



# Rochester Hills Minutes City Council Regular Meeting

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Rochester Hills, MI 48309  
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Home Page:  
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*Erik Ambrozaitis, Bryan K. Barnett, Jim Duistermars, Barbara Holder,  
Linda Raschke, James Rosen, Ravi Yalamanchi*

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Wednesday, February 15, 2006

7:30 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

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

## ROLL CALL

**Present:** Erik Ambrozaitis, Bryan Barnett, Jim Duistermars, Barbara Holder, Linda Raschke, James Rosen and Ravi Yalamanchi

Others Present:

*Mr. Alan Buckenmeyer, Parks Operations Manager  
Dan Casey, Manager of Economic Development  
Ron Crowell, Fire Chief  
Paul Davis, City Engineer  
Derek Delacourt, Deputy Director of Planning  
Mike Hartner, Director of Parks & Forestry  
Jane Leslie, City Clerk  
Patrick McKay, Supervisor of Interpretive Services  
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 of the Regular Rochester Hills City Council Meeting of February 15, 2005 as amended to Add the following under ATTORNEY MATTERS:**

**2006-0161 - Adoption of Resolution to cancel Wednesday, February 22, 2006 Regular City Council Work Session.**

**2006-0162 - Adoption of a Resolution to meet in Closed Session on Wednesday, February 22, 2006 at 6:30 p.m., Michigan Time, at the Rochester Hills Municipal Offices to consult with the Attorney regarding trial or settlement strategy in connection with specific pending litigation, Adams/Hamlin Development v. the City of Rochester Hills.**

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

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

## PUBLIC COMMENT

*Mr. Lee Zendel, 1575 Dutton Road, indicated that a member of Council, who had previously stated his opposition to tax increases, had recently advocated increasing the General levy to its Charter-permitted maximum. Mr. Zendel stressed that action would constitute a tax increase.*

*The following eleven residents spoke regarding the Adams/Hamlin rezoning litigation matter:*

*- Ms. Lynn Loeb, 7845 Portage Trail, indicated that a settlement that takes into consideration the input of the residents is "a great step forward" and encouraged Council to consider all of the "positives and the negatives a settlement could bring."*

*- Ms. Stephanie Morita, 2881 Portage Trail, encouraged Council to consider bringing the settlement to a close that is in the best interest of the homeowners.*

*- Ms. Jenny Cherocci, 2951 Portage Trail, spoke in support of a settlement that would be in the best interest of the residents and would bring closure to the issue.*

*- Mr. Samuel Aleman, 2945 Portage Trail, asked that Council make a settlement in favor of the residents that takes into consideration the environmental impact.*

*- Ms. Terry Lannen, 2863 Portage Trail, noted that the ultimate goal of the settlement should be to ensure environmental safety.*

*- Mr. Mike DeLang, 2869 Portage Trail, indicated that he is in support of a settlement but requests that the environmental cleanup be minimally in the 100 foot buffer area if not the entire area. He encouraged Council to make the health and safety of residents the top priority.*

*- Mr. Tom Talbert, 2875 Portage Trail, noted that, while he is not happy with the proposed non-residential development, however, he is happy the City has included residents in the discussion and he is hopeful that the residents' comments will be taken into consideration when negotiating a settlement.*

*- Mr. Steve McGarry, 2164 Clinton View, President of the Heritage Oaks Homeowners Association, noted that he and several other residents oppose "the building of a strip center to address the contamination issues." He explained that several letters indicative of this opinion were sent to the Planning Department.*

*- Mr. James Dow, 572 McGill, voiced his opinion and that of other members of his subdivision in that they oppose any development that goes "against the Master Plan."*

*- Mr. Larry Schloss, 2851 Current Drive, urged Council to retain the residential character of the area.*

*- Mr. James Sutton, 2927 Portage Trail, stated that he opposes any settlement that would permit anything other than residential development and a total environmental cleanup.*

*President Rosen read four letters into the record regarding the Adams/Hamlin rezoning litigation matter:*

*- Mr. Dave Pagnucco, 3069 Quail Ridge Circle, expressed his support for maintaining the residential zoning of the area.*

*- Ms. Deanna Hilbert, 3234 Quail Ridge Circle, urged Council to hold a public forum to gain more input from the community regarding this matter and stated that no closed*

session meetings should be held without the attendance of District 1 Council member Ravi Yalamanchi.

- **Mr. Patrick Bennett**, 2970 Heidelberg, expressed his opposition to retail development at Adams and Hamlin and urged Council to "follow the Master Plan."

- **Ms. Nancy Stepanian**, 2970 Heidelberg, expressed her opposition to retail development at Adams and Hamlin and urged Council to "follow the Master Plan."

## LEGISLATIVE & ADMINISTRATIVE COMMENTS

**President Rosen** announced that Mayor Somerville had informed him she would not be attending the City Council meeting.

**Ms. Raschke** requested that future City Council work session meetings be televised.

**President Rosen** indicated that, beginning March 8, 2006, work session meetings would be televised.

**Ms. Raschke** announced the Fire Department would be hosting their annual Vegas Night fund raiser on March 4, 2006.

**Ms. Holder** presented the City with a plaque honoring Rochester Hills for having been chosen as the 39th best place to live in the United States by "Money" magazine.

**Mr. Ambrozaitis** thanked Captain Bob Smith of the Oakland County Sheriff's Department for placing a speed tracking device in his neighborhood.

