

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, AUGUST 11, 2008 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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 Crawford, Gatt-absent/excused, Margolis, Mutch, Staudt

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

APPROVAL OF AGENDA

Mayor Landry added #2 to Mayor and Council Issues, comments about the Fifties Festival.

**CM-08-08-131 Moved by Margolis, seconded by Capello; CARRIED UNANIMOUSLY:
To approve the agenda as presented.**

**Roll call vote on CM-08-08-131 Yeas: Capello, Crawford, Margolis, Mutch, Staudt,
Landry
Nays: None
Absent: Gatt**

PRESENTATIONS - None

REPORTS

1. MANAGER/STAFF- I-96 Area, Grand River Avenue to Twelve Mile Road, I-275 to Wixom Road Transportation Study: The Victory Plan

Mr. Pearson said there would be a presentation from Rob Hayes, Steve Rumble and Ara Topouzian. He noted this related to an item that Council had budgeted for in 2008 and 2009, which was to take a serious look at one of the highest potential growth corridors with a lot of vehicular traffic that were major traffic generators. He said it made sense and Council agreed to partner up with some of the people that had various responsibilities in the public and private sector to make sure this was the best long term growth engine for the City of Novi.

Rob Hayes was present to talk about the I-96 Area Transportation Plan/Victory Plan. He said a key component of Novi's competitive advantage was its geographic location, which was critical to not only businesses but also to residents. It gave businesses shorter supply chains and offered residents accessibility as well as convenience. He said enhancing transportation networks within the transportation study area was critical to maintaining the region and Novi's edge. Mr. Hayes said a transportation study was commissioned as a service improvement request as part of this year's budget and so far \$100,000 had been appropriated. He said the study area was rather large and included several major corridors; it included Grand River Avenue to the south, Twelve Mile Road to the north, I-275/M-5 to the east and then Novi's west

city limit and Wixom's east city limits roughly corresponding to Napier Road extended to the north of that to Wixom on the west.

Mr. Hayes said there were several of the corridors within the study area that had the highest vehicle per day counts in metro Detroit. For example, I-275 north of 8 Mile, 180,000 north and south bound vehicles per day and rivaled what was seen on I-696 near I-275, which was close to 200,000 vehicles per day. Mr. Hayes said I-96, which was the backbone of the study had 134,000 vehicles per day and everything was trending up despite the current economic conditions. He said there were several large trip generators within the study area, and most notably the Novi Road retail area, Twelve Oaks Mall, Town Center, etc. Several others were Providence Hospital given its expansion, Rock Financial Showplace and possibly the Ford Plant, if it came back to life. He said the one mile stretch of I-96 on either side of Novi Road ranked one of the highest lane closures per mile within metro Detroit due to accidents or breakdowns. Mr. Hayes said seven out of ten of Novi's high crash intersections were within the study area. So, for all these reasons, he thought it was good to conduct such a study to see what was going on within the study area. He said the goals were to develop a prioritized list of projects that, once implemented, would reduce traffic congestion, improve traffic safety and foster economic development. Mr. Hayes said this was relevant because it was closely aligned to two of Council's goals to improve economic development and public safety. He noted that traffic congestion was the number one problem noted by citizens when the Citizen's Survey was conducted in 2006. Also, it was an over arching priority for MDOT to improve operations within the corridor.

Mr. Hayes said they would conduct the study by mobilizing stakeholders and had identified a group of public and private stakeholders. He said, internally within the City, they had assembled a Venture Team to help carry out the project, which consisted of Steve Ruple as co-lead from Community Development, Ara Topouzian from Economic Development and Terry Whitfield from the Police Department, since public safety was key to the project. He said to get a more diverse set of eyes, Tia Gronlund-Fox from Human Resources and he and Brian Coburn from Engineering were also a part of the Venture Team.

Mr. Hayes said, regarding the private stakeholders, they had talked with the Taubman Group, Providence Hospital, Rock Financial Showplace and ITC and had received various levels of verbal commitments from them to provide technical or financial assistance or both. On the public side, they had several major stakeholders in addition to the City of Novi and the City of Wixom who had indicated they would be willing to participate. He said MDOT would be a huge player in this effort; South East Michigan Council of Governments, Road Commission for Oakland County and the Traffic Improvement Association had all indicated they would, at a minimum, provide technical assistance to the project and possibly financial assistance.

Mr. Hayes said the next step in executing this project was to circulate a draft scope of work, which they had done. They had solicited and received comments from most of the stakeholders so far and had shared that information with Council. He said once they received all the comments, discussed them with each of the stakeholders and had reached a consensus, they would finalize that scope and develop an RFP, Request for Proposal. He said most of the heavy lifting on this project would be done by a consultant and they would rely on a firm that had a lot of transportation engineering experience, as well as planning expertise. Mr. Hayes said they wanted to make sure they had a local presence who would be cognizant of the

landscape being dealt with. They wanted an unbiased approach with so many different stakeholders, someone who would look at everyone's needs.

Mr. Hayes said finally, they would use the QBS process, Qualifications Based Selection process, and would be relying primarily on qualifications and the fee would take a secondary position. Mr. Hayes said he had laid out the various phases of the study. They would have a project initiation phase where the consultant would meet with them, all the stakeholders and the Venture Team and they would finalize the scope and take care of any tweaking that needed to be done.

There would be a data collection phase, which would be pretty substantial. He said there was a wealth of data available through SEMCOG, MDOT and Oakland County. He commented that some of the private entities had also conducted traffic studies over the years and had a lot of data available as well.

Mr. Hayes said next would be forecasting and a lot of computer simulations would be done. They would rely on the consultants to run the different scenarios to model what the future projections would be from now to 25 years out, which was the planning horizon. They would then develop alternatives and evaluate them to come up with a preferred transportation alternative to be implemented. A reporting phase would follow.

Regarding stakeholder involvement, Mr. Hayes said they would offer them the opportunity to be involved in the various progress meetings and work sessions. He stated that public involvement was very key to this endeavor and there would be a public listening session at the beginning of the project so they could hear everyone's needs and concerns. There would also be a series of public information meetings that would be offered to the citizens of Novi and Wixom during the project.

Mr. Hayes stated they would be making presentations to Novi and Wixom City Councils as well as Planning Commissions.

He commented that in their materials was a detailed schedule and they were looking to complete the schedule in June 2009. He said there were several major milestones they had to hit along the way. First, they wanted to have the scope of work finalized and get the RFP out on the street sometime this week, but it would probably be next week by the time he received everyone's comments and reached consensus on the final scope. In late September they would like to award the project to the consultant being selected and receive stakeholder agreements from all the entities that would make a financial contribution. Then the data collection and evaluation phase by mid December, forecasting and all the computer simulation that needed to be done by mid February of 2009 and developing alternatives completed by May 2009. Mr. Hayes said they wanted the final report by the third week of June 2009.

Mr. Hayes said, getting back to the preferred transportation alternative, it would not be one component. There would be several components and several projects would make up what was being recommended for implementation. He said the way the scope of work was geared was short term being one to five years, mid term being six to fifteen years and long term projects fifteen to twenty five years out. Mr. Hayes said 25 years was the planning horizon that SEMCOG used for their regional transportation plan and in order to make projects eligible for

Federal Aid funding they had to follow their format. Mr. Hayes said the major outcome of the report would be that an alternative with a series of projects and cost estimates would be given as well as a discussion of different funding strategies to get the projects off the ground.

Mr. Hayes said he had given Council a menu, although he had no preconceived notions on what the outcome would be as far as projects or different types of projects they might see. He said short and mid-term projects could be as simple as signage improvements within the study area and making some of the intelligent transportation system improvements that were being studied now. It could also be Travel Demand Management plans, which would come up with different alternatives such as park and ride options or expanding the existing public transit system into Novi. He said something as simple as adding turn lanes or accel or decel lanes could also be a shorter mid-term project. He said long term would be making interchange and intersection improvements, widening roadways and doing grade separations or bridges. Mr. Hayes said the key to victory was to maintain public and private stakeholder involvement, as their buy-ins were really needed. He said public communication would be key. He thought it was really key to stay focused on the overall goal of improving traffic safety, reducing congestion and fostering or enhancing economic development as this would help them to stay within scope. He said with these types of studies, it was easy for the scope to creep and get large and out of control, and given the funding that was available and what they hoped to receive from the stakeholders, it was critical to stay within scope.

Member Margolis said even though the focus was on the I-96 and 275 corridors, she asked if some of the study would affect the surface roads in that area on those transportation arteries. Mr. Hayes said yes, the study would look at everything down to collectors, assuming they could secure the dollars they needed to do the full scope. He said if they couldn't do the full scope, they might have to stay down to the arterials. She said she noticed they were not including the 275 corridor in the area they were looking at, is that correct or was it the top part of 275? Mr. Hayes said it was the top part of 275, because that was where a lot of the accidents and congestion occurred because 96, 696, 275 and M-5 all came together there. She said he was talking about a lot of private and public jurisdictions being involved in the final report. She commented she understood the overall goal but when this came back would there be some prioritization by government entity? She said there were a variety of people that had jurisdiction over the roads in these areas. Member Margolis asked if that would be a part of the study that would come back and give Council that information. Mr. Hayes said yes, it would and was part of the reason they wanted to take an unbiased look at things as far as prioritizing because they wanted to keep it as equitable as possible because they were dealing with such a diverse group.

Member Mutch said when the plan was presented to Council at budget time, one of the components that factored prominently in the request was a land use element. He said in reviewing the document provided to them, there seemed to be some discussion of land use in terms of evaluating how land use would impact various road corridors and interchanges. Member Mutch said his expectation, at the time, was something a little more involved as they had talked about a couple different areas in the past year. He said they had talked about the Twelve Mile corridor going west of Fountain Walk to Beck Road, questions about various land use concepts and whether certain zonings in place or discussed were appropriate. He said obviously there were some other large parcels still undeveloped in the area that needed to be addressed regarding land use planning. He said, for example, Rock Financial Showplace had

