



Rochester Hills Minutes City Council

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*John L. Dalton, Bryan K. Barnett, Jim Duistermars, Melinda Hill,
Barbara L. Holder, Linda Raschke, Gerald Robbins*

Wednesday, June 16, 2004

7:30 PM

1000 Rochester Hills Drive

DRAFT

CALL TO ORDER

President Dalton called the Regular Rochester Hills City Council Meeting to order at 7:34 p.m. Michigan Time.

ROLL CALL

Present: John Dalton, Melinda Hill, Barbara Holder and Linda Raschke

Absent: Bryan Barnett, Jim Duistermars and Gerald Robbins

Others Present:

*Pat Somerville, Mayor
John Staran, City Attorney
Bev Jasinski, City Clerk
Alan Buckenmeyer, Parks Operations Manager
Carla Campbell, Landscape Architect
Paul Davis, City Engineer
Julie Jenuwine, Interim Finance Director
Pam Lee, Human Resources Director
Deb Millhouse, Deputy Director of Planning/Development
Joe Snyder, Financial Analyst*

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Resolved to approve the Agenda of the Regular City Council Meeting of June 16, 2004 amended as follows:

Add under NEW BUSINESS

2004-0212 2005 Equity Adjustment Pool Recommendation - Directors

A motion was made by Holder, seconded by Hill, to Approve Agenda as Amended. The motion carried by the following vote:

Aye: Dalton, Hill, Holder and Raschke

Absent: Barnett, Duistermars and Robbins

PUBLIC COMMENT

Ms. Nancy Raffler, 713 West Auburn, explained that she had been waiting over three (3) years for the City to resolve a problem with the drainage from the Mosque near her property.

Mr. Lee Zendel, 1575 Dutton Road, quoted a newspaper column written by Polish leader Lech Walesa in praise of former President Ronald Reagan.

Ms. Rea Siffring, 971 Dutton Road, expressed her opposition to a single waste hauler in Rochester Hills.

(Mr. Duistermars Entered 7:42 p.m.)

Present: John Dalton, Jim Duistermars, Melinda Hill, Barbara Holder and Linda Raschke

Absent: Bryan Barnett and Gerald Robbins

LEGISLATIVE & ADMINISTRATIVE COMMENTS

President Dalton congratulated the Detroit Pistons, the 2004 NBA Champions. He noted that the Planning Commission unanimously voted down the rezoning request for the northeast corner of Adams and Hamlin Roads.

Mayor Somerville reminded residents that the City's Festival of the Hills Independence Day celebration is scheduled for Thursday, July 1st, noting that the festival is funded entirely by business contributions. She then asked Mr. Paul Davis, City Engineer, to address Ms. Raffler's concerns.

Mr. Davis explained that the Mosque has been very cooperative and the City is waiting for dryer weather so that the heavy equipment involved in creating the detention pond does as little damage as possible to Mosque property.

Ms. Raschke asked that everyone remember the men and women of the Armed Forces as we near the Fourth of July holiday.

Ms. Holder praised the Mayor for her efforts in raising funds for the Festival of the Hills. She reminded residents to be considerate of private property during the one-day event.

ATTORNEY MATTERS

City Attorney John Staran briefly addressed Ms. Raffler's concern regarding the detention pond, noting that while the City did issue Ms. Raffler a letter noting the action that would be taken regarding this matter, the letter did not represent an agreement with Ms. Raffler. Mr. Staran explained that it was a letter of understanding requesting her concurrence that this was an adequate plan.

Mr. Staran announced that his associate, Mr. Larry Turnan, was awarded the Professionalism Award by the Oakland County Bar Association for displaying "the highest levels of professionalism."

(Mr. Robbins Entered 8:00 p.m.)

Present: John Dalton, Jim Duistermars, Melinda Hill, Barbara Holder, Linda Raschke and Gerald Robbins

Absent: Bryan Barnett

CONSENT AGENDA

All matters 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 Consent Agenda for separate discussion.

2004-0395

Traffic Control Order PK-79, No Stopping, Standing or Parking from 6:00 a.m. to 6:00 p.m. during School Days Only along the north and south sides of Ansal Drive from Old Perch to Wimpole, Section 16

Attachments: Agenda Summary.pdf; Traffic Control Order.pdf; Map, Parking Signs.pdf; ATSB Minutes 20040511.pdf; Traffic Study Summary.pdf; Letter, AAA, 20040204.pdf; Letter, Shumejko, 20040304.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, Traffic Control Order No. PK-79 has been issued by the Acting City Transportation Engineer under the provisions of Chapter 98 of the Rochester Hills Code of Ordinances, Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

PK-79 No Stopping, Standing or Parking from 6:00 a.m. to 6:00 p.m. during School Days Only along the north and south sides of Ansal Drive from Old Perch to Wimpole.

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

This Order rescinds and supercedes the following Traffic Control Order(s) adopted by the City of Rochester Hills: PK-35.1

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 No. PK-79 to be in effect until rescinded or superseded by subsequent order; and

Be It Further Resolved, 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.

