



Rochester Hills Minutes City Council Regular Meeting

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*Melinda Hill, Bryan K. Barnett, John L. Dalton, Jim Duistermars,
Barbara L. Holder, Linda Raschke, Gerald Robbins*

Wednesday, July 6, 2005

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Hill called the Regular Rochester Hills City Council Meeting to order at 7:31 p.m. Michigan Time.

ROLL CALL

Present: Melinda Hill, Bryan Barnett, Jim Duistermars, Linda Raschke and Gerald Robbins

Absent: John Dalton and Barbara Holder

Others Present:

*Pat Somerville, Mayor
John Staran, City Attorney
Jane Leslie, City Clerk
Ed Anzek, Director of Planning/Development
Derek Delacourt, Planner III
Deborah Millhouse, Deputy Director of Planning/Development
Roger Rousse, Director of DPS/Engineering*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Resolved that the Rochester Hills City Council amends the agenda for the July 6, 2005 Regular City Council meeting to Add under UNFINISHED BUSINESS Item Number 2005-0466 - Acceptance of Amendment to Declaration of Restrictions and Easements for Falcon Estates Subdivision No. 4.

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

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

PUBLIC COMMENT

Ms. Debbie Geen, 3128 Walton Boulevard, Chairperson of the Residential Vision Committee, cited the "results of a city survey" that indicated a majority of residents oppose commercial and big box development in the City, preferring single-family development on large lots. She claimed Council had "blatantly and erroneously shunned" their responsibilities by approving the "Wal-Mart Supercenter megastore on

the other side of Hamlin Road south of M59." She stated that she and her committee expect that Council will "remain firmly resolved in your efforts to protect and preserve the residential zoning of the northeast corner of Hamlin and Adams." Ms. Geen, with regard to what she termed "the four tax increase proposals on the November ballot" shared feedback from conversations she had had with City residents. She stressed that four proposals on one ballot will be confusing to voters, few voters have heard of or understand the term graduated tax, and, should the local streets millage pass, many voters are curious as to the priority for road maintenance and reconstruction over the next ten years.

Ms. Deanna Hilbert, 3234 Quail Ridge Circle, referencing her letter that had been read into the record at a previous Council meeting, noted that she opposes the City allowing REI to develop a detention basin on park property and believes that the issue should be put to a vote of the people.

Ms. Jacqueline Zetye, 937 Wilwood, indicating that she had appeared before the Zoning Board of Appeals (ZBA) to request a land division for her property and was denied, requested Council's assistance in this zoning matter.

President Hill explained that Council has "no power to change a Zoning Board decision," however, she suggested that the City Attorney address the matter.

City Attorney John Staran confirmed President Hill's assertion that Council cannot overturn a ZBA decision, however, he suggested that the City administration could review any relevant issues that may not have been considered by the ZBA.

LEGISLATIVE & ADMINISTRATIVE COMMENTS

Mr. Barnett praised the Festival of the Hills fireworks Fourth of July celebration and all those who participated.

Mr. Duistermars echoed Mr. Barnett's comments regarding the fireworks celebration and specifically praised the volunteers who helped with the event. In response to Ms. Hilbert's comments, he stressed that the detention basin planned for Riverbend Park will benefit the entire community, as it will improve the runoff water as it proceeds to the Clinton River.

Mr. Robbins thanked Mayor Somerville, the volunteers and the sponsors of the Festival of the Hills.

Mayor Somerville thanked the sponsors of the Festival of the Hills and noted that it is classified as the second largest event of its kind in the State.

President Hill explained that there are only three proposals for the Primary Election ballot and the proposed local streets millage issue has not yet been approved for the November General Election.

ATTORNEY MATTERS

City Attorney John Staran had nothing to report.

PRESENTATIONS

2005-0455 Recognition of National Recreation and Parks Month

Attachments: Agenda Summary.pdf; Proclamation.pdf

Mayor Somerville read the proclamation.

Whereas, parks, recreation activities, and leisure experiences provide opportunities for young people to live, grow and develop into contributing members of society; and

Whereas, parks and recreation creates lifelines and continued life experiences for older members of our community; and

Whereas, parks provide opportunities for people to come together and experience a sense of community through fun recreational pursuits; and

Whereas, parks, playgrounds, nature trails, open spaces, community and cultural centers, and historic sites make communities attractive and desirable places to live, work, play and visit, in a manner that contributes to our ongoing economic vitality.

