

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI**  
**DRAFT – MONDAY, OCTOBER 8, 2007 AT 7:00 P.M.**  
**COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**  
cityofnovi.org

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

**PLEDGE OF ALLEGIANCE**      Novi Woods Girl Scout Troop 1441  
Leader: Denise Sinkovich  
Co-Leader: Jackie Lypka  
Madison Ampunan, Payton Balcone, Joyce Cucksey, Sara  
Jacek, Shirley Hao, Alaxa Hatz, Kia Hurley, Jessica Lypka,  
Axleis Malecki, Mary Grace Sinkovich

**ROLL CALL:**            Mayor Landry, Mayor Pro Tem Capello, Council Members Gatt, Margolis,  
Mutch, Nagy, Paul

**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 to Mayor and Council Issues, Item #1 City Council float for Ringing in the Holidays.

**CM-07-10-293            Moved by Capello, seconded by Gatt: CARRIED UNANIMOUSLY:**  
**To approve the agenda as amended.**

**Voice vote**

**PRESENTATIONS**

**2007 Voice of the People Award for Excellence in Code Enforcement**

Mr. Pearson said the City of Novi looked great for a lot of reasons and thanks to a lot of people, and there were certain heroes behind the scenes who go above and beyond. Those very dedicated people were awarded a very noteworthy award from the International City/County Management Association (ICMA). Mr. Pearson showed a short video describing some of the activities that earned this award.

Mr. Pearson said it was his pleasure and with pride to share with everyone that the City of Novi had been awarded the Voice of the People Award from the International City/County Management Association. He commented that he and Ms. Antil were present at the national convention to receive the award. This award was not based upon perceptions or because they wrote a really good application, it was based upon the results of the Citizen Perception Survey that the City completed last November. He said the results for the Code Enforcement aspects of that were in the top 10% of all the results in the entire country. Novi citizens reflected in that survey that Code Enforcement efforts were top notch. Mr. Pearson said it was a pleasure to be a part of this team and that Alan Amolsch, Jeannie Niland, Maureen Underhill and C.J. Killebrew were the staff Code Enforcement Officers that were behind the scenes day to day

making these things happen. Mr. Pearson said Ms. Uglow deserved a great deal of the credit not only for responsibilities she formerly had as Code Enforcement Supervisor but also for the outreach work. He said Ms. Uglow was at the City Hall every week night at some event or another and was always on hand, and truly exemplified the dedication that was expected.

Mr. Pearson thanked Council for their support for all the events.

Mayor Landry said it was not Council's award it was the Administration's award, and to be recognized in the top 10% in the country in Code Enforcement was wonderful, and he had known that for 10 years. He asked Mr. Pearson to be sure the award was proudly displayed in the Civic Center.

## **REPORTS**

**SPECIAL/COMMITTEE - None**

**CITY MANAGER - None**

**DEPARTMENTAL - None**

**ATTORNEY - None**

## **AUDIENCE PARTICIPATION**

**Randy Patterson**, 41626 Chattman Dr., Meadowbrook Lake, spoke about the possible vacation of Ampton Drive. He said he had recently found out his garage was one inch from the property line and he wanted to build a shed next to it. He asked that Council approve the vacation of Ampton Drive and understood that Council would address it at the October 22, 2007 meeting, if a public hearing was set. He also expressed concerns about the grass growth in the common areas around Meadowbrook Lake; he stated that the residents in the subdivision agreed with streambank stabilization but were concerned with the height of the grass.

## **CONSENT AGENDA REMOVALS AND APPROVALS (See items A-I)**

**CM-07-10-294      Moved by Capello, seconded by Margolis: CARRIED UNANIMOUSLY:  
To approve the Consent Agenda as presented.**

**Roll call vote on CM-07-10-294      Yeas: Landry, Capello, Gatt, Margolis, Mutch,  
Nagy, Paul  
Nays: None**

- A. Approve Minutes of:
  - 1. September 24, 2007 – Regular meeting
  
- B. Acceptance of a Conservation Easement for Country Inn from Novi Lodges, LLC for property located on the west side of Haggerty Road, between Orchard Hill Place and Nine Mile Road, covering 0.15 acres of woodland, wetland and wetland buffer.

- C. Approval to award contract to Huntington Bank to provide Automated Teller Machine(s) (ATM) service at the Civic Center, the Police Department and the Novi Ice Arena.
- D. Approval of Interlocal Agreement with Oakland County for ballot layout and programming services.
- E. Approval to purchase Joint Crack Sealant Material from National Highway Maintenance System Ltd, in the amount of \$25,000.00.
- F. Approval to set a Public Hearing on October 22, 2007 for the 2008 Community Development Block Grant Program.
- G. Approval to purchase five sanitary sewer flow meters associated with the Capacity Management Operations and Maintenance (CMOM) Phase III tasks from HESCO, the lowest responsive bidder, in the amount of \$22,050.80.
- H. Approval of agreement with Emagine Novi to air a 30 second video for six months, place a poster for six months, and staff an informational table for two weekends for Paid-On-Call recruitment in the amount of \$10,000.
- I. Approval of Claims and Accounts – Warrant No. 754

#### **MATTERS FOR COUNCIL ACTION – Part I**

- 1. Consideration of a request from Northern Equities Group, applicant for Haggerty Corridor Corporate Park – Phase II, for a variance from Section 11-276(b) of the Design and Construction Standards requiring safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan, to : 1) eliminate a portion of the safety path along the applicant’s Haggerty Road frontage; and, 2) eliminate a portion of the safety path along the applicant’s Thirteen Mile Road frontage.**

Mr. Pearson said they could see the merits of each of the requests but would have some suggestions for an alternative in lieu of the strict interpretation of the ordinance provisions.

Mayor Landry asked Mr. Schultz if he recommended that these be addressed with separate motions or just one. Mr. Schultz replied separately. Mayor Landry opened variance one to Council, with respect to the Haggerty Road frontage, for discussion or a motion.

Mayor Landry commented they were requesting a variance from putting the sidewalk along Haggerty, and asked Mr. Sosin to give Council a summary of why the variance should be granted.

Mr. Sosin, Vice President of the Northern Equities Group, said more than 75% of their Haggerty Road frontage was not buildable. He said as the roads and utilities for Haggerty Corporate Park Phase II were done, this was something that had to be addressed now rather than as the buildings were built. He said about 1,600 feet of that frontage was in the Seeley Drain and directly abutted Haggerty Road, which had very little shoulder. Mr. Sosin said the right-of-way in that 1,600 feet of the Seeley Drain was very small, and was wet most, if not all

of the year. He said there were restrictions regarding how much water moved underneath Haggerty Road, which was why that area was always wet. Mr. Sosin said some of the reasons they were asking for some other type of variance was to construct a sidewalk along the frontage would require the construction of a boardwalk. He thought it would also entail some special environmental impacts, and would require DEQ and County permits. He said there would be tree, wetland, and safety impacts because it could be very close to Haggerty Road. Mr. Sosin thought, in the not too distant future, Haggerty Road would not be in its current layout; it would be wider and would have an impact on however they decided to install sidewalks. He thought the intent of the ordinance was to provide sidewalks. He said there were sidewalks across the street in Farmington Hills from Twelve Mile to Fourteen Mile Road, which were available to any pedestrian that wanted to use them. There was also access to that sidewalk from the first phase of Haggerty Corridor Corporate Park, and there would be access to it from the second phase at Thirteen Mile Road. Mr. Sosin thought between Northern Equities Group and the Administration they could figure out a way to meet the intent of the ordinance without building a boardwalk. He commented that there would be sidewalks throughout the second phase of the Haggerty Corridor Corporate Park, which would act as the alternative to the construction of the boardwalk.

Mayor Landry asked if his proposal was a sidewalk on the interior of their development, rather than along Haggerty and along Thirteen Mile Road. Mr. Sosin said by ordinance he had to construct a five foot wide concrete sidewalk along Cabot and MacKenzie Drives, which they had dealt with in a previous discussion, and he would install those sidewalks as he built the buildings. He said eventually there would be sidewalks running all along Cabot Drive and MacKenzie Drive on both sides of the road. He commented he had also proposed to construct a gravel nature trail through his park and along some of the wetlands that would also serve as an alternate to the boardwalk.

