



Rochester Hills Minutes

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Historic Districts Commission

*Chairperson Brian R. Dunphy, Vice Chairperson Maria-Teresa L. Cozzolino
Members: John Dziurman, Nicole Franey, Micheal Kilpatrick, Melissa Luginiski,
Paul Miller, Dr. Richard Stamps, Jason Thompson*

Thursday, June 11, 2009

7:00 PM

1000 Rochester Hills Drive

MINUTES of the **REGULAR ROCHESTER HILLS HISTORIC DISTRICTS COMMISSION MEETING** held at the Rochester Hills Municipal Building, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan.

1. CALL TO ORDER

Chairperson Dunphy called the meeting to order at 7:00 PM.

2. ROLL CALL

Present 7 - John Dziurman, Paul Miller, Richard Stamps, Brian Dunphy, Jason Thompson, Nicole Franey and Melissa Luginiski

Absent 2 - Maria-Teresa Cozzolino and Micheal Kilpatrick

Also Present: Derek Delacourt, Deputy Director, Planning Department
John Staran, City Attorney
Kristine Kidorf, Kidorf Preservation Consulting
Judy A. Bialk, Recording Secretary

3. DETERMINATION OF A QUORUM

Chairperson Dunphy announced a quorum was present.

4. STATEMENT OF STANDARDS

All decisions made by the Historic Districts Commission follow the guidelines of the Secretary of the Interior's Standards for Rehabilitation, MLHDA Section 399.205, and local Ordinance Section 118-164(a).

5. APPROVAL OF MINUTES

5A. 2009-0227 Minutes of the May 14, 2009 Regular Meeting

Chairperson Dunphy asked for any comments or corrections to the May 14, 2009 Regular Meeting Minutes. Upon hearing none, he called for a motion to approve.

A motion was made by Miller, seconded by Thompson, that the Minutes be Approved as Presented. The motion CARRIED by the following vote:

Aye 7 - Dziurman, Miller, Stamps, Dunphy, Thompson, Franey and Luginski

Absent 2 - Cozzolino and Kilpatrick

RESOLVED that the Minutes of the May 14, 2009 Regular Historic Districts Commission Meeting be approved as presented.

6. ANNOUNCEMENTS/COMMUNICATIONS

Chairperson Dunphy called for any announcements or communications. He noted the Commissioners had received a copy of the revised Earl Borden Award Criteria and Procedures for their file. He pointed out that supplemental information had been provided after the meeting packets were prepared, and that information could be found in the Legislative Information Center along with the meeting Agenda and packet information. No other announcements or communications were presented.

7. PUBLIC COMMENT (Non-Agenda Items)

Chairperson Dunphy asked if there were any public comments. He reminded the audience members in attendance that if they wished to speak on any non-Agenda items, they should complete a speaker's card and turn it in to the recording secretary. There were no public comments.

8. UNFINISHED BUSINESS

8A. 2008-0678 Stoney Creek Village - Discussion

Chairperson Dunphy stated the Friends of the Tienken Road Corridor had asked if they could share some information with the Commission. Their presentation would be an expansion of the public comment portion of the meeting, and asked if the Commissioners had any objections to allowing the presentation. No objections were voiced.

Melinda Hill, 1481 Mill Race, was present; introduced herself and **Dave Tripp, 960 W. Tienken Road**, and noted they represented the Friends of the Tienken Road Corridor. She mentioned they were both former Commissioners and were familiar with how the Commission operated. Also, they were both residents of the Stoney Creek Historic District.

Ms. Hill stated that the Mayor's Advisory Committee on the Stoney Creek and Winkler Mill Pond Historic Districts, as well as the Friends of the Tienken Road Corridor, were both formed because of the Stoney Creek Village residents' concerns about traffic on Tienken, such as the trucks and speeds, and the deteriorating

foundations of buildings within the Village. Due to the several proposed road projects along the Tienken Road Corridor, Friends of the Tienken Road Corridor ("FOTRC") felt it was appropriate to come before the Commission, especially since two of the projects were within the Stoney Creek and Winkler Mill Pond Districts and two miles of that five mile corridor actually fell within the two Historic Districts.