**Mr. Barnett** announced an upcoming fund raiser on behalf of the Rochester/Auburn Hills Community Coalition to be held March 11, 2006 at the Outback Steakhouse on Rochester Road.

## ATTORNEY MATTERS

**City Attorney John Staran** had nothing to report.

2006-0161

Adoption of Resolution to cancel Wednesday, February 22, 2006 Regular City Work Session

**Attachments:** 0161 Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby agrees to cancel its Regular City Council Work Session scheduled for Wednesday, February 22, 2006 at 7:30 p.m.

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

The motion carried by the following vote:

**Aye:** Ambrozaitis, Barnett, Duisternars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0052-2006

2006-0162

Adoption of a Resolution to meet in Closed Session on Wednesday, February 22, 2006 at 6:30 p.m., Michigan Time, at the Rochester Hills Municipal Offices to consult with the Attorney regarding trial or settlement strategy in connection with specific pending litigation, Adams/Hamlin Development v. the City of Rochester Hills.

**Attachments:** 0162 Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby agrees to meet in Closed Session, as permitted by State Statute MCLA 15.268, on Wednesday, February 22, 2006 at 6:30 p.m. Michigan Time, at the Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan. The purpose of the Closed Session is to discuss with the Attorney trial or settlement strategy in connection with specific pending litigation, Adams/Hamlin Development v. the City of Rochester Hills.

The motion carried by the following vote:

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0053-2006

## RECOGNITIONS

2006-0127

Proclamation in Recognition of Firefighter/Paramedic Eric Moravcik and Firefighter/Paramedic Jason Murray

**Attachments:** Agenda Summary.pdf; Proclamation Moravik.pdf; Proclamation Murray.pdf

*President Rosen read the following proclamations:*

### MAYORAL PROCLAMATION FOR FIREFIGHTER/PARAMEDIC ERIC MORAVCIK

Whereas, on August 29, 2005 the country experienced a disastrous hurricane in the Gulf Coast region when Hurricane Katrina caused catastrophic damage; and

Whereas, the Federal Emergency Management Agency requested fire personnel from around the country to respond to the gulf coast area to assist with relief efforts; and

Whereas, Fire Chief Crowell made a request of Rochester Hills Firefighter/Paramedics to see who would be willing to respond to the coastal area; and

Whereas, Firefighter/Paramedic Eric Moravcik immediately volunteered to accept the challenge; and

Whereas, Firefighter/Paramedic Eric Moravcik spent over two weeks in the gulf coast assisting firefighters and workers from all areas of the country in emergency relief efforts.

Now, Therefore, Be It Known, that the Mayor and City Council of Rochester Hills hereby recognize Firefighter/Paramedic Eric Moravcik for his courage, dedication, and humanitarian efforts to those in need during this catastrophic event.

**MAYORAL PROCLAMATION FOR FIREFIGHTER/PARAMEDIC JASON MURRAY**

**Whereas, on August 29, 2005 the country experienced a disastrous hurricane in the Gulf Coast region when Hurricane Katrina caused catastrophic damage; and**

**Whereas, the Federal Emergency Management Agency requested fire personnel from around the country to respond to the gulf coast area to assist with relief efforts; and**

**Whereas, Fire Chief Crowell made a request of Rochester Hills Firefighter/Paramedics to see who would be willing to respond to the coastal area; and**

**Whereas, Firefighter/Paramedic Jason Murray immediately volunteered to accept the challenge; and**

**Whereas, Firefighter/Paramedic Jason Murray spent over two weeks in the gulf coast assisting firefighters and workers from all areas of the country in emergency relief efforts.**

**Now, Therefore, Be It Known, that the Mayor and City Council of Rochester Hills hereby recognize Firefighter/Paramedic Jason Murray for his courage, dedication, and humanitarian efforts to those in need during this catastrophic event.**

**Presented**

**PRESENTATION**

**2006-0149** Parks and Recreation Master Plan Presentation

**Attachments:** Agenda Summary.pdf

***Mr. Mike Hartner, Director of Parks & Forestry; Mr. Jim Ludwig, Planner and Ms. Heather McPhail, Assistant Planner of McKenna Associates, Inc., 235 East Main Street, Northville, discussed the need for and the process by which the Parks & Recreation Master Plan is updated:***

*\* An update is required every five years to qualify for State and Federal grant monies.*

*\* Provides an opportunity to make any "course corrections" such as removing completed projects and including the recent open space millage passage.*

*\* Gives residents the opportunity to voice their opinions on what is needed in the City via visioning workshops, phone surveys, a public hearing, etc.*

*\* Updated data from the U.S. Census and SEMCOG are incorporated.*

*\* The DNR wanted a blending of this plan with others such as the Master Land Use Plan and the Master Thoroughfare Plan.*

***Mr. Ludwig*** noted that the City's unique commitment to parks and open space is one of the reasons the Rochester area was chosen as the 39th best place to live.

***Mr. Hartner*** assured Council members that this plan does take into account the new millage dollars for open space and that all parties are "moving in the same direction."

**Presented**

## CONSENT AGENDA

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

- 2006-0103** Approval of Minutes - Regular City Council Meeting and Budget Work Session - August 24, 2005
- Attachments:** Min CC Reg & Budget 082405.pdf; 0103 Resolution.pdf
- This Matter was Adopted by Resolution on the Consent Agenda.**
- Resolved that the Minutes of a Regular Rochester Hills City Council Meeting and Budget Work Session held on August 24, 2005 be approved as presented.**
- Enactment No:** RES0054-2006
- 2006-0091** Confirmation of Mayor's Appointment of Thomas Turnbull to the Brownfield Redevelopment Authority to a three-year term to expire on November 13, 2008
- Attachments:** Agenda Summary.pdf; 100505 Rizzardi ltr of decline.pdf; Turnbull questionnaire.pdf; 0091 Resolution.pdf
- This Matter was Adopted by Resolution on the Consent Agenda.**
- Resolved that the Rochester Hills City Council hereby confirms the Mayor's appointment of Thomas Turnbull to the Brownfield Redevelopment Authority for a three-year term to expire on November 13, 2008.**
- Enactment No:** RES0055-2006
- 2005-0871** Request for Purchase Authorization - DPS/ENGINEERING: Increase in storm sewer size for the Rochester/Tienken Development in the amount of \$51,201.41 to Greco Title Insurance Company, in care of Curtis Properties Group, LLC and Tienken Partners, LLC
- Attachments:** Agenda Summary.pdf; Storm Sewer Upgrade Costs.pdf; 0871 Resolution.pdf
- This Matter was Adopted by Resolution on the Consent Agenda.**
- Resolved that the Rochester Hills City Council approves the purchase authorization to Greco Title Insurance Company, in care of Curtis Properties Group, LLC and Tienken Partners, LLC in the amount of \$51,201.41 to cover costs associated with increasing the size of the storm sewer for the Rochester/Tienken Development in order to accommodate future needs of the City.**
- Be It Further Resolved that City Council waives the requirement for price quotations under Section 2.281 of the Purchasing Ordinance, recognizing the value provided to the City with the inclusion of the work with the project by the developer.**
- Enactment No:** RES0056-2006
- 2006-0095** Acceptance of the Warranty Deed for Bloomer Road right-of-way granted by P.E.G. Construction Company for Bloomer Park Estates Condos for Parcel No. 15-13-151-019
- Attachments:** Agenda Summary.pdf; Map.pdf; Warranty Deed.pdf; 0095 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 a warranty deed granted by P.E.G. Construction Company, a Michigan Corporation, 2437 Munster, Rochester Hills, Michigan 48307 to the City of Rochester Hills, 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309 for Parcel No. 15-13-151-019.

Enactment No: RES0057-2006

2006-0101

Approval of the Agreement for Maintenance of Storm Water Detention System, between the City of Rochester Hills and Eureka Enterprises, LLC, for Kidz 1st for Parcel No. 15-08-451-049

**Attachments:** Agenda Summary.pdf; Map.pdf; Agreement.pdf; 0101 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 approves the Storm Water Detention System maintenance agreement, relative to the details of the development and use, repair and maintenance of the storm water system, for Kidz 1st, for City File 05-028, between the City of Rochester Hills and Eureka Enterprises, LLC, 2370 Walton Boulevard, Rochester Hills, Michigan 48309.

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

Enactment No: RES0058-2006

2006-0055

Appointment of one (1) Citizen Representative to the Building Authority Board to fill the unexpired term of Raymond Stickradt expiring December 31, 2007

**Attachments:** Agenda Summary.pdf; Allan Schneck CQ.pdf; 020105 Agenda Summary.pdf; Nomination Form.pdf; Thomas Neveau CQ.pdf; Jason Thompson.pdf; Notice of Vacancy.pdf; 020106 Draft Resolution.pdf; 0055 Resolution.pdf

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

Resolved that the Rochester Hills City Council appoints Mr. Allan Schneck as a Citizen Representative to the Building Authority to fill the unexpired term of Raymond Stickradt; term to expire on December 31, 2007.

Enactment No: RES0059-2006

### Passed The Consent Agenda

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

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

### The following Consent Agenda Item was discussed and adopted by separate Motion:

2006-0080

Request for Purchase Authorization - FIRE: Purchase and installation of two new emergency warning sirens with two-way monitoring capability in the amount of \$31,500.00 from Oakland County, Pontiac, Michigan, in partnership with the Oakland County Early Weather Warning Program

**Attachments:** Agenda Summary.pdf; Letter Oakland County .pdf; Interlocal Agreement.pdf; 0080 Resolution.pdf

**Mr. Yalamanchi** requested information on the emergency siren system and how the City informs the residents as to what to do in case of an emergency.

**Fire Chief Ron Crowell** explained that the newer sirens cover a wider area and report electronically to the County whenever activated, as opposed to the older sirens which require a person to be present during testing and manual reporting. He noted that with the addition of the two new sirens at Livernois and Tienken, and Avon and Rochester the City will have nearly full siren coverage. He further explained that the County maintains the sirens and the cost to the City will likely be somewhat lower than what has been estimated. Fire Chief Crowell noted that the City provides instructional brochures explaining what to do in case of an emergency, as well as broadcasts on the City's new emergency radio system located at 1610 on the AM dial.

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

**Resolved that the Rochester Hills City Council hereby authorizes the purchase and installation of two (2) emergency warning sirens with two-way monitoring capability from Oakland County, Pontiac, Michigan, in the amount of \$31,500.00, in partnership with the Oakland County Early Weather Warning Program and authorizes the Mayor to execute the Interlocal Agreement between Oakland County and the City of Rochester Hills.**

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0060-2006

## ORDINANCE FOR INTRODUCTION

**2006-0045**

Acceptance for First Reading - City File No. 05-037 - An Ordinance to amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to rezone a portion of Parcel No. 15-35-100-035 totalling approximately 0.50 acres, located east of Rochester Road, north of M-59, from R-4, One Family Residential, to B-3, Shopping Center Business District; Rochester Avon Properties, LLC., applicant

**Attachments:** Agenda Summary Second Reading.pdf; Map.pdf; Staff Report.pdf; 021506 Agenda Summary First Reading.pdf; Letter Gaber 101205.pdf; Letter Motte 101905.pdf; Parcel Information.pdf; Ordinance.pdf; First Reading Resolution.pdf; 0045 Second Reading Resolution.pdf

**Mr. Derek Delacourt**, Deputy Director of Planning, explained that the applicant was request to rezone of a portion of an orphaned parcel of land from residential to shopping center business district. He noted that, based on development to the south, there is no reasonable expectation that this property could be developed as zoned. He further noted that the requested rezoning was recommended by staff and unanimously recommended for approval by the Planning Commission.

**Mr. John Gaber** of Williams, Williams, Ruby & Plunkett, PC, 380 North Old Woodward Avenue, Birmingham, appeared on behalf of the applicant and noted that his client was not requesting that all of the parcel be rezoned, but rather that the area abutting the residential property retain its residential zoning and could be gifted to the Wildflower Homeowners Association.



Council members **Yalamanchi** and **Ambrozaitis** strongly encouraged the gifting of that property.

A motion was made by **Duistermars**, seconded by **Barnett**, that this matter be Accepted for First Reading 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 rezone a portion of Parcel No. 15-35-100-035 totalling approximately 0.50 acres, located east of Rochester Road, north of M-59, from R-4, One Family Residential, to B-3, Shopping Center Business District, is hereby accepted for First Reading.

The motion carried by the following vote:

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

## ORDINANCE FOR ADOPTION

**2006-0094** Acceptance for Second Reading and Adoption - An Ordinance to Amend Section 54-470, of Article VIII, Parks and Recreation, of Chapter 54, Fees, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to establish Fees for the Museum Membership Program, and to repeal conflicting or inconsistent Ordinances

**Attachments:** Agenda Summary.pdf; Ordinance.pdf; 020106 Agenda Summary.pdf; Fees Memo.pdf; First Reading Resolution.pdf; 0094 Resolution.pdf

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

Resolved that an Ordinance to Amend Section 54-470, of Article VIII, Parks and Recreation, of Chapter 54, Fees, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to establish Fees for the Museum Membership Program, and to repeal conflicting or inconsistent Ordinances is hereby accepted for Second Reading and adoption and shall become effective Friday, February 24, 2006 following its publication on Thursday, February 23, 2006 in the Rochester Eccentric Newspaper.

The motion carried by the following vote:

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0061-2006

## NOMINATIONS/APPOINTMENTS

**2006-0140** Nomination/Appointment of one (1) Citizen Representative to Leisure Activities Committee to fill the unexpired term of Suzanne White to expire December 31, 2007

**Attachments:** Agenda Summary.pdf; Hafeez letter 022106.pdf; Stein Questionnaire - Supplemental.pdf; 021506 Agenda Summary.pdf; LAC Nomination Form.pdf; S White Resignation.pdf; Questionnaires on file 012706.pdf; Notice of Vacancy.pdf; 0140 Resolution.pdf

**Mr. Yalamanchi** nominated Ms. Jennifer Stein.

*Ms. Holder* nominated Mohammad Hafeez.

*President Rosen* indicated that voting would take place at the next regular City Council meeting.

**Discussed**

**(Recess 8:58 p.m. - 9:10 p.m.)**

## **UNFINISHED BUSINESS**

**2006-0070**

Request for Purchase Authorization - DPS/Engineering Facilities: Architectural Services for Outdoor ADA Site Compliance and Rochester Hills Museum Master Plan in the amount not-to-exceed \$41,430.00; THA Architects-Engineers, Flint, MI

**Attachments:** Agenda Summary.pdf; Request for Proposals.pdf; 020106 Agenda Summary.pdf; 020106 Resolution.pdf; 0070 Resolution.pdf

*Mr. Alan Buckenmeyer*, Parks Operations Manager, explained that the request before Council had changed since the February 1st meeting; it still contained the architectural services for ADA compliance and the design services for the Museum Master Plan, but the calf barn request had been removed.

*Mr. Patrick McKay*, Supervisor of Interpretive Services, explained that he had been approached recently about accepting a large donation of artifacts but the Museum does not have the space to house them. He noted that in order to seek funding to expand the Museum an updated Master Plan is required. He stressed that to qualify for grant money it is necessary to provide a detailed plan that includes specific dollar amounts. He further noted that a Master Plan is required to receive any state funding and that, despite the poor economy, there is still money available from the state.

*Council members thanked Mr. McKay for answering a number of their questions in writing prior to the Council meeting.*

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

**Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to THA Architects-Engineers of Flint, Michigan, for architectural services for Outdoor ADA Site Compliance in the amount not-to-exceed \$19,130.00 through December 31, 2006.**

**Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to THA Architects-Engineer of Flint, Michigan, for architectural services for design of a Rochester Hills Museum Master Plan in the amount not-to-exceed \$22,300.00 through December 31, 2006.**

**Further Resolved that the Mayor is authorized to execute the contract(s) on behalf of the City.**

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0062-2006

## NEW BUSINESS

2006-0035

Request for Approval of Preliminary Site Condominium Plan - City File No. 05-011 - The Commons South, a proposed twelve-unit site condominium development on 3.98 acres, zoned R-4, located off of Shortridge, east of Livernois, known as Parcel Nos. 15-34-301-005 and 15-34-326-001, D & F Development, L.L.C., applicant

**Attachments:** Agenda Summary.pdf; Map aerial.pdf; Staff Report.pdf; Plans.pdf; 0035 Resolution.pdf

**Mr. Frank Fleury**, D&F Development LLC, 1171 Hickory Hill; and

**Mr. Raymond Fano**, Urban Land Consultants, 8800 Twenty Three Mile Road, Shelby Township, were present on behalf of the developer.

**Mr. Fano** briefly described the condominium development under consideration and requested that Condition 6 be eliminated from the Council resolution.

**Mr. Derek Delacourt**, Deputy Director of Planning, noted that the primary discussion that took place at the Planning Commission concerned Condition 6, addressing the orientation of Lot 12 and that it should front on Shortridge Drive. He explained that the lot would need a width variance to accommodate that condition, and because it is on a corner would require two front yard setbacks.

**PUBLIC COMMENT:**

**Mr. Tim Duncan**, 868 Shortridge, expressed his concern that the proposed condominium development has a higher density than the other subdivisions in the area. He also noted that the tree ordinance should apply to condominium developments.

**COUNCIL DISCUSSION:**

**Mr. Delacourt, Mr. Fano and Mr. Fleury** addressed the following:

- The Tree Ordinance does apply to condominium developments, however, this site was platted prior to adoption of that ordinance and, thus, is exempt.

- The applicant has agreed to conserve 35% of the trees; only 2% below the Tree Ordinance requirement.

- Reorienting either Lot 12 or Lots 11 and 12 to face Shortridge Drive would result in lots with "building envelopes that are nearly impossible to build on."

- The elimination of Lot 12 was considered and evaluated by staff, however, it is not necessary as the plan presented to Council did conform with all City codes.

**Mr. Delacourt, Mr. Fleury and Mr. Fano** described several options the developer and staff considered prior to bringing the request for preliminary approval before Council. There were difficulties complying with setbacks for all scenarios considered. Mr. Delacourt indicated that the best scenario for Lot 12 would be to encourage the applicant to either investigate a side access driveway, or a house that appears to have two front facades, thus resulting in a structure that would be compatible with the new and existing neighborhoods.

**City Attorney John Staran** confirmed that the City could require that at the time of final approval by Council the condominium Master Deeds and Bylaws include language requiring that the applicant include restrictions for Lot 12 reflecting a side access to Shortridge Drive and a facade compatible with the existing single-family homes along Shortridge Drive.

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

Resolved that the Rochester Hills City Council hereby approves the Preliminary Site Condominium Plan for The Commons South, a twelve-unit site condominium development on 3.98 acres, located east of Livernois off of Shortridge, zoned R-4, One Family Residential, known as Parcel Nos. 15-34-301-005 and 15-34-326-001, based on plans dated received by the Planning Department on October 27, 2005 with the following findings and conditions:

**Findings:**

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are available to properly service the proposed development.
3. The preliminary plan represents an acceptable comprehensive development plan that connects an existing subdivision to the west with an approved site condominium development to the east.
4. The preliminary plan represents the only possible street layout and a reasonable lot orientation.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

**Conditions:**

1. The sanitary sewer should have a 20' "clearance area," centered on the sanitary sewer, for City access. The portion of "clearance area" outside of the road right-of-way should be in an easement and shown on the plans, to be reviewed and approved by Staff prior to construction plan approval.
2. Relocate the water main at the approach outside of the road influence on revised plans to be reviewed and approved by Staff prior to issuance of a Land Improvement Permit.
3. Tree Protective Fencing must be installed, inspected and approved by the City's Landscape Architect prior to issuance of a Land Improvement Permit.
4. Plant additional trees around the proposed detention area to, where possible, screen the area from surrounding residential homes. Indicate the proposed screening on revised plans to be reviewed and approved by the City's Landscape Architect prior to Final approval by Staff.
5. Indicate the removal of the existing curb cut along Shortridge Drive on revised plans to be reviewed and approved by Staff prior to final approval.
6. Prior to final review by City Council that the applicant include restrictions for Unit 12 in the Master Deeds and Bylaws reflecting a side access to Shortridge Drive and a facade compatible with the existing single family homes along Shortridge Drive.
7. In the proposed open space area, add a park bench and trees to the plan, to be reviewed by Staff prior to Final Plan approval.

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0063-2006

**2006-0130**

Request to Consider Opting out of tax exemption of personal property for Energy Conversion Devices

**Attachments:** Agenda Summary.pdf; Atchmt A ECD MEDC Letter 010906.pdf; Atchmt B ECD Tax Exemption.pdf; Atchmt C Memo Dawson 020306.pdf; 0130 Resolution.pdf

**Mr. Dan Casey**, Manager of Economic Development, explained that Energy Conversion Devices (ECD) had recently received certification from the State as an Alternative Energy Technology Business under Public Act 549 of 2002. He noted that this certification qualified ECD for full tax exemption for new personal property acquired the year it gained certification. Mr. Casey stressed that the City was only required to act if it chose to opt out of the exemption, otherwise the exemption would automatically go into effect.

**Mr. Casey** noted the following reasons he was recommending that City Council choose to support this exemption:

- The company is very successful and their stock has risen by 40%.
- Fifty employees--primarily highly paid engineers--were transferred to Rochester Hills from Troy.
- They are built out and will likely be looking to expand in the near future.
- The real property is not abated, only the personal property.
- The City has worked through the SmartZone to support this company.
- Council supported ECD's effort to gain Federal appropriations.
- The company is a pioneer in the field of alternative energy devices and they bring notoriety to Rochester Hills.
- Their highly paid employees support the local economy.

**Mr. Barnett** expressed his frustration with these sorts of programs, noting that the local communities often bear the financial brunt.

**Mr. Ambrozaitis** agreed that he does not like giving abatements, but "the dynamics of a global economy have changed" and are forcing municipalities to offer such incentives. He stressed that the City must "seriously look at doing what we can to keep them [ECD]."

**Mr. Duistermars**, indicating the impressive list of companies considering locating in Rochester Hills according to the 2005 Rochester Hills Economic Development Report, expressed his belief that these prospects will increase if ECD remains in the City. He stated, "I would think we want to do everything to keep them here."

**Ms. Holder** noted that approximately \$42,000 over the span of the abatement is a small price to pay for international recognition.

**Mr. Rosen** indicated that he did not feel withholding this tax abatement would drive ECD from the City and noted he was inclined to vote to opt out of the abatement.

*Mr. Ambrozaitis stressed that ECD is the type of company Rochester Hills wants, as opposed to a Wal-Mart.*

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

**Whereas on December 16, 2003 the Michigan NextEnergy Authority (MNEA) certified Energy Conversion Devices, Inc., as an Alternative Energy Technology Business as permitted by Public Act 549 of 2002; and**

**Whereas on December 20, 2005 the MNEA certified a list of equipment (Attachment A) as Alternative Energy Personal property (the "property") making it exempt from taxes levied before January 1, 2013 as permitted by Public Act 549 of 2002; and**

**Whereas notice of this action was received by the City of Rochester Hills Assessing Department on January 13, 2006; and**

**Whereas the City Assessor has made the following determinations regarding the certified property (See Attachment C):**

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

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

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

**Be It Further Resolved that the City Clerk should forward a certified copy of this Resolution to the Michigan NextEnergy Authority no later than Wednesday, March 1, 2006.**

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke and Yalamanchi

**Nay:** Rosen

**Enactment No:** RES0064-2006

**2006-0131**

**Request to Consider opting out of Tax Exemption of personal property for Ovonic Battery Company**

**Attachments:** Agenda Summary.pdf; Attchmt A Ovonic MEDC Letter 010906.pdf; Attchmt B Financial Analysis Ovonic.pdf; Attchmt C Memo Dawson 020306.pdf; 0131 Resolution.pdf

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

Whereas on December 16, 2003 the Michigan NextEnergy Authority (MNEA) certified Ovonic Battery Co. as an Alternative Energy Technology Business as permitted by Public Act 549 of 2002; and

Whereas on December 20, 2005 the MNEA certified a list of equipment (Attachment A) as Alternative Energy Personal property (the "property") making it exempt from taxes levied before January 1, 2013 as permitted by Public Act 549 of 2002; and

Whereas notice of this action was received by the City of Rochester Hills Assessing Department on January 13, 2006; and

Whereas the City Assessor has made the following determinations regarding the certified property (See Attachment C):

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

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

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

Be It Further Resolved that the City Clerk should forward a certified copy of this Resolution to the Michigan NextEnergy Authority no later than Wednesday, March 1, 2006.

The motion carried by the following vote:

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0065-2006

**2006-0128**

Request for Approval of a "New from Quota" Class C Liquor License from Mitchell's Fish Market to be located at 370 North Adams Road

**Attachments:** Agenda Summary.pdf; 020706 AIS Agenda Summary.pdf; Application.pdf; Floor plans.pdf; Department Reports (2).pdf; Supplemental Report - Bldg Dept.pdf; AIS Resolution.pdf; 0128 Resolution.pdf

**Mr. John Carlin**, Attorney, Plunkett & Cooney, 38505 Woodward Avenue, Bloomfield Hills; and **Mr. Mark Weiss**, Regional Director of Operations, Cameron Mitchell Restaurants, LLC, 370 North Adams Road, were present on behalf of the applicant.

**Mr. Carlin** briefly described the Mitchell's Fish Market concept, noting that it is not only a seafood restaurant, but also a fresh fish market. He indicated that Mitchell's is requesting one of the City's four remaining Class C Liquor Licenses as opposed to purchasing one from another owner for approximately \$71,000.

**Mr. Barnett** noted that, with only four licenses left until the next census in 2010, the Council must take into consideration all other areas of development and other possible restaurants that may also want a license.

**Ms. Raschke** noted the "perfect track record" of the other Mitchell's restaurants in

Michigan and commended the applicant for locating their newest restaurant in Rochester Hills.

The following issues were noted during Council discussion:

- As Rochester Hills' population has remained stable, it is likely the City will receive no more than six new liquor licenses following the 2010 Census.
- Mitchell's intends to sign a twenty year lease with two five year options.
- Mitchell's is one of the most successful fish markets available and is not over extended in terms of debt.
- Each Mitchell's restaurant in Michigan earns approximately five million dollars annually in sales.

**President Rosen** stressed that he would be more inclined to approve a license for Mitchell's if they had made an effort to acquire one through other means and had been unsuccessful.

**Mr. Carlin** noted that there is a way for communities to acquire liquor licenses from the State once their entire quota has been issued.

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

**Resolved that the request from Mitchell's Fish Market for a New Class C License to be located at 370 North Adams Road, Rochester Hills, Michigan, 48309, Oakland County, Michigan be considered for approval "Above All Others" by Michigan Liquor Control Commission.**

**The motion failed by the following vote:**

**Aye:** Ambrozaitis, Raschke and Yalamanchi  
**Nay:** Barnett, Duistermars, Holder and Rosen

**Attachments:** Agenda Summary.pdf; 020706 AIS Agenda Summary.pdf; Application.pdf; Floor plans.pdf; Department Reports (2).pdf; Supplemental Report - Bldg Dept.pdf; AIS Resolution.pdf; 0128 Resolution.pdf

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

**Resolved that the request from Mitchell's Fish Market for a New Class C License to be located at 370 North Adams Road, Rochester Hills, Michigan, 48309, Oakland County, Michigan be considered for denial "Above All Others" by Michigan Liquor Control Commission.**

**The motion carried by the following vote:**

**Aye:** Barnett, Duistermars, Holder and Rosen  
**Nay:** Ambrozaitis, Raschke and Yalamanchi

**Enactment No:** RES0071-2006

**2006-0064**

Request for Authorization to participate in the 2006 Tri-Party Program for Road Improvement Funding with Oakland County



**Attachments:** Agenda Summary.pdf; RCOC Letter.pdf; 0064 Resolution.pdf

**Mr. Roger Rouse**, Director of DPS/Engineering, explained that the Tri-Party Program is a cost-sharing program that allocates money each year from the City of Rochester Hills, the Road Commission for Oakland County and Oakland County. It is a match of funds totaling \$474,978 for 2006, with the City contributing one third, or \$158,326. He noted that the proposal before Council requests that approximately \$113,000 be earmarked for a project to construct a center turn lane on a portion of Avon Road in conjunction with the development of Rochester Meadows Subdivision. He further indicated that approximately \$50,000 would be expended in 2006 for design engineering costs, with the remaining construction costs to be expended in 2007 through the Capital Improvement Plan. He clarified that the remainder of the total 2006 Tri-Party Program allotment would be designated for the Tienken Road Bridge Replacement and Traffic Signal project. Mr. Rouse stressed that the Tri-Party Funds can be banked and, although he did not know the exact amount, millions of dollars had already been banked for the Tienken Road project through this process.

It was noted by various Council members, and confirmed by Mr. Rouse, that this center lane would improve traffic safety on that portion of Avon Road.

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

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

**Whereas, the City desires to continue this joint participation for the 2006 fiscal year with the intent to undertake a road improvement project on Avon Road, Princeton to Grovecrest. The remainder of the allotment shall be designated to the Tienken Road Bridge Replacement and Traffic Signal Project.**

**Now, Therefore, Be It Resolved, that the City of Rochester Hills agrees to participate in the proposed fiscal year 2006 Tri-Party Program. The City's contribution shall equal \$158,326.00 toward the total proposed program allotment of \$474,978.00.**

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duisternars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0067-2006

**2006-0093**

Approval of the DTE Energy Street Lighting Agreement between Detroit Edison and the City of Rochester Hills for street lights located on Hamlin Road between South Adams Road (City Limit) and Rookery Drive in Section 30

**Attachments:** Agenda Summary.pdf; Letter from RCOC.pdf; Service Agreement.pdf; 0093 Resolution.pdf

**President Rosen** questioned why Rochester Hills is paying for the repair and maintenance of street lights that were installed by the City of Auburn Hills.

**Mr. Roger Rouse**, Director of DPS/Engineering, explained that when the lights were installed, Auburn Hills was required to install them through the intersection; the lights could not simply stop at the boundary between the communities. He noted that, due to the lack of an interlocal government agreement, Rochester Hills is now responsible for the repair and maintenance of these street lights.

**President Rosen** suggested that the lights not be repaired and maintained as

*Rochester Hills does not have street lights to the east of that intersection.*

*Mr. Rousse explained that it is not good practice to have inoperable street lights and under the Michigan Municipal Uniform Traffic Code they should be maintained.*

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

**Resolved that the Rochester Hills City Council approves the service agreement between Detroit Edison and the City of Rochester Hills for the system maintenance, improvements, emergency repairs, equipment changes and replacements to nine (9) existing street lights located within West Hamlin Road public right-of-way (R.O.W.) located between South Adams Road (City Limits) and Rookery Drive during 2006, in an amount not-to-exceed \$10,000 and authorizes the use of funds to evaluate and repair the westbound street lights for the estimated cost of \$2,000.**

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0068-2006

**2006-0085**

Request for Purchase Authorization - DPS: Maintenance and Repair of Traffic Signals, SCATS, School Flashers and LED Upgrades, blanket purchase order not-to-exceed amount of \$140,000.00; Road Commission for Oakland County (RCOC), Waterford, MI

**Attachments:** Agenda Summary.pdf; Signal SCAT and School Flasher Locations.pdf; 0085 Resolution.pdf

*Mr. Roger Rouse, Director of DPS/Engineering, described the notification signals for the schools and explained that although the City would be paying 100% of the cost to upgrade those signals, the schools had paid the entire cost of the fibre optics. He stated that the primary purpose for the upgrade was safety, noting these signals are recommended by the Michigan Municipal Uniform Traffic Code. He directed Council's attention to a schedule included in the meeting packet that identified the other traffic lights at various intersections and the percentage of the cost borne by the City for repairs and maintenance.*

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

**Whereas, under terms and conditions of separate agreements with the Road Commission for Oakland County (RCOC), the City of Rochester Hills has agreed to pay for a percentage of the costs associated with maintaining traffic signals on our major roads; and**

**Whereas, the City identified in the 2005 City's CIP Budget (MR-48) and requested that the amount be carried over to the 2006 Budget for the two fiber upgrades at Brewster Middle School and Hamlin Elementary School.**

**Resolved that the Rochester Hills City Council authorizes the issuance of a blanket purchase order to the Road Commission for Oakland County for the maintenance and/or repair of traffic signals, SCATS costs, school flashers and the LED upgrades in the amount of \$100,000.00 and for the Fiber Upgrade at Brewster Middle School and Hamlin Elementary in the amount of \$40,000.00 for a total blanket purchase order amount of \$140,000.00 for a period of one year.**

**The motion carried by the following vote:**

**Aye:** Ambrozaitis, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0069-2006

**2006-0137**

Request for Purchase Authorization - Planning/Development: Demolition Services for structures located at 1600 Hamlin Road in the amount not-to-exceed \$180,723.00; Blue Star, Inc., Warren, MI

**Attachments:** Agenda Summary.pdf; Bid Tabulations.pdf; 0137 Resolution.pdf

**Mr. Dan Casey**, Manager of Economic Development, provided a brief history of this project noting the significant amount of administrative work that went into the process, including amending the LDFA development and financing plan, creation of a Capital Improvement Project, inclusion in the LDFA budget, etc. Mr. Casey explained that bids were solicited and Blue Star, Inc., was chosen from a field of ten applicants. He specifically noted that the proposed cost includes a fifteen percent contingency, five percent of which is anticipated to cover the costs of outstanding testing that could not be completed prior to the bid process.

**Mr. Roger Rouse**, Director of DPS/Engineering, explained that approximately \$2,000 of the quote will compensate Blue Star, Inc., for salvaging I-beams to be used to build a materials storage building at the existing DPS Facility. He estimated that the salvage would save the City approximately \$6,000 in materials costs.

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

**Resolved that the Rochester Hills City Council hereby authorizes demolition services for structures located at 1600 Hamlin Road to Blue Star, Inc., Warren, Michigan, in the amount of \$157,150.00, plus a 15% contingency for a total not-to-exceed amount of \$180,723.00.**

**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, Barnett, Duistermars, Holder, Raschke, Rosen and Yalamanchi

**Enactment No:** RES0070-2006

## **COUNCIL COMMITTEE REPORTS**

### **Administration & Information Services (AIS) Committee:**

**Mr. Duistermars**, Vice Chair of the AIS Committee, indicated that the Committee recently discussed the City Council policies governing the use of electronic devices during Council meetings and the per diem compensation of Council members. In addition, liquor licenses were discussed for Mitchell's Fish Market and a possible oyster bar to be included in the new Papa Joe's complex.

### **Financial Services Committee:**

**Ms. Holder**, Chair of the Financial Services Committee, noted that the Committee recently discussed the City's special assessment districts (SAD) policy, as well as the local roads issue.

### **Public Safety Committee:**

*Ms. Raschke, Chair of the Public Safety Committee, reported that the expiring police millage was discussed at their most recent meeting. She indicated that Julie Jenuwine, Director of Finance, had provided various funding scenarios.*

## **ANY OTHER BUSINESS**

*President Rosen announced that he, Ms. Raschke and Mayor Somerville met with Undersheriff Mike McCabe and Fire Chief Ron Crowell to discuss and resolve the concerns over the 911 services for the City. He noted that they made substantial progress and outlined a draft "memorandum of understanding" stating that the 911 calls will be processed in the same effective manner as they have been. Additionally, a process of collaboration was outlined to address and resolve any concerns that may exist or develop in the future. President Rosen stressed that City Council still has the responsibility to select and provide the funding for the most effective 911 system.*

*Ms. Holder requested that the record reflect her opinion that President Rosen's comments "kind of puts a little damper into the progress that was made" and "continues the animosity."*

*President Rosen assured Ms. Holder everything is fine.*

## **NEXT MEETING DATE**

- Closed Session - Wednesday, February 22, 2006 at 6:30 p.m.
- Regular Meeting - Wednesday, March 1, 2006 at 7:30 p.m.

## **ADJOURNMENT**

*There being no further business before Council, President Rosen adjourned the meeting at 11:20 p.m.*

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*JAMES ROSEN, President  
Rochester Hills City Council*

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*JANE LESLIE, Clerk  
City of Rochester Hills*

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

*Approved as presented at the July 12, 2006 Regular City Council Meeting.*