

MINUTES of the **Regular Rochester Hills City Council Meeting** held at 1700 W. Hamlin Road, Rochester Hills, Michigan, on Wednesday, June 4, 2003 at 7:30 PM.

1. CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:32 PM Michigan Time.

2. ROLE CALL

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

Absent: Jim Duistermars Member (*Arrive 7:40 PM*)

QUORUM PRESENT

Others Present: Pat Somerville, Mayor
Beverly A. Jasinski, City Clerk
John Staran, City Attorney
Derek Delacourt, Planner II, Planning Department
Todd Gary, Fire Marshall, Fire Department
Deborah Millhouse, Deputy Director, Planning Department
Greg Walterhouse, Fire Chief, Fire Department

President Dalton stated Member Duistermars provided pervious notice that 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 May 30, 2003 from Susan Galeczka, City Council Liaison).

Resolution A0001-2003-R0185

MOTION by Robbins, seconded by Barnett,

Resolved That the Rochester Hills City Council hereby approves the Agenda of the Regular Rochester Hills City Council Meeting of June 4, 2003 as presented.

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

MOTION CARRIED

5. CHAIRPERSON'S REPORT

Mr. Dalton congratulated the graduating seniors from the three Rochester Hills high schools and praised them for their athletic and academic achievements.

(Council Member Duistermars arrived at 7:40 pm.)

6. COUNCIL COMMENTS

Ms. Hill commented on the dissemination of the Paint Creek Trailways brochure and map acknowledging its availability for National Trails Day celebration and discussed the Trailways Commission listing numerous other activities in the community. Ms. Hill also mentioned that the Paint Creek Trail has received Michigan's only designation of a Millennium Legacy Trail.

Ms. Golden advised citizens that a locator map is available at the Paint Creek Trail website. Further, Ms. Golden advised Council that an email was received that morning from a Planning Commissioner in China Township expressing interest in having Rochester Hills host a gathering of all communities along the Polly Ann Trail, Clinton River Trail, etc., at Bloomer Park, which is regarded as the "hub" of trails.

Mr. Barnett mentioned the Pancake Breakfast from 8:00 am to 10:00 am, Saturday morning at the Village of Rochester Hills.

Further, Mr. Barnett stated that due to the tremendous response for the addition of student committee members, it was suggested by the Clerk's office that an amendment be made to add two (2) students instead of one (1) student to every Council committee.

Ms. Holder announced that June 20, 2003, City Hall would be closed due to the move to the new section of the building. DPS, Fire and Police departments will be open. If emergency assistance is required, it was recommended that the Fire Department or Oakland County Sheriff's Department be contacted. Emergency procedures during the move will be posted on the website and Channel 55/10.

7. MAYOR'S REPORT

Mayor Somerville had nothing to report.

8. ATTORNEY'S REPORT

Mr. Staran advised Council that, due to a recent adverse ruling from the Court of Appeals, the City of Ferndale would like support from other communities with regard to their weapons in public buildings case. Mr. Staran is awaiting additional information regarding the format for submitting a resolution in support of Ferndale's position. This information will be supplied to Council as soon as it is available.

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.)

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

- 9a. **Approval of Minutes** - Regular Meeting, April 2, 2003 (A0005) (Members received a copy of the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, April 2, 2003).

Resolution A0005-2003-R0186

MOTION by Hill, seconded by Barnett,

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, April 2, 2003, be approved as presented.

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

MOTION CARRIED

- 9b. **Approval of Minutes** - Regular Meeting, April 16, 2003 (A0005) (Members received a copy of the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, April 16, 2003).

Resolution A0005-2003-R0187

MOTION by Hill, seconded by Barnett,

Resolved that the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, April 16, 2003, be approved as presented.

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

MOTION CARRIED

- 9c. **Approval of Fireworks Display Permit** for Festival of the Hills, to be held at Borden Park on Thursday, July 3, 2003, with a rain date of Friday, July 4, 2003, Melrose Pyrotechnics, Inc., Applicant (A0666) (Members received an Agenda Summary Sheet dated May 29, 2003, from Alan Buckenmeyer, Parks and Forestry Department, with attachments)

Resolution A0666-2003-R0188

MOTION by Hill, seconded by Barnett,

Now Therefore Be It Resolved, that the Rochester Hills City Council hereby approves the application filed by the City of Rochester Hills for the fireworks display at Borden Park on July 3, 2003; and

Be it further resolved, that the City Council hereby authorizes the issuance of a permit to Melrose Pyrotechnics, Inc. for said date, subject to Fire Department safety recommendations.

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

MOTION CARRIED

- 9d. Amendment to Resolution A0644-2003-R0172** regarding approval of purchase authorization - DPS: One (1) Forestry Chip Truck, purchase order not to exceed \$43,299.00, Ed Schmid Ford, Ferndale MI (A0644) (Members received an Agenda Summary Sheet dated May 30, 2003, from Susan Galeczka, City Council Liaison, with attachments)

Resolution A0644-2003-R0189
(Amending Resolution A0644-2003-R0172)

MOTION by Hill, seconded by Barnett,

Whereas, sealed bids were solicited for the purchase of one, new forestry chip truck and the lowest responsive, responsible bidder was selected; and

Whereas, a resolution was approved by City Council on May 21, 2003 to NBC Truck Equipment for the purchase the afore mentioned vehicle; and, after approval of the resolution it was discovered that the vendor name should have been stated as Ed Schmid Ford with NBC Truck Equipment as the equipment supplier.

Whereas, this resolution replaces the previous resolution and names Ed Schmid Ford as the lowest responsive, responsible bidder in the best interest of the City.

Resolved that the Rochester Hills City Council authorize the purchase of one new, forestry chip truck from Ed Schmid Ford of Ferndale, Michigan, in the amount not-to-exceed \$43,299.00.

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

MOTION CARRIED

10. PUBLIC COMMENTS

Mr. Lee Zendel, 1575 Dutton, expressed his concern that changing to a single hauler waste management system for the city may result in a "monopoly." Citing various sources (newspaper/magazine articles, press releases, etc.) and a comparison of the breakup of AT&T in the 1970s, Mr. Zendel encouraged the Council to increase the number of haulers coming into Rochester Hills to increase competition.

Mr. Kriss Hinchman, 1124 Terra Court, stated that due to the May 19th motion passed that eliminated bus service at all Rochester District High Schools, it was Mr. Hinchman's contention that the resulting traffic increases will result in a safety concern for students along the Tienken Road Corridor adjacent to Stoney Creek High School. Mr. Hinchman noted that there are no sidewalks in the historic district for half a mile along Tienken Road; there is no crosswalk or streetlights on the turnarounds or roundabouts.

Mr. Carl Wellenkotter, 184 Shagbark Drive, citing the Rochester Community Schools newsletter and Governor Granholm's budget plan, drew a comparison between the form of administration of the school board and the proposed change in the city charter from a strong Mayor form of government to a City Manager format to express his opposition to this proposed change.

