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CITY OF ROCHESTER HILLS



Jane Leslie, Clerk

2461

DATE: 2/13/07

TO: City Council Members

RE: Grand Sakwa Questions

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Councilman Yalamanchi asked for a report regarding the Grand Sakwa project in relationship to the presentation of the first quarter budget amendments. Several specific questions were asked. The Mayor has asked me to provide you with the report requested.

As a result of a meeting with Mayor Barnett and departments involved in the project, the following questions were reviewed and researched:

1. What credits have been given for this project/how many credits used to date (a reconciliation)?
2. What is the total cost expected (any estimate)?
3. Can we use major or local road funds?
4. Why was this not in the 2005 Budget or Financial Statements or in the 2006 Budget?

In response to the question of credits, the Department of Public Services has provided a current listing of costs. The total cost for the Consent Judgment is \$2.5 million at the maximum by September 1, 2007 (a copy of page 4 from the Consent/First Amendment is attached). The Planning and Development Department has submitted a listing of all projects associated with Grand Sakwa and the Adams Road realignment. These projects have been approved; are currently under review; or have been briefly discussed. The Finance Department has provided memos that address the questions regarding the use of Local and Major Road Funds and budget issues. The City Attorney has provided a copy of his letter to Mayor Barnett for inclusion in your report with his attachments. There is an email referenced as an attachment that has not been included as it was sent as a "Confidential Attorney-Client Privileged Communication".

Also included are specific pages from minutes of the City Council meeting of May 25, 2005, wherein the matter of the \$2.5 million in credits/cash was presented and discussed with Council.

**PROJECTS  
GRAND SAKWA SITE/ADAMS ROAD M-59  
CREDITS**

as of 2/9/2007

Credit **\$ 2,500,000.00**

Credits

Planning & Development Review	2,156.25
Land Improvement Permit Fees	12,526.87
HRC Plan Review	38,796.97
Geotechnical Engineering	1,508.70
Easement Review Fees	805.00
DPS/Engineering Inspection Fees	29,692.94
Traffic Signage	3,209.62
Water Tap - 2"	2,789.00
Water Main Flushing Fee	67.91
Water & Sewer Capital Fees/Bldg A	41,778.00
Building Dept. Plan Review/Bldg A	500.00
	<u>133,831.26</u>

Total Credits to Date \$ 133,831.26

**PROJECTS  
GRAND SAKWA SITE/ADAMS ROAD M-59  
CREDITS**

as of 2/9/2007

Consent Judgment **\$ 2,500,000.00**

Ring Road Expenses to Date  
 Road Construction Invoice \$ 1,884,033.97  
 Estimate to Complete Wearing Course \$ 250,000.00  
**\$ 2,134,033.97**

Credits

Planning & Development Review	\$ 2,156.25
Land Improvement Permit Fees	\$ 12,526.87
HRC Plan Review	\$ 38,796.97
Geotechnical Engineering	\$ 1,508.70
Easement Review Fees	\$ 805.00
DPS/Engineering Inspection Fees	\$ 29,692.94
Traffic Signage	\$ 3,209.62
Water Tap - 2"	\$ 2,789.00
Water Main Flushing Fee	\$ 67.91
Water & Sewer Capital Fees/Bldg A	\$ 41,778.00
Building Dept. Plan Review/Bldg A	\$ 500.00
<b>Total Credits to Date</b>	<b>\$ 133,831.26</b>

**PROJECTS**  
**GRAND SAKWA SITE/REALIGNED ADAMS ROAD**  
**Public and Private Projects**

2/2/2007

City File Number	Project Name	Square Footage	Date Submitted	Comments Sent	Date of Technical Compliance Report	City Council Meeting	Status Comments
05-030	(Overall Site File Number)						
1	05-030.2 WaiMart	203,819	8/18/2005	na			Incomplete - Incorrect Elevations
			9/8/2005	9/28/2005			
			11/15/2005	12/7/2005			
			1/3/2006	1/25/2006			
			2/9/2006	3/2/2006			
			3/6/2006	3/21/2006	3/28/2006	4/5/2006	phone direction/confirmed in Atwell Hicks letter 3/3/06 Under Construction
A	05.030.03 Ring Road - Phase 1						
B	05.030.04 Ring Road - Phase 2						
2	05-030.5 Marketplace Retail "A" west of WaiMart	18,440	8/18/2006	9/7/2006			
			9/27/2006	10/16/2006			
			10/23/2006	11/10/2006			
			2/1/2007				Awaiting resolution on outdoor seating
3	05-030.6 Chill's north of WaiMart	5,938	11/21/2006	12/11/2006			
			12/27/2006	1/17/2007			
			1/26/2007				
C	05.030.07 Water/Sewer Extension						
4	05-030.8 Marketplace Retail "B-G" Outlot Bank west of WaiMart	102,761	1/26/2007 4:30PM				Filed 1/26/07 4:30 P.M.
5	Target						Meeting held 12/19/07: no filing of plans

