

MINUTES of the **Regular Rochester Hills City Council Meeting** held at 1700 W. Hamlin Road, Rochester Hills, Michigan, on Wednesday, August 6, 2003 at 7:30 p.m.

1. CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:33 p.m. Michigan Time.

2. ROLE CALL

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

Absent: None

QUORUM PRESENT

Others Present: Pat Somerville, Mayor
Beverly A. Jasinski, City Clerk
John Staran, City Attorney
Ed Anzek, Director Planning/Zoning
Scott Cope, Director Building/Ordinance Enforcement
Derek Delacourt, Planner II
Todd Gary, Captain/Fire Marshall
Bob Grace, Director of MIS
Deb Millhouse, Deputy Director of Planning
Roger Rouse, Director of DPS
Bob Spaman, Director of Finance
Greg Walterhouse, Fire Chief

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA (Members received a copy of a City Council Regular Meeting Action Summary Sheet dated August 1, 2003 from Susan Galeczka, City Council Liaison).

Resolution A0001-2003-R0265

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 August 6, 2003 as presented.

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

Nays: None

Absent: None

MOTION CARRIED

5. **CHAIRPERSON'S REPORT**

President Dalton had nothing to report.

6. **MAYOR'S REPORT**

Mayor Somerville had nothing to report.

7. **COUNCIL COMMENTS**

Ms. Golden noted that there was action at the Federal level eliminating funds for the transportation enhancement grant money, thus affecting bridges, trails, pathways, etc. She asked that residents contact Congressman Joe Knollenberg to request that funds be preserved. In addition, she announced an open house at Congressman Knollenberg's office in Troy on Wednesday, August 20th from 10:00 a.m. to 2:00 p.m.

Ms. Golden also noted that her office had received calls requesting clarification regarding the petition for the City Manager form of government and the Charter Commission. She also indicated that this is not a city-initiated process and asked City Attorney Staran for clarification.

Mr. Staran stated that the petition signature certification deadline is September 16, 2003. He went on to clarify that the purpose of the petition drive is to open the City Charter and establish a Charter Commission. He then noted that until the petitions are filed with the City, it is inappropriate for the City to either act or comment on the matter. He further stated that it is the responsibility of the media and the citizens involved in the petition drive to publicize the matter.

Ms. Golden, acknowledging that the City can take no official position on this subject, questioned whether there is any prohibition on citizens obtaining petition sheets for collecting signatures for the Charter Commission from City Hall.

Mr. Staran indicated that there are non-partisan petition forms available for citizens at the City Clerk's office.

Mr. Barnett announced that Governor Jennifer Granholm would be at SunTel Place at Hamlin and Adams Road on Thursday, August 7, 2003, at 9:30 a.m. to make an announcement about the Admas/M-59 project and invited residents to attend.

Mayor Somerville, adding to the discussion regarding Congressman Knollenberg, noted that she had asked him for nine (9) million dollars for local road improvements, and that she felt encouraged by her recent communications with him.

Ms. Golden interjected that Congressman Knollenberg had voted to cut the fund and reiterated her encouragement that everyone attend the Congressman's open house.

8. **ATTORNEY'S REPORT**

Mr. Staran announced that the Michigan Appellate Court ruled that SOCRRA does have the rightful authority to construct a golf course.

He then quoted from a decision by the Michigan Supreme Court stating, "We conclude that because the text of MCL 380.1263(3) grants the state superintendent sole and exclusive jurisdiction over local school district construction and site plans, it immunizes school districts from local zoning ordinances affecting those functions." He stated that this decision, in effect, denies the City any input as to how schools are built.

Mr. Staran's final comment was in praise of his colleague, Michael Salhaney, for his participation in a charity bike-a-thon during which he raised \$7,000 for the Make-A-Wish Foundation.

9. **ADOPTION OF RESOLUTION** to adjourn to Closed Session at the conclusion of tonight's meeting (August 6, 2003) for the purpose of discussing an Attorney/Client Privileged Communication (Members received a copy of a City Council Regular Meeting Agenda Summary Sheet dated August 1, 2003 from Susan Galeczka, City Council Liaison)

Resolution A0008-2003-R0266

MOTION by Duistermars, seconded by Golden,

Resolved That the Rochester Hills City Council hereby agrees to meet in Closed Session, as permitted by State Statute MCLA 15.268, Section 8(a), at the close of business of the Regular City Council Meeting held Wednesday, August 6, 2003 and will not return to Open Session at its conclusion. The purpose of the Closed Session is to discuss a confidential attorney/client privileged communication.

ROLL CALL VOTE:

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

Nays: None

Absent: None

MOTION CARRIED

10. **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.)

Approved by a single motion Items **10a, 10b, 10c, 10d, 10e** from the Consent Agenda.

- 10a. Approval of Minutes** - Regular City Council Meeting, June 4, 2003 (Members received an Agenda Summary Sheet dated July 29, 2003, from Margaret Strate, Administrative Secretary, with attachments)

Resolution A0005-2003-R0267

MOTION by Barnett, seconded by Robbins,

Resolved That the Minutes of a Regular Rochester Hills City Council Meeting held on Wednesday, June 4, 2003 be approved as presented.