11. LEGISLATIVE / ADMINISTRATIVE RESPONSE

Ms. Golden requested an update regarding the Tienken Road Corridor funding. She stated that she is aware of the bridge work and improvements including a traffic signal by Paint Creek Trail crossing. She suggested utilizing funds from the MDOT enhancement grant for proposed improvements.

Ms. Hill acknowledged that the Pathway Committee is examining the issue and suggested using T3 monies for non-motorized pathways. She then requested an update from the Pathway Committee, noting that the elimination of busing adds a new element to the discussion.

Mr. Barnett acknowledged that the Pathway Committee was "moving in a different direction" and agreed that the elimination of busing changes the situation, thus, requiring a re-examination of this safety issue.

Mr. Duistermars acknowledged that the busing issue was not considered previously.

Ms. Golden will provide information to Mr. Barnett, but reminded the Council that there are deadlines for grant funding opportunities, and advised that the matter should not remain in committee for too long.

Mr. Barnett indicated that the Pathway Committee would have information ready for next month. He expressed that the Pathway Committee had evaluated approximately twelve (12) different projects, utilizing approximately fifteen (15) different criteria and that the proximity to schools was considered. He did not believe that this matter would require a great deal of research, as the Pathway Committee has already gathered a great deal of information.

12. PETITIONERS REQUESTS

12a. Request for Preliminary Plan Approval for Saddlebrook Orchards Site Condominiums, a ten-unit, single-family condominium development on 4.97 acres, located north of Auburn Road and east of Crooks Road, identified as Parcel No. 15-28-300-029, zoned R-4 (One Family Residential); Kieft Engineering, Inc., Applicant (A0611) (Members received an Action Summary Sheet dated April 7, 2003, from Deborah Millhouse, Deputy Director of Planning, Planning Department, with attachments)

Mr. Jim Scharl, 5852 South Main Street, Clarkston, President of Kieft Engineering, Inc. and **Ms. Deborah Millhouse**, Deputy Director of Planning, Planning Department, briefly reviewed the information contained in the packet noting the unique history of the location under consideration.

Ms. Hill voiced admiration for the plan, commenting specifically on the access to future development. She concurred with the discussion regarding the fencing placed around the detention pond and stressed that decorative fencing be used. Ms. Hill expressed a concern regarding the impact of development on adjacent properties and wetlands areas especially as they relate to future development possibilities. Ms. Hill was curious as to why this matter was not at committee and was very concerned about how current development will impact any future surrounding development.

Ms. Millhouse cited a study completed by the city's wetlands consultant that determined there are no regulated wetlands impacting this development and that drainage is always considered as part of the construction plan approval phase.

Ms. Golden verified that the packet references a letter from the city's wetlands consultant confirming that no regulated wetlands impact this development.

Resolution A0611-2003-R0190

MOTION by Duistermars, seconded by Robbins,

Now Therefore Be It Resolved that the Rochester Hills City Council approves the Preliminary Plan for Saddlebrook Orchards, City File No. 99-031, a ten-unit single family condominium development on 4.997 acres, located north of Auburn Road and east of Crooks Road, identified as Parcel No. 15-28-300-029 and zoned R-4, One Family Residential, based on plans dated received by the Planning Department on January 9, 2003, with the following findings and subject to the following conditions.

Findings:

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and the One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are currently available to properly service the proposed development.
3. The preliminary plan represents a reasonable and acceptable plan for developing the property.
4. The preliminary plan represents a reasonable street layout, as well as a reasonable lot layout and orientation. In addition, all lots have access to the interior local street.
5. The Environmental Impact Statement shows that this development will have no substantially harmful effects on the environment.

Conditions:

1. Deletion of the Tree Removal Permit Conditions and Preliminary Plan Approval Conditions from Sheet 2 of 7.
2. Addition of a note to the Preliminary Site Condominium Plan stating that the revised location of utilities will be addressed at the time of construction plan submittal and approved by Engineering Services.
3. Provision of a performance guarantee in the amount of \$3,610, as adjusted if necessary by the City, to ensure the correct installation of the proposed landscaping. Upon approval of the installation by the City's Landscape Architect, a maintenance guarantee shall be retained for a minimum of two growing seasons. The performance guarantee to be provided by the applicant prior to issuance of a Land Improvement Permit.
4. Approval by Engineering Services of the left turn lane and associated improvements to Auburn Road depicted on Sheet 7 of 7.
5. Prior to final plan approval, the applicant proposes an acceptable fencing alternative to the now planned polyvinyl fencing at the detention ponds.
6. Prior to final plan approval, the applicant submit a proposal to denote that the open space areas are designed to remain in their natural treed and otherwise natural state, other than in the Master Deed and in the By-Laws.

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

MOTION CARRIED

- 12b. Request for Preliminary Plan Approval** for Northbrooke Meadows Site Condominiums, a 58-unit site condominium development on 21.36 acres, located west of Crooks Road and south of Auburn Road, identified as Parcel Nos. 15-33-128-003 & 004, zoned R-4 (One Family Residential); Aspen Group/Auburn LLC, Applicant (A0623) (Members received an Action Summary Sheet dated April 7, 2003, from Derek Delacourt, Planner II, Planning Department, with attachments)

Mr. David Goldberg, Aspen Group/Auburn LLC, 28246 Franklin Road, Southfield, MI 48034;
Ms. Carol Thurber, Project Engineer; **Mr. Derek Delacourt**, Planner II, Planning Department.

Mr. Delacourt listed three (3) issues identified based on comments and recommendations by the Planning Commission and homeowners:

- Homeowners have requested that the proposed landscaping, lighting and signage improvements along Samuel Road not be installed.
- Agreement by the homeowners association to determine, on a fair basis, how Northbrooke's Homeowners Association can contribute towards the maintenance in their budget to the shared entrance way with the neighboring complex.
- The Planning Commission, in conjunction with the request of some homeowners, agreed that the extension of Samuel Avenue and new right-of-way into the development be eliminated. This request appears to conflict with the request of engineering services. Planning will defer to the decision of Council.

PUBLIC COMMENTS:

Mr. William Panella, 1612 Alsdorf, stated that he feels the addition of Samuel Road is unnecessary. Mr. Panella noted that this fifth access point into the subdivision would result in increased traffic through the neighborhood. Also, this addition will require the removal of a healthy tree.

Mr. Myran Williams, 1644 Alsdorf, agrees that this addition is unnecessary, citing that without the addition at Samuel Road the plan would still meet the requirements for emergency services access. Also, Mr. Williams indicated that children play in this area and would be at greater risk to increased traffic and speeding cars.

Ms. Hill requested clarification of the apparent conflicting recommendations of the Planning Commission and engineering services, as well as clarification of the tree situation.

Mr. Delacourt indicated that he is unaware of the healthy tree to which Mr. Panella referred. He indicated that engineering services continues to recommend the connection of Samuel Road to facilitate traffic dispersion. He contended that Mr. Goldberg would comply with the decision of Council.