Ms. Hill stated that the Tienken Road Corridor runs from Squirrel Road in Auburn Hills to Dequindre at the Macomb/Oakland County border, and includes Tienken Road as well as Washington Road.

Ms. Hill stated that the FOTRC group had documentation showing projects being proposed by both Auburn Hills and Macomb County that would increase roads in their communities to four and five lane roads. This will put a great deal of pressure on Rochester Hills to increase the Tienken Road Corridor.

Mr. Tripp stated when the FOTRC held a recent meeting at Rochester High School, they used some of this same presentation being given to the Commission. When the FOTRC initially learned of the widening project, they were taken aback because the City's Master Thoroughfare Plan always called for Tienken Road to be three lanes. When a public meeting was held that indicated they were considering either a four-lane boulevard or a five-lane highway, the FORTC wondered what had happened to the three-lane design. Mr. Tripp stated as the FORTC began looking in to the matter, they began uncovering more and more information that additional projects were being considered for the Corridor. He noted there may or may not be an overall master plan for the corridor, but perhaps it was worse there was no master plan because it is all contiguous and connected. In looking at the disparate projects, some of which have already been completed such as the King's Cove five-lane bridge, they gained an understanding of the potential impact of the corridor, given the pressures coming from the east and west, and what could potentially happen to the corridor.

Mr. Tripp stated the premise of the FOTRC was that it was a residential corridor, and as it relates to the Stoney Creek Bridge and Washington Road improvements, it was not only a residential corridor, but also a historic corridor, making it more sensitive.

Mr. Tripp stated there were three key projects. The widening of Tienken between Livernois and Sheldon captured most of the attention, but there were two projects specific to the historic districts. One was replacement of the bridge over the Stoney Creek, and the other was the paving Washington Road between Tienken and Dequindre.

Mr. Tripp stated the FOTRC talked about "context sensitive solutions". The Federal Highway Administration (FHWA), which is also the Agency that published the green book or American Association of State and Highway Transportation

Officials (AASHTO) Standards, which traffic and highway engineers quote extensively as being their design standards. This same agency also publishes the context sensitive solution design criteria, which encourages traffic designers to consider the context that their project is designed for. Oftentimes, it is very appropriate to accept a lesser level of service. He explained highway projects are measured according to levels of service A through F. The FHWA itself says that at times it is acceptable to accept a lower level of service if it is being done to design something appropriate for the context in which it is being designed. This is the official description or definition of context sensitive solutions.

Mr. Tripp noted the definition of context sensitive solutions stated "a collaborative, interdisciplinary approach that involves stakeholders". In thinking about the context of the bridge or the widening, it was collaborative, and did not mean the Road Commission designed what they thought and brought it before the public for reaction. Rather, it meant getting the stakeholders to collaborate ahead of time on the design criteria. He stated that while the Road Commission had the traffic discipline, the Historic Districts Commission (HDC) was the historic discipline.

Mr. Tripp continued with the definition of context sensitive solutions, noting it stated ". . . to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic, and environmental resources while maintaining safety and mobility". Everyone understood certain standards had to be adhered to whenever a road project or bridge is designed, but by the same token the FHWA encourages the use of context sensitive design. In the case of the bridge or Washington Road, the context was not only residential, but also historic.

Mr. Tripp explained the process for the widening and the bridge followed the process "decide, design, defend, delay, redesign". He commented "re-work was common on too many transportation projects", noting the number of times where the transportation engineers used the green book or AASHTO standards and came up with something that was designed to a 50 mph design speed and a certain volume of traffic which equaled a five-lane road. The same input provides the same output.

Mr. Tripp stated in a case where the context was sensitive and there would be community reaction, and that included historic considerations that needed to be taken in to context, someone would design a road and have to defend it. He stated that was had happened at the last HDC meeting, as the Road Commission was in the "defend stage" because they had already decided and designed. He noted there was nothing designed on paper, but it was the standard AASHTO 12-foot lanes, 8-foot shoulders with a pedestrian path amounting to 54-feet wide. Then they said they only needed 4-foot shoulders, which indicated there was some flexibility, although the extent of the flexibility was not known. Now they were in the redesign stage, having to go back and trying to decide what will work, leading to delay, and which will receive more reaction.