Now, Therefore, Be It Resolved that the Mayor and City Council of Rochester Hills proudly proclaim July as Recreation and Parks Month, and encourage all citizens to celebrate healthy, active lifestyles by participating in their choice of recreation and park activities.

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.

2005-0419 Approval of Minutes - Work Session City Council Meeting - February 23, 2005

Attachments: Min CC WS 022305.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Rochester Hills City Council Work Session Meeting held on February 23, 2005 be approved as presented.

Enactment No: RES0206-2005

2005-0423 Approval of Minutes - Regular City Council Meeting - March 2, 2005

Attachments: Min CC 030205.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on March 2, 2005 be approved as presented.

Enactment No: RES0207-2005

2005-0422 Approval of Minutes - City Council Work Session Meeting - March 9, 2005

Attachments: Min CC 030905.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Rochester Hills City Council Work Session Meeting held on March 9, 2005 be approved as presented.

Enactment No: RES0208-2005

2005-0454 Approval of Minutes - Regular City Council Meeting - March 16, 2005

Attachments: Min CC 031605.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on March 16, 2005 be approved as presented.

Enactment No: RES0209-2005

2005-0420

Request for Purchase Authorization - DPS: Water service and repair parts, blanket purchase order in the amount not-to-exceed \$60,000.00; Etna Supply Company of Grand Rapids, MI

Attachments: Agenda Summary.pdf; Letter of Renewal.pdf; Market Research.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, sealed bids for water service and repair parts were solicited and awarded to Etna Supply Company as the lowest responsive, responsible bidder; and

Whereas, the contract with Etna Supply Company offers value to the City through price and the quality of service; and

Whereas, the City wishes to extend its contract through August 1, 2006.

Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Etna Supply Company, of Grand Rapids, Michigan, for the purchase of water service and repair parts, in the amount not-to-exceed \$60,000.00 through August 1, 2006.

Enactment No: RES0210-2005

2005-0451

Adoption of Resolution of Opposition - Senate Bill 522 to Amend Public Act 368 of 1925, which governs highway obstructions and encroachments

Attachments: Agenda Summary.pdf; SB 522 Analysis.pdf; SB 0522.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, passage of Michigan Senate Bill (SB) 522 would prevent local governments from having any say on whether any utilities are sited within the rights of ways of limited access highways running through their jurisdictions; and

Whereas, passage of SB 522 would reverse the Michigan Supreme Court decision affirming local control in such matters, effectively shifting local authority to oil and utility companies; and

Whereas, local officials have the primary responsibility and obligation to protect the health, safety and welfare of citizens in their communities.

Be It Resolved that the Rochester Hills City Council hereby Opposes Michigan Senate Bill 522 to Amend Public Act 368 of 1925, which governs highway obstructions and encroachments, wherein the bill specifies that a utility may enter upon, construct, and maintain longitudinally within a limited access highway right-of-way, and would allow utility lines and structures under any public road that intersected a limited access highway at a different grade. The bill further states that the utility would not have to obtain the consent of the governing body of the city, village, or township.

Be It Further Resolved that the City of Rochester Hills requests that Michigan Governor Jennifer Granholm veto Michigan Senate Bill 522.

Enactment No: RES0211-2005

2005-0452

Adoption of Resolution of Opposition - Elimination of local government involvement in telecommunications included in the rewrite of the Michigan Telecommunications Act

Attachments: Agenda Summary.pdf; Alert: MTA Rewrite.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, the Michigan Senate Technology & Energy Committee is in the process of rewriting the Michigan Telecommunications Act which could potentially eliminate local government involvement in telecommunications affecting cable service, wireless communications and the possible elimination of local cable franchise fees.

Be It Resolved that the Rochester Hills City Council hereby opposes any elimination of local government involvement in telecommunications affecting cable service, wireless communications and the possible elimination of local cable franchise fees that may be incorporated into the current rewrite of the Michigan Telecommunications Act.

Be It Further Resolved that copies of this Resolution of Opposition be conveyed to the appropriate elected and appointed officials of the State government.