Enactment No: RES0181-2004

2004-0443

Traffic Control Order SL-13, Speed Limit Thirty Five (35) Miles per hour on Nawakwa Road from Rochester Road easterly to its terminus, Section 35

Attachments: Agenda Summary.pdf; SL-13.pdf; Map.pdf; ATSB Minutes 20040511.pdf; Resolution 1999 0086.pdf; Traffic Study.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, Traffic Control Order No. SL-13 has been issued by the Acting City Transportation Engineer under the provisions of Chapter 98 of the Rochester Hills Code of Ordinances, Michigan Vehicle Code, MCL 257.1 et seq.; and

Whereas, said Traffic Control Order covers:

**SL-13.1 Speed Limit Thirty Five (35) Miles per hour on
Nawakwa Road from Rochester Road easterly to its terminus**

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 No. SL-13 to be in effect until rescinded or superseded by subsequent order; and

This Order rescinds and supercedes the following Traffic Control Order(s) adopted by the City of Rochester Hills: SL-09 , and

Be It Further Resolved, 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.

Enactment No: RES0182-2004

2004-0279

Acceptance of Watermain Easement from Farid Jindo and Karima Jindo, his wife, A & A Liquor Development, for Parcel No. 15-33-101-001

Attachments: Agenda Summary .pdf; Easement.pdf; 0279 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a watermain easement granted by Farid Jindo and Karima Jindo, of 2945 Crooks, Rochester Hills, MI 48309, for the construction, operation, maintenance, repair and/or replacement of a watermain over, on, under, through and across land more particularly described as Parcel No 15-33-101-001.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0183-2004

2004-0280

Acceptance of Storm Sewer Easement from Farid Jindo and Karima Jindo, his wife, A & A Liquor Development, for Parcel No. 15-33-101-001

Attachments: Agenda Summary.pdf; Easement.pdf; 0280 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a storm sewer easement granted by Farid Jindo and Karima Jindo, his wife of 2945 Crooks, Rochester Hills, MI 48309 for the construction, operation, maintenance, repair and/or replacement of a storm sewer easement over, on, under, through and across land more particularly described as Parcel No. 15-33-101-001.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0184-2004

2004-0282

Approval of Maintenance of Storm Water Detention System Agreement between Farid and Karima Jindo and the City of Rochester Hills, Parcel No. 15-33-101-001

Attachments: Agenda Summary.pdf; Agreement.pdf; 0282 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby approves the storm water maintenance detention system, an agreement relative to the details of development and use, repair and maintenance of the storm water detention system City File No. 02-017, between the City of Rochester Hills and Farid and Karima Jindo, his wife, 5772 Springbrook Drive, Troy, MI 48098, affecting property identified as Parcel No. 15-33-101-001

Further Resolved that the Mayor and the City Clerk are authorized to execute and deliver the Agreement on behalf of the City.

Enactment No: RES0185-2004

2004-0471

Acceptance of a Tree Preservation Easement granted by Jensam, LLC, for Butler Ridge Phase 2, City File #90-253.2., Parcel No. 15-19-300-007

Attachments: Agenda Summary.pdf; Easement.pdf; 0471 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Tree Preservation easement granted by Jensam, LLC, 2301 West Big Beaver, Suite 900, Troy, Michigan 48084 for the construction, operation, maintenance, repair and/or replacement of a Tree Preservation Easement over, on, under, through and across land more particularly described as Parcel No 15-19-300-007.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0186-2004

2004-0472

Acceptance of a Conservation Easement granted by Jensam, LLC, for Butler Ridge Phase 2, City File #90-253.2., Parcel No. 15-19-300-007

Attachments: Agenda Summary.pdf; Easement.pdf; 0472 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby accepts a Conservation easement granted by Jensam, LLC, 2301 West Big Beaver, Suite 900, Troy, Michigan 48084 for maintaining the Conservation Easement premises in its natural and undeveloped condition over, on, under, through and across land more particularly described as Parcel No 15-19-300-007.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0187-2004

2004-0474

Approval of an Agreement for Permanent Water Quality Basins, between the

City of Rochester Hills and Jensam, LLC for Butler Ridge Phase 2, City File #90-253.2

Attachments: Agenda Summary.pdf; Agreement.pdf; 0474 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council, on behalf of the City of Rochester Hills, hereby approves an Agreement for Permanent Water Quality Basins, between the City of Rochester Hills and Jensam, LLC, 2301 West Big Beaver Road, Suite 900, Troy, Michigan 48084, which is required for the protection of adjacent and downstream properties, watercourses, and wetlands, over, on, under, through and across land more particularly described as Parcel No 15-19-300-007.

Further Resolved that the City Clerk is directed to record the easement with the Oakland County Register of Deeds.

Enactment No: RES0188-2004

2004-0483

Confirmation of Mayor's re-appointment of Johannes Buiteweg, Scott Hunter, Terry T. Brown, Carl Moore and Kenneth M. Zendel to the Advisory Traffic and Safety Board to three-year (3) terms to expire on June 30, 2007

Attachments: Agenda Summary.pdf; Questionnaire Brown.pdf; Questionnaire Buiteweg.pdf; Questionnaire Hunter.pdf; Questionnaire Moore.pdf; Questionnaire Zendel.pdf; Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Resolved that the Rochester Hills City Council hereby confirms the Mayor's re-appointment of Johannes Buiteweg, Scott Hunter, Terry T. Brown, Carl Moore and Kenneth M. Zendel to the Advisory Traffic and Safety Board for a three-year (3) term to expire on June 30, 2007.

