviewed and recommended for approval by the City's Landscape Architect prior to Final Approval by Staff.
3. Submit irrigation system design for approval by the City's Landscape Architect, prior to Final Approval by Staff and prior to issuance of a Land Improvement Permit
4. The Natural Features Setback Area shall be shown on revised plans, to be reviewed and approved by Staff prior to Final approval.
5. Remove note on Sheet LA-4.0 regarding stone bed in the John R right of way (at the western tip of entrance island) and show other material approved by Staff, prior to Final Approval.
6. Plantings associated with the buffer must be native Michigan plantings only (i.e., no cultivars), to be approved by the City's Wetland Consultant prior to obtaining a Land Improvement Permit.
7. Revise corner clearance measurements in accordance with City standards, prior to Final Approval by Staff.
8. Divide cost estimate into trees, shrubs, island trees and replacement trees categories, per the January 30, 2007 memo from the City's Landscape Architect, to be approved by same prior to Final Approval.
9. Revise Sheets LA-1.0 through LA-4.0 where appropriate to relocate shrubs shown on plans to increase shrub groups located between the adjacent residential properties and the proposed development; spaced no greater than 3'6" on center, as approved by the City's Landscape Architect prior to Final Approval by Staff.
10. Add a note to revised plan that proposed boardwalk will be approved by City Engineer prior to applicant obtaining a Land Improvement Permit.
11. Revise Sheet SP-3.0 to add one additional bench near the detention pond, to be approved by Staff, prior to Final Approval.

12. Revise Sheet C-5 (Utility Layout) to provide for 22 parking stalls, to be approved by Staff prior to Final Approval.
13. Revise Sheets A1 and A2 to accurately label the elevations, to be approved by Staff prior to Final Approval.
14. Revise Sheet LA-4.0 to show the location of the lamppost in the island, to be approved by Staff prior to Final Approval.
15. Development shall conform to all ADA requirements, as reviewed by Staff prior to Final Approval.
16. Add note to Landscape Plan indicating where seeding shall occur in phase two, prior to Final Approval by Staff.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0156-2007

2007-0078

Request for Adoption of City Council Mission Statement

Attachments: Agenda Summary.pdf; 041107 Agenda Summary.pdf; 040407 Agenda Summary.pdf; Excerpt Draft CC Minutes 013107.pdf; Current Mission Statement.pdf; Memo Scott 041107.pdf; Resolution.pdf

President Rosen reminded Council that he, Mr. Hooper and Mr. Yalamanchi had met previously and formulated the proposed City Council Mission Statement.

Mr. Duistermars requested clarification as to the use of the term "progressive" in the proposed Mission Statement, expressing concern that it might mean "aggressive at making change."

President Rosen explained that, in this instance, progressive was intended to mean "embracing change when it makes sense."

Mayor Barnett noted that the word "progressive" is included in the City's new Gateway design and suggested that may have had some influence in its use in the proposed Mission Statement.

A motion was made by Yalamanchi, seconded by Ambrozaitis, that this matter be Adopted by Resolution.

Resolved that the Rochester Hills City Council hereby adopts its Mission Statement as follows:

"The City Council's mission is to sustain the City of Rochester Hills as a distinctive, progressive, premier community of choice to live, work and raise a family by enhancing our vibrant residential character complimented by an attractive business community."

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Enactment No: RES0157-2007

- 2007-0265** Request for Approval to Enlarge the Wolf Drainage District by 1.3 Acres in Section 34
- Attachments:** Agenda Summary.pdf; Supplemental Information.pdf; Resolution.pdf
- A motion was made by Ambrozaitis, seconded by Raschke, that this matter be Adopted by Resolution.**
- Whereas, Flagstar Bank, the owner of property located at 3200 Rochester Road, has requested to enlarge the existing Wolf Drainage District by 1.3 acres; and**
- Whereas, the Wolf Drainage Board requires that the City of Rochester Hills approve the drainage district enlargement; and**
- Whereas, there is capacity in the existing 578.3-acre Wolf Drainage District to serve the 1.3 acres requested to be added without detriment to or diminution of the Wolf Drainage District service presently provided.**
- Now, Therefore, Be It Resolved, that the Rochester Hills City Council hereby approves the Wolf Drainage District being enlarged by 1.3 acres in Section 34 as requested by Flagstar Bank.**
- The motion carried by the following vote:**
- Aye:** Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi
- Enactment No:** RES0158-2007