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

MOTION CARRIED

- 10b. Adoption of Resolution** authorizing the County Bond Counsel to proceed with the necessary actions to refund the Robert Huber Drainage Debt (Members received an Agenda Summary Sheet dated July 22, 2003, from bob Spaman, Director of Finance, with attachments)

Resolution A0472-2003-R0268

MOTION by Barnett, seconded by Robbins,

RESOLUTION TO AUTHORIZE REFUNDING

Whereas, pursuant to the provisions of Chapter 20 of Act No. 40, Public Acts of Michigan, 1956, as amended, the Robert Huber Drainage District has issued its Drain Bonds, dated February 1, 1995, in the original principal amount of \$1,430,000 (the "Prior Bonds"), to defray part of the cost of constructing the Robert Huber Drain in anticipation of the collection of he several installments against the City of Rochester Hills (the "City") on the Special Assessment Roll No. 1 for the Robert Huber Drain; and

Whereas, the City has been advised that conditions in the bond market have now improved from the conditions which prevailed at the time the Prior Bonds were sold and that the Prior Bonds could be refunded at a considerable savings to the City; and

Whereas, it is the determination and judgment of this City Council that the Prior Bonds should be refunded to secure for the City the anticipated savings.

Now, Therefore, Be It Resolved by the City Council of the City of Rochester Hills, Michigan, as follows:

1. The Robert Huber Drainage District is requested and authorized to issue its refunding bonds (the "Refunding Bonds") pursuant to the provisions of Act No. 34, Public Acts of Michigan, 2001, as amended, in an amount necessary to refund all or part of the Prior Bonds (as shall be determined by the Drainage Board) and paying the costs of issuing the Refunding Bonds.
2. The proceeds of the Refunding Bonds shall be sufficient to pay the costs of issuing the Refunding Bonds and to establish an Escrow Fund in an amount that will be sufficient to pay the principal of, the redemption premiums on, and the interest on the Prior Bonds that are refunded without further payment by the City.
3. The City agrees and consents to the imposition of special assessments against the City on a refunding bonds special assessment roll for the payment of the Refunding Bonds.
4. The Manager, or if there is no Manager, the Mayor is authorized to file an Application for State Treasurer's Approval to Issue Bonds with respect to the Refunding Bonds.
5. The Clerk, Treasurer, Manager or Mayor is authorized to approve the circulation of a preliminary and final official statement for the Refunding Bonds, to cause the preparation of those portions of the preliminary and final official statement for compliance with Rule 15c2-12 issued under the Securities Exchange Act of 1934, as amended (the "Rule"). The Clerk, Treasurer, Manager or Mayor is authorized to execute and deliver such certificates and to do all other things necessary to effectuate the sale and delivery of the Refunding Bonds.
6. The Clerk, Treasurer, Manager or Mayor is authorized to execute a certificate of the City, constituting an undertaking to provide ongoing disclosure about the City for the benefit of beneficial owners of the Refunding Bonds as required under paragraph (b)(5) of the Rule, and amendments to such certificate from time to time substantially in accordance with the terms of the form of certificate attached hereto as Appendix A (the "Continuing Disclosure Certificate"). The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate.

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

Nays: None

Absent: None

MOTION CARRIED

- 10c. Request for Purchase Authorization - MAYOR:** Increase Blanket Purchase Order for 2003 Legal Fees for SOCRRA Litigation, in the amount of \$25,000.00 for a new not-to-exceed total of \$55,000.00; Adkison, Need & Allen, P.L.L.C., Bloomfield Hills, MI

(Members received an Agenda Summary Sheet dated July 17, 2003, from Bob Spaman, Director of Finance, with attachments)

Resolution A0411-2003-R0269

MOTION by Barnett, seconded by Robbins,

Resolved that the Rochester Hills City Council authorizes an increase in the blanket purchase order to Adkison, Need & Allen, P.L.L.C. of Bloomington Hills, Michigan for legal services associated with the SOCRRA litigation in the not-to-exceed amount of \$55,000 through December 31, 2003.

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

Nays: None

Absent: None

MOTION CARRIED

- 10d. Request for Purchase Authorization** - DPS: Increase to Contract for Underground Storage Tank Soil Remediation, blanket purchase order in the amount of \$12,658.00 for a new not-to-exceed total of \$29,478.00; Applied Science & Technology, Inc., Brighton, MI) (Members received an Agenda Summary Sheet dated July 29, 2003, from Scott Cope, Director of Building, with attachments)

Resolution A0688-2003-R0270

MOTION by Barnett, seconded by Robbins,

Whereas, a Request for Proposals for underground storage tank soil remediation services at the Department of Public Service Garage was solicited and a contract awarded to Applied Science & Technology, Inc. in the amount of \$16,820.00; and

Whereas, as remediation work commenced, various underground obstacles were encountered, including a concrete encased conduit and an edge drain surrounded in pea stone, which led to further migration and more impacted soil; and

Whereas, the cost of the additional remediation services performed by Applied Science and Technology is \$12,658.00.

Resolved that the City of Rochester Hills City Council authorize the increase of the contract with Applied Science & Technology, Inc., Brighton, Michigan for soil remediation at the Department of Public Service Garage in the amount of \$12,658.00, for a new contract total of \$29,478.00.