quite a bit of vacant or underutilized land and Council had talked about the importance of reevaluating that land. He said he didn't see a detailed land use discussion within the scope of the plan and Mr. Hayes had talked about not wanting this to get out of hand. He asked if there had been any discussion among staff to address the land use analysis that was initially proposed, and if so, how did they intend to address them. Mr. Hayes said it was included in the scope as part of the data scan to see what the existing land use plans were in each community. As far as the forecasting phase, that was a critical component to see what types of land uses might be appropriate that differed from existing land uses to meet the roadway capacities and the projected capacities in the future. Member Mutch said they wouldn't have a detailed land use analysis in the way that was done with some of the other corridor plans. He said he was thinking of the Novi Road and Grand River corridor plans. Mr. Hayes said no, it would be abbreviated because of the large geographic area they were studying. Member Mutch said he didn't have a problem with what was presented generally, and thought there were some elements of the plan that were good, especially looking at the alternatives. He said he and Mr. Hayes had discussed this and recognized they couldn't constantly widen the roads, as it was very expensive and in the long term they would end up with wider congested roads. He said the land use discussion was a missing element and didn't necessarily have to fall into this plan. He thought it might be better to do it separately. He said they had discussed the Twelve Mile and Grand River corridors around Rock Financial Showplace. If they need to have that information in order to do the analysis, he would like to see some work done in that regard whether done through consultants or staff because that was a big missing element. He said choices about land use had a huge impact on transportation demands and if an area was planned for office, it would have a different impact on the roads than if an area was planned for retail. Member Mutch said he didn't think they had done that level of work in those areas and he would like to see it done.

Member Staudt said two years ago he presented the first version of this idea to the EDC and it was based on his experiences working with Woodward Avenue. He said it had a lot more focus on marketing, aesthetics, use and far less on transportation. He commented he would much rather see economic development move to the forefront of this study than transportation. He noted a \$100,000 study was very significant and thought, at this point, they needed to look at some short term as well as long term results from this study. He understood things had changed and morphed over the last two years, but thought their focus on putting the study together was more related to the I-275/I-96 study group or some other area and was not the vision he had. His vision was looking at how they could get this area to the point where they could market it from an economic development standpoint and look at all the things important to it and not just transportation. Member Staudt said he would really like to see a much greater focus on economic development and a much greater focus on the things needed to help businesses today and not just in the future.

Mayor Landry asked if this was just a discussion item and not an action item. Mr. Pearson said it was. He thought Member Mutch's point answered his own question. He thought thinking about Master Plans, etc., they build up towards land use decisions by doing some of these other elements with transportation being key. He believed that what was envisioned here could be a launching pad for other more specific areas in terms of land use planning and how it would develop out. Mr. Pearson reminded Council that they just completed and adopted a significant special area study of the Master Plan and most particularly Novi Road on the west side along I-96. He said there were some very specific things recently recommended in terms of land use,

office developments and high rises and thought it would behoove all of them to look at the traffic impacts of that. He said if they wanted to stick to this large of an area, they would have a difficult time doing some of the elements that Member Staudt suggested. He said it could be done if that was what Council believed was most prominent, but it was a different kind of work product. He said he would appreciate some indication, now or at a future meeting, if they wanted them to bring this back to make an investment towards a more focused study product. He commented he would be happy to do that.

Member Crawford said while she agreed with Member Staudt's comments on the whole, she still thought that a lot of times it was the little things they did to improve traffic congestion that helped everyone. She thought that, in the long run, the short term goals that were mentioned would be critical to this process. She said that was what the everyday person going out shopping realized immediately. It could be that extra lane or left turn lane, so while she agreed economic development was important, she thought they were on the right track with the transportation and improving traffic safety, as well as the congestion.

Member Margolis thought this was crucial, especially now. The bottom line was one of the reasons they were hugely attractive to businesses was because these arteries ran through the City and they needed to operate at their highest level. She commented she was very comfortable keeping this on transportation. She said they've got the Road Commission of Oakland County, MDOT and the City's responsibilities for roads and thought the study could help them focus and work with all of those entities to make sure the areas Novi had no control over continued to be developed. Member Margolis said they could look at the land use issues in those corridors in goal setting. She thought Novi was getting a great deal of economic development based on the work done so far. She wanted this to focus on transportation so it would support what was already there.

Mayor Pro Tem Capello said from his memory, the focus on this area was to foster economic development and economic growth. He said realistically a lot of money went into Grand River Avenue such as the bridge, moving forward on Novi Road, Beck Road/Wixom Road improvements, and Twelve Mile Road improvements. He said they had some gaps to fill but he would like to see the focus on economic development. Mayor Pro Tem Capello said Grand River from Beck Road to Meadowbrook was not developed as quickly as he thought it should be given the amount of money put into road improvements. He knew congestion had to be reduced because it was very important for growth. However, he'd rather focus on this particular corridor and the economic growth as a priority and then the congestion and traffic safety as part of the furtherance of economic growth.

Mayor Landry thought this had been a good discussion and everyone had valid concerns. He said everybody complained about traffic, but he didn't think they could talk about traffic in Novi without talking about these roads. He said they were the roads that most of the people that have experience with Novi but don't live in Novi drive. He said they were the roads with the most traffic from people who pass through Novi to go to the malls and retail centers. Mayor Landry commented they advertised Novi's strategic location and were trying to attract high tech businesses; these are the roads that the customers of those high tech businesses travel. He commented he really liked the partnerships in this study. He liked the partnerships with private enterprise and the government entities. He liked the fact that people were willing to kick in money, expertise and participation. He thought this was exactly what they had to be doing in these

times and they definitely had to work with the City of Wixom and private enterprises as they had in the past.

Mayor Landry said, on the other hand, they had talked about developing Grand River from Beck Road east and Grand River from Novi to Meadowbrook or Haggerty. He said these were all needed and he didn't know if it necessarily had to be an either or situation. This particular project focused on something they all appreciated as an important goal. He asked Mr. Pearson if they could find some way to focus on some economic growth in smaller areas Council had concerns with. Mayor Landry said he would support this and thought it was worth the money, time and effort. He commented he liked the way it was laid out and thought it was a reasoned and attainable approach. He said this took advantage of the partners; he didn't want to see this go down and no progress made but he would like to see someone look at Grand River Avenue.

Mr. Pearson said he had to admit that one of the things they heard a lot about from business and motorists was "when would Grand River east of Novi be finished". He said a lot of work had been done and a lot of money had been invested. Mr. Pearson thought this was a way to try to move something like that project, like Twelve Mile, onto people's radar to make decisions and get that cued up. He said it would take a lot of other people's money to get those things done and a lot of lead time to get that cued up to do a lot of the environmental studies. Then do the little things, on top of that, to keep things moving so momentum wasn't lost. He said that was their logic and how they came to believe this might be a viable approach, and certainly to hear what Council thought. Mr. Pearson said they wanted everybody to feel good about this transportation study. He noted they didn't want to over promise, but thought they could do some of the focus things such as identifying this area, to think long and hard about north of Grand River between Novi Road and Beck Road in regard to how they would market that and get it going. He believed if they could get going on this, they could do both. Mr. Pearson said one was more business involvement, Chamber of Commerce partnership kinds of things and ongoing committee work versus the hired consultants.

Mayor Landry asked if the project went forward, could the Administration come back within 60 days with some sort of outline and focus area for Grand River economic development. Then Council could make some decisions, and maybe a funding effort that Council could sink their teeth into, so they were pursuing both at the same time. Mr. Pearson said absolutely, and if Council wanted to designate a couple people to help firm that up, he would be open to doing that. Mayor Landry said he would like to proceed with this and for Administration to come back to Council during the next meeting or two with some suggestions on how they could put a Venture Team together to look at that. He asked if that would be acceptable to the Administration; Mr. Pearson said yes.

Member Staudt said he wanted to use an example between Haggerty Road and Novi Road on Grand River. He said there were so many issues there and it would have to be rebuilt at some point. Member Staudt said they needed to take care of those businesses. Member Staudt noted there were developers that were forced out by economic stress. He noted there were so many things to think of on that stretch alone. Member Staudt said they were very much transportation oriented and very much economic development oriented; marketing and community groups getting together to make sure that when the process happened down the road no one would be put out of business there. He said there were so many other issues besides the transportation and his concern was when seeing economic development and

business third on the list and transportation first, he became a bit alarmed. He thought the focus needed to be on businesses and residents and agreed the transportation element was critical but so was keeping the businesses functioning and healthy. He commented he wanted an element of that and suggested they create some kind of task force group or citizens committee as this was a long term, 10 to 15 year process and they needed to start somewhere. He said a good time was now because they had \$100,000 to fund a good study and they could get what Administration needed out of it and a lot of what Mr. Topouzian needed done on the economic development side. He noted there were so many opportunities to provide so much good in the small corridor between Haggerty and Novi Roads.

2. ATTORNEY - None

AUDIENCE COMMENT

Greg Iszler, 621 South Lake Drive, President of LAHA (Lakes Area Homeowners Association), noted that LAHA was presenting a petition to City Council. He stated that it supported instituting a Lake Board with the residents around the lake. Mr. Iszler said there were many issues related to the lake and that LAHA had already met with Walled Lake Mayor Bill Roberts. He said that LAHA felt there was clarity in its proposal to control the nuisance growth in the lake and to bring the lake back to its pristine condition. He noted the Lake Board Committee could be formed by the City Council and he also mentioned the petition for the purpose of an SAD. They hoped to get the Lake Board active by spring of 2009. He noted that the estimated cost to deal with the nuisance growth in the lake was \$180,000 to \$200,000. They were asking for an agreement to collect the signatures.

Lou Martin, 22327 Sunrise Blvd., was present representing Providence Park Hospital, and was happy to say that their pre-hospital opening event for the community would take place Saturday, August 23rd. He invited Mayor Landry, Council, Administration and the community to attend their grand opening event, which would run from 8:00 A.M. to 1:00 P.M. He said there was a variety of things taking place and the hospital itself would open for actual patient care September 5th at 6:00 A.M. Mr. Martin said they had received their temporary C of O and their President Rob Casalou would like to say thank you very much for how great the City had been to work with.

Jim Korte, Shawood Lake, noted that LAHA had approached the City of Walled Lake for a Lake Board and it was favorably received. He noted that the petition which he was presenting to the Council was for the inclusion of Shawood Lake if a Lake Board was instituted. Shawood Lake residents felt they were ignored and that one of the major problems was weeds. Mr. Korte said fifteen years ago there were no weeds in the lake and it was crystal clear. He said that Shawood Lake also needed help and asked Council not to forget it.

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-J)

CM-08-08-132 **Moved by Staudt, seconded by Capello; CARRIED UNANIMOUSLY: To approve the Consent Agenda as presented.**

Roll call vote on CM-08-08-132

**Yeas: Crawford, Margolis, Mutch, Staudt,
Landry, Capello
Nays: None
Absent: Gatt**

- A. Approve Minutes of:
 - 1. July 28, 2008 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of August 11, 2008 in the Council Annex for the purpose of discussing land acquisition, pending litigation and privileged correspondence from legal counsel.
- C. Acceptance of a sidewalk easement granted by MHBC-Novı Properties, LLC, in conjunction with the Orchard Hill Place reconstruction project (parcel 22-36-477-011) (Michigan Heritage Bank donated easement).
- D. Approval of the first year renewal option to American Silkscreen for youth and adult sports apparel, in annual estimated amount of \$37,500.
- E. Consideration of Ordinance No. 08-90.02, an amendment to the Novi Code of Ordinances, Chapter 33, "Traffic and Motor Vehicles", Section 33-636, "Definitions", Section 33-637, "Spaces for Physically Limited Persons", in order to update language

and definitions; and Section 33-638, "Courtesy in the Parking of a Vehicle", Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", Section 33-640, "Display Requirements", Section 33-641, "Misuse of Handicapped Parking Privileges", and Section 33-642, "Penalties", in order to be consistent with existing State Law. **Second Reading**
- F. Consideration of Ordinance No. 08-81.23, an amendment to the Novi Code of Ordinances, Chapter 33, "Traffic and Motor Vehicles", Section 33-42, "Handicapped Person" and Section 33-490, "Parking Prohibited in Specified Places" in order to update language and definitions. **Second Reading**
- G. Consideration of Ordinance No. 08-8.02, an amendment to the Novi Code of Ordinances, Chapter 22, "Offenses", Section 22-257, "Traffic Control Devices" and Section 22-258, "Stopping, Standing, Parking Motor Vehicles" in order to update language. **Second Reading**
- H. Consideration of Zoning Ordinance Text Amendment 18.228, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 25, Subsection 2516, "Site Plan Review (All Districts)" to modify the standards for administrative review of revised site plans and the time limit of site plan approvals. **Second Reading**
- I. Approval of a Real-Time GPS Vehicle Fleet Asset Monitoring, Management and Reporting Service in the amount of \$12,200 to Remote Dynamics, Inc. for a one-year service period.

J. Approval of Claims and Accounts – Warrant No. 774

MATTERS FOR COUNCIL ACTION – Part I

- 1. Consideration of a request from the Vista Hills Homeowners Association for the City to accept Vista Hills streets contingent on City's receipt of Association's \$190,000 payment for the City to make required pavement and storm structure repairs.**

Mr. Pearson said this was the latest alternative to try to fulfill what Council had nodded heads about in the past to accept these streets. He said they had reviewed this and could recommend the payment and take advantage of the City's expertise to complete the work.

Member Margolis asked Mr. Hayes for information regarding the belief that the amount of money listed would be enough to make the kinds of repairs that were needed and what were the alternatives, if it turned out not to be.

Mr. Hayes said based on the existing conditions, it would be about a mile and a half of asphalt streets and most of the problems detected were distress cracking, especially around the drainage structures. He said a lot of the drainage structures had deteriorated since the punch list was prepared three years ago. Mr. Hayes said based on the bid price the homeowners association received the most recent lowest price was about \$142,000. He said they were offering \$190,000 and thought with the exception of some contingency beyond their wildest dreams, it was sufficient to cover this, get it out for bid, award it and get the work done. Mr. Hayes said their plan would be a little different than what they had planned in their scope. He said what the City would do was mill the entire surface, expose the base material and make sure it was adequate and the drainage was being conveyed away and then repave with a base course of asphalt and then a wearing course of asphalt. A lot of the structures had to be rebuilt or at a minimum tuck pointed to seal them on the inside and they would take care of that as well. He felt confident there was enough money to cover that. He said the only caveat was if they found something different than the report had shown, then that would be at risk.

Member Margolis asked him to address the advantage to the City of taking this and completing the repairs. Mr. Hayes said there was really no advantage to the City other than the City would be assisting a major neighborhood in getting their streets dedicated and accepted. He said it didn't benefit the City to have the streets added to the inventory. They would receive some money for maintenance, but it would cover just a portion of what was expended per lane mile of roadway. Member Margolis said she was looking for the alternative of having the homeowners association go with the bid that they had versus the City moving ahead. Mr. Hayes said expediency would be the main benefit because the City could get it done faster and more economically because the City could buy construction cheaper than one association could. Member Margolis asked if there was a consideration of overseeing the quality of what was done. Mr. Hayes said they would have inspectors on site regardless of whether the association did it or the City did it. He said as part of their most recent estimate, they've included an amount that would go towards paying for City inspection services, over and above the

\$140,000. She said if it's less than \$190,000, do they get a rebate or was this a one time payment to the City. Mr. Hayes said that would be something that would have to be worked into an agreement before this took place. Member Margolis said then it would come back to Council and Mr. Hayes agreed.

**CM-08-08-133 Moved by Margolis, seconded by Staudt; CARRIED
UNANIMOUSLY: To approve request from the Vista Hills
Homeowners Association for the City to accept Vista Hills
streets contingent on City's receipt of Association's \$190,000
payment for the City to make required pavement and storm
structure repairs, and subject to appropriate documentation.**

DISCUSSION

Mayor Pro Tem Capello said he always thought it was unfair that certain homeowners who have private roads had to pay the same amount of taxes as those that lived on public streets. Then on top of that, they had to maintain and plow their roads. He commented the problem they always ran into when they accepted these private roads was the condition of the roads. He said oftentimes the City ran into a problem that the private roads might have been constructed long ago under a different standard. He said oftentimes that was because the developer wanted to build cheaper roads and could have cut other corners along the way. He stated they were residents and he didn't have a problem accepting the roads or the money from the homeowners and the City could certainly do it for them. Mayor Pro Tem Capello said what he was concerned about was the City would take their \$190,000 and they would expect a lot more than the City could possibly do for that amount. He asked if there was going to be an agreement regarding what they would get for their money, that these were the streets to be repaired and nothing more.

Mr. Schultz said with the last process there was a draft of an agreement that had all of those kinds of details in it. He said they would have to change that paper work a little later and asked that the motion say "subject to appropriate documentation". He said whatever it turned out to be, if they had to bring it back to Council they would or if they could get it in some other form, they would let everyone know. He said there would have to be some written understanding regarding how it would work. Mayor Pro Tem Capello asked if the agreement was between the association and the City or between the individual homeowners and would a certain majority have to sign or would they all have to sign off on this. Mr. Schultz thought it was between the association and the City and they would make sure they had the right signer when they formalized it. Members Margolis and Staudt accepted the friendly amendment.

Mayor Landry said Council oftentimes saw subdivisions on private streets come in and ask the City to take their streets over but they didn't often see a subdivision come forward with \$190,000. He said this was incredible and he really wanted to commend Vista Hills. He said they were a part of the Sandstone fiasco, they came to us, laid their issue before Council, worked with Council for a long time and they were really to be commended. Mayor Landry said he wholeheartedly supported this request.

Roll call vote on CM-08-08-133

**Yeas: Margolis, Mutch, Staudt, Landry,
Capello, Crawford**

Nays: None

Absent: Gatt

- 2. Consideration of the request of Maybury Park, LLC for approval of a revised Residential Unit Development (RUD) Plan to add gated driveway access and to permit the roads within the development to be private, rather than public. The subject property is located on 133.72 acres on the north side of Eight Mile Road between Garfield and Beck Roads in the Residential Acreage (RA) District.**

Mayor Pro Tem Capello said during the short period of time from the Planning Commission to City Council he represented the previous owners of Maybury Park and negotiated the RUD Agreement with Mr. Fisher's office. He said he had not represented them since then and didn't feel like he had any conflict in this situation. However, he wanted Council to be aware of his prior relationship and if they felt there was a problem, they could make a motion to recuse him.

Mayor Landry said an elected official was required to vote unless excused by their colleagues, correct? Mr. Schultz agreed. Mayor Landry said then Mayor Pro Tem Capello must vote unless Council voted to recuse him. Mayor Landry asked if anyone on Council wanted to make a motion to recuse Mayor Pro Tem Capello. There was no such motion made.

John Babcock, developer for Maybury Park Estates, was present to explain why they were seeking to have their community gated. He said first, it would allow them to compete more effectively with the neighboring subdivisions of Tuscany and Bellagio, which had been approved to be gated. Second, it would improve the security of the subdivision. He said over the past 12 months they have had an increase in vandalism, mostly in homes under construction, but there had been an attempted break in of an occupied home. Third, it would improve the value both to the residents and the City by increasing the tax base and would take the roads off the City's burden to be taken care of and maintained over time. He said the association had a vote and it was unanimous in favor of gating the community, and there had been no objections to any of the comments from the Council as to the amendments that would have to be done for the Master Deed or the RUD.

Member Mutch said in general he didn't support the gated community concept as he didn't think it was in line with the kind of character and development Council wanted in the City. However, setting that aside because it was a separate issue, the big concern he had with the proposal was the potential cost to the current and future residents of the development. He asked if he had talked with the residents about the short term cost, the annual maintenance that they would be responsible for once Mr. Babcock's obligations to the subdivision were complete, as well as the long term costs they would be obligated to in terms of being sure they had that pot of money to pay for those roads. Mr. Babcock responded that prior to the association meeting, they took the price of the roads constructed just recently and projected that over the next 20 years. He said they looked at 20 years from now and taking an average inflation rate, what it would cost to

