

MINUTES of the **Regular Rochester Hills City Council Meeting** held at 1700 W. Hamlin Road, Rochester Hills, Michigan, on Wednesday, November 19, 2003 at 7:30 p.m.

1. CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:35 p.m. Michigan Time.

2. ROLL CALL

Present: President John Dalton; Members Bryan Barnett, Jim Duistermars, Barbara Holder, Linda Raschke, Gerald Robbins

Absent: Member Melinda Hill

QUORUM PRESENT

Others Present: Pat Somerville, Mayor
Beverly A. Jasinski, City Clerk
Larry Ternan, City Attorney
Ed Anzek, Director of Planning/Development
Ronald Crowell, Assistant Fire Chief
Derek Delacourt, Planner II
Pam Lee, Director of Human Resources
Deborah Millhouse, Deputy Director of Planning/Development
Roger Rouse, Director of DPS/Engineering
Captain Robert Smith, Oakland County Sheriff's Department
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 November 14, 2003 from Susan Galeczka, City Council Liaison)

Resolution A0001-2003-R0411

MOTION by Duistermars, seconded by Barnett,

Resolved, that the Rochester Hills City Council hereby approves the Agenda, of the Regular Rochester Hills City Council Meeting of November 19, 2003 as presented.

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

Nays: None

Absent: Hill

MOTION CARRIED

5. CHAIRPERSON'S REPORT

President Dalton stated that within the past few days he had received numerous telephone calls from residents complaining that their bagged leaves had not been collected by Great Lakes Waste. He asked that a member of City Staff contact the waste hauler and make inquiries.

Mayor Somerville concurred that she had also received numerous calls and was unable to contact Great Lakes Waste.

6. MAYOR'S REPORT

Mayor Somerville announced that on Friday, November 21st the City would be welcoming Santa Claus at The Village of Rochester Hills at 7:00 p.m.

7. COUNCIL COMMENTS

Ms. Raschke thanked everyone who voted in the recent election and stated she was “glad to be back.”

Mr. Robbins welcomed Ms. Raschke. He wished everyone a safe and happy holiday season.

Mr. Duistermars wished residents a happy Thanksgiving.

Mr. Barnett also wished residents a happy Thanksgiving. He thanked the Mayor and her staff for a “wonderful inaugural service on Monday.” He noted that RARA was grateful for the furniture donated by the City.

Clerk Jasinski thanked Susan Galeczka, City Council Liaison, and staff for their “hard work” arranging the swearing in ceremony.

8. ATTORNEY'S REPORT

Attorney Staran had nothing to report.

9. PRESENTATIONS

9a. Recognition - Lois Golden, City Council Member

All Council Members and the Mayor gathered to make a presentation to Lois Golden as a departing member of City Council including a presentation of flowers and a plaque expressing gratitude for her service to the City.

Ms. Golden thanked the City Staff, in particular City Clerk Bev Jasinski and City Council Liaison Susan Galeczka, as well as Board members, residents and Mayor Somerville. With regard to her fellow Council members, she stated, “I couldn’t have done it without you.” In conclusion, she noted the toll public office can take on the family members of those serving and

announced that her daughter Erica had successfully maintained honor-roll status at school during Ms. Golden's entire tenure on City Council.

9b. Proclamation - Red Kettle Days - November 19 - December 24, 2003

Mayor Somerville read into the record a proclamation declaring November 19 through December 24, 2003, Red Kettle Days in the City of Rochester Hills in recognition of the efforts of The Salvation Army of metro Detroit to address the crisis of poverty and homelessness in Oakland, Wayne and Macomb Counties.

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, 10f, 10g, 10i and 10j** from the Consent Agenda.

10a. Approval of Minutes - Special Meeting, November 5, 2003 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 13, 2003 from Margaret Strate, Administrative Secretary, with attachments)

Resolution A0005-2003-R0412

MOTION by Duistermars, seconded by Holder,

Resolved that the Minutes of a Special Rochester Hills City Council Meeting held on Wednesday, November 5, 2003 be approved as presented.

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

Nays: None

Absent: Hill

MOTION CARRIED

10b. Approval of Minutes - Regular Meeting, November 5, 2003 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 13, 2003 from Margaret Strate, Administrative Secretary, with attachments)

Resolution A0005-2003-R0413

MOTION by Duistermars, seconded by Holder,

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

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

Nays: None

Absent: Hill

MOTION CARRIED

- 10c. Traffic Control Order PK-76 - Hampton Office Park Subdivision No. 2, Section #26 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 6, 2003 from Terry Donnelly, Clerk III, with attachments)**

Resolution A0741–2003–R0414

MOTION by Duistermars, seconded by Holder,

Whereas, Traffic Control Order No. PK-76 has been issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98. Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

PK-76.1 No Parking within the right-of-way of south side of Hampton Circle from Barclay Circle (at their south intersection) to a point Five Hundred Fifty (550) feet easterly thereof.

PK-76.2 No Parking within the right-of-way of north side of Hampton Circle from Barclay Circle (at their south intersection) to a point Two Hundred Sixty (260) feet easterly thereof.

Whereas, said Traffic Control Order shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Order and recommends that the Order be approved;

Resolved that the Rochester Hills City Council approves the issuance of Traffic Control Order PK-76 to be in effect until rescinded or superseded by subsequent order; and that a certified copy of this Resolution be filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 10d. Traffic Control Order YS-89 (Yield Signs)** - Streets within Arcadia Park Subdivision, Section #23 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 6, 2003 from Terry Donnelly, Clerk III, with attachments)

Resolution A0734–2003–R0415

MOTION by Duistermars, seconded by Holder,

Whereas, Traffic Control Order No. YS-89 has been issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98. Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

YS-89.1	Bedlington Court	Yield to	Bedlington Drive
YS-89.2	Bedlington Drive	Yield to	Bliss Drive
YS-89.3	Bliss Court	Yield to	Enchantment Drive
YS-89.4	Blushing Drive	Yield to	Enchantment Drive
YS-89.5	Windsong Drive	Yield to	Blushing Drive
YS-89.6	Blushing Court	Yield to	Blushing Drive

Whereas, said Traffic Control Order shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Older and recommends that the Order be approved;

Resolved that the Rochester Hills City Council approves the issuance of Traffic Control Order YS-89 to be in effect until rescinded or superseded by subsequent order; and that a certified copy of this Resolution be filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 10e. Traffic Control Order YS-90 (Yield Signs)** - Streets within Butler Ridge Subdivision No. 1, Section #19 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 6, 2003 from Terry Donnelly, Clerk III, with attachments)

Resolution A0735–2003–R0416

MOTION by Duistermars, seconded by Holder,

Whereas, Traffic Control Order No. YS-90 has been issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98. Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

YS-90.1	Balmoral Blvd.	Yield to	Lincolnshire Drive
YS-90.2	Lincolnshire Court	Yield to	Lincolnshire Drive
YS-90.3	Lincolnshire Drive	Yield to	Piccadilly Drive

(at their West Intersection)

Whereas, said Traffic Control Order shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Order and recommends that the Order be approved;

Resolved that the Rochester Hills City Council approves the issuance of Traffic Control Order YS-90 to be in effect until rescinded or superseded by subsequent order; and that a certified copy of this Resolution be filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 10f. Traffic Control Order SS-126 (Stop Signs)** - Streets within Arcadia Park Subdivision, Section #23 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 6, 2003 from Terry Donnelly, Clerk III, with attachments)

Resolution A0736–2003–R0417

MOTION by Duistermars, seconded by Holder,

Whereas, Traffic Control Order No. SS-126 has been issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98. Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

SS-126.1	Windsong Drive	Stop For	Bedlington Drive
SS-126.2	Bliss Drive	Stop For	Enchantment Drive

SS-126.3 Arcadian Court Stop For Arcadian Drive

Whereas, said Traffic Control Order shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Order and recommends that the Order be approved;

