

REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
DRAFT MONDAY, JULY 2, 2007 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD
www.cityofnovi.org

Mayor Landry called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Gatt, Margolis, Mutch, Nagy, Paul-absent/excused

ALSO PRESENT: Clay Pearson, City Manager
Pamela Antil, Assistant City Manager
Tom Schultz, City Attorney

APPROVAL OF AGENDA

CM-07-07-232 Moved by Nagy, seconded by Capello; **CARRIED UNANIMOUSLY: To approve the agenda as presented.**

Voice vote

PRESENTATIONS

1. Northwest Quadrant Ring Road (Novi Road to Grand River) Concept Design – Anderson, Eckstein & Westrick

Rob Hayes said he was pleased to lead off a presentation on the Northwest Quadrant Ring Road, also known as Crescent Boulevard. Crescent Boulevard as proposed would extend from the Fonda Drive Novi Road intersection west and southwest to Grand River Avenue and included a river crossing of the Rouge River. He said that in December Council commissioned Anderson, Eckstein & Westrick to do a scoping study to dust off old data, develop new data and come up with a conceptual design on which they could potentially build a real design with plans and specifications for future construction. He introduced Jennifer Chehab, the lead engineer on the project.

Jennifer Chehab, Anderson, Eckstein & Westrick, said they were the selected consultants who were fortunate enough to work with Novi Engineers on developing the study further. They went through the old data, and tried to present to Council how to move forward with the project. She started by giving background about the project. Essentially, at Novi and Grand River on every quadrant, except the northwest, there is some sort of a road that connects Grand River to Novi Road. In the past, Council had looked at extending Fonda Drive down to Grand River in order to complete the loop of the intersection. What was proposed was Crescent Boulevard. Fonda Drive would be replaced with Crescent Boulevard, extending across the Rouge River and down to Grand River with an industrial spur that would stub off to north of the general filter site over to

Progressive Tool. Incorporated in the project were downstream improvements to some of the facilities along the river that were done to mitigate some of the impact of the floodplain from the project. She gave some background on how it was previously being funded. Ms. Chehab said Council received economic development funding in the 90's to construct the new road that would connect Grand River to Novi Road. Preliminary design plans were prepared by JCK, unfortunately, delays due to right-of-way acquisition resulted in losing the grant money in 1999. The City was diligent and did pursue all right-of-way and easements necessary to construct the project. She said that Novi does have all of the right-of-way and easements necessary to construct the project. Given that the Walled Lake branch of the middle Rouge River did traverse the site, there were some environmental considerations. There were floodplains on the sites, there were wetlands on the site and being near the river presented some additional considerations. The floodplain on the site is dictated by the lower Flint Street crossing downstream of the project. There was an approximate 8 foot increase in the floodplain elevation due to the under sizing of a culvert that existed there. In order to decrease the floodplain they recommended that the culvert be replaced with a single box culvert that can pass the flow. Additionally, upstream of there, there were triple culverts which were used to serve a pedestrian bridge, which is no longer in use. They were failing. They recommended the removal of those culverts. In addition, the Crescent Boulevard bridge was originally sized as a twenty foot span with a seven foot rise. That still resulted in a slight increase to the floodplain elevations. They recommended that be upgraded as well. Wetlands on the site were originally permitted for just under 1.4 acres of fill in the regulated wetlands and offsite mitigation was provided by the city. Since time changes things, with relationship to the river and the wetlands, that would have to be restudied. The wetlands should be recalculated during the final design of the project. They also recommended approximately 200 feet of the stream to be redirected to move it further away from the retaining walls. That provided some pretreatment areas for storm water prior to discharge into the stream. It also provided environmental impacts related to soil loss and floodway conveyance capacity. She skipped over the original design features and pointed out things that changed since the original. Now, they proposed a four lane boulevard with five foot wide sidewalks on both sides and a twelve foot center median. In the initial design, the road was a little wider with a ten foot median, and the sidewalks were in a different location. They felt trying to keep everything together would be more environmentally sound. In addition, the center median, being wider, could provide more green and they felt it was a good benefit toward the environmental permits the City would need as a mitigating factor. Some other proposed features were to mill and resurface Fonda Drive, previously that was not proposed, that was 8 years ago, and might not have been necessary at that time. Also, the decorative mast arm traffic signal at Fonda Drive and Novi Road where there is currently a span wire construction was proposed. The industrial spur was always proposed over to Progressive Drive, but it is part of the project. The pre-cast bridge structure would be a twenty-four by eight foot structure. They provided some decorative

options for the structures in the event the City wanted to pursue them and tried to include them in the cost which is why the costs have a range of prices instead of a fixed price. Additionally, retaining walls were required in several locations along the project in order to raise the road high enough to get over the stream and to mitigate the floodplain effects. The road would be built elevated above the ground around it on one side. They also provided some decorative options for the retaining wall, especially where it was seen from behind some of the businesses behind Novi Road. Ms. Chehab also noted that the downstream improvements of the Flint Street crossing and also the triple culvert elimination should be considered part of the project and not separate projects. The reason for that is when you mitigate the downstream floodplain impact you go through FEMA and they change the flood insurance maps if you then go and build a bridge that increases the floodplain, you have not gained from that because now you have an offsite impact. She stressed that it needed to be considered as one project. They also proposed the decorative mast arm traffic signal at Crescent and Grand River. Previously it was going to be a span wire; she didn't think we were doing the decorative mast arms throughout the city about 8 years ago. They also looked at the Expo Center and Fonda Drive intersection for a proposed roundabout. In the study they had 3 proposed roundabouts. Each of them required an additional right-of-way. At that time they did not recommend a roundabout at that location, but when the Expo Center redevelops, something would have to be considered for mitigating the traffic impacts, depending on the type of use and what they do in the Expo Center. If it was rezoned to another type of use, a traffic impact report would have to be prepared by then, they may end up with a roundabout there, they may end up with a signal, they may end up with just the road design that is proposed, but at this point it was difficult to tell not knowing what that is going to redevelop as. She pointed out a few features of the proposed road way. In the area adjacent to the roadway, there was a proposed wetlands area which was proposed for a four bay and some storm water pretreatment before discharge into the stream. They also proposed decorative retaining walls along the side of the stream and in the north side of the industrial spur. A benefit of the project in addition to the mitigation of the impacts that Novi and Grand River from the traffic were, that the general filters drive way and the drive way over to progressive tool would be abandoned and those businesses would send their traffic onto the industrial spur or onto Crescent Boulevard rather than directly onto Grand River Avenue. They also proposed milling and resurfacing the existing Fonda Drive up to the project limits, from Novi Road to the west. In the downstream improvements, there is a Flint Street crossing they recommended removal of the existing seven foot culvert. The original report called out placing twin 48 inch culverts along side that. They believed that would be a maintenance problem for the City. They recommended replacing that crossing with a six by fourteen box culvert and still abandoning the triple culverts for a couple of reasons, the floodplain benefits and there is some liability because they are failing. They also did a traffic study to get some ideas about the traffic benefits of the project. They noted that the level of service at the Novi and Grand River intersection will be improved if left turning traffic off of

Grand River and Right turning traffic off of south bound Novi Road use this road. They noted an increased level of service at Novi and Fonda, Novi and Grand River, and the businesses on Grand River as well as Flint Street between Crescent and Novi Road due to the cueing for the left turns from east bound Grand River onto Novi Road, there were benefits noted in the traffic study if it goes through. Some additional benefits would be to decrease congestion, improve circulation, and reduce enforcement issues due to decrease in driver frustration which is a little difficult to measure, but she measured her own when she is trying to make the left turn. Some improved air quality due to the reduction in some delays. They recommended that as property development occurs in the area that traffic impact studies be preformed and that they take a look at signal timing and other mitigating measures to adjust to the increase in traffic. Some other items for future study as that area develops would be potential for dual left turns from Grand River onto Crescent depending on how much that road gets used. The realignment of Flint Street which is a master planning issue, if the City goes forward with the construction of the project, they would end up with an offset of the intersections of Crescent and Flint Street onto Grand River. She said the City may want to take a look at the realignment of that, obviously always paying attention to optimal signal timing. The cost of the project initially was estimated at \$1.7 million in 1999 for construction only. When the City set up a scope of services for this, they were looking for an overall total project cost including design and construction. Their estimates range from \$3.75 to \$2.25 million. She pointed out items not included in the 1999 estimate and items that have changed since then. What is included now is the design engineering contingencies staking the environmental with the wetlands flagging, the hydraulics modeling, the resurfacing of Fonda Drive, redirection of a portion of the stream, the wetlands plantings, the storm water pretreatment, and they included some electrical conduit and irrigation for the center of Crescent Boulevard in their estimates that were not there previously. They also included reconstruction of the traffic signal at Fonda and Novi Road and also the intersection. A few other items that were included, but are not different, are at Crescent and Novi Road the signal was a span wire and now it is proposed as a decorative mast arm. They increased the size of the structure at Crescent Boulevard. The lower Flint Street crossing was the installation of 2 additional culverts and they recommended replacement of that entire structure. Time was the other factor, the estimates were prepared in 1999 and now they have seen good prices come in, but they have not decreased since 1999, there were definitely an increase of prices over time. The other thing they wanted to lay out were the next steps in recommendations. They recommended that if the City proceeds with the project do the detailed topographical survey of the project site and the downstream area and the engineering design of the project, updated hydraulic modeling including the floodplain and flood way act impacts as well as the sizing of the culverts that will be based on the topo as well. The wetlands flagging needs to be updated and they need to look at the permits and what offsite mitigation was done. For the future, a study of the realignment of Flint Street and Grand River would be another thing to do, and also researching

options for potential funding sources, there may be some funding available just for the air quality benefits. There may be some economic development funding as Expo Center redevelops.

Member Mutch had questions about the impact of the improvements. One of them concerned the removal of the downstream culverts. He asked if that would result in increased flows and impacts beyond those culverts now that those obstructions had been pulled out of the way and the amount of water that can move downstream during a flood event.

Ms. Chehab said if there was a lot of storage upstream of the culvert that would be a concern. The way it works right now is the water still gets through the culverts, but because the culvert is so small the water will head up and increase the velocity and shoot it through the culvert. If they increase the size of it, the water will still get through, but it will lower velocity. If they had a large storage area inside the drain that culvert would be acting to back it up and store it and then release it over time, but that isn't what is happening at that crossing. At that crossing there was a one acre storage upstream of it and that is being extremely generous. There were over eight square miles of drainage area. It was a very small percentage of the area that they would be considering for storage in the stream.

Member Mutch asked if they anticipated any significant impacts downstream.

Ms. Chehab said no, she didn't.

Member Mutch said she talked about the wetland mitigation that was required for the roadways, he asked where offsite that would occur.

Ms. Chehab said it was her understanding that when the original project was proposed, the mitigation occurred offsite at one of the parks, the north Novi Park in a mitigation area.

Member Mutch asked if it was out by West Park Drive.

Mr. Hayes said that was correct.

Member Mutch had a question about some of the discussion way back when this was first kicked around, he said that Mayor Pro Tem Capello probably remembered some of the conversations, about incorporating a river walk concept through the western portion of both north and south of Grand River along the Rouge River. He asked in her evaluation of that, was there anything that would preclude that as we go forward with more detailed designs, looking at that type of concept and incorporating it into the future design.

Ms. Chehab said there was an area where the City does own additional property. Right now they are proposing some of that to be used for stream realignment and another portion to be for storm water pretreatment. Just depending on the detailed design what they might have to do for flood way impacts. There may be an opportunity to still incorporate a walk into that, it just depends on the detailed design. Her initial feeling was that you could incorporate something into it, but she doesn't know once you get the detailed topo into the design if you will end up with additional wetland mitigation requirements.

Member Mutch said that a thought he had, was with the way the roadway is currently aligned with sidewalks on both sides, he asked if there anything that would preclude shifting the road more toward one side to give more space on the other side where a more generous walkway could be done closer to the river.

Mr. Hayes said they were very constrained by right-of-way. There wasn't a lot of room when you figure in what is needed for construction and then the actual roadway itself, they are very constrained.

Member Mutch asked how the intersection at Fonda and the entrance into the old Expo Center would be handled. He asked if it would be a stop sign or three way stop.

Ms. Chehab said at this point it would be stop signs, not a three way stop. It would be that Crescent had right-of-way and Expo would have to stop. If there were events that would be some sort of a consideration. It is difficult to know what is going to happen at Expo at this point. They tried to look at that, but if they get rezoned, it opens up an entire different ball game in terms of use. They didn't address it at this point but it does need to be addressed.

Member Mutch asked if there were any concerns if the volume of traffic there warrants a traffic signal, in terms of cueing in that short stretch between Novi Road and the intersection, he asked if there would be enough space.

Ms. Chehab said there would have to be a recommendation for an actuated signal that is only activated when there is a large volume of traffic and it would definitely have to work in constant with the other signal because you could get a lot of people stuck between the two signals. It would have to be studied in conjunction with the new signal at Fonda Drive.

Member Mutch asked in terms of the signalization, would there be some kind of coordination between these signals and the Grand River and Novi signals so we aren't getting into a grid lock situation.

Ms. Chehab said definitely but the City also participated in the Road Commission's FAST-TRAC so you have cameras on all the signals. Even signal timing sort of defaults to the camera timing and these are currently the cost

estimates that were put together with auto scope and part of the FAST-TRAC system.

Member Nagy said she realized Ms. Chehab was talking about the Ring Road, but across Fonda which is the Crescent Boulevard one of the things that she saw there was the confusion of the traffic that was going through, turning left, and turning right. She asked if there would be some sort of an alignment with those two roads. She thought it was confusing and she didn't know if they planed to alleviate the situation on the east side of Novi Road since you are going to be putting in the changes on Fonda.

Ms. Chehab said at this time it is a study to identify the future project, but at this time they show reconstruction of that intersection and new signals at that intersection. It is currently shown to be aligned through that intersection. When detailed design is put together they can take a look at, if there are some turning conflicts, how to mitigate those problems.

Member Nagy said she would appreciate that in the future because that definitely seemed to be a problem, especially the people who are trying to go straight, they don't know whether to go straight or left and they are confused.

Mayor Landry thanked Ms. Chehab for the very informative presentation.

2. Existing Shared Services Inventory Report – Plante & Moran

Pam Antil introduced Ms. Christine Andrysiak, senior manager with Plante and Moran, she is also a resident of the City of Novi, and she took special care in doing this study for us. This was one of the objectives that were identified during the January strategic planning session; Christine gave a short overview.

Ms Andrysiak gave a little background with the binder of information that was provided to Council last week. Looking at shared services, to give a little background, is really a hot topic today given the state of the economy in Michigan and really having communities look at preserving the level of service that they are currently providing to their constituents and potentially looking at ways to improve service to their constituents. As times are getting tougher there are a lot more looks at shared services providing services jointly and actually consolidating services between communities. The Governor in her budget proposal, as well, identified cities, villages, and townships that share services could potentially get some additional revenue sharing dollars. She didn't believe the details of that program had been made available to date, but definitely there were some possibilities for additional revenues to the City and looking at shared services. As part of the City's strategic planning process you had identified wanting to look at inventorying all the shared services that you have today. The City does do a significant amount of shared services today and in the binder is an outline of all the current shared services arrangements that you have as well as

existing contracts and agreements that are in place. They identified those that are really formal agreements versus informal agreements. Novi has about 104 shared service arrangements in place today, 44 of those are formal arrangements. As a best practice you would have formal agreements for anything that deal with costs. In terms of dollars it reflects about \$12 million in shared service arrangements, the majority of those being water and sewer and infrastructure type items. She thought in terms of opportunities the City was doing a very good job of providing services jointly or providing services to its neighbors or potentially receiving services from its neighbors. A lot of communities are looking at consolidating services between communities. There may be some opportunity for the City to look toward a recreation authority where you could work with other communities in providing recreation services; she said the City do that informally today by providing services to seniors in other local communities. Depending on the need or the desire of the community you could look at consolidating services. They are doing quite a few studies right now; a lot are a part of the Oakland County program, looking at consolidating services between communities specifically in Oakland County. A lot of the projects fall into police, fire, dispatch services and such. They recently did a study for Wixom, Walled Lake, Commerce Township, and Wolverine Lake looking at consolidating police and fire. In Southeast Oakland, they looked at Madison Heights, Royal Oak, Ferndale, and Hazel Park in terms of consolidating fire. She said the history, especially in rural areas have been doing it out of necessity for a long time and just now some more suburban communities are looking at the possibility. She said the City was doing a great job and there may be some opportunities in the future.

Member Margolis said she had one specific question, a recommendation about that Oakland County capital and cooperative initiatives revolving fund, she asked for more information about that, is it a grant for communities that are interested in researching.

Ms. Andrysiak said it was essentially a grant program, although they wouldn't call it a grant program. It would be that the County is willing to fund feasibility studies by an objective third party to come in and look at service consolidation depending on the topic area. There would be an application form available at the County where you and surrounding communities could get together and submit an application. It would go through an approval process at the County to get funded.

Member Margolis asked if it was limited to any particular type of services.

Ms. Andrysiak said it was for any type, it was not limited. A lot of studies they were currently doing are police and fire but she knew that the County would be interested in looking at other types of services as well.

Member Margolis said her only other comment was to administration. As she looked over the list of additional opportunities it looked like our employees came up with quite a list that they are interested in pursuing, she appreciated that. She said it looked like Ms. Andrysiak identified some efforts that other communities were doing as suggestions for Council in the second list. As direction from her to administration, she would be interested in, number one, she thought there was a huge opportunity for the Human Resource and benefit programs, and she said if they are looking for direction that is somewhere they could get some cost savings. There are a lot of municipalities contracting separately for the same, very similar benefit packages. The recreation authority was also an interesting idea as they looked for creative ways to provide more recreation.

Member Nagy said that she appreciated the report, it was quite involved. She was very struck by the additional opportunities that were provided by the Novi employees. She thought some of the ideas were very good. With the price of gas, she didn't know exactly how things work now, but she thought the shared fuel and/or maintenance between City departments such as Fire, Police, DPW and Schools, would be an excellent benefit that could be implemented now. The Fire Department, she thought was very important to our community, came up with a very good idea about joint purchasing agreements with local communities since they have had fires where Walled Lake participated, it would be an excellent benefit, especially in lieu of the fact that the Fire Department themselves, when looking at the CIP, really needed a lot of equipment. In her estimation they were quite behind. The other suggestions that they made were excellent and she commended the staff and employees of Novi for taking a look at how we, as a government do things, and how we can do a better job at it. Those two areas especially would be something to look at that would be easy to implement.

Mayor Landry said to Ms. Andrysiak, as you pointed out, the subject of shared services was really quite the buzz these days since the governor laid out that she was proposing additional funds. He asked if he was correct that there had been no specific state funds set aside for any shared services.

Ms. Andrysiak said at this point in time yes.

Mayor Landry said to the general public watching this, the governor is putting this out there and that is wonderful and they are rightly so saying, what are we doing in Novi to qualify for this. First of all, no money has been put aside, correct, by the State of Michigan.

Ms. Andrysiak said to my knowledge yet, yes, she said it was something under discussion.

Mayor Landry said that as he looked at it, it looked like we were doing a good job. He asked Ms. Andrysiak, as she went to other municipalities, how are we doing in Novi with shared services.

Ms. Andrysiak said that Novi was doing a great job all in all. She thought some of the key things we may want to pursue again, but it is pretty radical if you are talking about consolidating full services, whether it is Police, or Fire, or DPW. That is not necessarily what has taken place yet. She thought people were studying it right now, in suburban communities, but overall the city is doing a very good job.

REPORTS

1. SPECIAL/COMMITTEE - None

2. CITY MANAGER - None

3. DEPARTMENTAL

a. Novi B.A.T. (Business Assistance Team) Outreach to Small Businesses

Mr. Pearson said while Cindy Uglow was coming to the podium, this was an opportune time, six months into the calendar year; the City Council followed a recommendation we had for creating a Business and Neighborhood Relations Group. Cindy Uglow and the Small Business Outreach had been added to her portfolio with Neighborhood Relations. She had done a fantastic job from day one and one of the fruits of that has been the Business Assistance Team that we have had a lot of help on but Cindy has been at the core of that. He wanted to share that with Council.

Ms. Uglow said during one of her Oakland County Business Center Classes, it was brought to her attention that cities such as Rochester Hills, Royal Oak, Berkley, Wixom to name a few had started a BAT program. BAT stands for Business Assistance Team. On April 16 of this year, the City mailed approximately 900 packets to our small business community (defined generally as up to 20 employees) explaining this program and received 34 responses for the team's assistance. The City of Novi's team represented expertise from the private and public sector for small business owners to help themselves. Team members consisted of representation from Oakland County Business Center, Service Corps of Retired Executives (SCORE), National City Bank, for general financing, Chamber of Commerce and herself with the assistance from Matt Pegouskie, Community Relations Coordinator. To date, the team (with their expertise) has visited 17 of those 34 small businesses addressing business related issues including, but not limited to the evaluation of potential product, service and initiatives. These Novi businesses vary from insurance, cosmetics, printing, medical and auto repair. They serve as an informational and

networking resource, sounding board and generally assist the business to be as competitive and successful as possible. This program is complimentary and all information and discussions are strictly confidential. No business development questions are allowed by the private sector team members. There is a team captain for each meeting and is responsible for taking notes. These meeting highlights are then put in a follow-up letter after the meeting so that the business owner shouldn't be concerned about remembering what was discussed. Common themes have been business plans, or lack of, defining who exactly their customers are, networking possibilities and marketing versus advertising. This positive and pro-active program for the small businesses is only the beginning and addresses a few of the Economic Development Goals and Objectives by City Council as adopted on December 4, 2006; namely, retain , working cooperatively with partners, and sharing information with the community.

Member Margolis said she appreciated Ms. Uglow taking the initiative on this because it was a wonderful idea not only to encourage businesses but also to keep that relationship with the businesses. She asked if we were doing any surveys with the businesses after to see if they appreciated the information they got and to follow up.

Ms. Uglow said actually a survey/picnic. They have a reunion picnic at Lakeshore Park and will be sending those out. They have the last 17 businesses scheduled for July 28. At that time they will be scheduling the picnic. They can network together and share information they received from the meeting.

Member Nagy said she noticed Ms. Uglow was encouraging people to go to Novi.org but one of the things she thought about as she read through it was a lot of associations have newsletters and they look for advertising, they have anywhere from 6 to 8 publications a year, it depends, they are really cheap. As an example, there was a plumbing company that advertised in hers and they get a lot of business. She said she would encourage that too because it is very cheap advertisement and since all members of the association, at least that she knew of, got the newsletters, it was a good form of advertising.

Mayor Landry said that he thought this was a wonderful program. He thought it was something they can present that other municipalities don't, they should, and he commended the entire administration for this. There was nothing but good to come out of it. It was wonderful.

Ms. Uglow said thank you and that they have set a record from all the cities, including all of the BAT programs, Novi has achieved the highest participation.

b. Master Plan for Land Use Areas of Focus for Review

- **Southwest Quadrant Residential Corners**
- **Novi Road/I-96 Interchange**
- **Special Planning Area south of 12 Mile Road, west of Wixom**

Mr. Pearson asked Steve Ruple and Barb McBeth to come up and said the Planning Commission had been working with the City Staff in examining 3 specific areas for reviewing our master plan for land use. We were not going into this process predetermining that there will be a change, however, there has been enough activity, inquiries about these different areas that warrant an examination. At least two of these areas were identified in our master plan for land use for future studies. He wanted to provide an opportunity to check back with Council and give that outline.

Barbara McBeth said there had been a number of inquiries from property owners for land uses that were actually inconsistent with the master plan for land use that was adopted in 2004. Given the frequency and similarities of these inquiries there had been an effort to finalize recommendations for areas that were left to be reviewed from the 2004 master plan update. The Planning Commission recently passed a resolution to open the master plan for land use for further study for selected limited areas. The purpose of this discussion was to outline for City Council the process and to seek any input on the process as we embark. It has been noted that there was not an apparent need or requirement to amend the master plan at this time, but it is recommended that the master plan be reviewed for any new information or developments that have occurred since the plan was adopted in 2004. While the master plan is now open for study, it is permitted within the proper notification requirements of the State and it is the intent of the Planning Commission to focus on three areas of study. First in the southwestern quadrant, north of 8 mile, south of 10 mile, east of Napier, and west of Beck Road. Certain intersections in that area are all master planned for residential and we are getting some inquiries for non residential uses there. The second area for focus was near the interchange of Novi Road and 96. There were questions about the land uses in that area and one area that was left open on the master plan was the downtown west designation there. And finally, the area south of 12 Mile Road between Napier and Wixom, this was an area that was identified in the 2004 master plan for land use as a special planning project area number 2. For the last several weeks the planning division of the community development department had been preparing and reviewing maps and data and historical review of previous Novi master plans with the Planning Commissions Master Plan and Zoning Committee along with the required process for amending or reviewing the Master Plan. There was a suggested work plan and a list of contents of the possible plan that was distributed to the Planning Commission as well as the City Council within the last couple of weeks. Notices have already been sent to the surrounding communities and utility companies in Oakland County; giving those entities time to comment on the plan if they so choose. As was done with the 2004 plan, it is anticipated that much of the back work can be completed in house, using studies and data that will be collected by city staff including the land use and zoning data, recent census information, commercial land use facts and OST land use facts reports that were just recently updated in March of this year, the updated fiscal analysis and other

reports that were either prepared or collected by City staff. Staff recommended and will request the use of independent expertise provided by an outside consultant for technical and professional assistance including the retail needs study, an industrial needs study, office needs study and residential needs study. Additionally assistance is requested for the targeted areas in terms of the update of the thorough fare analysis. Staff is preparing a request for bids anticipating future City Council action and consideration of using an outside consultant for this work.

Mayor Pro Tem Capello asked Ms. McBeth why our staff couldn't do that as opposed to going to outside consultants.

Ms. McBeth said that they felt they could do much of the data collection and background work that was needed; they had done quite a bit of it in the past. With the 2004 plan, much of that was done in house as well. They would like to rely on the outside expertise of a traffic consultant to assist with the thorough fare analysis and to help provide some independent views for those needs analysis statements, this they feel would be crucial and important to the questions that had come up recently.

Mayor Pro Tem Capello said that Ms. McBeth didn't answer his question, she answered by saying that the City was going outside, but why? Why don't we have within our staff, qualified people except for the traffic to do that?

Ms. McBeth said that she thinks they could do it in house if the City Council chose for them to do it that way. They have had recent change over in the staff members in their department. They are trying to keep up with the recommendations of the SIKICH report to keep their reviews timely. She said they are really just requesting the assistance of an outside consultant to provide a fresh look.

Member Mutch said to follow up on that, he was concerned about the scope of section 5, which seemed to be the bulk of the consultant work, in terms of the studies and the notation here for the various studies indicated that they are going to be city wide studies and reports, he asked her to clarify that in terms of the scope.

Ms. McBeth said they really wanted to focus in on the three areas that they identified in that information, as well as this evening. The Planning Commission has already began discussing the fact that we can not just evaluate the retail needs of the southwest quadrant by itself. That would be important to look at in one sense but it would also be important to look at the City wide land uses that relate to retail and the retail uses that we have. In the past, City Council has been concerned about taking the businesses from the established retail or commercial or office areas and reestablishing new areas in a different portion of the community. That would be one of the concerns as well. They wanted to

make sure the city as a whole was looked at but focus the needs on those areas in particular.

Member Mutch said his follow up was that the current Master Plan was completed in 2004 and that didn't happen over night, it took a couple years. From his prospective what had changed to such a degree in a 4 or 5 year window that they would need that extensive of a review to address what he saw definitely with the 2 areas to the north, but even the south west quadrant. What significant changes had we seen that would justify that scale of review? He said he could see doing a commercial need assessment in the southwest area to update what was done in 2004 but going city wide seemed excessive. His concern was the time and the cost involved. If you looked at some of the components, industrial needs and office needs and if we are talking about the two study areas closer to I-96, those are relatively small, not only small in area but in the scope of the city's entire inventory of those industrial and office properties. The M-5 corridor dwarfs anything that would be going into either of those locations. We were going to do a City wide study where the impact of the M-5 corridor or the impact of the West Park Drive corridor was going to completely skew the results in terms of these specific areas. He said they seemed a little bit broad and when they brought something forward to Council, a better justification for that broad of a scope which to him seemed like very specific areas that needed to be addressed and the fact that it has been a relatively small time frame since they had last done a fairly significant analysis through the last master planning process. He understood some of the goals are to really nail down those areas in case there are concerns in the future, but they also had to balance that with the cost involved. His only other comment was the importance of community input, particularly with the whole southwest quadrant about commercial, as Mr. Quinn could attest to, this had been a 25 year discussion in the City and a lot of people had put a lot of time and energy into maintaining that vision of that part of town and any significant change in that is going to need a lot of discussion and a lot of community input. Not only from residents from within that 4 square mile area, but the adjoining areas to the north and the east and even into Northville and Lyon Township depending on where some of these locations for commercial are proposed. Again, when the additional information comes forward he would be looking for a strong community input process; he saw some indication of that but it is going to be important to insuring that whatever the final product is really has community buy in so that everyone is on board with what comes out of the process.

Member Margolis said to follow up about the needs study, when the master plan was done in 2004, how were the studies done at that point. Where they done internally or by outside experts?

Ms. McBeth said they were primarily done in house, that was another reason why they were thinking at this point, three years after those studies were completed, that it would make sense to get an outside perspective, see if the staff and

Planning Commissions view previously was the right view or if there was something we were missing, some additional expertise that might be needed.

Member Margolis asked for the short form of the process the staff went through by doing that study in house. How would that differ from a consultants study?

Ms. McBeth said that one thing the staff has been keeping up to date is the studies that were done for the retail analysis as well as the OST analysis. Every winter that was one of the projects that they worked on to keep those updated. It would be taking that base information, analyzing it in terms of the current population, changes that might have taken place with the existing land uses since that point. Taking a look at the surrounding communities as well and seeing what kind of activities took place there, any new trends or things in the market place that we might have missed.

Member Margolis asked how that process might differ if there was an outside consultant doing it this time.

Ms. McBeth said they would take a fresh look at it and have a slightly different perspective on how to do that, it is the kind of thing where planners and demographers take a slightly different take on things, and have a fresh look at things. We would go out for a request for proposals if City Council so inclined and they got some information back.

Mr. Pearson said one thing they would be strong at is mirroring or reporting on what is there, we have seen the retail analysis, the OST study and a lot of paper that analyzes and categorizes what is there currently. We are probably not as good at market research and asking what the potential is, what the service area is for different kinds of retail. That would be something that outside expertise, with site consultant experience would be better apt to say this market is saturated, gives us some general parameters for this or that. That would be his distinction of what we do well opposed to what someone else might do better.

Member Margolis said she would like to see that come back but that was why she asked the question about 2004, if that kind of in depth study wasn't done at that time, she would be very interested in looking at that because someone's specific expertise in that area would bring a prospective.

Member Nagy said that her comments were not intended to criticize because she knows that a lot of preparation went into presenting that. As one of at least three that worked on the master plan, it was not a one year process; it was over a number of years and varies more than one commission. However, one thing she noticed is that when she was sitting on the Planning Commission, she asked for all the studies, dates, and amounts for the last 5 to 10 years, and at that time Assistant City Manager Pearson provided it to Council. One concern she had about doing all the analysis through consultants was the fact that they have a lot

of studies and spent a lot of money. Those studies were not implemented. One study that was beautifully drawn and given to them in booklet form was Grand River and Ms. Lemke, at that time contributed a lot to that. The problem was that was beautiful and wonderfully done but it had not been implemented. She had concerns about how much they were going to do. The last Master Plan was completed in 2004, it is only 2007, and she thought her greatest concern was the changing demographics. Even Novi's demographics are changing. She understood why they would want a consultant for that but they had already talked about thorough fares. She thought there was already a study done by the DPW about sanitary sewers, and water and storm water that was just approved. She thought the people in those departments would have a lot of expertise on that. She said a lot of it would be incumbent upon the fact that our economy was not doing well. There was office space that was available in every city, with regard to the need and the actual amount of people leasing she thought was interesting. She believed that the fiscal analysis and cost benefit analysis was another thing, when she was on Planning she wanted a fiscal analysis and they did one when she got on Council, which she appreciated. The fiscal analysis that was done in the first or second year she was on Council to what is going on now and their projections were based on continued growth. She thought that would be an interesting analysis although she wasn't sure how they would benefit at this point because of the state of affairs in Michigan. She would like to echo Mayor Pro Tem Capello and Member Mutch in the fact that she would like to see some studies done in house plus there was so much information already contained in studies, they might be somewhat out dated but she thought they could be up dated. She said they really have to look at the demographics; Novi is changing just like all other cities. This was quite an undertaking and she would like to see, as well, some public input as expressed by Member Mutch. She thought that was important. She also thought it was important to look at the southwest quadrant because the people in the southeast area were up in arms because Farmer Jack was closing, and it was the only one in that area. You are right to look at how many miles that serviced. She would like to see more in house than hiring of consultants. Looking at the Planning Commission agendas, she didn't see the same volume as there was 2 or 3 years ago. She appreciated the staffing changes and that she was trying to keep up with everything but she would rather see it extended out than to spend more money on a lot of studies that never got used.

Mayor Landry said that it is laudable to be cost conscience and try to do things in the least expensive manner, however, when you are talking about a zoning ordinance, the best way to defend your zoning decisions, both decisions on rezoning and on the master plan and on initial zonings, is to constantly review those decisions. When you are in a court it is very powerful if you are able to present evidence that you are reviewing your zoning ordinance, not only in house, but that you are hiring professionals to come in and take a fresh look and you are not only relying on your own in house review. Sort of like, the fox watching the hen. If you can step into court and say and present evidence that

periodically you go outside, hire a consultant to come in and look at your zoning ordinance and master plan that is a very powerful tool. He thought the notion of doing a lot of this in house in conjunction with an outside consultant was excellent. The ultimate goal is to obtain the strongest zoning ordinance we can have and the most defensible in court. He thought the combination was the best way to go and left it to Planning to decide what we could do in house. Perhaps what had been done in house before now needs someone on the outside to look at this aspect of the zoning ordinance because last time it was done in house. It was not always the matter of the study sitting on the shelf in order to keep your zoning ordinance and your zoning decision making process defensible. It has to be under constant review. He thought it was a wise idea now that we have had several inquiries for rezoning in those areas of the city to take a look at it both internally and externally.

4. ATTORNEY - None

AUDIENCE PARTICIPATION

Matthew Quinn, 21995 Meridian, said Member Mutch brought up a very good concept which struck his memory about the river walk that went around the ring road. Novi received a national award for a river walk design, done by Linda Lemke, with Rod Arroyo's input and maybe Brandon Rodgers. Mr. Quinn said back in his last few years as Mayor, '91 and '92, it was on the shelf, a beautiful plan with walkways and how you can really use the river. That went with the later discussion which Member Nagy mentioned. There are a lot of great plans but you have to remember to go back and find them and look at them because you can use them again. On the issue of the master plan on the update special planning area number 2 which is the Wixom Road 12 Mile area, his personal opinion was to not spend a lot of money on that. Within the next 2 weeks they will have finalized their rezoning application for the St. Catherine of Sienna girl's high school for approximately 700 to 750 young ladies and also the Pellerito residential development that will go along with it. Council will have made a decision long before any master plan study is finished on that area. The other thing, it is nice, if you do the master plan update that they will send notices to the surrounding communities and you might send surveys out. He wondered, the law never seems to require it, but why doesn't Council send a notice out to the property owners in the area where they were looking to change the master plan. What happened in '94 and the reason there were some special development areas were, those property owners never knew what was going on until the last minute, and then they asked their attorneys to come in and start dealing with the Planning Commission and the City Council. That was why those were left as special planning areas. He asked permission to reserve his comments on the Hummer of Novi issue when Council goy to that point.

Mayor Landry said since he represented the applicant's he could speak at that time.

CONSENT AGENDA REMOVALS AND APPROVALS – None

CM-07-07-233 Moved by Capello, seconded by Gatt; CARRIED UNANAMOUSLY: To approve the Consent Agenda as presented.

**Roll call vote on CM-07-07-233 Yeas: Capello, Gatt, Margolis, Mutch, Nagy, Landry
Nays: None
Absent: Paul**

- A. Approve Minutes of:
 - 1. June 18, 2007 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of July 2, 2007 in the Council Annex for the purpose of discussing pending litigation, labor negotiations and privileged correspondence from legal counsel.
- C. Approval of sole source Archonix Maintenance and Support Agreement for one (1) year for Police Department C-PLIMS (Comprehensive Public Safety Information Management System) software in the amount of \$42,682.00.
- D. Approval of contract extension to URS Corporation to provide additional design engineering services for the 2007 Neighborhood Road Program in the amount of \$21,000.
- E. Approval of the 2007/2008 Oakland Livingston Human Service Agency (OLHSA) contract for the Senior Center Coordinator position in the amount of \$45,797.
- F. Acceptance of Conservation Easement for Crosspointe Meadows Church, located on the east side of Meadowbrook Road, south of Thirteen Mile Road, covering 22.226 acres of woodlands and wetlands.
- G. Acceptance of Conservation Easement for Brooktown Village, located on the south side of Grand River Avenue, between Meadowbrook Road and Novi Road covering 3.978 acres of woodlands, wetlands and wetlands buffer.
- H. Approval of salary increase for the City Clerk in the amount of 3.5% beginning July 1, 2007.

- I. Approval of Claims and Accounts – Warrant No. 748

MATTERS FOR COUNCIL ACTION – Part I

1. **Consideration of Zoning Ordinance Text Amendment 18.218, to amend Appendix A of the City of Novi Code of Ordinances, Ordinance 97-18, as amended, known as the City of Novi Zoning Ordinance, at Article 10, EXPO, Exposition District to clarify the intent and permitted uses within the district. First Reading**

Mr. Pearson asked Ms. McBeth to describe the issue. He said it was an update to the EXPO zoning district language. It expanded the permitted uses. It was a positive recommendation from the Planning Commission that held a public hearing and reviewed the text.

Ms. McBeth said that was another issue where over the past several years they received a number of inquiries over the uses permitted there, the EXPO district, not to be confused with the EXO Overlay. It consisted of an area primarily surrounding the former Expo Center. Staff and the Planning Commission discussed the need to update the zoning ordinance language for the district every since the EXO Overlay district was conceived. Discussions had primarily involved only the long term tenant of the building, and they understood now that the tenant no longer had an interest in the property. There had been some discussions with the existing owners of the site and possible uses within the district. The text that was presented referenced the light industrial district, which had always been referenced in the EXPO district. The attached sections of the light industrial zoning district showed that there were a number of uses that would be permitted in addition to the exposition uses that were also recommended to be continued there. Among the permitted uses in the light industrial uses were general and medical office buildings, research and development activities, warehousing and wholesale establishments, light manufacturing uses, trade schools, laboratories, green houses, public utility buildings, and public or private indoor or outdoor recreation facilities, and uses that are similar to those. The Planning Commission reviewed this and held a public hearing and recommended favorable consideration to City Council. They pointed out that the intent section was proposed to be modified to include the light industrial uses it had been and will continue to be considered principle permitted use in the EXPO district permitted to certain standards. The language removed a reversion clause that was associated with those industrial uses. The proposed language clarified the approving body for the site plans in the district based on the use proposed, that would be consistent with the typical approval process that are detailed in the other sections of the ordinance and it also clarifies the submittal requirements which were a little bit unusual.

matter to the Planning Commission for any type of an amendment. He said it was their belief that the original development agreement that was later superseded by the SDO agreement was plain on its reading. It described the dealership in its general use as a Hummer dealership, then it went on to describe what could happen on the premises which was the sale of new and used automobiles. Evidently throughout the years, the City was under the belief that somehow his client was not allowed to sell any used car that he would like off that property. He said that from day 1 that dealership would not have been there if his client understood that he could not sell other used vehicles, other than Hummer used vehicles on that site. He could not make a living only selling one type of automobile. He said he would venture to say, this was a guess, that no where in the state of Michigan or in the United States was any dealer limited to selling one type of vehicle from a place of business because it doesn't make since and can not exist. He said that particular dealership sells 20 to 25 used cars per month from that site. They chose to sell high end used vehicles, larger Suburban's, Tahoe's, and Porsches, because it fits in with the scheme and concept of a Hummer dealership which is considered an upscale automobile truck dealership. What brought this all on was that his client, with a used car manager, put out an older used car on a display pod, that used car manager had been fired because that was even in violation of their own internal rules that they had placed. In his discussions with Mr. Schultz over the last year, maybe longer, they had a difference of opinion as to what that agreement said. His client's first position is that nothing needs to be done, he can live with the agreement the way it is, which meant he could continue to sell Hummer cars, and other types of vehicles also. His client had committed to him from that point on that on the display pad he would put nothing more than what they considered to be high end cars. In his mind it could affect the value of his dealership, if it ever had to be sold, if there was any limiting language anywhere recorded against the property. He said there were two options, with Mr. Schultz and him passing language around, at one time Mr. Schultz gave him a proposed amendment to the SDO that said, they were allowed to sell used cars there, but they could only be used cars that were taken in trade for the sale of a Hummer vehicle. Again, economically that could not happen. To respond to his proposal, he made a proposal that, as a clarification of the earlier agreement that his client agreed to only put used vehicles of a sticker value of \$20,000 or more, out on the display pod. About a year ago he responded to one of the City's letters with an aggressive letter, with not a good tone to it, because he was so upset that would come forward. Number one they didn't think it should go anywhere, they could live by what it said, their interpretation of it. If for some reason the City wanted to spend more time and go to a public hearing through the Planning Commission and have it come back, they would like Council's recommendation on their draft to go to the Planning Commission.

Mayor Pro Tem Capello said he would start because he was the one that kept pushing the issue when ever he saw the used cars parked on Grand River Avenue outside the Hummer dealership. He said he spent a lot of time working with Mr. Quinn's client to work with a language of the SDO to allow the Hummer dealership at Grand River and Meadowbrook, the gateway to our City; they just got done putting in a substantial amount of time working on the gateway ordinance so they had something to be proud

of. A car dealership was not the right thing to put at the entrance way to the gateway at Grand River and Meadowbrook. Only because it was a Hummer dealership did they allow it. Only because of all the restrictions did they allow it. He said after all the time he put in, and he put in more time than anyone else sitting up there, directly with his client, it was very late in the game that he realized they were going to sell used cars there. He was always told they were just going to sell Hummer's. When he found out there were used cars, he was told, they have to take the cars in on trade so they have to sell them. That was where the language would only allow the sale of used cars, his client said you would never see them, don't worry they would be in the back lots, all you would see were Hummer vehicles from the road. He said every time he saw a used vehicle out there that was not a Hummer he called Tom Schultz and told him to give his client a ticket that continued for a period of time. At the beginning his client would move the cars and put the Hummers back out, but lately he was not doing that so that was the reason this came before Council. If there was confusion in regard to the language, whether or not his client could take in used vehicles and sell them from that lot, he was not sure. He admitted that when it was passed, he was fully aware he would sell used vehicles from that dealership, but he was also promised by him that they would never be displayed out in front, especially on Grand River Avenue. He could live with language that would allow the sale of the used vehicle, he understood the sales probably even a little more than what they take in and that was still ok, given the condition of the economy. He thought they asked for too much, especially for him to now say they want to advertise their used cars out in front and have a typical car dealership as they have to the west down the street which he thought was a black eye to the Grand River area they are trying to build up.

Member Nagy said she had a different take on it. She understood the amount of time Mayor Pro Tem Capello spent with the dealership, however, she didn't think it should have gone in there in the first place but they all had different views. They are where they are and she thought it was unreasonable for Council to possibly in any way prohibit the value of someone's dealership, their ability to make a dollar and ability to restrict what would go on that pad and what would not. She said they talked about gateways, she never thought of that area as being a gateway to the City, she thought of the outer corners, 8 Mile and Haggerty, 14 Mile and Novi Road. They had never asked or made an agreement of any dealership in the City to do this. If they wanted to put a Lincoln Navigator on their pad, who would it bother? Most people were whizzing past there and they see the Hummer and maybe they look at the cars when they are at the light, or they look at what is on the pad, but she didn't see how it would offend anyone. They would somehow in some way try to restrict the man from displaying a used vehicle, and in her mind it interfered with his ability to earn a living. She didn't think it bothered anyone, she hadn't heard any complaints from any residents in the City of Novi that whatever is on the pad bothers them. She said there were dealerships all along the area up to Haggerty, there were all sorts of displays of cars everywhere. She thought to single that dealership out was unconscionable and she was not sure it was legal. She understood reading through the letters, but it seemed petty on their part to try to do that. She didn't understand why it would bother someone if there was a used SVU Lincoln Navigator; obviously they were not getting beat up old cars as trade-ins in the first

place, why it would bother anyone and why they wanted to make a big deal out of it is beyond her. She thought they were trying to restrict the man's income, or the dealership's value. She thought they were interfering in a way that, as a Council, they shouldn't be doing. She thought the language that was in there, she understood that two attorney's could argue about all the language there was in the world, but why they would want to do this and spend the time monitoring what was and what was not on the pad, when whoever does this monitoring could spend their time more valuably than that. She said she was not in favor of restricting the people in any manor.

Mr. Schultz said that Mr. Quinn was right; they had a disagreement about the language of the agreement in the plan said. There were words in the plans which were approved by the Commission and the Council that talked about new and used Hummer vehicles in limiting language. If the intention was that it was appropriate for there to be something other than Hummer vehicles, they had to change the words, or they had to construe them in such a way that they didn't have any limitation the \$20,000 vehicle number that Mr. Quinn threw out there would be an arbitrary thing, there were no standards for it. If Council wanted to accept the argument, the appropriate thing is to change the language, and than start, if anywhere, at the Planning Commission. He understood Mr. Quinn's point that they didn't agreed to that, but the language is what it is, they had given their opinion. He didn't think they could just leave there thinking there was an agreement on a \$20,000 used vehicle on the pad and up, there was no language that would put that restriction in there without action by the Commission or Council.

Mayor Landry said he would place his comments on the record. There were two issues going on, first of all, what did the agreement say. There was a contract entered between two parties, both represented by Council, what does it say? If they believe it says they are limited to Hummer vehicles, the second issue was what do they do about it? The applicant didn't want to be limited to Hummer vehicles. With respect to the first issue, what did the agreement say as he read the agreement, it said, they were limited to Hummer vehicles. If he read part one, it said the project entailed the development of an automobile dealership facility that supported the sale and servicing of General Motors Hummer franchise vehicles. Paragraph 4 of that same section said exclusive sale of new or used vehicles as permitted under the agreement, subject to and in accordance with all the specifications and the conceptual plan and approved site plan. When he looked at the notes to those plans, it said intended use, the proposed development would be an automobile dealership selling and servicing new and used Hummer brand models. To him as he read it, it was limited to Hummer vehicles. That was issue one, his interpretation was that they were limited to Hummer vehicles. However, the applicant did not want to be limited to Hummer vehicles. They should treat the applicant like they treat anyone who wanted to change the language in a special development option. It was their option to ask the City to do that, in order to do that they should refer to the Planning Commission and let the Planning Commission do their role of having the hearing, flushing the issues out, letting the applicant make a lot of the arguments that Mr. Quinn had made about business and necessity and those arguments which may be valid, let it come back before Council, let them consider them, it may be very valid that they may not want to limit them to Hummer vehicles. That was

something that was different than what does the SDO say. To him it said you were limited to Hummers. His take was that they should send it to the Planning Commission, let them do their job, let it come back to Council, and let them have the ultimate decision on whether they wanted to change it or not. If they were going to the Planning Commission it was the fielder's choice, if the applicant wanted to send his language it was fine with him. It was their choice; they were the ones coming to Council asking to change the language. His recommendation was to send it to the Planning Commission with Mr. Quinn's language since he was the one asking for the change.

Member Gatt said that he admired the way the Mayor put things into perspective and brought a very difficult subject down to the ability for everyone to understand. He thought it was a disagreement between two lawyers, and their interpretation of a contract. He agreed with the Mayor that it should go and they should change the contract or agreement that would read that the Hummer dealership could sell used cars. If it mattered to Mr. Quinn he was fully in support of his concept. He thought the dealership should be able to sell any car they want. They shouldn't limit their ability to sell used cars. He agreed with the Mayor that it had to go to the Planning Commission to get cleaned up.

CM-07-07-235 **Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY: To refer the matter to the Planning Commission, propose a second amendment to the SDO agreement with Hummer of Novi located at the corner of Grand River Avenue and Meadowbrook Road to allow the parking of non-Hummer used vehicles under certain conditions and in certain locations and that Council would refer Mr. Quinn's letter to the Planning Commission.**

Discussion

Member Margolis said she agreed that had to go to the Planning Commission and she is always appreciative of the Mayor's straight forward approach to it. She said she didn't have a problem with it being non-Hummer vehicles, she understood in this type of environment why that would have to take place. She appreciated the applicant's offer to limit it to a certain class of vehicles, that was something she was interested in, but she didn't have a problem with it.

Roll call vote on CM-07-07-235

**Yeas: Margolis, Mutch, Nagy,
Landry, Capello, Gatt
Nays: None
Absent: Paul**

AUDIENCE PARTICIPATION

Chris Pargoff, 46480 West Ten Mile, stated he strongly objected to the proposed sidewalk project. His most pressing concern was the safety of any pedestrian using a path within 5 feet of a 45 mile per hour roadway. It was not a "preferred" situation as conveyed to him by both the City Engineer and Planner. He believed the construction was a taking of his wife's property as such compensation is due to her. In addition, there is extensive landscaping that has been placed in jeopardy of dying by the project. The project is also constructing a nuisance that will be encumbrance upon the property. This is sometimes called an attractive nuisance but any concrete is hardly attractive in comparison to the current landscaping. The path is an encouragement to vehicular traffic to jump the road or get into Roma Ridge deceleration lane that much faster. The current bio-swale is a far more effective deterrent to this lane jumping. These attempts to by-pass congestion on Ten Mile are a common occurrence. This lane jumping might also endanger anyone using the path. This sidewalk will also cause an increase in the possibility of nuisance claims and possible damage to his wife's property, since it will be much easier to jump the road and reach the fence. As he indicated to the Mayor and City Manager the path also creates a problem for snow clearance off his driveway. There will be nowhere to put the County snow that is so deposited from the Ten Mile clearance in his drive way. He is as civic minded as the next citizen, but he did not feel it was his responsibility to store the salt filled snow on his wife's property. The path did not meet the criteria of the City of Novi design and Construction standards in that it is below the roadway, contrary to Ordinance 11-279. (a). This section requires a "Pedestrian safety (in this case an un-safety) paths shall be flush with the abutting curbs or paved surfaces." The proposed path is clearly below the surface of Ten Mile. This depression of the un-safety path makes is easier to access by vehicular traffic. Finally, he spoke to his neighbor's property. The Volz/Windmueller property contains several large trees one of which would qualify as a Specimen tree under the City Woodland Ordinance if it was so designated. The path cannot fit and save this 36 inch Maple. The buttress roots of the tree are only seven feet from the back of the curb, and any construction in the area specifically digging down six inches in the root zone will destroy the vast majority of this trees roots. It will doom the tree to an agonizing death. He served as the City forester for ten years and was involved in several projects to save those trees. It would be devastating to see them destroyed for a project that was unsafe at any speed. He asked that the Ten Mile gap was dropped from the project.

Ron Windmiller, 46400 Ten Mile, he said he had a land mark historic home in Novi, the Simmons home. He said he was not opposed to the sidewalk project in principle, he thought it was a good idea to connect the dots, so to speak, with the sidewalks. He was concerned about his trees, not only from the standpoint of losing them, but if they do become so damaged that they become a hazard, there is a tree on this project that would be taken down on his property that is dead, he would happy to see that go because he was constantly picking up branches out of Ten Mile. The trees that they were going to "protect" and save as a result of

Stowmwater Management and Watershed Stewardship Committee. Wayne Wrobel was appointed as the Planning Commission member to the Zoning Board of Appeals per the Michigan Zoning Enabling Act for a term of one year.

4. **Approval to award a construction contract for the 2007 Sidewalk Program (along parts of Ten Mile Road, Nine Mile Road and Meadowbrook Road) to Koala-T Construction, the lowest qualified bidder in the amount of \$180,902.**

CM-07-07-238 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY: To approve to award a construction contract for the 2007 Sidewalk Program (along parts of Ten Mile Road, Nine Mile Road and Meadowbrook Road) to Koala-T Construction, the lowest qualified bidder in the amount of \$180,902.

Discussion

Member Mutch asked Mr. Hayes if he would address some of the concerns brought up by the audience members during the audience participation, specifically Mr. Pargoff. He had a couple points, the issue of the Design and Construction standards with the location of the path and the second point he had as well as the speaker that followed him in terms of the impact of the path on the roots of the trees and the distance of the path from the roadway along that stretch.

Mr. Hayes said ideally for a paved section without curb, they preferred to have the pathway at least twelve feet away from the edge of the pavement. In this case due to the constraints they have the edge of the pathway will be approximately seven feet from the edge of the pavement. There would be a gravel shoulder as well as a ditch that would be between the edge of pavement and the edge of the five foot wide pedestrian pathway. There were concerns with having that standard met; in this case, because there was a ditch, it added a little added matter of protection. Concerning the trees and the roots, they had done their best to align the path to avoid the trees as much as possible. There were some trees that by necessity had to be removed, the ones they were trying to preserve; they would do their best to save as much of the root system as possible. If by chance, the conditions were such that they had to get into the root ball and it looked like it could potentially cause further damage, they would address that at that time.

Member Mutch said in terms of the question that was raised by the second speaker in terms of the design, incorporating a boardwalk, there had been that at one other location, at Grand River, where there was a large tree and the path was routed around and over that with a boardwalk concept. He asked why that was not considered for this design.

Mr. Hayes said he was not familiar with that type of application and had not seen it himself. It was not part of their standard.

Member Mutch said someone did it in the city because it was there between Taft Road and Beck Road on the north side of the road. For whatever reason for that particular tree that was incorporated, he assumed it was to address this type of potential impact. He asked, in terms of the design and construction standard, the offset from the road, was there consideration of the speed of traffic on that road. Ten Mile was a heavily traveled road at fairly high speeds, it wasn't a subdivision situation. He asked if the set back was always the same no matter the speed of the road or if there were some considerations given to those kinds of conditions.

Mr. Hayes said there was some leeway that was given to his office per the ordinance, to account for different speeds. There were no tables that said for 30 miles per hour, if it is uncurbed, it has to be x number of feet away from edge of pavement.

Member Mutch said it was a difficult situation for himself because one thing he wanted to see as the sidewalk projects come forward was to try and address as many of the residents concerns as possible because he had seen past sidewalk projects gets deep sixed because residents concerns were raised and not addressed. The other challenge he had was the other way, from the property owner's perspective. The City has limited amount of space to work with, unless the property owners were willing to work with the City to provide additional right-of-way, or the City acquired additional right-of-way. He didn't know if there were any conversations in that direction in terms of looking beyond the statutory right-of-way that they had and moving the sidewalk on the other side of the tree line in that particular location.

Mr. Hayes said they always try to balance the improvements that the residents may have made on an unplatted parcel, there were residents who have fences and landscaping and all sorts of different plantings, and they tried to avoid those as much as possible. In cases where there was a lot of that, they don't even broach the subject in terms of trying to acquire easement. In this case, there was seven feet from edge of pavement to where the edge of the sidewalk would be. That was certainly a lot safer than what was there. He said right now people have to walk on the shoulder.

Member Mutch said he was familiar with that area and has run into Mr. Pargoff on a number of occasions doing his loops around Taft Road and Ten Mile, and Mr. Windmiller, he had run into the situation walking across his property with the tree branches so that was a concern as well. He had a concern about that particular stretch because of its adjacency to the road. That was a high traffic area, and something was better than nothing, but he would be open to an alternative to get them on the other side. He said that came back to working with

the property owners and what they were open to. If the sidewalk would go in anyways, if the property owners would be open to having it go on the other side of the trees, that would be the preference from a safety viewpoint and a design viewpoint but they had to work within their constraints.

Member Nagy said she was confused with regard to Mr. Windmiller's tree situation. She asked if his tree was by the area that the sidewalk was going. She asked to have Mr. Hayes describe what he meant by his concern of his branches falling on the sidewalk.

Mr. Hayes said there were many mature trees that would be adjacent to where the path would be aligned.

Member Nagy asked if the trees could be pruned.

Mr. Hayes said that he believed what Mr. Windmiller was concerned about was in the process of construction, when they need to excavate before they place the base material and actually pave the sidewalk, they would run into some roots. The question was, were they going to do a significant amount of damage or removal to those roots and if so would that cause future problems with the life of the tree.

Member Nagy said that he did mention the falling branches and then mentioned something about liability. She said she was assuming Mr. Pargoff was correct in the letter that they would be digging down only six inches. She didn't think six inches would get a bunch of roots. She said there were trees they had to do things to in their area as well and hopefully it would not but they had to look at the big picture. She was concerned about the fact the Mr. Windmiller owned a historic home and she would like nothing to impede him from enjoying his home and trees, but she also had to look at the big picture and that something there is better than nothing. She thought the 36 inch Maple, was a huge tree, they had to try to do the best they could and if the branches were low as well they should be pruned up by the Forestry Department because they didn't want branches hitting people in the face or any liability from anyone. She said it was a tough decision but in the long run they were much safer with a sidewalk and she would support the motion.

Member Gatt said that he was very familiar with the area, he lived on the property for three years before the gentleman who spoke. In those days it was a very rural farm land community, and he understood their concerns, but the times have changed and looking at the map there were all subdivisions there now and people need that sidewalk to go from point A to point B. Nobody wanted a sidewalk in front of their house but that is the direction the City has taken and he would support the motion.

Roll call vote on CM-07-07-238

Yeas: Mutch, Nagy, Landry, Capello,

Gatt, Margolis

Nays: None

Absent: Paul

5. **Consideration of adoption of Resolutions Concerning the Acquisition of Property and Approving Declaration of Necessity and Taking for utility easements in connection with the Pontiac Trail Water Main Improvements, between Beck Road and West Park Drive (22-04-200-009, \$21,840; 22-04-100-010, \$2,642; 22-04-100-034, \$32,772; 22-04-200-013, \$2,520; 22-03-101-010, \$9,100).**

CM-07-07-239 Moved by Nagy, seconded by Margolis; CARRIED UNANIMOUSLY: To adopt the Resolutions Concerning the Acquisition of Property and Approving Declaration of Necessity and Taking for utility easements in connection with the Pontiac Trail Water Main Improvements, between Beck Road and West Park Drive (22-04-200-009, \$21,840; 22-04-100-010, \$2,642; 22-04-100-034, \$32,772; 22-04-200-013, \$2,520; 22-03-101-010, \$9,100).

Roll call vote on CM-07-07-39

**Yeas: Nagy, Landry, Capello, Gatt,
Margolis, Mutch**

Nays: None

Absent: Paul

AUDIENCE PARTICIPATION

Roy Szalony, 24164 Brentwood Ct, he wanted to indicate his disappointment that Brentwood Court was not included in the decision to repave, redo, Devonshire and Brentwood Court at the same time. He said it may appear to be a minor inconvenience, but the people of Brentwood Court will be inconvenienced more than just once or twice as a result of this decision. He thought that the Brentwood Court road surface was in bad shape; they would probably get the chip and seal application for the second or third time. He thought it was ineffective and a waste of tax payer dollars. His disappointment was that Brentwood Court was not included in the decision to pave at the same time.

Council entered into Executive Session at 8:49 P.M.

Council reconvened from Executive Session at 10:19 P.M.

6. **Authorize City Manager and City Attorney to finalize settlement agreement and appropriate releases, which includes a partial waiver, with Turnberry for site issues.**