Mr. Tripp stated that the FOTRC's recommendation for the widening project west of Rochester Road was to change the process. Get together and decide what is acceptable to the Community; what fits in with Master Transportation Plan, and in the case of the Stoney Creek Bridge, what fits into the U.S. Department of Interior's Standards for rehabilitation of historic structures. Thereby taking an interdisciplinary approach; getting all the input, and then design and then build it. The odds would go up tremendously of coming up with something that would work.

Mr. Tripp stated that the FORTC thought the context sensitive design approach was what needed to happen. With respect to the widening project, he encouraged the HDC to take a proactive approach and not wait for the Road Commission to come back with a design asking how it looked. He explained the Road Commission did not know what the HDC knew, and the HDC did not know what the Road Commission knew. What had to happen was for both entities to "lock themselves in a room" to figure it out.

Mr. Tripp stated that the problem was the Road Commission had money to spend and a timeline, which is the same situation they have with the widening project. The Road Commission had Ten Million Dollars to spend and no one wanted to lose the money. The money would be lost if they continued on the present course and speed. The same thing would happen as what happened to the Kings Cove Bridge. He stated that most of the City Council members thought they were designing a three-lane bridge, but when it came to a vote to use tri-party funds, suddenly it was a five-lane bridge. The theory was it might as well be done because they had the money and the space, and bridges lasted longer than roads. The same situation would occur with the bridge or the widening project, which the FOTRC did not want to happen.

Mr. Tripp stated they did not want City Council's back up against the wall with the widening project, and did not want the HDC's back up against the wall with the bridge. The only way to do that was to take a proactive approach, allowing collaboration, then design and build. The Road Commission is on a timeline to build the bridge next summer, and they had money to spend, and the money would go somewhere else if it was not spent in a specific amount of time. The only way to come up with something that would work was to get ahead of it and not leave it to just a yes or no decision.

Mr. Tripp stated that the FOTRC had a meeting with the Road Commission on Friday, June 12, 2009 regarding the widening project. He thought the Road Commission had a sense that the Community would not let a five-lane Tienken highway occur. They were getting the FOTRC's input to find out what type of design criteria would be acceptable to the Community. They also needed the Road

Commission's input on design items such as right-hand turn lanes, even if four lanes was required because it improved throughput. The Road Commission's criteria and the HDC's criteria needed to be reconciled.

Ms. Hill displayed some photographs of the existing Stoney Creek Bridge as it appears today, and some photographs of what the bridge looked like from 1940 up until 1986, when it was redone to revamp the rails and the decking portion of the bridge. She explained the bridge was a concrete, rigid frame structure built in 1940, noting they were popular starting in 1922 and continued to be popular through the 1950s. She displayed a photograph of a bridge on Woodward Street in Downtown Rochester, noting that bridge was similar to the Stoney Creek Bridge. She stated there had been a lot of comment from the Community indicating they would like to see a separate pedestrian pathway bridge not attached to the Stoney Creek Bridge. One of the reasons they were using this example was that there was a small wall between the two, with the wall creating the detachment. The FOTRC thought there might be a possibility for the bridge to be separate yet attached to be able obtain the funding and meet the criteria. It was a suggestion of a look that might work.

Ms. Hill displayed some photographs of the original stone arching that was over the Stoney Creek mill race. Part of the reason they included those photographs was because they related to context and how things used to look. She noted the stone walls around the red house and in front of the Van Hoosen Museum, and rather than trying to cobblestone the bridge, but perhaps that context might be utilized in the connection of the path or bridge as it did exist in the Village at that time.

