



Rochester Hills Minutes City Council Special Meeting

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

Wednesday, February 11, 2004

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Dalton called the Special Rochester Hills City Council Meeting to order at 7:37 p.m. Michigan Time.

Present: Dalton, Holder, Barnett, Duistermars, Hill, Raschke and Robbins

ROLL CALL

Present: Dalton, Holder, Barnett, Duistermars, Hill, Raschke and Robbins

Others Present:

*Pat Somerville, Mayor
Bev Jasinski, City Clerk
John Staran, City Attorney
Ed Anzek, Director of Planning/Development
Scott Cope, Director of Building/Ordinance Enforcement
Paul Davis, City Engineer
Derek Delacourt, Planner II
Mike Hartner, Director of Parks & Forestry
Roger Moore, Professional Surveyor*

PUBLIC COMMENT

Mr. Lee Zendel, 1575 Dutton Road, using AT&T as an example, explained the concept of a business monopoly and its detrimental effects on a community, as an illustration of the threat posed by a single waste hauler.

Rev. Dr. Pamela Whateley, 1600 North Livernois, expressed her concern that the traffic lights servicing two (2) of the fire stations in the City do not appear to be functioning properly, thus posing a safety hazard to motorists.

Mr. Duistermars explained that this issue had been discussed at the previous Public Safety Committee meeting. He noted that the use of these traffic lights is dependent on the time of day and the amount of traffic on these particular roads, so as not to create a traffic jam at busy intersections.

PUBLIC HEARING - Opened at 9:20 p.m.; Closed at 10:45 p.m.

Proposed amendment to the Consent Judgment entered on July 28, 1981, Suburban Softball, Inc., v Rochester Hills concerning the proposed reclamation and redevelopment of the subject property

CITY STAFF PRESENTATION:

Mr. Ed Anzek, Director of Planning/Development introduced Mr. Derek Delacourt, Planner II, Mr. Mike Hartner, Director of Parks and Forestry, Mr. Paul Davis, City Engineer and Mr. Roger Moore, Professional Survey. Mr. Anzek and Mr. Delacourt then provided a brief overview of the project that included the following information:

- * The issue before Council is the revised Consent Judgment and is the first step in a long process.
- * Site plan review procedures will be approved by City Council and/or the Planning Commission.
- * Difficulties associated with Suburban Softball including environmental concerns and numerous ordinance violations.
- * REI came forward with a proposal to develop the land and remediate the landfill.
- * The proposed development is in accordance with the Master Plan "for the most part."
- * There is renewed interest in this area of the City due to the impending interchange at M-59 and Adams Road.
- * The Mayor established a Technical Committee to determine the appropriateness of the proposal consisting of representatives from City Council, the Planning Commission and the Brownfield Redevelopment Committee, which made the following determinations:
 - This is an ideal site for office space due to the impending interchange.
 - The appropriate square footage would be two (2) million square feet of office and commercial space, with retail limited to 500,000 square feet at the eastern portion of the site.
 - The height of the office building would be limited to ten (10) stories
- * The DEQ, initially opposed to any development due to the environmental issues, expressed renewed interest after being informed of the proposed remediation plans.
- * The applicant has used the City's environmental consultant (ASTI) at the request of the City, but at the applicant's expense.
- * Many developers were interested in the property, but not in remediating the environmental hazards.
- * There has been discussion with the Michigan DNR regarding realignment of the Clinton River Trail at the proposed site.
- * While a Public Hearing had been scheduled for February 4th and notices had been issued through all appropriate venues, the hearing was delayed one week to allow more time for the information to disseminate to all interested parties.

APPLICANT PRESENTATION:

Mr. Jon Weaver, Mr. Todd Fink and Mr. Richard Zanotti of Real Estate Interests Group, Inc. (REI), 40900 Woodward Avenue, Suite 130, Bloomfield Hills, Mr. Dale Watchowski, REDICO, 20500 Civic Center Drive, Southfield, and Mr. Trevor Woollatt, Applied Science & Technology, Inc. (ASTI) of Brighton, presented detailed information regarding the history of the land fill dating back to the late 1940s, noting the extent of the toxic hazards and the threat to the surrounding environment, in particular the Clinton River. Mr. Zanotti, after noting he has been a professional engineer for twenty-five (25) years, described some of the toxic hazards associated with this landfill:

- * Due to the age of the landfill, it does not meet modern standards for waste management.
- * There is an inadequate number of vents to accommodate the safe release of dangerous gasses.
- * The migration of the ground water that flows through the landfill's garbage, known as leachate, is moving toward the Clinton River and shows increased lead concentrations.