Resolved that the Rochester Hills City Council approves the issuance of Traffic Control Order SS-126 to be in effect until rescinded or superseded by subsequent order; and that a certified copy of this Resolution be filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 10g. Traffic Control Order SS-127 (Stop Signs)** - Streets within Butler Ridge Subdivision No. 1., Section #19 (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 6, 2003 from Terry Donnelly, Clerk III, with attachments)

Resolution A0737–2003–R0418

MOTION by Duistermars, seconded by Holder,

Whereas, Traffic Control Order No. SS-127 has been issued by the Transportation Engineer under the provisions of the Rochester Hills Code of Ordinances, Chapter 98. Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

SS-127.1	Balmoral Blvd.	Stop For	Butler Blvd.
SS-127.2	Thatcher Court	Stop For	Balmoral Blvd.
SS-127.3	Strathcona Drive	Stop For	Lincolnshire Drive
SS-127.4	Piccadilly Drive	Stop For	Lincolnshire Drive
			(at their East Intersection)

Whereas, said Traffic Control Order shall not be effective after the expiration of ninety (90) days from the date of issuance, except upon approval by this Council; and

Whereas, the Advisory Traffic and Safety Board has considered the issues pertaining to the Traffic Control Order and recommends that the Order be approved;

Resolved that the Rochester Hills City Council approves the issuance of Traffic Control Order SS-127 to be in effect until rescinded or superseded by subsequent order; and that a certified copy of this Resolution be filed together with the Traffic Control Order, with the City Clerk of Rochester Hills, Oakland County, Michigan.

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

MOTION CARRIED

- 10i. Request for Purchase Authorization** - DPS: Traffic Signal Maintenance, blanket purchase orders not-to-exceed \$135,000.00; Road Commission for Oakland County, Waterford, MI (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 13, 2003 from Barbara Key, Contract Specialist, with attachments)

Resolution A0726–2003–R0419

MOTION by Duistermars, seconded by Holder,

Whereas, under terms and conditions of separate agreements with the Road Commission for Oakland County, the City of Rochester Hills has agreed to pay for a percentage of the costs associated with maintaining and/or repair of traffic signals, SCAT cost and school flashers on our major roads.

Resolved, the Rochester Hills City Council authorize the issuance of a blanket purchase order to the Road Commission for Oakland County for maintenance and/or repair of traffic signals, SCAT cost, school flashers, and LED Upgrades in the total amount of \$135,000.00 for a period of one year.

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

MOTION CARRIED

- 10j. Request for Purchase Authorization** - FACILITIES: Roof Repairs for Bloomer Park and Grant Lift Station, increase in blanket purchase order in the amount of \$1,577.00 for a new not-to-exceed total of \$44,076.00; G. A. Frisch, Inc., Troy, MI (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 15, 2003 from Bob Srogi, Facilities Operations Manager, with attachments)

Resolution A0395–2003–R0420

MOTION by Duistermars, seconded by Holder,

Whereas, competitive bids were solicited and received for the roof repair/replacement on five buildings at Bloomer Park and the Grant Lift Station, and;

Whereas, the age and condition of the existing roofs have caused and will continue to cause damage to the structural elements of the buildings, and;

Whereas, on August 7, 2002 City Council approved a contract with G.A. Frisch, Inc., Troy, Michigan in the amount of \$34,797.00 and subsequently, on December 18, 2002, approved an increase to the contract in the amount of \$6,670.00 and on May 21, 2003 an increase in the amount of \$1,032.00 for a total contract amount of \$42,499.00, and

Whereas, additional roof repairs were discovered requiring an increase in the contract in the amount of \$1,577.60 for a new total contract amount of \$44,076.60.

Resolved that the City of Rochester Hills City Council authorize an increase in the contract with G.A. Frisch, Inc., Troy, Michigan in the amount of \$1,577.60 for a total contract amount of \$44,076.60.

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

MOTION CARRIED

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

10h. Request for Purchase Authorization - FIRE: Two (2) 2004 Chevrolet CK 15706 Tahoe Special Service Vehicles, purchase order not-to-exceed \$58,889.10; Shaheen Chevrolet, Lansing, MI (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 10, 2003 from Ronald Crowell, Assistant Fire Chief, with attachments)

Mr. Robbins questioned the uses of the two (2) new vehicles.

Mr. Crowell explained that they would be replacing two (2) other administrative vehicles due for replacement.

An **unnamed resident** questioned why the City was purchasing the vehicles from outside the County.

President Dalton explained that the City requires that a bid be sought from every Chevrolet dealer in the State of Michigan, with the purchase made from the lowest bidder.

Resolution A0740–2003–R0421

MOTION by Robbins, seconded by Raschke,

Resolved, that City Council authorize the issuance of a purchase order to Shaheen Chevrolet of Lansing, Michigan for (2) two replacement vehicles as identified in the specifications, for the amount not to exceed \$58,889.10 through the Oakland County Cooperative Purchase Program, for use by the Fire Department.

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

MOTION CARRIED

11. PUBLIC COMMENTS

Mr. Vincent Robinson, 1487 Antler Court, expressed his belief that, despite the failure of the recent police millage, there is a need for more deputies and described the situation as a “threat to citizen safety.”

Mr. Lee Zendel, 1575 Dutton Road, admonished Council to do more than place a millage on a ballot for local road improvement. He encouraged Council to educate voters as to the necessity for these improvements.

Mr. Vincent Mungoli, 3435 Palm Aire Drive, questioned President Dalton’s reasoning for supporting a change in City government to a City Manager/Council form. He read from information he obtained from a website describing an Auburn Hills lawsuit dating back to when President Dalton was Chief of Police of that City.

President Dalton noted that he was not named in the suit to which Mr. Mungoli referred and had retired from the Auburn Hills Police Department by the time the suit was filed.

12. LEGISLATIVE / ADMINISTRATIVE RESPONSE

Mr. Robbins expressed his belief that there are a group of individuals interested in discrediting those persons who worked to open the City Charter. He warned residents to disregard rumors.

Mr. Duistermars agree with Mr. Robbins.

13. PETITIONERS REQUESTS

13a. Winkler Mill Development a ten (10) unit site condominium development on approximately 7.2 acres, located south of Washington Road and west of Dequindre, zoned R-1, One Family Residential; Howard Elandt, Applicant (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 10, 2003 from Derek Delacourt, Planner II, with attachments)

Mr. Derek Delacourt, Planner II, explained that the applicant had come before Council requesting Preliminary Site Condominium Approval and a Sidewalk Variance for a proposed ten (10) unit condominium development located on Washington Road. He noted that the applicant had previously appeared before the Planning Commission and had already been granted approval of a tree removal permit, a cul-de-sac waiver and recommendation for approval of a ten (10) unit site condominium.

Mr. Howard Elandt, 6420 Cornerstone Lane, stated that he is a resident of Rochester Hills living within a half mile of the proposed development. He asked for and received acknowledgement from a member of the audience, Barbara Poonpanij, who he identified as the owner of the property to be developed, affirming for Council that he was, in fact, the developer and had received Ms. Poonpanij's permission and cooperation to pursue this development.

Mr. Elandt described the "theme" of the development as "back in time," noting that the condominiums will be new "homes made to look old." He then introduced Project Engineer Bill Mosher of Apex Engineering and Project Surveyor and Builder George Reichert of Reichert Surveying.

PUBLIC COMMENT:

Mr. Robert and Mrs. Sherry Link, 1956 Carter Road, indicated by email that, with regard to the Winkler Mill Development, they oppose "the lot sizes and how the configuration will affect the nearby residents."

Mr. Jim Hall, 1720 Washington Road, expressed his concern that this development will impact his quality of life and diminish his property value. Some specific concerns noted were as follows:

- Increased construction traffic on the road next to his house.
- Lot 10 sits directly behind his property, the planned dwelling to be very near his property line.
- Some trees are slated for removal. (Feels agreement to save trees should be in writing.)
- The proposed sidewalk will encroach on his property.