- 2007-0284** Request for Adoption of Resolution of Opposition - House Bills 4587 and 4588 Requiring Local Governments to Purchase Through the State's MiDeal Program
- Attachments:** Agenda Summary.pdf; House Bill 4587.pdf; House Bill 4588.pdf; Resolution.pdf
- Mayor Barnett provided recently obtained information regarding the House Bills under consideration, noting that the issues of greatest concern to Rochester Hills had been eliminated from the bills, those being the State Shared Revenue component and the involuntary participation component. As a result, he requested that this issue be removed from discussion and assured Council that he would keep them informed if there were any future changes to the bills. He stressed that the Michigan Municipal League and other communities are now in support of the bills.*
- Mr. Ambrozaitis noted that this was a good lesson in being involved in these types of issues early in the process.*
- Mr. Duistermars agreed that this was now a "non-issue" and suggested that City Council move on to the next Agenda item.*
- Discussed**

NEW BUSINESS

- 2007-0269** Authorization of Two (2) Council members to meet with Administration and City Attorney to review The Legacy Project Request and provide a recommendation to Council

Attachments: Agenda Summary.pdf; Request Letter 032607.pdf; Legacy Project Presentation.pdf; Various News Articles.pdf; 0269 Memo Jenuwine.pdf; Determining Lawful Exp-MI Treasurer.pdf; Home Rules Cities Act MCL 117.4k.pdf; Lawful Expenditures-MML Info.pdf; Resolution.

Ms. Patricia Botkin and Mr. Tom Mines, representatives of the Legacy Project, described the project and their request for a financial contribution as follows:

- The opportunity the Legacy Project chose to support was the creation of a Cultural/Art Non-Profit Center in the "core" of the community.

- They noted successful examples of such ventures including in Jackson Hole, Wyoming and Canton, Michigan.

- The goals for the project were noted as follows:

- * To have a lasting impact on the community.
- * To move Rochester up from the 39th "Best Place to Live."
- * To address issues raised at the Community Concern Breakfast.
- * To create a lasting contribution from the Leadership Program.

Mr. Mines noted that the request before Council was for \$25,000 to be used in conjunction with monies already donated by the City of Rochester (\$50,000) and Oakland Township (\$25,000) for a feasibility study of the project.

Ms. Botkin indicated that, should the study show a need and desire for this type of facility, the initial financial support of the three communities could be viewed as an endorsement of the project when seeking funding through private philanthropy and grants.

President Rosen explained that the issue was not just a matter of whether Council chose to contribute to this effort but whether such a contribution would be legal.

City Attorney John Staran indicated that the Home Rule City Act does authorize a city to provide in its charter for allocation of funds to public or private non-profit organizations engaged in civic, artistic and cultural activities within that specific community. He stressed that public funds should be used to serve a public service resulting in "some common good for the community at large." He noted that the City could contract with an agency for a specific service, but could not make an outright contribution to a charitable cause.

President Rosen suggested that an intergovernmental agreement, similar to the Older Persons Commission (OPC) agreement, would be one potential way to fund this project, however, he presumed that would likely be extremely time consuming and any millage dollars would have to be put to a vote of the people.

Mr. Staran noted that there was likely a legal way for the City to make this contribution, however, he needed time to examine all the possibilities.

PUBLIC COMMENT:

Ms. Melinda Hill, 1481 Mill Race, listed the many cultural amenities already available in the City including theaters in all three of the high schools, as well as at Oakland University and Rochester College. She suggested that all of the existing venues should collaborate rather than creating a whole new venue. She also cautioned Council that agreeing to this request would likely encourage requests from countless other non-profit organizations.

COUNCIL DISCUSSION:

Council members made the following comments:

- The City needs to create more public/private partnerships.

- *The City should take an active role in evaluating some economic development projects that enhance the community.*
- *The City should only be involved in determining the feasibility of the project, but not the project itself.*
- *Even if a millage is not sought, tax dollars will be expended if this request is honored.*
- *A resolution of support should be passed but with no dollar amount attached.*
- *The three municipalities create one large community and each affects the other.*
- *The proposed dispatch study will only affect a few residents, whereas this could impact all.*
- *The \$25,000 for the dispatch study should be used for this purpose instead.*
- *Perhaps Community Development Block Grant (CDBG) monies typically earmarked for planning purposes could be used for this project.*
- *The Council should not support another intergovernmental project unless it is located in Rochester Hills.*
- *There needs to be communication between Rochester Hills and Rochester through the Sister City Committee.*
- *There needs to be more research to determine how the City provides funds for organizations such as Rochester-Avon Recreation Authority (RARA) and Rochester Avon Youth Assistance (RAYA), but cannot meet this request.*
- *Any contribution should not be taken from fund balance but rather through a budget cut.*
- *If money cannot be taken from fund balance then this request can only be considered during upcoming budget discussions.*
- *The feasibility study should be conducted before public funds are expended.*

Ms. Botkin, Mr. Mines and Mr. Staran responded to Council's discussion as follows:

- *It is unlikely that CDBG funds could be used for this purpose.*
- *There is no desire on the part of the Legacy Project to create an intergovernmental agreement or to support the proposed Center through millage dollars.*
- *This project would benefit Rochester Hills more than the other communities based on population.*
- *There are limitations to the other area facilities noted by Ms. Hill.*
- *The location chosen for the proposed Center has a willing land owner and the Downtown Development Authority (DDA) is willing to build a mezzanine parking structure to enhance the location.*
- *The proposed Center will not only be a theater, but will also provide meeting space for business as well as other amenities.*

- Contributions will be handled through the Community Foundation of Greater Rochester.
- The project needs community support or it will not succeed.
- The research firm is willing to make a presentation to any of the communities regarding the feasibility study.
- Part of the feasibility study will involve the creation of a three- to five-year business plan.
- The proposals for feasibility studies were all approximately \$100,000.
- Close cooperation among the three communities, and viewing the community as a larger whole, is essential to the future success of the community.
- Showing community support through the funding of the feasibility study will assist with the eventual capital campaign.

Council members agreed that they were in support of the project itself, but were uncertain about the request for a financial contribution. It was determined that a final decision would be postponed and that President Rosen and Ms. Raschke would work together with Mr. Staran to determine whether the request was legal and what methods were available to the City to comply with the request.

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

Resolved that the Rochester Hills City Council hereby authorizes Council Member Raschke and Council President Rosen to meet with the Administration and City Attorney to review the legal and strategic methods that the City can participate in, in regards to The Legacy Project and bring back a recommendation to Council.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Hooper, Raschke, Rosen and Yalamanchi

Nay: Holder

2007-0314

Request for Financial Support in the amount of \$5,000.00 for Rochester Regional Chamber of Commerce (RRCC) to update their website

Attachments: Agenda Summary.pdf; RRCC Letter 021607.pdf; RRCC Email 042607.pdf; City of Rochester Ltr 042407.pdf; Determining Lawful Exp-MI Treasurer.pdf; Home Rules Cities Act MCL 117.4k.pdf; Lawful Expenditures-MML Info.pdf; 0314 Heiney Email.pdf; Resolution.pdf

This item was removed from the Agenda at the request of the applicant.

Removed from Agenda

2007-0240

Request for Approval of Uniform Video Service Local Franchise Agreement with AT&T

Attachments: Agenda Summary.pdf; 040407 Agenda Summary.pdf; 041607 Franchise Agmt (rev).pdf; Public Act 480.pdf; 040407 Staran Email.pdf; 032207 Franchise Agmt (orig).pdf; Resolution.pdf

City Attorney John Staran explained that the Uniform Video Service Local Franchise Agreement with AT&T before Council was the result of a new State law that

standardized all agreements between cable providers and municipalities. He noted that the agreement would provide that AT&T pay the same franchise fees as Comcast, however, AT&T would be receiving a credit toward the Metro Act Fees and it was unclear how that would impact the City as the City normally receives a portion of that money. He further noted that it was also unclear how AT&T's entrance into the community would impact the level of franchise fees noting that they may simply draw existing customers from Comcast and WOW, or there may be new customers generating new fees. He assured Council that the agreement was in compliance with the new State law and recommended approval.

Mr. Duistermars moved a motion to approve the agreement, and **Ms. Raschke** supported the motion.

Council members raised the following questions and concerns regarding the new contract:

- How much money did the City stand to lose?
- How can PEG fees increase beyond 1%?
- Would directional drilling be used to install AT&T lines?
- When would AT&T service be available?

Ms. Carmen Johnson, External Affairs Manager and **Mr. Keith Macintosh**, Network Planner representing AT&T, 444 Michigan Avenue, Detroit, along with Mr. Staran, addressed Council's questions and concerns as follows:

- It is unknown how much money, if any, the City will lose as a result of these new franchise agreements.
- It is possible the new agreement could result in a "fee neutral" outcome.
- While the new State law dictates that PEG fees cannot increase beyond what is currently agreed, that will no longer apply when Comcast's current contract expires. At that point, PEG fees will increase from 1% to 2%.
- It is not possible to determine the financial impact of the Metro Act Fees credit to AT&T as those funds come to the City in one lump sum without specific designation of payments from individual entities.
- Directional drilling will not be necessary as existing equipment will be utilized. The cross boxes used by AT&T have been in neighborhoods for many years.
- The date of roll out for AT&T services is confidential.
- AT&T's service is different from Comcast and WOW as it is Internet-based television.

Mr. Ambrozaitis requested that the record reflect that although he is in favor of a free market economy, he was not comfortable approving an agreement when he did not feel he had all of the information regarding the financial ramifications.

President Rosen theorized that it was likely the financial impact on the City due to this agreement and AT&T's entry into the market would likely be "close to zero."

PUBLIC COMMENT:

Mr. Lee Zendel, 1575 Dutton Road, noted his concern about a ten-year contract with AT&T considering that technology changes so rapidly.

COUNCIL DISCUSSION:

Mr. Staran noted that the ten-year contract was dictated by the new State law.

Mayor Barnett agreed with President Rosen's assessment that the funds to the City would likely remain the same, as the number of customers will likely remain stable or perhaps increase slightly.

Mr. Yalamanchi agreed, noting that the City has little choice in the matter, but reminded Council to remain mindful that there may be a budget impact through a reduction in Metro Act Fees.

Mr. Ambrozaitis called the question to end debate on the matter.

2007-0240

Call the Question to Close Debate on the Request for Approval of Uniform Video Service Local Franchise Agreement with AT&T

A motion was made by Ambrozaitis, seconded by Yalamanchi, that this matter be Adopted by Resolution.

Resolved by the Rochester Hills City Council to hereby Call the Question to Close Debate on the Motion currently on the Floor to approve the Approval of Uniform Video Service Local Franchise Agreement with AT&T.

The motion carried by the following vote:

Aye: Ambrozaitis, Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

2007-0240

Request for Approval of Uniform Video Service Local Franchise Agreement with AT&T

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

Whereas, the Uniform Video Services Local Franchise Act, 2006 PA 480, requires a Video Service Provider to enter into a State-Mandated Uniform Video Service Local Franchise Agreement (the "Franchise Agreement") with the City, as the Franchising Entity, prior to offering video services within the City's boundaries; and

Whereas, on April 16, 2007, a revised Franchise Agreement was submitted to the City by AT&T Michigan; and

Whereas, Section (3)2 of the Act requires a Franchising Entity to notify the provider as to the completeness of the Franchise Agreement within fifteen (15) business days after the Franchise Agreement is filed with the Franchising Entity; and

Whereas, notice of the completeness of the Franchise Agreement has been provided to AT&T Michigan; and

Whereas, Section 3(3) of the Act requires a Franchising Entity to approve a Franchise Agreement within thirty (30) calendar days after a complete Franchise Agreement is submitted; and

Whereas, based on the filing date and the approval deadline, the City must take action on and notify AT&T Michigan as to whether the City has approved the Franchise Agreement on or before May 16, 2007; and

Whereas, the City Council has determined that the Franchise Agreement meets the technical requirements of the Act, and therefore, undertakes to adopt this Resolution approving the Franchise Agreement, as required by the Act.

Now, Therefore, It Is Resolved, the Rochester Hills City Council finds that the Franchise Agreement meets the technical requirements of the Act, and solely for that reason, the City approves the Franchise Agreement with AT&T Michigan.

It Is Further Resolved, the City's approval is given only because it is required by the Act, and is not an indication of the City's agreement with or assent to any provisions of the Act or the Franchise Agreement.

It Is Further Resolved, Section VI. of the Franchise Agreement, entitled "Fees," shall be filled in by the City as follows:

1. Subsection A(i) shall reflect a franchise fee under the City's existing franchise agreement with Comcast in the amount of five percent (5%).
2. Subsection A(ii) shall reflect a franchise fee to be paid upon expiration of the existing franchise agreement with Comcast in the amount of five percent (5%).

It Is Further Resolved, Section VIII of the Franchise Agreement, entitled "PEG Fees," shall be filled in by the City as follows:

1. Subsection A(1) shall reflect a PEG fee under the City's existing franchise agreement with Comcast in the amount of one percent (1%).
2. Subsection A(2) shall reflect a PEG fee to be paid upon expiration of the existing franchise agreement with Comcast in the amount of two percent (2%).

It Is Further Resolved, by approving the Franchise Agreement, the City does not intend to waive any right to challenge any provisions of the Act or any related provisions of the Franchise Agreement on the basis that such provisions are unconstitutional, unlawful, invalid or enforceable, including on the grounds that a particular action is an unconstitutional impairment of contractual rights, and further reserves any and all rights stemming from any successful challenge to such provisions undertaken by any other local franchising entity.

It Is Further Resolved, AT&T Michigan shall be expected and required to obtain necessary approvals and comply with City requirements concerning installation of cabinets and infrastructure within rights-of-ways, and shall further be expected to cooperate with the City and affected residents concerning the location, screening and maintenance of such cabinets.

The motion carried by the following vote:

Aye: Duistermars, Holder, Hooper, Raschke, Rosen and Yalamanchi

Nay: Ambrozaitis

Enactment No: RES0162-2007

ANY OTHER BUSINESS

Mayor Barnett distributed written information to City Council members explaining that Mr. Roger Rousse, Director of DPS/Engineering, had just informed him that there was information regarding the City's water services that needed to be disseminated to residents via the water bills.

Mr. Yalamanchi requested that the Mayor consider changing the budget process to a five-year rolling basis. He noted that it would provide a better understanding of where the City stands financially if they can project for five years. He then questioned whether it would be advisable to place a hold on new development until the zoning ordinance rewrite is complete.

President Rosen cautioned that the City cannot deny someone's development rights. He stated that the Planning Department works with developers and informs them of impending changes.

City Attorney John Staran noted that Council could impose a moratorium, but it must be temporary and for a specific purpose. He stressed that anything over six months would leave the City vulnerable to court challenges.

Resident Melinda Hill, 1481 Mill Race, reminded Council that the City still has a Zoning Ordinance. She stressed that the major change to the MLUP was the addition of form-based zoning, which is not yet addressed in the current Zoning Ordinance.

Mr. Hooper expressed concern that Council has not addressed the Police Millage issue and that it appears other issues of concern have been superseded by new issues coming forward to Council.

President Rosen noted that the list of priorities established by Council at the beginning of the year is being addressed, but that he is obligated by Council rules to add requested issues to a Council agenda within three weeks of the request. He assured Council members that all issues are being addressed in as timely a manner as possible.

Mr. Ambrozaitis questioned the status of the new Property Maintenance Ordinance.

City Attorney John Staran noted that a proposed Property Maintenance Ordinance would be coming forward during the next week.

Mr. Ambrozaitis asked if the issue of people cooking in their garages could be addressed in that ordinance.

Mr. Staran explained that that particular issue is addressed as a function of the Building Department through their code violations.

Ms. Holder indicated that there is no legal prohibition of cooking in a garage, but rather restrictions and safety guidelines.

NEXT MEETING DATE

Work Session - Wednesday, May 16, 2007 at 7:30 p.m.

ADJOURNMENT

There being no further business before Council, President Rosen adjourned the meeting at 11:09 p.m.

JAMES ROSEN, President
Rochester Hills City Council

*JANE LESLIE, Clerk
City of Rochester Hills*

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

Approved as presented at the June 13, 2007 Regular City Council Meeting.