Enactment No: RES0189-2004

2004-0403

Adoption of Resolution accepting FY2003 CAFR (Comprehensive Annual Financial Report) prepared by Plante & Moran, City Auditors

Attachments: 20040619 Agenda Summary.pdf; 20040602 Agenda Summary.pdf; 0403 Audit Presentation.pdf; Ltr Plante Moran 041504.pdf; Resolution.pdf

This matter was Adopted by Resolution.

Resolved that the Rochester Hills City Council hereby acknowledges receipt of the Comprehensive Annual Financial Report (CAFR) from the Administration and the auditing firm of Plante Moran for the 2003 Fiscal Year.

The motion carried.

Enactment No: RES0178-2004

2004-0508

Approval of Fireworks Display Permit Application for Festival of the Hills, to be held at Borden Park on Thursday, July 1, 2004, Melrose Pyrotechnics, Inc., Applicant

Attachments: Agenda Summary.pdf; Memo, Fire Dept 20040601.pdf; 0508 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, Melrose Pyrotechnics, Inc., of Kingsbury, Indiana, has provided the fireworks display for the Festival of the Hills for the past five years;

Whereas, Melrose Pyrotechnics, Inc., has provided the necessary insurance with the City of Rochester Hills named as also insured; and

Whereas, the Rochester Hills Fire Department has no objection to the issuance of a fireworks permit providing their safety procedures are followed;

Therefore it is Resolved that the Rochester Hills City Council does hereby approve a permit for Melrose Pyrotechnics, Inc., to provide a fireworks display for the Festival of the Hills at Borden Park on July 1, 2004.

Enactment No: RES0190-2004

2004-0490

Request for the City of Rochester Hills to relinquish its Metropolitan City status, terminating the joint agreement with Oakland County per 24 CFR 570.308 and be incorporated into the Urban County program thereby allowing HUD to allocate HOME funds to Oakland County in the City's behalf

Attachments: Agenda Summary.pdf; 0490 Resolution.pdf

This Matter was Adopted by Resolution on the Consent Agenda.

Whereas, in 1975, the U.S. Department of Housing & Urban Development (HUD) designated the County of Oakland as an "Urban County" for the purpose of administering federal grants including the Community Development Block Grant (CDBG) program on behalf of local communities with populations less than 50,000; and

Whereas, in 1975, the City of Rochester Hills, previously Avon Township, entered into a cooperative agreement with Oakland County to join the Urban County program; and

Whereas, in 1990, the City population exceeded 50,000 and HUD recognized Rochester Hills as a Metropolitan City; and

Whereas, in 1992, HUD approached the City and presented the options that the City could consider to receive CDBG funding as a Metropolitan City; and

Whereas, the City selected to keep its Metropolitan City status and sign a joint agreement with Oakland County to continue under the Urban County administration; and

Whereas, the City's Metropolitan City designation under a joint agreement with Oakland County adversely affects the ability of the County to access additional federal HOME Investment Partnerships (HOME) program resources to serve the housing needs of the City's low and moderate income residents; and

Whereas, the lack of additional HOME program resources results in the City's loss of six Home Improvement Program (HIP) loan opportunities annually; and

Whereas, the loss of Home Improvement Program activity impedes revitalization efforts in the City's low and moderate income neighborhoods; and

Whereas, Oakland County has requested that the City relinquish its Metropolitan City designation and be incorporated in the Urban County program; and

Whereas, the inclusion of the City as part of the urban county will allow the county to qualify as a participating jurisdiction to receive additional HOME funds and benefit the City's low and moderate income residents beginning in Program Year 2005.

Resolved, that the City of Rochester Hills requests to relinquish its Metropolitan City status, terminate the joint agreement with Oakland County per 24 CFR 570.308 and be incorporated into the Urban County program thereby allowing HUD to allocate HOME funds to Oakland County in the City's behalf; and

Resolved, that the City requests HUD to waive the three-year period requirement per 24 CFR 570.5 to allocate HOME funds to Oakland County for Home Improvements in the City of Rochester Hills beginning in Program Year 2005.

Enactment No: RES0191-2004

Passed The Consent Agenda

A motion was made by Hill, seconded by Raschke, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

Aye: Dalton, Duistermars, Hill, Holder, Raschke and Robbins

Absent: Barnett

PUBLIC HEARINGS

2004-0501

CDBG - Description Change / Parks & Recreational Facilities - Program Year 2002 (Veteran's Memorial Pointe - Pathway)

Attachments: Agenda Summary.pdf; Public Hearing Notice.pdf; 0501 Resolution.pdf

Mr. Joe Snyder, Financial Analyst, and Mr. Alan Buckenmeyer, Parks Operations Manager, explained the location and purpose of a pathway at Veteran's Memorial Pointe and that CDBG funds can be used to pay the \$4,000 cost of the proposed project.

President Dalton OPENED the Public Hearing 8:05 p.m.

There being no Public Comment, President Dalton CLOSED the Public Hearing at 8:06 p.m.

A motion was made by Robbins, seconded by Hill, that this matter be Adopted by Resolution.

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

Whereas, the City's proposed CDBG activities must meet the Department of Housing and Urban Development (HUD) regulations to 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 June 16, 2004 on the description change of Program Year 2002 Parks / Recreation Facility funds to also include within the description the installation of ADA compliant pathways at Veteran's Memorial Pointe; and

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 description change of Program Year 2002 Parks / Recreation Facility funds to also include the installation of ADA compliant pathways at Veteran's Memorial Pointe.