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

Nays: None
Absent: None

MOTION CARRIED

The following Consent Agenda Item was discussed and adopted by a separate Motion:

10e. Request for Purchase Authorization - DPS/ENGINEERING: Wetland and Environmental Consulting Services, blanket purchase order not-to-exceed \$480,000.00, through September 1, 2006; Applied Science & Technology, Inc., Brighton, MI (Members received an Agenda Summary Sheet dated July 15, 2003, from Roger Rouse, Director of DPS, with attachments)

Ms. Golden requested that Mr. Roger Rouse, Director of DPS, provide an overview of this proposal per the request of a constituent.

Mr. Roger Rouse, Director of DPS, explained that the DPS department determined that it would be more efficient to use a single wetlands consultant for all future projects, as opposed to the current process of using multiple contractors and, at times, subcontractors for this same purpose, especially in light of the upcoming large projects that will involve wetlands investigations (i.e. the Adams Road relocation and the golf course development). After reviewing the qualifications of several potential contractors, Applied Science & Technology, Inc. was chosen based on their efficiency and responsiveness to City needs.

Ms. Golden listed all of the proposed residential developments noted in the packet attachments and inquired as to whether any of the related fees will be recovered.

Mr. Rouse noted that many of those fees would be passed along to the developers on those projects. The only cost incurred by the City will be for City projects.

Ms. Hill expressed concern with the dollar amount requested and her reluctance to approve an increase for three years. She stated she was not convinced that the dollar amount requested was necessary. She proposed a request that would allow the budget to be increased as needed, rather than allowing a blanket increase that may not be necessary.

Mr. Rouse suggested an examination of the proposed budget and the previous spending history. He stressed that the budget requested may not be needed or used and noted the breakdown of the budget between the three departments.

Ms. Golden asked if this matter was time sensitive, or was there time for Council to receive more clarification.

Mr. Rouse agreed to provide a history of what fees the City has incurred and what fees were passed along to developers.

President Dalton asked for an estimate of the amount of fees that have been passed along to developers.

Mr. Ed Anzek, Director of Planning/Zoning, estimated that eighty-five percent (85%) of Planning Department services are passed back to the developer. He then stressed that the issue is time sensitive and noted that the budget increase is needed by September 1, 2003.

Resolution A0687-2003-R0271

MOTION by Robbins, seconded by Holder,

Whereas, Request for Proposals were solicited for wetland and environmental consulting services; ten proposals were reviewed and evaluated; and

Whereas, Applied Science & Technology Inc., Brighton, Michigan, was selected as best qualified for wetland and environmental consulting services;

Resolved that the Rochester Hills City Council authorized the purchase of wetland and environmental consulting services from Applied Science & Technology Inc., Brighton, Michigan, in the amount not-to-exceed \$480,000, through September 1, 2006.

Ayes: Dalton, Barnett, Duistermars, Holder, Robbins

Nays: Golden, Hill

Absent: None

MOTION CARRIED

11. PUBLIC COMMENTS

Mr. Tom Stevenson, 708 River Bend Drive, noting his involvement in the ad hoc committee that examined the single hauler issue, expressed his concerns for the issue and noted the following:

- 1) Rather than including the payment for solid waste disposal on the tax bill, the ad hoc committee had recommended that the fee be attached to the water bill.
- 2) He opposes the inclusion of commercial business in the increased cost, despite the fact that they will be required to continue to pay for their own dumpsters. He cautioned that this might discourage new business to the city.
- 3) Rent will likely increase for apartments and condominiums if required to participate.
- 4) The inequality of the system that requires those with homes of \$400,000 or higher to have to "subsidize" the fees for lower-income homeowners.

President Dalton noted that the August 13, 2003 Council meeting will be a Work Session devoted exclusively to the single hauler issue.

Mr. James Stevens, 3394 Coolidge Highway, suggested that City spending be focused toward roads and parks.

12. LEGISLATIVE / ADMINISTRATIVE RESPONSE

Hearing none, Council moved on to the next agenda item.

13. PUBLIC HEARING

a. Request to Vacate Road - unimproved portion (200 feet) of Alida Avenue north of Alsdorf, Belle Cone Gardens, Section #2; Applicant: Gary and Linda Cowsert (Members received an Agenda Summary Sheet dated July 31, 2003, from Susan Galeczka, City Council Liaison, with attachments)

i. Public Hearing

President Dalton opened the Public Hearing at 8:14 p.m.

Hearing no comments, **President Dalton** closed the Public Hearing at 8:15 p.m.

ii. Adoption of Resolution

President Dalton read a letter from a resident, Mr. Billy R. Gibson, Sr., 3518 Alida Avenue, into the record expressing his opposition to vacating the road.

Ms. Hill inquired as to whether the adjacent property owner had been notified of the public hearing.

Mr. Aaron Bambach, 1698 Alsdorf, identified himself as the adjacent property owner and had no objection to this road vacation.

Ms. Hill verified that Mr. Bambach understood the ramifications of the road vacation and confirmed that he had no objections.

Mr. Bambach agreed.

