

REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
DRAFT – MONDAY, MAY 14, 2007 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD
www.cityofnovi.org

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

PLEDGE OF ALLEGIANCE

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

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

APPROVAL OF AGENDA

**CM-07-05-099 Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve the agenda as presented.**

Voice vote

PRESENTATIONS

1. Proclamation – National Public Works Week May 20-26, 2007

Mayor Landry presented a proclamation to Tim Wright and Gary Clark from the Novi DPW and declared May 20-26, 2007 National Public Works Week in Novi. He asked everyone to be aware of the dedication of public works officials who improve the quality of life for present and future generations.

Gary Clark and Tim Wright were present to accept the proclamation on behalf of all the staff members of the Department of Public Works. Mr. Wright expressed appreciation for the continued support of the Mayor, Council and residents of Novi.

PUBLIC HEARING

1. Vacation of City interests, including any highway or right-of-way interests, in property located at the intersection of West Lake Drive and South Lake Court.

William Richard Curtis, 101 Penhill, stated he was a licensed surveyor in Alabama and an associate member of the State of Michigan. He said about 5 years ago he surveyed that lot for a company he worked for. He said the owner tried to get it vacated and was turned down; he sold it a few more times and now a big mansion had been built on it. Mr. Curtis said part of the problem was that the right-of-way was deeded in the 1800's when Michigan was divided up. He said if the house was built 17 feet over his line on City property how far was the wall built. He asked if Bristol Corners had been notified that the wall could be built on their property; it seemed like it changed hands and then all of a sudden it was built on. He said the homeowner should have had a foundation drawing from the surveyor that would have shown his house

was still encroaching. Mr. Curtis said he didn't see how the Building Department or City Attorney let this go this far as it should have been stopped way before this.

REPORTS

1. SPECIAL/COMMITTEE – Recap of 2007 Mayor's Exchange with City of Wyoming

Mayor Landry said Mayor's Exchange Day was really a misnomer as it was not about exchanging Mayor's; it was about exchanging the entire Council and office staff. He said when visiting the City of Wyoming they tried to learn as much as possible about how and what the community did, how they dealt with DPW projects, fire safety, etc.. Mayor Landry said they shared information with each other and it was very successful. He commented last year they had a Mayor's exchange with the City of Portage and out of that came the Public Citizen's Survey that Novi initiated. Mayor Landry said Council was now digesting the ideas they learned from the City of Wyoming, and the exchange was very fruitful.

2. CITY MANAGER

Mr. Pearson introduced Steve Rumble, Novi's new Community Development Director. He explained that Mr. Rumble would be responsible for Planning and Building functions, as well as Code Enforcement. He said they had realigned some of the functions and created the Community Development Department, which was a natural progression with some of the things they had been working on over the last year or so. He noted Mr. Rumble was extremely well qualified and suited for this position and had started out his professional career with the City of Novi as an intern more than a few years ago. Mr. Rumble came to Novi from White Lake Township where he was very accomplished and very well spoken of by the staff and elected officials. Mr. Pearson noted Mr. Rumble had a Master's degree in Urban Planning from Wayne State University, and a number of technical degrees.

Mr. Rumble said it was his pleasure to be with Novi and felt he had joined a great team. He commented he had gotten to know the staff and they were very supportive and highly qualified. He said he was very happy to be with Novi and looked forward to meeting everyone personally.

3. DEPARTMENTAL

Mr. Auler announced that the annual Memorial Day Parade would be held on Monday, May 28th, beginning at 10 AM and would proceed from Karim Blvd. west on Ten Mile and concluding at the Civic Center. Once at the Civic Center, there would be a ceremony to honor those veterans that had given their lives so that others could live the way they live today in America. He said there would also be a special presentation by the theatre program within his department that would honor veterans. He encouraged the community to participate, and said applications were still being accepted for parade entries. Mr. Auler said there were about 55 entries as of today.