Enactment No: RES0212-2005

Passed The Consent Agenda

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

Aye: Hill, Barnett, Duisternars, Raschke and Robbins

Absent: Dalton and Holder

ORDINANCE FOR INTRODUCTION

2005-0192

Acceptance for First Reading - An amendment to Chapter 138 of the Code of Ordinances of the City of Rochester Hills to conditionally rezone nine parcels of land totaling approximately 25 acres from R-3, One Family Residential, to RM-1, Multiple Family Residential, City File No. 04-037, located north of School Road and east of John R, known as Parcel Nos. 15-24-100-019; 15-24-100-018; 15-24-100-029; 15-24-100-028; 15-24-100-040; 15-24-100-037; 15-24-100-038; 15-24-100-009 and 15-24-100-010, Metropolitan Property Management, Inc., applicant

Attachments: Agenda Summary.pdf; Map aerial.pdf; Report Staff 20050607.pdf; Dev Agreement.pdf; Dev Agreement Addendum.pdf; Resolution.pdf

Mr. Derek Delacourt, Planner III, explained that the applicant had originally approached the Planning Commission for a standard rezoning request from R-3 (single-family residential) to RM-1 (multiple-family residential). Following concerns raised by the Planning Commission regarding RM-1 zoning, the applicant withdrew the original request and returned with a request for a conditional rezoning that would contractually obligate the developer to build

only attached single-family condominium units at no greater than six units per acre density. Mr. Delacourt stressed that this is "quite a bit more restrictive than RM-1 would allow." However, this resubmittal resulted in a Planning Commission recommendation for denial.

Mr. Gregory Cueter, President of Metropolitan Property Management, Inc., 42850 Schoenherr Road, Sterling Heights, discussed the various uses surrounding the property in question, which includes primarily residential with some industrial uses to the north and a landfill to the east. He cited the City's Master Land Use Plan to show the need for this type of housing. He also referenced a study conducted for the City by an outside consultant noting anticipated reductions in household size over the next fifteen years, thus increasing the need for condominiums. Mr. Cueter further noted that a condominium development would have a minimal impact on City services, as many services such as snow removal are handled privately. A further benefit of condominium complexes is that home maintenance is typically held to a higher standard than single-family neighborhoods.

PUBLIC COMMENT:

President Hill read a letter into the record:

* **Mr. William Caravas**, 59 Eureka Street, San Francisco, California, indicated that his property would be purchased for this development and he supported the project, noting that "it is time for this type of development" in the City.

Ms. Suzanne White, 1598 Parke, expressed her opposition to the rezoning describing it as putting a "round peg in a square hole."

Ms. Linda Schattmaier, 1271 John R, stated her opposition to the rezoning, noting that the Planning Commission did not recommend denial due to the type of development, but rather based on the proposed location.

COUNCIL DISCUSSION:

Mr. John Staran, City Attorney, clarified that under conditional zoning an agreement is signed wherein the developer agrees to a specific plan within that zoning designation and has a specified period of time within which to meet that commitment. Should that time frame expire prior to project completion, the contract would terminate and the property would revert back to its original zoning designation.

Mr. Barnett questioned why the Planned Unit Development (PUD) process was not considered for this matter.

Mr. Delacourt explained that the conditions for the site were very simple, thus there was no need to go through the PUD process. However, he noted that the difficulty of pursuing a conditional rezoning is in the "newness of the process." Mr. Delacourt acknowledged that both processes would work. The difference between the processes is that, with a PUD agreement the applicant is requesting flexibility from requirements. In this case, the applicant has indicated that they are willing to limit their development to the restrictions already identified in RM-1 zoning.

Mr. Cueter noted that the City requires a transitional buffer between industrial and landfill and single-family residential, which this proposed development would provide.

Council consensus was that, while there may be a need in the community for this type of development, the location was not appropriate.

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

Resolved that an Ordinance to Amend Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills to conditionally rezone approximately 25 acres, identified as Parcel Nos. 15-24-100-009, -010, -018, -019, -028, -029, -037, -038 and -040 from R-3, One Family Residential to RM-1, Multiple Family Residential, for Metropolitan Property Management, Inc., is hereby denied.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars and Robbins

Nay: Raschke

Absent: Dalton and Holder

Enactment No: RES0213-2005

2005-0417

Amendment to Motion for Acceptance First Reading - An Ordinance to Amend Section 94-143 of Chapter 94, Streets, Sidewalks and Certain Other Places, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to replace the time required for notice and compliance with notice to a property owner to repair a sidewalk or remove an encroachment from a sidewalk, to repeal conflicting ordinances and prescribe a penalty for violations