Mayor Landry said he understood that the Administration was recommending that the path be paved and not a nature trail. Mr. Pearson replied they would call it a paved nature trail. Mr. Sosin said they had wanted it to be as natural as possible and it had been proposed as gravel or mulch. Mayor Landry asked if he was opposed to paving it. Mr. Sosin responded that he was not opposed to paving but felt it was not as natural, especially along the wetlands. He said there would be places, because of grades, that would be difficult to pave but he was willing to look at it.

Mayor Landry said it looked like instead of putting the sidewalk along the perimeter of the roads, they were suggesting cutting the corner and putting a sidewalk sort of kitty-corner along the way. He said his understanding was there was an offer to complete some sidewalks elsewhere and contribute some money to the Sidewalk Fund. Mr. Sosin said if he was going to pave, that would eat up the money he was going to put into the Sidewalk Fund but if he didn't spend that much money, the balance could go into the Sidewalk Fund. He commented he was going to complete, in the first phase of the Haggerty Corporate Park, some breaks and non-buildable lots, and noted the ordinance was different when the first phase was built; they weren't required to put sidewalks in. Mr. Sosin said a lot of their tenants used the sidewalk, so it was a benefit to him and the City to complete that loop, and they were ready to do those first phase sidewalks tomorrow. Mayor Landry asked Mr. Sosin to address Thirteen Mile.

Mr. Sosin said Thirteen Mile Road was raised when M-5 was constructed by about 20 to 25 feet when getting closer to M-5. He said what happened was their property was kept at its original grade and Thirteen Mile Road was raised. In some places there's about a 25 foot differential between the shoulder and where their property line started. On the south side of Thirteen Mile Road there were sidewalks that ran from Thirteen Mile to M-5, and there was walk/don't walk signalization on the south side of Thirteen Mile Road at M-5 that went to the west side of M-5. On the north side of Thirteen Mile Road west of M-5 the sidewalk stopped about 200 or 300 feet short of M-5. He thought it was because the shoulder was very small there. He thought that MDOT, and their limited access right-of-way, wouldn't let the church build that sidewalk. Mr. Sosin said he had the same issue on the east side of M-5 north of Thirteen Mile Road, as there was very little shoulder. He said there was no room for a sidewalk on Thirteen Mile Road, and he didn't want to see a boardwalk 25 feet in the air on his property, as people looked out of the buildings. He didn't think it was a very attractive or safe way to do it. He said there was no crosswalk north of Thirteen Mile Road on M-5, and no one would ever be able to cross M-5 north of Thirteen Mile Road. He said the sidewalk would serve no purpose, so he didn't see how installing a sidewalk between Cabot Drive and M-5 on the north side of Thirteen Mile Road would further the sidewalk Master Plan. Mr. Sosin commented that was why they were asking not to install them.

Mayor Landry said it appeared there were some natural environmental concerns along Haggerty and he was aware of the difference in grade along Thirteen Mile Road; it would sort of be a cliff where the road was there. He certainly would not want to elevate the sidewalk nor would he want the sidewalk to be way down at the bottom of the cliff. He said he would consider this, with the City's recommended alternative that it be paved. He commented he would do that because the applicant would be building a sidewalk. In fact, they would be building more sidewalks on the applicant's property and there would be a way for a pedestrian to get from M-5 to Haggerty. It would just be cutting a corner instead of going right along the perimeter of the roads.

Member Nagy understood the complexity of that area and why they were asking for a waiver. She commented she would be willing to make that waiver for them; however, she had two concerns. Member Nagy said she would like to see it paved, and she understood what they were saying about the wetlands and she wanted those protected. Also, according to what she had read, once built the City would be responsible for it, and she felt the City shouldn't be responsible. Member Nagy felt that the City was giving them the variance and the trail would be on their property; therefore, she didn't see why the City of Novi taxpayers should be responsible for this. She said the reason she wasn't for the nature trail was she felt it wouldn't be good for people who walk, or who have a wheelchair or handicap of any sort. She said she wanted to see it paved and if not concrete, possibly gravel with limestone that was watered down and would become very hard. She would be willing to support the change with the following conditions: 1) the trail is paved with a material of their choice, 2) that they maintain their property.

Mr. Sosin responded that the maintenance of the boardwalk would have been the City's, and the City's exposure would be much greater as far as repair and maintenance of a boardwalk as opposed to a sidewalk.

Member Mutch said, so they were clear on the scope of the variance request, because what Mr. Sosin talked about tonight seemed to be broader than what was presented to Council. He said what Council was shown as the variance request on Thirteen Mile was just the section where the Seeley Drain and wetlands existed. Mr. Sosin said correct, it was the non-buildable portion of the sidewalk. Member Mutch commented that Mr. Sosin's comments tonight talked about going beyond that, and he asked if Council interpreted that correctly. Mr. Sosin said yes. He said he was asking not to build the sidewalks on the Seeley Drain; but the Administration came back and asked him to build a boardwalk along Thirteen Mile on the north side between M-5 and where the Seeley Drain started. He said that was something they couldn't do, and when he came in and site planned a building on that piece of property, they would probably have to have the same discussion in front of the Planning Commission regarding the limited access and grade differential.

Member Mutch said that kind of request would have to come back to Council because it was a Design and Construction Standard waiver, correct. Mr. Schultz agreed. Member Mutch said with the variance request being made tonight could Council address that separate section within the discussion tonight. Mr. Schultz thought the Council could address that as part of the conditions it might impose on the grant of the variance, which was how the staff presented it; it's an additional request. Member Mutch said from his viewpoint, if Council was going to grant variances this evening, it made sense to address the entire section because based on the information they were presenting they didn't believe it was buildable in any way to put a sidewalk, boardwalk or whatever in that location. He thought anything was buildable but the question was at what price and at what expense to the environment and the aesthetics of the area. It also made sense because a part of the Administration's recommendation to Council talked about an alternative that contemplated a path in that location with a continuation. He said, from his viewpoint, if they couldn't build that, and whether they requested that variance tonight or six months from now that would really impact that discussion. Member Mutch said he had been coming at this from the same direction as Member Nagy. However, listening to Mr. Sosin's comments and thinking about how this would function when people were actually using it, he thought the majority of people who would use the sidewalks in this area were the people he identified earlier. The people who work in the office buildings that would go up in Phase II would be using the sidewalks along Cabot Drive and MacKenzie to take their afternoon walk. As they identified the people who were going through a traffic situation going from Novi to Farmington Hills and vice versa, they would use the path on the south side of Thirteen Mile because it was the only continuous signalized path in the area. He said likewise on the north/south path along Haggerty, people would use the east side of the road. While he could see the benefit of a nature trail to people in that area, he would guess that anyone who was going to short cut through the area would use the sidewalks on Cabot and MacKenzie. He said to put that nature trail in to meet the needs of those users going north and south and east and west just didn't make sense to him from an environmental viewpoint, especially if it was a paved trail. He said the runoff from a paved trail in the proximity to the wetlands they had talked about, just didn't make sense to him. He agreed with their comments about Thirteen Mile and the lack of connection because of the topography there. He said decisions made by MDOT in constructing M-5 had really sort of put everyone in a bind.

Member Mutch said the solution he would be looking for would be a financial contribution to the City for future sidewalks at some other location equal to what it would cost to put the sidewalks in at those two points based on construction costs times the linear distance. Also,

the completion of the gaps they had talked about, which really would primarily benefit the Corporate Park users, but would also have a public benefit. He thought it would be the best approach, made the most sense, didn't create environmental impacts unnecessarily, didn't create long term cost, and from a usability viewpoint it made the most sense. He felt they could use the money to complete gaps elsewhere in the City where they would make sense. Member Mutch said he understood what they were trying to do. He said Mr. Sosin had a variance request they were trying to meet, the City didn't have a formula that said make a financial contribution akin to the Tree Fund, and Mr. Sosin was trying to find a creative way to address it. Member Mutch complimented him for his creative approach but didn't think it made the most sense, and so from a policy and Council viewpoint he thought something along those lines made the most sense for him and for the City. Mr. Sosin agreed, and said when this process started in December of 2006 that was where he had originally started. He said he was fine with sitting down with Administration to figure out what the monetary contribution would be in addition to completing the gaps in the first phase.