Ms. Hill displayed some photographs of the Gillespie Avenue Bridge in Pontiac, which was one of four historic bridges in Oakland County, and can be seen on the State's website. She took the pictures because it was one of four historic bridges, which did happen to have a sidewalk. Again, it was built in 1936 and is also a rigid frame structure. She pointed out that the superstructure of all three bridges they displayed photographs of were all similar to the Stoney Creek Bridge. She noted nothing had really changed, although the Stoney Creek Bridge was not historic due to the changes that had occurred; however, there might be the possibility of looking at some type of a replacement of the decking itself versus the whole structure. They wanted to give examples to indicate they fell in to a similar category of two-lane bridges that work well that are in districts with historic attributes.

Ms. Hill recapped they thought there was a real possibility to make this a collaborative effort, and to make something that was creative and worked for the Community, protected the historic district, enhanced the property values, and still met the safety and funding requirements of the project.

Chairperson Dunphy thanked Ms. Hill and Mr. Tripp for their presentation, noting the Commission appreciated the time and effort that went into putting the material together.

Chairperson Dunphy stated that because of the sensitivity and the level of interest in this issue, he wanted to be sure that the Commissioners were all clear about the HDC process and procedures were as they went forward with the project. He had asked City Attorney John Staran to attend to answer any legal questions, particularly as they relate to what the Commission could and could not do, noting some of those questions had already surfaced. He had also asked Kristine Kidorf to attend to provide background as the City's Historic Preservation Consultant. He noted Ms. Kidorf had provided her opinion letter about the bridge and its historic status as a contributing or non-contributing resource in the District, which was included in the Commissioner's packets. He turned the discussion over to Mr. Delacourt.

Mr. Delacourt stated the information provided in the packet was the result of some of the discussion that took place at the last HDC meeting attended by the Road Commission for Oakland County (RCOC). After that meeting, several Commissioners asked about which standards applied; who had reviewed the site, and Chairperson Dunphy requested Mr. Staran's opinion about the review rights. It was also suggested that the City's Preservation Consultant's opinion be requested regarding the historic status of the bridge and the appropriate Secretary of Interior's Standards by which it would be reviewed for either removal or approval of a new addition.

Questions from the last HDC meeting regarding weight restrictions, traffic speeds and those items that fell under the purview of the HDC were also addressed. Mr. Delacourt stated the Commission was aware that ultimately the decision as to what Standard applied and what is reviewable under the Standards belongs to the HDC. He noted his Memorandum went a bit further than normal in relation to those items, due in part to the discussion that took place at the last HDC meeting and requests to provide information. He stated he and the Chair did not feel it was a good idea to just provide the information, and the Chair requested that both Ms. Kidorf and Mr. Staran be invited to attend the meeting and answer questions.

Chairperson Dunphy asked if Mr. Staran would like to summarize the HDC's legal position as it went forward with this review process.

Attorney Staran stated he did issue his letter, which read fairly plain and straightforward. He thought it was clear under the law that the HDC had authority under the local Ordinance and State Law to review this project, despite the fact that it is a public road and a bridge as opposed to a private structure. The definitions in the law specifically contemplate and include that. In order to double-check and verify he was on the right track regarding that, he spoke to Nick Bozen, who is an attorney who has worked for a long time with the State Historic Preservation

Office (SHPO) and is also the legal advisor to the State Historic Preservation Review Board. He noted that Mr. Bozen was very involved in the development and drafting of the last comprehensive Amendments to the Local Historic Districts Act. Mr. Bozen felt very clearly that it was intended that local historic district commissions would have review over a project like this one.

Attorney Staran stated Mr. Bozen also offered his opinion, which he agreed with and included in letter, that it is anticipated that the HDC would take in all factors that come into play. He explained historic preservation was the key factor, but also factor in whatever engineering considerations and constraints are involved, public safety, and traffic safety concerns into their decision-making.

Chairperson Dunphy asked Ms. Kidorf if she had anything to share regarding her assessment of the bridge as a non-contributing resource in the District.