The motion carried by the following vote:

Aye: Dalton, Duistermars, Hill, Holder, Raschke and Robbins

Absent: Barnett

Enactment No: RES0192-2004

(Mr. Barnett Entered 8:10 p.m.)

Present: John Dalton, Bryan Barnett, Jim Duistermars, Melinda Hill, Barbara Holder, Linda Raschke and Gerald Robbins

ORDINANCE FOR INTRODUCTION

2004-0414

First Reading - Rezoning Request to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills to rezone one parcel of land totaling approximately 1.945 acres, located at the southeast corner of Rochester Road and Barclay Circle, from B-3, Shopping Center Business to B-2, General Business, known as Parcel No. 15-26-351-002, Diversified Property Group, LLC, Applicant

Attachments: Agenda Summary second reading.pdf; Agenda Summary first reading.pdf; Map aerial.pdf; Report Staff 20040514.pdf; Minutes PC 20040518.pdf; Salsa's Ord.pdf; 0414 Second Reading Resolution.pdf

Ms. Deb Millhouse, Deputy Director of Planning/Development, explained that the site's current configuration of two (2) acres and a two-hundred and fifteen (215) foot width violates the minimum parameters of the current B-3 zoning, of five (5) acres and a four-hundred (400) foot frontage. She noted that the land division that resulted in this substandard lot size took place in 1977 just prior to approval of a new zoning ordinance that created the B-3 (Shopping Center Business) zoning district. Ms. Millhouse, indicating that this request had received a six (6) to one (1) approval from the Planning Commission, reminded Council that "all zoning is dependent on the uses both permitted and conditional that are allowed within the existing district, as well as those permitted in the proposed district."

Mr. John Klein, Mr. Ryan Rossette, and Mr. Albert Ludwig, Diversified Property Group, 6024 West Maple Road, West Bloomfield, appeared for the applicant.

Mr. Klein stated that the down-zoning request was appropriate for the following reasons:

- 1) It will bring the parcel into conformance with the City's Zoning Ordinance and Master Plan.*
- 2) It will reduce the allowable uses.*
- 3) The site "makes good sense" as a commercial retail property.*

He stressed that it was the goal of Diversified Property Group to build a "first-class, well-designed, well-architected (sic)" multi-tenanted retail building.

Mr. Staran, in response to Ms. Hill's request for clarification, explained that, while the

building in question was a lawful structure with lawful businesses located in it, if the owners wished to change the building or it were destroyed, they would not be permitted to change or rebuild it without a rezoning and/or variance. The applicants can only change the use of or the building itself through rezoning.

Mr. Klein further reassured Council that the proposed new development would better utilize the property with regards to parking and setbacks.

A motion was made by Raschke, seconded by Barnett, that this matter be Adopted by Resolution.

Resolved that an Ordinance to amend the Zoning Ordinance of the City of Rochester Hills, Oakland County, Michigan to rezone 1.945± acres (i.e., Parcel No. 15-26-351-002) from B-3, Shopping Center Business District to B-2, General Business District; is hereby accepted for First Reading.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0208-2004

2004-0417

First Reading - Rezoning Request to amend Chapter 138 of the Code of Ordinances of the City of Rochester Hills to rezone 0.11± acres of Parcel No. 15-15-426-020 from B-5, Automotive Service Business District to B-2 General Business District and to rezone 0.29± acres of Parcel No. 15-15-426-020 from R-4, One Family Residential District to B-2 General Business, (parcel is approximately .5 acres total), located on the northwest corner of Rochester Road and Childress (City File 04-010), Bashar Bashir, Applicant

Attachments: Agenda Summary second reading.pdf; Agenda Summary first reading.pdf; Map aerial.pdf; Map Zoning.pdf; Report Staff 20040514.pdf; Minutes PC 20040518.pdf; AndersonSewingRezoneOrd.pdf; 0417 Second Reading Resolution.pdf

Ms. Deb Millhouse, Deputy Director of Planning/Development, explained the unique circumstances, wherein four (4) separate parcels were combined resulting in the parcel in question having three (3) separate zoning districts. She noted that the request to rezone the entire parcel to B-2 (General Business) would be in keeping with the City's Master Plan. In addition, the Planning Commission voted unanimously to recommend approval of the rezoning request.

Mr. Greg Hoyt, Hertz Corporation, 54828 Malher Drive, Macomb Township, spoke on behalf of the applicant and requested the rezoning be approved.

A motion was made by Hill, seconded by Duistermars, that this matter be Accepted for First Reading by Resolution.

Resolved that an Ordinance to amend the Zoning Ordinance of the City of Rochester Hills, Oakland County, Michigan to rezone 0.11± acres of Parcel No. 15-15-426-020 from B-5, Automotive Service Business District to B-2, General Business District and to rezone 0.29± acres of Parcel No. 15-15-426-020 from R-4, One Family Residential District to B-2, General Business District; is hereby accepted for First Reading.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0209-2004

ORDINANCE FOR ADOPTION

2004-0475 Acceptance for Second Reading an Ordinance to amend Sections 54-741 through 54-745 of Article XII, Utilities, of Chapter 54, Fees, of the Code of Ordinances of the City of Rochester Hills, Oakland County Michigan, to modify water and sewer rates and fees, repeal conflicting ordinances, and prescribe a penalty for violations

Attachments: 0475 Agenda Summary Second Reading.pdf; Agenda Summary First Reading.pdf; W&S Ordinance.pdf; 0475 Resolution.pdf

A motion was made by Holder, seconded by Hill, that this matter be Accepted for Second Reading and Adoption by Resolution.