Member Margolis said while she understood the rationale, one of the things they had done at the Council table over and over again was to uphold the idea that everyone was responsible to put the sidewalk in in front of their place. She said Council had made people put a sidewalk in in front of their homes even though it wasn't connected to anything. She understood what Member Mutch had said but couldn't go in that direction because, she thought, it would open the City up to making those kinds of decisions point by point. Member Margolis said she understood about not putting it on the frontage along Haggerty and Thirteen Mile as it didn't make any sense.

Member Margolis said there seemed to be some differences because they made a proposal and then staff sent him a letter, so they're still working this out. Mr. Sosin agreed. She said what staff was proposing was the variance on Haggerty Road, then put the "nature trail" in that ran from Haggerty Road to Cabot Drive, correct. Mr. Pearson said that was correct. The yellow highlighted alternate site plan would be in lieu of yellow highlighted variance one. Member Margolis said variance two would be the Thirteen Mile piece. In lieu of that the recommended path that cut from Cabot Drive down to Thirteen Mile Road, correct. Mr. Sosin said she was correct. Mr. Pearson said they had gone back and forth and it had gotten to the point that they needed policy direction from Council to come back again for alternate two, and which way Council wanted them to head. Member Margolis said that was her concern. She wanted to grant the variance but didn't want to tie them into something they hadn't had time to take a look at. In terms of policy, she thought they had to get that cut through and get the connection there; it made sense and was what they had done for everyone else. She said she would be open on how to do that.

Mayor Pro Tem Capello agreed with some of Member Margolis' comments. He said for some residents it really was a hardship to put a sidewalk in and they wanted to post money. He said there was still one small outstanding issue on Eleven Mile but they had pretty much told them no. He thought they were right regarding the boardwalk, and it was smart of them to come to Council and say they shouldn't put in a boardwalk that went nowhere. Mayor Pro Tem Capello agreed that it was the City's responsibility to maintain it and it would be less costly to maintain a paved walkway than it would the boardwalk. Mayor Pro Tem Capello said he wasn't looking for them to maintain anything after they constructed it. He thought the idea of putting in the pathway made a lot of sense for future tenants and property owners. If there was a pathway, it

would be much more calming for people. He said he preferred a pathway to go through there and environmentally it made more sense to have a paved pathway than a non-paved pathway. Mayor Pro Tem Capello commented that studies showed if a pathway was paved as opposed to something more natural, people were more apt to stay on the pathway instead of wandering off of it. He said he had seen these in major rain forests where they had concrete walks going through, and he thought psychologically it kept people on the walkway making them less apt to get into and affect the environment. He liked, as the Mayor suggested, that they use the alternative and continued from Cabot down to Thirteen Mile Road. He agreed it didn't make sense to go M-5 because it was a dead end there, however he would like to see it come down to Thirteen Mile Road.

**CM-07-10-295      Moved by Capello, seconded by Gatt; MOTION CARRIED:**  
**To approve request from Northern Equities Group, applicant for Haggerty Corridor Corporate Park – Phase II, for a variance from Section 11-276(b) of the Design and Construction Standards requiring safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan, to : 1) grant variance #1 to waive putting a sidewalk or boardwalk in along Haggerty Road and put in an 8 ft. asphalt pathway from Haggerty, across Cabot Dr. and down to Thirteen Mile Road. Also, they would grant an easement to the City and the City would be responsible for maintenance after the asphalt pathway was installed. In accordance with Section 11-10 of the Ordinance these conditions have been met. “The literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant, the alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and the granting of the variance would not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring properties”. Also, that Phase II of the pathway be installed as part of the building of that building, that the pathway must be installed outside of the wetland buffer and must be included within the sidewalk easement and all permits would be secured. Also, the pathway could be reduced to 5 foot if there were areas that needed to be reduced, as long as they were attempting to do the 8 foot, and wayfinding signs to clearly identify the internal pathway system and where it led must be provided at pathway ends along the major roads to effectively guide pedestrians.**

Mayor Pro Tem Capello said he was putting this all into variance one, and then the variance would be putting the gaps in for variance two.

Mr. Schultz said if that was part of the rationale for granting the variance along Haggerty it could absolutely be a condition, if that was the intention.

## **DISCUSSION**

Mr. Sosin commented that the portion of the nature trail added by the City Administration,



between Cabot and M-5, was still a buildable lot. He said they had not completed engineering and it might have to be installed as part of the building that would eventually go there. Mayor Pro Tem Capello said he would add that to the motion.

Member Paul said she could support the asphalt sidewalk and could have gone either way with it. However, she was having a difficult time with saying the City would maintain it, because in a subdivision when a resident had a piece of their sidewalk broken, it was the responsibility of the resident to repair it. She thought to treat this differently when giving the variance would save Mr. Sosin some money, and be very beneficial to the City, but she had a problem with the maintenance part of it. She said she could support it without that portion and thought the maintenance was the responsibility of the builder. She said if the homeowners do one thing she thought all of the residents in the City should do the same. Therefore, she would not be supporting the motion.

Mayor Pro Tem Capello responded that he agreed 100%, but what made him make the motion that the City would maintain it was if he constructed the sidewalk on Haggerty as opposed to here, he would not have to maintain it. He said he was carrying that same requirement not to maintain the Haggerty sidewalk through the pathway, which was alternate to Haggerty.

Member Gatt said he supported the motion and just wanted to explain that in lieu of taking a bond or money as an alternative, it would go against everything Council had done over the last few years. He thought it would be a very nice pathway.

Member Mutch stated he would not support the motion for the variances as proposed, because he agreed with Northern Equities regarding their variance request. He thought that in this case, as Mr. Sosin stated, that what he initially wanted to do made the most sense from the City's and Mr. Sosin's viewpoint, and that would be a financial contribution equal to the construction costs of the various segments discussed. Member Mutch said his vote was consistent with how he had voted on these issues as they came before Council. He had disagreed with the majority's position, which had been to put in sidewalk segments at various locations where he didn't think they made sense. Member Mutch said everyone knew he was one of the biggest proponents for sidewalks and completing those gaps and segments in the City, but in a manner that made sense. He thought, in this case, a financial contribution and completing the gaps in Phase I made the most sense.

Mayor Landry stated he would support the motion because he thought property owners, as a matter of consistency, should be responsible for the sidewalks. If this motion passed, this property owner would be developing a sidewalk but on a different portion of his property.

Member Margolis said there were a couple of points in the letter sent to Mr. Sosin from the City in terms of installing the sidewalks outside of the wetland buffer and within the easement and securing permits, and she wondered if they should be included in the motion. Mr. Pearson suggested that the easement be made a part of the motion, and that language was acceptable to the City Attorney. Also, Mr. Pearson said the motion said an 8 foot path but he thought Haggerty Road would require a 5 foot path, and if the land did dictate a 5 foot paved pathway that would be acceptable to Council and asked that it be a part of the motion.

Mayor Pro Tem Capello said what he did was go from a 5 foot concrete to an 8 foot asphalt and he thought those were the two alternatives. He wouldn't have a problem, if there were areas that needed to be reduced down to 5 foot, as long as they were attempting to do the 8 foot.

Member Margolis said signs identifying the internal pathway system were also mentioned, and asked if that should also be added to the motion. Mayor Pro Tem Capello said yes.