4. ATTORNEY - None

AUDIENCE PARTICIPATION

Bill Brennan, 126 Penhill, homeowner in Bristol Corners, said in 1916 Dan Bentley sold Lot 12 to Sidney Blomfield for a development he was starting on the west shore of Walled Lake. He specified that Lot 12 would be the access lot for all purchasers of lots in that subdivision. Since that time, according to the tax records and the City Assessor, all lot owners in the subdivision were assessed to pay taxes on that lot. He said for over 50 years the subdivision used that deeded access lot like all the other subdivisions around the lake. In 1974 there was a series of, in his opinion, questionable transactions and Lot 12 was quit claimed to the City for \$1,000. Since the mid 70's with a new storm drain installed on the north side of the lot and the fence torn down, Lot 12 wasn't used as much as it was in the past. He said the subdivision went through changes with people moving in and out, and the new people and some of the long time residents wanted to use their access lot as it was intended, which was for boating, swimming and fishing. He said there were 18 other access lots around Walled Lake, and 14 of them were in Novi. These access lots have docks and moored boats, and the precedent for using these access lots had already been established on the lake, both in the City of Novi and the City of Walled Lake. He said the Blomfield Subdivision homeowners want to exercise their deeded access rights to Lot 12 as they were intended when the subdivision was developed. He said since the early 1900's homeowners on and off Walled Lake had co-existed with docks and boats and were all sharing the shoreline. He said the precedent had already been set and unless all access lots are not allowed overnight docking of boats, Lot 12 should be allowed the same privileges. Mr. Brennan showed Council some pictures of access lots around the lake on S. Lake Dr., and others in Novi with boats moored both in Walled Lake and Novi. He said the lake was surrounded with docks and boats and he didn't see where another dock with boats would make a difference to anyone.

William R. Curtis, 101 Penhill, said a quit claim deed didn't say they owned it, it just meant that they happened to buy it because they thought they might have that interest. He asked what would happen if another builder put in a plan for Lot 11 and built on Lot 12 also, would Council turn their back and say "Oh, it's already built and it's started". He said they didn't want to lose that easement and they didn't want it shrunk. Mr. Curtis said it was recorded as theirs and they wanted to keep it that way.

Greg Gnatek, 1947 W. Lake Dr., commented that he had done some research and found a 1998 letter from Fried, Watson and Bugbee, which stated the lot had a pedestrian easement. He said that meant someone could walk down to the lake and carry whatever they wanted, but that was the extent of what they could have out there. It further indicated that there was no overnight mooring on that property. He said he lived on Lot 4, next to Lot 3, which was an easement. Mr. Gnatek said the easement was intended for Pickford residents and he wanted assurance that the easement he was currently building close to would never have these issues. He said without the letter in 1998 from Fried, Watson, Bugbee, he would not have purchased the property and built there. He said it was clear to him what the scope and use of the easement should be and the letter made it very clear. He asked Council to stick to the information he had when researching the property and before he purchased it.

Carol Crawford, 22135 Beck Road, supported the people on Penhill. She said that was exactly how all the lake property was done in this community. They all had an easement and were all given the opportunity to moor boats, and she didn't understand why the ability to moor boats was taken away from these people. She said she could account for easements since

1947 but she had also seen people take easements over. For instance, where she grew up on East Lake Dr. the easement that was theirs had been taken over by two residents and they had planted trees, landscaping, etc. on it, and people could only walk to it. She said they had always had a 20 foot easement. The original intent of all the subdivisions around the lake was that there was an easement provided, and it was provided for in their deeds. She questioned how they lost the ability to moor their boats, and how the City paid to take it away from them. She felt they had been cheated out of their beach property and the ability to moor their boats. Ms. Crawford said the newer people didn't realize this and landscaped it and then told everyone they couldn't walk on their property, and she had seen this happen around the lake.