Attachments: Agenda Summary.pdf; Corrected Ordinance Sec 94-143[1].pdf; Agenda Summary First Reading.pdf; Sidewalk Sec 94 143.pdf; First Reading Resolution.pdf; 0417 Resolution.pdf

Mr. Roger Rousse, Director of DPS/Engineering, explained that the ordinance amendment before Council sought to accelerate the sidewalk replacement program at the recommendation of the City's risk management firm. The plan calls for sidewalk inspections immediately following the spring ice melt with repairs anticipated for the months of March and April. In an effort to replace unsafe sidewalks in a more timely fashion, DPS is requesting that the time frame for resident compliance for repairs be shortened to 30 days.

Council members expressed concern that 30 days was not an adequate amount of time for residents to address the matter and suggested a 45-day time frame.

While Mr. Rousse indicated that his department would "demonstrate some common sense and some flexibility" with regards to residents' efforts to meet the 30-day deadline, President Hill expressed her belief that setting an ordinance and then assuming leniency can be "very problematic."

Council consensus was to amend the proposed ordinance to allow 45 days notice for resident compliance.

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

Resolved that the Rochester Hills City Council direct the City Attorney to amend the proposed Ordinance Amendment for Section 94-143 of Chapter 94, Streets, Sidewalks and Certain Other Places, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to replace the time required for notice and compliance with notice to a property owner to repair a sidewalk or remove an encroachment from a sidewalk from thirty (30) days to forty-five (45) days.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Attachments: Agenda Summary.pdf; Corrected Ordinance Sec 94-143[1].pdf; Agenda Summary First Reading.pdf; Sidewalk Sec 94 143.pdf; First Reading Resolution.pdf; 0417 Resolution.pdf

A motion was made by Robbins, seconded by Duistermars, that this matter be Accepted for First Reading by Resolution.

Resolved that an Ordinance to Amend Section 94-143 of Chapter 94, Streets, Sidewalks and Certain Other Places, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to replace the time required for notice and compliance with notice to a property owner to repair a sidewalk or remove an encroachment from a sidewalk, to repeal conflicting ordinances and prescribe a penalty for violations, is hereby accepted for First Reading.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

(Recess 9:18 p.m. - 9:34 p.m.)

ORDINANCE FOR ADOPTION

2005-0421 Acceptance for Second Reading and Adoption - An Ordinance to Amend Section 118-98 of Chapter 118, Historical Preservation, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify the Noncontiguous Historic Districts listing concerning Rochester College, repeal conflicting or inconsistent ordinances, and to prescribe a penalty for violations

Attachments: Agenda Summary.pdf; Revised Ordinance Amendment.pdf; 062205 Agenda Summary.pdf; Ordinance Amendment .pdf; Resolution 1st Rdg.pdf; Resolution2ndRdg.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 118-98 of Chapter 118, Historical Preservation, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify the Noncontiguous Historic Districts listing concerning Rochester College, repeal conflicting or inconsistent ordinances, and to prescribe a penalty for violations is hereby accepted for second reading and adoption and shall become effective on Friday, July 15, 2005 the day following its publication in the Rochester Eccentric on Thursday, July 14, 2005.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0214-2005

UNFINISHED BUSINESS**2005-0200**

Confirmation of Mayor's Appointment of Gerard Dettloff to a three (3) year term on the Planning Commission, term to expire on March 31, 2008

Attachments: Agenda Summary.pdf; 031605 Agenda Summary.pdf; Dettloff Questionnaire.pdf; email Raffler 033105.pdf; Resolution.pdf

President Hill removed this item from consideration at the request of Mayor Somerville.

Postponed

2005-0263

Traffic Control Order No. PK-84 for Nawakwa and Hickory Lawn located within Avon Croft Subdivision, Section #34: No Parking between the hours of 5:00 p.m. and 2:00 a.m. within the right-of-way of both sides of Nawakwa, from Shadywood to Rochester and No Parking between the hours of 5:00 p.m. and 2:00 a.m. within the right-of-way of both sides of Hickory Lawn, from Rochester to a point four hundred thirty (430) feet westerly thereof

Attachments: Agenda Summary.pdf; Memo, Shumejko re TCO PK-84.1.pdf; Min ATSB 041205.pdf; Corrected TCO.pdf; Map, aerial.pdf; Traffic Summary.pdf; First Proposed Resolution.pdf; Original TCO.pdf; Resolution.pdf

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

Whereas, Traffic Control Order No. PK-84 has been issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98, Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

PK-84.1 No Parking between the hours of 5:00 p.m. and 2:00 a.m. within the right-of-way of both sides of Nawakwa, from Shadywood to Rochester.

PK-84.2 No Parking between the hours of 5:00 p.m. and 2:00 a.m. within the right-of-way of both sides of Hickory Lawn, from Rochester to a point four hundred thirty (430) feet westerly thereof.

Whereas, said Traffic Control Order shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Order and recommends that the Order be approved.

Resolved that the Rochester Hills City Council approves of the issuance of Traffic Control Order PK-84 to be in effect until rescinded or superseded by subsequent order; and

Now, Therefore, Be It Resolved that a certified copy of this Resolution be filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0215-2005

2005-0312

Request to Schedule a Public Hearing on Wednesday, July 20, 2005 at 7:30 p.m. regarding Oil and Gas Lease for property in Sections 24 and 25 - Energy Quest, LLC, applicant

Attachments: Agenda Summary.pdf; Public Hearing Notice.pdf; 070605 Agenda Summary.pdf; 051805 Agenda Summary.pdf; Energy Quest Oil Gas Lease1.pdf; Memo Casey 20050426.pdf; Resolution to Set Public Hearing.pdf; 0312 Resolution.pdf; Final Signed Lease.pdf

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

Whereas, at the June 1, 2005 Regular Meeting of City Council, the Council directed the Clerk's Office and staff to schedule a Public Hearing in July, 2005, regarding the request by Energy Quest, LLC to lease oil and gas rights on City property for the exploration and mining thereof.

Resolved that the Rochester Hills City Council hereby schedules a Public Hearing for the Regular Meeting of City Council on July 20, 2005, at the Rochester Hills Municipal Offices at 1000 Rochester Hills Drive in the City of Rochester Hills.

Be It Further Resolved that the City Clerk is directed to provide the appropriate Notice of the Public Hearing in the Rochester Eccentric newspaper.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

2005-0453

Request to Schedule a Public Hearing on Wednesday, July 20, 2005 at 7:30 p.m. regarding the establishment of an Industrial Development District (IDD) at 3098 Research Drive, BMD Group, Inc., applicant (also known as E-Motive)

Attachments: Agenda Summary.pdf; 072005 Agenda Summary.pdf; Public Hearing Notice.pdf; 070605 Agenda summary.pdf; Resolution to Set Public Hearing.pdf; 0453 Resolution.pdf

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

Resolved the Rochester Hills City Council hereby schedules a public hearing at the Regular Meeting of Council on Wednesday, July 20, 2005 at 7:30 p.m. to be held at the Rochester Municipal Offices, 1000 Rochester Hills Drive, Rochester Hills, Michigan, to consider the establishment of an Industrial Development District at 3098 Research Drive, further described as:

A parcel of land part of Lot 32 of the "Rochester Hills Executive Park" part of the southeast ¼ of Section 29 and the southeast ¼ of Section 30, T.3 N., R.11 E., City of Rochester Hills, Oakland County, Michigan, according to the plat thereof recorded in Liber 199 of plates, Pages 26,27,28,29 and 30, Oakland County Records, being more particularly described as:

Beginning at the northwest corner of said Lot 32; thence along the southerly right-of-way line of Research Drive (70 feet wide) the following two (2) courses: (1) N 85°57'25" E., 50.00 feet; and (2) 105.38 feet along the arc of a curve to the left (radius 358.23 feet, central angle 16°51'17" long chord bears N 77°31'46" E., 105.00 Feet); thence 51.16 feet along the arc of a curve to the right (radius 212.50 feet, central angle 13°47'41", long chord bears S 10°56'25" E., 51.04 feet); thence S 04°02'35" E., thence S 85°57'25" W., 160.00 feet along the southerly line of said Lot 32 to a point on the easterly line of Technology Drive (70 feet wide) said point also being the southwest corner of said Lot 32; thence N 04°02'35" W., 292.85 feet along the easterly right-of-way line of said Technology Drive to the point of beginning. Containing 47,376 square feet or 1.087 acres and subject to easements and restrictions of record.

Be It Further Resolved that the City Clerk is directed to provide the appropriate Notice of the Public Hearing in the Rochester Eccentric newspaper.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

2005-0425

Request to Schedule a Public Hearing on Wednesday, July 20, 2005 at 7:30 p.m. regarding the application for an industrial facilities exemption certificate, BMD Group, Inc., applicant (also known as E-Motive)

Attachments: Agenda Summary V6.pdf; Financial Calc.pdf; 072005 Agenda Summary.pdf; Public Hearing Notice.pdf; 070605 Agenda Summary V3.pdf; 061505 Agenda Summary.pdf; Letter GDC-EMotive 20050606.pdf; application-EMotive.pdf; legal desc-EMotive.pdf; Project Costs EMoti

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

Resolved that the Rochester Hills City Council hereby schedules a public hearing to consider an application by BMD Group, Inc., also known as E-Motive, for an Industrial Facilities Exemption Certificate for real and personal property to be located at 3098 Research Drive at the Regular Meeting of Council on July 20, 2005.

Be It Further Resolved to direct the City Clerk to notice the taxing jurisdictions and City Assessor of the public hearing by certified mail.

Be It Further Resolved that the City Clerk is directed to provide the appropriate Notice of the Public Hearing in the Rochester Eccentric newspaper.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

2005-0255

Update Regarding ICCA/CMN

Attachments: Agenda Summary V-3.pdf; 060905 ICCA Meeting Summary.pdf; 040605 Agenda Summary.pdf; CMN Information.pdf; Supplemental information.pdf; Ltr Anzek CMN.pdf; 040105 Master Report.pdf

Mr. Ed Anzek, Director of Planning/Development, explained that he was appearing before Council to request direction as to the City's funding level for Community Media Network (CMN) through the Intergovernmental Cable Communication Authority (ICCA). He indicated that he and Mr. Jason Dale, the City's representative on the ICCA Board, had attended an ICCA meeting on June 9th to discuss the contract with CMN and CMN's bylaws. No consensus was reached among the eleven ICCA communities, with several communities indicating their intent to withhold funding from CMN. Mr. Anzek stressed that the primary issue for consideration is CMN's fund balance, which stands at approximately \$360,000. Mr. Anzek explained that CMN had recently submitted a proposal for their services indicating that they required an annual budget of \$325,000. ICCA members questioned the need for such a high fund balance. Mr. Anzek noted that CMN plans to spend down this fund balance over a three-year period by purchasing equipment that appears to be unnecessary and is incompatible with those ICCA communities who also provide government access programming.

Mr. Barnett, while acknowledging CMN's efforts to correct the mismanagement problems from their past, questioned whether Rochester Hills is "getting what we're paying for?" He stressed that it is not a matter of the worthiness of public access television, but whether it is a priority during difficult economic times and in light of an average of only seven users from the City. Mr. Barnett moved a resolution to provide zero funding to CMN for the year 2005 and that the matter be reviewed in 2006, providing CMN spends down their fund balance through a reduction in their scope of services.

Mr. Robbins disagreed with Mr. Barnett, noting that CMN is attempting to correct their previous errors and withholding funding would make it more difficult for them to comply with the requested changes.

Ms. Raschke and **Mr. Duistermars** both agreed with Mr. Barnett that the fund balance should be spent down before more City funds are expended. Ms. Raschke further questioned whether these same services could be provided by the City in cooperation with Oakland University.

Mr. Anzek did warn Council that if Rochester Hills withholds its funding, it could impact the level of participation of the City's representative on the CMN Board.

Ms. Hill agreed with Ms. Raschke that it would be beneficial to explore working with other communities to provide public access programming. She questioned CMN's high fund balance "when there's only a handful of people [from Rochester Hills] using the service."

Mr. Anzek stressed that the money comes from franchise fees and are earmarked for public, education and/or government (PEG) access television; it is not required that the funds be spent for public access. However, he indicted that City staff would need some time to explore the prospect of Rochester Hills working with other communities to provide public access programming in conjunction with Oakland University.

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

Whereas, the Public/Education/Government (PEG) funding received from cable companies is distributed at the sole discretion of the Rochester Hills City Council; and

Whereas, while the Rochester Hills City Council does support public access television, the Council feels that CMN should spend down their existing fund balance to a reasonable amount through a reduction in the scope of services.

Be It Resolved that the Rochester Hills City Council will provide no PEG funding to the Intergovernmental Cable Communications Authority (ICCA) for Public Access services (Community Media Network) for fiscal year 2005.