**Roll call vote on CM-07-10-295**

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

**Nays: Mutch, Nagy, Paul**

**CM-07-10-296**

**Moved by Capello, seconded by Nagy; CARRIED UNANIMOUSLY:  
To grant the variance along the Thirteen Mile Road frontage as requested by the applicant and in lieu thereof to have the applicant construct the paths along the gaps in Phase I of the Haggerty Corridor Corporate Park in accordance with Section 11-10 of the ordinance. The conditions found to have been met to grant the variance are “a literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant; the alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and the granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property”. Also, it would be expected that the applicant would continue with whatever the existing material and width of the sidewalks were, and would carry through the conditions of the easement, plans and signs.**

## **DISCUSSION**

Member Mutch asked, in terms of the construction of the sidewalks on the ITC property, if the applicant would be responsible for obtaining the easements. Mr. Sosin said his reading of the current easements was that they allowed the construction. Member Mutch said since they already put the roads through, and Mr. Sosin replied correct. Member Mutch said then he would support the motion based on the previous motion that addressed most of this, and also the fact that the amount of sidewalk left to be completed on Thirteen Mile would be approximately 300 feet. He said what was proposed in Phase I was 623 linear feet so he thought it more than met the need in that Phase. Although it particularly benefited the developer's project, he saw a public benefit to seeing those gaps completed so he would support the motion.

Mr. Schultz said just carry through a similar list of conditions about the easement, the plans and the sidewalks just so that was clear. Mayor Pro Tem Capello said yes, but it was his understanding that the adjoining property owners would still be responsible for the maintenance of the sidewalks, correct. Mr. Sosin said no, these would be dedicated to the City the same as the current sidewalks were, and would be seamless with the existing sidewalks. He said plans had been provided to the Engineering Department as part of their submission for

the Phase II roads and utilities. Mr. Schultz said that was fine, but he wanted to be sure that this easement was conditioned on all of that paperwork and essentially they were treating this as one large variance. Mayor Pro Tem Capello agreed.

**Roll call vote on CM-07-10-296**

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

**Nays: None**

Mayor Pro Tem Capello thought, that just like subdivision streets that were dedicated, if there was an industrial park, the property owners that abut the sidewalk just as homeowners in a residential subdivision, were responsible for the maintenance of the sidewalks. He asked if the businesses were treated differently on interior streets than the residents were.

Mr. Schultz said the ordinance agreed that all of the fronting property owners were responsible, and he thought the City had a policy and a plan to make sure that the major streets and sidewalks were dealt with. Mr. Sosin said they plow and salt but as far as capital maintenance replacement they didn't own the sidewalks, as they were dedicated to the City. He said part of the difference was this was a collector road. Mayor Pro Tem Capello said if his sidewalk cracked in front of his home, he would have to replace it. Mr. Schultz agreed and Mayor Pro Tem Capello said that was his point and it was something that needed clarification in the future.

Member Mutch echoed the clarification comment. He suggested addressing a situation like this where the sidewalk was going in on ITC's property and not technically within the boundaries of the corporate park, and whose responsibility they were.

**2. Consideration of a request from Atwell-Hicks, applicant for Sunoco Gas Station, for a variance from Section 11-276(b) of the Design and Construction Standards requiring safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan, to relocate a portion of the safety path along the applicant's Flint Road frontage to the opposite side of the street. (The subject parcel is Parcel ID No. 50-22-22-227-001 located at the southeast corner of Grand River Avenue and Flint Street at 43601 Grand River Avenue.)**

Mr. Pearson said this would clean up a long standing item. There was a relatively small amount of money posted for future path construction next to the Sunoco Station on Grand River Avenue. He said the developer desired to clear out and clean up the money that the City had been retaining. Mr. Pearson said they didn't know when or how Flint St. would be paved, improved, widened or aligned, so they were suggesting their request be granted.

Mayor Pro Tem Capello said he would take the exact opposite position he took on the previous issue where Council said all the sidewalks had to be put in, and they would not accept any money to be put into escrow. He said in this case, there was a road not constructed and the location of that road would move; so any sidewalk that went in would most likely be torn out. He said in this particular case, he would rather take the money, put it into the Sidewalk Fund and save it until the road was aligned and constructed, and then they would have the money to install the sidewalk. Otherwise, they were just wasting time and money having the sidewalk installed at this point.

Member Gatt agreed with Mayor Pro Tem Capello.

Member Nagy said the request was to keep the money in a fund, correct. Mr. Pearson said their request was to get their money back. Member Nagy said she wouldn't support that and referred to two residents who live on Eleven Mile Road that came to City Council. The first resident, Council compromised with, and told him he could put money in an escrow account to build a sidewalk later on when all of Eleven Mile would have a sidewalk. After the Council voted on that the same resident came back, a member of Council changed their mind, and there was a new motion and the resident had to pay for 30 feet of sidewalk going nowhere except in front of his house. Member Nagy said another resident came in with the same situation, and they were told they had to build a sidewalk. She said if they were not going to allow residents to put money into escrow for future building of sidewalks, and were making them put the sidewalk in, she was not willing to give these people their money back. She understood they didn't know what would happen to Flint St., but thought it should be put into escrow until changes were made to Flint St., and then the sidewalks could be installed. She thought they needed to be consistent.

Mayor Landry asked Mr. Pearson if he understood correctly that the money was already in escrow and they wanted to use it to build a sidewalk but they didn't want to build it on their side of Flint St. Mr. Pearson said they wanted the cash back because there was no plan or alignment to build the sidewalk. Mayor Landry said they just wanted Council to give them their money back, but what about their obligation to build a sidewalk. Mr. Pearson said they were saying that it had been 5 years since the Flint St. plans were done and they still didn't know how the road was going to be. They were trying to close out their financial guarantees; since the City didn't know how or where Flint St. would be, rather than build something that would be torn out to do something else, their request was for their money back.

Mayor Landry said in the report under Background Information, third paragraph, four lines down it said "The variance requested is to relocate the construction of approximately 240 feet of 5 foot wide pedestrian sidewalk/boardwalk along the southern portion of the development's Flint St. frontage." Mr. Schultz said in their review the idea would be a variance from construction of the sidewalk all together. Mayor Landry said he read this the same way Mayor Pro Tem Capello read it and that was that they didn't want their money back; they wanted to build the sidewalk now and whatever was left over they wanted back. Mr. Hayes said he was correct. They would like to close out their project and what they had offered and were OK with was building a 5 foot sidewalk on the south and western side of Flint St. in lieu of the east or northern side of Flint St. because of the difficulty involved with building on the opposite side of Flint St. They wanted to build a sidewalk and wanted their money back so they could build the sidewalk on the opposite side of the street, and they would keep the remainder. If they did a 5 foot concrete sidewalk, which he thought was feasible on the south/west side; there would be some credit back to them.

Mayor Landry said the request was to refund their money but demand that they immediately put the sidewalk in, just on the other side of the street.

Member Margolis said she understood that there was a practical difficulty in placing the sidewalk where the ordinance required it. So, therefore, they were requesting that it be closed out, put the sidewalk on the opposite side of the street, which would benefit the City, and therefore granting the variance under those circumstances. She agreed with that and thought

it made a lot of sense rather than no sidewalk, or putting one in that would be torn out later.

**CM-07-10-297 Moved by Margolis, seconded by Capello; MOTION FAILED:**  
**To approve request from Atwell-Hicks, applicant for Sunoco Gas Station, for a variance from Section 11-276(b) of the Design and Construction Standards requiring safety paths to be placed along the frontage of the arterial and collector street system in accordance with the Bicycle & Pedestrian Master Plan, to relocate a portion of the safety path along the applicant's Flint Road frontage to the opposite side of the street. (The subject parcel is Parcel ID No. 50-22-22-227-001 located at the southeast corner of Grand River Avenue and Flint Street at 43601 Grand River Avenue.) This was being granted because "a literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant; the alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and the granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property".**

## **DISCUSSION**

Member Gatt stated he supported this and wanted to go on record as saying this was not even close to the situations they had dealt with several months ago regarding residents. This was a situation where the street might be relocated, and Eleven Mile would never be relocated. He said this was in accordance with good City management.

