

**MINUTES of a Regular Rochester Hills City Council Work Session** held at 1700 W. Hamlin Road, Rochester Hills, Michigan, on Wednesday, May 28, 2003 at 7:30 PM.

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Absent: Member Jim Duistermars

**QUORUM PRESENT**

Others Present: Bev Jasinski, City Clerk  
Scott Cope, Director of Building/Ordinance Enforcement  
Todd Gary, Captain/Fire Chief  
Roger Rouse, Director DPS  
Robert Spaman, Director of Finance

President Dalton stated Member Duistermars provided previous notice that he would be absent and was excused.

**3. PLEDGE OF ALLEGIANCE**

**4. PUBLIC COMMENTS - (Non Agenda Items)**

**Mr. Vincent Robinson**, 1487 Antler Court, stated his opposition to the single trash hauler plan, questioning why the city would want to take on the serious financial responsibilities this would involve. He suggested that subdivisions that desire a single hauler are at liberty to contract as such. Mr. Robinson then stressed the importance of individual choice, citing that he had recently changed haulers due to dissatisfaction. He then went on to question the budget of \$3.45 million dollars, expressing his belief that this money would not cover the cost of a citywide single hauler plan.

**5. ADMINISTRATION**

**5a. Mayor's Office – Fiscal**

1. Water / Sewer Rates (A0119)

**Mr. Robert Spaman**, Director of Finance, referencing, in detail, analysis conducted by the Detroit Water and Sewer Department (DWSD) and an analysis of the City's consumption rates, proposed a 9.5% increase in water rates and a 19.8% increase in sewer rates beginning July 1, 2003.

**Mr. Roger Rouse**, Director of DPS, briefly reviewed the process the DPS used to determine the proposed changes to the hydrant, flow test, water tap and meter fees as well as engineering inspections. He noted that the formula was updated based in part on a compilation of work orders generated throughout the past year.

**Mr. Spaman**, in summation, stated that if the documented changes were initiated, 2004 would be the first year the city will break even on water and sewer costs dating back to the early 1990s. He noted that they are still operating under the Black & Veatch plan and will likely reach the 2007 target quicker than anticipated.

**Ms. Golden** questioned whether Mr. Rouse was receiving cooperation from the DWSD. She also inquired as to when these rate changes would go into effect. She expressed concern about informing residents in advance of the changes.

**Mr. Rouse** affirmed that he has been in contact with the DWSD in an effort to discuss the possibility of water storage as a means of controlling rising water costs. He explained that an outside consultant, through the use of a computer-modeling program, determined that peak water times could be "flattened" by the use of water reservoirs. He contended, pending verification and approval by the DWSD, that research indicates a return on the City's investment in water storage via reservoirs within four to five years.

**Ms. Golden** acknowledged that the City would need a commitment from the DWSD prior to committing to the expenditure for reservoirs. She expressed concern that the DWSD would determine that this plan would not be in their best financial interest.

**Mr. Rouse** agreed that the City needs a commitment from the DWSD, however, citing electrical and chemical demands during peak times, he stated that the reservoir plan would likely also benefit the DWSD. Mr. Rouse expressed confidence that, following the DWSD's review of further information, the plan would be approved.

**Mr. Spaman**, in response to Ms. Golden's question regarding the timing of rate changes, stated that the changes would be effective July 1st. However, the increase would not appear on residents' bills until August.

**Ms. Hill** questioned whether a notification of rate changes could be included on bills during the prior billing cycle.

**Mr. Spaman** affirmed that that would be possible, but likely not until after the first meter reading. He indicated that a notice could be included with the July billing.

**Ms. Hill** suggested disseminating the information via Channel 55/10 as well.

**Mr. Barnett** agreed that notification on the water bills prior to the rate change is a good idea. He then went on to praise the work of Mr. Spaman and Mr. Rouse with regard to their efforts to pursue options such as the water reservoir plan in an attempt to keep water fees to a minimum.