Ms. Kidorf stated she was asked to provide her opinion about the bridge, and emphasized she was not told what to write. She stated it was her professional opinion. She commented she had been the Section 106 Review Coordinator for the SHPO and worked many hours with the Michigan Department of Transportation (MDOT) on bridge replacements all over the State of Michigan. This was certainly not a unique circumstance, and this was not the first Community to have this battle. She did look with care at the bridge and consulted with the SHPO to be sure her opinion was sound that the existing bridge was not historic. She commented that her years of experience in working with local historic district commissions enabled her to provide guidance regarding the Secretary of the Interior's Standards and how they should be applied. She thought it should be possible to have a new bridge that was compatible with the historic district. She noted her special note about the house on the northeast corner that was close and that care should be taken to ensure that the new bridge is not any closer to the contributing structure than it is currently.

Chairperson Dunphy called for discussion from the Commissioners.

Mr. Dziurman thanked Mr. Staran and Ms. Kidorf for attending, and also thanked the FOTRC for attending as well. He hoped everyone would have the same information to use in making an educated decision.

Mr. Dziurman stated he did not disagree with Ms. Kidorf's opinion about the bridge as he did not think the bridge was historic either as it had changed over time and he actually thought it was ugly. He agreed with Ms. Kidorf about a two-lane replacement bridge, but did not agree with her comments about a sidewalk. He thought there was a need for a pathway for pedestrians, but a sidewalk would widen the bridge. He referred to the Woodward Street bridge photographs displayed

earlier, which appeared to be the same situation as the Stoney Creek. He thought that bridge with the separate pedestrian bridge would be much more appropriate for the historic district, but asked for Ms. Kidorf's opinion on that, noting her recommendation included putting the walkway on the bridge.

Ms. Kidorf stated in reviewing the photographs, the impact on the District with a separate pedestrian path and the approach created more bulk than just extending a sidewalk from the roadway of the bridge. She noted that really depended on how it was designed and what the lane width would be. She knew the standard was 12-foot wide lanes, but thought there might be some room to compress that a bit and have a smaller shoulder and a smaller sidewalk. Without seeing the design, she encouraged the Commission to be careful they were not inadvertently adding more structure, more railing and more bulk. In her mind, the bridge should be as minimal as possible. She did not necessarily see a pedestrian path as offensive, but suggested the Commission be careful in having two structures that they were not creating more bulk.

Mr. Dziurman stated one of the issues with the pedestrian pathway was that as one crossed the bridge, there was no place to put a sidewalk. He noted if a sidewalk was installed, it would be on the homeowner's property. He stated that based on discussion with the residents of the area, it was possible coming west to east that a pathway could be along Tienken Road. However, as soon as one crosses the bridge, there is a problem. It cannot be installed on the north side of Tienken because of the house (resource) located so close to the bridge. Everyone recognizes the bridge cannot go beyond where is currently exists at that point, which had been acknowledged by both the Road Commission and the City Engineers. Everything would have to move south. Rather than the pathway going along Tienken Road, perhaps it could take a different route and become part of the Museum, making a safer passageway. He stated that last week he had seen a couple of young girls coming from the high school try to walk across the bridge, and they were just terrified because of the traffic travelling so fast. It was more of an issue of the school children being able to safely cross the street, get to a safe situation, and be able to cross the bridge. He understood Ms. Kidorf's comment about more bulk, noting he had not thought about it that way. He thought of it as reducing the width of the bridge to keep it the way it was or in a sense closer to what it was, and then providing a much-needed pathway.

Mr. Dziurman referred to the historic photographs of the bridge, and asked if Ms. Kidorf saw any particular problem not trying to duplicate, but suggest something similar. He knew the Road Commission was concerned about safety and those railings were not safe any longer. He thought there should be some expression of a railing on the new bridge.

Ms. Kidorf thought the railing should be something that was compatible with the District. It could lean back toward indicating that earlier railing, if the Commission

thought the 1940s era was what they wanted to see. Obviously, it would be made of modern materials and at a modern height and strength, so it would not exactly duplicate a 1940s railing. She thought there was some potential for some other types of railings that might also be compatible with the District. Generally, her design sense when doing new construction in a historic district, was "the simpler, the better". Usually that was the easiest way to comply with the Secretary of the Interior's Standards. Keep it simple, but still be a gateway to the District and compatible with the District. She thought under no circumstances were the jersey barriers that are there now an appropriate railing for a new bridge in that location. She would try to keep the pedestrian piece as minimal as possible. She knew railings were bulkier now than they used to be, but if she were guiding the Road Commission, she would ask them to be as minimal as possible while maintaining safety.