Resolved that an Ordinance to amend Sections 54-741 through 54-745 of Article XII, Utilities, of Chapter 54, Fees, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to modify water and sewer rates and fees, repeal conflicting ordinances, and prescribe a penalty for violations is hereby accepted for Second Reading and Adoption and shall become effective on July 1, 2004 following its publication on Thursday, June 24, 2004 in the Rochester Eccentric.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0193-2004

(Recess 8:38 p.m. - 8:56 p.m.)

NEW BUSINESS

2004-0506 Variance Request - City File No. 99-011 - Request for variance from the 37 percent requirement of Section 126-327(2) of Chapter 126, Article III, Tree Conservation, of the Code of Ordinances, for Rochester Meadows Site Condominiums, located south of Avon and east of Rochester roads, zoned R-3, One Family Residential, Parcel Nos. 15-23-201-006, -010, -011, -012, Roy Rathka, Applicant

Attachments: Agenda Summary.pdf; Map aerial.pdf; Site Plan - Roch Meadows.pdf; Letter Roch Meadows 20040520.pdf; Memo Campbell 20040406.pdf; Notice Variance.pdf; Minutes cc 20030618.pdf; 0506 Resolution.pdf

Ms. Deb Millhouse, Deputy Director of Planning/Development, explained that the applicant, having appeared before Council previously and having been denied a variance for the full 37% requirement of the Tree Preservation Ordinance, modified their site plan and reduced their request to a 5.7% tree variance, resulting in seventeen (17) trees the developer has agreed to replace at a two-to-one ratio.

Mr. Michael Plourde, 2525 Telegraph Road, Bloomfield Hills; Mr. Roy Rathka, 11684 Majestic Court, Shelby Township; and Mr. Joseph Check, 4229 Burgundy Pointe, Shelby Township, appeared for the applicant.

Mr. Plourde noted concessions the developer had made in an attempt to comply with the tree ordinance including:

- * Reducing the number of home lots from fifty-four (54) to forty-seven (47).*
- * Creating two (2) open space areas.*

He claimed that many of the current trees are of poor quality and/or diseased and that granting the variance "would be consistent with the intent of the ordinance."

PUBLIC COMMENT:

Mr. Fred Hartman, 532 East Avon, noted his concerns regarding drainage on his property as a result of the development, as well as tall weeds.

COUNCIL DISCUSSION:

The following issues were raised during Council discussion:

** The current site plan cannot be reviewed by the Planning Commission until it meets the tree preservation ordinance or receives a variance.*

** No trees can be removed until after the final site plan has been approved by City Staff, the Planning Commission and, finally, City Council.*

** If granted the requested variance, the applicant must then conform to the new standard of 31.3%. If that were to change at any point during the plan review process, the applicant would have to return before Council to seek another variance.*

** The developer indicated that while they had considered several design plans for the site, none had met the 37% tree preservation ordinance, noting that meeting the requirement would result in a further reduction of three (3) to four (4) lots.*

** City Staff estimated that the ordinance could be met by a further reduction of no more than two (2) lots.*

** Ms. Carla Campbell, Landscape Architect, explained that she was "generous" in her evaluation of the existing trees, allowing that the developer will be very careful with trees located close to the building envelope.*

** The fine for not preserving a designated tree is \$120 per caliper inch. Thus, a ten (10) inch tree would result in a \$1,200 fine.*

** The applicant assured Council that the two-for-one replacement trees will be planted within the same development.*

Ms. Hill noted the requirements necessary for Council to grant the requested variance:

- 1) Special circumstances or conditions affecting this property.*
- 2) Negative affect on the enjoyment of the property right of the petitioner.*

She expressed her belief that these requirements had not been met.

Mr. Plourde stressed that the issue should be the quality of the trees being saved. He further noted that "the variance request is minimal and the replacement request is really consistent with the overall tree concept that the City has in the preservation of or improvement of a site maintaining good quality growth."

A motion was made by Hill, seconded by Barnett, that this matter be Adopted by Resolution.

Resolved that the Rochester Hills City Council hereby denies a variance of 5.7 percent (i.e., 17 trees) from the 37 percent requirement of Section 126-327(2) of Chapter 126, Article III, Tree Conservation, of the Code of Ordinances, for Rochester Meadows Site Condominiums (City File No. 99-011), identified as Parcel Nos. 15-23-201-006, -010, -011, -012.

FINDINGS:

1. The location quality, and age of a regulated tree are not a factor in determining the applicability of Section 126-327(2) of the Tree Conservation Ordinance.
2. There are no special circumstances or conditions affecting the property such that the strict application of the Tree Conservation Ordinance would deprive the applicant of the reasonable use of the land.
3. The variance is not necessary for the preservation and enjoyment of a substantial property right of the petitioner, as there are alternatives available to meet the requirement of the Tree Conservation Ordinance.
4. The variance will not further the objectives and policies of the City.