Mr. Weaver stressed that following REI's extensive research regarding this landfill, they are confident that they understand the problems posed by this landfill and are able to resolve them. He noted that, were this area not near the proposed M-59/Adams Road interchange, this toxic cleanup would be prohibitive.

Mr. Woollatt explained that ASTI, using borings and water monitoring wells, was able to determine the materials in the landfill and provide a baseline assessment. Their tests found such materials as metals, paints and batteries. Although he stated that no PCBs were detected, there is still the potential they could be found. Mr. Woollatt stressed that the danger at this site is the uncontrolled leachate moving through these landfill materials and picking up these contaminants. The plan, as proposed by REI, will capture this leachate and prevent it from impacting the surface water. In addition, the plan will provide an appropriate methane collection function. He stressed that, as ground water levels fluctuate seasonally, monitoring should be done seasonally.

Mr. Weaver described some of the improvements included in their proposal:

- * Removal of all trash.
- * Capping of the landfill.
- * Proper water discharge to appropriate sewers.
- * Redirection and augmentation of the trail.
- * Incorporation of the trail as part of the corporate campus.

Mr. Watchowski described other buildings REDICO had developed in various other cities, which included natural features such as walking trails. He stressed that the proposed development, while consisting of corporate offices and convenience retail, would be primarily neighborhood in nature. He affirmed that the proposed plan is market sustaining.

(Recess 8:51 p.m. - 9:16 p.m.)

Mr. Davis noted that a complete traffic control study had not yet been completed, as this is "too early in the process."

PUBLIC COMMENT:

President Dalton advised residents that they would be permitted to speak for three (3) minutes each and urged speakers to refrain from repeating comments voiced by previous speakers.

PUBLIC HEARING OPENED AT 9:20 P.M.

Ms. Alice Benbow, 1582 Northumberland Drive, stated that she does not believe any development should occur following the clean-up of this area. She questioned whether there were any interested tenants for this development, noting her concern regarding vacant space.

Mr. Michael Wayne, 2817 Eagle Drive, asked that the plan be revised to prohibit more than two (2) stories and no retail, stressing the increased in traffic and light pollution.

Mr. Karl Roehrig, 2053 Hickory Trail, stated he moved to Rochester Hills to avoid developments such as this. He asked that the City seek funds to clean up the landfill from the State or Federal government.

Mr. Doug Sieda, 3277 Quail Ridge Circle, questioned how this development would impact the residents in the area. He expressed particular concern for traffic issues.

Mr. Tom Talbert, 2875 Portage Trail, indicated that the consent judgement was not in the best interest of the City as it gave the developer a great deal of flexibility and leeway, while reducing the control and input of the City.

Ms. Shirley Lung, 3164 Greenspring, expressed her concern that the development

would exacerbate low water pressure problems in the area.

Mr. Bill Windscheif, 2872 River Trail, stated his opposition to constructing detention basins in nearby Riverbend Park for this proposed development.

Mr. Cong Wang, 2049 Mapleridge Road, noted his concern for increase traffic and a decrease in his property value.

Mr. John Geen, 3090 Kenwood Drive, questioned whether a "rational decision" could be made this evening without consideration of whether 500,000 square feet of retail space is supportable at this location.

Ms. Deb Banta, 1663 Riverside, stated that this development would negatively impact the "livelihood of the residents of Rochester Hills."

Ms. Bernadette Aaron, 1663 Riverside, indicated that this development "will diminish every aspect of why people move here," stating that her "biggest concern is property value."

Ms. Debbie Geen, 3090 Kenwood Drive, stated that she moved to Rochester Hills to "avoid the Southfield and Troy feeling," but rather for the views of the trees, rivers, etc., not ten story buildings.

Ms. Ruth Reading, 2945 Eagle Drive, President of the Pheasant Ring Home Owners Association, stated that the Association opposes this development and asked that the area be cleaned and maintained as green space.

Mr. John Strader, 3716 Sleepy Fox, concurred with all previous speakers who oppose the development.

Mr. Brad Kinker, 3274 Quail Ridge Circle, questioned why the landfill issue had not been addressed previously by the City and wondered what guarantees there would be that it would be addressed properly through this development.

Mr. Don Ruff, 3587 Huron Ridge, concurred with previous speakers who oppose the development.

Ms. Cindy Kinker, 3274 Quail Ridge, stressed that the traffic issue is a major factor and questioned how Council could consider such a development without a detailed traffic study.