Ms. Hill concurred with the determination from the standpoint that more access points available will reduce the likelihood of one street receiving the brunt of the traffic flow. She then questioned whether it was possible to continue the process while leaving the plans open-ended as to the issue of this particular extension and right-of-way.

Mr. Delacourt indicated that Ms. Hill's suggestion is possible, suggesting that the construction plans contain the expansion and right-of-way, but that the issue be further investigated and

resolved prior to recommendation for final site condominium plan approval. The specific right-of-way issue could then be decided at that point in the process.

Mr. Barnett requested discussion regarding the walkway.

Mr. Delacourt explained that one of the Planning Commission members suggested that the crosswalk should be readjusted to go through the median. However, it was Mr. Delacourt's impression that the majority of the commissioners disagreed with this suggestion and felt that this change would cause confusion.

Mr. Barnett asked Mr. Delacourt if he had an indication of the price point for this development.

Mr. Delacourt estimated the price point would be in the \$350,000 range, but felt that it would begin below that point and move upwards toward \$400,000 as sales move through.

Mr. Robbins then moved the motion in the packet incorporating the five (5) findings and eleven (11) considerations, striking Condition 9 and replacing it with what Mr. Delacourt had previously discussed.

Resolution A0623-2003-R0191

MOTION by Robbins, seconded by Duistermars,

Resolved that the Rochester Hills City Council approves the Preliminary Plan for Northbrooke Meadows, City File No. 02-006, a 58-unit site condominium development located on 21.36 acres, identified as Parcel Nos. 15-33-128-003 & 004 and zoned R-4, One Family Residential, based on plans dated received by the Planning Department on February 6, 2003, with the following findings and subject to the following conditions.

Findings:

1. Upon compliance with the following conditions, the preliminary plan meets all applicable requirements of the Zoning Ordinance and the One-Family Residential Detached Condominiums Ordinance.
2. Adequate utilities are currently available to properly service the proposed development.
3. The preliminary plan represents a reasonable and acceptable plan for developing the property.
4. The preliminary plan represents a reasonable street layout, as well as a reasonable lot layout and orientation. In addition, all lots have access to the interior local street.
5. The Environmental Impact Statement shows that this development will have no

substantially harmful effects on the environment.

Conditions:

1. That all remaining engineering issues be addressed and approved by the City's Engineering Services Department prior to approval of Construction Plans.
2. That all proposed street names be reviewed and approved by the City's Communications Division prior to submittal for final approval.
3. Submittal and approval of documentation of a permanent off-site landscape easement for plantings along the eastern property line prior to issuance of a land improvement permit.
4. That the northernmost Greenspire Linden on Auburn Road be removed or relocated subject to review and approval of the City's Landscape Architect prior to submittal for final approval.
5. Submission of a landscaping performance and maintenance guarantee for a period of two growing seasons in the amount of \$8,600 as adjusted if necessary by the City, prior to issuance of a Land Improvement Permit.
6. That the applicant receive a soil erosion permit prior to issuance of a Land Improvement Permit.
7. That the two parcels composing the subject site be combined in perpetuity prior to approval of construction plans.
8. That the applicant not install and remove from the plan the permanent subdivision sign and lighting for any signs.
9. That the construction plans contain the expansion and right-of-way for Samuel Road with the final determination being investigated and resolved prior to final condominium plan approval.
10. That the applicant construct a landscaped island in the cul-de-sac of Cicada, as approved by Staff.
11. That the applicant show on the plan and construct sidewalks on the improved portion of Mildred to Alsdorf.

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

MOTION CARRIED

13. ADMINISTRATION

13a. ORDINANCE ADOPTION

First Reading - An Ordinance to amend Section 30-29 of Chapter 30, Community Development, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify tax exemption provisions relating to the Cliffview Apartments, and repeal conflicting ordinances (A0631) (Members received a City Council Agenda Summary Sheet dated May 30, 2003, from John D. Staran, City Attorney, with attachments)

Mr. George Mager, Jr., Cox, Hodgman & Giarmarco, 201 West Big Beaver Road, Troy, Michigan, appearing on behalf of Cliffview Limited Dividend Housing Association Limited Partnership.

Mr. Barnett inquired as to whether there would be any changes to the residents of Cliffview with the proposal of the thirty-five (35) year tax exempt extension.

Mr. Mager indicated that the proposal would result in no changes and, in fact, would result in the continued opportunity of lower rents.

Resolution A0631-2003-R0192

MOTION by Hill, seconded by Golden,

Resolved that an Ordinance to amend Section 30-29 of Chapter 30, Community Development, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify tax exemption provisions relating to the Cliffview Apartments, and repeal conflicting ordinances is hereby accepted for **First Reading**.

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

MOTION CARRIED

14. COUNCIL COMMITTEE REPORTS

Ms. Hill stated that the resolutions are all prepared for 2004 salary recommendations and that they will appear on the next Council agenda. There was also a favorable resolution from the committee to recommend approval of the Class C liquor license for Antoniou's Pizza. The committee is delving into the possibility of revamping and revising the criteria and requirements for Class C liquor licenses in the community. The committee is moving ahead per the moratorium Council had set.

Mr. Barnett requested that a resolution be drafted for the next meeting to add a second student to the City Council committees for a total of two (2) students per committee.

Resolution A0530-2003-R0193

MOTION by Robbins, seconded by Golden,

Resolved that the Rochester Hills City Council hereby amends the Administration & Information Services Committee Bylaws and Rules of Procedure as follows:

ARTICLE II: MEMBERSHIP

Section 1.

The Committee shall consist of three (3) members of City Council, appointed by Council, two (2) Citizen Representatives, appointed by Council, two (2) Youth Representatives appointed by the Administration & Information Services Committee, and members of the City Administration, to be appointed by the Mayor.

Section 2.

- c. Two (2) youth representatives to the Committee shall be appointed by the Committee and shall serve for a one (1) year term coinciding with the school calendar year beginning on September 1 and expiring on August 31 of the appropriate year, except that, of the first appointment to the Committee, one (1) member shall be appointed for a term to expire on August 31, 2004.
- iv. The Community Development & Viability Committee shall review all applications and make recommendations to each respective committee. Each Committee shall be responsible for the selection of \ two (2) youth members to serve on each respective committee.

ARTICLE III: OBJECTIVES

Section 5.

The youth representatives shall provide a report and/or update to City Council on a quarterly basis on their Student Council, Youth Council, or youth related programs, and his/her involvement on the Communication Committee.

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

MOTION CARRIED

Resolution A0531-2003-R0194

MOTION by Robbins, seconded by Golden,

Resolved that the Rochester Hills City Council hereby amends the Community Development and Viability Committee Bylaws and Rules of Procedure as follows:

ARTICLE II: MEMBERSHIP

Section 1.