Ms. Veronica Hall, 1720 Washington Road, felt that the number of planned homes should be reduced. She fears the development will detract from the "country" feel of the immediate area. She encouraged the elimination of Site 10 from the plan, noting that it is very near her home.

Mr. Alan Sheidler, 1650 Washington Road, questioned whether the proposed retention pond is adequate for the planned development. He expressed concern for tree removal at the southeast corner of his property, as well as concern for trees not slated for removal that may subsequently die due to disease.

Ms. Cindy Young, 1740 Washington Road, also questioned the adequacy of the proposed septic and drainage system and expressed concern for the number of trees to be removed. She asked that fewer homes be built and that Site 10 be eliminated.

COUNCIL DISCUSSION:

Mr. Delacourt, based on information gained at previous Planning Commission meetings, addressed some of the issues raised by residents:

- Applicant has agreed to investigate either increasing the side yard setback on Lot 10 or pursuing a conservation easement that would prevent building closer than twenty-two (22) feet to the existing homes.
- Storm drain could be moved closer to the road or incorporated on the other side of the property.
- Some trees identified for removal on the plans are only identified as such due to the ordinance and are not necessarily designated for removal.
- Tree protection fencing may be erected to maintain the trees between the two (2) lots.
- As a matter of consistency, the City has always recommended sidewalks be connected to pathways.
- Applicant's engineer and the City engineers will work to either remove or shorten the storm drain in an effort to prevent any ill affect on trees in that area.
- The proposed septic system has received preliminary approval from the Oakland County Health Commission and Drain Commission on the condition that these two (2) bodies receive more detailed plans prior to final approval.
- The pond size has been reviewed and found to meet all standards of Oakland County and the City of Rochester Hills.

Mr. Robbins questioned the historic significance of the existing barn on the site.

Mr. Delacourt explained that the site had been included in the recent Historic Districts survey, and with the exception of approximately the first 150 feet of the drive access, which will require some review by the Historic District Commission, none of the existing structures are included in the historic district ordinance.

Mr. Robbins asked Mr. Elandt if he planned to include street lighting within the proposed cul-de-sac.

Mr. Elandt acknowledged that has yet to be decided but, based on his experience with a previous development, is inclined to leave street lighting to the individual home owners.

Mr. Barnett asked for specifics regarding Lot 10.

Mr. Delacourt noted that the current side yard setback is fifteen (15) feet but the Planning Commission has recommended it be increased to twenty-two (22) feet.

Mr. Barnett questioned when the decision on this matter would be final.

Mr. Delacourt explained that any change would have to be submitted to the Planning Commission before being brought before the City Council for final plan approval.

Mr. Barnett asked the developer for more specifics on the design details of the proposed homes requesting sketches or perhaps a comparison to an existing development.

Mr. Elandt noted that the final design decisions have not been made, but suggested that Cherry Creek in Canton Township is “on the order of what we’re trying to develop.” The homes are narrow across the front and deep.

Mr. Barnett questioned the maximum density allowed on this site.

Mr. Delacourt explained that density is determined by what the zoning will allow and estimated that ten (10) units would likely be the maximum for this particular parcel.

Mr. Barnett asked whether a nine (9) site development had been evaluated from a financial and economic standpoint.

Mr. Elandt noted that he has been trying to arrange a meeting with neighboring residents to discuss their concerns with the development.

Mr. Barnett questioned whether the number of “what ifs” associated with this proposed development were typical.

Mr. Delacourt acknowledged that it is typical at this stage. The plans are within what is allowed and adjustments will be made before the applicant submits the final plan.

Ms. Raschke suggested that the elimination of Unit 10 would enhance the ambience of the proposed subdivision by allowing a buffer of trees before entering the subdivision.

Mr. Duistermars ask for further explanation as to why the trees are identified on the plans as to be eliminated.

Mr. Delacourt explained that the City ordinance requires that any trees within a certain proximity to an easement must be eliminated. However, with the assistance of the City’s on-staff Landscape Architect “every tree that’s able to be saved on this site is being saved right now.”

Mr. Duistermars inquired of Mr. Elandt and received confirmation that the possibility exists that an outside party, perhaps a neighbor, could purchase the lot in question.

Mr. Robbins noted that there was no boulevarded entrance to the development and questioned whether the Fire Department would have an issue with that.

Mr. Delacourt stated that there is no room for such an entrance and that the City Engineer, Planning Staff, City Consultants, Planning Commission and Fire Department determined that such an entrance was unnecessary.

Mr. Robbins asked Mr. Elandt if he had considered purchasing the three lots at the front of the development to “complete the whole parcel” and whether those particular parcels are part of the Historic District.

Mr. Elandt said that it had been considered, but not finalized or pursued.

Mr. Delacourt acknowledged that any of the houses that face Washington Road are part of the Historic District.

13a.i Preliminary Site Condominium Approval

Resolution A0744–2003–R0422

MOTION by Holder, seconded by Barnett,

Resolved that the Rochester Hills City Council hereby approves the Preliminary Site Condominium Plan for Winkler Mill Village, City File No. 02-024, a ten-unit site condominium development on approximately 7.2 acres, located south of Washington between Runyon and Dequindre, zoned R-1, One Family Residential and identified as Parcel No. 15-01-278-004, based on plans dated received by the Planning Department on September 30, 2003 with the following findings and subject to the following conditions.

FINDINGS:

1. The proposed preliminary plan conforms to all applicable Ordinance Code provisions and regulations.
2. The proposed preliminary plan has demonstrated availability and adequacy of utilities.
3. The proposed preliminary plan presents a reasonable lot layout and orientation.
4. The proposed use will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

CONDITIONS:

1. That the applicant incorporates internal sidewalks into the plans prior to review of the Final Site Condominium Plan, unless waived by City Council.
2. That prior to issuance of a Land Improvement Permit, any additional issues be addressed during construction review by the City’s Engineering Services Department.

3. Submission of a landscape performance guarantee in the amount of \$42,236.25, adjusted by staff if necessary, prior to issuance of a Land Improvement Permit.
4. That all proposed landscape easements be reviewed and approved by Staff prior to issuance of a Land Improvement Permit.
5. That all remaining landscape issues be addressed and reviewed and approved by Staff prior to approval of Final Site Condominium Plans.
6. That the applicant receive a Soil Erosion Permit from the Oakland County drain Commission prior to issuance of a Land Improvement Permit.
7. That the applicant make every effort to combine the sump lead and storm catch basin for lot 10 with lot 9 and to make every effort to save as many trees as possible.
8. Increase the landscape easement along the northwest side of lot 10 to 22 feet.
9. Work with the neighbors and the Historic Districts Commission, if necessary, to replace or repair the split rail fence along the entrance to the development.
10. That the developer receives written, specific approval of the septic system by Oakland County prior to final approval.
11. **(If a sidewalk variance is granted by City Council)** The applicant shall submit escrow funds to build a bike path if a connection to additional bike path is available - the cost to be determined by Engineering Services.

Ayes: Dalton, Barnett, Duistermars, Holder, Raschke

Nays: Robbins

Absent: Hill

MOTION CARRIED

13a.ii Sidewalk Variance

Resolution A0744–2003–R0423

MOTION by Duistermars, seconded by Raschke,

Resolved that the Rochester Hills City Council hereby **grants** a Variance, in accordance with the provisions of Division 2 of the Subdivisions Ordinance, for the construction of sidewalks required by Section 122-268(b)(1)a, Single-Family Residential Sidewalks, for Winkler Mill Village, City File No. 02-024, a ten-lot site condominium development on approximately 7.2 acres, located south of Washington and west of Dequindre, zoned R-1,

One Family Residential, based on plans dated received by the Planning Department on September 30, 2003, with the following findings:

FINDINGS:

1. There are special circumstances or conditions affecting the property such that the strict application of the Subdivisions Ordinance would deprive the applicant of the reasonable use of his land.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
4. The variance will further the written objectives and policies of the Subdivision Ordinance and the Master Land Use Plan.