**6. UNFINISHED BUSINESS**

**6a. Burning Issues Discussions (A0497)**

**President Dalton** turned the meeting over to **Mr. Barnett**.

**Mr. Barnett** quickly reviewed the history of the leaf burning project, noting that Recommendation C by the Community Development & Viability Committee (CDV) bans the burning of leaves, grass and bonfires, but allows the burning of brush, branches and tree parts as well as for cooking. He introduced **Mr. Todd Gary**, Fire Department; **Mr. Scott Cope**, Ordinance Enforcement; and **Mr. Alex Kiwior**, Chairman of the citizens ad hoc committee, indicating that all three men were available to answer questions during the meeting.

Mr. Barnett went on to explain that he would next open the meeting to public comment followed by Council comment. He stressed that, because this was a work session-type meeting, there would be no decision made on the part of City Council.

**PUBLIC COMMENT:**

**Ms. Marge Modrycki**, 567 Kentucky Drive, noting that she is the grandmother of three asthmatic children who live in the area, expressed her hope that all of the information on hand will result in a ban on leaf burning.

**Mr. Donald Modrycki**, 567 Kentucky Drive, a temporary administrator with the Warren Consolidated Schools, noted that in his experience the number of school children with breathing problems and asthma has increased four (4) fold over the past ten (10) years. He encouraged a total ban on open burning.

**Ms. Susan deCaussin**, 456 Wimpole Drive, postulated that, since it has been determined that leaf burning is a health hazard and a nuisance; the only remaining issue is the education of the community with regard to existing alternatives to the practice. She noted that, while her family enjoys seasonal campfires, they would rather eliminate all open burning rather than continue the practice of leaf burning in the community.

**Mr. Wallace Wells**, 625 Spartan Drive, endorsed the single (solid waste) hauler proposal as a means to facilitate an alternative to leaf burning. He noted that bagged leaves would be removed along with other yard waste, solid waste and recycling.

**Ms. Diane Kaczor**, 890 Bloomer Road, listed the various trees and bushes on and bordering her one-acre lot which require maintenance. She stated that the practice of burning leaves, brush and branches is a natural and expedient practice relieving her of dependence on trash haulers or city maintenance.

**Mr. Jim Jacobone**, 3705 Orchard View, expressed his opposition to a ban on leaf burning and asked whether the voters of Rochester Hills would be given the opportunity to vote on this subject.

**President Dalton** stated that at this time they were hearing input from residents and could not answer that question at this point.

**Mr. Lee Zendel**, 1575 Dutton Road, noted that the size and, specifically, the depths of many residential lots make it difficult for individuals to transport their leaves for curbside pickup. In addition, he cited a *New York Times* article that indicated that diesel fumes from school buses pose a greater health threat to children than does leaf burning. Expressing his concern that the banning of leaf burning would lead to greater restrictions such as a ban on charcoal or gas grills, Mr. Zendel suggested a compromise solution as opposed to a total ban on leaf burning: 1) homeowners with only one or two deciduous trees must bag, mulch or compost, and 2) residents on one-acre or larger lots with multiple deciduous trees will still be allowed to burn their leaves.

**Ms. Janet Kapala**, 1659 North Bretton Drive, indicated that she has weighed both sides of this debate. She stated that she prays that Rochester Hills will be a leader in this area and that something very positive can come out that will be helpful to as many people as possible.

**Ms. Cecilia Strine**, 2962 Mohawk Lane, began with a correction to the March 5, 2003 minutes, indicating that a quote she had attributed to the Environmental Protection Agency had been identified as her personal opinion. Ms. Strine went on to state that the data regarding the hazards of leaf burning already acquired by the Mayor, the City Council and the Fire Department needs to be disseminated to the general public. Ms. Strine indicated that the citizens group she represents would like to work with the City Council and Fire Department to educate the public. She further stated that her group's research of other communities that ban leaf burning shows that to enact a ban on leaf burning the City does not have to offer an alternative. She concluded with a quote from an Iowa Department of Environmental Quality study that stated, "Unrestricted leaf burning in a large residential community is environmentally unacceptable."