The Committee shall consist of three (3) members of City Council, appointed by Council, two (2) Citizen Representatives, appointed by Council, two (2) Youth Representatives appointed by the Community Development and Viability Committee, and members of the City Administration, to be appointed by the Mayor.

Section 2.

- c. Two (2) youth representatives to the Committee shall be appointed by the Committee and shall serve for a one (1) year term coinciding with the school calendar year beginning on September 1 and expiring on August 31 of the appropriate year, except that, of the first appointment to the Committee, one (1) member shall be appointed for a term to expire on August 31, 2004.
- iv. The Community Development & Viability Committee shall review all applications and make recommendations to each respective committee. Each Committee shall be responsible for the selection of \ two (2) youth members to serve on each respective committee.

ARTICLE III: OBJECTIVES

Section 5.

The youth representatives shall provide a report and/or update to City Council on a quarterly basis on their Student Council, Youth Council, or youth related programs, and his/her involvement on the Communication Committee.

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

MOTION CARRIED

Resolution A0532-2003-R0195

MOTION by Robbins, seconded by Golden,

Resolved that the Rochester Hills City Council hereby amends the Financial Services Committee Bylaws and Rules of Procedure as follows:

ARTICLE II: MEMBERSHIP

Section 1.

The Committee shall consist of three (3) members of City Council, appointed by Council, two (2) Citizen Representatives, appointed by Council, two (2) Youth Representatives appointed by the Financial Services Committee, and members of the City Administration, to be appointed by the Mayor.

Section 2.

- c. Two (2) youth representatives to the Committee shall be appointed by the Committee and shall serve for a one (1) year term coinciding with the school calendar year beginning on September 1 and expiring on August 31 of the appropriate year, except that, of the first appointment to the Committee, one (1) member shall be appointed for a term to expire on August 31, 2004.
- iv. The Community Development & Viability Committee shall review all applications and make recommendations to each respective committee. Each Committee shall be responsible for the selection of \ two (2) youth members to serve on each respective committee.

ARTICLE III: OBJECTIVES

Section 5.

The youth representatives shall provide a report and/or update to City Council on a quarterly basis on their Student Council, Youth Council, or youth related programs, and his/her involvement on the Communication Committee.

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

MOTION CARRIED

Resolution A0533-2003-R0196

MOTION by Robbins, seconded by Golden,

Resolved that the Rochester Hills City Council hereby amends the Leisure Activities Committee Bylaws and Rules of Procedure as follows:

ARTICLE II: MEMBERSHIP

Section 1.

The Committee shall consist of three (3) members of City Council, appointed by Council, two (2) Citizen Representatives, appointed by Council, two (2) Youth Representatives appointed by the Leisure Activities Committee, and members of the City Administration, to be appointed by the Mayor.

Section 2.

- c. Two (2) youth representatives to the Committee shall be appointed by the Committee and shall serve for a one (1) year term coinciding with the school calendar year beginning on September 1 and expiring on August 31 of the appropriate year, except that, of the first appointment to the Committee, one (1) member shall be appointed for a term to expire on August 31, 2004.
- iv. The Community Development & Viability Committee shall review all applications and make recommendations to each respective committee. Each Committee shall be responsible for the selection of \ two (2) youth members to serve on each respective committee.

ARTICLE III: OBJECTIVES

Section 5.

The youth representatives shall provide a report and/or update to City Council on a quarterly basis on their Student Council, Youth Council, or youth related programs, and his/her involvement on the Communication Committee.

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

MOTION CARRIED

Resolution A0534-2003-R0197

MOTION by Robbins, seconded by Golden,

Resolved that the Rochester Hills City Council hereby amends the Public Safety Committee Bylaws and Rules of Procedure as follows:

ARTICLE II: MEMBERSHIP

Section 1.

The Committee shall consist of three (3) members of City Council, appointed by Council, two (2) Citizen Representatives, appointed by Council, two (2) Youth Representatives appointed by the Public Safety Committee, and members of the City Administration, to be appointed by the Mayor.

Section 2.

- c. Two (2) youth representatives to the Committee shall be appointed by the Committee and shall serve for a one (1) year term coinciding with the school calendar year beginning on September 1 and expiring on August 31 of the appropriate year, except that, of the first appointment to the Committee, one (1) member shall be appointed for a term to expire on August 31, 2004.
- iv. The Community Development & Viability Committee shall review all applications and make recommendations to each respective committee. Each Committee shall be responsible for the selection of \ two (2) youth members to serve on each respective committee.

ARTICLE III: OBJECTIVES

Section 5.

The youth representatives shall provide a report and/or update to City Council on a quarterly basis on their Student Council, Youth Council, or youth related programs, and his/her involvement on the Communication Committee.

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

MOTION CARRIED

(Recess 8:33 pm - 8:50 pm)

15. UNFINISHED BUSINESS

15a. Discussion regarding Burning Issues (A0497) (Members received an Agenda Summary Sheet dated May 30, 2003 from Susan Galeczka, City Council Liaison, with attachments)

Mr. George Newton, 196 Grayline, stated that he has been a resident of Rochester Hills for twenty-five (25) years and has been burning leaves all that time. It was his contention that burning leaves is preferable to bagging them, as his property would likely produce as many as fifty (50) to seventy-five (75) bags per week.

Mr. Steven Strine, 2962 Mohawk Lane, cited the findings of the ad hoc committee stressing the scientific evidence that leaf burning is detrimental to individuals with chronic breathing problems. Mr. Strine dismissed the argument that the exhaust of power equipment used to dispose of leaves in lieu of burning would be more detrimental to residents.

Ms. Cecilia Strine, 2962 Mohawk Lane, quoted Rule 901, Part 55 of the Natural Resources and Environmental Protection Act in support of her opposition to leaf burning. She also cited specific findings of such organizations as the EPA and the American Lung Association listing the harmful effects of leaf burning.

Ms. Patricia Turner, 2407 Culbertson, urged the Council to vote for a compromise and suggested possible options:

- Restrict leaf burning to the current fall days and times, and designate a smoke-free zone around schools.
- Allow burning only on lots of one acre or more.
- Disseminate the leaf burning rules to the public, as well as information extolling the benefits and processes of bagging, mulching and composting using local newspapers and the City's website and cable channel.
- Create and enforce fines for violations of the burning rules.

Ms. Turner also volunteered to organize a community service program through the schools that would organize parents and children to help with raking, bagging and branch bundling.

Mr. Thomas Stevenson, 708 River Bend Drive, stressed the number of senior citizen residences and daycare facilities in the community, indicating that the very young and the elderly are most vulnerable to the negative health affects of leaf burning. He then emphasized the proper procedures for effective composting of leaves.

Mr. Jim Watson, 700 Peachtree Lane, indicated that he supports the ban on leaf burning provided there is an adequate leaf pickup program. He then urged the Council to come to a decision as quickly as possible.