Gary Borrin was present representing some of the people of Blomfield Subdivision. He had addressed City Council in a letter and their position was that they do have dock rights. Mr. Borrin said he had reviewed letters from City Attorney's over the years, and had reviewed the minutes of the Public Hearing of March 19th. He said it was their position that there had been a dock there for years and years and these people did have dock rights. He said Mr. Blomfield, when he deeded this to his clients and their predecessors in the 1920's, retained title. He noted that Mr. Blomfield was an alumni of Olivet College and apparently gave the residual of his estate to Olivet College in the 1920's. Mr. Borrin said in 1976 there was a quit claim deed, a drain was place on it and it was deeded to the City, and the City took ownership subject to the same obligations and benefits as a successor to Mr. Blomfield. He thought the key to this matter was not what the lake owners felt, or the lot owners felt, but what, in fact, were the obligations of the easement, which was a legal question. He said he would like to address this with the City Attorney. He noted it was their opinion, based on what existed in the past and as he read the language, that there were dock privileges for boats. He felt it wasn't a matter to determine what the homeowners wished as much as it was that the City had a contract with the owners of the Blomfield Subdivision in that they take the obligations and rights of Mr. Blomfield and that lot, and the rights and obligations to the residents. He requested Council table this item to see if they could jointly reach an understanding of what benefits and obligations there were with respect to the lake easement.

Mick Bodrie, who owned 2011 W. Lake Dr., felt from the paperwork he had seen, that Penhill was the only easement allowed and was a pedestrian easement. He was concerned about the expansion of this and that it had now become the subdivisions access. Mr. Bodrie said he paid \$200,000 for the lot, would be paying \$18,000 plus for taxes for a lake front property and he didn't want the potential for 50-60 boats 60 feet from him. He thought that the City had a legal obligation to enforce what Michigan Law was. He said it was a pedestrian access and if deeded over to the subdivision, they would be expanding it and creating a keyhole. He said it was not right or fair even if only one person lived at that access, and it benefited 60. It would cut their property value and their enjoyment of the property. Mr. Bodrie said if living on the lake and sitting on the porch 60 feet away, any noise on the water would be on their patio. He said if there were 40 boats out there it was like having 40 people in your living room. He agreed with Council that it should be determined properly but he thought it should be between the owners of the property adjacent to the easement as well. If they were going to expand a pedestrian access to a full boat access it would infringe on everyone's rights who lived there.

Deborah Simon 101 Pickford, said she found her original deed from 1920, and she lived on Pickford but her access was Lot 12, and others have deeded access to Lot 3 and some have it to both lots. She said it appeared that the entire Blomfield Subdivision had deeded access to both of these, and they appeared to be interchangeable. She said there wouldn't be 50 boats

out there and that was why they wanted the association to make rules and guidelines so no one would interfere with anyone else. She said if a fence was there, they couldn't trespass on a neighbor's yard. She noted there was a person next to Lot 12 who had encroached on the easement. He had planted bushes, flowers, and half of his fire pit was on Lot 12. She said yesterday he dug sludge out of the lake and dumped it on Lot 12.

Debra Sims 120 Penhill, asked who would own the dock, because she wanted to buy liability insurance if they owned the dock. She quoted from a letter from the City with a final opinion of how Lot 12 was to be used, which said "for your information, the City has no jurisdiction beyond the point permanently moored boats past the dock area". She asked what that meant and felt it was questionable. She thought the final opinion said if people moored their boats past the dock the City said it was OK. Also, as a homeowners association, she thought they should address what the lake people thought about this. So, she got a letter from Catherine Kennedy, stating that the lake front homeowners were concerned about their property values because they lived by an easement. She said they chose to purchase a home next to the easement. The easement was granted in the 1920's and she asked what protection they had that the City would restrict the easement use to only Penhill people. She said there were three streets deeded use of the easement not just Penhill. She wanted to know who would monitor the lot because she couldn't walk down to the lake without being told to leave because she didn't live on the lake, if she sat on the dock the police were called, etc. She felt it was continuous harassment. Ms. Sims said this needed to be decided and not left in limbo.

John Pettersson, 1957 W. Lake Dr., said his biggest fear was that Council would pit one group of people against the other, and that was what they had done. He said it had been clearly stated for 20 plus years that this was supposed to be a pedestrian egress. Mr. Patterson said they had never had a problem, called the police or harassed the people down there. He said he was tired of his neighbors subjugating him to the comments that had been made, because he was not doing anything wrong. He commented that he did take the sludge out of the lake because it buried his Jet Ski lift, and Mr. Pearson was aware of it, and it was not a crime. Mr. Pettersson said a decision needed to be made and enforced; they already had a public forum and now they were having another, and now lawyers were getting involved, and he found it to be unacceptable.