**Ms. Pat Turner**, 2407 Culbertson, citing research she had conducted of nearby communities, indicated that leaf burning has primarily been banned for health and environmental purposes, many of the studied communities offer the same curbside yard waste pickup as is available in Rochester Hills, most have banned all open burning, and none of these communities put the banning issue to a public vote. She stressed that this is not an issue of public opinion, but rather, it should be a decision based on the welfare of the residents and the community.

**Ms. Helen Sutliff**, 1157 Cripple Creek, stressed what she determined would be the hardship of many residents with larger lots were a leaf burning ban enacted. She described her particular subdivision and the difficulties of transporting yard waste for curbside pickup. She stated that the equipment necessary to clear large lots was cost prohibitive. She then questioned why she and her neighbors did not receive the edition of the *Hills Herald* that included a survey regarding the leaf burning subject.

**President Dalton** stated that the survey responses were still in the process of being tabulated. Anyone who did not receive the survey and still wished to respond was urged to contact City Hall.

**Mr. Carl Holstein**, 518 Clair Hill, expressed his full support to ban leaf burning for health reasons. He then urged the City Council to either vote for the ban or to put the question before the public prior to the fall leaf burning season.

**Mr. Joseph Krizanich**, 1142 Greenleaf Drive, read into the record a letter written by Mr. Wallace Wells and published by the *Rochester Eccentric*. The letter illustrated the parallel between the current leaf burning issue and the recent societal changes toward curtailing public smoking. Mr. Wallace's letter stated that "In each case, constructive change depends on public awareness of the available scientific evidence, the assertion of a competing right, that is, to breath non-polluted air by some of those affected, and eventually action by public officials to codify that right."

**Rev. Dr. Pamela Whateley**, 1600 North Livernois, expressed her opposition to a ban on leaf burning by listing her four (4) main concerns:

- a. The personal responsibility of all citizens to follow the present burning ordinance.
- b. The City's plan for handling the removal of yard waste for those citizens unable to meet this new obligation following a ban.
- c. Why the issue is not being placed on a ballot for a popular vote.
- d. The health hazards of public cigarette smoking.

**Mr. Richard Bortfeld**, 1725 Foresthill Drive, expressed his shock upon moving to Rochester Hills from West Bloomfield less than two years ago and learning that the community allows leaf burning. He went on to describe his practice of mulching leaves. He then described his personal experience with his asthmatic wife and those attendant hardships.

**Mr. Jim Watson**, 700 Peach Tree Lane, after indicating that he was a member of the committee that recommended a ban on leaf burning, expressed his opinion that the issue should be brought to a public vote. He further expressed his belief that, should a ban be enacted, a single hauler waste removal service in the City would assist in the transition.

**Mr. Alex Kiwior**, 1860 Crestline Road, noted the importance of establishing an education campaign regarding the hazards of leaf burning. He went on to praise the difficult task before the City Council to make a decision that will benefit the citizens even if it is not the "popular" decision.

**Mr. Robert McCall**, 2763 Hillendale, described in detail the three (3) primary pollutants emitted during leaf burning, particulate matter, carbon monoxide and hydrocarbons, and their adverse effects on the human body. He then described alternatives to leaf burning and asked that a ban on leaf burning be enacted.

**Mr. Thomas Stevenson**, 708 River Bend Drive, expressed his concern that leaf burning is killing people. He went on to describe his methods of leaf removal, including raking, vacuuming and chipping. He asked the worth of a single life compared to the cost of such equipment.

**Mr. David Green**, 471 Willard, questioned claims about successful composting, indicating that he has piled leaves dating back five years that have yet to breakdown. He suggested a

grandfather clause in any new burning ordinance that would allow burning for existing residents, but would ban burning for new residents.

**Mr. Walter Johnson**, 3338 Greenwood, stated that he has asthma and does not have a problem with leaf burning. He suggested a compromise wherein leaf burning is limited to one week in the spring and two weeks in the winter. He expressed concern as to the cost of hauling away yard waste and indicated that he has acquaintances in other communities that ban leaf burning who envy Rochester Hills' current system.