Mr. Joseph Krizanich, 1142 Green Leaf Drive, questioned how the Council can allow leaf burning to continue despite evidence of the negative health affects.

Mr. Alex Kiwior, 1860 Crestline Road, used an analogous story to illustrate his opposition to leaf burning and to urge the Council to exercise their influence to prevent burning in the future.

Ms. Susan deCaussin, 456 Wimpole Drive, as a former member of council, urged the Council to come to an immediate decision, because, in her estimation, the issue has been pending for more than fifteen (15) years. She further urged that the decision be based on the facts and not on the number of residents either for or against the ban.

Ms. Siegrid Stern, 1185 Concord, expressed her opposition to leaf burning and described her process of simply mowing her leaves along with her lawn. She also suggested educating people on alternatives to leaf burning.

Rev. Dr. Pamela Whateley, 1600 North Livernois Road, urged the Council to take into consideration wet or windy days that may prevent burning on designated days and suggested a plan of adding extra burning days under those circumstances.

Mr. Walter Johnson, 3338 Greenwood Drive, suggested that the Council consider the issue of "meaningful" enforcement of any new leaf burning rules.

Ms. Holder read two (2) email messages into the record:

- **Ms. Jennifer Krauss**, 232 Arlington Drive, stated that leaf burning is already very limited and occurs during seasons when most people remain indoors with their windows closed. She suggested that the health hazards of car and truck exhaust should be of much greater concern.
- **Rochester Tool & Cutter Service**, 1700 East Auburn Road, opposes the ban on leaf burning and believes that the existing laws are sufficient to protect residents from pollution. The email further expressed opposition to an increase in taxes to accommodate leaf removal in lieu of burning.

Mr. Robbins read one (1) email message into the record:

- **Ms. Ethel L. Cenkner**, 2609 Stonebury Drive, expressed her belief that the current leaf burning laws, while restrictive, are adequate and should not be changed to accommodate a minority of citizens with health concerns. She cited several other sources of pollutants and asked whether leaf burning restrictions would lead to more restrictions in the future. In conclusion, Ms. Cenkner asked if there were results of the leaf burning question included on the recent City survey.

President Dalton indicated that, with only twenty-five percent (25%) of the surveys completed, the results of the City survey question "Should the City ban leaf burning?" were as follows: 176 "Yes" votes, 196 "No" votes and 35 "Don't Know" votes.

Mr. Barnett stated that he sees the discussion focusing on three main themes: health concerns, hardships resulting from a total ban, and education. With regard to compromise, he suggested the following points for discussion:

- Eliminate leaf burning in the spring, with the exclusion of brush, tree parts and storm damage.
- Continue leaf burning in the month of November using the same schedule of week days and times.

- Enact a permit fee of twenty dollars (\$20) for burning both brush and leaves to be used to help educate and inform residents as to alternative methods of leaf disposal.
- A sunset clause in the year 2006 that would effectively eliminate leaf burning with the exclusion of brush, tree parts and campfires.
- Enforcement of current and future burning ordinances.

Mr. Barnett asked that City Attorney Staran and Chief Walterhouse be included in this discussion.

Chief Walterhouse stated that, after consulting the Michigan Open Burning Guide, he was of the opinion that the burning of stumps, trees and brush is prohibited within an incorporated city limit. He indicated that the Guide is predicated on state law and that he would be furnishing City Attorney Staran with more information to facilitate further research into the matter.

Mr. Robbins moved the motion in the packet.

Motion failed due to lack of support.

Mr. Robbins indicated that he gets all the pages from the Fire Department and estimated that they receive at least two (2) or three (3) difficulty breathing calls each day. (**Chief Walterhouse** was unable to confirm or deny this estimate.) Mr. Robbins contended that a compromise further restricting leaf burning in lieu of a total ban would be inadequate in eradicating the health problems associated with the practice. He urged his colleagues on the Council to dismiss the political ramifications of voting for a total ban and to "vote with your heart and with your head."

Ms. Holder indicated that she had originally favored an advisory question be placed on the ballot, but was advised that this was not legal. She then asked whether campfires would fall under the guidelines Chief Walterhouse had described previously.

Chief Walterhouse stated that the proposed ordinance will need to define the different categories of fires (e.g., campfire, bonfire, recreational fire, etc.) to include sizes and substances burned. He stated that even the national fire codes do not agree on these definitions.

Ms. Holder questioned whether the city ordinance would over-ride other provisions.

Chief Walterhouse stated that the Fire Department has been enforcing the actual city ordinance and he believed the burning section of the fire code may have been repealed at the time the ordinance was written.

Ms. Holder questioned whether home owners associations can enact and enforce their own rules within a subdivision regarding leaf burning.

Mr. Staran stated that home owners associations can enact such restrictions prior to development of the subdivision to be included in the master deed or deed restrictions.

Ms. Holder stated that she would support Mr. Barnett's proposal, but was concerned that the plan would have to be altered due to the guidelines prohibiting burning brought to Council's attention by Chief Walterhouse.

President Dalton indicated that City Attorney Staran would need to research and address these issues, and that they need to be brought to his attention.

Ms. Golden asked for further discussion regarding Ms. Turner's suggestion to enact smoke-free zones around schools. She also suggested the enactment of significant fines for burning violations.

Mr. Staran listed the current fine structure as seventy dollars (\$70) for the first offense, ninety dollars (\$90) for the second offense and five hundred dollars (\$500) for each offense there after. He further indicated that there are provisions in place for the city to bill residents in violation of the ordinance for restitution to recoup the expenses of the apparatus used and the wages for individual fire fighters.

Ms. Golden felt that the level of fines was inadequate to deter people from committing violations.

Mr. Staran stated that the City Charter limits the level of fines the City Council can enact to a maximum of five hundred dollars (\$500) and/or ninety (90) days in jail.

Ms. Golden expressed concern that recommendations for mulching would result in an increased use of gas-engine lawn equipment, thus resulting in harmful pollution on a greater level than is now experienced due to leaf burning. She suggested the City provide education about the fumes and emissions from this equipment and promote the use of electric or rotary mowers.

Mr. Duistermars asked for clarification of the guidelines Chief Walterhouse cited, indicating that it was his understanding that the state statute requires regulation of open burning in communities of over 7,500 residents rather than mandates an outright ban.

Chief Walterhouse reiterated that it is his understanding that the guidelines prohibit the burning of trees, logs, brush and stumps within the incorporated city limits. However, an incorporated city of over 7,500 residents can enact an ordinance to authorize the burning of leaves and can file that ordinance with the State of Michigan.

Mr. Duistermars emphasized his interpretation that the statute only requires regulation of leaf burning at the 7,500 person population threshold. He then expressed concern that a total ban on leaf burning could possibly lead to a ban on various other smoke-producing practices (e.g., fireplaces). It was his contention that scientific studies often contradict one another and, thus, he was more in favor of eliminating unnecessary periods of leaf burning such as the spring. He also suggested a plan that would gradually phase out leaf burning by restricting new home owners from leaf burning.