The motion carried by the following vote:

Aye: Dalton, Barnett, Hill and Holder

Nay: Duistermars, Raschke and Robbins

Enactment No: RES0194-2004

2004-0290

Request for Purchase Authorization - DPS/Engineering, purchase order not-to-exceed \$20,000.00 for the design of street lighting for the Crooks Road Boulevard Project from South Boulevard to M-59; Hubbell, Roth & Clark, Inc., Pontiac, MI

Attachments: Agenda Summary Sheet 2 (6/16/04 mtg).pdf; Agreement.pdf; Agenda Summary 1.pdf; 0290 Resolution.pdf

Mr. Paul Davis, City Engineer, advised Council that he did not think street lighting on this portion of Crooks Road is necessary, noting that the design portion of the project would be the least costly aspect of the project. Along with the cost of erecting the lights, the City would also be responsible for the ongoing maintenance, as the Road Commission does not own any street lights. He also reminded Council of likely future expenditures with regard to landscaping and irrigation for the median. Mr. Davis explained that street lighting could be added at a later date, as the Road Commission would be providing conduits for electrical wiring. Thus, there would be no need to tear up the road for later light installation. He further stressed that, while the Major Road Fund is not experiencing the same financial difficulties as the Local Road Fund, there are some "large commitments" in the future including the M59/Adams Road interchange project.

Council members discussed the following issues:

** Make the area at Deerfield Elementary look nice with decorative lighting (estimated at approximately \$5,000 per post) and landscaping.*

** Funds would be better spent on the eventual median landscaping.*

** Must maintain the residential look and feel of the area.*

President Dalton expressed his support for street lighting, noting that the Troy portion of the project will have street lighting. He stressed, "Part of putting in a road is doing a complete job."

A motion was made by Hill, seconded by Raschke, that this matter be adopted by Resolution.

Whereas, at the March 31, 2004 City Council work session, Council members requested additional information regarding the design for street lighting along Crooks Road from South Boulevard to M-59.

Whereas, a proposal was requested from Hubbell, Roth & Clark, Inc., a quality based selected consulting engineering firm for the City to prepare the design plans and special provisions that would be included in the Road Commission for Oakland County bid documents for the length of the proposed boulevard that is located solely in the City of Rochester Hills.

Whereas, the Road Commission for Oakland County has agreed to provide conduits to allow the installation of street lighting at a later date without the necessity of damaging the road.

Resolved that the City Council of Rochester Hills has determined that the City will no longer pursue incorporating a street lighting design along Crooks Road from South Boulevard to M-59 as part of the County's road reconstruction project to be bid this fall.

The motion carried by the following vote:

Aye: Duistermars, Hill, Holder and Raschke

Nay: Dalton, Barnett and Robbins

Enactment No: RES0195-2004

2004-0599

Adoption of Resolution upholding the requirement for constructing an eight-foot wide pathway along the westerly side of Crooks Road between Auburn Road and the Deerfield Elementary School

Attachments: Agenda Summary.pdf; Crooks DTE Hendrix Details.pdf; 0599 Resolution.pdf

Mr. Paul Davis, City Engineer, explained that the Road Commission requires a "quick decision" regarding placement of electrical poles on the west side of Crooks Road between Deerfield Elementary School and Auburn Road. The Federal Highway Administration had determined that, because Detroit Edison is in the right-of-way by permit and does not own the easement to occupy that right-of-way, the cost for placing the electrical equipment underground could not be included in the project. Thus, Detroit Edison would be responsible for the estimated \$2 million cost. Because acquiring the necessary easements would pose a "significant delay to the project" and Detroit Edison does not wish to incur the cost of locating the equipment underground, they have decided to locate above-ground electrical poles at the right-of-way line on the west side of Crooks. Detroit Edison's proposed plan would result in a reduction of the roadside pathway from the standard eight (8) feet to six (6) feet. Mr. Davis was seeking Council's determination as to whether this reduction should be permitted. He further explained that he was not seeking a final decision at this time, but rather wanted to make Council aware of the situation.

Council determined that more information would be necessary before a decision could be reached.

Discussed

(Recess 10:00 p.m. - 10:13 p.m.)

2004-0209

2005 Salary Recommendation - Mayor

Attachments: Salary History-Mayor.pdf; Resolution Mayor Salary 2004.pdf; Minutes, AIS 050404 Draft Excerpt.pdf; 0209 Resolution.pdf

A motion was made by Robbins, seconded by Hill, that this matter be Adopted by Resolution.

Now Therefore Be It Resolved, that the Rochester Hills City Council concurs with the recommendation of the Administration & Information Services Committee and hereby approves a two-percent (2%) increase for the Fiscal Year 2005 to the rate of compensation for the Mayor of Rochester Hills, in the form of a yearly salary, for a total amount of:

\$97,332.00

Be It Further Resolved, that fringe benefits continue to apply.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0196-2004

2004-0210

Administration & Information Services Committee 2005 Salary Recommendation for City Council

Attachments: Agenda Summary - CC.pdf; Salary History-Council.pdf; Resolution Council Salary 2004.pdf; Salary Comparison CC.pdf; Minutes, AIS 050402 Draft Excerpt.pdf; Minutes, AIS 040604 Draft Excerpt.pdf; Minutes, AIS 030204 Draft Excerpt.pdf; 0210 Resolution.pdf

PUBLIC COMMENT:

Mr. Lee Zendel, 1575 Dutton Road, indicated that he supports an increase to Council's annual salary, but disagreed with the increase being a result of reducing the number of meetings Council must attend before receiving per diem fees.