3. In addition to the powers granted to the Arbitrator in 4(Q), the Arbitrator shall have the right to request additional information from either of the parties.

B. Paragraph (F) of Section 8, as replaced shall now read as follows:

(F) The City will provide credits equal to Two Million Five Hundred Thousand (\$2,500,000.00) Dollars to Grand/Sakwa. The credits may be a combination of City review fees, permit fees, tap-in fees, inspection fees, capital and lateral charges, or cash (collectively "the Credits"). The selection of these items for which the credits shall be applied shall be at the discretion of the City, except to the extent provided otherwise herein. Amounts paid by the City toward the cost of the construction of the Ring Road as provided in Paragraph 8(J) below, shall be applied against (i.e., shall reduce) the Two Million Five Hundred Thousand (\$2,500,000.00) Dollars in credits.

It is understood that the \$2,500,000 Credits shall not be considered as the measure of compensation for the "right-of-way" dedicated to the Road Commission. Such Credits if not expended or applied shall not form the basis for determining or reducing any award to Grand/Sakwa in the event that there is a condemnation or eminent domain proceeding as provided in Paragraph 8(E), and is independent of any such award. Notwithstanding, if the Credits as applied or expended do not aggregate Two Million Five Hundred Thousand (\$2,500,000.00) Dollars, then the City shall be responsible to pay to Grand/Sakwa, on or before September 1, 2007 (unless extended by agreement of the parties), the difference between \$2,500,000.00 and such Credits that have been applied or expended to date.

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CITY OF ROCHESTER HILLS

**F**iscal

**Julie Jenuwine, Finance Director**

DATE: February 13, 2007

TO: Mayor Barnett

RE: Grand Sakwa Amended Consent  
Judgement – Use of MRF or LFR

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This memo is in response to your request for a answer to Council Member Yalamanchi's question as to why the budget amendments did not provide for the \$1.3M or \$850k to come from the Local Road Fund or Major Road Fund.

Since the consent judgement's \$2.5 Million in credits may be any combination of review fees, permit fees, tap-in fees, inspection fees, capital & lateral fees or infrastructure, it is most appropriately assigned to the General Fund as opposed to whichever makes it to the "finish-line" first.

In addition, the Major Road Fund was not used since the DPS advised that the "ring road" would be designated to the City as a local street (then later become a major road). Also, the monies in the Local Street Fund are limited and a transfer from the General Fund would have been required. The Major Road Fund and Local Street Fund are established for the tracking of Act 51 monies and the use of monies out of these funds to make payments arising out the consent judgement could possibly be challenged by the State.

Please be advised that this decision was discussed with the Auditors.

(EXCERPTED)

Discard previous editions

MICHIGAN DEPARTMENT OF TRANSPORTATION  
Bureau of Transportation Planning

Instructions and Forms for Preparing:

Annual Road

# MILEAGE CERTIFICATION FOR CITIES AND VILLAGES

In accordance with Act 51 of Public Act 1951, as amended

**STATE TRANSPORTATION COMMISSION**

Ted B. Wahby, Chairman  
Linda Miller Atkinson, Vice Chairwoman  
Vincent J. Brennan  
Maureen Miller Brosnan  
James R. Rosendall  
James S. Scalici

Kirk T. Steudle - Director

## REQUEST FOR CHANGE IN THE MAJOR STREET SYSTEM

If you consider certain roads in your Local Street System to be of sufficient importance to be reclassified as Major Streets, a request must be submitted using Form 2008A (located on Page 13).