Mr. Dziurman stated that Ms. Kidorf indicated she did not think the bridge was a contributing resource as it is now, and asked if the bridge would be contributing as it was originally.

Ms. Kidorf was not sure when the period of the District ended, and noted that was something the Commission should look at; but thought the period of significance of the District ended before 1940. So a 1940 bridge would not be significant.

Mr. Dziurman commented there was a bow/arch truss bridge before that 1940s bridge. His personal opinion was the bridge was a contributing resource although it may be poorly executed currently. As far as he knew, a bridge was always there. He wanted to make sure the Commission did the right thing and wanted to be sure he heard Ms. Kidorf's opinion.

Ms. Kidorf stated it was very clear in her mind that the bridge did not retain historic integrity to contribute to the character of the District, which is what she looked for in considering contributing or non-contributing resources. That was what the Commission needed to base their decision on.

Mr. Miller stated it was his understanding that if work was going on within a historic district, the Commission does and should have review over that project, and asked if he was correct in that.

Mr. Delacourt stated anything above ordinary maintenance as described in the Ordinance.

Mr. Miller asked about a scenario whereby all the wood, 40-foot tall telephone poles were being replaced with steel, 100-foot tall poles, whether that would be reviewed. Mr. Delacourt asked if Mr. Miller was referring to a contiguous district or a non-contiguous district.

Mr. Miller clarified for any historic district. Mr. Delacourt stated if it fell within the boundaries of a contiguous district, his initial reaction would be yes. If the scenario referred to non-contiguous resources and replacing telephone poles that fell outside of the individual parcel boundaries, then no.

Mr. Miller asked about the transformers in a non-contiguous district. Mr. Delacourt state those poles were not on the parcels, but were outside the parcel boundaries. Mr. Miller asked if a pole was within the boundaries of a non-contiguous district. Mr. Delacourt stated if the pole was outside of the right-of-way, and located on a parcel, he assumed it would work the same way as within a contiguous district. He was not aware of a situation where that had come up.

Ms. Kidorf commented that State Law and the City's Ordinance stated that any work within the boundaries of any historic district. Whether it was in the right-of-way or not, it really should be reviewed by the historic district commission. Not every municipality took a strong hold to that, so it was somewhat up to the municipality. State Law intends that any work within the boundary, be it done by a private citizen, the municipal government or a utility company, be reviewed by the historic district commission.

Mr. Miller asked if the City was doing work such an installing water mains or sewers, and were working within the boundaries, that work should be reviewed. Ms. Kidorf responded "yes". He stated that was the way he understood it, but typically in the past in this City, especially with the non-contiguous districts, there had been a tendency to let those things go by.

Attorney Staran stated this was a general discussion, but noted there may be instances where that answer was not always true. For instance, there could be underground utilities that did not affect structures or result in above ground improvements or changes, which may not come within the definition of "work". There may also be other State or Federal laws that come into play, such that regardless of what the City's Ordinances say, might indicate that a particular service provider is not subject to local regulation, historic or otherwise. There were always some nuances, but in general the discussion was on the right track.

Mr. Miller agreed there was much "eye of the beholder" for the decision maker. Particularly within a contiguous district like the Stoney Creek Village, when it came to the design of the bridge, the Commission not only had input, but had a say over what does and does not get done.

Attorney Staran stated what was being discussed at this meeting, based on the City's Ordinance, his opinion was that the Commission did have review authority under the Ordinance. That causes the Commission to be more involved and more immersed than if the Commission was simply involved in the Section 106 review

process. That process was also important, but in that case, the Commission was more of an input provider. In this instance, under the Ordinance, the Commission was an actual decision maker.