Ayes: Barnett, Duistermars, Holder, Raschke, Robbins

Nays: Dalton

Absent: Hill

MOTION CARRIED

- 13b. Request for Transfer of Stock in Class C License - located in escrow at 900 Rochester Road (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 11, 2003 from Jane Leslie, Deputy Clerk, with attachments)**

Resolution A0749–2003–R0424

MOTION by Duistermars, seconded by Robbins,

Resolved that the request from Singapore Seafood Paradise, Inc. to transfer all stock (1986 Licensing Year) in 2000 Class C licensed business, located in escrow at 900 S. Rochester, Rochester Hills, MI 48307, Oakland County, by dropping Somphorn Sornjeow, deceased, as stockholder through transfer of 3,000 shares of stock to the Somphorn Sornjeow Trust; Chairat Vacharakajorn, Trustee be considered for Approval.

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

Nays: None

Absent: Hill

MOTION CARRIED

14. ORDINANCE ADOPTION

14a. First Reading - An amendment to Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Michigan to rezone one parcel of land identified as Parcel No. 15-22-451-033, totaling approximately 0.97 acres **from** R-3, One Family Residential, **to** O-1, Office Business, located north of Hamlin, west of Rochester Road; Finsilver/Friedman Venture I, Applicant (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 10, 2003 from Deborah Millhouse, Deputy Director of Planning/Development, with attachments)

Ms. Deborah Millhouse, Deputy Director of Planning/Development, explained that the applicant was before Council to request that the rear 0.97 acres of his property be rezoned from residential to office to coincide with the remainder of his property. She advised Council to not only consider the specific reuse of this property but all the potential uses as well.

Mr. Stanley Finsilver of Finsilver/Friedman Venture I, 34975 West 12 Mile Road, Farmington Hills, described the existing services utilizing the office building currently located on the remainder of the property, noting that Mercy Medical Group, Pediatric Dentistry and EarPhonics Beltone are all assets to the community. He explained that previous provisions to accommodate increased parking demands are no longer available and, thus, he requested that the rear portion of the property be rezoned to be used as additional parking. He indicated that the current zoning of R-3 Residential results in an unbuildable property due to the lack of frontage.

PUBLIC COMMENT:

Ms. Tricia McDonald, 161 Sandalwood, expressed her opposition to the rezoning noting that the Planning Commission had voted unanimously to deny it and stated her concern that if the property were sold, another owner could potentially build on the site.

Mr. Rinaldo Lucchesi, 153 Sandalwood, stated that he lives behind the property in question and has concerns that, if it were rezoned, his property value would diminish. He also suggested the possibility that other nearby business may use this rezoning to expand behind their buildings as well.

COUNCIL DISCUSSION:

Mr. Robbins questioned whether this issue could be resolved through the PUD process and questioned whether an attempt had been made to purchase or use the property next to the building.

Ms. Millhouse explained that this situation does not fit the criteria for a PUD, as the size of the lot is not likely to meet the necessary parameters.

Mr. Finsilver noted that they had previously been allowed to use the property next to the building, however, the owners of the property has expressed a desire to eventually use that property for their own purposes.

Mr. Robbins requested exploration of the possibility that other property owners, such as Outback Steakhouse, may ask to use the property at their rear as well.

Ms. Millhouse referenced State law and City ordinance requiring that only property owners can request rezoning, thus it would result in a situation similar to the one currently before Council.

Mr. Finsilver addressed some of the neighbor's concerns regarding the alleged removal of a fence, the placement of a construction garbage dumpster and the use of the lot for an ambulance turnaround, noting that these issues have all been resolved.

Mr. Barnett expressed his concern that, if granted, this rezoning could result in other businesses approaching the Council with similar requests. He noted that the City's Planning Commission had recommended denial of the rezoning request.

Mr. Barnett moved the motion in the packet; Ms. Raschke seconded his motion.

Mr. Robbins stated that the Council "can't be fortune tellers" and that property owners should be allowed the use of their property. He noted that the area is "landlocked" and, thus, unlikely to be developed.

Mr. Duistermars questioned whether a residential home could be built on the property in question with no access to a residential street.

Ms. Millhouse confirmed that a new lot could not be created without appropriate access. However, she explained that because this is an existing lot zoned residential it could be possible to build a single family residence that could be accessed through the parking lot of the office building.

Ms. Holder suggested that if this piece of property were rezoned it would be "piece-mealed in there" and expressed her concern that something could be built there in the future.

Ms. Millhouse confirmed that it would be "encroaching into the R3" zoning.

Mr. Finsilver explained that he had previously explored the possibility of building a rental home on the property but was "told it wasn't a possibility."

Ms. Millhouse conjectured that that determination was made by the Building Department and noted that "it was two separate parcels when this was first discussed."

Mr. Robbins asked Ms. Millhouse to identify the "most intense use."

Ms. Millhouse acknowledged that would be difficult, as there are many uses including office, banks, funeral homes. She noted there are conditional uses that are typically more intense.

Mr. Robbins stated that the more pressing concern is to establish what potential uses are suitable for the area.

Ms. Millhouse cautioned Council that the two (2) structures that exist on the front portion of the property in question are historic structures, thus, the Historic Districts Commission would be involved in any decision.

Mr. Barnett clarified that Council is not denying the applicant rights to his property through the current zoning. He agreed with the Planning Commission's concern that this rezoning would be precedent setting.

Mr. Duistermars dismissed the issue of zoning encroachment.

Ms. Millhouse, while noting that she does not speak for the Planning Commission, stated her assumption of their concern was that this encroachment would prime the area for similar non-residential rezoning requests.

Mr. Robbins identified the problem as having a "property owner who has dual zoning." He questioned how the City could correct this disparity.

Mr. Dalton questioned whether there could be a property with two (2) different zonings.

Mr. Ternan acknowledged that it is often the case where there is large acreage on the corner of an intersection that includes commercial zoning.

Resolution A0743–2003–R0425

MOTION by Barnett, seconded by Raschke,

Resolved that the Rochester Hills City Council hereby denies the request to rezone 0.97± acres, identified as the rear portion of Parcel No. 15-22-451-033, from R-3 (One Family Residential) to O-1 (Office Business).

ROLL CALL VOTE:

Ayes: Dalton, Holder, Barnett, Raschke

Nays: Duistermars, Robbins

Absent: Hill

MOTION CARRIED

15. ADMINISTRATION

15a. Community Development Block Grant - 2001/2002 Program Year (A0185)

- 15a.i** Resolution to request a one (1) year waiver of recapture for \$68,000.00 of 2001 CDBG Funds, Street Improvement/Special Assessment (Members received a copy of a City Council Regular Meeting Summary Sheet dated October 29, 2003 from Joe Snyder, Financial Analyst, with attachments)

Resolution A0185–2003–R0426

MOTION by Robbins, seconded by Duistermars,

Whereas, the U.S. Department of Housing and Urban Development (HUD) mandates that Community Development Block Grant (CDBG) balances not exceed 1.5 times the current program year allocation sixty (60) days prior to the end of the program year (February 28th); and

Whereas, the Oakland County Board of Commissioners adopted a policy allowing communities to protect funds from their two most recent program years to help comply with this regulation; and

Whereas, all unobligated 2001 and older funds are at risk of recapture December 31, 2003; and

Whereas, the City of Rochester Hills may protect unobligated 2001 funds from recapture for one additional year by requesting a waiver; and

Whereas, a separate Waiver request form must be submitted for each 2001 line item to the Manager of the Oakland County Community and Home Improvement Division no later than Friday, November 28, 2003;

Resolved, that the City of Rochester Hills hereby requests to waive recapture of 2001 CDBG funds as follows:

<u>Account Number</u>	<u>Project Name</u>	<u>Amount</u>
3616	Street Improvement Special Assessment	\$68,000.00