Resolution A0670-2003-R0272

MOTION by Robbins, seconded by Golden,

Whereas, the City Council of the City of Rochester Hills on July 16, 2003 did by resolution deem it advisable and declare its intention to vacate, discontinue or abolish the following described street, alley, public ground or part thereof, located in the City of Rochester Hills, and subject to the jurisdiction and control of the City of Rochester Hills:

Alida Ave., Belle Cone Gardens Sub #2

The platted portion of Alida Ave. from the northerly line right-of-way of Alsdorf Ave. as extended northerly to the northerly line of Belle Cone Gardens Subdivision #2, being part of the west half of Section 33, T.3N., R.11E., City of Rochester Hills, Oakland

County, Michigan, as recorded in L.14, P.46. Said portion of Alida Ave. is adjacent to Lots 483 to 486, both inclusive (Tax I.D. 15-33-176-009), and adjacent to the Westerly 75 ft. of Lots 478 to 482, both inclusive (Tax I.D. 15-33-177-003) of said Belle Cone Gardens Subdivision #2.

Whereas, in accordance with Article VI, Section 94-175, of Chapter 94 of the Code of Ordinances, the City Council has held a public hearing and has heard and considered any comments or objections pertaining to such vacation, discontinuance or abolition; and

Whereas, the City Council determines it is necessary for the health, welfare, comfort and safety of the People of Rochester Hills to vacate, discontinue or abolish the above-described street, alley, public ground or part thereof;

Now, Therefore, Be It Resolved:

1. That the above-described street, alley, public ground or part thereof shall be vacated, discontinued or abolished.
2. That there is hereby reserved an easement in the street, alley, public ground or part thereof for public utility purposes and other public purposes within the right-of-way of the street, alley, public ground or part thereof vacated, as follows:

Alida Ave., Belle Cone Gardens Sub #2

The platted portion of Alida Ave. from the northerly line right-of-way of Alsdorf Ave. as extended northerly to the northerly line of Belle Cone Gardens Subdivision #2, being part of the west half of Section 33, T.3N., R.11E., City of Rochester Hills, Oakland County, Michigan, as recorded in L.14, P.46. Said portion of Alida Ave. is adjacent to Lots 483 to 486, both inclusive (Tax I.D. 15-33-176-009), and adjacent to the Westerly 75 ft. of Lots 478 to 482, both inclusive (Tax I.D. 15-33-177-003) of said Belle Cone Gardens Subdivision #2.

3. That the City Clerk is hereby directed to, within thirty (30) days, record a certified copy of this resolution with the Oakland County Register of Deeds, and to send a copy to the State Treasurer, as required by statute.
4. That, upon being (but not until) so recorded, this resolution shall have the force and effect of vacating, discontinuing or abolishing the described street, alley, public ground or part thereof.

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

Nays: None

Absent: None

MOTION CARRIED

14. PETITIONERS REQUESTS

14a.i Reconsideration of Resolution A0679-2003-R0253 regarding Request for Historic Districts Study Committee Review Rights for 1705 Walton Blvd; First Church of the Nazarene (Members received an Agenda Summary Sheet dated July 31, 2003, from Susan Galeczka, City Council Liaison, with attachments)

RESIDENT COMMENT:

Mr. Robert Paul Smith, 2123 Belle Vernon, stated that he is a neighborhood resident of the church and described the building in question as “dangerous and dilapidated.” He went on to stress that it is clear no matter what the Historic Districts Study Committee (HDSC) determines, the building will not be restored. He saw no reason to wait another year and appealed to the Council, as a citizen, to “settle the issue.”

COUNCIL DISCUSSION:

President Dalton then reviewed the proceedings that took place during the previous City Council meeting of July 16, 2003.

Ms. Hill noted that if the purpose of the reconsideration of the issue was to include Council Member Holder, than the discussion would have to be repeated.

Ms. Holder stated that she had watched the video tape of the previous discussion.

Ms. Hill expressed her hope that no one would “call the question” too quickly, because the purpose of the reconsideration was for further discussion of the issue to include Ms. Holder.

Resolution A0679–2003–R0273

MOTION by Robbins, seconded by Duistermars,

Resolved to **RECONSIDER** Resolution A0679-2003-0253 that granted review rights regarding 1705 Walton Blvd. to the City’s Historic Districts Commission for a period not to exceed one year.

ROLL CALL VOTE:

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

Nays: Hill

Absent: None

MOTION CARRIED

Ms. Hill cautioned that there is a process in place for such circumstances and that process needs to be followed. She noted that if review rights were granted, it would not mean there will be a review, only that the request for review will be considered. She reminded Council that the issue of Conditional Land Use was never resolved.

Ms. Golden stressed that Council Members had taken an oath to uphold the City's ordinances. In addition, she reminded Council that they appoint citizens to commissions and should trust in the results of those commissions.

Ms. Holder asked **Mr. Derek Delacourt**, Planner II, how long the building in question has been a historic home.

Mr. Delacourt stated that the house has been considered historic since 1997, although a proper study has not yet been completed.

Ms. Holder then noted that this issue goes back to August of 1999 and stated that it should not be included in the demolition consensus. She described her visit to the property, noting that she saw nothing that she felt would designate the building as historic and considered it a danger.