**Mr. Frank T. Frederick**, 740 Driftwood, described his two (2) acre property and the inadequacy of mulching and composting he has experienced. He urged the City Council to allow residents to vote on the issue. He also noted the need for a community solution to the removal of leaves.

**Ms. Sandra Everill**, 1290 Greenridge Road, described how, despite taking medication for her allergies and asthma, she often must leave the community during leaf burning season. She also expressed her frustration that at times individuals burn leaves on prohibited days, and indicated that reporting violations to the Fire Department is not a satisfactory solution. She also requested that the burning dates and times be listed in the *Hills Herald*.

**Ms. Siegrid Stern**, 1185 Concord, citing her training as an advanced master gardener, indicated that the "old fashioned" practice of burning leaves and yard waste not only pollutes the air and causes health problems, it also wastes many beneficial micronutrients. She went on to stress not only the health hazards of leaf burning--describing in detail the impact pollutants generated by leaf burning have on the human body and the environment--but also the danger of fires spreading beyond control. Ms. Stern also noted that dead and diseased wood that has sat over the winter season waiting for spring burning is often infested with insects that in the spring will infest healthy trees. She stressed the need for education that emphasizes mulching and composting and the environmental benefits of these practices.

(Recess 9:32 p.m. to 9:45 p.m.)

#### **COUNCIL DISCUSSION:**

**Ms. Golden** offered for consideration statistics from a scientific survey conducted by the City of Auburn Hills in 2001, noting that the results were consistent with the results of Rochester Hills' informal survey as well as emails and faxes she had received. She requested information from Staff or the Health Department regarding yard cleanup and the West Nile Virus, suggesting that a clean yard could help combat its spread. Referencing a memo about advisory questions from City Attorney Staran, she requested a commitment from Administration that the September *Hills Herald* provide equal space for both sides of the issue in preparation for any ballot vote. She noted that, while she is reluctant to put the issue to a vote, she has received numerous requests from citizens on both sides of the issue to do so. She suggested the possibility that Community Development Block Grant (CDBG) money could be earmarked to defray the increased costs to large-lot owners for leaf removal.

**President Dalton** noted that the *Hills Herald* is issued in October and that the CDBG money is very limited.

**Ms. Golden** requested exact figures as well as the guidelines for low-income seniors and the Home Chore Program.

**Mr. Robbins** suggested that CDGB funds for yard removal can be increased by reducing the amount of funds donated to other groups. He noted that, in addition, there are many community service groups to assist individuals.

**Ms. Hill** noted that the Supreme Court has ruled that legislative bodies cannot submit an advisory question that is related to municipal actions that that legislative body is charged to decide. She described the difficulties of educating the general public. She stressed the importance of compromise, particularly as presented by the ad hoc committee recommendations for banning leaf burning but still allowing the burning of debris, branches, brush and campfires. She noted that, while health issues are important, it is impossible to protect everyone from all hazards. She compared the number of complaints received each year versus the number of burning permits issued and the total number of residences in Rochester Hills. She suggested further narrowing the number of days during which leaf burning is permitted.

**Mr. Robbins** suggested a charter amendment to ban burning and repeal the current ordinance, thus avoiding the issue of the Supreme Court ruling mentioned by Ms. Hill. He stated that, while once very rural, Rochester Hills is now a city and it is the City Council's duty to protect and serve the residents of this city. He stressed educating residents regarding their various options.

**Mr. Barnett** asked Scott Cope, Director of Building/Ordinance Enforcement, to elaborate on the cost of alternative methods of leaf removal.

**Mr. Scott Cope** stated that, as part of the solid waste investigation, the City received a quote of \$1 million dollars per year for curbside, leaf vacuuming service.

**Mr. Barnett** noted that the cleanup for the April ice storm was estimated at \$10,000 per day. He then asked Mr. Todd Gary, Captain/Fire Marshall, to elaborate on any enforcement concerns he may have.

**Mr. Todd Gary** emphasized that the current ordinance requires a great deal of interpretation on the part of the Fire Department and suggested that any new ordinance be clear and concise.

**Mr. Barnett**, after noting several of the arguments both pro and con, suggested a compromise of reducing the current number of permitted days for leaf burning, as opposed to an immediate ban.

**Ms. Holder** stressed her desire to put the issue to a vote of the people, noting that it affects every City resident and, while it is the duty of the Council to protect the citizens, they cannot protect everyone from every health threat.

**Ms. Hill** reiterated her opposition to placing the issue to a popular vote, noting that the Council makes similar decisions all the time and this issue should be no different. She stressed that the decision should be made prior to the fall burning season.

**Mr. Robbins** disagreed with the comparison of the leaf burning issue to other issues not in the control of City Council (i.e. diesel exhaust, smoking, etc.). He stressed that Council must focus on those issue for which they can affect change and move forward.

**Ms. Golden** expressed concern for replacing one pollutant (leaf smoke) for another (small engine exhaust). She noted that “some people are begging for the opportunity” to vote on this issue and stressed that, whatever Council determines at this meeting, the issue must reach its conclusion at the next meeting.

**President Dalton** suggested that the elimination of wood burning and campfires would not be an option, however, there were three possible conclusions: 1) no change, 2) total ban, 3) reduction. He asked Mr. Todd Gary, of the approximately one hundred (100) complaints received last year for burning violations, how many resulted in the issuance of a citation.

**Mr. Gary**, noting that he did not have the exact number, stated that the Fire Department rarely issues such citations.

**President Dalton**, acknowledging no negative reflection on the Fire Department, stated that Council must insist upon future ordinance enforcement.

**Mr. Thomas Stevenson**, 708 River Bend Drive, noting that the Solid Waste ad hoc committee, of which he was a member, also examined the leaf removal issue and determined that, while leaf burning should be banned, alternatives to assist people in the removal should be offered.

**President Dalton** compared his years as a smoker to the leaf burning issue, stating that “small steps” may be required toward reaching the final, inevitable total ban. He noted that bagging leaves for curbside pickup may be a nuisance, but it can be done.

**Mr. Barnett** suggested for discussion a compromise wherein leaf burning would be banned in the spring and limited in the fall, but allowing campfires and the burning of debris and branches.

**Ms. Golden** and **President Dalton** both suggested moving the fall leaf burning schedule into December.

**Ms. Hill** agreed with Mr. Barnett about a narrowed window of burning for the fall season, however, she suggested November, rather than December. She also praised the ad hoc committee for their hard work and all the information and statistics presented.

**Mr. Robbins** described the free woodchips made available to City residents as a result of the storm cleanup and questioned whether a woodchip program could be enacted to dispose of yard waste. He also suggested that the City take advantage of the local composting facility.



**Mr. Stevenson** stated that the Solid Waste ad hoc committee contacted SOCRRA about composting leaves and was informed that they would compost all leaves but the leaves would have to be delivered to their facility.

**Mr. Barnett** encouraged Mr. Gary to supply City Council with any information necessary to address his enforcement needs as soon as possible, stressing that it is critical that the issue be properly addressed before any decisions are finalized.

**Mr. Gary** indicated that he had previously written a brief memo regarding enforcement, but would provide a more detailed list to Council.

**Unidentified Female Resident** asked Council members to justify why Rochester Hills is one of only eight cities in the entire state that still allows leaf burning.

**Ms. Siegrid Stern**, 1185 Concord, expressed her bewilderment that people need to burn leaves. She gave a brief description of her method of cutting her lawn repeatedly until the leaves disappear and expressed her support for educating citizens.

**Mr. Alex Kiwior** addressed specific points made by Council members:

- Disputed Ms. Golden's assertion that this is a "passionate issue" noting that people with breathing problems do not have a choice.
- Agreed with Ms. Hill that education is an important issue and offered to take anyone to his home and demonstrate his mulching technique. It is his contention that many citizens do not understand the process.
- He contested the belief that small engine exhaust is more harmful than the particles released through leaf burning.
- He agreed with Mr. Robbins on "everything." He noted that this is a Council issue and should not be "passed on" to anyone else and insisted that the Council protect the citizens.
- He agreed with Mr. Gary that the decision should be made soon, noting that the draft ordinance created by the ad hoc committee is very clear.
- Reiterating Mr. Barnett's point that smoke knows no boundaries, he stressed that nature does not require the removal of leaves. In the forest, leaves fall and rot and feed the environment.
- He disputed Ms. Holder's recommendation to move the issue to a vote by the people, expressing his belief that the Council had been elected to make these decisions for the constituents.

- With regard to enforcement, he noted that leaves do not burn, they smolder, and a smoldering fire is much easier to identify than a campfire.
- He noted that the City has agreed to send a flyer to residents informing them of how to take their composting to SOCRRA.
- He questioned why the ad hoc committee's report had not been approved and sanctioned by the City Council.

**President Dalton** insisted that the City Council had accepted the ad hoc committee's report in total.

**Ms. Hill** explained that committees present Council with opinions and it is then the responsibility of the Council to weigh those opinions and accept, modify or disregard the findings. Council is not required to adopt any committee recommendations.

**Mr. Barnett** expressed praise and admiration for the work of the ad hoc committee and for Mr. Kiwior's contribution in particular.

**Mr. Robbins** echoed Mr. Barnett's praise of the committee, noting that the research and findings were "politics free." He described the difficulty of addressing the open burning issue and the waste disposal issue separately, noting that "it's time to jell everything together and make a decision."

**Ms. Golden** noted that there are many people concerned about the pollutants released by small engine exhaust and that the issue should not be ignored.

**Mr. Cope**, addressing Mr. Robbins' concern about the comprehensive solid waste program, again noted that the leaf vacuuming issue was examined and was determined to be cost prohibitive. He confirmed that leaf bagging was part of the solid waste disposal program, but curbside leaf vacuuming was not.

**President Dalton** listed the four (4) options for discussion at the next Regular City Council Meeting: a) total ban, b) status quo, c) shorten season, d) place on ballot.

**Ms. Hill** disagreed with including a ballot vote as part of the resolution. She suggested that a possible popular vote be discussed at the current meeting and a consensus be determined before moving forward with a possible popular vote.

**Ms. Golden** noted that the vote issue should be debated at the next meeting.

**Ms. Hill** insisted that a ballot vote is a separate issue from the other issues and should be determined prior to any further discussion on the specific issues of leaf burning.

**President Dalton** stated that the vote issue should not be completely excluded, the option should be available.

**Ms. Hill** pointed out that, barring a change to the City Charter, any ballot vote would have to be advisory and would, thus, return to the Council for final determination.

**Mr. Barnett** expressed confusion as to the prospect of a ballot vote and suggested that it would be necessary to have Mr. Staran's counsel on this subject. He then noted that if a decision were made to put the issue on a ballot, the next determination would be what specifically would be addressed on the ballot

**Ms. Golden** suggested that any ballot item should include options that could assist residents who would be financially impacted by a total ban on leaf burning, citing as an example the use of CDBG funds.

**Mr. Robbins** stated that it is every individual member's right to bring an issue before Council.

**Ms. Hill** agreed with Mr. Robbins but noted that if the issue goes to a vote, there are several issues related to a ballot vote that must be addressed by Mr. Staran in order to make an informed decision.

**Mr. Barnett** noted that this sort of discussion is the purpose of Work Session meetings, to address these issues and prepare for the final discussion.

**Ms. Golden** suggested creating a fund, either through CDGB money, the general fund or through a millage, that would help defray some of the leaf disposal costs incurred by residents. She insisted she was not suggesting diverting funds from other worthy causes.

**7. COMMENTS & ANNOUNCEMENTS**

**7a. City Council Members**

**7b. Mayor** (not present)

**7c. Attorney** (not present)

No comments or announcements were provided.

**8. ANY OTHER BUSINESS**

No other business was presented.

**8. NEXT MEETING DATE**

**8a. Wednesday, June 4, 2003 - Regular Meeting - 7:30 PM**

**9. ADJOURNMENT**

There being no further business to discuss before Council, President Dalton adjourned the meeting at 11:10 p.m.

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

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**MARGARET A. STRATE,**  
Administrative Secretary to the City Clerk

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