The streets requested for reclassification must be in conformance with the "*Uniform Criteria for Major Streets*." Requests will be field reviewed by a representative of the Michigan Department of Transportation and you will be notified of the findings. This office will make any adjustments to the Major Street mileage as a result of classification changes. Adjustments to the lengths of Major Streets previously certified shall also be shown. The guidelines for the selection of Major Streets are located on page 1 of the "*Uniform Criteria for Major Streets*" handbook.

New streets may enter your street system as Major Streets, but must first meet all Local Street certification requirements before they can be classified as major. A copy of the "*Uniform Criteria for Major Streets*" booklet is available by contacting Candace Rosebrugh at 517-241-4486 or by e-mail at [rosebrughc@michigan.gov](mailto:rosebrughc@michigan.gov).



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CITY OF ROCHESTER HILLS

**F**iscal

Julie Jenuwine, Finance Director

DATE: February 13, 2007

TO: Mayor Barnett

RE: Grand Sakwa - Budget

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This memo is in response to your request for an answer to Council Member Yalamanchi's question as to why the "ring road" was not in the budget.

The summer of 2006, I was informed that the construction of a "ring road" had begun and we would likely have to pay approximately \$700,000 to \$1 million to the developer. In preparation of the budget amendment, I evaluated the "credits" that the DPS was tracking. Based on the "credit" information, I prepared a 2006 proposed amendment for the cost of the "ring road" with the \$1.3 Million estimate from DPS department. The first week of January 2007, I learned the DPS department received a partial invoice (approximately \$1.9 million) and that the developer did not complete the 'final wearing course' and we would receive another invoice for approximately \$250,000. In response, I proposed an \$850,000 budget amendment in January 2007.

Please be advised that there is no recognition of revenue (in the 2006 or 2007 budget) in any of the applicable departments based on the development fees from the Grand Sakwa site, due to the use of the \$2.5 million in "credits" concept.



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February 9, 2007

Mayor Bryan K. Barnett  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, Michigan 48309-3033

Re: ***Grand/Sakwa Acquisitions, LLC v City of Rochester Hills***  
Oakland County Circuit Court Case No. 02-046199-AW

Dear Mayor Barnett:

For inclusion in your report to the City Council concerning the budgeting and reporting of the City's obligation, under the Reinstated and Amended Grand/Sakwa Consent Judgment, to provide \$2.5 million in credits to Sakwa in the form of payment for construction of the ring road and waiver or reduction of permit fees, inspection fees, tap fees or other City charges, you have asked for my input, which I am happy to provide.

The obligation to pay the cost of constructing the ring road is expressly set forth on pages 4-5 of the First Amendment to Consent Judgment entered on May 26, 2005. I am enclosing several documents which plainly show that it was fully and publicly disclosed to the City Council and general public that the amended Consent Judgment created a \$2.5 million obligation that would be paid off in public infrastructure (specifically, the cost of the ring road) and through credits and waivers of other City fees and charges. These enclosures include:

- My May 18, 2005 e-mail to Mayor and City Council explaining the terms of the proposed settlement agreement.
- My notes (i.e., script) I prepared for my presentation of the Grand/Sakwa settlement at the May 25, 2005 City Council public hearing. Notice, in particular, Paragraph 2.D of my notes on the settlement.
- The City's May 26, 2005 news release, which talks about the \$2.5 million credits and specifically and expressly says, "These costs will include the construction of a public ring road . . ."
- Lastly, the minutes of the May 25, 2005 City Council meeting where the ring road payment obligation was expressly disclosed.

Mayor Bryan K. Barnett  
City of Rochester Hills  
February 9, 2007  
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These enclosed documents explain the background leading up to the reinstatement and amendment of the Consent Judgment. What is important to remember is that the litigation with Sakwa had concluded over a year earlier when Grand/Sakwa -- due to its objection to the REI project -- announced it would not honor its obligation under the original Consent Judgment to convey the right-of-way needed for the Adams Road realignment. Based on that, the City successfully moved the circuit court to vacate the original Consent Judgment so that Sakwa would not have any of the land use approvals and benefits thereunder.

Sometime thereafter, the State decided to move forward with, and actually awarded a contract for, the construction of the new M-59/Adams Road interchange even though the rights-of-way for the Adams Road realignment were not secured. This, figuratively speaking, forced the City's hand because now it was inevitable that the City would have to re-approach Sakwa to either buy or condemn the necessary right-of-way. Sakwa was likewise anxious to proceed. The City Council was advised that Sakwa would require an exorbitant amount to voluntarily sell the property, and that proceeding to condemnation could result in a cost range of \$6-\$12 million, especially when factoring in all the various costs and fees that would have to be added to the condemnation amount pursuant to the Uniform Condemnation Procedures Act.