Ms. Hill, Chairperson of the Administration & Information Services (AIS) Committee which brought forward the salary recommendation, explained that the decision regarding the per diem payment was based on the assumption that the minimum number of Council meetings any member can attend is covered by the annual salary, thus any meetings beyond that base would be compensated with the per diem fee.

A motion was made by Hill, seconded by Raschke, that this matter be Adopted by Resolution.

Now Therefore Be It Resolved, that the Administration & Information Services (AIS) Committee recommends to City Council that the compensation for the Rochester Hills City Council, in the form of a yearly salary for the 2005 Fiscal Year remain the same as Fiscal Year 2004 as follows:

**City Council President - \$7,850.48/year
City Council Member - \$6,577.43/year**

Be It Further Resolved, that the AIS Committee recommends that City Council Members shall receive per diem compensation in the amount of Sixty Dollars (\$60.00) for attendance at any meeting, for which they are appointed as a Council Representative, in excess of Thirty-two (32) meetings per year.

The motion carried by the following vote:

Aye: Dalton, Barnett, Hill, Holder, Raschke and Robbins

Nay: Duistermars

Enactment No: RES0197-2004

2004-0211

2005 Salary Recommendation for Directors' General Adjustment Recommendation

Attachments: Agenda Summary.pdf; Salary History-Directors.pdf; Memo Somerville 033104.pdf; Memo Lee 022704.pdf; MML Director Survey DataUPDATE.pdf; Revenue Reductions 2004.pdf; Res Directors Gen Adjustment 2004.pdf; Minutes, AIS 030204 Draft Excerpt.pdf; Minutes, AIS

Mr. Robbins made a motion to table the matter pending receipt of an opinion from the City Attorney regarding the appropriateness of the Mayor providing the salary and bonuses for the Council-appointed positions of City Clerk and Treasurer.

Ms. Hill, Chairperson of the Administration & Information Services (AIS) Committee that brought forward the salary recommendation, explained that, in effect, the Council, via committee, was setting the salary increase, as well as the bonus pool. However, the determination of bonuses is left to the Mayor's discretion as the Mayor works with the directors on a day-to-day basis and, thus, is in a better position to evaluate job performance.

A motion was made by Robbins, seconded by Holder, that this matter be Adopted by Resolution.

Whereas, the Administrative and Information Services Committee recommends to City Council a two percent (2%) increase to budgeted funds for Department Director salaries for Fiscal Year 2005, bringing the budget for base salaries for Directors to \$902,486; and

Whereas, that wage increases greater than 2% received by non-union, Local 2491 or Local 3472 employees for 2005 will also be received by Directors, provided agreement is reached prior to December 31, 2005 with respect to bargaining units.

Resolved, that the Rochester Hills City Council did waive their Policies for Salaries of Department Directors and Mayor, and Per Diem Fees for City Boards and Commissions: Article III: Section 7: "At the last regular meeting in the month of June, the Council shall formally state in a resolution the total cash compensation that is available for the Department Directors as a group in the Budget for the succeeding fiscal year."

Be It Further Resolved that the Rochester Hills City Council shall Postpone a decision on the Administrative and Information Services Committee's recommendation for Department Director salaries for Fiscal Year 2005 until the next regular City Council meeting to be held July 21, 2004.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0204-2004

2004-0212

Receive and File Report from Administration and Information Services regarding Directors' 2005 Equity Adjustment Pool Recommendation

Attachments: Agenda Summary - Dir Equity Adj.pdf; Salary Policy.pdf; Resolution Directors Equity 2004.pdf; Minutes, AIS 20040504 Draft Excerpt.pdf; Minutes, AIS 030204 Draft Excerpt.pdf; 0212 Resolution.pdf

No recommendations were made by the Administration & Information Services (AIS) Committee.

A motion was made by Raschke, seconded by Barnett, that this matter be Adopted by Resolution.

Now Therefore Be It Resolved, that the Rochester Hills City Council receives and files Administration and Information Services Committee report regarding 2005 Equity Adjustment Pool recommendation for Directors.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0200-2004

2004-0214

Administration & Information Services Committee 2005 Salary Recommendation for Boards and Commissions

Attachments: Agenda Summary.pdf; Salary Policy.pdf; Salary History-Boards&Comm.pdf; Minutes, AIS 050404 Draft Excerpt.pdf; Resolution Boards&Comm 2004.pdf; 0214 Resolution.pdf

A motion was made by Barnett, seconded by Hill, that this matter be Adopted by Resolution.

Now Therefore Be It Resolved, that the Administration & Information Services Committee recommends to City Council that the rate of pay for the Boards and Commissions for the Fiscal Year 2005 Budget remain the same as 2004 and be set at Seventy-Five Dollars (\$75.00) for the Chairperson, and Sixty-Five Dollars (\$65.00) for the Members per meeting.

**Building Authority
Construction/Fire Prevention Code Board of Appeals
Economic Development Corporation
Historic Districts Commission
Planning Commission
Zoning Board of Appeals/Sign Board of Appeals**

Further Resolved, that the per diem fee for the 2005 Fiscal Year for the Members of the Board of Review remain the same as 2004 and be set at One Hundred (\$100.00) Dollars per meeting attended.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0199-2004

2004-0213

Administration & Information Services Committee 2005 Salary Recommendation for Directors' Variable Performance (Discretionary) Pool

Attachments: Agenda Summary.pdf; Salary Policy.pdf; Minutes, AIS 050404 Draft Excerpt.pdf; Resolution Directors Var Perf 2004.pdf; 0213 Resolution.pdf

Mr. Robbins questioned the purpose of devoting money to the directors' bonus pool when the Mayor has never used the funds to issue bonuses. He also questioned the appropriateness of the Mayor determining the bonus level for Council-appointed

directors.

