

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