Member Mutch asked Mr. Hayes what the likelihood was that Flint St. would be reconstructed along this line. Mr. Hayes said 50/50 and they had not received firm guidance as to what the future of Flint St. would be. They didn't know whether it would be realigned to the west to match up to the new northwest quadrant or whether it would maintain its existing alignment. Member Mutch asked if he was telling Council there was a 50% chance that the street wouldn't even be constructed in this location. Mr. Hayes said that was his estimate. Member Mutch said looking at the other areas where the ring road, as they understood it, had been constructed along the current Main St., he asked what the width of the sidewalk was in that area. Mr. Hayes said there were 8 foot sidewalks on each side of Main St. Member Mutch said if Flint St. was built along this alignment, and assuming those sidewalks could stay in place, which in a construction situation it might or might not happen, the sidewalks wouldn't be consistent with what was along Main St. Mr. Hayes said correct, it just happened that Flint St. was Master Planned in the Pedestrian Pathway Plan to be a 5 foot wide path. Member Mutch said if they looked at the Town Center plans for this area, they had consistently looked at the southwest quadrant where Flint St. existed and would be rebuilt. He said all the plans he had seen didn't show the current alignment as being the alignment, and he thought they had always wanted Flint St., when built, to mirror Main St. in its design. He said Council had never discussed what Flint St. would look like. He said again, it didn't make sense to put in a 5 ft. sidewalk here nor did it make sense to put in a sidewalk on a road alignment, which 5 or 10

years later might not even go in. He said even if it did go in this location, in the process of construction to put in the storm sewers, curbing and all the improvements that went along with a road reconstruction, they would probably tear it all out. He said for what benefit, if anyone walked or biked Flint St. it would be just a handful of people. He didn't want to keep the money in escrow because that didn't make sense to him either. He would rather take a financial contribution, use it elsewhere in the City, and then at the point that Flint St. was reconstructed it would include the necessary improvements of the street, curb, gutter and sidewalks. Then it would be addressed at a point where it made sense to address it. He said if this motion was not passed, he would support a motion along the lines Mayor Pro Tem Capello discussed when he initially made his comments.

Member Paul stated she could not support this as it was. When the road for the ring road came before the voters 6 or 8 years ago, it was aligned with General Filters across the street and it rounded all the way to Main St. She said if that was the case, they were about 200 ft. off from where Flint St. currently was. This might or might not ever be built, but a lot of cement trucks went down this dirt road, and she felt it was not a good use of the money to spend it in that area. Member Paul said if they looked at the Main St. area they were trying to build, there were several proposed sidewalks on the south side of Grand River east of Novi Road that had not been filled. This was because in front of Dan's Auto and just west of the Fire Station there was a proposed sidewalk and there was no sidewalk there. She said there were other areas, and she had been talking to Mr. Pearson about closing the gaps around the school system. One of the areas she wanted to see completed was from Clark St. to Taft Road so the people that didn't have internal sidewalks would have a feeder system to Taft Road. She said she would not want to put money into sidewalks in that area, and thought they should keep the money where it was supposed to go, and keep it in escrow.

Member Nagy stated she would not support the motion because she thought Member Mutch made a lot of sense when talking about a financial contribution in lieu of the sidewalks. She said she felt they needed a policy. Mr. Pearson said they had the ordinance that required it, and their request was based upon its merits, and that was why it was here with the Design and Construction waivers. She said they were proposing an alternate asphalt strip that was orphaned on the other side of the road. Member Nagy thought that was a good point because there really wasn't a reason to put it on the other side of the road. However, she thought they needed a policy regarding financial contributions in lieu of building sidewalks, and a formula for calculations. She thought in the long run that would allow the City to fill in the present gaps.

Mayor Pro Tem Capello said if they allowed this one developer to build a sidewalk on the other side of Flint St., he was building it for the developer of that property. He said that sidewalk would have to go in when that property was developed anyway, at that developer's cost. So, not only were they wasting money building a sidewalk that would be torn out, they were taking money and using it to build a sidewalk that someone else would have to build anyway. He said that was why he could not support the motion. He would support a motion that said they would take the money that was currently in escrow and give it to the Sidewalk Fund, and then Council would waive any requirement to construct that sidewalk at this time.

Mayor Landry said he would support the motion and thought the ordinance required that people put in sidewalks. He said if they started making exceptions so people didn't have to put in sidewalks somewhere on their property, they would start to get all kinds of requests and

excuses of why people didn't want to put sidewalks in. The previous matter cited practical difficulties along Thirteen and Haggerty, but as an alternative they would put more linear feet of sidewalk on their property. He didn't want to get into the habit of putting money into a fund because everybody would say they didn't want to put the sidewalk in front of their house because they didn't like the way it looked, and would rather give money.

**Roll call vote on CM-07-10-297**

**Yeas: Margolis, Landry, Gatt**

**Nays: Mutch, Nagy, Paul, Capello**

Mayor Pro Tem Capello said if they were going to construct the sidewalk anyway, he would prefer they put it on their side of Flint St.

**CM-07-10-298**

**Moved by Capello, seconded by Nagy; MOTION CARRIED:**

**To grant the variance that they do not have to construct their sidewalk for the reasons in accordance with Section 11-10 of the Ordinance that the following conditions had been met “a literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant; the alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and the granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property”. In lieu of constructing the sidewalk the applicant would be required to place into the City’s Sidewalk Fund the amount they currently have in escrow which was the estimated amount to construct the sidewalk on their side of Flint St. Also, that the financial contribution would be specifically for sidewalk construction.**

## **DISCUSSION**

Member Margolis said, for clarification, Council didn't really have a Sidewalk Fund. Mr. Pearson said she was correct, sidewalks were done out of the Local Street Fund. She said if Council denied the variance, the financial guarantee was sitting in escrow right now, and for all intents and purposes this was the sidewalk fund for this sidewalk, correct. Mr. Pearson said if the request were denied it would be status quo, and there were no expirations that he was aware of for the financial guarantee. It would just continue to roll, and he wasn't sure if it was a Letter of Credit or a Performance Bond, etc. Member Margolis said her concern was that when they wandered down this road and started doing these kinds of things, they would end up making those changes again and again. She said she was the first one to say she made a mistake granting a sidewalk variance, which came back a few weeks later and said “now we want a sidewalk variance”. It was always a difficult situation and she could not support the motion. Member Margolis said regarding policy, her direction would be to put the sidewalk in or wait till the sidewalk was in. She said she didn't know if they had proved a practical difficulty in putting the sidewalk in. She said there was a comment about potential environmental impacts, but Council was saying they didn't know where Flint St. was going to be. She said she couldn't support the motion.

Member Gatt concurred with what Member Margolis said; if they supported this motion, it was exactly the same situation that the people on Eleven Mile came before Council with last year, by saying it was a practical difficulty and it wasn't. He said they did make them put the sidewalk in because that was what the ordinance said. He commented that by not granting the variance and keeping the money was not creating any difficulty for the property owner. Member Gatt said he could not support the motion.

Member Mutch believed the reason this came forward was because the property owner wanted to close out this project, and the money sitting in escrow was delaying that. He thought whatever route they took they would want to give the business owner and the developer of the property a final resolution. He thought Mayor Pro Tem Capello's variance proposal accomplished that, and what the Council was doing was addressing these situations on a project by project basis. He said he would prefer to have a policy that laid that out in writing, but each situation was different, and his votes had been consistent to address them that way. He stated he would support the motion, and thought it made the most sense for this location.

Mayor Pro Tem Capello thought in granting the variance this was very similar to the previous application because the sidewalk did run along the edge of the wetland, if not within the wetland, and there was about a 10 foot drop off the edge of the sidewalk going into the Middle Rouge River. He said all of this was in a flood plain even though FEMA just realigned it. He said for those reasons it was very similar to the exact situation along Haggerty Road that Northern Equities had.

Member Nagy said the additional comments by Mayor Pro Tem Capello were very well taken.