Be It Further Resolved that the PEG funding level will be reevaluated in fiscal year 2006.

The motion carried by the following vote:

Aye: Barnett, Duistermars and Raschke

Nay: Hill and Robbins

Absent: Dalton and Holder

Enactment No: RES0303-2005

NEW BUSINESS

2003-0085

Final Plat Approval - City File No. 87-847.4 - Falcon Estates Subdivision No. 4, a seven-lot subdivision located south of Tienken, west of Adams, zoned R-2, One Family Residential, known as Parcel No. 15-07-100-025, L & R Homes, applicant

Attachments: Agenda Summary.pdf; Map aerial.pdf; Final Plat.pdf; Letter Moore 20050605.pdf; email staran20050605.pdf; Resolution.pdf

Ms. Deborah Millhouse, Deputy Director of Planning/Development, explained that this request represented the final phase of the Falcon Estates subdivision and is consistent with the approved final preliminary plan. She further indicated that in 2000 Council had granted a sidewalk waiver, thus there are no sidewalks in this final phase of the development.

Mr. Lorenzo Randazzo, President of L&R Homes, Inc., 240 Walton Boulevard, stated that his company is anxious to start building the final phase of this development, as there is a great deal of demand for these seven properties.

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

Resolved that the Rochester Hills City Council hereby approves the Final Plat for Falcon Estates Subdivision No. 4, City File No. 87-847.4, a seven-lot subdivision located south of Tienken, west of Adams, subject to submittal of all required performance guarantees, fees and other requirements that must be met prior to release of the mylar. The affected property is zoned R-2, One Family Residential, and identified as Parcel No. 15-07-100-025.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0440-2004

2005-0426

Approval of the Amended Storm Water Retention System Agreement between L & R Homes and the City of Rochester Hills for the Falcon Estates Subdivision, for Parcel No. 15-07-100-025

Attachments: 0426 Agenda Summary.pdf; Amended Agreement.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby approves the Amended Storm Water Retention System Agreement, by L & R Homes, an agreement relative to the details of development and use, repair and maintenance of the Amended Storm Water Retention System Agreement, which includes Phases 2, 3, and 4 in the Agreement for the basin within Falcon Estates Subdivision No. 1, City File No. 87-847.4, affecting property identified as Parcel No. 15-07-100-025.

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

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0222-2005

2005-0466

Acceptance of Amendment to Declaration of Restrictions and Easements to include Falcon Estates Subdivision No. 4, located west of Adams, south of Tienken, L & R Homes, applicant.

Attachments: Agenda Summary.pdf; Decl. of Res, Easements.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby accepts the Amendment to Declaration of Restrictions and Easements for Falcon Estates Subdivision No. 1, No. 2, and No. 3, providing for the inclusion of Falcon Estates Subdivision No. 4. The affected property is zoned R-2, One-Family Residential, and identified as part of Parcel Number 15-07-100-025.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0220-2005

2005-0427

Request for Conditional Land Use - City File No. 87-882 - Request for seating area for outdoor sales and service of food and beverages for Tapper's Pub, located in the existing shopping center at the northwest corner of Auburn and John R, zoned B-2, General Business, known as Parcel No. 15-26-478-007, Shane LaRocca, applicant

Attachments: Agenda Summary.pdf; Mapaerial.pdf; Report Staff 060705.pdf; Site Plan.pdf; Resolution.pdf

Mr. Derek Delacourt, Planner III, explained that Tapper's Pub, a bar/restaurant at the northwest corner of John R and Auburn Road, has met the requirements necessary for the outdoor sale and service of food. He further noted that the Planning Commission has recommended approval of the request with conditions that the applicant has agreed to meet.

Mr. Shane LaRocca, Co-owner of Tapper's Pub, 877 East Auburn Road, was available to answer questions.