John Grumelot, 1900 S. Lake Ct., said their plan was to put together an association that would monitor, maintain and control activities on the lot. They would specifically control the number of boats, maintenance of the dock and property, noise, fencing of the property and complete maintenance so there wouldn't be issues. He said if there were by-laws there would be a foundation by which they could govern, and would assist in controlling activity on the lot. They could limit access specifically to those in the association, so people paying for the upkeep of the property, etc., could also be a part of the laws, rules and regulations established to govern that property. He said they had put together an association and once the final decision had been made, they would formalize it.

Elizabeth Burkett, 2005 W. Lake Dr., said she was concerned for safety and liability in regard to personal property, the view and property value. She appreciated that her neighbors had taken some of those things into consideration but didn't think that anything they had said would be fair to both sides. If everyone on Penhill had a boat moored there would be 50 boats, and a lot of noise. She said when she bought her lot 28 years ago on Lot 11 there was a house and the City had since bought that property for back taxes so what she bought and what had

happened involved the City as well. She hoped the City would keep in mind that the lake owners and people who live on the lake as well have rights and property they wanted to protect and were counting on Council to protect that for them.

Erik Klaphake, 100 Penhill, noted that as many people as were behind him in Council Chambers would have a boat on that access or their easement. He said he had lived on Penhill for 5 years and had been told that he had access to the easement and that was what was deeded on his title. He said while he and a friend were at Lot 12 on Sunday a man approached them and said “it is what it is and there will never be boats on this easement, ever, ever”, and he just wanted Council to know that. He said moving sludge out of one area to another was a DEQ problem.

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

CM-07-05-100 Moved by Capello, seconded by Gatt; **CARRIED UNANIMOUSLY:**
To approve the Consent Agenda as presented.

Roll call vote on **CM-07-05-100** Yeas: Capello, Gatt, Margolis, Nagy Landry
Nays: None
Absent: Mutch, Paul

- A. Approve Minutes of:
 - 1. April 21, 2007 – Budget meeting
 - 2. April 26, 2007 – Budget meeting
 - 3. May 1, 2007 – Regular meeting
- B. Approval of the first renewal option beginning July 1, 2007 – June 30, 2008 for subsidized taxi service with Community Cab Company for senior citizens and those with disabilities.
- C. Approval of Ordinance No. 07-124.17, an amendment to the Novi Code of Ordinances Chapter 11, to modify the requirements for the processing and submittal of record drawings. **Second Reading**
- D. Approval of Amended and Restated Interlocal Agreement with Western Wayne County Fire Department Mutual Aid Association.
- E. Approval of Resolution seeking reimbursement of expenses associated with Mosquito Control from Oakland County in the amount of \$18,282.
- F. Approval of adopting resolution declaring Wildlife Woods Planned Rezoning Overlay (PRO) agreement null and void, at the developers’ request, and confirming the retention of the existing zoning on the affected properties, located on Wixom Road south of Grand River Avenue in Section 17.
- G. Approval of Claims and Accounts – Warrant No. 745

MATTERS FOR COUNCIL ACTION – Part I

1. Consideration of Council action to address continued public and/or private use of City-owned parcel of property adjacent to Walled Lake (Lot 12, Bentley Subdivision, Parcel No. 22-03-155-004) or other disposition of such property.

Mr. Pearson said there had been a Public Hearing, Council had extensive history of the lot, and the City Attorney had reviewed the matter again and provided at least three options that Council might want to consider or work from this evening. He said they had gotten a sense over the years of some enforcement challenges and different perspectives on what an easement meant, who had rights, etc. He thought the spirit of this evening was to try to bring some resolution once and for all. He asked Council's consideration of the Attorney's recommendations and approval of one of the three options or some variation of those this evening.

Member Nagy said she had seen Lot 12 and it did seem that people encroached, and she had seen that in other areas too. She thought Mrs. Crawford was correct that there were lots and then people took them over. She said what was difficult for her were all the people who mentioned they had a deed that gave them access. She said Mr. Grumelot talked about forming an association with by-laws, and they would maintain the docks, build a fence, limit access and pay for the upkeep. She commented she didn't see anything wrong with that and thought it would be fair to everybody; especially when there was an association with a vested financial interest to monitor and keep everything up. Member Nagy said regarding the people who lived next door, and the gentleman who said if there were boats 60 feet away he could hear the noise, she said that was true and that was lake living. She commented she would like to see an association formed, a fence put up, docks maintained, and the access and the number of dock spaces limited. Then, with the fence put up for each property owner on either side, it would give them a division between their property and Lot 12. Member Nagy said it was mentioned that Council was pitting people against each other, and she didn't think they were doing that. She said this was a difficult situation, these properties had been there a long time, and she thought they were looking for a reasonable and fair resolution.

Mayor Landry said there were two issues here; one was the ownership of Lot 12 and the other was the scope of the easement. He said with respect to the ownership of Lot 12, from all the deeds he had examined, the City obtained its ownership with a quit claim deed. Since that time the City had gotten Policy and Title Insurance. His understanding was that the Seaver Title Agency had issued a policy so, apparently, a title insurance company was convinced that the title the City had was sufficient for the title insurance company to insure it for \$100,000. He thought the important thing for the back lot owners to understand, those that do not live on the lake, was if the City didn't own Lot 12, that didn't mean the back lot owners owned it. If the City didn't own it, it would probably revert back to the heirs of the Blomfield family. So, on the issue of title, he was convinced the City owned it, and that the City would get clear title.

Mayor Landry commented that he didn't think title to the lot was the real issue, because one thing was clear, the back lot owners had an easement over it, regardless of who owned the lot. He said the back lot owners have a right to use the lot. Mayor Landry said the question was the scope of that right. He noted there were several comments tonight and from the Public

Hearing, and everyone knew from experience that people buy property and relied on what they found out at City Hall, whether it was an opinion from a lawyer, etc. Mayor Landry said he didn't doubt that the back lot owners looked at their deeds and saw they had an easement and a right, and that gave value to property. He understood that the people who lived on the lake, look at an opinion of an attorney, rely on that and buy their property relying on the scope of the easement as set forth in the letter. He said the problem was that City Councils, City Attorneys, and opinions changed, and that was unfair to everybody. Mayor Landry said they needed to come up with a final way to resolve the scope of the easement. He said several options had been laid out for City Council, by the City Attorney, to share with the homeowners.

1) Deed property away to somebody

Mayor Landry asked who they would deed it to. He asked if they should sell it to the back lot owners, the waterfront owners, or put it up for bid and the people with the most money would get to own it. He said would a third party come in and own the property. He asked how that would happen and felt it would open up a can of worms regarding who to sell the property to. It would still not get the City off the hook regarding obligations in respect to nuisances, etc. and enforcement of City Codes and Ordinances on the property.

2) Have the City meet with a group of back lot owners and attempt to work something out

He said it had been suggested they work out a final agreement and reduce it to writing. However, legally the problem was if they didn't have the signature of everybody who was a back lot owner or had an interest in one of those lots, the agreement would not be worth the paper it was printed on. He said anyone with an ownership interest in a lot which had an easement could come in and legally challenge that at a later time. So, he didn't think that would solve the problem once and for all.

3) The City would file a lawsuit in Circuit Court for Quiet Title

Mayor Landry said that would resolve both issues. The City could affirmatively file a lawsuit giving the title history to the judge and then ask the court to determine whether the City owned it, the heirs to the Blomfields, or someone else. He thought it would end up with the judge saying that the City owned it, and that would resolve once and for all who owned it. They could also ask the judge to look at the easement and easement language and tell them what it meant. He said the back lot owners could hire an attorney, they already hired Mr. Borrin, and he could show up and make their argument as to what they thought the scope of the easement was, the lakefront owners could do the same. He said all sides could be before a judge in court citing precedent and authority, and the court would ultimately make the determination on what the scope of the easement was. The court would determine whether boats could be moored over night and/or off shore, whether there could be picnics, sitting on the dock and fishing, etc. However that lawsuit ended up would be, once and for all, a judicial determination that would apply to everybody who had an interest there. Mayor Landry thought it was the only way to finally resolve this issue so that 10, 15 or 20 years from now somebody couldn't say City Council favored this group, another City Council favored that group, it would be a judicial interpretation.