Mr. Schultz said, for clarification on the motion, as he understood it this was not really a denial of their proposed request for the alternative location but really an alternative grant. He said Council was proposing an alternative variance that would allow them not to construct it at all, and have the money stay with the City in whatever fund was appropriate. Mr. Schultz said that was appropriate; it was an alternative variance with a different grant of relief. However, it was possible that the proponent might say he would rather build the sidewalk where the ordinance said he needed to build it. He wanted to be sure that everybody was clear on that and that he understood the motion as a grant of alternative relief.

Mayor Pro Tem Capello said that was his thought too. He looked at it as granting their variance but getting a different relief in granting the variance.

Member Mutch said he wanted to clarify one point that was made regarding where the money was going. He commented that he knew there was at least one other development at the northwest corner of Eleven Mile and Meadowbrook; Council allowed the developer to make a financial contribution to the City for the sidewalk construction, and it was specifically designated for that. He said he didn't think any issue was raised at that time. He thought that as long as the motion made clear that whatever money was coming it wasn't going into the General Fund or the Municipal Street Fund or whatever, but specifically for sidewalk construction. He asked if there was any reason that couldn't be attached to the motion. Mr. Schultz said that could be done. The maker and seconder of the motion accepted Member Mutch's addition to the motion.



Mayor Landry said he would not accept the motion for the reasons stated by Member Margolis and Member Gatt.

**Roll call vote on CM-07-10-298**

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

**3. Consideration of the vacation of Ampton Drive, an unimproved stub street in the Meadowbrook Lake subdivision, and approval of resolution to set a public hearing for the October 22, 2007 City Council meeting.**

Mr. Pearson said the matter for consideration of Council was two fold. If there was sufficient interest by Council, the next step of the process would be to hold the Public Hearing on October 22<sup>nd</sup>. He said the action tonight would not be to affect the vacation; it would simply express the Council's willingness to explore this with a Public Hearing. Council could also say there was no interest in this, close it and there would be no need for a Public Hearing.

Member Nagy said while she had empathy for the residents, the Engineering Department and the DPW had objections to Ampton Drive being vacated. She said their reasons were the City required this portion of the Middle Rouge River in order to conduct maintenance activities to mitigate streambank erosion and sedimentation. The City required access to this area to maintain the sanitary interceptor sewer, and was currently trying to establish a vegetated riparian buffer along this portion of the Middle Rouge River, which was a highly sensitive environmental area. She understood that sometimes people bought property and didn't really know what they bought, and assumed it was all theirs. She said she was sorry because she supported residents as much as possible; however, in this situation the City's own departments didn't want this vacated. Member Nagy said she didn't want a Public Hearing as she was not in favor of vacating this drive because of the reasons stated by the Engineering Department and the DPW.

Member Paul concurred with the previous speaker and felt this was a very unfortunate situation. She said recently in another area, she and Mr. Hayes went out to James Bruce's house that abutted Bishop Creek. She said there was no access to Bishop Creek from that internal subdivision, and there were a lot of problems with streambank stabilization, and no way to get in there. Also, as people kept taking the riparian buffer away, there was more impact southbound with the water, and Council could not keep allowing that. She said they had spent a tremendous amount of money, time and effort in this area to maintain and dredge Meadowbrook Lake, and this was part of it. Member Paul said she could not support this either.

Member Margolis said she could not support this for some of the reasons Council had discussed. She said legally, the main reason Council could vacate a road was that it offered public benefit to the City. Mr. Schultz agreed. In addition to some of the concerns expressed by the Council, she read the information carefully to see what public benefit it would provide, and couldn't find any, and felt it was detrimental for some of the reasons mentioned earlier. She said she had a lot of sympathy for what the applicant was going through and would like staff to work with them in any way to help this situation, but she could not support going to a Public Hearing.

Member Gatt asked if Council didn't go forward with this, would the homeowner be allowed to build a shed on this property.

Mr. Pearson thought there could be options for variances or otherwise try to maintain their usage of the property and not fully inhibit their rights to improve the property. Member Gatt said he would like to see that happen.

Mr. Patterson, applicant, said they had written a letter to Mr. Hayes that they do grant access for the sanitation and streambank stabilization, and for whatever the City needed to do. He said he brought the erosion problem to Council's attention in 2005 because he wanted it to be stabilized. He stated there was no problem granting easement rights or whatever the term was for access to that property to maintain it in any way, shape or form. He said they would encourage the maintenance there. Mr. Patterson said it was also brought to his attention that some consideration had been given for a possible path on the property behind him, and they would be happy to allow a path to be put through there for access to that pathway should that ever come to be. He said they just wanted to be able to maintain it, and there were four homes in the same area, and his was the only property that had this type of restriction to it. The other three homeowners that bordered his property didn't have to live up to these restrictions, and all four properties were identical and were all on the streambank. He said his property would not make any difference or impact to that streambank in any way, especially since it had been stabilized. He said with the storms in the spring and recent storms, trees had been lost that he would like to see replaced so that it would truly give a good stabilization to that streambank. If the trees were lost, the roots were lost and then some of the stabilization would be lost. Mr. Patterson said those were the ways they could improve and maintain the streambank stabilization, and they would not want to affect that in any way.

Mayor Landry thought Member Gatt had the solution to this. He thought there could be something worked out where the homeowner could put a shed, plant flowers, and vegetation or landscape it to make it look like the homeowner's yard and use it. He didn't have a problem with any of that, but the City needed to maintain ownership of the lot because it needed access to the streambank. He said if the City gave up the lot, the homeowner would own it and if the City took a piece of equipment in and ran over some flowers or bushes the homeowner would look to the City for reimbursement. Whereas, if the homeowner was putting something on the City's lot, it would be at their risk, and if the City needed to go through there and move a bush or something, the City would not have to pay for it. Mayor Landry thought given the situation, the City could be a good neighbor but he didn't want to give up ownership of the lot. He said he would be in favor of directing the Administration to work with the homeowner, help them if they needed a variance, or with whatever they needed. He commented he was not opposed to a shed there and hoped they could work that out. He said apparently it looked like their lot from the road, they had been using it as their lot and he didn't see why that had to stop.

**CM-07-10-299      Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY;  
To not move forward with a Public Hearing in regard to the vacation  
of Ampton Drive, and not to pursue vacation further with a directive  
to Administration to look into the possibility of granting some type  
of a variance for the Pattersons to construct a shed on Ampton  
Drive in very close proximity to their lot line as might be practical.**

## **DISCUSSION**

Member Mutch agreed with the comments made by the Mayor, but would also add, from the viewpoint of the City as well as the Pattersons, that the process this would go through was not the typical street vacation that Council generally discussed. In fact, based on information from the City Attorney, this would go to Circuit Court, then before an official division of the property could take place the State would have the option to come in and potentially take ownership and control of the property. He said based on efforts made at the State and County level to protect sections of the Rouge River, which this included a major portion of, he could see that happening. Then they were in the situation where the State owned that piece of street and the State was dictating the terms and conditions of its use. Member Mutch said that was not a situation that the Pattersons or the City wanted to be in. He thought what had been proposed met the needs of the City while addressing the needs of the resident. He said looking at the aerial map, their home literally sat on the property line and somewhere along the way something was lost in the process that allowed that condition to develop. Council couldn't fix that now but could move forward with a solution along the lines of what Mayor Pro Tem Capello proposed. He said that would allow them full use of their property while protecting the City's interest in the property, and he felt that made the most sense.

Member Nagy asked where they wanted to put the shed. Mr. Patterson replied next to the garage. He said it was an 8 ft. by 10 ft. shed and it didn't encompass that whole area at all. Member Nagy thought this was about the best solution to be found for this situation. She said Mr. Patterson mentioned there were three other properties that were growing grass by the creek and he would like to keep cutting grass by the creek. She asked Mr. Hayes if he had investigated to see if that was what was happening on the other properties. Mr. Hayes said the only property the City would have control over would be Ampton Drive where they could say they needed to establish a 25 ft. wide riparian buffer. The other properties were private and all they could do was try to encourage people. Member Nagy said her concern was that the City had spent a lot of time and effort sending out letters to 650 homeowners that lived along the lakes, creeks and streams asking them not to cut to the edge and to keep the buffer. She understood that the City was not fining people or anything, but a lot of money had been spent in the Meadowbrook Lake area and dredging Meadowbrook Lake to keep that area from flooding. She felt it was really important that they had the cooperation of the property owners, and that they go along with what the environmental concerns were. She felt it would be really incumbent upon the associations to convey that in their newsletters, because in the long run it would not just cost environmentally but also the residents in the area and ultimately the taxpayers. She said she would support the motion and thought it was a good compromise.