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

Nays: None

Absent: Hill

MOTION CARRIED

- 15a.ii** Resolution to reprogram \$68,000.00 from Street Improvement/Special Assessment to Planning/Management - \$34,000.00, Parks/Recreational Facilities - \$30,000.00 and Minor Home Repair - \$4,000.00 (Members received a copy of a City Council Regular Meeting Summary Sheet dated October 29, 2003 from Joe Snyder, Financial Analyst, with attachments)

Resolution A0185–2003–R00427

MOTION by Robbins, seconded by Barnett,

Whereas, the City of Rochester Hills has been involved in Oakland County Community Development Block Grant (CDBG) projects since the programs inception in 1975. During this time period, over \$3.7 million dollars have been expended; and

Whereas, the City’s proposed CDBG activities must meet the Department of Housing and Urban Development (HUD) regulations; benefit low and moderate income populations; prevent or eliminate slum and blighted conditions; or meet an urgent community need where no other source of funding is available; and

Whereas, the City of Rochester Hills City Council held a public hearing on October 19, 2003 on the reprogramming of Program Year 2001 / 02 funds of \$68,000 from the Special Assessment Street Improvement program or forfeit the funds;

Resolved, that in keeping with HUD regulations and as identified in the Rochester Hills Community Development objectives, the City of Rochester Hills City Council approves the reallocation of funding application as follows:

Reprogram From Existing:

- (3616) Street Improvement Special Assessment - \$68,000.00

Reprogram To:

- (3304) Planning / Management - \$34,000.00
- (3436) Parks / Recreational Facilities - \$30,000.00
- (3188) Minor Home Repair - \$4,000.00

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

Nays: None

Absent: Hill

MOTION CARRIED

- 15b. Request for Purchase Authorization** - DPS: Professional Geotechnical Engineering Services, blanket purchase orders not-to-exceed \$230,000.00; Schleede Hampton Associates, Birmingham, MI (Members received a copy of a City Council Regular Meeting Summary Sheet dated October 7, 2003 from Barbara Key, Contract Specialist, with attachments)

Mr. Roger Rouse, Director of DPS/Engineering, explained that this request was based on the City’s Capital Improvement Projects (CIP) for next year. These services would test the materials used to backfill under the sub-base of roads. He noted that the specifications for this material are very specific.

Resolution A0725–2003–R0428

MOTION by Robbins, seconded by Barnett,

Whereas, to address the needs for geotechnical engineering services for public work projects and for construction material testing and inspection on both public works projects and private development projects, DPS/Engineering Services employed the use of the Quality Based Selection (QBS) process to select the firm that best meets the needs of the City of Rochester Hills.

Resolved that Rochester Hills City Council award the contract between Schleede Hampton Associates and the City of Rochester Hills for Professional Geotechnical Engineering Services in the amount not-to-exceed \$230,000.00 for the period of one (1) year with an expiration date of December 31, 2004 and authorize the Mayor and Clerk to execute a contract on behalf of the City.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 15c. **Approval of Agreement** to transfer jurisdiction of Runyon Road to the City of Rochester Hills (Members received a copy of a City Council Regular Meeting Summary Sheet dated October 23, 2003 from Kim Murphey, Administrative Coordinator, with attachments)

Resolution A0733–2003–R0429

MOTION by Duistermars, seconded by Raschke,

Whereas, Runyon Road from the centerline of Van Hoosen Road to the centerline of Washington Road, which is a distance of 930 feet, is currently under the jurisdiction and control of the City of Rochester; and

Whereas, this road segment is on the corporation boundary line for the City of Rochester and the City of Rochester Hills; and

Whereas, the City of Rochester Hills desires to accept the transfer of jurisdiction over the above-referenced roadway; and

Whereas, both the City of Rochester and the City of Rochester Hills are in agreement for the transfer of jurisdiction over said roadway from the City of Rochester to the City of Rochester Hills, and a proposed Intergovernmental Agreement Transferring Jurisdiction has been prepared.

Now, Therefore, It Is Resolved that the City of Rochester does hereby consent to the transfer of jurisdiction of Runyon Road as described below from the City of Rochester to the City of Rochester Hills; with December 1, 2003, being the effective date of the transfer of jurisdiction. The limits and general description of the road transfer is as follows:

Runyon Road, running easterly from the centerline of Van Hoosen Road, 930.0 feet to the centerline of Washington Road, as depicted in the plat of “Stony Creek” as recorded in Liber 7287, Page 21, Oakland County Records, being part of the SW ¼ of Section 1 and SE ¼ of Section 2, T3N, R11E, Rochester Hills, Oakland County, Michigan.

It Is Further Resolved, that the City of Rochester shall not be required to improve, renovate or reconstruct any portion of said roadway; that the liability for claims regarding design of said road shall be as provided by law, and that the City of Rochester shall remain responsible for the maintenance of said roadway until the transfer of jurisdiction becomes effective on the date set forth above.

It Is Further Resolved, that the transfer of the jurisdiction of the roadway shall include all existing drainage easements and road rights-of-way whether recorded or otherwise, secured in conjunction with the above-described road and all things now existing for highway purposes upon and along such portions of road and appurtenant thereto; and

It Is Further Resolved, that the City of Rochester shall continue to have access within said right-of-way for operation, maintenance, repair and replacement of an existing water main and sanitary sewer, which shall remain the property and responsibility of Rochester; and

It Is Further Resolved, that the City Council approves and authorizes the Mayor to sign the proposed Intergovernmental Agreement Transferring Jurisdiction of Runyon Road to the City of Rochester Hills.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 15d. Request for Purchase Authorization - HUMAN RESOURCES:** Group Life/AD&D and Disability Insurance, Flexible Benefit and COBRA Administration, blanket purchase order not-to-exceed \$188,800.00; Benefit Coordinators Corporation, Pittsburgh, PA (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 10, 2003 from Pamela Lee, Director of Human Resources, with attachments)

Ms. Pam Lee, Director of Human Resources, explained that this request was for an extension of the blanket purchase order to allow the City sufficient time to issue requests for proposals to evaluate other potential vendors of these services.

Resolution A0747–2003–R0430

MOTION by Robbins, seconded by Barnett,

Whereas, the existing blanket purchase order is not sufficient to cover premium costs for Life/AD&D and disability insurance costs through the end of the year; and

Whereas, the City intends to issue an RFP for these coverages by mid-2004.

Resolved that the blanket purchase order payable to third party administrator, Benefit Coordinators Corporation for Fortis Insurance be extended through June 30, 2004 and amended in the amount of \$188,800 to fund coverage for November 2003 through June 2004.

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

Nays: None

Absent: Hill

MOTION CARRIED

- 15e. Resolution of Support** - Environmental Protection Agency (EPA) for Brownfield Site Assessment Grant (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 12, 2003 from Derek Delacourt, Planner II, with attachments)

Mr. Derek Delacourt, Planner II, briefly explained that City Staff is developing a grant through the Environmental Protection Agency to pursue funds for site assessment work on known Brownfields in the City of Rochester Hills. He requested that Council pass this resolution of support to be included in the grant packet.

Resolution A0748–2003–R0431

MOTION by Robbins, seconded by Duistermars,

Whereas, The City of Rochester Hills supports the investigation and assessment of Brownfield sites within the City.

Resolved that the Rochester Hills City Council supports the pursuit of an Environmental Protection Agency Brownfield Site Assessment Grant for Hazardous Substances.

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

Nays: None

Absent: Hill

MOTION CARRIED

16. COUNCIL COMMITTEE REPORTS

Council members had nothing to report.

17. UNFINISHED BUSINESS

17a. Discussion regarding amendments to Section 58-58 of Chapter 58, Fire Prevention and Protection of the Code of Ordinances of the City of Rochester Hills (Members received a copy of a City Council Regular Meeting Summary Sheet dated November 14, 2003 from Susan Galeczka, City Council Liaison, with attachments)

Mr. Barnett briefly explained his intention in bringing the leaf burning issue back before Council was to specifically discuss the restitution aspect of the new ordinance. He explained that the ordinance appears to mandate that the Fire Department “shall” require restitution after responding to an illegal fire, rather than it being determined on a case-by-case basis. Furthermore, if residents wish to dispute the restitution requirement, they are forced to seek recourse through the court system. He suggested that the restitution requirement be suspended and the issue be examined in greater detail during a Council Work Session to determine any necessary adjustments to the new ordinance.

PUBLIC COMMENT:

Mr. Gary Elliott, 2447 Frankson Avenue, stated that he did not know that restitution was the only aspect of the ordinance to be discussed. He made the following comments:

- Council should have combined this issue with the single waste hauler issue.
- Heard that SOCRRA is running out of space for leaves.
- Suggested the City allow the DPS/Engineering Department to use woodchippers to dispose of brush and branches that cannot be burned due to State law.
- Has too many leaves for mulching to be practical.
- Questioned the legality of charging \$25 for a permit that is only in effect for one (1) month.
- Does not necessarily support leaf burning, but suggested that the City needs to present a better solution.

Mr. Sylvan Elie, 175 Vreeland, expressed his opposition to the changes in the burning ordinance through a letter read into the record by City Clerk Jasinski stating that one month per year to burn leaves is inadequate and he objects to the \$25 permit fee.

Ms. Theresa Wilson, 182 Vreeland, stated that the City needs to come up with a viable solution to this problem. She explained that, due to rain and wind, the burning season is reduced substantially.

Mr. George Arra, 2970 Hillendale Drive, expressed his opposition to the changes in the burning ordinance through a letter read into the record by City Clerk Jasinski stating that he is an older person with health problems on a fixed income and, thus, has difficulty adhering to the new ordinance.

Mr. George Newton, 196 Vreeland, claimed that staff he spoke to at Crittenton Hospital deny that there is an increase in patients during burning season. He expressed his belief that the Leaf Burning Ad Hoc Committee was unbalanced and the decisions were made on “very narrow information.”

Ms. Gaye Ann Hofer, 170 Vreeland, expressed her opposition to the changes in the burning ordinance through a letter read into the record by City Clerk Jasinski stating that she occupies a large lot and one month of leaf burning is inadequate to dispose of all her leaves.

Mr. Alfred Harzewski, 3470 Greenwood, described a situation wherein he was fined for restitution, although he felt he was in compliance with the ordinance. He offered pictures of his fire pit to the Council. He agreed with the previous speakers.

Mr. Patrick McWilliams, 2741 Braeburn Drive, expressed his opposition to the changes in the burning ordinance through a letter read into the record by City Clerk Jasinski stating that in addition to the \$25 permit; the change results in the loss of “a considerable amount of money” required to pay for leaf removal.

Mr. Walter Miller, 197 Vreeland, expressed his opposition to the changes in the burning ordinance through a letter read into the record by City Clerk Jasinski stating that he has too many leaves for mulching and rain can severely limit the available burning days.

COUNCIL DISCUSSION:

Mr. Robbins stated that the ordinance clearly needs attention and questioned whether the restitution portion could be suspended until the Council can examine this in greater detail at a Work Session meeting.

Mayor Somerville, due to the number of resident calls her office has received regarding this ordinance, asked Council to re-examine the ordinance and make some changes.

Mr. Ternan questioned whether Council was considering suspending all enforcement and penalty aspects of the ordinance or only restitution.

President Dalton clarified that Council was only considering suspending the restitution portion of the ordinance.

Mr. Barnett stressed that the “desired intent” of the ordinance must be examined and noted that he felt that would best be addressed by Council at a future Work Session meeting.

Mr. Ternan requested a brief recess to review the issue.

(Recess 10:38 p.m. – 10:52 p.m.)

Ms. Holder stated that Council needs “to tweak the ordinance a little bit by taking some of the severity off of the Fire Department.”

Mayor Somerville suggested that the Council issue a two (2) week moratorium allowing residents to burn leaves with no permit while Council examines the issue.

Ms. Holder stressed that she made a legislative decision with regard to this ordinance and does not wish to rescind that decision in an attempt to “make everybody happy.”

Mr. Robbins acknowledged that, while Council made their decisions regarding the new ordinance in good faith, they are now learning that there are problems with the ordinance that may require modification.

Mr. Barnett suggested that the City continue with the ordinance in place and plan a Work Session to address these issues.

Mr. Duistermars agreed with Mr. Barnett.

President Dalton determined that there was a consensus from Council to schedule a Work Session to address these issues.

Mr. Ternan suggested a moratorium on the restitution aspect of the ordinance, while still enforcing the ordinance through civil infraction or ticketing.

Resolution A0672-2003-R0432

MOTION by Robbins, seconded by Barnett,

Resolved that the Rochester Hills City Council hereby suspends the restitution element of Section 58-58 of Chapter 58, Fire Prevention and Protection of the Code of Ordinances of the City of Rochester Hills with the understanding that the remainder of the ordinance shall remain in tact including violation being the basis of a civil infraction that would be a matter of enforcement at the discretion of the City Administration.

Ayes: Dalton, Barnett, Duistermars, Raschke, Robbins

Nays: Holder

Absent: Hill

MOTION CARRIED

17b. Request for new Dance-Entertainment Permit to be held in conjunction with a new Club License to be located at 525 W. Auburn Road, Rochester Hills, MI; American Albanian Club, Applicant (Members received a copy of a City Council Regular Meeting

Summary Sheet dated November 14, 2003 from Susan Galeczka, City Council Liaison, with attachments)

Mr. Joseph Dedvukaj, 26555 Evergreen Road, Southfield, representing St. Paul Albanian Catholic Church as its attorney and a parishioner, noted the following:

- The request before Council was for a permit only and not a use change or rezoning.
- The banquet facility and the Parish are two (2) separate entities.
- While there has been some parking problems associated with the Parish, there have been none associated with the banquet facility.
- The agreement dictating the type of dancing permitted has been signed by the America Albanian Club.
- Of the seventy-three (73) residents invited to a Parish-sponsored luncheon to discuss their concerns, forty-three (43) indicated they did not think the luncheon was necessary.
- It is an expensive banquet facility with expensive furnishing.
- Trees have been added to areas to alleviate concerns.
- Club members are of European extraction, not of Arabic descent.
- Attendees to the Club must be members or guests of members.
- The Parish has taken steps to correct the problem of vehicles accessing the facility via a dead-end street.
- A letter has been developed to be sent to residents to notify them of high volume events during the year.
- Residents of the surrounding neighborhood have been offered the use of the Parish parking lot for their own barbeques and parties.
- The Parish has offered to replace the permanent “no parking” signs with temporary signs to be placed on the residential streets during peak events at the expense and effort of the Parish.
- Orange violation stickers have been developed to be put on vehicle windows when they have parked illegally on residential streets.
- Former police officers have been hired as private security guards.
- Twelve (12) weddings have occurred at the facility since September without incident.
- A different parking orientation has been implemented.
- The church bulletin included a statement admonishing members not to park on residential streets.
- The high school and the Target parking lot have been designated as additional parking including shuttle service to and from the facility.
- The Administration & Information Services Committee has reviewed the situation and recommended that the permit be approved.

Captain Robert Smith, Oakland County Sheriff’s Department, read into the record the results of police monitoring of St. Paul’s Parish since late March of 2003:

- Thirteen (13) incident calls for service with one (1) major incident, that being a homicide.
- Three (3) special events, two (2) of which were covered with mini-contracts paid for by St. Paul’s Parish.
- Fourteen (14) routine building checks and area checks.