In the Spring of 2005, negotiations facilitated by former Judge Barry Howard, who was serving at County Executive Brooks Patterson's request, ensued to determine whether some agreement could be reached in lieu of proceeding to condemnation. The result is what we have -- the reinstated and amended Consent Judgment. It is important to understand that the \$2.5 million in credits is not a damage award. Thus, it was not a liability or claim covered by insurance. Rather, it was negotiated compensation for the right-of-way that was conveyed by Grand/Sakwa. In that regard, it became a contractual obligation of the City, much like an obligation to purchase property for an agreed upon price or an agreement to pay a contractor for a project.

It is for that same reason the Grand/Sakwa settlement was not reported in our annual written report to the City's auditors, dated March 10, 2006, which reports on pending or threatened litigation and claims as of December 31, 2005. There was no litigation pending as of December 31, 2005, nor, do I believe, the \$2.5 million credits constituted a claim or liability that we would report upon, as at that point it was a contractual obligation of the City to compensate Sakwa for right-of-way to the tune of \$2.5 million through a combination of payment for construction of the ring road and other payments, fee waivers or reductions. Also, there had been no litigation with Sakwa since the original Consent Judgment was vacated in 2004. The agreement with Sakwa was arrived at not to resolve litigation but, rather, to avoid having to institute condemnation proceedings to take the right-of-way from Sakwa. The chosen means to implement the agreement was to reinstate and amend the Consent Judgment that had been previously vacated.

Mayor Bryan K. Barnett  
City of Rochester Hills  
February 9, 2007  
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I hope this information is helpful. Please feel free to contact me if I can provide any further assistance.

Very truly yours,



John D. Staran

JDS/ab  
Enclosures

cc: Ms. Jane Leslie, Clerk (w/enc)

## GRAND/SAKWA SETTLEMENT

1. Reinstates the prior, April 3, 2003 CJ, except for provision rendered obsolete due to passage of time or changed circumstances. This means reinstatement of the same flexible land uses permitted under the prior judgment and expedited plan and permit review and approval processes, and reinstatement of G/S' obligation to convey the r.o.w. necessary for the Adams Rd. realignment project.
2. In addition to reinstatement of the prior CJ, there will also be an amendment to the CJ, entitled "First Amendment." That amendment covers several things:
  - A. It specifies where on the G/S site a large format retail user identified as Wal-Mart will be located. It also specifies the elevations or appearance of the Wal-Mart. In other words, it shows what the Wal-mart must look like.
  - B. The amendment provides that G/S must, immediately upon entry of the CJ and the 1<sup>st</sup> Amendment deed over the r.o.w. necessary for the Adams Rd. realignment. The engineers are working out the final details of that legal description.
  - C. The 1<sup>st</sup> Amendment provides that if the CJ is, for whatever reason, set aside by a court, then the City will need to pay for the r.o.w. as though the City were acquiring the r. o.w. by eminent domain (condemnation).
  - D. Under the proposed amendment, Sakwa will be entitled up to \$2.5 million in credits that will come in the form of the City's payment for the construction of the proposed Ring Road (which will be a public road) and/or waiver or reduction of permit fees, inspection fees, tap fees or other such city charges (Ring Road is depicted in the concept plan).
  - E. Furthermore, the Amendment provides still for the expedited plan review and approval process and adds the concept of a tech review committee, with final decision reserved to city council.
  - F. Last significant component is that disputes arising under the CJ over site plans or other things will be resolved thru arbitration.