Ms. Hill stated that none of the current Council members possess the credentials to determine historic value or whether the building should be demolished. She clarified that the purpose of the discussion was not to debate the designation of the property, but rather to uphold the ordinance that gives those duties to the HDSC. It is after that body makes their determination that the Council then makes their determination. She reiterated that the applicant had the opportunity during the planning process to eliminate the building and chose not to. She also noted that the building in question was used during the construction of the church.

Ms. Golden noted, by comparison, that Avon House was in very poor condition for a long time before it was reconditioned. She stated that it is not the intention of the ordinance to place a burden on property owners, but the authority in this matter has been delegated to the HDSC and the Council should not make a decision until after the HDSC has made their determination.

Mr. Duistermars asked Mr. Delacourt if the house, shed and garage are on separate parcels, to which **Mr. Delacourt** indicated that the entire parcel would be included in any historic designation. Mr. Duistermars further noted that the church does not have the finances to restore the building and that the Avon House benefited from individuals willing to "pour money into it."

Mr. Robbins noted that the law allows the Council to make this determination and to avoid expending the effort, time and money to send the issue to the HDSC.

Ms. Holder stated she would not force a resident of the city to have their property designated historic if that is not their desire. She went on to note that it was her impression that this property was to be used as church parking and would, thus, eliminate congestion on Walton Boulevard.

Mr. Barnett stated he had walked through the building in question, noting that there was evidence that someone had been living there. He further noted that the Council is allowed to grant the review rights, but are under no obligation to do so. He indicated if there were review rights granted and the HDSC did determine that the building was historic, there would still be no way to compel the property owner to restore the building. He also voiced his concern that the HDSC would be displeased if they put effort into a historic determination and Council then dismissed it.

Ms. Hill agreed with Mr. Barnett that the question is whether to grant review rights, thus affording Council the necessary information to make an informed decision. She went on to note that there have been other properties in worse condition that were restored.

Mr. Delacourt clarified that the property is technically already under study along with other properties, but that the granting of review rights would place it at the top of the list for active review.

Ms. Golden stated that it was previously determined during a joint meeting between Council and the HDC that any demolition requests would be evaluated on a case-by-case basis. She expressed concern that an assumption was being made as to the findings of the HDSC prior to a study being completed.

Mr. Robbins stressed that no member of Council was making a determination as to whether the building is historic, but rather, members were determining whether to grant the review rights to make that determination.

Mr. Duistermars stated that no matter what the determination of the HDSC, the church will not restore the property in question.

Ms. Hill again stressed her support for letting “the process play out.”

Mr. Duistermars reiterated that the Council cannot impose “our will on the homeowner.”

Mr. Duistermars Called the Question to end debate; seconded by Ms. Holder.

Resolution A0679–2003–R0274

MOTION by Duistermars, seconded by Holder,

14a.i *Resolved* to Call the Question to Close the debate on the motion on the floor regarding the request for Historic Districts Study Committee Review Rights for 1705 Walton Blvd; First Church of the Nazarene.

ROLL CALL VOTE:

Ayes: Duistermars, Golden, Robbins, Dalton, Holder

Nays: Barnett, Hill

Absent: None

MOTION CARRIED

Resolution A0679–2003–R0275

MOTION by Golden, seconded by Hill,

14a.ii **Whereas**, 1705 Walton Boulevard is an identified potential historic district in the City of Rochester Hills.

Whereas, the property owner is requesting review and approval of a demolition permit for the subject site.

Now therefore be it Resolved That City Council grants review rights regarding 1705 Walton Blvd. to the City's Historic Districts Commission for a period not to exceed one year.

Ayes: Golden, Hill,

Nays: Duistermars, Robbins, Dalton, Holder, Barnett

Absent: None

MOTION FAILED

Ms. Hill requested that City Attorney Staran clarify what would be the next step in this process, inquiring whether the applicant would receive a demolition permit.

Mr. Staran stated that the property owner would be required to obtain a revised Conditional Land Use approval prior to demolition. The issue would go back to the Planning Commission and then eventually would return before Council.

Mr. Delacourt stated that it was his understanding that a revised Site Plan approval was not necessary, only the Conditional Land Use approval was necessary.

(Recess 9:05 p.m. – 9:21 p.m.)

14b. **Rochester College Library Addition** - located on the north side of Avon Road, west of Rochester Road, Parcel No. 15-15-376-001, zoned SP (Special Purpose) District; Rochester College, Applicant (Members received an Agenda Summary Sheet dated July 28, 2003, from Deborah Millhouse, Planning Department, with attachments)

Ms. Hill noted that she sits on the Board of Regent for Rochester College, but did not feel this presented a conflict of interest as it is not a compensated position.

Ms. Deborah Millhouse, Deputy Director of Planning, gave a brief overview of the project indicating the necessity for the Height Modification and that the Conditional Land Use is consistent with what was previously approved.