**Roll call vote on CM-07-10-299**

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

**Nays: None**

**AUDIENCE PARTICIPATION – None**

**MATTERS FOR COUNCIL ACTION – Part II**

- 4. Approval to award vehicle bid as follows: Varsity Ford (5) 2008 F250 pickups for \$22,996.13 each; Signature Ford/Jeep (2) 2008 Liberty for \$22,978; Signature Ford (2) 2008 F350 pickups for \$24,521 each; Bill Wink Chevrolet (1) 2008 Impala for \$17,257; Joseph Chevrolet (2) 2008 Colorado for \$20,518.05 each, (1) 2008**

**Trailblazer for \$23,936; Mobility Transportation (1) 2007 E350 Passenger Van for \$30,522.10, all low qualified bidders.**

**CM-07-10-300 Moved by Nagy, seconded by Paul; CARRIED UNANIMOUSLY: To approve award of vehicle bid as follows: Varsity Ford (5) 2008 F250 pickups for \$22,996.13 each; Signature Ford/Jeep (2) 2008 Liberty for \$22,978; Signature Ford (2) 2008 F350 pickups for \$24,521 each; Bill Wink Chevrolet (1) 2008 Impala for \$17,257; Joseph Chevrolet (2) 2008 Colorado for \$20,518.05 each, (1) 2008 Trailblazer for \$23,936; Mobility Transportation (1) 2007 E350 Passenger Van for \$30,522.10, all low qualified bidders.**

## **DISCUSSION**

Mayor Pro Tem Capello asked why in October 2007 they were bidding out 2008 cars. He said they were just getting to the point where the 2007's were going to have rebates and go on sale, and they could get great deals on them in the next couple months.

Mr. Pearson said he didn't know if they had specified a year, and they could have offered up new 2007's. The only 2007's offered were the Mobility Transport vehicles. Mayor Pro Tem Capello said it didn't matter what year or if they lost \$5,000 driving out of the dealership, because there was no resale value when the City was done with them.

Mayor Landry suggested they discuss this at their goal setting sessions.

Member Mutch said he noticed that some departments were significantly under budget. For example, Parks and Recreation came in about \$19,000 under budget, and some departments were over budget. He said the total bid was under budget and there was a comment that these would be adjusted through a budget amendment. He hoped that those departments that came in under budget wouldn't be asked to supplement the budgets of those that went over. He thought that would be sending the wrong message to those who made the effort to find vehicles that were under the budget amount.

**Roll call vote for CM-07-10-300**                      **Yeas: Paul, Landry, Capello, Gatt, Margolis, Mutch, Nagy**  
**Nays: None**

- 5. Approval to award a construction contract to T&M Asphalt Paving, Inc. of Milford, MI, the low bidder, in the amount of \$131,795.80 for the 2007 Bituminous Pathway Rehabilitation Program.**

**CM-07-10-301 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY: To approve award of a construction contract to T&M Asphalt Paving, Inc. of Milford, MI, the low bidder, in the amount of \$131,795.80 for the 2007 Bituminous Pathway Rehabilitation Program.**

## **DISCUSSION**

Member Mutch said even though the bike path across the street from his house was being replaced he had no input in the decision to replace it. He didn't want anyone to think that because the Taft Road bike paths were being replaced that there was any influence on his part to do so.

**Roll call vote on CM-07-10-301**

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

**Nays: None**

- 6. Approval to award an engineering contract for design and construction engineering services for the Meadowbrook Lake Dam Modifications project to URS Corporation for a not-to-exceed design fee of \$39,885 and a construction engineering fee equal to a fixed 6.0% of the estimated construction cost (estimated to be \$17,100) for a total of \$56,985.**

**CM-07-10-302**

**Moved by Mutch, seconded by Nagy; CARRIED UNANIMOUSLY:  
To approve award of an engineering contract for design and  
construction engineering services for the Meadowbrook Lake Dam  
Modifications project to URS Corporation for a not-to-exceed design  
fee of \$39,885 and a construction engineering fee equal to a fixed  
6.0% of the estimated construction cost (estimated to be \$17,100) for  
a total of \$56,985.**

## **DISCUSSION**

Member Nagy thought Ms. Kocan's letter was very good, and she would like to see an investigation with regard to the Nine Mile dam area where MDEQ wouldn't grant the permit. She said with regard to her concern, she asked Mr. Hayes if he was looking at any alternatives. Mr. Hayes said there was a major scour underneath the concrete apron that led to the culvert that went underneath Nine Mile Road downstream of the dam. He said originally they wanted to go with Anderson Eckstein's recommendation to fix that scour possibly by extending that concrete apron further upstream but the DEQ would not permit that because of the alleged impact to the habitat. He said, as was discussed at the September 10<sup>th</sup> meeting, they would investigate that further and develop an alternative. They had not yet delved into the issue yet to see what a good alternative would be. He said part of the issue was they thought that might be causing a restriction in flow underneath Nine Mile Road, which would contribute to the flooding of the park. If that was the case, they would definitely want to come up with an alternative that was palatable to the DEQ.

Member Nagy said Mr. Patterson mentioned that they didn't want the grass cutting in the park because it would attract varmints and it was unattractive. She said there were varmints in that whole area. She said she understood the importance of the City maintaining that, and asked what they were going to do with the residents in regard to that question. Mr. Hayes said they would have to work collaboratively with them to come up with a vegetative buffer that met the City's needs as far as protecting the stream banks. He noted they were trying to get vegetative material that took deep root to help really stabilize those banks. Mr. Hayes said their concern was if the City went with the full 25 ft. width, it might encroach on their park. He said they might end up with a buffer that was a little narrower than that but it would still provide

protection to the banks. Member Nagy said they were aware that something would have to take place. Mr. Hayes said yes, as part of the Streambank Stabilization Project, which was still an open contract, the contractor was coming back around the first week in November to finish the plantings in the stream area on the banks. Then he would stake it out for the residents so they could visualize what a 25 ft. width would be, and if they weren't happy with it, a narrower width could be negotiated. Member Nagy said she appreciated that, and asked if some of the diseased trees that had fallen would be replaced in that area. He said there was no plan that he was aware of, and he would have to talk with Mr. Printz to see if he was planning anything. Mr. Hayes said later this month they were installing some stouter, bushy type plants that would go into the riprap along the western shore of the Middle Rouge. Once that was mature the bushes would be 3 or 4 ft. tall lining the bank to help stabilize it further.

Member Mutch said Ms. Kocan's letter to Council raised a number of points. He thought they had all been addressed but he wanted to go through them quickly. He said there was a question about the impact of the construction activity on their playground and active park area, and Ms. Kocan indicated there wouldn't be any impacts. He asked if that was consistent with Mr. Hayes' plans, and Mr. Hayes responded it was and he had indicated that to Ms. Kocan. He said all the work associated with the dam alterations would be within the City's easement and he didn't envision it encroaching onto their park area. Member Mutch said in that area there was a 100 ft. wide easement from the dam through the area where the concrete channel was, and Mr. Hayes said he was correct. Member Mutch said there was a question of whether it made sense to remove the concrete channel because of questions of funding. He said all of this would be funded out of the Drain Revenue Fund, and Mr. Hayes agreed. Member Mutch said this wasn't money that could be used elsewhere; it had to be used for these kinds of activities. Member Mutch said Mr. Hayes had discussed the Streambank Stabilization Report Recommendation in terms of the scouring at the apron. He said Mr. Hayes indicated that the City had an easement on the east side of the river so that issue had been clarified. Mr. Hayes said at the time of the meeting, he wasn't aware that the City had a current easement over the Carlesco property but he verified it after receiving Ms. Kocan's letter that the City did, in fact, have that easement. Member Mutch said Mr. Hayes had discussed the plantings and that he would be working with the homeowner's association. He said Ms. Kocan also noted the issue of cutting the areas where the grass had been allowed to grow that was outside of that and that the City would take care of that. Mr. Hayes said the City would do the initial cutting because they didn't have the equipment to cut the tall grass. Mr. Hayes said once they figured out where the limits of the buffer would be, then they would mow outside of that area.

