

MINUTES of the **Regular Rochester Hills City Council Meeting** held at 1700 W. Hamlin Road, Rochester Hills, Michigan, on Wednesday, April 16, 2003 at 7:30 PM.

1. CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:31 PM Michigan Time.

2. ROLL CALL

Present: President John Dalton; Members Jim Duistermars, Lois Golden, Melinda Hill, Barbara Holder, Gerald Robbins

Absent: Member Bryan Barnett (*Arrive 9:25 PM*)

QUORUM PRESENT

Others Present: Pat Somerville, Mayor
Beverly A. Jasinski, City Clerk
John Staran, City Attorney
Bob Grace, Director, MIS Department
Mike Hartner, Director, Parks & Forestry Department
Pam Lee, Director, Human Resources Department
Roger Rouse, Director, Public Service Department
John Hines, Deputy Director, Building Department
Deborah Millhouse, Deputy Director, Planning Department

President Dalton stated Member Barnett left prior notice he would arrive late to the meeting.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA (A0001) (Members received a copy of a City Council Regular Meeting Action Summary Sheet dated April 11, 2003 from Susan Koliba-Galeczka, City Council Liaison).

Resolution A0001-2003-R0123

MOTION by Duistermars, seconded by Golden,

Resolved that the Rochester Hills City Council hereby approves the Agenda of the Regular Rochester Hills City Council Meeting of Wednesday, April 16, 2003, as presented.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

Member Golden requested Agenda Item **16c** (Discussion regarding City Manager) be moved up in the Agenda if the meeting began to run late. President Dalton indicated Council would be mindful of the length of the meeting.

5. CHAIRPERSON'S REPORT

President Dalton stated that several Council Members would be out of town next week due to the Easter Holiday, and indicated a resolution was included in the packet to cancel the April 23, 2003 Meeting and reschedule it for May 14, 2003.

6. MAYOR'S REPORT

Mayor Somerville stated she had received e-mails and telephone calls from residents on Grandview regarding the poor condition of that street. She indicated she had discussed the matter with the Engineering Department, and it had been determined asphalt repairs would be made this year, with the hope the entire street would be reconstructed during 2004.

7. COUNCIL COMMENTS

Member Hill stated the Rochester Area Youth Assistance (RAYA) would be holding its annual dinner on April 29, 2003, and encouraged Council Members to attend.

Member Golden stated the Older Persons' Commission (OPC) was holding its "soaring into the forties" event at the Romeo Municipal Airport on Saturday, May 17, 2003. She noted additional information was available at 248-608-0259.

Member Golden indicated she had also received e-mails and telephone calls regarding Grandview Street. She stated the Michigan Leadership Land Use Council would be holding public hearings in Pontiac on April 21, 2003, and at Wayne State University on Monday, April 28, 2003, regarding helping communities establish smart growth policies. She indicated additional information was available at www.michiganlanduse.org. She explained the public hearings were being held by a council recently appointed by Governor Granholm to review policies that affect the health and economy of Michigan.

Member Holder referred to an e-mail received by Council Members regarding the possibility of placing the leaf burning issue on the ballot. She indicated the e-mail correspondent believed the residents should be educated about the facts if the issue was put on a ballot, and should include alternatives for leaf disposal. She stated the e-mail correspondent suggested Lance DeVoe of the Environmental Education Center could provide the public with substantial information. Member Holder stated she would appreciate receiving opinions regarding the leaf burning issue being placed on the ballot at holderb@rochesterhills.org.

8. ATTORNEY'S REPORT

Attorney Staran had nothing to report at this time.

9. **CONSENT AGENDA** (All matters listed 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 the Consent Agenda for separate discussion.)

Member Duistermars requested Consent Agenda **9g** be removed for separate discussion.

Consent Agenda Items **9a, 9b, 9c, 9d, 9e, 9f** and **9h** were approved by a single motion.

- 9a. **Approval of Minutes** - Regular Work Session, March 5, 2003 (A0005) (Members received a copy of the Minutes of a Regular Rochester Hills City Council Work Session held on Wednesday, March 5, 2003).

Resolution A0005-2003-R0124

MOTION by Robbins, seconded by Holder,

Resolved that the Minutes of a Regular Rochester Hills City Council Work Session held on Wednesday, March 5, 2003, be approved as presented.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

- 9b. **Approval of Minutes** - Regular Meeting, March 12, 2003 (A0005) (Members received a copy of the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, March 12, 2003).

Resolution A0005-2003-R0125

MOTION by Robbins, seconded by Holder,

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, March 12, 2003, be approved as presented.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

- 9c. **Approval of Minutes** - Regular Work Session, March 19, 2003 (A0005) (Members received a copy of the Minutes of a Regular Rochester Hills City Council Work Session held on Wednesday, March 19, 2003).

Resolution A0005-2003-R0126

MOTION by Robbins, seconded by Holder,

Resolved that the Minutes of a Regular Rochester Hills City Council Work Session held on Wednesday, March 19, 2003, be approved as presented.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

-
- 9d. Request for Purchase Authorization** - DPS: Uniform Rental Services, blanket purchase order not-to-exceed \$81,000.00; Unifirst Corporation, Pontiac, MI (A0621) (Members received a copy of an Agenda Summary Sheet dated March 25, 2003 from Julie Hamilton, Purchasing Analyst, Fiscal Team, with attachments)

Resolution A0621-2003-R0127

MOTION by Robbins, seconded by Holder,

Whereas, sealed bids were solicited for uniform rental services an the lowest, responsive, responsible bidder was selected; and

Whereas, after review and evaluation of the bids, Unifirst Corporation was determined to be the lowest, responsible, responsive bidder in the best interest of the City.

Now Therefore Be It Resolved that the Rochester Hills City Council authorizes a blanket purchase order for three (3) years to Unifirst Corporation, Pontiac, Michigan, for uniform rental services in the amount not-to-exceed \$81,000.00.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

-
- 9e. Request for Purchase Authorization** - BUILDING: Fire Suppression Plan Review and Inspection Services, blanket purchase order not-to-exceed \$33,000.00; Fire Safety Consultants, Inc., Schaumburg, IL (A0620) (Members received a copy of an Agenda Summary Sheet dated March 19, 2003 from Scott Cope, Director, Building Department, with attachments)

Resolution A0620-2003-R0128

MOTION by Robbins, seconded by Holder,

Whereas, proposals were solicited for fire suppression plan review and inspection services.

Now Therefore Be It Resolved the Rochester Hills City Council authorizes a blanket purchase order for fire suppression plan review and inspection services to Fire Safety Consultants, Inc., Schaumburg, IL, in the total not to exceed amount of \$33,000.00 through April 1, 2004.

Ayes: Dalton, Duistermars, Golden, Hills, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

- 9f. **Request for Purchase Authorization** - BUILDING: Weed Control and Lawn Maintenance, blanket purchase order not-to-exceed \$80,000.00; Kleen Kut, Inc., Washington, MI (A0606) (Members received a copy of an Agenda Summary Sheet dated March 19, 2003 from Scott Cope, Director, Building Department, with attachments)

Resolution A0606-2003-R0129

MOTION by Robbins, seconded by Holder,

Whereas, sealed bids for weed control and lawn maintenance services were solicited and awarded to Kleen Kut, and

Whereas, the City wishes to exercise its option to renew,

Now Therefore Be It Resolved that the Rochester Hills City Council authorizes the issuance of a Blanket Purchase Order to Kleen Kut of Washington, MI for lawn maintenance and weed mowing services in the amount not to exceed \$80,000.00 through February 28, 2004

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

- 9h. **Receive and File Mayor's Report regarding Emergency Purchase** - DPS: Catch Basin Cleaning Services, blanket purchase order not-to-exceed \$61,560.00; Doetsch Industrial Services, Inc., Warren, MI (A0629) (Members received an Agenda Summary Sheet dated April 7, 2003, from Pat Somerville, Mayor, with attachments)

Resolution A0629-2003-R0130

MOTION by Robbins, seconded by Holder,

Resolved that the Rochester Hills City Council receives and files the Mayor's report regarding the emergency purchase for Catch Basin Cleaning Services dated April 7, 2003.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

-
- 9g. Request for Purchase Authorization** - MIS: IBM Hardware/Software Support/Professional Services, blanket purchase order not-to-exceed \$60,000.00; Advantage Systems, Inc., Marysville, MI (A0617) (Members received a copy of an Agenda Summary Sheet dated March 19, 2003 from Bob Grace, Director, MIS Department, with attachments)

The following discussion was held regarding Consent Agenda Item **9g**.