Mr. Gary E. Carson Director of Special Projects, Rochester College, 800 West Avon Road; and **Mr. Barry A. Nebhut**, AIA, TMP Associates Inc., 1191 West Square Lake Road, Bloomfield Hills were present.

i. Request for Approval of Revised Conditional Land Use

Resolution A0163–2003–R0276

MOTION by Barnett, seconded by Golden,

Resolved that the Rochester Hills City Council approves the revised Conditional Land Use, consistent with plans dated received June 9, 2003 by the Planning Department, for the Rochester College Library Addition, Parcel Number 15-15-376-001, zoned SP, Special Purpose, (City File No. 94-426.7), with the following findings:

FINDINGS:

1. The Rochester College library addition is being developed on a campus in excess of forty (40) acres in area.
2. Rochester College is accessed via Avon Road, which has a proposed right-of-way width of one hundred twenty (120) feet.
3. The proposed addition will not be located within fifty (50) feet of any property line.
4. The use is consistent with the intent and purpose of the Zoning Ordinance in general, and of Section 138-933 in particular. Further, the proposed library addition will improve a valuable higher education facility in the community.
5. The proposed library addition is designed and will be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the use, and the community as a whole.
6. The proposed library addition is served adequately by essential public facilities and services, such as streets, police and fire protection, and refuse disposal.
7. The proposed library addition will not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
8. The proposed library addition will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

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

Nays: None

Absent: None

MOTION CARRIED

ii. Request for Approval of Height Modification

Resolution A0163–2003–R0277

MOTION by Hill, seconded by Golden,

Resolved that the Rochester Hills City Council approves the Height Modification, as indicated on the plans dated received by the Planning Department June 9, 2003, for the

Rochester College Library Addition, Parcel Number 15-15-376-001, zoned SP, Special Purpose, (City File No. 94-426.7), with the following findings:

FINDINGS:

1. The front, side and rear yard setbacks are at least equal in depth to the height of the proposed library addition.
2. The proposed height is the same as the existing Library to which it is being connected. Further, the roof slope and appearance are consistent with the current structure.
3. The increased height will not be incompatible with the surrounding and nearby topography, existing and reasonably expected development, the zoning plan for the area, and the health, safety, and welfare of the City.

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

Nays: None

Absent: None

MOTION CARRIED

15. ORDINANCE ADOPTION

- 15a. Acceptance for Second Reading** - An Ordinance to amend Section 134-180 of Chapter 134, Signs, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to authorize the Building Director to reduce the minimum sign setback for conforming signs replacing nonconforming signs; specify a seventy-five (75) feet proposed right-of-way, extending from the centerline, will be utilized for purposes of measuring the minimum sign setback along Rochester Road; repeal conflicting Ordinances; and prescribe a penalty for violations (Members received an Agenda Summary Sheet dated July 31, 2003, from Susan Galeczka, City Council Liaison, with attachments)

Resolution A0677-2003-R0278

MOTION by Duistermars, seconded by Golden,

Resolved an Ordinance to amend Section 134-180 of Chapter 134, Signs, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to authorize the Building Director to reduce the minimum sign setback for conforming signs replacing nonconforming signs; specify a seventy-five (75) feet proposed right-of-way, extending from the centerline, will be utilized for purposes of measuring the minimum sign setback along Rochester Road; repeal conflicting ordinances; and prescribe a penalty for violations is hereby accepted for **Second Reading and Adoption** and shall become effective on Friday, August 15, 2003 the day following its publication on Thursday, August 14, 2003 in the *Rochester Eccentric* newspaper.

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

Nays: None

Absent: None

MOTION CARRIED

- 15b. Acceptance for First Reading** - an Ordinance to amend Section 58-58 of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify open burning regulations, repeal conflicting ordinances and prescribe a penalty for violations (Members received an Agenda Summary Sheet dated August 1, 2003, from Susan Galeczka, City Council Liaison, with attachments)

PUBLIC COMMENT:

Ms. Pat Turner, 2407 Culbertson, supported the change to the burning regulations and offered informative handouts to be distributed when the new ordinance goes into effect. She also stated that she had given Mr. Ed Anzek, Director of Planning/Zoning, a Beta-format video containing the same information that could be run on the City's cable channel.

COUNCIL COMMENT:

Ms. Hill indicated that she believes that Section 1102.6.2.4. Special Burn Permits should read "when the situation does not present a hazard . . ." Furthermore, she wanted the ordinance to include the word "annual" in every instance that refers to the burning permit. Finally, she did not understand the need for the leaf pile height restriction of eighteen (18) inches. She considered the restriction of six (6) feet in diameter to be sufficient.

Chief Walterhouse clarified that the Special Burn Permit was written properly. He explained the code official for a special situation outside the scope of the ordinance may issue a burn permit when the situation presents a hazard to health, safety or welfare. He described an example wherein a pest infestation of a tree may require burning.

Mr. Staran noted that the wording will be clarified prior to second reading.

Ms. Holder returned to the issue of the leaf pile height restriction, noting that it gives some guidance to homeowners.

Chief Walterhouse confirmed that the intent of the guideline was to limit the size of piles and to keep homeowners from getting carried away. He concurred that the six (6) foot diameter restriction would be limiting. He stated it was up to Council whether to include the height restriction.

Mr. Barnett suggested an amendment to the guideline of six (6) feet in diameter and thirty-six (36) inches in height.

Ms. Golden questioned whether the Fire Department could be required to issue a permit to an individual with a history of abusing the system.