Mr. Fred Straky, 1675 Riverside Drive, stated his opposition to the development, noting that the City and Council need to take into consideration all the proposed development for this area of the City.

Ms. Siegrid Stern, 1185 Concord, indicated that a high rise building will "destroy our landscape" and would be incongruous with the rest of the area. She expressed concern for decreased property value as a result of this development.

Mr. Peter Cirulis, 2079 Mapleridge Road, questioned where the "checks and balances" are within the consent judgement. He asked that the Council members who served on the Technical Committee remove themselves from the final vote.

Ms. Lynn Loeb, 2845 Portage Trail, stated there is no precedent for this type of development in the area, and expressed his disappointment with the lack of communication between the City and residents regarding this development.

Mr. Donald Haman, concurred with all previous speakers who oppose the development.

Mr. Gerard Gray, 755 Baylor Road, noted that the development is inconsistent with the rest of the community and questioned the traffic implications.

Mr. Larry Schloss, 2851 Current Drive, questioned the legality of the consent judgement, indicating that "contract zoning" is not allowed in the State of Michigan.

Ms. Melody Hart, 3583 Sleepy Fox Drive, President of the Rookery Woods Home Owners Association, stressed her subdivision's opposition to the development. She requested that the vote be delayed ninety (90) days to allow residents to examine the issue in greater detail. Ms. Hart stated that if this matter moved forward tonight, she and her neighbors would "start a process of recall" for each Council member who voted "yes."

Mr. Dan Keifer, 719 Fieldstone Drive, Founder of The Friends of the Clinton River Trail, expressed his concern for area development, but noted that it is inevitable. He proposed that this development should be seen as an opportunity to "integrate many great features of the community" including the Clinton River Trail, the Clinton River and Riverbend Park.

Mr. Robert Jacobs, Attorney for Grand/Sakwa, 121 West Long Lake Road, Bloomfield Hills, noted the efforts and contributions of Grand/Sakwa to facilitate the M-59/Adams Road interchange in conjunction with their proposed development. He stressed that the amended consent judgement before Council tonight "shows no sensitivity to the development that Grand/Sakwa envisioned." He stated that if the consent judgment passes Council, Grand/Sakwa will retract their "gift" of the road right-of-way, at a value of approximately \$11 million.

Ms. Alice Siehda, 3277 Quail Ridge Circle, stated that she opposes the development and would like to "keep [Rochester Hills] beautiful."

Mr. Shamil Halabu, 2084 Livernois, questioned the tax benefits from the proposed development. He stated that this consent judgement is "a gift" to the developers.

Mr. Ed Baron, 3310 Green Spring Lane, using office and retail vacancies in Auburn Hills as an example, questioned the supportability of this proposed development.

Ms. Brenda Savage, 1715 Northumberland Drive, Chairman of No New Taxes, disputed the need to increase tax revenues in the City. She expressed her concern that this Public Hearing was the only opportunity for residents to express their opinions on this subject.

Ms. Bea Stachiw, 1685 Riverside Drive, read into the record a letter from Mr. Robert Brown, 3085 Quail Ridge Circle, stating he does not oppose the commercial portion of the development, but rather is concerned about the "incredible scope of this project," as well as the lack of "meaningful debate." He stressed that the consent judgement appears to give the developer "a free hand to develop the property with little or no requirement for environmental concerns."

Ms. Stachiw stated that she moved to this area because Troy, where she previously resided, is becoming "over built."

Rev. Dr. Pamela Whateley, 1600 North Livernois, expressed her concern for increased traffic congestion.

Mr. Lee Zendel, 1575 Dutton Road, noting his position as a Citizen Representative on the City Council's Financial Services Committee, explained that very little of the taxes residents pay go to the City. He stated that residents consistently vote down millage increases. He noted that the Softball City pays minimal taxes to the City, whereas this new development will eventually contribute millions of dollars in much needed tax revenue.

Mr. Tom Stevenson, 708 River Bend Drive, although noting that he agreed with much that had been said by previous speakers, expressed his support for the project. He stressed that Rochester Hills needs the added tax revenue to address such pressing issues as road repair and the lack of police officers. He noted that this development will improve what he described as a "cancer in our community."

Mr. Shyam Mayasandra, 3625 Sleepy Fox Drive, concurred with previous speakers who opposed the development and stressed that the area needs to be cleaned up, however, it should not be done by developers.

Mr. Paul Kleine, 2144 Kennedy Drive, President of the Heritage Oaks Homeowners Association, concurred with previous speakers and asked that the City's notification process be improved. He questioned the lack of competition, noting that only one developer was considered for this area.

Ms. Deanna Hilbert, 3234 Quail Ridge Circle, expressed her opinion that this development would not be something she would want to see on her drive home. She stressed that any development should be one of which the City can be proud.

PUBLIC HEARING CLOSED AT 10:45 P.M.

(Recess 10:45 p.m. - 11:10 p.m.)

NEW BUSINESS

2004-0036

Consider the approval of a revised Consent Judgment entered on July 28, 1981, Suburban Softball Inc. v City of Rochester Hills specifically for property located on the south side of Hamlin Road, east of the proposed Adams Road realignment, identified as Parcel Nos. 15-29-151-015, 15-29-151-008, 15-29-151-017, 15-29-151-012, 15-29-151-011, 15-29-176-004, and 15-29-176-006.

Attachments: MasterReport.pdf; Amended Consent Judgment 20040206.pdf; Agenda Summary.pdf; Brownfield Tax Table(cc).pdf; Flow Chart.pdf; Brownfield Redevelopment Document Summary(cc).pdf

ADMINISTRATIVE RESPONSE:

Mr. Anzek, after introducing Ms. Jill Ferrari and Dr. Steve Niswander both of ASTI in Brighton, addressed specific questions raised during Public Comment:

- * Traffic impacts cannot be measured until the specific use mix of the development is known.
- * The Master Land Use plan does identify this area as ORT.
- * Notification of the Public Hearing was made using all standard routes of information dissemination including newspaper publication, City website, Channel 55 and the Rochester Hills Public Library.
- * No City money will be used for this project; if matching grant money becomes available, it may be pursued.
- * The final site plan will require the same process for confirmation including final approval by City Council.
- * Parking spaces will meet the current ordinance requirements.

Ms. Ferrari identified herself as the Director of Brownfield Development for ASTI and explained that she had been working with the City over the past year through the

Brownfield Redevelopment Authority. She discussed other options of funding Brownfield cleanup:

- * Tax increment financing (TIF) can be used for environmental costs. The site in question, following cleanup, is expected to generate approximately \$5 million a year in taxes. The Brownfield Redevelopment Authority can use a portion of that money to assess other Brownfield areas in the City.*
- * A Brownfield TIF can collect incremental taxes for thirty (30) years.*
- * The Federal EPA provides a maximum grant amount of \$400,000.*
- * The Michigan DEQ has funds of \$55 million for the entire state; communities are limited to \$1 million.*

Ms. Ferrari further noted that the Federal EPA does not have jurisdiction over this cleanup.

Mr. Delacourt explained that the process of creating storm water retention ponds on park property began with City Staff. City Staff then turned to ASTI in the hope that there would be an "opportunity to do some storm water cleaning before the water [moving through the landfill] hits the Clinton River. "

Dr. Steve Niswander explained that the tiered topography of Riverbend Park and the wetlands created to mitigate the Hamlin Road improvements provide the opportunity to employ a process of storm water retention, a deep water pond and then a series of treatment wetlands or secondary basins to provide storm water cleaning. Dr. Niswander also noted \$500,000 available for additional park improvements such as trails, interpretive centers, a parking area, etc.

Mr. Anzek, with regard to the Grand/Sakwa development, stated that he informed Grand/Sakwa of this proposed development approximately three (3) months ago.

City Attorney John Staran addressed some specific questions/concerns:

- * The property in question is private property under the control of the applicant. Therefore, the City cannot entertain proposals from other developers.*
- * The City will not be financing the remediation of the Brownfield. Any TIF funds would come through the County Brownfield Authority.*
- * Since 1980 local governments have been preempted from being involved in the landfill process, thus, the City has no jurisdiction over the cleanup of this landfill.*
- * While contract zoning is not permitted, Planned Unit Development (PUD) is permitted and has been used for many years. This process is typically used to accommodate "difficult properties" because of configuration, location, topography, environmental issues, etc.*
- * Grand/Sakwa had been notified of this proposed development. The threatened "pull out" will require further review.*

Mr. Davis addressed the traffic congestion issue in greater detail, noting the following:

- * Other road improvement projects in the area will assist in alleviating traffic congestion.*
- * There is strong competition for Federal road funds.*
- * There are four (4) road improvement projects in the area that will help meet the needs of some of the increased traffic:
 - Expansion of M-59 to eliminate a choke point between Crooks and Ryan.*
 - Reconstruction of Hamlin Road east of Crooks, between Crooks and Livernois.*
 - M-59/Adams Road interchange.*
 - Expansion of Crooks between Square Lake and Hamlin Road.**
- * The higher traffic volumes originally anticipated for Hamlin Road of 45,000 vehicles per day were never realized, although improvements were made to accommodate that volume.*
- * There are at least ten (10) other mile segments in the City that are of greater concern regarding traffic congestion.*

Mr. Davis did acknowledge the unique problem of Adams Road north of Hamlin to Walton Road, noting that any improvements would have to involve Oakland University, which owns a large section of property on the west side of Adams Road as well as some homes on the east side.

Mr. Hartner stressed that one of the major precepts of the Parks Bond was the protection of the Clinton River. Noting that the landfill drains directly into Riverbend Park, he stated that he "can see no better idea than to have a developer improve the drainage and protect the storm water and the run off coming from that site before it reaches the Clinton River."

APPLICANT RESPONSE:

Mr. Weaver stressed the estimated landfill cleanup cost of \$30 million, noting that they were already moving forward having obtained bids for a methane collection system and located sources of fill material for cap creation. He noted that the buildings displayed during their presentation were examples only, acknowledging that Rochester Hills "has it's own character" which they intend to honor. He also noted their commitment to meet with neighbors of the development to further address their concerns.

COUNCIL DISCUSSION:

Mayor Somerville noted that anyone aware of the landfill would like to see it cleaned up. She expressed her concern that more Public Hearings were not scheduled.

Mr. Robbins stressed that the major concern is to take care of the landfill. He asked that residents seek answers from the City Staff and Council rather than basing their opposition on rumors. He noted that it is early in the process and many issues will still need to be addressed and evaluated.

Ms. Holder stated that Council members represent all residents of the City, not just those neighborhoods affected by this development. She noted that the major concern of the Technology Committee that reviewed the revised consent judgment was the welfare of the residents of Rochester Hills. However, it was also necessary to consider the much needed revenue this type of development would generate in order to maintain Rochester Hills' status as the community with the third lowest tax base in Oakland County.

Mr. Duistermars agreed with Mr. Robbins and Ms. Holder, noting that a millage increase to pay for this type of environmental cleanup is prohibitive. He stressed that, to address this issue through other means, would likely result in the neglect of other pressing concerns, such as much needed road improvements. He assured residents that he and the rest of the Council would be examining the plans for this development very carefully to ensure that it is a benefit to the community.

Mr. Barnett explained that the M-59/Adams Road interchange has been promoted by the Governor as a catalyst for economic growth in the area; thus, residents in this area will be substantially impacted. He contended that not all of this impact would be negative, specifically noting that property values will increase considerably. Mr. Barnett further explained that, while this is not an easy decision on the part of the Council, they must make difficult decisions in the best interest of all residents of Rochester Hills. He stressed that the "tax problem is real" and stated that the other alternative is to cut City services. He acknowledged that, while the developers are primarily interested in making money, he pledged that he would see to it that the community benefited as much as possible from this development.

President Dalton concurred with his fellow Council members. He stressed that this is the first step in a "long, multi-year process." He noted that the City does not own that property, but is making every effort to retain as much control over the development process as the law

allows. President Dalton expressed his concern for the other areas of toxic contamination in this vicinity, and stated that the Council is "trying to represent the citizens to the best of their ability."

A motion was made by Council Member Hill, seconded by Council Vice President Holder, that this matter be Adopted by Resolution.

Resolved that the Rochester Hills City Council approves the settlement set forth in the Proposed Consent Judgment pertaining to REI Brownstown L.L.C., a Michigan limited liability company, v. City of Rochester Hills, a Michigan municipal corporation, as successor to the Charter Township of Avon, a Michigan Municipal corporation, v Suburban Softball, Inc., a Michigan corporation, Case No. 81-226225.

Further Resolved that the City Attorney and the Mayor are authorized to execute the Consent Judgment on behalf of the City of Rochester Hills.

The motion carried by the following vote:

Aye: Barnett, Dalton, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0020-2004

ANY OTHER BUSINESS

Ms. Holder announced that the Rochester Hills Professional Fire Fighters Local 3472 is having hosting Vegas Night Saturday, March 6th, 6:00 p.m. to 11:00 p.m. at the Rivercrest Banquet Center.

NEXT MEETING DATE

Wednesday, February 18, 2004 - Regular Meeting 7:30 p.m.

ADJOURNMENT

There being no further business before City Council, President Dalton adjourned the meeting at 12:27 a.m.

*JOHN L. DALTON, President
Rochester Hills City Council*

*BEVERLY A. JASINSKI, Clerk
City of Rochester Hills*

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

Approved as presented at the April 7, 2004 Regular City Council Meeting.