replace those roads. Then they worked backwards into the association dues and used that number to increase the association dues, or propose to increase, if they went through with this. He said they would budget it into the association dues so if the roads had to be replaced in 20 years, they could do that and they were well aware of this. In addition, the roads were constructed for public dedication and were of a higher standard and the durability should be greater. Also, they had not finished the wearing course. So it still was under the obligation of the developer to work with the City to do inspections and make sure that catch basins, curbs, etc., if needing replacing, would still be done prior to the burden being put onto the residents. He said they would basically be brand new roads when they took over. Member Mutch asked if they had been made aware of the annual maintenance costs. Mr. Babcock said yes, that was a part of the entire budget. They were also aware that the gates would have to be maintained and if they needed replacement, there would be a lifetime factor on them as to how long they would last, when motors had to be replaced, etc. Mr. Babcock said they do the plowing, etc. as part of their budget already and they tried to anticipate everything that would be included in that cost. Member Mutch asked whether there was a legal association at this point, or was it still under Mr. Babcock's control to be turned over at a future point. Mr. Babcock believed the State law was that it was 75% occupancy and they were at about 45%. He said they were past the point where they were required to have one resident as a member of the board. So, just recently they elected another member to the board making three and as developer he had two. Member Mutch appreciated that the cost had been shared with the residents. However, he had asked staff to give him an estimate of what it would cost to replace those roads and their estimate was about \$1 million. He said that was a significant amount of money but if the association was setting that money aside consistently over the years, they would be able to afford that. He thought history had shown that didn't happen often with associations. He was concerned the association would come back to the City and tell Council they couldn't afford to maintain the roads. He agreed with Mayor Pro Tem Capello that Council created this situation with these private roads where residents, who paid a significant amount of taxes with some of it dedicated for road maintenance, were not seeing any benefit from that directly within their subdivision. He said he didn't generally support the gated subdivisions and he wouldn't support this request.

Mayor Pro Tem Capello said he didn't have a problem with gated subdivisions but did have a problem with the private roads. He asked Mr. Schultz if the major issue in regard to requiring the roads to be private was if it was gated, they would be denying access to certain citizens to a public road. Mr. Schultz thought just the idea of a limitation on having a gate came out of the fire code. He said it was a public nuisance or public safety issue. He said the roads could be either public or private. He noted with Tuscany, Council was concerned with people coming back 20 years down the road and confronting a later Council. So, they did a very long amendment to the RUD agreement in the Tuscany Master Deed with changes to make it very clear to anyone who could possibly come back, and that was what they had given to the developer to bring to the residents. Mr. Schultz said whether it was public or private was a policy call but if it was going to be gated, they wouldn't want it to be public. Mayor Pro Tem Capello asked why. Mr. Schultz said it would be an access issue and he was not aware of any community that would permit a gated public street. He said the public wasn't allowed to go on it. Mayor Pro Tem Capello said their only issue was to say they had a

public street but it was gated because all of the public was not allowed on it. Mr. Schultz said it was safety and access. Mayor Pro Tem Capello said that bothered him because the City had a lot of public land that access had been limited; whether it was limited during periods of time, hours during the day or to certain groups or residences. He said they still limit access to public land. He commented that he was not comfortable having private roads and the residents had to pay the tax dollars like everyone else, but not have their roads maintained. He said there were a lot of private gates in certain communities. He wished there was a way to still have the City have the responsibility of plowing and maintaining the roads.

Mayor Landry asked if he understood that as they did with Tuscany, if this request were approved this evening, the RUD would spell out in very plain English that if the City were to grant these as private roads, Council would not want someone coming back in ten years requesting the roads be taken over as public. Mr. Schultz said that was correct and if Council was inclined, he would come back to a later meeting with an actual agreement, which laid that all out and there would be a Master Deed amendment that would give notice to the residents. Mayor Landry said he could support this action, but would not want to see the residents come back and say it was unfair because they were paying taxes and wanted their roads plowed by the City, too. However, this subdivision was a higher end subdivision and it could be done with people reading the RUD and the materials as they go in fully understanding and accepting what they were purchasing in exchange for the privacy of the gate. If that could be done, he would not be opposed to this.

Dean Gould, Attorney for Maybury Park Estates, said as Mr. Schultz and Council knew, what would happen was once the Master Deed was amended and the RUD amendment was recorded, they would amend the disclosure statement that was given to every potential homeowner as part of their Master Deed documents. He said it would be very clear as to exactly what their responsibilities were. He said that was why when Mr. Babcock first came to him and proposed this, the first thing they did was to hold a meeting, with appropriate notice, and have people come. He said they basically took the position that unless everyone at the meeting was in favor of this, Mr. Babcock would not go before Council because there was a very strong concern that nothing be done that would upset people who had already bought their homes. He said the people at the meeting all wanted this and had been pushing Mr. Babcock to get this done. He assured Council that the disclosure would be replete with those kinds of disclosures; he didn't want anyone coming back at his client saying they were not adequately advised.

Member Margolis thought this made sense for this community, and they had gone down this road with the Bellagio and Tuscany developments and it didn't make sense to have a community hold out.

CM-08-08-134 Moved by Margolis, seconded by Crawford; MOTION CARRIED: To approve request of Maybury Park, LLC for approval of a revised Residential Unit Development (RUD) Plan to add gated driveway access and to permit the roads within the development to be private, rather than public. This approval also included a City Council waiver from Section 15-21 (g) of the Fire Prevention and Protection Code which

5. Acceptance of Regency Industrial Center condominium street and adoption of Act 51 New Street Resolution accepting Regency Drive as public, adding 1,648 linear feet or 0.31 miles of roadway to the City's street system.

CM-08-08-137 Moved by Margolis, seconded by Crawford; MOTION CARRIED: To accept the Regency Industrial Center condominium street and adoption of Act 51 New Street Resolution accepting Regency Drive as public, adding 1,648 linear feet or 0.31 miles of roadway to the City's street system.

DISCUSSION

Mayor Pro Tem Capello asked what the percentage of completion of construction was. Mr. Hayes said it was roughly 50% complete. Mayor Pro Tem Capello said his concern was that it was going to be industrial construction. He said accepting the streets this early on, there could be a lot of major damage to the streets not contiguous to the parcels being constructed at the time, and then the City would be responsible for that maintenance. Mr. Hayes said they had thought about that and would require a right-of-way bond to be posted with each lot that was developed. He said it was his understanding that for this type of development they should see individual site plans for each lot that came forward. At that time, they would require a site restoration bond that would accompany each individual remaining lot site plan. Mayor Pro Tem Capello asked if they damaged the streets not contiguous to the lot itself, would the bond cover that. Mr. Hayes said it would be just for the area contiguous to the street, for their frontage. Mayor Pro Tem Capello asked how they would be able to protect the streets in the areas that were not contiguous to the construction from the damage of trucks bringing in steel or concrete, etc. Mr. Hayes said that would be an area they would have to keep under observation during the inspection process. Mayor Pro Tem Capello said if they damaged the streets, the City wouldn't have any recourse. Mr. Hayes said that was true, they would have a difficult time recovering anything if it was in a common area. Mayor Pro Tem Capello said he would prefer to wait until there was more construction done. He felt they were assuming a large responsibility here.

Mr. Pearson said they've had this come up in other industrial and light industrial areas off of West Park Drive and the Northern Equities Development. He said this corridor had sat for quite a while and he was sure that it weighed against the economic development of these sites that they were private streets. Also, if these were public streets, the City could approve construction access as part of their site plan. So, the City had some regulatory powers in terms of not just traversing the curb but at any point they could designate that and that was part of the inspection. He said they did have some extra regulation with a public street versus private.

Mayor Pro Tem Capello thought that when Northern Equities came up they gave the City additional incentive and protection beyond bonds, which would be posted with the individual construction to assure the streets would be maintained and repaired. He said he didn't see any of that here. Mr. Hayes said he was correct, and that the biggest difference between that site and this one was there were still a significant number of items on the punch list but there were zero punch list items on this project. He said they had completed all the work. Mayor Pro Tem Capello asked if the developer was

Roll call vote from CM-08-08-139

**Yeas: Margolis, Mutch, Staudt, Landry,
Capello, Crawford
Nays: None
Absent: Gatt**

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES

1. Designation of City-owned Land in Parks Inventory (newly acquired 2.3 acres south of Nine Mile Road and adjacent to Rotary Park) - Member Mutch

Member Mutch said the City recently acquired a piece of property adjacent to Rotary Park that was attained through a land swap with a developer who received from the City property along Twelve Mile, which was part of an agreement dating back a number of years. The property, for all intents and purposes, was a portion of Rotary Park and the request was for City Administration to provide Council with a resolution that would designate that land as parkland. He said the purpose of that was to make clear to the various City bodies that the intent of the City was to use that property for parkland. He said this was done with property near the Singh Trail area and was just a formal designation from the Council. He said he was asking for Council's support.

Mayor Landry said he was not opposed to this and said it was acquired with the view that it be parkland. He said once it was designated parkland the City could not sell it without undesignating it as parkland. He said he thought that was why it was acquired in the first place so he and Council would support it. He asked Mr. Pearson to prepare the resolution.

2. Comments about the Fifties Festival – Mayor Landry

Mayor Landry wanted to commend the DPW and Mr. McCusker for all the work they did on the Fifties Festival. He said they did a tremendous amount of work every year and their work was very much appreciated. He asked Mr. Pearson to pass on to all members of his Administration what a wonderful job and how appreciative Council was of their hard work.

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

COMMUNICATIONS - None

AUDIENCE COMMENT

Greg Iszler, 621 South Lake Drive, said he wanted to follow up, based on some of the discussion that came out in Audience Comment that their consultants strongly advised them to separate the issues between Walled Lake and Shawood Lake when it came to the idea of a Lake Board for these reasons. It was split between two cities which added some complexity, it was a different age lake with different biological conditions that required a different type of treatment, so they strongly recommended they split these

issues and pursue them separately. He said as president and one of the key officers of LAHA they had been very strong and active in their outreach to Shawood Lake and their participation in their association. He said they had discussions in their last meetings about previous officer groups at LAHA and their lack of support of Shawood Lake. They reiterated that they were new officers and were extremely interested in having their active participation. He said they had asked all their members to actively seek out additional Shawood Lake participation because they hadn't seen them in the numbers they had hoped for. Mr. Iszler said they had a group of 8 to 10 very active volunteers from the Walled Lake area, both Walled Lake and Novi, who had spearheaded this push to develop a Lake Board for Walled Lake. He said because they were very reliant on volunteer participation, they didn't have enough manpower to do things on their own. Mr. Iszler commented they try to support their resident's needs as best they could because they had been so invested in gathering information and putting this before the officers in the association. He said they, as officers, had supported volunteers just as they would Shawood Lake volunteers.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:24 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene Mc Lean

Date approved: August 25, 2008