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

Resolved the Rochester Hills City Council hereby approves the Conditional Land Use request for the outdoor sale and service of food for Tapper's Pub, City file No. 87-882, located at 877 East Auburn Road, based on the site plans dated received by the Planning Department May 5, 2005 with the following findings:

Findings:

- 1. The existing development does promote the intent and purpose of this chapter.**
- 2. The subject site has been designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use, and the community as a whole.**
- 3. The subject site is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service.**
- 4. The subject site is not detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare.**
- 5. The subject site does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.**

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0221-2005

2005-0407

Request for Purchase Authorization - DPS: Blanket Purchase Order to Detroit Salt, Detroit, Michigan, as primary vendor and Morton Salt, Inc, Chicago, Illinois, as secondary vendor, for rock salt in the amount not-to-exceed \$140,703.75, as the lowest, responsive, responsible bid

Attachments: Agenda Summary.pdf; Historical Pricing.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council hereby authorizes a Blanket Purchase Order to Detroit Salt, Detroit, Michigan, as primary vendor, and Morton Salt, Inc., Chicago, Illinois, as secondary vendor, as the lowest, responsive, responsible bidder and a MITN cooperative purchase for the purchase of rock salt, in the amount not-to-exceed \$140,703.75 through June 30, 2006.

The motion carried by the following vote:

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0223-2005

2005-0429

Request for Purchase Authorization - DPS: Pathway Rehabilitation Project "2005", blanket purchase order not-to-exceed \$217,965.56; Pro-Line Asphalt Paving, Washington, MI

Attachments: Agenda Summary.pdf; Pathway Bid Tabs.pdf; 40B1-General Vicinity Map.pdf; Resolution.pdf

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

Resolved that the Rochester Hills City Council award the contract for the "2005" Pathway Rehabilitation Project to Pro-Line Asphalt Paving of Washington, Michigan, as the lowest responsive, responsible bidder in the amount of \$217,965.56 and authorize the Mayor and Clerk to execute a contract on behalf of the City.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0224-2005

COUNCIL COMMITTEE REPORTS

Community Development & Viability (CDV) Committee:

Mr. Barnett, Chairperson of the CDV Committee, noted that the Committee had nothing to bring forward to Council.

Leisure Activities Committee (LAC):

Mr. Duistermars, Chairperson of the LAC, stated that, due to a lack of agenda items, the June meeting was cancelled. He noted that the Committee will be discussing the Master Park Plan at the July meeting, which was being developed in conjunction with the City's Master Land Use Plan. Mr. Duistermars reminded residents that the ribbon cutting ceremony for the new bridge on the Clinton River Trail would take place Thursday, July 21st at 1:00 p.m.

President Hill suggested that a representative of the Trailways Commission be invited to a City Council meeting to provide an update of what the Commission has been discussing at their meetings over the past six months.

Mr. Duistermars concurred that it would be beneficial, as it could assist the LAC in determining what type of surface material would be best for the Clinton River Trail.

NOMINATIONS/APPOINTMENTS

2005-0388

Appointment of Citizen Representative to Financial Services Committee

Attachments: Agenda Summary.pdf; FS Nomination Form.pdf; Rea Candidate Questionnaire.pdf; Williams Candidate Questionnaire.pdf; 062205 Agenda Summary.pdf; Notice of Vacancy.pdf; Resolution.pdf

President Hill stated that there were two nominees for appointment to the Financial Services Committee: Mr. Jonathan Rea and Mr. Wayne Williams. She indicated that Mr. Williams was in the audience and provided him the opportunity to address the Council

Mr. Wayne Williams, 411 Willow Tree Lane, explained that he is a life long resident of Rochester Hills and wished to participate in his community.

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

Resolved that the Rochester Hills City Council appoints Wayne Williams to fill the vacancy created by Lee Zendel's resignation as a Citizen Representative on the Financial Services Committee to complete one (1) one-year term ending December 31, 2005.

The motion carried by the following vote:

Aye: Hill, Barnett, Duistermars, Raschke and Robbins

Absent: Dalton and Holder

Enactment No: RES0225-2005

ANY OTHER BUSINESS

President Hill described a resolution passed by Independence Township with regard to municipalities acquiring more control over liquor licenses and their removal from their communities. She inquired as to whether Council cared to pass a resolution to that effect.

Ms. Margaret Manz, Recording Secretary, reminded President Hill that Council had passed a similar resolution in April.

NEXT MEETING DATE

Regular Meeting - Wednesday, July 20, 2005 at 7:30 p.m.

ADJOURNMENT

There being no further business before Council, President Hill adjourned the meeting at 10:20 p.m.

MELINDA HILL, President
Rochester Hills City Council

JANE LESLIE, Clerk
City of Rochester Hills

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

Approved as presented at the October 19, 2005 Regular City Council Meeting.