## G/S HISTORY

1. Subject property consists of 100 acres ± is zoned and planned ORT.
2. City has been interested in new interchange and realignment of Adams Road for many years (economic development transfer plan). Part of the reason for the wait is that the interchange project was never funded because the City could not provide the right-of-way.
3. Sometime in 2002, G/S began discussions with City about development plans for the property.
4. At some point, those discussions evolved or morphed into discussions about doing a development that would contemplate and provide the necessary right-of-way for Adams to be realigned.
5. Those discussions proceeded in earnest because it approved the funding and was now available for the long-awaited new M59/Adams interchange if the City was now, at last, able to produce the right-of-way for Adams to be realigned. However, there was a lot of competition for those same MDOT dollars.
6. This led to negotiation and entry of a Consent Judgment between G/S and the City that provided:
  - Flexible land uses → 4 alternatives → go threw then
  - Some setback and dimensional variations
  - Expedited plan and permit revenues and approvals
  - Conveyance of the right-of-way upon a further development agreement being entered into setting forth firm commitments from other governmental agencies with regard to interchange and road funding and drainage considerations
7. Several days later, Governor Granholm announced that she was ordering the withholding of funding on all new road projects and that only repair and maintenance activities would be funded.
8. Looked like the project was dead, but in the ensuing weeks due to heavy lobbying by state, county and local industry leaders, and by G/S and others, the funding was restored (with 1 other project).
9. Things moved ahead. No development plans submitted, but G/S and City and other governmental agencies continued to regularly meet for the balance of 2003 concerning the design of the interchange and Adams Road realignment and related issues.

10. Then, last year, in February, 2004, a dispute arose over the City's approval of another proposed large, mixed use development project. This unfortunately led to the termination of the Consent Judgment which nullified the developer's rights under the Consent Judgment as well as the City's right to receive the right-of-way.
11. Litigation ensued. The City's approval of the other proposed development project was unsuccessfully challenged in court.
12. Meanwhile, the City remained committed to somehow/someway acquire the necessary right-of-way. It remained the City's hope, throughout that an agreement could be re-structured or rekindled with G/S.
13. It appeared the funding from the interchange project was in jeopardy of being withheld once again. Then, in somewhat of a surprised turn of events, MDOT not only went ahead and let the contract for the construction of the interchange, but did so on an accelerated basis. That occurred around last May, as I recall.
14. The City needed to and did really hustle at this point. Appraisers were engaged and turned loose to work up comp. Estimates of the 21 parcels the City needed for the Adams Road realignment. Re-engineering needed to be done since the Sakwa development was no longer being accommodated in the design. Legal descriptions had to be prepared, and right-of-way acquisition agents had to get going with their efforts.
15. The City ran into many complications and delays along the way. The pending litigation cast considerable uncertainty over the project. An appraiser became seriously ill and had to be replaced, there were efforts to try to rekindle talks between the parties which were not fruitful.
16. There were pressures from the state and the county and the City's residents to move forward with the road realignment project. Once MDOT started the interchange project, there really was no turning back. The Adams Road realignment part of the project needed to be constructed sooner or later.
17. Condemnation was and still remains an option, but it will come at the cost of millions of dollars, difficult and protracted litigation, and would still leave land use and zoning issues to be battled over on another day.
18. The county offered its assistance by asking Judge Howard to get involved as a settlement facilitator based on his skills, knowledge and respect as a former chief judge of the Oakland County Circuit Court and because of his familiarity with Mr. Sakwa. The City agreed to participate.
19. Describe negotiations – Always delicate, often difficult, occasionally hostile, but ultimately fruitful negotiations which have resulted in the proposed Consent Judgment.
20. Mention public hearing – no reason

21. Before I provide an overview of the contents of the proposed settlement, I feel the need to say I am not happy with the proposed settlement, and I do not think anyone on Council or possible in the audience is happy with it either. We did not get everything we would want from the developer and we will, if approved, be giving up things we would rather not.

I am quite sure that G/S would tell you that they did not get everything they wanted either, but I think I can confidently say to the Council that I believe the proposed settlement before you is the best negotiated deal that is available to the City at this time, under these circumstances, and you have a very difficult decision before you tonight that will surely be controversial no matter what you decide to do.



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CITY OF ROCHESTER HILLS

**P**lanning and  
Development

**NEWS RELEASE**

DATE: May 26, 2005

RE: Settlement Paves Way for  
Development of Corporate Park  
on M-59

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For Immediate Release:

The City of Rochester Hills and developer Grand Sakwa have reached a settlement in a dispute over right-of-way needed to complete the connection of realigned Adams Road to the new interchange under construction at M-59 in Rochester Hills. Construction of the new road is anticipated to begin this year and conclude in the spring of 2006. It will allow for the development of 110 acres of prime land located along the M-59 technology corridor in Rochester Hills, an area designated as a SmartZone by the State of Michigan.

"This is the most prominent undeveloped site along a major freeway remaining in Oakland County," said Dan Casey, the City's manager of Economic Development. "In negotiations with Grand Sakwa, we made it eminently clear that the State, County and City are committed to marketing this property for the development of corporate offices and research and development." He added that the flexibility of land uses permitted in the agreement will allow for mixed uses that could include restaurants, hotels and short-term executive housing.

Terms of the settlement include expedited reviews of site and building plans and \$2.5-million in credits payable by the City. These costs will include the construction of a public ring road which will provide access to the numerous development pads, and waiving of some review fees, building permit fees, inspection fees and water tap-in charges. In exchange, Grand Sakwa has deeded approximately 13 acres of land to the Oakland County Road Commission for the construction of realigned Adams Road, which will be connected to the southern portion of the interchange when completed.

A previous settlement between the parties was terminated one-year ago because of a dispute over an adjoining 100-acre proposed development by Real Estate Interests, Inc. on the northeast portion of the interchange, which City Council approved in March of 2004.

"The City Council is supportive of both proposed developments and believe they will generate significant economic benefit to the community and region," said Casey. "This corridor is already well established in Auburn Hills and Rochester Hills, and Volkswagon, Trico, Fanuc Robotics and Borg Warner are located along the periphery of this property." He added that other corporate users have expressed strong interest in locating new facilities there.

<sup>2</sup>The M-59 and Adams Road interchange is expected to open this spring. In addition, Grand Sakwa has indicated it will begin land balancing, site preparation work and ring road construction this summer.

For additional information, please contact the City's Planning and Development Department, at (248) 656-4660.

location. Judge Howard explained that he took on the task knowing that "the stakes were enormous and the consequences were profound," stressing that, if the development were delayed, funding from the State for the interchange would be in jeopardy, which could "potentially cause financial ruin to this community." Judge Howard briefly described a process of negotiation that resulted in the agreement before Council for approval. He stated that, "unequivocally, it is the best deal possible." Judge Howard then read letters in support of the agreement from Gloria Jeff, Director of the State of Michigan Department of Transportation (MDOT) and United States Congressman Joe Knollenberg.

**Ms. Judith Cunningham**, Corporate Council for Oakland County, read a letter in support of the agreement from County Executive L. Brooks Patterson.

**City Attorney John Staran** provided a history of the situation and events that led to the resulting agreement before Council for consideration. He then noted the terms of the Consent Judgment and the amendment:

\* The Consent Judgment provides for flexible land uses.

\* Four different development scenarios were approved within the agreement:

- 1) Mixed use development to include research and development, offices, commercial/retail and a hotel.
- 2) Mixed use to include research and development/light industrial, commercial/retail and a hotel.
- 3) Entirely commercial/retail.
- 4) Commercial/retail and restaurants.

\* The Amendment specifies the following:

- 1) Where a large-format retail user that has been identified as a Wal-Mart store will be located on the site.
- 2) That Grand Sakwa must deed over the right-of-way necessary for the Adams Road realignment immediately upon entry of the Consent Judgment and the First Amendment.
- 3) If the Consent Judgment is set aside by a court for any reason, the City would be required to pay for the right-of-way as though the City were acquiring the right-of-way by eminent domain.
- 4) Grand Sakwa would be entitled to up to \$2.5 million in credits that will come in the form of the City's payment for construction of the proposed ring road, which is intended to be a public road. ✓
- 5) Any disputes that would arise under the Consent Judgment over site plan issues or any other issues would be decided by binding arbitration.

**Mr. Staran** stressed that, although a great deal of attention has been focused on the fact that this agreement provides for the possible development of a Wal-Mart unit, the original Consent Judgment provided for that same possibility. He noted that the large format retail use aspect of the agreement had not changed.

**Mr. Casey** assured Council and residents that, despite the proposed inclusion of a Wal-Mart at this location, the City is still committed to attracting high-tech and research and development users. He noted that he has been working with Oakland County to promote this site.