Member Mutch said it sounded like the issues that had come up previously, and at the meeting, had all been addressed to everyone's satisfaction. Mr. Hayes agreed. Member Mutch said another issue that Member Nagy noted and that Ms. Kocan's letter raised was the question of replanting this section with additional trees. Mr. Hayes said they had removed some dead trees but there were no plans to plant any additional trees. Member Mutch said one thing that was obvious along this stretch of the Rouge River was that historically this was all wooded. In fact, through erosion and Ash Borer disease almost all the trees on the west side of the river were lost. He said it was all grass now. He had asked what the best vehicle was to get trees planted back in that area in terms of reestablishing that native canopy. He thought if there were trees along that area, it would address some of the concerns residents had about what was growing there. He commented that the more wooded that was the undergrowth would be a much different variety than the grasslands and would probably reduce the maintenance. He said Mr. Hayes had indicated that the City still had an open contract and

that could be utilized to get trees planted along that section of the river. Mr. Hayes said yes, and the contractor would be back late this month or early November to finish up planting, as the contract he was speaking of was still open. Member Mutch asked who would put together the plan. Mr. Hayes said it would either be internally or they would amend their Consulting Engineer's contract to scope that out for the City. Mr. Hayes said having the trees installed would be a great improvement but if it was not in concert with the vegetative buffer, they would wash away and die. He said they needed to keep that stable and the buffer intact. Member Mutch said it really made sense to do that and the people who were doing the streambank stabilization, the replanting, if we're going to do trees, they should be the ones so that we're coordinating that.

Member Mutch said he would like to make that a separate motion, and didn't think it needed to be a part of the contract award, but if Council could direct the Administration to put together a plan, then Council could work out whether the cost would come from the Tree Fund or Drain Fund. He thought it absolutely made sense to reestablish that in that area, and he really thought in the long term, it would clear up some of the problems they had been talking about today, if that woodlands canopy could be reestablished along there.

**Roll call vote on CM-07-10-302**                      **Yeas: Capello, Gatt, Margolis, Mutch, Nagy, Paul, Landry**  
**Nays: None**

**CM-07-10-303**                      **Moved by Mutch, seconded by Nagy; CARRIED UNANIMOUSLY:**  
**To direct City Administration to investigate the feasibility, with the intent of a tree plan along that section of the Middle Rouge River, in concert with the streambank restoration project currently under way.**

Member Gatt asked if the City already had a plan in place. Mr. Pearson thought the idea was to emphasize some trees in addition to the plant materials that would hold up the shore stabilization within that 25 ft. buffer. He said they didn't have a specific tree plan.

Member Margolis said she could support a motion to investigate the feasibility of a tree plan, but to direct the Administration to develop specifically a tree plan, she thought they needed to give the experts the option to determine if that really made sense for that area.

Member Mutch said he would amend his motion to use language feasibility with the intent, and Member Nagy agreed.

**Roll call vote on CM-07-10-303**                      **Yeas: Gatt, Margolis, Mutch, Nagy, Paul, Landry, Capello**  
**Nays: None**

**7. Consideration of Zoning Ordinance Text Amendment 18.220, to amend Ordinance No. 97-18. as amended, the City of Novi Zoning Ordinance, at Article 16, TC and TC-1, Town Center Districts, to permit instructional centers. First Reading**

Mr. Pearson said this had been requested by Mr. Brateman on behalf of several property owners to look at some of the language for the TC, TC-1 and what the allowed uses were. He

said the Planning Commission held a Public Hearing and made a positive recommendation for this item.

Mr. Brateman said he had previously appeared before Council and was granted a revision text amendment to the NCC Ordinance seeing the benefit to the community of having instructional centers in the NCC District. In 1997 the Council amended the text of the B-1 Ordinance to allow instructional centers. At that time, there was no incentive for anyone to say “you know anything that you can do in the B-1 you can do in the TC-1 Ordinance”. He said so at that time, the TC-1 Ordinance should have also been amended to include instructional centers but there was no incentive on the applicant who was a B-1 property owner, to make that statement. He said now, as a broker marketing a TC-1 property, he had a dance school that wanted to open an establishment in the TC-1 district. He said they called the City and the City said they couldn’t do that in TC-1 because it was stated explicitly in the B-1 Ordinance but it didn’t state it explicitly in the TC-1. Mr. Brateman said the Planning Department said there must have been some reason it wasn’t included in the TC-1, and the reason was when it was amended in 1997 no one showed an interest to amend it.

Mr. Brateman looked at the merits of having instructional centers in TC-1. He said they were trying to create a downtown and the more people that came for the instructional center whether dance, math, etc., the more people would be availing themselves to the services in the area, and it would bring instruction to the residents. He said this was consistent with what was done when the B-1 Ordinance was amended, and consistent with the goal of creating a viable downtown, and no useful purpose would be served in denying this.

Mayor Pro Tem Capello commented that he was in favor of it and thought it made sense. He wanted to see Section 14 expanded, and maybe talk about tutoring, continuing education such as there was in accounting or real estate. Also education enhancement, including instructional training centers so it was much broader than the small scope that was in B-1.

**CM-07-10-304      Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY:  
To approve Zoning Ordinance Text Amendment 18.220, to amend  
Ordinance No. 97-18. as amended, the City of Novi Zoning  
Ordinance, at Article 16, TC and TC-1, Town Center Districts, to  
permit instructional centers. First Reading**

## **DISCUSSION**

Member Paul said the very last paragraph said “Based on the department’s interpretation of the ordinance regarding the NCC district, and the fact that the TC districts currently have standards for review of daycare facilities, staff does not believe that any further modifications to the standards for daycare facilities are needed at this time”. She asked that he comment on that. Mr. Rumble said he wanted to make sure there was no confusion on what was going on with the NCC district request and the TC modification request tonight. He thought there was an issue earlier about the difference between a child care situation and an instructional center, before this came up previously. Member Paul asked if he was supportive of the text amendment and he said he was.



**Roll call vote on CM-07-10-304**

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

**CONSENT AGENDA REMOVALS FOR COUNCIL ACTION – None**

**MAYOR AND COUNCIL ISSUES**

**1. City Council float for Ringing in the Holidays – Mayor Landry**

Mayor Landry said he and Mayor Pro Tem Capello were talking, and Mayor Pro Tem Capello commented that in the Ringing in the Holidays parade Council had ridden inside cars the last couple of years because of inclement weather and really couldn't be seen. Mayor Pro Tem Capello suggested that City Council enter their own float in the parade, and volunteered his home so they could build the float and it could be put on a flat bed. Mayor Landry thought it was a great idea but before committing his colleagues, he wanted to sound everyone out as to whether they thought it was a good idea or not. He said perhaps they could even throw down a challenge to the other boards and commissions in the City to see if they would come out and have a float for the parade.

Member Nagy thought it would be a riot, and since she would no longer be on Council, she wished them luck and said they better do a good job.

Mayor Landry asked if anyone was opposed to it and no one was. So, he said they would receive further word from Mayor Pro Tem Capello as to when they would gather and construct this float. Mayor Pro Tem Capello asked if Administration should send the word out. Mayor Landry said absolutely; throw down the challenge to the other boards and commissions that City Council was taking them on.

**AUDIENCE PARTICIPATION – None**

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 9:05 P.M.

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David Landry, Mayor

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Maryanne Cornelius, City Clerk

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Transcribed by Charlene Mc Lean

Date Approved: