



Rochester Hills Minutes

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Special City Council Work Session

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

Wednesday, May 12, 2004

7:30 PM

1000 Rochester Hills Drive

CALL TO ORDER

President Dalton called the Special Rochester Hills City Council Work Session Meeting to order at 7:36 p.m. Michigan Time.

ROLL CALL

Present: John Dalton, Bryan Barnett, Melinda Hill, Barbara Holder, Linda Raschke and Gerald Robbins

Absent: Jim Duistermars

Others Present:

*Pat Somerville, Mayor
John Staran, City Attorney
Bev Jasinski, City Clerk
Ed Anzek, Director of Planning/Development
Scott Cope, Director of Building/Ordinance Enforcement
John Sage, Ordinance Inspector
Robert White, Supervisor of Ordinance Services*

PUBLIC COMMENTS

None.

ADMINISTRATION

2004-0259

Discussion regarding Non-Conforming Sign Code Amortization

Attachments: Agenda Summary.pdf; White Bob Memo 20040428.pdf; Staran Letter 20040223.pdf; Residents letter 20040312.pdf; Pat Moran Letter 031104.pdf; NP Excel Realty Letter 2004-0409.pdf; Letter Cope 030104.pdf; Minutes CC Work Session 062503.pdf; Ordinance Chp. 134 S

Mr. Scott Cope, Director of Building/Ordinance Enforcement, introduced Mr. Robert White, Supervisor of Ordinance Services, and Mr. John Sage, Ordinance Inspector, whom Mr. Cope identified as the City's "Sign Ordinance Expert." Mr. Cope then briefly reviewed the data reflecting the number of signs in the City and those not in compliance, as was requested by City Council:

- * Total signs in the City (wall signs, ground signs) - 1,384
- * Current number of non-conforming - 130
- * Total percentage of non-conforming to all signs - 9.3%

- * Total ground signs (residential entrance, commercial) – 500
- * Current number of non-conforming - 130
- * Total percentage of non-conforming to total ground signs - 26%

- * Total commercial ground signs - 284
- * Current number of non-conforming - 130
- * Total percentage of non-conforming to conforming - 45%

Mr. Cope then stated that he and his colleagues would answer any questions posed by Council or residents.

PUBLIC COMMENT:

Mr. Bill Fox, 725 South Rochester Road, owner of Bill Fox Chevrolet, expressed his opposition to the ordinance, noting the following:

- 1) It is "bad legislation," as business owners were not involved in the decision-making process.
- 2) Monument signs will not properly advertise businesses or draw in customers.
- 3) Seventy percent (70%) of dealership business is drawn from beyond Rochester Hills.
- 4) The business lost due to decreased visibility will result in tax losses to the City.
- 5) The cost for replacing signs will be great with no discernable benefit to the community.

Mr. Fox requested that each sign be evaluated on a case-by-case basis and that those businesses with signs that are "safe and attractive" be grandfathered in.

Mr. Edward Toth, 2600 West Big Beaver Road, Troy, attorney representing WenTroy (a local Wendy's franchisee) made the following observations regarding the ordinance:

- 1) By law, the ordinance can only apply to off-premises "billboards," not signs identifying a business.
- 2) The requirements of the ordinance do not "improve the health and welfare of the residents." Instead, the changes to the ordinance are for aesthetic purposes only.

Mr. Tom Stevenson, 708 River Bend Drive, noting he is not a sign owner, but rather a concerned citizen, stressed that business signs are "not part of the landscaping"; they are designed to attract business. He noted that businesses in the City are "residents and partners" in the community and contribute a great deal of taxes.

Mr. Sam Harris, 2550 Birch Grove Court, Oxford, owner of the Gold Star restaurant, explained that, due to the unique geographical configuration of his restaurant, the current non-complying height of his sign is critical in assisting new and current customers in finding his restaurant. He requested that non-complying signs be grandfathered in.

Mr. G. Reed, 424 Ivy Wood Court, stated that the business signs are often used as landmarks when driving, particularly on Rochester Road, and serve a valuable purpose in the community.

Ms. Midge Smyth, 424 Ivy Wood Court, indicated that the signs are "well kept" and Rochester Hills is a "beautiful town." She requested that the existing signs be grandfathered in.

Mr. Ted Lasater, 7354 Townsend Warren, operator of the Ram's Horn restaurants at 2265 Crooks Road and 1990 South Rochester Road, requested that, if non-conforming signs cannot be grandfathered in, an extension of at least two (2) years be granted to allow business owners to save money for the replacement costs.

Mr. Mike Hoornaert, operator of Pat Moran GMC at 3277 South Rochester Road, stressed that visibility of signs is essential, and the setback requirement will result in reduced visibility.

Mr. Dave Duda, 1650 East Auburn Road, stated that his buildings are built up to the right-of-way, thus, there is no where he can place a sign to comply with the ordinance and still be seen. He asked that non-conforming signs be grandfathered in, and that Council and business owners work together to improve the ordinance.

Mr. Radu Magureanu, operator of Fox Portrait Studios at 3200 South Rochester Road, explained that visibility is essential to his business and asked that the existing signs be grandfathered in.

Mr. Carl Becker, 5010 Old Mill Road, Rochester, speaking for himself and his brother Arnold Becker, 1330 Walton, questioned what "compelling police power" the City of Rochester Hills has to enforce this ordinance. He stated that the Supreme Court has determined that "aesthetics alone is not justification for this" type of ordinance change.

Mr. Steve McGarry, 2164 Clinton View Circle, stated that, as a resident, he does not find the current signs objectionable. On the contrary, he stressed that the current signs are easier to read, thus safer from a traffic standpoint.

(Recess 8:28 p.m. - 8:58 p.m.)

COUNCIL DISCUSSION:

Council members expressed their desire to reach a compromise with the business owners, noting that when the ordinance was originally adopted the focus of Rochester Hills was a "bedroom community." They indicated that this focus is now changing, but expressed their desire that the non-conforming business owners work with the City's Building Department on a case-by-case basis to resolve their specific signage issues.

Mr. Robbins introduced suggested changes to the ordinance, stressing that no action could be taken at this Work Session meeting, but rather asked that City Attorney, John Staran, examine his suggestions and work with City Staff to modify the ordinance. His suggestions were as follows:

"Resolved that the existing 130 non-conforming signs of record documented in a memo from the Building Department on May 12, 2004 will be relieved of conforming to the height and setback requirements of this ordinance until the earlier of any of the following conditions are met:

- 1) The owner voluntarily changes the sign.*
- 2) The business is sold to a new owner.*
- 3) The business makes significant changes to their building.*
- 4) The business changes the form of business.*
- 5) The business is found to be in violation of the building/safety codes of the City and makes no reasonable attempt to address the violation.*

6) *The business's sign becomes dilapidated to a point where the Building Department orders a new sign.*

"Furthermore, no changes to the sign other than panel changes that conform to this ordinance or changes to maintain its aesthetics may be made.

"All signs must be fully compliant by the year 2010. Businesses that are unable to conform to the ordinance due to property or building configuration/location shall work with the Building Department to achieve a mutually agreeable compromise prior to the date of 2010."

Ms. Hill expressed her concerns with regards to allowing non-conforming signs to remain and the changes proposed by Mr. Robbins:

** It is unfair to the businesses that have already complied.*

** Monument signs are just as easily seen as pole signs.*

** Discretionary judgement on the part of the Building Department is difficult to enforce.*

** The credibility of the City Council is reduced when their decisions are reversed due to complaints.*

Ms. Hill asked that Mr. Staran examine the proposed ordinance changes from the point of view of the discretionary enforcement of the Building Department and the aesthetic basis of the ordinance.

Mr. Staran addressed specific issues raised:

** He is not aware of any law that limits a City's ability to amortize signs to off-premises, billboard-type signs only.*

** Non-conforming use rights are permitted in rezoning situations only, and that does not translate to this sign ordinance situation.*

** Typically an ordinance goes into effect immediately following adoption, and any grandfathering is at the discretion of the legislative body.*

** There is no requirement that the City show a compelling police power.*

** There is a great deal of case law and U.S. Supreme Court decisions that recognize a tremendous amount of latitude in adopting and enforcing local regulations for aesthetic purposes.*

Mr. Staran assured Council that he would take Mr. Robbins' suggestions and work with City Staff to establish precise legal language taking into account the issues raised by Council members, as well as business owners and residents. Once completed, these suggestions would be brought back before Council at a future regular meeting.

Discussed

~~ANY OTHER BUSINESS~~

~~*Ms. Hill indicated that she had attended the Region 1 Michigan Municipal League (MML) conference the previous day where she saw a presentation by Plante Moran that explained the Headlee Amendment and Proposal A and how they are adversely affecting municipal budgets. She asked that Plante Moran be invited to make the same presentation before Council in an effort to educate the Council as well as the residents regarding these issues.*~~