*Mr. Larry Schloss, 2851 Current Drive, requested that Council only delay their decision "if you think it's gonna be a good result." He then cautioned Council not to allow "this methodology" to "creep northward toward the residential homes through that REI property."*

*Ms. Liliana Kleine, 3074 Quail Ridge Circle, stated that the City Attorney said the M-59/Adams Road interchange was being built by the State without the City's knowledge. She questioned how that is possible.*

*Mr. Tim Gauthier, 2593 South Christian Hills Drive, indicated that the Master Land Use Plan is "completely different from what this proposal presents." He noted that he opposes the development and asked that Council either delay the vote or vote it down.*

*Mr. John Fougousse, 1956 Hutchins, questioned whether the ring road costing the City \$2.5 million would be named Wal-Mart Boulevard. He then donated his remaining time to the next speaker.*

*President Hill read a letter into the record from Mr. Richard Borowicz, 962 Peach Blossom Lane, stating his opposition to the development and noting that "the community is over-saturated with retail as it is." He asked that Council consider "the long-term effect of your vote on the quality of life in this City."*

*There being no further public comment, President Hill Closed the Public Hearing at 9:50 p.m.*

*Mr. Staran and Mr. Casey responded as follows to resident questions:*

*\* Height restrictions for buildings at the development are forty feet for commercial uses, three stories for multi-family buildings, six stories for office or hotel, and four stories for parking structures.*

*\* A construction timeline is unknown, but will be dictated to a certain degree by the economy. It is most likely the site will be developed in several stages.*

*\* There is a provision in the amendment that if for any reason a court were to set aside this agreement, both parties are required to work together for sixty days in good faith to resolve the problem. If that were not possible, the City would seek to obtain the right-of-way in the manner required by law for condemnation of property.*

*\* The amount of money the City will earn as a result of the project is dependent on the type of development.*

*\* The \$2.5 million will be in the form of credits applied to the construction of the ring road as well as waivers of fees, etc.*

*\* It is City Council's prerogative to determine from where the \$2.5 million in credits is coming, and that decision has not yet been made.*

*\* While 21 days is an aggressive schedule for technical review, the process has been used in the past in the case of the Village of Rochester Hills and, to some degree, Crittenton Hospital. Furthermore, the City committed to that timeline in the original Consent Judgment.*

*\* A tax base analysis could be provided estimating the possible revenue to the City as a result of this development; however, there are many factors that must be considered, such as millage rates and the nature of the development. At best, it would only be an estimate.*

**COUNCIL DISCUSSION:**

City Council discussed the following items:

- \* The \$2.5 million is well under the \$4.0 million the City felt the right-of-way was worth.
- \* There is no tax abatement.
- \* There is no rush to make the decision. The Consent Judgment and amendment were ready for consideration at this time.
- \* Without this agreement the right-of-way would cost considerably more.
- \* This issue would not end by Council voting no. It would result in legal action.
- \* LDFA and SmartZone funds cannot be used to fund additional fire and police services as a result of development in this area.
- \* This agreement has changed very little since the vote on the original Consent Judgment in 2003.
- \* Council has to represent all 70,000 residents of the City, not just those located near this development.
- \* Council cannot prevent a property owner from developing his property.

Mr. Barnett stated that he is not in favor of this agreement, noting that he has yet to see Wal-Mart locate in a high-tech neighborhood. Additionally, he felt he did not have enough time to review the information before Council. He stressed that this type of development is not what he wants for this community.

Mr. Robbins submitted in writing a list of questions for which Mr. Staran, Mr. Casey, Judge Howard and City Engineer Paul Davis provided the following answers:

- \* It was anticipated that the paperwork regarding this matter would be available to Council earlier; however, issues arose that delayed the process. Unfortunately, the Public Hearing had already been set and noticed for this meeting. Therefore, it was necessary for Council to move forward at this time.
- \* Due to the last-minute nature of the final changes, there was no time to provide Council with a "black line" copy of the agreement noting each change.
- \* The type of development will dictate how the \$2.5 million in credits will be used beyond the construction of the ring road. ✓
- \* The prior Consent Judgment obligated the City to extend water and sewer utilities along the realigned right-of-way at an anticipated cost of \$2.5 million. ✓
- \* It is difficult to estimate the cost to the City were the Consent Judgment and amendment not approved by Council. Many factors would come into play, such as legal fees and mandatory interest payments in addition to the actual land value, resulting in an estimated cost of between \$4.0 million and \$12.0 million. ✓
- \* The longer the Council delays its decision on this matter the more likely it is for the cost to increase in taking the property through eminent domain.
- \* It is possible but unclear whether bonding to purchase the right-of-way through condemnation could be recouped through a tax capture process.
- \* The cost to the City of maintaining the ring road cannot be estimated as the development plan is not yet known.