- Thirty (30) consecutive Sundays in which parking surveys were conducted and extra patrols and parking enforcement were provided.
- Approximately one hundred (100) deputy hours resulting in 197 City parking violations of the Church property.
- Ninety-eight (98) City parking violations were issued on adjoining residential streets.
- Eighteen (18) state law parking violations issued on adjoining residential streets.
- Three (3) “pre-occupancy events” prior to St. Paul’s opening: one (1) was a major theft of \$11,000 that resulted in a criminal investigation and prosecution with a pending court case.
- Dozens of staff hours, which have been spent in meetings regarding parking, Liquor Control Commission (LCC) questions and other concerns regarding St. Paul’s Church.
- Only twenty-five percent (25%) of these incidents occurred within the past four (4) months.
- Most tickets issued within the past four (4) months were for violations in the Church parking lot at the request of Church officials for fire lane and handicapped parking violations.

PUBLIC COMMENT:

Mr. Paul Dermikaelian, 2950 Walbridge, stated that it is a beautiful church, but he opposes the “nightclub” noting that it will likely result in drunk driving accidents.

Mr. Bruce Coleman, 2910 Walbridge, stressed the safety traffic control issues, specifically noting the current long lines of traffic on Auburn Road due to Church attendance, resulting in drivers passing dangerously on the shoulder.

Mr. Zef Delvukaj, 3965 Loch Bend Drive, identified himself as a life-long member of the Church who has attended weddings and parties and asked that his children not be denied the right to dance at these events. He stressed that the only issue to be decided is the dance permit.

Mr. Ken Huyghe, 2791 Walbridge, described his difficulty in trying to reach his home when visitors to the Church have parked on his street, noting that this occurs five (5) or six (6) times a year. He expressed his concern that emergency vehicles are unable to maneuver through these parked vehicles. He also noted that a dance permit will encourage more drinking at the facility, resulting in more safety issues.

Mr. Juel Bjerke, 2640 Walbridge, a seventeen (17) year resident of the City, explained that it is his understanding that the Church needs the dance permit from the City to assist them in receiving approval of the liquor license from the State. He expressed his concerns regarding underage drinking, “unpredictable and obnoxious behavior,” and traffic problems.

Ms. LaDonna Tartoni, 3086 Norton Lawn, described an incident wherein a man she believes to be from the Parish urinated in front of her children and verbally abused her husband. She claimed to have communicated with a representative of the Michigan Liquor Control Commission (LCC) who informed her that the liquor license was “objected” and if the Church were to receive the City’s dance permit, it would assist them in getting the liquor license.

Mr. Frank Grokaj, 3925 Harvest, identified himself as Church Council President. He explained that, with the exception of July Fourth, where no alcohol was served, nothing else took place in the Club that resulted in tickets. He also noted that according to the Archdiocese of Detroit, they are not allowed to deny membership to anyone. He listed steps the Church has taken to address the concerns of neighbors—shuttle from Target to alleviate over-crowding, professional security guards, members directing traffic—and asked for patience while these issues are resolved.

Mr. Ron Walraven, 211 Shadywood, stated that the Church has not demonstrated that they can control the parking. He noted that the “no parking” sign in front of his yard is a detriment to his property value. He also did not understand the need for a Church to have a liquor license and felt it would “propagate a problem that shouldn’t be there.”

Ms. Velma Walraven, 211 Shadywood, suggested that the Church would need a zoning change for the dance permit and liquor license. She stated her opposition to such a request because a “church is a place of worship.”

Mr. Mike Pizzo, 2949 Fair Acres, explained that the neighborhood did not oppose the Church, but did not know it would be a hall and nightclub. He stated the opposition is not against the Albanian people, but the Church is growing and the neighbors do not know the “full agenda.” He also noted that the increased traffic results in safety concerns for people walking in the neighborhood.

Mr. Charles Hawkins, 2893 Fair Acres, admitted that while some of his concerns were alleviated by the Church luncheon, many were not, such as parking. He suggested that the Club will add to the problems.

Mr. Alan Harrah, 2935 Fair Acres, remarked that the Church has admitted that they cannot control their membership. He stated that if this were not a Church and were a restaurant or bar, he would protest it due to zoning. He noted that the parking situation has improved, however, there have been no major events at the Church. He stated that “proof of change is best exemplified by actions over time,” and he urged the Council to reject the dance permit request.

Mr. Jerry Ellison, 2908 Fair Acres, stressing that the Church and most of its members do not pay taxes to the City, noted that the traffic control signs and the extra police presence and intervention is paid for by City resources. He suggested that there are many places available for these people to drink and dance other than their Church.

Ms. Hana Malaj, 3965 Loch Bend Drive, as a member of the Church, stressed that the Club is not a nightclub; it is a banquet hall for members and invited guests. She stated that she assists with the parking patrols during Sunday services and this issue is now under control.

Mr. Fred Landry, 2771 Walbridge, assured Council that the neighbors’ objection to the Club is not racially motivated, but rather is a matter of traffic concerns and safety.

COUNCIL DISCUSSION:

Mr. Robbins noted that the original Church site plan identified the building in question as a multi-purpose room, not a banquet hall. He expressed his belief that for the building to be used as the Church desires—for weddings and parties serving and selling alcohol—the zoning would need to be changed. He attested, “A banquet hall doesn’t belong in a residential area.”

Mr. Dedvukaj asked Mr. Ed Anzek, Director of Planning/Development, to verify that the current zoning was appropriate for the proposed use of the building.

Mr. Anzek, after establishing that Council President Dalton desired his input, stated that he was not employed by the City when the original Church site plans were approved, however, he did note that a full-service kitchen was approved as part of the site plan for a very large multi-purpose room. He stressed that there is no mention in the original plans of a banquet hall or educational room.

Mr. Dedvukaj indicated that the full-service kitchen that would service 1,200 people is indicative of the banquet-type uses of this room and he offered to show council the Certificate of Occupancy that allows for dancing, service of food and the drinking of alcohol.

Mr. Robbins noted that he once attended a church of approximately 2,400 parishioners and the hall associated with that church was a separate building.

Mr. Dedvukaj stressed that the Church was not seeking rezoning, but merely a dance permit, stating that the zoning of R2 already allows these uses.

Mr. Robbins again stated his belief that the proposed uses for this building were not included in the original site plan, thus it is not zoned for these uses. He questioned why the Church would need a dance permit.

Mr. Dedvukaj explained that when an establishment serves and sells alcohol the ordinances of the City of Rochester Hills require that there be a dance permit issued to prevent the possibility of topless or lewd dancing.

President Dalton clarified that under the current circumstances alcohol can be served at weddings at the Church via individuals providing alcohol to their guests. With a dance permit, the Church will likely have greater control over the distribution and consumption of alcohol. The denial of a dance permit will not eliminate alcohol from these events.

Mr. Duistermars noted that he is unfamiliar with the concept of a Church having a liquor license and questioned its necessity.

Mr. Dedvukaj reminded Council that the liquor license is independent of the dance permit and that the Church already allows liquor to be served. He reiterated that the only issue to be decided by this body is to approve the dance permit request.

Mr. Barnett, after establishing that the liquor license had not been cancelled, expressed his desire to postpone approval of the dance permit until the holiday season has passed, thus allowing the Church time to accomplish and implement the fifteen (15) conditions to which it has agreed to rectify the previous problems, primarily having to do with parking and trash.

Mr. Dedvukaj explained the theory that a person will consume less liquor if they pay for that liquor rather than receive it for free.

Mr. Duistermars agreed with Mr. Barnett that there needs to be a passage of time for the Church to establish and demonstrate its intention to correct the previous problems experienced in the neighborhood.

Ms. Raschke noted that she is a member of the Traffic and Safety Advisory Board and that the meeting room has been filled with residents concerned about the Church. She cited the lewd behavior described earlier, stating, “No one should be put through this.”

(Mr. Barnett Departed 12:35 a.m.; Returned 12:38 a.m.)

Ms. Holder stated that, while she did not know how the Council would vote on this issue, she assured residents that if there is an increase in the types of incidents described earlier, the City can revisit the issue and request that the permit be revoked.

(Recess 12:42 a.m. – 12:44 a.m.)

Mr. Duistermars questioned the occupancy of the banquet hall.

Mr. Dedvukaj stated that the maximum occupancy is 1,200 people and noted that there has never been a problem with parking at the banquet facility.

Mr. Robbins expressed his belief that opposition to this permit and the Club is not motivated by hatred, but rather by fear.

Mr. Dedvukaj pledged that as long as there is communication among all interested parties, that if the Church cannot correct all the problems and issues of concern, the Church will relinquish the dance permit.

Mr. Robbins asked Mr. Anzek if the original site plan approved the Church and the Club separately.

Mr. Anzek reiterated that his information was based on the minutes and not his own specific recollection and indicated that he did not believe the two entities were approved separately.

Mr. Robbins stated that the original plans called for a single Parish entity and that the difficulty is in having a Club separate from the Church.

Mr. Dedvukaj again referenced the two (2) separate Certificates of Occupancy: one designating the Parish and the other designating the banquet facility.

Mr. Robbins stressed that the original site plan is more legally significant than the Certificates of Occupancy. He explained that because the facility is being referred to as a Club, people fear that it will not only be used for weddings and birthday parties, but will eventually house “nightclub”-type activities in a residential area.

Mr. Dedvukaj stated that the Church will be 100% responsible for all activities in the facility and will monitor the drinking, the crowd and the parking, to be sure it does not become a nightclub. He stressed that the Church has made many efforts to address the concerns of the City and the area residents. He noted that the pizza parties were discontinued, that children are always under adult supervision, and the festival has been moved off site.

Mr. Duistermars questioned what recourse the City has if an adult were to purchase alcohol at the facility for an underage individual.

Captain Smith noted that the establishment would be cited for the infraction and the Michigan LCC would implement an administrative review.

Mr. Dedvukaj stated that the City could send a recommendation to the LCC advising them to cancel the liquor license.

Mr. Duistermars referenced a letter received from the Parish dated September 12, 2003 outlining sixteen (16) conditions to which the Church would adhere assuming the dance permit were granted. Mr. Duistermars inquired as to whether the conditions of this letter could be incorporated into the dance permit agreement.

Mr. Ternan was unsure whether such an agreement would be binding, noting that the matter would require investigation.

Mr. Dedvukaj specifically referenced Item 16 of the letter that states, “Saint Paul’s Albanian Catholic Church acknowledges that its failure or neglect to fulfill and comply with the aforesaid conditions and representations may cause the City to initiate proceedings to revoke Saint Paul’s dance entertainment permit and/or Conditional Land Use Permit.”

Mr. Duistermars requested that the agreement include all sixteen (16) conditions of the September 12, 2003 letter.

17b.i Acceptance of approval of Dance Permit Agreement

Resolution A0711–2003–R0433

MOTION by Holder, seconded by Duistermars,

Whereas, the Rochester Hills City Council accepts the Dance Entertainment Permit Agreement between the City of Rochester Hills and the American Albanian Club, to include the following sixteen (16) conditions as listed on a letter from The Joseph Dedvukaj Firm, P.C., Southfield, Michigan, dated received by City Council September 12, 2003:

1. The Multi-purpose Banquet Facility will be utilized during the following daily hours of operation:

Monday	12:00 p.m. to 11:00 p.m.
Tuesday	12:00 p.m. to 11:00 p.m.
Wednesday	12:00 p.m. to 11:00 p.m.
Thursday	12:00 p.m. to 11:00 p.m.
Friday	12:00 p.m. to 11:00 p.m.
Saturday	10:00 a.m. to 1:00 a.m.
Sunday	10:00 a.m. to 11:00 p.m.

2. Saint Paul's will try to have another annual festival next year on the premises with the understanding that we double the number of portajohns and control the parking situation, which unfortunately affected the neighboring properties this year. In the event that the festival becomes unworkable in 2004, Saint Paul's will move the festival to a State Park in the future years.
3. Saint Paul's will contact the neighboring residents to extend apologies for any inconvenience or difficulties they have experienced during the past several months, and to work out some logistical problems that we regret occurred during this year's Saint Paul festival.
4. To give our neighbors to the east of the property further privacy and traffic reduction we will give the homeowners the option of having a fence erected, at Saint Paul's expense, along the eastern property line to prevent individuals from using neighboring properties to come onto or off Saint Paul's premises.
5. It has been established that the Parish has adequate parking to accommodate the facility. However, during the high traffic days of the year, such as Easter, Christmas, Palm Sunday, Children's First Communion/Confirmation Mass, the Parish has agreed to provide, at its sole expense, parking guards to prevent the use of neighboring residential streets as parking areas. These guards will be posted during these peak season days to prevent access to these residential streets by Parish users.
6. Additionally, during the high traffic days of the year which we have identified such as Easter, Christmas, Palm Sunday, Children's First Communion/Confirmation Mass, and the festival, the Parish has evaluated the parking lot with the assistance of City Staff in an effort to find a parking configuration that will best utilize the space available on the premises to accommodate the unusual

traffic flow at these inevitable events, and to that end, the Parish will implement the parking sequence which was devised August 21, 2003.

7. Saint Paul's Parish has eliminated the pizza parties that have been held in the Parish Banquet Facility.
8. Saint Paul's will expeditiously complete the liquor licensing and dance permit process so as to bring the consumption of alcoholic beverages within the control and supervision of the Banquet Facility manager, Jank Shkreli. As you know, Saint Paul's has already completed the necessary structural and mechanical improvements to the Banquet Facility to comply with the use code change.
9. Saint Paul's has agreed to provide volunteer guards during the use of the Banquet Facility to supervise the users, and the consumption of alcoholic beverages.
10. After every event the property will be inspected for any trash or garbage that may be generated by the use of the Facility so as to minimize trash blowing onto neighboring properties.
11. Saint Paul's has also agreed to send letters to neighboring property owners, in advance of peak season events, to remind them of these events we have identified as being seasonal peak usage of the property and to provide them with contact information should users of Saint Paul's property violate the rules Saint Paul's has established to respect the neighboring properties.
12. Saint Paul's will give the property owner directly in front of the Parish driveway the option of having trees planted in front of his house at the expense of the Parish so as to minimize the affect traffic may have on his property.
13. While Saint Paul's Parish firmly believes the violators complained of were not members of the Parish, Saint Paul's has nevertheless circulated a letter to the Parish membership to inform them of the improper violations in an effort to curtail future occurrences.
14. Saint Paul's Parish will work with the Oakland County Sheriff's Department to improve the logistics at the various peak season events, including hiring additional deputies.
15. Saint Paul's has further agreed to meet with the City of Rochester Hills during the next year on a quarterly basis to evaluate the success of the steps being taken herein.
16. Saint Paul's Albanian Catholic Church acknowledges that its failure or neglect to fulfill and comply with the aforesaid conditions and representations may cause the City to initiate proceedings to revoke Saint Paul's dance entertainment permit, and/or Conditional Land Use Permit.

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

ROLL CALL VOTE:

Ayes: Dalton, Duistermars
Nays: Holder, Barnett, Raschke, Robbins
Absent: Hill

MOTION FAILED

17b.ii Recommendation to Michigan Liquor Control Commission

No action was taken on this matter.

18. ANY OTHER BUSINESS

President Dalton requested that the next regular City Council meeting be cancelled and rescheduled for Monday, December 1, 2003 at 7:30 p.m. to ensure all members of Council could be present.

Resolution A0007-2003-R0434

MOTION by Barnett, seconded by Duistermars,

Resolved that the Rochester Hills City Council hereby **cancel**s the December 3, 2003 Regular Meeting pursuant to the *City Council Rules of Procedure*, Article III, Section .01(c)(ii), and **reschedule**s it to Monday, December 1, 2003 at 7:30 PM Michigan Time.

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

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

MOTION CARRIED

19. NEXT MEETING DATE - Monday, December 1, 2003 - 7:30 p.m. - Regular Meeting

20. ADJOURNMENT

There being no further business to discuss before Council, President Dalton adjourned the meeting at 1:13 a.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