Ms. Hill explained that the purpose of the bonus pool is to increase moral and encourage superior job performance. She encouraged the Mayor to use the fund to that affect.

Ms. Pam Lee, Director of Human Resources, explained that the budgeted money in the fund, if unused, reverts to the General Fund.

Mr. Robbins requested that Mr. Staran include this bonus issue in the opinion previously requested regarding directors' salaries.

A motion was made by Hill, seconded by Duistermars, that this matter be Adopted by Resolution.

Now Therefore Be It Resolved, that the Administration & Information Services Committee recommends to City Council that a Variable Performance (Discretionary) Pool for Directors of Twenty Thousand Dollars (\$20,000.00) be established to provide for flat bonus pay, separate from base pay, for the Fiscal Year 2005.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0198-2004

2004-0359

Recommendation from Administration & Information Services Committee regarding Changes to Council Work Session Broadcast Policy

Attachments: Agenda Summary.pdf; CC WS Rules of Procedure.pdf; Minutes AIS 040604 Draft Excerpt.pdf; 0359 Resolution.pdf

President Dalton explained that the Administration & Information Services (AIS) Committee has recommended that Council Work Sessions not be televised, as these meetings are less formal than regular Council meetings, no official action can be taken, there would be a cost savings, and not televising these sessions would promote more open discussion.

Council members noted the following points during discussion of this issue:

- * Work Session meetings are "excellent informational meetings for residents to watch."*
- * These meetings provide an avenue to disseminate information to the public.*
- * With the new remote control camera system, the cost of video production has been reduced.*
- * Televising these meetings provides residents with a better understanding of the decision-making process.*
- * Not televising the sessions would result in better discussions at a more casual level.*
- * Work Sessions should be televised all the time or not at all; one or the other.*
- * Not televising Work Sessions allows the Staff to speak more openly.*
- * Many sessions are held off-site, making it difficult to televise them.*

President Dalton noted that the consensus reached by Council would establish a policy wherein the Council President would determine the need to televise a Work Session

during each meeting's Agenda Review. If it is determined that a meeting should be televised, it will be held in the City Hall Auditorium. If a meeting is not to be televised, it will be held in the City Council Conference Room.

Discussed

2004-0531 Request to cancel June 23, 2004 Regular City Council Work Session

Attachments: Agenda Summary.pdf; 0531 Resolution.pdf

Ms. Hill indicated that while she did not oppose canceling the meeting, she questioned whether it may be necessary to have the meeting to further discuss the issue (File ID #2004-0599) brought forward by the City Engineer earlier in the meeting.

President Dalton indicated that he would discuss the matter with the City Engineer and then determine if the meeting needed to be convened.

A motion was made by Robbins, seconded by Barnett, that this matter be Adopted by Resolution.

Resolved that the Rochester Hills City Council hereby agrees to cancel its Regular Work Session scheduled for Wednesday, June 23, 2004 at 7:30 PM, due to lack of agenda items.

The motion carried by the following vote:

Aye: Dalton, Barnett, Duistermars, Hill, Holder, Raschke and Robbins

Enactment No: RES0201-2004

NOMINATIONS/APPOINTMENTS

2004-0491 Appointment to the Historic Districts Commission for one (1) vacant three-year term to expire December 31, 2004

Attachments: Agenda Summary 2 (061604 mtg).pdf; Appointment Form 061604.pdf; Candidate Questionnaire, Blackstone.pdf; Candidate Questionnaire, Castile.pdf; Agenda Summary 1 (060204 mtg).pdf; Letter, Dressel 040104.pdf; Notice of Vacancy.pdf; List, Questionnaire and Re

City Council appointed Mr. Gary Castile to the Historic Districts Commission for one (1) vacant three-year term to expire December 31, 2004.

2004-0493 Appointment to the Trailways Commission for one (1) vacant four-year term for a Citizen At Large Representative to expire December 31, 2004

Attachments: Agenda Summary 2 (061604 Mtg).pdf; Appointment Form 061604.pdf; Questionnaire, Dohr.pdf; Questionnaire, Miller.pdf; Questionnaire, Whateley.pdf; Agenda Summary.1 (060204 mtg).pdf; Notice of Vacancy.pdf; Letter, Keifer 020904.pdf; Questionnaire, Blackstone

Rochester Hills City Council appointed Mr. Paul Miller to the Trailways Commission for one (1) vacant four-year term for a Citizen At Large Representative to expire December 31, 2004.

COUNCIL COMMITTEE REPORTS

Ms. Hill announced that the Financial Services Committee and the Community Development & Viability Committee would be meeting jointly on Thursday, June 24, 2004, to discuss the road millage issue.

NEXT MEETING DATE

Regular Meeting - July 21, 2004 at 7:30 p.m.

ADJOURNMENT

There being no further business before Council, President Dalton adjourned the meeting at 11:12 p.m.

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

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

*MARGARET A. STRATE
Administrative Secretary
City Clerk's Office*

Approved as presented at the (insert date, or dates) Regular City Council Meeting.