Captain Todd Gary stated that if an individual is complying with the guidelines of the permit it would not be revoked.

Chief Walterhouse confirmed that unless there is a history of prior abuse, they would be required to issue a burning permit.

Mr. Staran clarified that the Chief does not have the discretion to not give out permits. The Chief would need an ordinance in order to stop issuing permits.

Resolution A0672-2003-R0279

MOTION by Robbins, seconded by Holder,

Resolved that an Ordinance to amend Section 58-58 of Chapter 58, Fire Prevention and Protection of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify open burning regulations, repeal conflicting ordinances and prescribe a penalty for violations is hereby accepted for **First Reading**.

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

Nays: Duistermars

Absent: None

MOTION CARRIED

16. REPORTS AND COMMUNICATIONS

16a. Proposed Fiscal Year 2004 Budget (Members received an Agenda Summary Sheet dated July 22, 2003, from Pat Somerville, Mayor, with attachments)

i. Presentation by Mayor

Mayor Somerville reviewed the fiscal status of the City of Rochester Hills. She noted several 2003 Accomplishments:

- Implementation of the legislative tracking software Legistar
- City Council paperless packets
- Birth and death records verification
- File matching of the Qualified Voter File
- Redistricting of City Council districts
- Reconditioning of voter booths
- Installation of the cemetery fence and gate
- Implementation of the requirements to meet the GASB 34 mandate
- The anti-fraud Positive Pay program
- Ordinance Inspector's addressing project (75% complete)
- Sign compliance ordinance
- Improved communications between the Building Department and builders and residents
- Development of a Household Hazardous Waste program (NoHaz)

- Nearing the final phase of the City's Emergency Management Plan
- Application for Commission on Fire Accreditation International
- Enhancement and improvement of fire operations
- Continued Neighborhood Watch Programs
- Involvement of the public in Homeland Security issues
- Ice storm cleanup
- West Nile Virus/Mosquito Abatement Program
- Parks programs and projects
- Festival of the Hills celebration
- Implementation of a healthcare cost sharing program
- Road improvements
- Brownfield Redevelopment
- Initiation of a SmartZone in the LDFA district
- Continued improvements of the Geographic Information System (GIS) program
- Completion of the City Hall addition
- Continued construction of the new 52nd District Courthouse and Substation
- The DPS facility project continues to move forward
- Road and other infrastructure improvements continue

The Mayor then discussed the highlights of the FY2004 Budget, noting that the recommended total budget for the City of Rochester Hills for 2004 is \$99,169,281 and listing some significant funds:

General Fund	\$22,623,558
Major Roads	\$6,641,324
Local Roads	\$4,669,152
Fire	\$7,085,125
Special Police	\$7,105,105
Water/Sewer	\$46,192,001

The Mayor noted that revenue projections for the 2004 Budget were challenging due to recent reductions in State Shared Revenues (down \$725,000 since 2001) and lower market interest rates. However, the combination of those factors as well as an increase in tax revenue and relatively flat revenue in all other sources means that total revenue will only slightly increase in 2004.

The Mayor discussed the challenges faced in the preparation of the 2004 Budget to maintain the current level of operating expenses. Some recommended decreases in operating expenses include significant cuts in employee overtime, the reduction of some employees due to technology enhancements, elimination of GASB 34 implementation costs, reductions in several line items in the budget and a 2.9% decrease in the proposed Management Information Systems (MIS) proposed budget.

Noting that the 2004 Capital Improvement Program is slightly less than the 2003 program, the Mayor noted that this level of capital expenditure is necessary to maintain the quality of life that residents of Rochester Hills have come to expect and will support.

In conclusion, the Mayor noted that the past year was filled with economic uncertainty and hard decisions, however, she was confident that through the cooperation of residents, businesses, the City Council and the City Administration that the City of Rochester Hills will continue to be a city where people choose to live and work.

ii. Adoption of Resolution acknowledging receipt of Budget and setting Public Hearing for Wednesday, September 3, 2002 at 7:30 PM

Resolution A0477-2002-R0280

MOTION by Barnett, seconded by Robbins,

Whereas, the Rochester Hills City Council and the Administration have worked together to develop major City goals and objectives for 2004 and beyond; and

Whereas, based on these major City goals and objectives, the proposed 2004 Budget Plan was developed; and

Whereas, at this August 6, 2003 meeting, the mayor has presented the proposed 2004 Budget Plan for the Fiscal Year ending December 31, 2004;

Be It Resolved, that the Rochester Hills City Council acknowledges receipt of and hereby gives notice of a Public Hearing to be held at 7:30 p.m. on Wednesday, September 3, 2003, at the Rochester Hills Letica Building, 1700 Hamlin Road for the purpose of presenting the proposed 2004 Budget Plan and providing an opportunity to all interested citizens and elected officials of the City of Rochester Hills to present comments thereon prior to the adoption by the Rochester Hills City Council.

Be It Further Resolved, that the publication of the Notice of Public hearing is hereby authorized.

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

Nays: None

Absent: None

MOTION CARRIED

17. COUNCIL COMMITTEE REPORTS

Nothing to report.