Mayor Landry said he would like to see this Council authorize the City Attorney to file a Quiet Title action asking the Oakland County Circuit Court to determine once and for all the ownership of the lot and the scope of the easement. Also, to invite both sides to hire their attorneys, participate in the lawsuit, make their arguments and have a judge make the ultimate determination. Then whoever owned the lot would know their rights and when they sold the property they could look at the judgment and tell the buyer what their rights were, and there would be no question about it. He said whatever was in the judgment would be how it was enforced.

Member Gatt said this was a very difficult issue, but thought what Mayor Landry said made perfect sense. He said it was an issue that if Council ruled, it would anger one side or the other, and he didn't think Council had all the rights to make that decision.

**CM-07-05-101 Moved by Gatt, seconded by Margolis; MOTION CARRIED:
To authorize the City Attorney to file a Quiet Title action in the Circuit Court of Oakland County to determine the ownership of the property in question, and the scope of the rights of the property owners.**

DISCUSSION

Mayor Pro Tem Capello didn't think the ownership of the property would be an issue. He thought the City would end up being the owner of the property, so the real issue would be the extent of the easements on the property. He said if they filed the lawsuit, they would have to take somewhat of an active role in resolving the lawsuit because the courts would look to them and ask what the City thought the extent of the easement was. He commented that at some point, as a Council, they would have to make that determination and they would have to make a determination between the two different residential groups. Mayor Pro Tem Capello said he didn't know if it was a smart use of City money to file a lawsuit or not. He said it would give some finality to this under some guise but he believed that the City, as owners, and the easement holders should be able to resolve it themselves. He said he wasn't sure what type of standing or interest, other than some type of riparian rights argument, the other property owners that abut this property would have to join into the lawsuit. Mayor Pro Tem Capello corrected Carol Crawford and said the City did not cheat anyone out of their property. He said the City had title to the property but they had not once attempted to limit or take away the easement rights that the back property owners had. The City just ended up with the title. He said this appeared to end up being a civil lawsuit between the owners of the easement and the abutting neighbors in regard to property rights that the City shouldn't be involved in. He said just because the City owned the property it had not taken any action to encroach on the adjoining property owners or to try to limit or terminate the easement rights of the citizens.

Mayor Pro Tem Capello thought the City should either transfer the property to the back property owners and the easement would merge with their ownership interest, and let them fight it out in a civil court. He thought they should file the Quiet Title and ask for declaratory relief without the City being in the middle of it. He commented the City could easily do that by transferring the title. The other more difficult means of resolving this was to offer to transfer the title but in transferring the title the City could put ongoing deed restrictions onto the transfer of title, which would then define what the deed restriction rights were regarding what could be done with the property, such as boat mooring. He said hopefully, through those negotiations, some of

the adjoining property owners would be satisfied. He thought they would have to do that anyway because in the lawsuit the City would have to make those decisions. He felt they would be just taking court time and attorney fees to get there.

Mayor Landry understood that there was at least an argument to be made that because there was a piece of property and easement rights by others, the owner of the property and the dominant estate owners, those with the easement rights were the only two parties that had rights in the action and the lakefront owners didn't even have the right to be heard. He said there was at least that argument to be made. However, if the City made that argument, he thought the City would look pretty bad, if they were going to look at a lot of property owners and say the City was not going to listen to them. He understood that Mayor Pro Tem Capello didn't suggest that, but he thought a court needed to make the argument over who had standing and who didn't. The court would make the determination on whether or not they had standing. Mayor Landry didn't like the idea of the City making that call. He thought if it was deeded over to someone they could file a Quiet Title action, he said the lakefront owners could file a Quiet Title action to quash any deed the City gave the back lot owners, and then they would be in court again. He said he really didn't know any way to resolve this fully and finally without being in court.

Mayor Landry said the City's position on the scope of the easement in such a lawsuit would be whatever the most recent position of the City Attorney was. He didn't feel this would be very expensive as the residents attorneys would spend most of the time litigating it not the City.