President Dalton suggested that City Attorney Staran review and examine the new information brought forth by Chief Walterhouse and return with a proposed ordinance that can then be further "tweaked" by City Council.

Ms. Holder indicated that enacting an ordinance that restricted burning for new residents while grandfathering existing residents would create enforcement difficulties for the Fire Department.

Mr. Barnett questioned Chief Walterhouse as to whether the City would be grandfathered in under the burning guidelines addressed earlier, or would the City have to petition the state to continue burning leaves.

Chief Walterhouse stated he had no further information regarding the guidelines and it would require further research.

Mr. Barnett asked Chief Walterhouse when he received the guidelines information and asked if they were based on laws that were on the books in 1994 or if they were based on Public Act 451.

Chief Walterhouse stated that he received a publication from the State Fire Marshall's office that same day regarding the guidelines that are predicated on Public Act 451 that was amended in 1994.

Ms. Hill expressed her disappointment that action was not being taken. She requested that the issue be included on the next agenda and requested that a vote be taken. She contended that the resolution could be amended were it determined that it is out of compliance.

President Dalton stated that the Council could not vote on the resolution, that an ordinance amendment is needed.

Ms. Hill stated that she is in favor of a compromise that includes a sunset clause, limiting burning to the month of November, enacting a twenty dollar (\$20) permit fee to be used for education and the current fine structure, however, she expressed her concern with the enforcement of the new ordinance. She questioned whether the new ordinance should be enforced by the Fire Department or ordinance enforcement. Finally, she reiterated her desire to have the issue on the agenda for the next meeting.

President Dalton indicated that the consensus of the Council is toward a compromise incorporating fees, permits, education, a sunset clause and enforcement. He further indicated that the City Attorney will work with the Staff on these issues to create the necessary ordinance.

Ms. Hill acknowledged that the ordinance work will take some time, but that there needs to be clarification as to the issues included in the ordinance.

President Dalton asked that Mr. Barnett make a motion that defines the issues to be included in the ordinance.

Mr. Barnett made a motion incorporating the previous points discussed to include the restriction of leaf burning to the month of November, a twenty dollar (\$20) permit fee to be used for educational purposes, a sunset clause in 2006 and rules enforcement.

Ms. Hill seconded the motion with the stipulation that the twenty dollar (\$20) permit be for any burning permit including campfires. She also requested, although it did not have to be included in the motion, that the permits be obtained directly from the Fire Department during business hours, not on-line or over the telephone.

Ms. Golden questioned whether there was support for the suggested ban on smoke around schools.

Chief Walterhouse responded that a smoke-free school zone would be arbitrary and difficult to enforce, noting that circumstances such as wind and the number of persons burning at any given time would affect the determination of violation. Chief Walterhouse went on to request guidelines be established for handling complaints. He explained that currently fire fighters are left to determine the level of violation on any given call. He assured the City Council and the Mayor that the Fire Department would take enforcement to what ever level was determined.

Ms. Golden asked for suggestions and proposed reviewing similar ordinances in other municipalities. She asked that any suggestions be sent to Chief Walterhouse.

Ms. Hill agreed that it will be difficult to enforce the ordinance as stated. She acknowledged that the ordinance needs to be revised to reflect the appropriate enforcement steps as proposed.

Ms. Duistermars stated that the language for the first reading should specifically outline the fall leaf burning dates.

Resolution A0497-2003-R0198

MOTION by Barnett, seconded by Hill,

Resolved to ban leaf burning within the City of Rochester Hills during the spring months; to allow leaf burning in the fall during the month of November on Monday, Wednesday, Friday and Saturday pursuant to the existing prescribed schedule with the exception of holidays; to establish a twenty (\$20.00) dollar annual permit fee for any burning within the City limits with the funds to be earmarked for a comprehensive public education program on the methods of leaf disposal; to set a sunset clause on leaf burning within the City beginning with 2006, and to authorize the Attorney to prepare the necessary Ordinance Amendments to the Fire Prevention Ordinance to implement these changes

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

MOTION CARRIED

(Recess 10:06 p.m. - 10:15 p.m.)

15b. Discussion regarding City Manager (A0622)) (Members received an Agenda Summary Sheet dated May 30, 2003 from Jack Dalton, City Council President, with attachments)

President Dalton introduced Professor Joe Horn of Eastern Michigan University to speak on the subject of a strong mayor form of city government versus a city council/city manager form of government.

Professor Joe Horn briefly introduced himself indicating that he had been a political science instructor at Eastern Michigan University since 1985 and that he currently directs the master's program in public administration. In addition, Professor Horn stated that he does training with the Michigan Municipal League, the Michigan Association of Counties, and the Michigan Township Association.

Professor Horn focused his discussion on the coordinated and connected leadership across the city as a whole. He described the City Council as the "policy leadership" of the community and then contrasted that with the "administrative leadership." He explained that the administrative leadership, or connected leadership, is that which connects the separate city departments (e.g. police, fire, public works, recreation, etc.). He contended that this leadership can come in the form of an elected official--strong mayor--or in the form of an appointed manager, accountable to the city council as the elected body, both of which face the same challenges.

The coordinated leadership must:

- bring people together
- provide direction and guidance to several department heads
- provide the connection between:
 - the staff of several different departments
 - the legislative body
 - the community at large

Mr. Duistermars expressed his concern that a professional administrator would have the tendency to want to grow the bureaucracy unnecessarily.

Professor Horn stated that the current budget was indicative of an existing bureaucracy. The difference being, with a city manger, you would have the advantage of a professional individual trained to handle the city's budget. Whereas, an elected official, simply by virtue of being elected, is not necessarily qualified to handle a multi-million dollar budget.

Mr. Duistermars stated that if an elected mayor were to begin building bigger and bigger city government, the citizens have the option of electing a new mayor.

Professor Horn stressed the process of checks and balances in place, highlighting the fact that the mayor proposes the budget, but it is the City Council's responsibility to approve it. Thus, the Council is responsible for the growth of city government.

Mr. Duistermars stated that the Mayor does have powers to refute the actions of the City Council.

Mr. Barnett hypothesized a situation wherein two fully qualified individuals with business backgrounds run for election in a strong mayoral form of government. He questioned the Professor as to whether there are any inherent advantages to the city manager form from the standpoint of the citizens in terms of effectiveness and efficiency.

Professor Horn acknowledged that in a democratic system the election is used as a vehicle for holding people accountable. It was his contention that the likelihood over a long period of time of always having a candidate running for that strong mayor position who would meet the criteria described is very, very small.

Mr. Robbins described the qualifications to run for mayor of Rochester Hills (a single year of residency) and stated that, with the possible exception of Earl Borden, none of the previous four mayors met the qualifications of an appointed city manager. He expressed concern that having a mayor who lacks business and administrative experience would result in the city leadership being run by internal department heads.

Professor Horn concurred that, in that instance, a city would lose what he described as coordinated leadership. He then introduced the possibility of a mayor who also maintains full-time employment elsewhere and, thus, cannot dedicate full-time to the role of coordinated leader. He went on to describe a circumstance wherein a mayor may appoint an administrator and delegate the responsibilities of coordinated leadership. Under that circumstance, the City Council has no say in that appointment and the appointed administrator is directly accountable to the mayor.

Mr. Robbins briefly returned to Mr. Duistermars concerns regarding bureaucracy and stated that, in the current system, City Council creates the bureaucracy and drives the direction of the city.

Professor Horn confirmed that the mayor does not provide the complete direction for the city. Employing the current leaf burning issue as an example, Professor Horn illustrated that it is the City Council that adopts the ordinance, establishes the enforcement mechanism and puts in place the bureaucracy to carry out that mandate. That is the policy leadership role of the City Council.

Ms. Holder questioned whether appointing a city manager deprives the citizens of their right to choose their city leader.

Professor Horn explained that the founding fathers of our country, the authors of the constitution, did not vest a substantial amount of authority in the hands of The People. He stressed that they created a republican form of government and that there is no mechanism to this

day at the national level wherein individual citizens can make decisions. However, there are many opportunities for citizens to make policy decisions at the local level. But if the national government is used as a model, it is a very indirect form of decision-making. Further, he argued that as the chosen leaders of the community, the City Council is in a better position to make a decision about who ought to run a hundred million dollar financial operation than the citizenry.

Mr. Carl Wellencotter (address given previously) stressed that the current form of strong mayor government has resulted in an "excellent" credit rating for the city and that the Rochester Community Schools has had an appointed manager for twenty years and is experiencing financial difficulties. He also indicated that he feels an appointed manager would be too heavily influenced by the body that appointed him/her, thus resulting in a conflict of interest.

Professor Horn continued to stress that it is the mayor and the seven members of City Council that provide the leadership for the community. The good decisions behind the financial success of the community is a function of that whole body, not simply the mayor.

Mayor Somerville questioned whether in many cases individuals remain in the city manager position for only three or four years.

Professor Horn remarked that, ironically, the argument is often just the opposite. Managers typically run afoul of city councils and, therefore, are relieved of their responsibilities. However, while the average tenure of a manager is something in the neighborhood of four or five years, some local communities have very long-standing managers (i.e. Troy, Michigan).

Mayor Somerville stated that the various departments within the city (finance, treasury, clerk's, planning, etc.) come forward with their budgets and it is the City Council, not the mayor, that either approves or disapproves the budget. She then contended that in the case of a city manager, that manager controls the budget.

Professor Horn stated that it is a chief executive's responsibility performed either by the mayor or the city manager. It is necessary for a mayor or manager to pull that budget together, an individual who will think of the whole, and that role becomes more challenging as the general fund and financial operation of a city grow.

Ms. Holder stated that the city clerk, the treasurer and the assessor are all positions appointed by the City Council and, to her knowledge, none of those positions had been reviewed within the past four years. She contended that there should be reviews in place for these appointees.

Professor Horn agreed with that assessment and suggested that, as the appointing body, it would be the City Council's responsibility to put in place the mechanisms for the annual performance review of any appointed city manager.

Mr. Barnett acknowledged that the Council is likely at fault for not taking action to review these appointed positions. He went on to state that while there are many examples of good city managers and bad city managers, good strong mayors and bad strong mayors, ultimately it becomes a matter of the character of the person in the position. He opined that the odds are

better in terms of an appointed manager in securing an individual with the necessary qualifications for the executive position.

Mr. Barnett then requested suggestions of how best to present the recommendation to the citizens that this change would be beneficial to the city moving into the future.

Professor Horn briefly clarified that his purpose was not to make the argument for or against a city manager form of government. He then explained that the message he recommends sending to the community is that the city faces many challenges (e.g., service delivery, coordinated decisions across departments, cross-jurisdictional problems, etc.) and that the advantage of an appointed manager form of government is the advantage of having a leader who has the experience and background in these areas. Professor Horn further acknowledged that an appointed leader is not going to be directly accountable to the people, he or she would be accountable to the seven Council members. Therefore, while the citizens are giving up their right to vote for that executive manager, they retain the right to choose the members of the City Council; and it is those chosen representatives who will choose that city manager.

Ms. Golden voiced her concern about a possible situation in which the appointed city manager makes a financial decision that is not popular with the citizens and the City Council feels the pressure to respond by dismissing the city manager. She asked Professor Horn to discuss that possible shift in politics.

Professor Horn stated that, contrary to some academic literature, he believes that a city manager must be a political leader. A city manager must be politically savvy enough to know what the City Council members want, what the community wants and, thus, address those wants. He stressed that politics is about balancing and reconciling conflicting and competing needs. There are no "right" answers, only a range of answers, and the professional issues must be weighed against the political issues. With a city manager, it is a more informed decision-making process.

Ms. Golden stated that there are no problems with city finances or any issues of litigation and questioned whether it is wise for the City Council and the Staff to initiate a change in the form of government at this time.

Professor Horn explained that during its 1963 Constitutional Convention, the State of Michigan inserted a provision that the State's Constitution would be revisited every sixteen years. In comparison, he asked why Council would be reluctant to place the question of examining the option of changing the city's form of government before the voters.

Ms. Golden questioned why you would initiate a controversy when there is no identified problem and no request from the community.

Professor Horn explained that this proposed change would be in anticipation of the inevitable challenges that will be faced in the future (e.g., budget problems, many more state and federal mandates, etc.).

Mr. Robbins indicated that Rochester Hills has not reviewed the city charter in over twenty years, nor have the voters been asked to choose such a review within that time period. He then inquired as to how many Michigan cities utilize each form of government.

Professor Horn cited national data that suggests that half of all cities have a city manager form of government, with the remaining cities employing various forms of the mayor/council format. Michigan is what is referred to in the literature as a strong city manager state, with approximately seventy percent (70%) of cities employing this system.

Mr. Robbins stated that, historically, cities have transitioned to a city manager form of government as cities grew and faced increasing economic requirements.

Professor Horn indicated that there is a parallel taking place with township governments moving to a township/manager form of government for the very same reasons that cities have found this change necessary.

Mr. Duistermars stated that it was his understanding that the mayor's veto power is absolute. He questioned whether the mayor has the authority to veto Council changes to the mayor's proposed budget.

Mr. Staran stated that the mayor has the authority under the charter to veto any ordinance or resolution passed by Council, and Council has the authority to over-ride that veto by a super majority.

Mr. Duistermars reasoned that the mayor's veto power provides a measure of checks and balances that would be absent in a city manager form of government.

Professor Horn explained that under the city manager/council form of government, all power rests in the hands of the seven members of council. In effect, council is delegating the executive responsibilities to the city manager. However, city council appoints that manager and evaluates and determines whether to continue that manager under an annual contract.