Member Duistermars noted IBM was a competitor of his employer, and questioned whether that was a conflict of interest and he should remove himself from a vote on this item. Attorney Staran noted Member Duistermars would not receive a financial benefit, and questioned whether Member Duistermars felt he could not make an unbiased decision. Member Duistermars stated any decision he made would not be biased. Attorney Staran stated there was not a conflict of interest.

Resolution A0617-2003-R0131

MOTION by Duistermars, seconded by Robbins,

Whereas, this blanket purchase order is for the purchase of various professional services and IBM hardware and software support.

Now Therefore Be It Resolved, that the Rochester Hills City Council approves the purchase of the blanket purchase order for Advantage Systems Incorporated, Marysville, MI, for professional services and IBM maintenance in an amount not to exceed \$60,000.00

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

10. PUBLIC COMMENTS

Thomas Stevenson, 708 River Bend Drive, informed Council that Mr. Glenn Thompson had passed away on Friday, April 11, 2003. He noted Mr. Thompson was very involved in and really cared about the City. He stated the City had lost a good citizen and great friend.

Member Duistermars extended his condolences to Mr. Thompson's family on behalf of the City Council, noting Mr. Thompson had diligently volunteered his time on several committees and would be missed very much.

Rev. Dr. Pamela Whateley, 1600 N. Livernois, commented if the dangers of leaf burning on air quality in the City were going to be given consideration, then smoking in public places should be eliminated as well.

Steven Long, 1686 Foresthill Drive, stated he was the president of the North Fairview Farms Homeowners Association. He noted the Mayor had indicated repairs would be made to Grandview Street, which the homeowners appreciated very much, and thanked those involved for their time and effort.

Mayor Somerville stated asphalt repairs would be made this year, with the cement portion scheduled for repair next year, with budget approval. She noted the project had been delayed due to cleanup from the recent ice storm. She indicated the County had recently approved a traffic signal for the intersection of Grandview and Tienken.

11. LEGISLATIVE / ADMINISTRATIVE RESPONSE

No legislative/administrative responses were provided.

12. PETITIONERS REQUESTS

12a. Requests for Eddington Woods Subdivision, a 19-lot subdivision on 10.386 acres, located south of Yorktown Commons and north of Eddington Farms, City File No. 99-006, zoned R-4 (One Family Residential), identified as Parcel Nos. 15-23-152-002 and 012; G & V Properties, L.L.C., Applicant (A0179)

- (i) Request for a variance from the requirements of Section 126-399 of Chapter 126, Article III, Tree Conservation, to install 19 five- to six-inch caliper trees on individual lots in lieu of the \$76,867.50 payment into the City's Tree Fund (Members received a copy of an Agenda Summary Sheet dated April 7, 2003 from Ed Anzek, Director, Planning Department, with attachments)

Ms. Millhouse stated the applicant had previously requested a variance from payment to the City's Tree Fund in September, 2001. She noted the matter was postponed at that time to allow the applicant to discuss alternative solutions with City Staff. She explained the alternative proposed by the applicant involved installing nineteen (19) five inch (5") to six inch (6") caliper maple and/or oak trees on the lots at an estimated cost of Thirty-eight Thousand (\$38,000.00) Dollars. She stated the installation of the trees would be in lieu of a payment to the City's Tree Fund of Seventy-six Thousand, Eight Hundred Sixty-seven and 50/100 (\$76,867.50) Dollars.

Ms. Millhouse stated the City Staff had prepared a table representing the cost per unit of recent residential developments governed by the Tree Conservation Ordinance, which was included in the packet information. She noted that information indicated the most expensive cost per unit was approximately Six Thousand, Two Hundred Fifty (\$6,250.00) Dollars for The Summit, with

the least expensive being One Hundred Twelve (\$112.00) Dollars for Pine Creek. She indicated the average cost was Fifteen Hundred Fifty (\$1,550.00) Dollars per unit.

Member Hill referred to Section 126.399 (Replacement Tree Location) of Division 3 (Tree Removal) of the Ordinance, which states: "... trees shall be relocated or replaced on site and within the same general area as trees removed, but such trees shall not be relocated or replaced in the building envelope of a one-family residential lot or building site...". She questioned whether the reference to "building site" meant the actual lot itself.

Attorney Staran stated the context of the term "building site" used in that paragraph meant building unit, i.e., a subdivision lot, a site condominium or an unplatted lot. He explained the Ordinance required the replacement locations to be out of the building envelope. He indicated paragraph (b) of Section 126.399 gives the City the authority to approve alternate locations. He noted the Ordinance had been in place since 1987, and it had been the City's practice to be fairly restrictive as to where replacement trees were allowed, such as in commons areas or on public property. He indicated the City did have the authority to allow the trees to be located in other areas.

Member Hill clarified that the term "building site" was the same as "building envelope". Attorney Staran stated the terms were intended to mean the same thing.

Member Hill clarified the trees could be located on the actual lot. Attorney Staran stated paragraph (b) of Section 126.399 would allow the trees to be located on the building unit outside the building envelope. Ms. Millhouse clarified the building envelope would be defined by the minimum setbacks.

Member Hill stated it appeared the applicant was requesting a variance for a lesser amount than other developers had been held to in the past. She questioned the reason for decreasing the amount. She indicated replacement trees on the property would be agreeable, with the balance of the amount owed donated to the Tree Fund.

Mr. Cornell Vennettelli, G&V Properties, 2565 S. Rochester Road, explained the previous tree replacement plan submitted with the original preliminary plat, reflected all the trees that could be placed in the open space and other areas. He noted the remainder of the development was totally wooded, including the backs of the lots. He indicated the use of larger caliper trees would reduce the number of trees required, with the Ordinance requiring the remainder being submitted to the Tree Fund. He felt in order to maintain a wooded development, replacement trees should be planted within the development, rather than putting funds into the Tree Fund.

Member Golden noted it was the intent of the Ordinance to permit payment into the Tree Fund for situations where it was not feasible to locate trees on the site. She questioned where the proposed replacement trees would be planted. Mr. Vennettelli indicated one (1) tree would be planted in the front of each site. Ms. Millhouse clarified the proposed solution was to plant nineteen (19) large caliper trees at a cost of Thirty-eight Thousand (\$38,000.00) Dollars, and relief from payment into the Tree Fund of the remaining amount.

Member Golden stated she was in agreement with placing larger trees on the site, but felt the remaining funds should be paid into the Tree Fund.

Member Hill indicated she agreed with placing larger trees on the site for additional credits; however, she did not agree with providing relief for the remainder of the funds due. She noted the use of funds from the Tree Fund provided a benefit to all residents of the community.

Member Holder noted the applicant's April 4, 2003 letter indicated the trees would be guaranteed for one (1) year, and suggested that guarantee be extended for a two (2) year growing season. She indicated the Planning Commission had recently begun requesting a two (2) year growing season, although the Ordinance required one (1) year.

Mr. Vennettelli stated it was his intention to plant the trees as the homeowners moved into their homes, with the trees inspected at the appropriate time per City regulations. He indicated he would be receptive to an extended warranty period on the trees.

Member Holder questioned whether the proposed large caliber trees were larger than those specified in the Ordinance. Ms. Millhouse explained the Ordinance provided one (1) tree credit for a two-inch (2") caliper tree, and two (2) tree credits for a three-inch (3") caliper tree. She stated the Ordinance did not address a tree with a caliper larger than three (3") inches. She indicated the proposed solution suggested utilizing the cost per tree towards the tree credits.

Member Hill questioned whether the Ordinance would permit planting larger caliper trees as replacement trees with the remaining funds being paid into the Tree Fund without setting a precedent. Attorney Staran noted the Ordinance did not provide for larger trees based on the assumption no one would plant trees larger than required. He indicated if the variance was tied to the particular facts relevant to this particular site, he did not believe a precedent would be set.

Member Hill questioned whether the variance should be tied to a size per tree or to a cost per tree. Ms. Millhouse suggested if the relief is tied to cost, verification of the purchase price plus installation should be provided.

Member Hill questioned whether the resolution should include a provision stating the trees would not be less than five-inch (5") caliper in size, with verification of the cost, and the remaining funds paid into the Tree Fund. Ms. Millhouse noted in that event, no variance would be required. Attorney Staran stated it would be simpler for the City to verify the size of the tree.

Member Hill clarified the applicant would be given relief of Thirty-eight Thousand (\$38,000.00) Dollars, with the remaining paid into the Tree Fund. Mr. Vennettelli noted the cost of the trees could increase over the course of the development. Ms. Millhouse indicated an alternative resolution could be the planting of thirty-eight (38) trees, with no contribution to the Tree Fund.

Member Hill noted the Ordinance did not contain a scale of measurement for larger caliper trees to count against replacement trees.

Member Golden questioned how this matter could be resolved without delaying the project, noting she did not believe there was criteria for a variance. Ms. Millhouse suggested that Council direct by resolution that City Staff determine an equitable planting of trees that would be equivalent to the cost due for replacement trees.

Attorney Staran noted during the discussion in 2001, a proposal was suggested to plant larger trees with any remaining funds used to establish a fund for the use of this development. He explained at that time the developer was requested to work with staff. He stated it appeared Council did not desire to grant the variance, but would prefer to have larger trees planted with a larger credit granted for the credit. He indicated Council could provide direction to Staff to work out the details.

Member Golden suggested the resolution contained in the packet be amended to reflect that change. President Dalton indicated Attorney Staran would provide an amendment to the resolution.

Member Robbins noted the discussion in 2001 determined the developer would plant trees on the development site which would provide additional value to the future homeowners. He suggested the planting of one (1) tree at each home site would provide an additional sales feature. He noted the Tree Fund would provide smaller trees, which would not be the same quality as the larger trees the developer could install within the development.

Mr. Vennetelli explained the number of smaller trees required by Ordinance would not fit on the lots, and since the removed trees were larger, it was determined that larger trees could be used to replace them. He felt placing the trees within the development would provide a benefit to the development and the future homeowners, rather than placing funds in a Tree Fund.

Member Robbins clarified only one (1) tree per lot could be installed. Mr. Vennetelli explained in some instances two (2) trees might fit. President Dalton noted two (2) mature trees per lot would be the equivalent of the funds due for replacement trees. Ms. Millhouse stated the trees could not be planted in the public right-of-way, although they could be planted in the front yards.

Member Hill stated the solution would be to allow City Staff to determine a credit for the large caliper trees, and to work with the developer to determine the number and placement of the trees. Ms. Millhouse noted it might possible to plant three (3) trees on a corner lot.

Member Holder noted it was the objective of every development in the City to reestablish the tree life in that development. She indicated the placement of larger trees would satisfy that objective.

Ms. Millhouse suggested as a matter of policy, Council might review this situation at a future date. President Dalton stated it could be considered during the Ordinance rewrite.

Ms. Millhouse noted the Ordinance encouraged planting replacement trees, although not within the building envelope. She noted it had been the past practice of the City to not allow replacement trees on individual lots, but rather to require them in open space areas, with the

remaining credits due paid into the Tree Fund. She suggested Council might want to consider an overall policy for all developments to provide larger caliper trees on the lots in the development. She indicated this was permissible under the Ordinance. Member Hill suggested Council hold a policy discussion regarding this matter in the future.

Member Robbins requested clarification that it would be appropriate for Council to deny the proposed variance resolution and prepare a new resolution requesting the developer to work with City Staff toward a suitable solution. Attorney Staran suggested Council pass the resolution for denial, with the addition of another resolved clause providing direction to City Staff.

President Dalton stated the resolution to deny the variance would be amended by adding the following clause: "Be it further resolved that City Council directs the City Staff to work with the developer to provide the developer with a fair and appropriate credit for larger replacement trees than the Ordinance requires, in order to achieve the objective of replacing as many trees as possible within the development with replacement trees in excess of the minimum size required under the Ordinance".

Member Golden clarified the variance would be denied, and any sums remaining due would be donated to the City's Tree Fund. Attorney Staran explained if credits were still owed beyond what was replanted, the amount to be contributed to the Tree Fund.

Resolution A0179-2003-R0132

MOTION by Duistermars, seconded by Robbins,

Resolved that the Rochester Hills City Council hereby denies a variance from the requirements of Section 126-399 of Chapter 126, Article III, Tree Conservation, of the Code of Ordinances to permit the installation of 19 five- to six-inch caliper trees on individual lots in lieu of the \$76,867.50 payment into the City's Tree Fund for Eddington Woods Subdivision (City File No. 99-006.4), identified as Parcel Nos. 15-23-152-002 and -012.

Findings:

1. There are no special circumstances or conditions affecting the property such that the strict application of the Tree Conservation Ordinance would deprive the applicant of the reasonable use of his land.
2. The variance is not necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. The variance will not further the objectives and policies of the City.

Further Resolved that the City Council directs the City Staff to work with the developer to provide the developer with a fair and appropriate credit for larger replacement trees than the Ordinance requires, in order to achieve the objective of replacing as many trees

as possible within the development with replacement trees in excess of the minimum size required under the Ordinance.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

(ii) Request for Final Plat Approval (Members received a copy of an Agenda Summary Sheet dated April 7, 2003 from Deborah Millhouse, Deputy Director, Planning Department, with attachments)

1. Approval of Sedimentation Basin Agreement

Resolution A0179-2003-R0133

MOTION by Robbins, seconded by Duistermars,

Whereas, that on behalf of the City of Rochester Hills, the Rochester Hills City Council hereby approves the Agreement for Sedimentation Basin between the City of Rochester Hills and G & V Properties, L.L.C., a Michigan Limited Liability Company, of 2565 S. Rochester, Suite 106, Rochester, MI 48307, affecting property identified as: Parcel Numbers 15-23-152-002 and 15-23-152-012.

Now Therefore Be It Resolved that the Mayor and City Clerk are authorized to execute and deliver the agreement on behalf of the City.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

2. Approval of Maintenance of Storm Water Detention System Agreement

Resolution A0179-2003-R0134

MOTION by Robbins, seconded by Duistermars,

Whereas, that on behalf of the City of Rochester Hills, the Rochester Hills City Council hereby approves the Agreement for the Maintenance of the Storm Water Detention System between the City of Rochester Hills and G & V Properties L.L.C. a Limited Liability Co., of 2565 S. Rochester, Suite 106, Rochester, MI 48307, affecting property identified as: Parcel Numbers 15-23-152-002 and 15-23-152-012

Now Therefore Be It Resolved that the Mayor and City Clerk are authorized to execute and deliver the agreement on behalf of the City.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

3. Acceptance of Declaration of Covenants, Conditions, and Restrictions

Resolution A0179-2003-R0135

MOTION by Golden, seconded by Duistermars,

Resolved that the Rochester Hills City Council hereby accepts the Declaration of Covenants, Conditions and Restrictions for Eddington Woods Subdivision, City File No. 99-006, a 19-unit development on 10.386 acres, located east of Rochester Road between Avon and Hamlin Roads, identified as Parcel Numbers 15-23-152-002 and -012, zoned R-4 (One Family Residential) in conformance with the Final Plat.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

4. Approval of Final Plat

Ms. Millhouse stated the resolution approving the Final Plat should be amended to delete the reference "subject to the resolution of Tree Conservation Ordinance issues" as that situation had been handled with the tree variance resolution.

Member Golden indicated she would move the motion with that correction. Member Robbins indicated he would second the motion as corrected.

Resolution A0179-2003-R0136

MOTION by Golden, seconded by Robbins,

Resolved that the Rochester Hills City Council hereby grants Final Plat approval for Eddington Woods Subdivision, City File No. 99-006, a 19-unit subdivision on 10.386 acres, located east of Rochester Road between Avon and Hamlin Roads, identified as Parcel Numbers 15-23-152-002 and -012, subject submittal of all required performance guarantees, fees and other requirements that must be met prior to release of the Mylar.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

13. ADMINISTRATION

13a. Rochdale Subdivision Water Main Replacement and Local Road Reconstruction Project (A0625)

- (i) Request for Purchase Authorization for Engineering Services, contract/blanket purchase order not-to-exceed \$162,221.07; Orchard, Hiltz & McCliment, Livonia, MI (Members received a copy of an Agenda Summary Sheet dated April 3, 2003 from Barbara Key, Contract Specialists, Department of Public Service, with attachments)

Mr. Rousse explained these projects were among the last in the fifth (5th) year of the Local Road Program. He stated the roads had exceeded their life expectancy and were being scheduled replacement, along with the expansion of the water main to meet minimum code requirements for fire suppression.

Member Hill questioned whether the engineering costs would cover both the water and sewer and the roads. Mr. Rousse stated the costs were for the water main and the road. Member Hill requested a breakdown of the cost for the water main and the road. Mr. Rousse stated the Orchard, Hiltz & McCliment (OHM) costs were broken down with approximately Twenty Thousand (\$20,000.00) Dollars for the water main, and approximately One Hundred Forty-two Thousand (\$142,000.00) for the local roads. He indicated the construction costs were broken down with approximately One Hundred Thousand (\$100,000.00) Dollars for the water, and approximately Eight Hundred Thousand (\$800,000.00) Dollars for the road.

Resolution A0625-2003-R0137

MOTION by Robbins, seconded by Golden,

Whereas, a quality based selection process was used to determine which engineering firm was best suited to provide Construction Engineering Services for the City of Rochester Hills; and

Whereas, the Orchard, Hiltz & McCliment, Inc. Proposal includes quality control for the projects, site layout, inspection, project management, contract administration, and drawings. The proposal includes an estimate of time and cost for the projects; and

Whereas, Orchard, Hiltz & McCliment, Inc. has successfully provided services to the City over the years.

Resolved that the Rochester Hills City Council awards the Continuing Services Agreement between Orchard, Hiltz & McCliment, Inc. and the City of Rochester Hills for Construction Engineering Services for Rochdale Subdivision Water Main Replacement and Local Road Reconstruction Project in the amount not-to-exceed \$162,221.07, and authorizes the Mayor and Clerk to execute a contract on behalf of the City.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

-
- (ii) Request for Purchase Authorization for Construction, contract/blanket purchase order not-to-exceed \$901,872.75; Ajax Paving Industries, Madison Heights, MI (Members received an Agenda Summary Sheet dated April 3, 2003 from Barbara Key, Contract Specialist, Department of Public Service, with attachments)

Resolution A0625-2003-R0138

MOTION by Duistermars, seconded by Robbins,

Whereas, on March 31, 2003 the City received five (5) sealed bids for Rochdale Subdivision Water Main Replacement and Local Road Reconstruction Project. Ajax Paving Industries submitted the lowest responsive, responsible bid in the amount of \$901,872.75; and

Whereas, the bid received from Ajax Paving Industries is approximately 21% below the engineering cost estimate.

Resolved that the Rochester Hills City Council awards the contract for Rochdale Subdivision Water Main Replacement and Local Road Reconstruction Project to Ajax Paving Industries, Madison Heights, MI, in the amount of \$901,872.75 and authorizes the Mayor and Clerk to execute a contract on behalf of the City.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

13b. Hitchman's Haven Subdivision Water Main Replacement/Local Road Reconstruction and New Life and New Love Local Road Rehabilitation Project
(A0626)

- (i) Request for Purchase Authorization for Engineering Services, contract/blanket purchase order not-to-exceed \$221,118.09; Orchard, Hiltz & McCliment, Inc., Livonia, MI (Members received a copy of an Agenda Summary Sheet dated April 3, 2003 from Barbara Key, Contract Specialist, Department of Public Service, with attachments)

Donald Wanner, 1340 New Love Lane, thanked the Mayor and the City for considering their subdivision for road paving. He requested consideration be given to include sewer and curbing for the road because of the drainage and debris problems experienced by the subdivision. He

noted the best resolution for the problem would be to include the sewer and curb. He stated his neighbor had prepared an e-mail to all Council Members regarding this matter. President Dalton stated he would read the e-mail for the record later in the meeting.

Mr. Rousse stated the performance standards of the Local Road Program were considered and the proposed reconstruction plan met those standards. He explained what had been designed and budgeted included an edge drain for the road; a collection system for the sump pump water, and reconstruction of the ditches. He indicated the proposed drainage system was considered a good system that would address the drainage issues, and was the same used for other roads in the City. He noted a higher level of correction would be an enclosed drainage structure in the ditch line, although the best solution would be the curb and gutter. He noted the proposed plan had been designed in accordance with the Local Road Policy, and explained there would be an additional Forty Thousand (\$40,000.00) Dollar cost for a curb and gutter system.

Member Robbins noted the proposed plan met the requirements of the Local Road Policy but was not the best solution.

Mr. Rousse explained the current system was failing because the cross culvert on Livernois was not carrying the water adequately, causing the water to back up New Love Lane. He noted there was another culvert underneath the road, which was damaged and prevented the water from traveling through. He noted the road was approximately forty (40) years old, and the proposed plan would adequately address the problems.

Member Robbins noted the current situation was not adequate. Mr. Rousse stated the culverts had failed because they were plugged up and were not carrying the water, causing the water to back up. He explained the proposed plan included an edge drain along the border of the road. This would drain the water away from the road, keeping the roadbed dry and draining to the ditch. The proposed plan also includes a collection system for the sump pump drainage to carry water from the homes away from the roadbed, and rehabilitation of the ditches. He noted the ditches had filled up with silt and sand and did not carry as much water as when they were new.

Member Robbins suggested the additional funds be included in the proposed request to install the curb and gutter and avoid future problems. Mr. Rousse noted there were maintenance issues associated with the curb and gutter. Member Robbins noted there would be maintenance associated with any of the solutions.

Member Hill noted the problems with the road replacement and ditching in the Juengels Orchards Subdivision, and the subsequent measures that had to be taken to correct the problems. She stated she did not disagree with the current Local Road Policy, but did not want to see problems occur in the future because the best solution was not implemented.

Mr. Wanner stated his neighbor had hired the civil engineering firm of Nowak & Fraus to perform a road evaluation, and that firm had determined the best solution for the problem was to install curb and sewer. He indicated there was a tremendous amount of debris and water from Livernois Road, and the culverts were not working properly. He noted the sump pumps ran

constantly, and the homeowners did not want to have to contact the City for future problems or maintenance.

Member Holder questioned whether the sump pumps ran continually or just after rainstorms. Mr. Wanner stated the sump pump in his home ran every four (4) to six (6) minutes in the Spring, and he used double sumps and an alarm system in the event of failure. He understood the City had a limited budget, but felt if the project was going to be completed, it should be completed correctly.

Member Golden stated she was familiar with the area, noting old historical maps referred to the area as the Sargent's Creek Watershed. She noted she wanted to be cautious of deviating from policy, but agreed the project should be completed properly. She questioned the additional cost if the proposed design was not sufficient, and the project had to be redone.

Mr. Rouse estimated it would cost approximately Fifteen Thousand (\$15,000.00) to Twenty Thousand (\$20,000.00) Dollars to utilize the next best plan of enclosing the ditch in the ditchline with an underground collection system.

Member Golden questioned if that solution did not perform satisfactorily, whether the scope of the project could be addressed without a high additional cost. Mr. Rouse stated the curb and gutter could be added at any time. He indicated the soil borings had indicated some clay soil, but noted that same information had been available at the time the road was originally constructed. President Dalton noted at the time the road was originally constructed, it was a County road.

President Dalton read a letter for the record from **P. Joseph Gruits, 1350 New Love Lane**, which discussed the history of the construction of New Life and New Love Lanes, the development of the homes in the subdivision, and the possibility of installing a storm drainage system with concrete curb and gutter as part of the reconstruction project.

Member Robbins stated it was important to correctly complete the project, and questioned whether the additional Forty Thousand (\$40,000.00) Dollar amount was for additional construction costs.

Mr. Rouse indicated that amount was for the additional construction costs. He noted the New Life/New Love Projects were budgeted as an addition to the Hitchman's Haven Project. He indicated if the Hitchman's Haven Project came in at the budgeted amount, there could be contingency dollars available for the New Life/New Love Project. He cautioned, however, that if problems were encountered during the Hitchman's Haven portion of the project, those contingency funds would not be available.

Member Robbins noted a budget amendment could be made at a later date if unexpected problems were encountered.

Member Hill questioned whether the amount allocated for the engineering services would be adequate, if the construction costs were increased to include the curb and gutter solution. Mr. Rouse indicated the engineering costs included a Ten (10%) Percent contingency.

Resolution A0626-2003-R0139

MOTION by Robbins, seconded by Duistermars,

Whereas, a quality based selection process was used to determine which engineering firm was best suited to provide Construction Engineering Services for the City of Rochester Hills; and

Whereas, the Orchard, Hiltz & McCliment, Inc. Proposal includes quality control for the projects, site layout, inspection, project management, contract administration, and drawings. The proposal includes an estimate of time and cost for the projects; and

Whereas, Orchard, Hiltz, McCliment, Inc. has successfully provided services to the City over the years.

Resolved that the Rochester Hills City Council awards the Continuing Services Agreement between Orchard, Hiltz & McCliment, Inc. and the City of Rochester Hills for Construction Engineering Services for the Hitchman's Haven Subdivision Water Main Replacement/Local Road Reconstruction and New Life and New Love Local Road Rehabilitation Project in the amount not-to-exceed \$221,118.09, and authorizes the Mayor and Clerk to execute a contract on behalf of the City.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: Barnett

MOTION CARRIED

-
- (ii) Request for Purchase Authorization for Construction, contract/blanket purchase order not-to-exceed \$1,262,041.10; Thompson McCully Company, Clarkston, MI. (Members received a copy of an Agenda Summary Sheet dated April 3, 2003 from Barbara Key, Contract Specialist, Department of Public Service, with attachments)

Member Robbins stated he would move the request for purchase authorization for construction, with the contract/blanket purchase order amount amended to One Million, Three Hundred Two Thousand, Forty-one and 10/100 (\$1,302,041.10) Dollars.

Member Hill noted the concerns with the runoff from Livernois, and suggested as the project was underway, the alternatives be considered before a final determination is made. She indicated each project should be considered on a case-by-case basis.

Mr. Wanner stated he was not opposed to ditches, but the problems experienced by New Life and New Love Lanes were unique because of the debris and runoff from Livernois. He noted the maintenance problems in keeping the ditches cleaned out. He indicated the frost freezes caused the road to shift, and questioned whether there would be adequate removal of the water.

Mr. Rousse stated the plan included the replacement of the culvert at Livernois, which would prevent the water from backing up and promote the drainage from the east. He explained the ditches, road height and sub-base had to be constructed at the correct elevations based on the topography. He indicated the plan was to pulverize the existing asphalt that would raise the sub-base, and pave over that. He stated an edge drain would be added along the side of the road that would drain to Livernois. He noted the drainage improvements would improve the conditions along New Life and New Love.

Mr. Wanner stated the homeowners would not mind waiting until the Hitchman's Haven Project is completed, to allow any remaining contingency money to be used to properly correct their situation. Mr. Rousse stated he expected the Project to be substantially completed by August, 2003.

Resolution A0626-2003-R0140

MOTION by Robbins, seconded by Duistermars,

Whereas, on March 31, 2003 the City received five (5) sealed bids for the Hitchman's Haven Subdivision Water Main Replacement/Local Road Reconstruction and New Life & New Love Local Road Rehabilitation Project. Thompson McCully Company submitted the lowest responsive, responsible bid in the amount of \$1,302,041.10; and

Whereas, the bid received from Thompson McCully Company is approximately 19% below the engineering cost estimate.

Resolved that the Rochester Hills City Council awards the contract for the Hitchman's Haven Subdivision Water Main Replacement/Local Road Reconstruction and New Life & New Love Local Road Rehabilitation Project to Thompson McCully Company in the amount of \$1,302,041.10, and authorizes the Mayor and Clerk to execute a contract on behalf of the City.

Ayes: Dalton, Duistermars, Golden, Hill, Holder, Robbins

Nays: None

Absent: Barnett

MOTION CARRIED

(Recess: 9:16 PM to 9:31 PM)
(Arrive Member Barnett: 9:25 PM)

14. COUNCIL COMMITTEE REPORTS

No Council Committee Reports were provided.

15. UNFINISHED BUSINESS

- 15a. Discussion** regarding Memorandum of Understanding for Clinton River Trail (A0487) (Members received a copy of an Agenda Summary Sheet dated April 10, 2003 from Susan Galeczka, City Council Liaison, with attachments)

Mr. Hartner stated this discussion was a follow-up from the March 19, 2003 discussion held with the four (4) other communities on the Clinton River Master Plan and the Memorandum of Understanding. He noted a joint meeting would be held on April 30, 2003 in Auburn Hills with the other communities.

Attorney Staran stated he had added language to the Memorandum of Understanding to clearly express the fact the Memorandum was not intended to establish any binding or enforceable commitments and that any party could terminate upon notice to the other communities. He clarified the Memorandum was an expression of intent to cooperate.

Member Duistermars stated the Memorandum of Understanding had been thoroughly reviewed by the Leisure Activities Committee and was unanimously recommended for Council action.

Member Hill stated she felt this was an outstanding first (1st) step indicating the City was willing to cooperate with the other communities owning segments of the Clinton River Trail. She indicated she was encouraged that Auburn Hills had invited the communities to continue discussions, and noted she would like to see those discussions continue. She felt it was important to keep the dialog going to ensure cooperation and standardization along the Trail. She requested Council Members be kept informed about proposals for development of the Trail.

Member Golden noted the Memorandum of Understanding was a ceremonial type of document, and stated she felt the other communities would become more comfortable with the Interlocal Agreement as they became more familiar with its benefits.

Resolution A0487-2003-R0141

MOTION by Duistermars, seconded by Barnett,

Resolved that the Rochester Hills City Council supports and hereby approves the Clinton River Trail Memorandum of Understanding by and among the communities of Sylvan Lake, Pontiac, Auburn Hills, Rochester and Rochester Hills, and hereby authorizes the Mayor to execute the Memorandum of Understanding on behalf of the City.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: None

MOTION CARRIED

16. NEW BUSINESS

16a. Adoption of Policy regarding Health Insurance Coverage for Employees in Military Service (A0624) (Members received an Agenda Summary Sheet dated April 11, 2003 from Susan Galeczka, City Council Liaison, with attachments)

President Dalton stated the Human Resources Director had been requested to prepare a policy allowing medical coverage to be continued for personnel called into active military service.

Member Robbins questioned whether the proposed policy would allow the employee to pay for coverage under COBRA. Ms. Lee stated the City would pay benefit premiums concurrently with COBRA continuation, which effectively meant the City was paying the COBRA premiums. She indicated this was a requirement of Blue Cross/Blue Shield to extend coverage beyond six (6) months.

Member Holder questioned whether children under a parent's policy that are called to military service, but are not attending college, would be covered. She noted children attending college could normally be covered until age twenty-five (25). Ms. Lee stated there would not be coverage for a child over the age of eighteen (18) years that was not attending college. She noted the military provided benefits to service people. She indicated the main purpose of the proposed policy was to provide for family dependents of employees called into active service.

Resolution A0624-2003-R0142

MOTION by Robbins, seconded by Duistermars,

Resolved that the Rochester Hills City Council hereby adopts the following ***Policy for Extended Health Benefits during Military Leave:***

STATEMENT OF POLICY:

In support of employees who are called to active military service, the City of Rochester Hills shall provide for up to 24 months of City-paid health insurance continuation for an employee with eligible dependents during a military leave of absence. Insurance premiums will be paid for two-person or family medical, dental and vision coverage, subject to Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation provisions.

PROCEDURE:

Employees who are called to active military service shall notify the Human Resources Department as soon as possible upon receipt of military orders or schedules. The Human Resources Department will advise the Accounting Division regarding the continuation of insurance due to military leave.

The employee will be notified once a COBRA qualifying event occurs in accordance with health insurance contract requirements. Notice will be sent to the employee's last known address regarding COBRA election options. The employee may appoint a

designee for the purposes of COBRA election at the beginning of a military leave. Assuming the employee or designee elects COBRA, the City will then continue to pay the employee's two-person or family premiums and any applicable administration fees during the remainder of the military leave for up to two years from the effective date of active service. Contact the Human Resources Department for more information on COBRA notification provisions.

RESPONSIBILITY:

The employee on military leave will be responsible for providing the City of Rochester Hills with an address and contact information for notification purposes. The Accounting Division will process insurance premium payments monthly. The Human Resources Department will be responsible for notifying the COBRA administrator regarding the employee's eligibility for health insurance continuation.

Ayes: Dalton, Barnett, Duistermars, Golden, Hill, Holder, Robbins
Nays: None
Absent: None

MOTION CARRIED

-
- 16b. Adoption of Resolution** canceling and rescheduling April 23, 2003 Work Session (A0007) (Members received a copy of an Agenda Summary Sheet dated April 11, 2003 from John L. Dalton, City Council President, with attachments)

President Dalton stated three (3) Council Members would be out of town the week of April 21, 2003, and suggested the scheduled Work Session be cancelled and rescheduled to May 14, 2003.

Resolution A0007-2003-R0143

MOTION by Holder, seconded by Golden,

Resolved that the Rochester Hills City Council hereby **cancel**s the April 23, 2003 Regular Meeting pursuant to the *City Council Rules of Procedure*, Article III, Section .01(c)(ii), and **reschedule**s it to Wednesday, May 14, 2003 at 7:30 PM Michigan Time.

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

Ayes: Dalton, Barnett, Duistermars, Golden, Holder, Hill, Robbins
Nays: None
Absent: None

MOTION CARRIED

- 16c. Discussion** regarding City Manager (A0622) (Members received an Agenda Summary Sheet dated April 10, 2003 from Susan Galeczka, City Council Liaison, with attachments)

President Dalton stated the third (3rd) item listed on the Strategic Planning Report was the consideration of changing to a city manager form of government from a strong mayor form. He noted approximately Seventy-eight (78%) Percent of the participants in the plan believed this matter should be reviewed.

Rev. Dr. Pamela Whateley, 1600 N. Livernois, stated Council Members were supposed to represent the residents and carry out their wishes. She indicated the residents had voted against a city manager form of government, which meant the matter should be closed. She felt city managers were expensive, and if fired, the City would be responsible for the balance of their contract. She noted a city manager would be selected by a majority of Council, rather than voted by the residents. She stated the position of Mayor would become honorary, although the Mayor's salary would add to the City's expense. She felt a Strong Mayor form of government was the best choice for a representative form of government, with the Mayor chosen by the voters. She indicated if the Charter were opened for the city manager issue, the entire Charter would be opened, allowing for any part to be changed, including increasing the tax rate limit.

President Dalton clarified that if the city manager issue were placed on the ballot for consideration, a Charter Commission would be elected, which could review the entire Charter. He stated any suggested changes to the Charter would have to be made by a vote of the residents.

Member Hill clarified the city manager issue had not been voted on before in the City. President Dalton indicated it had been voted as an advisory matter in 1991. Member Hill clarified there had never been an actual vote to form a Commission.

Susan deCaussin, 456 Wimpole, stated Council would hire a city manager, while the City at large elects a mayor. She noted a manager would have to meet specific qualifications and experience in managing municipalities, whereas a Mayor did not have any qualification requirements regardless of education or experience. She stated a manager was selected according to their track records and educational backgrounds, while any resident of the City could become a candidate for Mayor. She noted a manager's references could be thoroughly checked, while a Mayor could be elected through the use of erroneous and misleading flyers and pamphlets. She felt the City's sizeable budget required experience and education to ensure appropriate management. She stated the City's elected officials were held responsible for the operations within the City. She indicated the residents deserved qualified and experienced management, and not the winner of a glorified popularity contest. She stated the result of the Strategic Planning Initiative indicated a definite desire to pursue this issue, and it was the responsibility of the Council to allow the residents to decide at the polls.

Carl Wellenkotter, 184 Shagbark Drive, thanked the Council and the Mayor for the uncommonly good government enjoyed by the residents over the last few years. He stated there did not appear to be anybody complaining about the type of government. He did not feel the Speak Up participants reflected the will of the people. He felt the number of Council Members

provided by the current Charter, with each resident represented by four (4) Council Members, was a brilliant facet. He discussed what he felt were problems with the appointed manager system utilized by the Rochester Community Schools, creating a self-caused financial situation. He noted most large cities in Oakland County, every state in the country, and the country itself, were run by elected officials. He noted "if it ain't broke, don't fix it". He stated he felt what the community really needed was an elected superintendent of schools. He indicated the City was in a good financial position, and stated he felt the residents would be upset if a Charter Commission were formed and the Charter opened.

Member Robbins suggested the following resolution be considered:

“Resolved that the City Council hereby requests the City Attorney to draft the appropriate ballot language to place two ballot questions on the November General Ballot consisting of the following: Ballot Issue #1 - Should the City of Rochester Hills form a City Charter Commission for the purpose of reviewing the City Charter and bringing forward recommended changes to be voted on by the electors of the City, including but not limited to changing the current form of city government from a strong mayor to city manager form of government. Ballot Issue #2 – If the electors of the City of Rochester Hills approve Ballot Issue #1, the following residents are elected as members of the City Charter Commission.

Be It Further Resolved that the draft language be provided to City Council for final approval in accordance with the requirements for placing a ballot question on the November General Ballot.

Also Be It Resolved that the City Council hereby requests the City Clerk to provide the appropriate notice to the public of the requirements and the process for residents to follow should they wish to have their name placed on ballot to be elected as a member of the City Charter Commission.”

President Dalton questioned whether there was support for Member Robbins suggested resolution. Member Hill indicated she would support the resolution.

Member Robbins explained the process of opening the City Charter was a constitutional right of the voters, and the residents would decide whether the Charter should be opened or any of the recommended changes made. He noted the Charter Commission might not make a recommendation to change the form of government. He stated it had been almost twenty (20) years since the Charter had been reviewed, although some amendments had been made to the Charter. He indicated the City had experienced rapid growth and there were many issues in the Charter that could be reviewed. He stated his proposed resolution was merely to put the question on the ballot, and the issue was not just an issue of a strong mayor versus city manager form of government.

Member Golden stated changing the form of government was serious business. She indicated the City Charter had been modeled after the Constitution. She stated she would like a clear consensus from the community before moving forward on this issue. She noted this issue was in

response to a Speak Up initiative that was four (4) years old, and suggested a Charter Committee be formed to review the matter. She stated Council had discussed this matter previously, and she had also suggested at that time that a committee be formed. She indicated there were many communities with a city manager form of government that were currently facing financial problems. She referenced a magazine article discussing whether the council manager form of government was viable, noting a strong mayor was held accountable. She stated it was the suggestion of the professionals associated with the Michigan Municipal League (MML) that a charter study committee be formed first, with the second step being the election of the charter commission. She indicated although it would be a long process, one (1) of the reasons for the study committee would be to address housekeeping issues through Charter Amendments. She noted there were other issues brought up through the Speak Up process that had not been addressed as yet. She suggested Council Members review the MML information, noting she had not received complaints from the residents regarding the current form of government.

Member Duistermars stated the United States Constitution was drafted to provide for three (3) branches of government – executive, legislative and judicial. He stated the people elect their officials, and if they do not feel the elected officials are doing a good job, the people elect another official at the next election. He indicated the City Charter followed the model of a separation of powers, and a city manager form of government would deviate from that separation of powers. He felt a city manager would be more accountable to the City Council than to the residents of the City. He indicated although a city manager may have experience, he felt a city manager would promote the administration and larger city programs, which could be detrimental to the City. He stated he believed the residents of the community should be allowed to hire or fire a mayor, which the residents would not be able to do with a city manager.

Member Holder stated the mayor is a resident of the City, whereas a city manager could be from any city or state and might not have the resident rapport a resident mayor would have. She noted the suggestion that a city manager would have a degree, and noted there was the factor of “book smart” versus “common sense”, and holding a degree versus skilled trades. She noted the current lack of skilled trades and the value those skilled trades provided the country. She indicated the mayor position was usually filled by an individual who had been involved with the City for many years on committees or on Council. She stated the City was in a financially secure position, and she did not see any problems with the current form of City government.

Member Hill stated although it had been four (4) years since the Speak Up process, the participants in that process had indicated they were interested in seeing the form of government addressed. She indicated putting the issue on the ballot would allow the matter to be addressed by the residents. She felt the City, as the fourth (4th) largest city in Oakland County, was at a threshold of keeping the City viable for the next twenty (20) years. She noted the City had grown considerably, and although the City was in a good financial situation, there were many large dollar issues facing the City in the future. She did not believe the type of government was representative of whether a community experienced financial difficulties. She stated the City Council would be the legislator and policy setter for the City, whether there was a mayor or a city manager, and it was the responsibility of the residents to elect good people to legislate and set good policy. She indicated if the matter was put on a ballot and a Charter Commission was formed, the Commission would be free to review any issue. She explained the Commission

would have three (3) opportunities to come back to the community with proposals, and if the community voted the proposal down, it became a dead issue. She noted Council could make amendments to the Charter any time they chose to do so. She suggested an objective look at what the City really needed should be made, and placing the issue on the ballot would allow the community to have the choice.

Member Barnett stated bad people with poor ethics would destroy a city manager system the same way they would destroy a strong mayor system. He noted the reverse of good people with strong ethics would propel a municipality in either system of government. He felt the form of government was irrelevant in terms of guidance and direction, and noted a case could be made for either form of government. He indicated each community determined what type of government best represented their city and their population, which is why there were different forms across Michigan. He noted the question was to determine the best form of government for the City. He felt Council should consider the timing of this issue, noting this was an election year, which could cause the issue to become deluded. He suggested the issue should be presented next year to allow the merits of the issue to be voted on. He indicated this issue could be a topic of a town hall discussion, with the possibility of the formation of a subcommittee to gather additional resident input.

President Dalton stated he believed this was an opportune time to bring the issue forward because it notified anyone running for mayor that there was a possibility the duties and responsibilities of that position could change significantly during the next term. He agreed the issue was not a question of abuse of power by any of the City's Mayors, but rather a question of hiring a professional city manager.

Member Robbins stated this issue was about establishing a Charter Commission to review the City Charter, not about the form of government. He stated the Mayor of a city with a population of seventy thousand (70,000) residents could not be compared to the position of the President of the United States. He did not agree this City could be compared to some of the neighboring communities that had ended up in receivership, noting the difference in population of some of those communities, and their location. He noted when a community did go into receivership, a receiver was appointed to manage the community for the reason a professional was required to bring them out of that situation. He indicated the ballot question would ask whether the City should form a Charter Commission for the purpose of reviewing the City Charter. He stated if the Commission did not recommend any changes, no changes would be made. He indicated at the time the Charter was formed there was more than one (1) vote on the issue.

Clerk Jasinski noted there were several votes in the 1960's and early 1970's regarding the Charter.

Member Robbins stated when he first became a member of Council this issue was being discussed, and he interviewed several mayors and city managers to gain their perspective on the two (2) positions. He noted there were only a few communities in Oakland County with strong mayors. He indicated no skills were required to be Mayor, and noted every four (4) years anyone could run for Mayor. He felt a city manager would have to be held accountable, noting many city managers were fired because they did not represent the wishes of the community. He

indicated a strong mayor only had three (3) years because they devoted their fourth (4th) year to running for re-election. He stated the issue was a question of the future and vision for the community for the next twenty (20) years. He indicated he felt a professional would not be politically motivated for his or her own future. He stated this year was a good year to bring this issue forward because the voter turnout would be high during a mayoral election.

Clerk Jasinski noted there would be expenses for an additional election during an off year. She indicated the City held an election every other year.

Member Robbins stated if a Commission was elected, it would take two (2) or more years to make any recommendation. He noted if a change in government was made, a transition period would be necessary. He explained if the issue was postponed for a couple of years, a lapse in transition could occur because of the mayoral term. He indicated if the issue was brought up this year, the timing of the transition could coincide with the end of the next four-year mayor term.

Clerk Jasinski stated the Governor would be required to approve a change in the City's form of government, which could be a lengthy process.

Member Robbins reiterated transition time would be necessary. He noted a change made midway through a mayoral term could cause complications because the mayor was an elected position. He indicated the issue was to put the question on the ballot, and was not about supporting a certain form of government. He stated there were other issues in the Charter that could be reviewed, such as the fact the City Clerk's Office was the top accountant. He indicated this was because the Charter said so, not because it made sense.

Member Golden questioned bringing the issue forward during a mayoral election, noting no complaints had been received from the residents about the City's form of government. She discussed the process utilized by Oakland Township during their transition to a superintendent, noting the Township waited until after an election to avoid using the issue as a campaign platform. She noted a committee could be formed to address issues in the Charter and make the community aware of the changes being considered. She indicated a major concern of the residents would be whether the five (5) mill cap would be increased. She noted the major issues facing the community regarding road funding and police services. She stated the City previously had a professional in the position of City Administrator who was not from the community and had not worked their way up through the various committees, boards and commissions. She noted having a professional in that position had not solved any of the major issues facing the community. She suggested a consensus of the community be reached prior to moving forward with this issue. She suggested the formation of a committee would allow forums to be held, and recommend changes to be brought forward to Council for action.

Member Hill clarified the Speak Up process had not addressed the issue of taxation, but the form of government. She noted town meetings, which were similar to the Speak Up process, would extend the time to resolve the issue. She stated including the issue on the mayoral election would be helpful because the residents would be focused on voting for a mayor and four (4) Council Members, and it was a big election year for the City's government. She noted the matter of opening the City Charter was also a City government issue. She indicated a delay at this time,

with the potential of a new Council in the Fall, would only cause the issue to wait for a longer period of time. She stated she had heard residents questioning whether the city manager form of government should be reviewed. She indicated the issue was about guiding the City into the future and how the residents wanted to see it happen.

Member Holder stated she had received information from the MML regarding cities with the strong mayor form of government. She indicated there were nineteen (19) with the cities comparable to Rochester Hills or higher in population such as Dearborn, Dearborn Heights, Detroit, Lansing, Livonia, Pontiac, Warren and Westland. She stated the Council Members represented the residents of the City, and noted she had not heard comments from the residents regarding a city manager versus a strong mayor. She indicated the issues she heard about from the residents were leaf burning and solid waste. She felt solid waste was an issue that should be put on the ballot. She suggested when the city manager/strong mayor matter became an issue, then it should be placed on the ballot.

Mayor Somerville stated the former City Administrator hired by Mayor Snell had worked for several other communities prior to serving in Rochester Hills. She noted he was now employed as a city manager in another community. She indicated city managers did move around from community to community accepting better offers, and indicated she had received many telephone calls from individuals seeking to fill the City Administrator position after it was vacated. She noted the Speak Up process occurred during the term of another Mayor, which could have been the reason the form of government became an issue in that process. She stated the City had moved forward during the past three (3) years, with many good accomplishments. She noted the City was in excellent financial condition, and she indicated she did not see a logical reason for changing the form of government.

Member Barnett requested clarification of the motion on the floor. Member Robbins clarified the motion would request the City Attorney to prepare language to be placed on the November ballot for two ballot issues, the first being to ask the residents if they want to create a Charter Commission, and if the first ballot issue passes, then the residents would elect the members of the Charter Commission. He explained this procedure would be less expensive than holding a separate election for each issue. Attorney Staran noted if the issues were voted on separately, the election of the Charter Commission would have to occur within sixty (60) days of the vote in favor of forming a Charter Commission. He indicated by law if the first issue failed, the election of the Charter Commissioners would automatically fail.

Member Robbins clarified the motion on the floor also indicated the City Attorney would bring the proposed language back to Council in sufficient time to approve the language prior to the ballot deadline, and the City Clerk would publish information and the requirements regarding the creation of a City Charter Commission for the residents.

Member Barnett questioned whether the two (2) issues were normally placed on the same ballot, noting it would be hard for individuals to campaign for membership on the Commission before it was known whether the Commission would be formed. Attorney Staran explained many communities put both issues on the same ballot for cost-savings reasons. He noted separate

elections could be held, although there was a sixty (60) day requirement for the election of the membership, once the vote create the Charter Commission passed.

Member Barnett noted the proposed motion was to begin drafting the ballot language, and questioned what would happen during the time before the question appeared on the ballot to inform the residents about the issue. Clerk Jasinski explained the information would have to be provided to the residents, through the use of the Hills Herald and other media in the City.

Member Barnett stated he would like additional information about the background work that would be done to bring the issue before the voters. He noted the solid waste, leaf burning and other issues had been researched by citizen committees, prior to any decision to go forward being made. He indicated he was not comfortable making a decision to form a commission and prepare the ballot language at this meeting, although he stated he would not be against the matter if a better plan were prepared, more information gathered, and a procedure or process established to gain additional input to help make the decision. He noted this was a key issue, and indicated he would prefer a plan to disseminate information and to establish the true facts.

Member Duistermars stated the current form of City government appears to have endured the test of time. He noted just because something different appeared to be progressive, it was not always the right thing to do.

Carl Wellenkotter, 184 Shagbark Drive, stated there were some good reasons to open the City Charter, such as the structure of the City; however, the residents were not aware of those reasons. He suggested the public should be informed of the reasons for opening the City Charter.

Susan deCaussin, 456 Wimpole, stated there would be no cost to put this issue on the November ballot, and noted that election was a City election and would have a large voter turnout. She indicated the process would take several years, and the person elected to the Mayor position in November would probably complete their term prior to a change of government, if a change of government was recommended and approved by the voters. She felt if the issue were put on the ballot, the residents would have an opportunity to discuss the matter.

Member Golden requested a clarification from the City Attorney about what could be accomplished by opening the Charter versus addressing issues through amendments to the Charter.

Attorney Staran stated Charter changes were made through amendments or revisions. He explained a Charter revision would require the formation of a Charter Commission, and became necessary when a substantial organizational or structural change in government was made. He indicated changing the form of government from Council/Strong Mayor to Council/City Manager was a significant organizational structure change requiring a Charter revision. He stated changes such as naming or creating different Departments, which do not affect the basic organizational structure of the City, could be accomplished by amendments. He indicated amendments were initiated by Council, and would require approval of the Governor and a vote of the residents to approve the amendment. He noted an amendment would not require the formation of and election of a Charter Commission. He stated the Charter amendment process

would allow Council to identify specific items to be changed; prepare the amendment through the form of a ballot question; receive approval from the Governor, and approval from the voters.

Attorney Staran explained a Charter Commission would consist of nine (9) City residents, none of whom could be employees or elected or appointed officials of the City. He stated the Charter Commission could completely rewrite the Charter, or make small changes. He indicated any proposed changes would be submitted to the Governor and the voters for approval. He noted the voters had the final say in either process.

Clerk Jasinski stated the City Charter had been amended three (3) times to provide provisions regarding nepotism, residency and term limits, all of which were approved by the voters.

Member Robbins stated opening the Charter through a Charter Commission would eliminate politics from any proposed revisions, and a Charter Commission would have the time to review the entire Charter for proposed revisions. He indicated the proposed motion was to request the City Attorney to prepare proposed ballot language in order to meet the ballot deadline. He stated when the language was prepared, Council would have to approve that language, which would provide the opportunity to create an awareness of the issue among the residents.

Member Hill stated the form of government was one (1) of the top five (5) issues identified through the Speak Up process, and this was an opportunity to move that issue forward. She noted it would be a lengthy process and would take some time to accomplish. She indicated Council could not address the form of government, and by putting the issue on the ballot, the public would decide if that issue should be addressed. She noted the November ballot was addressing City business only, and the Charter was City business.

Member Barnett requested an explanation of the next step in the process, if the decision made at this meeting was to move forward.

Attorney Staran stated the proposed motion intended for the drafted ballot language to be brought back to Council for further discussion, at which time Council would decide whether or not to put the issue on the ballot.

Member Barnett clarified the decision made tonight would be to request the City Attorney to draft the proposed ballot language. He suggested Council Members disseminate information to the residents, through town hall meetings, the Hills Herald, Channel 55, or the formation of a committee. He stated he felt it was important to hold discussions prior to making a decision to put the issue on the ballot.

Resolution A0622-2003-R0144

MOTION by Duistermars, seconded by Robbins,

Resolved to Call the Question to Close debate on the Motion currently on the Floor.

ROLL CALL VOTE:

Ayes: Dalton, Duistermars, Golden, Hill, Robbins
Nays: Holder, Barnett
Absent: None

MOTION CARRIED

President Dalton indicated Council would immediately move to vote on the motion on the floor.

Resolution A0622-2003-R0145

MOTION by Robbins, seconded by Hill,

Resolved that the City Council hereby requests the City Attorney to draft the appropriate ballot language to place two ballot questions on the November General Ballot consisting of the following: Ballot Issue #1 - Should the City of Rochester Hills form a City Charter Commission for the purpose of reviewing the City Charter and bringing forward recommended changes to be voted on by the electors of the City, including but not limited to changing the current form of city government from a strong mayor to city manager form of government. Ballot Issue #2 – If the electors of the City of Rochester Hills approve Ballot Issue #1, the following residents are elected as members of the City Charter Commission.

Be It Further Resolved that the draft language be provided to City Council for final approval in accordance with the requirements for placing a ballot question on the November General Ballot.

Also Be It Resolved that the City Council hereby requests the City Clerk to provide the appropriate notice to the public of the requirements and the process for residents to follow should they wish to have their name placed on the ballot to be elected as a member of the City Charter Commission.

ROLL CALL VOTE:

Ayes: Barnett, Hill, Robbins, Dalton
Nays: Holder, Duistermars, Golden
Absent: None

MOTION CARRIED

17. ANY OTHER BUSINESS

Member Barnett suggested a town hall meeting be scheduled to discuss the strong mayor/city manager topic. Mayor Somerville indicated a meeting would be scheduled.

18. NEXT MEETING DATE - to be determined
18a. Wednesday, May 7, 2003 at 7:30 PM

19. ADJOURNMENT

There being no further business to discuss before Council, President Dalton adjourned the meeting at 11:33 PM

JOHN L. DALTON, President
Rochester Hills City Council

JUDY A. BIALK,
Administrative Assistant to the City Clerk

BEVERLY A. JASINSKI, Clerk
City of Rochester Hills