Member Margolis said she supported the motion and arrived at the meeting tonight leaning towards the idea of conveying this title away. She said a number of valid comments were made, and the attorney made the comment that this was not something that would make everybody happy, it was a legal decision. She thought the legal options and discussions were murky at best, and there was no clear way for the City to make the decision. She said the idea of transferring the title sounded like a great idea but then with the issue of who would they transfer the title to, and if it was up for bid, could someone else come in and buy this lot, she felt they were treading into a million different areas. She said this issue had come back over and over again, and her fear was that if they didn't get this settled once and for all, somebody would be back in 10 years trying to recreate what this Council did in 2007. Member Margolis said she would support the motion and hoped they could come to some agreement that at least offered some clarity on where this was going to be.

Roll call vote on CM-07-05-101 **Yeas: Gatt, Margolis, Landry, Capello**
 Nays: Nagy
 Absent: Mutch, Paul

Mayor Landry said the City would file a lawsuit and both parties would be notified

Mayor Pro Tem Capello asked if by filing the Quiet Title action they were going to sue everybody, or would they just be suing who they thought had standing, and let the others be third party in, if they thought they had an interest.

Mr. Schultz said that was to be determined. Obviously, the minimum was the people who owned the lots with the four deeds that the reference was in, but potentially everyone on Penhill and Pickford. He said if Council wanted final determination, he thought it would be

everyone on those two streets. He said working with Mr. Borrin to have someone on that side to put them together, which might shorten the litigation, reduce everybody's cost, and make it easier to resolve. Mr. Schultz said his recommendation would be to not include the lakefront owners.

Mayor Landry suggested the lakefront owners pay close attention and contact the City Manager's office to see if a lawsuit was filed, etc.

- 2. Approval to award a construction contract for the Meadowbrook Lake Streambank Stabilization Project to Restoration Dredging, Inc., the lowest qualified bidder, in the amount of \$113,379.**

Member Paul arrived at 8:00 P.M.

**CM-07-05-102 Moved by Nagy, seconded by Paul; CARRIED UNANIMOUSLY:
To approve award of construction contract for the Meadowbrook
Lake Streambank Stabilization Project to Restoration Dredging, Inc.,
the lowest qualified bidder, in the amount of \$113,379.**

DISCUSSION

Member Nagy felt "No Mowing Zone" signs along the Rouge River should be put up. She said they had discussed contacting people along Village Oaks Lake and they were still mowing down to the edge.

Mr. Pearson said there were two different kinds of cases where the City owned property. There were seven detention basins, some parkland where the City had ownership rights, and they were in the process of putting those kinds of advisory signs up. He said other areas such as Villagewood Lake where the City didn't have ownership rights they would not be putting up signs there. He said they were working on informational notices; it's in the News in a Nutshell that Neighborhood Services sends out and they were also working on direct mail to some of those lots as well.

**Roll call vote on CM-07-05-102 Yeas: Margolis, Nagy, Paul, Landry, Capello, Gatt
Nays: None
Absent: Mutch**

AUDIENCE PARTICIPATION - None

MATTERS FOR COUNCIL ACTION – Part II

- 3. Consideration of a cost participation agreement with ITC Transmission for extending sanitary sewer for future connection to the Country Cousins Mobile Home Park.**

Mr. Pearson said they were bringing to Council a recommendation and an opportunity that he would never have thought would occur but with the ITC corporate office development this was long seen on the plans as a substation and not a developable piece of property. He said now

ITC comes and they are building their corporate campus there and doing significant work. Mr. Pearson said they had an opportunity for extending the sanitary sewer to the east towards Haggerty Road, and it provided opportunity for additional connections including a future connection at Country Cousins Mobile Home Park. He said they were suggesting that the City, through the Water and Sewer Fund, participate in the cost for several reasons. He commented ITC would not be obligated to provide this extension because of the way the area was developed. Mr. Pearson said it was a good partnership with ITC because they have their crews already working there, good prices, and the City wouldn't have to manage the contract as it would just be on a reimbursable basis. He said it also precluded a private property owner wanting to hook into the sewer and tearing up everything ITC had put in now. He asked for Council consideration and said they had the letter from ITC where they provided the estimates and their preference.

Mayor Pro Tem Capello said it appeared that, over time, if the sewer was brought down to Country Cousins the City would recoup about \$424,000 for a \$63,000 investment. Mr. Pearson said it also provided health and safety improvements by advancing that residential development getting off the septic system and onto the sewer system.

**CM-07-05-103 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve Option D with on-site gravity, and on and off-site force
main to Country Cousins at the City's total cost of \$63,316 in a cost
participation agreement with ITC Transmissions for extending the
sanitary sewer to Country Cousins Mobile Home Park.**

**Roll call vote on CM-07-05-103 Yeas: Nagy, Paul, Landry, Capello, Gatt, Margolis
Nays: None
Absent: Mutch**

4. Consideration of a revised scope and cost participation arrangement with the Road Commission for Oakland County for the Haggerty Road widening project between Eight Mile and Ten Mile Roads.

Mr. Pearson said Haggerty Road alignment as it was developed had a series of profiles from three lanes to two lanes and a couple other variations. He said there were some congestion and safety problems, if not out right confusion for motorists. They originally came to Council with a proposal they thought they had tentative agreements on with the Road Commission, Farmington Hills and the City of Novi to each pay a third for eliminating all of the pinch points between Eight and Ten Mile Roads on Haggerty Road. He said the agreement was approved by Council but unfortunately when Farmington Hills went through their budgeting process they had some issues and had to advance funding for the Northwestern connector and found they could not budget the third they had agreed to. He thought they had an option worked out with the Road Commission to take care of the gaps between the worst part based upon the most congestion and safety issues, which was the segment between Eight and Nine Mile Roads. The Road Commission was only able to take care of one third, and Mr. Pearson was suggesting that the remaining portion would fit within what the City budgeted for Haggerty Road improvements. Mr. Pearson asked Council to entertain participating in this and being done with it in terms of what the City of Novi would participate in. He said when looking at the map the portions in Farmington Hills were really bisected by I-275, and the parcels that were on the Farmington Hills side were really minority portions of the businesses and the road. He

said the City was doing some improvements to Orchard Hill Place with some very nice class A office and a lot of traffic along there; traffic data and crash test supported this. The Road Commission was ready to get this done and experience with road work had generally been when the opportunity comes they needed to strike and get it done otherwise things slip, and you never know when they could come back and get done. Mr. Pearson said it was a different project than presented last year but it still fit in the overall budget they had and he thought it worthy of strong consideration.

Member Gatt asked what was budgeted for the whole project. Mr. Pearson said the original City share was \$340,000. Member Gatt asked what it would cost to do this between Eight and Nine Mile Roads. Mr. Pearson said \$280,000. Member Gatt said this was one of his suggestions a long time ago. He didn't know who designed Haggerty Road between Eight and Nine Mile Roads but it was a very poor design. Member Gatt was very upset and thought the City of Farmington Hills really let the citizens of both cities down and the residents who had to travel up and down that road. Member Gatt said they had a tentative agreement and both cities proceeded accordingly and budgeted accordingly, and at the last minute the City of Farmington Hills was backing down and saying if Novi wanted to improve it, they would have to improve it alone. Member Gatt thought it was important to repair the road and make it a safer road for everybody.

**CM-07-05-104 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
That the City expend the funds to repair both sides of Haggerty
between Eight Mile and Nine Mile Roads, to fix the pinch points and
widen the road as needed.**

Member Gatt said between Eight and Nine Mile Roads on Haggerty, half that mile was the City of Novi on both sides. He said between Nine and Ten Mile Roads on the east side of Haggerty also had to be repaired and it was all Farmington Hills, and he recommended they wait until Farmington Hills came to a different conclusion on that portion of the road.

Member Paul asked who collected Act 51 money on Haggerty Road in that section. Mr. Pearson said it would have to be the Road Commission. She asked who did the snow removal on the Haggerty Road portion, and Mr. Pearson replied the Road Commission. Member Paul thought the Novi DPW ended up doing it by default, and Mr. Pearson said they did not.

**Roll call vote on CM-07-05-105 Yeas: Paul, Landry, Capello, Gatt, Margolis, Nagy
Nays: None
Absent: Mutch**

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

MAYOR AND COUNCIL ISSUES - None

AUDIENCE PARTICIPATION - None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:15 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene Mc Lean

Date approved: