

CITY OF ROCHESTER HILLS
REGULAR BROWNFIELD REDEVELOPMENT AUTHORITY MEETING
Thursday, January 17, 2008

MINUTES of a **ROCHESTER HILLS BROWNFIELD REVELOPMENT AUTHORITY REGULAR MEETING**, held at the Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan.

1. CALL TO ORDER

The meeting was called to order by Vice Chairperson Stevenson at 7:00 PM.

2. ROLL CALL

Present: Vice Chairperson Tom Stevenson; Members George Karas, Stephen McGarry, Stephanie Morita, Thomas Turnbull, Michael Webber, Suzanne White

Absent: None

QUORUM PRESENT

Also Present: Derek Delacourt, Deputy Director, Planning & Development Department
Judy A. Bialk, Recording Secretary

Vice Chairperson Stevenson stated that Mr. Walterhouse had resigned from the Authority, and two new members had recently been appointed. On behalf of the Authority, he welcomed Ms. Morita and Mr. Webber. He noted Mr. Webber was the new City Council representative to the Authority.

3. DETERMINATION OF A QUORUM

Vice Chairperson Stevenson stated a quorum was present.

4. MINUTES OF APPROVAL

4A. Regular Meeting of July 19, 2007:

Vice Chairperson Stevenson asked for any comments or changes regarding the July 19, 2007 Regular Meeting Minutes. Upon hearing none, he called for a motion.

MOTION by White, seconded by McGarry, that the Minutes of the July 19, 2007 Regular Brownfield Redevelopment Authority Meeting be approved as presented.

Ayes: All
Nays: None
Absent: None

MOTION CARRIED

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5. ANNOUNCEMENTS/COMMUNICATIONS

Vice Chairperson Stevenson called for any announcements or communications. No announcements or communications were provided.

6. PUBLIC COMMENT

Vice Chairperson Stevenson called for any public comments regarding non-Agenda related items. No public comments were received.

7. NEW BUSINESS

Vice Chairperson Stevenson noted that the Authority needed to elect a Chairperson, Vice Chairperson, Treasurer and Secretary for the current year. He stated that Mark Walterhouse had been Chairperson, but had resigned from the Authority; he had been serving as Vice Chairperson; Kurt Dawson was the Treasurer, and Derek Delacourt was the Secretary. He stated that Mr. Karas served as the Authority's representative on the Environmental Clean-up & Oversight Committee.

7A. Election of Officers

Vice Chairperson Stevenson called for nominations for the office of Chairperson. Mr. Karas nominated Thomas Stevenson for the office of Chairperson; Suzanne White for the office of Vice Chairperson; Kurt Dawson for the office of Treasurer, and Derek Delacourt for the office of Secretary. Mr. Turnbull seconded the nominations.

Vice Chairperson Stevenson called for any other nominations. Upon hearing none, he closed the floor for nominations and called for a voice vote. The following individuals were unanimously elected:

MOTION by Karas, seconded by Turnbull, that **Thomas Stevenson** be nominated and appointed as Chairperson; that **Suzanne White** be nominated and appointed as Vice Chairperson; that **Kurt Dawson**, City Treasurer (or his designee), be nominated and appointed as Treasurer, and that **Derek Delacourt**, Deputy Director, Department of Planning and Development (or his designee), be nominated and appointed as Secretary of the Rochester Hills Brownfield Redevelopment Authority until the next annual meeting of the Authority.

Ayes: All
Nays: None
Absent; None

MOTION CARRIED

Vice Chairperson Stevenson noted the Officers had been unanimously appointed and thanked the Authority for their confidence in appointing him as Chairperson.

7B. Establish 2008 Meeting Schedule

Chairperson Stevenson stated that a sample 2008 meeting schedule had been provided to the members. He asked if anyone had a conflict with the Thursday night meetings. Upon hearing none, he called for a motion to approve the proposed 2008 Meeting Schedule.

Mr. Webber proposed adopting the 2008 Meeting Schedule as presented. Ms. White seconded the proposed motion on the floor.

Chairperson Stevenson called for discussion on the proposed motion on the floor. Upon hearing none, he called for a voice vote.

MOTION by Webber, seconded by White, that the City of Rochester Hills Brownfield Redevelopment Authority hereby adopts and establishes its 2008 meeting schedule as follows:

The meetings will be held on the third Thursday of each month at the Rochester Hills Municipal Offices, 1000 Rochester Hills Road, Rochester Hills, Michigan, and will begin at 7:00 PM Michigan Time.

