



# Rochester Hills Agenda Report

2002-0406  
2007-0025  
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File Number: 2002-0406

**File Number:** 2002-0406      **File Type:** Archive - Administration      **Status:** Passed  
**Version:** 1      **Reference:** A0407      **Controlling Body:** City Council  
Regular Meeting  
**Requester:** Planning/Development      **Cost:**      **Introduced:** 01/25/2006  
**File Name:** Brownfield Redevelopment Authority      **Final Action:** 11/13/2002

**Title:** Adoption of Resolution Establishment of a Brownfield Redevelopment Authority in accordance with the provisions of the Brownfield Redevelopment Financing Act 831 of the Public Acts of the State of Michigan of 1996

**Notes:** 10/23/2002

**Code Sections:**

**Agenda Date:** 11/13/2002

**Indexes:** Brownfield

**Agenda Number:**

**Sponsors:**

**Enactment Date:**

**Attachments:**

**Enactment Number:** A0407-2002-R0450

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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1	City Council Work Session	10/16/2002	Discussed				
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**Notes:** Mr. Anzek stated two (2) work session presentations had been made regarding the Brownfield Redevelopment Authority, and a Public Hearing had been scheduled for October 23, 2002 regarding the establishment of the Authority. He indicated Council's input was being sought with respect to the establishment of the Authority and the composition of the membership. He noted Attorney Richard Barr would have to leave shortly and requested Council Members address their specific questions to him at this time.

President Dalton requested an outline of the steps Council would have to follow in establishing an Authority.

Mr. Delacourt stated two (2) work sessions had been held and a resolution of intent approved. He indicated the next step was holding the Public Hearing, which had been publicly noticed twice. He stated after the Public Hearing, Council could act on a resolution of actually establishing the Board, which would include the appointments and confirmations of those appointed to the Brownfield Redevelopment Authority (BRA). He stated Council's suggestions on the makeup of the Board were being sought at this meeting. He indicated if the Board was approved by Council, the next step would be to file the BRA with the Michigan Secretary of State. He indicated once the BRA is established, education would be necessary for the BRA Board Members; By-Laws would have to be established for the Board, and work would be necessary between the BRA Board and Council to determine how the BRA should actually operate.

Member Golden thanked Mr. Delacourt for providing the information regarding the BRA established by Farmington Hills. Mr. Delacourt stated he had solicited information from many cities regarding how their program had been established and worked; however, only Farmington Hills had responded to date. He noted the four (4) projects undertaken by Farmington Hills since 2000 provided good information regarding the flexibility of the program.

Member Hill clarified if the City established an Authority, then the City could determine exactly how much or what percentage would be allowed for tax credits or tax increment financing (TIF), which could vary from plan to plan.

Attorney Barr stated within some limits set by the State on the City's authority, such as being discriminatory against the State School Tax, the City would have the authority to allow no TIF, some TIF, limited by dollar amount, limited by percentage of total taxes, or no TIF at all, but the City would qualify the applicant to apply for the Single Business Tax (SBT) Credit, which is given by the State. He explained the City had no authority over whether the SBT Credit was granted. He noted the Farmington Hills data indicated they did not always feel TIF was necessary. He stated although the BRA would recommend what the plan should look like, ultimately City Council had the final approval.

Member Hill stated if the City did not implement a BRA, but used the County's instead, the plan could be presented with the TIF defined, and questioned whether the City could approve or disapprove the plan. Attorney Barr stated as a legal matter, the City would only have the ability to approve or disapprove. He indicated as a practical matter, it may be different depending on how the City worked with the County. He noted the City could not tell the County to change their plan, although the City could veto the plan.

Member Hill indicated the control level would be one of the primary advantages of the City establishing an Authority, although the City could utilize the County's BRA if it desired. Attorney Barr explained there were different elements of control allowed under the law, noting the City might focus on the area of TIF, whereas another community might focus on the revolving fund or the level of cleanup.

Mr. Delacourt stated the use of the County's BRA would disconnect the project from the local level at the initiation of the project, and how involved the City would be in the project. He indicated establishment of a City BRA would provide the option to use either BRA.

Member Hill noted there were many different proposals and situations that could be put forth. Attorney Barr stated the Act will partially sunset at the end of the year, and indicated Lansing was working on a Bill to extend and modify the law, which was scheduled to be introduced during the lame duck session. He indicated an Authority established under the revised law would be greatly diminished, noting no SBT Credits would be allowed and no School Tax would be allowed to be used. He stated if the City Council was interested in establishing a BRA, they might discuss the issue with the State Senators and Representatives to ensure they track and support the issue.

Member Golden suggested City Council might write a letter informing the State Legislators about what the City would like to see.

Mr. Anzek stated City Staff had received recommendations that the BRA Board be comprised of technical individuals, including attorneys, engineers, environmental scientists, accountants, real estate brokers, who could understand what the return might be on a development and how the numbers could be calculated. He noted Farmington Hills had set up their Board with four (4) Department Directors and three (3) Council Members, and two (2) citizen representatives. He indicated there was a wide variety of ways to set up the BRA Board, noting the appointments are a mayoral appointment by State Law, with City Council confirmation.

Mr. Anzek stated several Questionnaires had been received from interested individuals, and Council's input was being solicited with respect to the Board.

Member Hill noted there were a number of ways to set up the Authority, including the option of utilizing a Local Development Finance Authority (LDFA). Mr. Anzek stated the LDFA has a thirteen (13) member Board, and the law caps the BRA Board at nine (9) members. He noted several members of the LDFA Board were included as potential candidates for the BRA Board.

Member Hill stated she felt the members of the BRA Board should be residents of the City. She questioned whether the establishment of an Authority would be decided after the Public Hearing scheduled for the October 23, 2002 Regular Meeting. She did not feel a decision regarding the establishment of the Authority should be made at the same meeting as the Public Hearing was held. She questioned whether there was a time period from the Public Hearing being held to the time the Authority was established.

Mr. Delacourt stated at this time it was the Administration's intention to proceed with the resolution to establish the Authority at the same Meeting as the Public Hearing was held, although there was a thirty (30) day time frame after the Public Hearing was held to approve the resolution to establish the Authority. He stated the resolution of establishment should include the size, number and term of the Board Members.

Member Hill stated she would like to review a proposed list of potential Board Members prior to approving the resolution of establishment. Mr. Delacourt stated five (5) Candidate Questionnaires were included in the packet. He explained Council would be requested to determine the number of members on the Board, which could be comprised of members from the Planning Commission, City Council and other technical individuals, with the possibility of supplementing the membership with representatives from the Planning and Assessing Departments.

Member Hill indicated there was a question of whether a Council Member could be allowed to participate on the BRA Board, and suggested additional information regarding the composition of the Board be provided Council Members prior to the next Work Session. Mr. Delacourt stated the Administration would like Council Members to determine the number of Members on the Board, and the make up of the members, i.e., number of residents; Board, Commission or Council Members, or whether the Board should be supplemented with Administrative personnel.

Member Hill stated she felt the membership of the Board should be apolitical, and noted Council would make the final decision regarding any BRA Plan. She noted the information provided regarding the Farmington Hills BRA indicated their Authority had only used the SBT Credit, rather than the TIF Option. Mr. Delacourt indicated two (2) out of the four (4) Farmington Hills plans did use TIF, noting the first plan had TIF for eligible environmental response activities, and Plan 2B had TIF provided for anticipated environmental remediation expenses.

Member Hill stated her initial understanding was the Board would be apolitical, comprised of residents with different backgrounds.

President Dalton stated the Administration had provided a list of potential candidates for Council to review; however, the actual appointments would be made by the Mayor, with Council confirmation. He requested the Administration provide a list of the type of individual they felt should comprise the Board makeup. Mr. Anzek stated it was the Administration's recommendation the Board be made up of technical-based individuals, such as an attorney, accountant, commercial real estate broker, property appraiser, environmental scientist or someone familiar with environmental issues, engineer, and consideration of a citizen representative, and if Council desired, a Planning Commission Member and a Council

Member. He stated he felt it would be beneficial for a member of the Assessing Department to participate on the Board. President Dalton noted the Administration's recommendation would be for a nine (9) member Board.

Member Golden stated she did not feel it was necessary for a Council Member to be a member of the Board, because she felt it would create political issues, and Council would give final approval to any Plans. She agreed it would be beneficial to include a Planning Commission Member, if the Planning Commission wanted to participate.

Member Golden suggested the current Candidate Questionnaires on file with the City be reviewed for potential membership. Mr. Delacourt stated those Questionnaires had been reviewed and the Candidates with a suitable background would be included for potential membership.

Member Hill stated she felt a seven (7) member Board would be appropriate, and suggested a banker or other financial representative be included. She also felt members from the School Districts should be included, if the Board membership was set at nine (9) members. She indicated if the membership of the Board was comprised of residents, there would be no need for a designated citizen representative. She did not feel it was necessary to include Departmental members because the various Departments would be involved in reviewing the proposed plans.

President Dalton stated he would like to have a Council Member included on the Board, noting Council Members participate on other Boards and Commissions. He noted a pattern had been set to include Council participation on the various Boards and Commissions, which was a conduit to keep Council informed. He felt including a citizen representative was a good idea because it would allow a resident who cared about the City to become involved and provide input on behalf of the residents.

President Dalton asked whether Council Members had any additional comments about the number of members on the BRA Board.

Member Duistermars stated he would like to have a Council presence on the Board because it provided that Board with the Council perspective. He noted a Council presence was present on many Boards and Commissions within the City. He stated he believed it should be a nine (9) member Board, and should include a citizen representative to provide the citizen perspective.

Member Golden suggested an architect/designer would have a sense of economic development and the current market. Mr. Delacourt agreed all interested candidates would be considered, noting some education would have to be provided the Board Members about the BRA process. He noted the Members would receive plenty of good input from the various Departments as the proposed plans are reviewed.

President Dalton called for additional questions or comments. Hearing none, he stated the item would be scheduled for the October 23, 2002 Regular Meeting Agenda, noting the Public Hearing would also be held during that meeting. He indicated the size of the Board would be decided at that meeting.

Mr. Anzek suggested Council Members refer any interested residents to the Planning Department and submit a Candidate Questionnaire. Member Hill questioned whether information about the BRA Board had been posted on the City's Cable Channel or in the newspaper. Mr. Anzek stated the information had been carried on the cable channel. Mr. Delacourt stated the information had been posted at the Library. Mr. Anzek indicated the Eccentric would be contacted.

President Dalton thanked Mr. Anzek and Mr. Delacourt for bringing the information about the BRA to Council while the opportunity was available to act on the matter before the law

changed.

- 1 City Council Regular Meeting 10/23/2002 Postponed  
Notes: (i) Public Hearing

President Dalton **opened** the Public Hearing at 9:20 PM.

**Lee Zendel, 1575 Dutton Road**, stated he was surprised to learn there are Fifteen Hundred (1,500) acres in this Community that qualify for Brownfield Redevelopment. He noted that was an area that could roughly be described as Rochester Road to Livernois, Avon Road almost to Wabash, or approximately Two and one-half (2-1/2) square miles. He noted some properties were very small pieces that would probably never be redeveloped; however, there was still a large amount of land that contributes nothing to the City and does not provide any jobs in the City. He felt the Brownfield Redevelopment Authority was something the City needed.

There being no further individuals wishing to speak, President Dalton **closed** the Public Hearing at 9:22 PM.

Agenda Item **13b(ii)** (Adoption of a proposed resolution establishing a Brownfield Redevelopment Authority) was removed at the beginning of this Meeting and will be re-scheduled for a future City Council Meeting.

- 1 City Council Work Session 11/06/2002 Discussed

Notes: President Dalton stated this matter had been discussed at a prior Work Session, noting the only issue left was to determine the number of members making up the Brownfield Redevelopment Authority Board. He indicated, if Council agreed, that decision would be made at the November 13, 2002 Regular City Council Meeting.