18. ADMINISTRATION

18a. Request for Purchase Authorization - MANAGEMENT INFORMATION SYSTEMS: Consulting Services for J.D. Edwards OneWorld XE Financial System, blanket purchase order not-to-exceed \$165,000.00; Eisner Technology Solutions, New York, NY and J.D.

Edwards World Solution Company Advanced Technology Services, Downers Grove, IL
(Members received an Agenda Summary Sheet dated July 14, 2003, from Bob Grace,
Director of MIS, with attachments)

Mr. Bob Grace, Director of MIS, gave a brief overview of the need for outside consulting services to evaluate the J.D. Edwards software to identify problems as well as new functionality. He also noted that these types of improvements are not covered by the software maintenance agreement.

President Dalton questioned whether all purchased system modules were in fact up and running.

Mr. Grace indicated that all modules are in with the exception of Job Cost, which was not rated as a high priority. However, Job Cost is being used to a small extent.

President Dalton asked if any of the money being requested would be used to update Job Cost and, if so, why such an update would be necessary.

Mr. Grace described the process of the vision group that met to prioritize the list of concerns provided by each department. He noted that it was necessary to reach a point where the system was usable by all departments before a determination could be made as to how the system was functioning.

Mr. Robbins questioned whether the system was on a six (6) month or one (1) year upgrade cycle.

Mr. Grace indicated that major system features are on a one (1) year upgrade cycle. He stressed that the current request is to bring in a consultant who is an expert in the J.D. Edwards system who can evaluate the current uses and improve functionality.

Mr. Robbins asked if the consultant was coming from J.D. Edwards.

Mr. Grace stated that J.D. Edwards would be installing the software upgrade, but the consultant, Eisner Technology Solutions of New York, would assist with "the massaging of the processes."

Mr. Robbins inquired as to whether J.D. Edwards would be paying for any portion of the consulting fees and asked how much money had been spent since implementation of the system.

Mr. Grace acknowledged that J.D. Edwards would not be contributing to the consulting fees and that, since the \$1.7 million initial expenditure, no other funds had been spent.

Mr. Robbins stressed that the City is a very large account for J.D. Edwards and instructed Mr. Grace to urge J.D. Edwards to get the implementation of the system in place.

Resolution A0685-2003-R0281

MOTION by Hill, seconded by Barnett,

Whereas, Requests for Proposals were solicited for consulting services for the enhancement of the City's financial system and proposals were reviewed and evaluated; and

Whereas, Eisner Technology Solutions, LLC, New York, New York and J.D. Edwards World Solution Company, Downers Grove, Illinois were selected as best qualified for software and technology consulting services;

Resolved, that the Rochester Hills City Council authorize the purchase of consulting services for the J.D. Edwards One World XE financial system to Eisner Technology Solutions, LLC, New York, New York and J.D. Edwards World Solution Company, Downers Grove, Illinois, in the amount not-to-exceed \$165,000, through April 1, 2004.

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

Nays: Dalton

Absent: None

MOTION CARRIED

18b. Adoption of Resolution authorizing the execution of a purchase agreement for Vacant Property at the northeast corner of Crooks and Hamlin Roads (Members received an Agenda Summary Sheet dated August 1, 2003, from John Staran, City Attorney, with attachments)

RESIDENT COMMENT:

Mr. James Stevens, 3394 Coolidge Highway, questioned whether the property in question is buildable property and, noting his experience in real estate, did not feel that the price was appropriate. He continued to express his opposition to the purchase, noting that the money could be better spent on City parks.

City Attorney Staran explained that there are some restrictions on discussing this subject due to confidentiality issues, however, he did explain that the current property owner had sought to build a private home on the land but was refused a wetlands use permit by the City. The City then reached a compromise with the land owner, wherein, the City would purchase the land.

Ms. Golden noted that the Council may be able to elaborate on this subject at a later date.

Resolution A0498-2003-R0282

MOTION by Robbins, seconded by Golden,

Whereas, at the Rochester Hills City Council's direction, the City Attorney has negotiated an Offer to Purchase the vacant 7.21 acre parcel of property located at the northeast corner of Hamlin and Crooks for the purchase price of \$105,000.

Resolved that the City Council hereby approves the proposed Offer to Purchase, subject to such changes to the form of the agreement as the City Attorney deems appropriate, and authorizes the Mayor to execute and deliver the Offer to Purchase to the seller.

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

Nays: Barnett

Absent: None

MOTION CARRIED

19. ANY OTHER BUSINESS

Ms. Hill questioned why a presentation made to Council in May regarding the solid waste issue has not yet appeared on the City's cable channel.

Mr. Scott Cope, Director Building/Ordinance Enforcement, noted that the tape would be delivered to the City's cable channel by Friday, August 8, 2003.

20. NEXT MEETING DATE -

a. Wednesday, August 13, 2003 - Special Work Session - 7:30 PM

b. Wednesday, August 20, 2003 - Regular Meeting - 7:30 PM

20. ADJOURNMENT

There being no further business to discuss before Council, President Dalton adjourned the meeting at 10:54 p.m.

JOHN L. DALTON, President
Rochester Hills City Council

MARGARET A. STRATE
Administrative Secretary
City Clerk's Office

BEVERLY A. JASINSKI, Clerk
City of Rochester Hills