Mr. Duistermars, using the risks of opening the United States Constitution as an example, expressed his concern about opening the city charter.

Professor Horn argued that putting the question of opening the charter and the prospect of changing to a manager/council form of government before the voters would stimulate political discourse and debate. Furthermore, there would be two safeguards in place: the voters have to agree that they want to change the system, and then the voters have to agree on the change.

Professor Horn then closed his discussion and stated that he would be willing to return for a public forum discussion were the Council amenable to such a program.

(President Dalton turned the meeting over to Ms. Holder 11:23 p.m.)

PUBLIC COMMENT:

Mr. Lee Zendel, 1575 Dutton, quoting Thomas Jefferson, expressed his opinion that the suggested change to the city's form of government is being made for "light and transient causes." He felt that there are more pressing problems (e.g., police staffing, residential street conditions, etc.) that outweigh the question of replacing the strong mayor form of government with a city manager.

Mr. Carl Wellencotter, 184 Shagbark Drive, reiterated the point that the city is currently in sound financial shape and that during the 1999 city election, the candidate running on the city manager platform was defeated. Furthermore, in the Speak Up program, the question whether to change to a city manager form of government received only forty-two (42) votes. Again citing the appointed manager of the Rochester Community Schools, Mr. Wellencotter expressed his opposition of the proposed change.

Rev. Dr. Pamela Whateley, 1600 North Livernois, mentioned a recent article in the *Rochester Eccentric* that she claimed featured former residents of Rochester Hills expressing dissatisfaction with the City Manager of Auburn Hills. She then indicated that if the City Council felt they were unable to manage the city as well as a professional appointee, then, in her opinion, they should not be the ones to choose that individual.

Mr. Robbins moved the motion in Option 1 of the packet.

President Dalton read Option 1 of the resolution.

Ms. Golden stated that she has received several phone calls and emails from residents expressing their concern and disappointment that this issue has not been discussed in a work shop session prior to being discussed at regular Council meetings.

Mr. Robbins indicated that this was at least the third meeting on this subject and he has had many comments from residents expressing their support of this discussion. He then contended that this discussion is not only about the change to a city manager form of government, but is about a general revision of the city charter. Mr. Robbins stated that while the charter has not been reviewed in over twenty years, the city has changed and grown exponentially in that time. He expressed his support for allowing the voters to make the decision.

Ms. Hill concurred with Mr. Robbins that it is time to allow the voters to make the decision. She also expressed her support for seeing professionalism running a very large corporation.

Mr. Barnett indicated that, while he felt the Professor's presentation was excellent, he remains unconvinced that a change to a city manager form of government would provide sufficient benefits to justify the inevitable difficulties of making the change. Furthermore, he feels that there is no undercurrent of dissatisfaction indicating that the city is at risk if this change is not implemented.

Ms. Hill reiterated that the first step would be to simply ask the voters if they want to open the charter.

Mr. Barnett countered that his impression from the Professor's discussion was that the elected officials have the knowledge to understand and make the best decisions.

Ms. Golden explained that four years previous she had supported forming a committee to examine this very issue. She went on to question why there is still no support for forming that committee.

Mr. Robbins questioned the process of forming a committee to examine an issue prior to determining the residents' interest in that issue.

President Dalton stated that his support for this issue is not a reflection of the current administration. He believes there are valid reasons for this proposed change and those reasons were illustrated during the Professor's presentation.

Resolution A0622-2003-R0199

MOTION by Robbins, seconded by Hill,

Resolved that the City Council of the City of Rochester Hills hereby declares for a revision of the City charter, as provided and permitted by the Home Rules Cities Act, MCL 117.1, et seq., as amended

Further Resolved, that the question of having a general charter revision shall be submitted to the electors of the City for adoption or rejection at the general election to be held on Tuesday, November 4, 2003.

Further Resolved, that the City Clerk shall give notice of the last day for registration and the election in the manner provided by law and said question on the revision of the charter of the city shall be submitted to the electors in the following form:

“Shall there be a general revision of the charter of the City of Rochester Hills?”

Yes

No

Further Resolved, that at the election there shall be elected from the City at-large a charter commission consisting of nine (9) electors for the City who are not officers or employees of the City, the election of the charter commission to be void if the proposition to revise the charter is not adopted. The candidates for the charter commission shall be nominated and elected in the manner prescribed by the City Charter for the nomination and election of members of the City Council, except that the nomination and election of the charter commission shall be from the city at-large.

Further Resolved, that the last day and hour for receiving nomination petitions for candidates for the office of charter commission shall be 4:00 p.m. on the 16th day of

September, 2003. (This date should be 49 days prior to the election day.) The City Clerk shall make available appropriate non-partisan petition forms and give due notice of the last day and hour for filing petitions by at least twice publishing notice thereof in a paper of general circulation within the city, the first publication to be not less than 10 days prior to the last day of filing.

The candidates for charter commission shall be nominated by petition without reference to, or designation of, party affiliation, signed by a number of qualified electors of the city equal to not less than two percent (2%) and not more than four percent (4%) of the total vote cast for mayor at the last preceding election.

Further Resolved, that the charter commissioners elected at this election shall be compensated at the rate of \$_____ (or: serve without compensation). No member shall receive compensation for more than ninety (90) days and only for actual attendance. Charter commissioners shall be entitled to incur necessary expenses in connection with the work of the charter commission. The place of meeting for said charter commission shall be the City of Rochester Hills Municipal Offices.

Optional Advisory Question

Further Resolved, that there shall also be submitted to the electors of the city at such election, for an advisory vote, the question of change in the form of government of the city in accordance with Section 18 of the Home Rule Cities Act, MCL 117.18, as amended. The question of a change in the form of government shall be submitted to the electors in the following form:

“In the event there is a general revision of the charter of the City of Rochester Hills, shall there be a change in the form of government to the City Council-City Manager form of government?”

ROLL CALL VOTE:

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

MOTION FAILED

16. ANY OTHER BUSINESS

Mr. Robbins stated that he received a request from a city resident that the City Council address the issue of a loud vehicle radio ordinance similar to that of the City of Rochester.

President Dalton requested that a copy of that ordinance be included in the next packet.

Ms. Golden indicated that she has also received comments regarding that same noise issue and previously requested information from Staff.

Ms. Holder mentioned receiving notification about a mayor's dinner on Wednesday, June 11th. She questioned why the Council would be invited. She also mentioned a complaint she'd received regarding Southwinds Condominiums.

18. NEXT MEETING DATE

18a. Wednesday, June 18, 2003 at 7:30 PM

19. ADJOURNMENT

There being no further business to discuss before Council, President Dalton adjourned the meeting at 11:53 p.m.

JOHN L. DALTON, President
Rochester Hills City Council

MARGARET A. STRATE
Administrative Assistant to the City Clerk

BEVERLY A. JASINSKI, Clerk
City of Rochester Hills