- 1 City Council Regular Meeting 11/13/2002 Adopted by Resolution Pass

Notes: President Dalton stated Council Members had previously discussed the establishment of a Brownfield Redevelopment Authority; however, no decision had been made regarding the size of the Board and the makeup of its membership. He explained it had been determined a seven (7) member Board would be sufficient, with the Mayor making five (5) of the appointments, with the remaining members being either Council Members or one (1) Council Member and one (1) Planning Commission Member.

Member Robbins suggested the appointment of a Council Member should be postponed until the December 4, 2002 Regular City Council Meeting, which is the meeting when all other Council appointments would be made.

President Dalton agreed the nomination could be made at the December 4, 2002 Meeting; however, Council would first have to agree that one (1) position on the Board would be a Council Member.

Member Hill questioned whether Council was in agreement regarding a Council Member holding a position on the Brownfield Redevelopment Authority (BRA) Board, and whether Council was in agreement the size of the Board should be seven (7) Members.

President Dalton explained Council would decide the number at this meeting, although it appeared seven (7) was the number agreeable to Council and City Staff.

Member Hill stated she questioned whether it was necessary for a Council Member to be part of the BRA Board. She suggested the BRA Board should be an apolitical board; noting the

number of residents who had applied, the number of meetings Council Members currently are required to attend, as well as the fact Council would have the final decision in passing a BRA Plan.

Member Golden stated she agreed Council Members were currently spread too thin, and agreed the Board should consist of all residents.

Member Duistermars stated having a Council Member sitting on the Planning Commission and Zoning Board of Appeals provided those Boards with the original intent of the Ordinance, issues, topics and policies of the City. He indicated he felt having a Council Member and a Planning Commission Member on the BRA Board would provide that Board with those same qualifications. He stated he would be willing to serve on the BRA Board because he felt it would have great impact on the Community by helping to clean up some environmental areas.

President Dalton stated he concurred with Member Duistermars that there would be a great benefit in having a Council Member representative on the BRA Board. He indicated he felt it was also important the Planning Commission be involved as well. He stated he would also be willing to serve on that Board.

Member Holder stated the Boards and Commissions provided a great learning experience for Council Members. She agreed it was a good idea to have a Council Member representative on the BRA Board.

Member Robbins agreed Council Members did serve on a number of Committees; however, many of those Committees were not as important to the future development of the City. He stated just as Council needed to be involved in the Zoning Rewrite, Council should be involved in the BRA Board. He stated he would move a motion establishing the Board with the five (5) appointments made by the Mayor and including one (1) City Council Member and one (1) Planning Commission Member. Member Holder supported that motion.

Member Hill clarified the Board would consist of the five (5) residents proposed in the Mayor's November 8, 2002 Memorandum, one (1) City Council Member, and one (1) Planning Commission Member of the Mayor's choice.

President Dalton clarified City Council was not making the appointments to the BRA Board, but could confirm the Mayor's five (5) resident appointments. He noted the terms had not been established at this point.

President Dalton suggested the first (1st) motion should set the size of the Board at seven (7) members consisting of five (5) residents appointments made by the Mayor, and one (1) City Council Member and one (1) Planning Commission Member. He indicated a second (2nd) motion could confirm the Mayor's five (5) resident appointments.

Member Hill clarified the Mayor would also appoint the City Council and Planning Commission representatives, with Council confirming those appointments as well.

Attorney Staran stated it was the Mayor's intention to appoint a City Council Member and a Planning Commission Member to the BRA Board; however, she would defer the selection of those representatives to City Council.

Member Hill clarified the first (1st) motion would set the size of the Board at five (5) resident appointments made by the Mayor, and one (1) City Council representative and one (1) Planning Commission representative. President Dalton confirmed a second (2nd) motion would confirm the resident appointments made by the Mayor.

President Dalton clarified the motion on the floor was to establish a seven (7) member Brownfield Redevelopment Authority Board consisting of five (5) residents; one (1) City

Council representative and one (1) Planning Commission representative.

Aye: Barnett, Duistermars, Dalton, Holder and Robbins  
Nay: Hill and Golden

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### Text of Legislative File 2002-0406

..Title

**Adoption of Resolution Establishment of a Brownfield Redevelopment Authority** in accordance with the provisions of the Brownfield Redevelopment Financing Act 831 of the Public Acts of the State of Michigan of 1996

..Body

**Whereas**, the Rochester Hills City Council, by Resolution adopted on September 18, 2002 (the "Resolution of Intent"), determined that it is in the best interests of the public to facilitate the implementation of plans relating to the identification and treatment of environmentally distressed areas so as to promote revitalization in the City of Rochester Hills, and declared its intention to provide for the operation of a Brownfield Redevelopment Authority for the City of Rochester Hills (the "Authority") pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"); and

**Whereas**, on this date, pursuant to and in accordance with the Act and the Resolution of Intent, the City Council held a Public Hearing, notice of which was given as required by Section 4(2) of the Act, on the adoption of a proposed resolution creating the Authority; and

**Whereas**, all citizens, taxpayers and property owners of the City of Rochester Hills and Officials of the affected taxing jurisdictions had the right and opportunity to be heard at the Public Hearing on the establishment of the Authority; and

**Whereas**, the City Council desires to proceed with the establishment of the Authority pursuant to and in accordance with the Act.

#### **Now Therefore Be It Resolved That:**

1. Authority Created. Pursuant to the authority vested in the City Council by the Act, the Authority is hereby established and shall be known as the City of Rochester Hills Brownfield Redevelopment Authority.
2. Supervision of the Authority. The Authority shall be under the supervision and control of a board (the "Board") who shall be appointed by the Mayor, subject to the approval of the City Council, in accordance with the membership provisions set forth in Section 5(1) of the Act. The members of the Board shall hold office, and the Board shall conduct its procedures in accordance with the Act, and, in particular, Section 5 thereof. The Board shall consist of Five (5) Citizen Representatives, appointed by the Mayor and confirmed by City Council; one (1) City Council Representative, appointed by City Council; and one (1) Planning Commission Representative, appointed by City Council.

The initial terms shall be as follows:

Three (3) Citizen Representatives - Three (3) Years  
Two (2) Citizen Representatives - Two (2) Years  
One (1) City Council Representative - One (1) Year  
One (1) Planning Commission Representative - One (1) Year

3. Powers and Duties of the Authority. The Authority shall have the powers and duties to the full extent as allowed and provided by and in accordance with the Act. Among such powers, the Board may implement one or more Brownfield plans pursuant to Section 13 of the Act and submit the plan(s) to the City Council for consideration pursuant to Section 14 of the Act.
4. Bylaws and Rules of the Authority. The Board members shall elect one of their membership as Chairperson and another as Vice Chairperson. The members may designate and elect other officers as they consider necessary and shall adopt bylaws and rules governing the Board's procedures and the holding of its meetings, all in accordance with Sections 5(3) and 5(5) of the Act, and shall immediately forward a copy of the Bylaws and Rules after adoption by the Board to the City Council in care of the City Clerk of the City of Rochester Hills (the "City Clerk"). The Board's Bylaws and Rules shall be subject to the approval of the City Council.
5. Director's Bond. In the event the Board elects to employ a Director as authorized by Section 6(1) of the Act, the Director shall not be required to post a bond.
6. Form of approvals by City Council of the City of Rochester Hills. Except as may otherwise be provided by the Act or other applicable law, approvals or actions by the City Council pertaining to the Authority or its Board shall be by resolution.
7. Severability. Should any section, clause or phrase of this Resolution be declared by the Courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.
8. Repeals. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.
9. Publication. The City Clerk is hereby directed to file a true and complete copy for all required documents with the Secretary of State of the State of Michigan promptly after adoption and to take all other actions incidental to such adoption pursuant to applicable charter or other provisions.