2008 MEETING DATES

January 17, 2008	July 17, 2008
February 21, 2008	August 21, 2008
March 20, 2008	September 18, 2008
April 17, 2008	October 16, 2008
May 15, 2008	November 20, 2008
June 19, 2008	December 18, 2008

Ayes: All
Nays: None
Absent: None

MOTON CARRIED

8. **ANY OTHER BUSINESS**

Chairperson Stevenson stated the Authority had previously discussed a policy established by the City of Rochester Hills to provide information to developers and anyone else concerned with redevelopment in the brownfield areas, and asked for an update on that matter.

Mr. Delacourt stated the Authority had discussed the establishment of a brownfield policy and working together with the Environmental Oversight Committee, Staff and City Council to put a document, policy or plan in place to set the standards and review goals associated with brownfields in the City.

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Mr. Delacourt stated Staff had worked with ASTI Environmental on a basic contract to assist in the preparation of the policy, but had encountered budget problems with filling the contract last year. He stated he recently met with ASTI Environmental to discuss the previous contract, and was informed the contract would remain the same for 2008. He noted the matter could be reactivated later this month, and would be discussed with the Authority at a future meeting.

Chairperson Stevenson asked if the Authority would see the document. Mr. Delacourt stated the Authority would have input into what went in to any document before they would see an actual document. He explained the document would be the end result of discussions and input received. He indicated the Authority would most likely see an Agenda item where input would be solicited from the Authority, and the public would be given an opportunity to provide input, and ultimately the Authority would direct Staff as to what they wanted to see in the policy. He stated a draft document would then be prepared and brought back for the Authority's review. He noted input would also be solicited from the City's Environmental Oversight Committee. Once the Authority was satisfied with the policy, the Authority would recommend that City Council adopt the policy.

Mr. Karas requested a quick history of the two projects currently under review for the benefit of the new members on the Authority.

Mr. Delacourt stated that the two projects were centered at the Hamlin/Adams intersection, one on the northeast corner and one on the south side of Hamlin, directly south and east of Adams and the new interchange.

Mr. Delacourt stated that the property on the south side was a licensed operating landfill for many decades, although there were different types of landfills consisting of three multiple cells, all of which had been closed at different times and set aside at different times.

Mr. Delacourt referred to the property to the north and stated it was his understanding it was operated as an unlicensed dumping area. The Department of Environmental Quality (DEQ) did a partial remediation on the site years ago.

Mr. Delacourt stated that both sites were governed by Consent Judgments, which determined the allowable land uses for the aboveground development. Both sites have Brownfield Plans that were approved by the Authority, and the northeast corner project had an initial 381 Work Plan approved for it, which was forwarded to the DEQ for review. He noted that a second phase 381 Work Plan had been submitted for the northeast corner project for review. Once that review is completed and Staff and the consultants are satisfied it meets the requirements of the Consent Judgment and other requirements, the revised 381 Work Plan will be brought before the Authority for review and recommendation.

Mr. Delacourt asked if the members had any questions about either project.

Ms. Morita asked if it was the City's intention that the Authority would begin working on the proposed brownfield policy at the February meeting. Mr. Delacourt stated that Staff would bring a recommendation forward for a structure to develop a City policy in regards to brownfields.

Ms. Morita asked if that meant Staff would bring the Authority a time line to review at the February meeting. Mr. Delacourt stated that was his intent, although he had not had any formal meetings with the consultant.

Ms. Morita asked who would develop the time line. Mr. Delacourt stated that Staff and the consultant would propose a time line for development of the policy. He explained that although the policy would be a joint effort between the Authority, the Environmental Clean-up and Oversight Committee, and City Council, the Authority would be the body that would have the most input toward a time line for development of the policy, as they would be making the recommendation to City Council to adopt the policy.

Ms. Morita stated it was her understanding that the Authority had already looked at the Ann Arbor Policy. Mr. Delacourt stated that the Environmental Clean-up and Oversight Committee had looked at some example policies, including the Ann Arbor Policy. The Authority had had a discussion with Mr. Ackerman from ASTI about local brownfield policies. He stated that Staff had recommended the Ann Arbor Policy as a good example of a structure to follow. He clarified the content of the Ann Arbor Policy had not been recommended, just the structure.

Ms. Morita suggested that before the Authority began drafting a proposed policy, the members be given some example policies from other communities. She felt it would help if the members could review some policies before they began discussion on a policy. Mr. Delacourt agreed that some example policies could be provided to the Authority members at the next meeting. He noted if the members had a particular policy they wanted to review, to let him know and he would try to obtain a copy.

Ms. Morita asked if Staff had looked outside the State of Michigan for brownfield policies. Mr. Delacourt stated he had discussed that with the consultant, but it was not recommended because laws varied from state to state, and it was preferable to use policies that functioned within Act 381 and Part 201 from the DEQ.

Chairperson Stevenson asked for an update from Mr. Karas regarding the Environmental Clean-up and Oversight Committee (EOC).

Mr. Karas stated the EOC had held a discussion with Mr. Jim Anderson from STS Consultants regarding the revised work plan submitted for the northeast corner project. He noted that after the discussion, he felt that the Consent Judgment was more important to the development of the project than any other requirements. He explained the developer had performed additional testing at the site to determine the extent of methane, PCBs and other items. He stated the developer's report was confusing because some areas that were thought to be contaminated turned out not to be contaminated; they did not find much methane, and he was disappointed about the water-flow testing. He stated the consultant had responded to the developer about the revised plan, and noted he had not heard anything further on the matter.

Mr. Delacourt explained the EOC had been created by City Council to specifically monitor the remediation efforts of the two brownfield projects in relation to the additional requirements of the Consent Judgments. He stated that was different than what the Authority did, although there were some parallels between the two boards. He commented that after a few meetings, the EOC felt there was so much crossover with what the Authority did, it was important to have a representative from the Authority on the Committee.

Mr. Delacourt stated the Authority would receive an update from the consultant, and possibly even the applicant for the northeast corner project, on where the project stood at a future meeting. He explained the developer had submitted a second phase 381 Work Plan, but it was the first review of the remediation plan for that site. He stated Staff and the City's Consultant had reviewed that document and sent a 9-page review letter back to the developer, asking for additional information, clarification of some items, and things of that nature.

Mr. Delacourt stated that since the review letter was sent, the applicant responded by submitting a second revised plan that was currently under review. He was not aware of whether the second revised plan did a good job of addressing the City's concerns, noting the plan was under review by the City's Consultant at this time. He stated that once the Plan was at a stage where any remaining issues could be narrowed down to the point that the Authority's input would be the deciding factor, the Plan would be brought before the Authority. He noted the applicant had expressed a desire to appear before the Authority as soon as possible.

Mr. Delacourt stated the EOC had reviewed the first second phase 381 Work Plan with the Consultant because there many issues about whether it stayed in line with what the Consent Judgment prescribed. He explained that was different than Act 381, the Brownfield Plan or Part 201 requirements, which is how Staff reviewed remediation in association with brownfields, but more specifically the issues identified in the Consent Judgment. He stated the EOC's input, along with the consultant's input, was used to respond to the applicant. He stated it was hoped the applicant would respond to those issues.

Ms. Morita asked if the EOC found that the revised plan was in compliance with the Consent. Mr. Delacourt stated that was not a function of the EOC, as only City Council and the City Attorney could make that determination. He explained that Staff and the EOC agreed they were dissatisfied with the way the proposed remediation was presented in conformance to what Staff and the City's consultant felt the Consent Judgment said. He commented the EOC did not feel the applicant had done enough or had not put enough information in to demonstrate how they were going to comply. He explained the City had requested an enormous amount of additional information and explanation from the applicant.

Mr. McGarry asked if it would be possible for Staff to provide a summary of the issues, so the Authority could look at the issues and see how the applicant responded. He stated he had received a copy of the consultant's response letter and it looked like there were many unknowns, and it would be useful to see the progression.

Mr. Delacourt stated the tone of the consultant's letter provided a good idea about how Staff and the consultant felt about the revised submittal. He stated the applicant's response would go a long way to tell what direction the project would go. He noted the response letter was a matter of public record and was the formal review letter.

Mr. Delacourt explained that the normal process would include providing a final review letter to the applicant identifying any remaining issues, and identifying sections where it complies. He commented the history of the reviews could be included for the Authority, but he did not know how pertinent it would be at the point the plan is presented to the Authority for review. Mr. McGarry stated it would help demonstrate the applicant's desire to comply.

Mr. Karas stated that Mr. Webber, as the City Council Representative, had a key job in keeping things in line on the Consent Judgment, and the Authority would look to him for guidance.

Mr. Karas stated that during the EOC's discussion, the City's consultant stated he was on the site during the time the additional testing was done, and reported that in the fenced area where the PCB's were, no one was allowed inside the fenced area that did not have the appropriate covering. He noted that area may or may not be excavated, which meant the Authority would have a real responsibility, as there was concern if no one could walk on the ground, what happened if the ground was moved or treated.

Mr. Webber stated he had also received a copy of the consultant's response letter, and noted he had also been appointed to the EOC Committee, and looked forward to serving on both the EOC and the Authority. He stated he had read the report and it was as confusing to him as it probably was to Mr. McGarry.

Chairperson Stevenson asked for an update on the Madison Park project, and whether any approvals would expire.

Mr. Delacourt stated that the approved conditional site plan expired in August 2007, and the developer was notified it would expire and did not request an extension. He did not think the Consent Judgment would expire, as he believed it would have to be ordered through the Court system to be in default. He noted the Brownfield Plan did not have an expiration date, and that was the only other approval the developer had for that site.

Mr. Delacourt stated he had not heard from the developer or had any discussions with them, other than a brief telephone call from one of the employee's letting the City know they had worked with the DEQ and would be doing some additional testing. The City made them aware that if the testing being done was not part of an approved 381 Work Plan by the State, the City did not feel it would be eligible for any Tax Increment Financing (TIF) reimbursement. They said that was fine as they planned to foot the bill for that investigation. He believed they did some additional soil borings and some other testing.

Mr. Delacourt believed that one of the developer's engineers met with the City's Engineers to talk in general terms about storm water and sewer capacity for any proposed development on the site. He did not think it was a specific conversation, but was more general

regarding district levels, potential redistricting and those types of things. He noted that was very common with any proposed development and did not have anything to do with remediation or any type of TIF or 381 Work Plan.

Chairperson Stevenson asked if there had been any other interest in any other sites in the City from developers.

Mr. Delacourt stated the one area that gets the most interest is the corner of Hamlin and Dequindre as there was some vacant property for sale, south of School Road. He commented that area contained some old landfills; some industrial dumpsites; some Environmental Protection Agency (EPA) closed sites, and noted any site in that general area, whether or not it had any fill or contamination associated with it, predicates a need for environmental investigation. He stated he does get frequent calls about that area inquiring about allowable uses; contamination; what items are reimbursable, and whether the Authority would consider a plan. However, nothing had been formally submitted as of this time.

Chairperson Stevenson called for any further discussion.

Mr. Delacourt stated that recently Act 381 was amended, and those amendments were signed into law by the Governor at the end of December 2007. He stated he had spoken with both the DEQ and the City's environmental consultant and staff from other cities, but had not received a legal opinion on what changes were made. He provided a thumbnail sketch, noting they had changed some of the rules to indicate that a community no longer had to be a "core community" to approve TIF financing for things like demolition or limited infrastructure work if the buildings are considered functionally obsolete.

Mr. Delacourt stated it opened up options for the City that the City did not have in the past because the City was not a core community. He noted it had made it a more flexible tool for the City in regards to lead and asbestos abatement, and other things that previously the Authority could not have considered, even if asked.

Mr. Delacourt stated it loosened up the restrictions on what the DEQ and the State could approve the utilization of school tax for. He explained that gave the City the ability to discuss remediation efforts different from the minimal that the aboveground development required. Previously, the Authority had been told that the only thing the State would approve school tax capture for was the minimal remediation necessary for the approved aboveground development. In other words, if it was industrial, the State would only approve school tax capture for an industrial cleanup. He stated it appeared that may have changed, and that the DEQ may have more flexibility to review the types of remediation proposed and presented by cities for school tax capture.

Mr. Delacourt stated there were other minor changes, such as previously the City could only capture \$75,000.00 for administration fees, which had changed to a sliding scale and depended on how many on-going plans the City had and the size of them.

Mr. Delacourt summarized the two large changes were the loosening of the standards for core communities and non-core communities, and the ability for the DEQ and the State to review approval of school tax capture based more on what is proposed, not the minimum standards needed. He hoped to have more information for the Authority at the next meeting.

Mr. Webber stated he had discussed the new legislation with Mr. Delacourt earlier in the week and would look for a Bill Analysis. Mr. Delacourt noted he was not sure any analysis had been prepared yet. Mr. Webber stated he would attempt to find something.

Mr. Delacourt stated he was waiting for the DEQ to come out with some analysis of the changes. He commented there had not been any test cases yet, and he believed the DEQ anticipated this City as being a test case with the northeast corner of Hamlin and Adams project, because of the remediation required in the Consent Judgment versus the minimal the DEQ usually looked at as part of Part 201.

Chairperson Stevenson called for any other business. No other business was presented.

9. **ADJOURNMENT**

Chairperson Stevenson stated that the next regular meeting of the Authority was scheduled for Thursday, February 21, 2008. He then called for a motion to adjourn.

Upon a **MOTION** made by Webber, seconded by McGarry, Chairperson Stevenson declared the Regular Meeting adjourned at 7:45 PM.

Tom Stevenson, Chairperson
City of Rochester Hills
Brownfield Redevelopment Authority

Judy A. Bialk, Recording Secretary