Mr. Miller stated that was what he was trying to clarify. It was not just an advisory capacity with the Commission indicating what they would like to see. The Commission gets to say "yes that is good" or "no, that's not OK".

Chairperson Dunphy clarified it was his understanding that at some point the Road Commission would come to them with an application for the HDC to review, just as any other historic resource property owner would. It would be exactly the same process the HDC uses with any other property owner in reviewing a historic resource.

Mr. Miller stated the FOTRC brought up Washington Road, and clarified that Washington Road did not technically fall within the district. Mr. Delacourt stated it did. Mr. Miller asked if widening or other work within that road would also fall within the purview of the HDC. Attorney Staran and Mr. Delacourt both indicated that was correct.

Ms. Luginski thanked Mr. Delacourt for putting some of the resource material together, which she thought was helpful for the Commissioners. She stated she was quite familiar with the bridge as she was a resident of the Stoney Creek Village Historic District. She was concerned with some of the statements in Ms. Kidorf's letter, particularly the strength of her recommendation to remove the bridge. She noted there were some non-contributing structures in the Village and there were a few on Runyon that detracted from the Village. She understood that physically the bridge was unattractive, but thought the residents were concerned about what might go in as an alternative was not guaranteed at this point, and she was not sure it would be more appropriate than what is already there in terms of size and weight. She thought it was possible a new bridge could have a negative impact on the historic district in terms of weight limits, width and traffic. She was concerned about the statement in Ms. Kidorf's letter that said: "Since the bridge is non-significant and detracts from the historic character of the district, it should be removed". She agreed the bridge was non-contributing, but thought the comment "recommend it be removed" carried a lot of consequences.

Ms. Kidorf clarified that is in response to someone wanting to remove the bridge. It was not dictating that it should just be removed. In response to an application, that would be her recommendation for any non-contributing resource, whether it was a bridge, a house or some other structure within the historic district. She stated that was her advice to all historic district commissions around the State. When they have a non-contributing resource that someone wants to remove, that does in fact meet the Secretary of the Interior's Standards for Rehabilitation.

Ms. Kidorf added it was the Commission's job to make sure that the new bridge was appropriate and does meet the Secretary of the Interior's Standards. Unless the Commission issued a Notice to Proceed for some reason for a bridge that is not appropriate, she thought it was the Commission's job to ensure they got an appropriate bridge for the historic district. Improvement is in the eye of the beholder, which is why they try not to use language like that when doing design review.

Ms. Luginski thought the Commission understood the bridge was not historic. In looking at the bridge report and replacing the decking, noted she would like to have more information about the bridge report because she was not completely clear about it. Based on what she had seen, it did not seem to be a foregone conclusion that the bridge had to be replaced. To have Ms. Kidorf recommend it be removed, took them further away from it being repaired instead of replaced. She thought conceptually it could be modified back to its 1940 appearance, or whatever the Commission decided was the appropriate era.

Ms. Luginski stated she had also seen fear in people's eyes when crossing the bridge, and had seen parents riding bikes along there with their children and seen the same fear in adult's eyes. She wanted to encourage everyone to understand safety was very important and was a key element of what they would consider.

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Mr. Delacourt commented that as staff, a planner and someone who worked in non-motorized transportation for quite a few years, he understood the role the HDC played in this and how the review authority worked in reviewing any proposed new bridge. As a planner, he was very concerned that some type of pedestrian connection be made and that opportunity does not get lost or pushed back in to the future or lost to other funding requests. He noted they could all have opinions about where the pathway should go after it crosses, and commented he was not sure it was impossible to have a path along the road, regardless of the width. He stated he had seen much harder pathways put in, in much more difficult places. Ultimately the pathway would be reviewed by the HDC. He wanted to be sure an option was not eliminated summarily before it is even reviewed. If there was a way to connect it and still have a context sensitive design or a good design for a pathway that does not remove the characteristics of what the current bridge provides, he did not want to see the opportunity lost ahead of that design being considered. If it means connecting it by a thread or some other fashion to get it built now, he was all for it. If it means connecting it as part of the bridge deck and it is designed well enough that it is hidden and the massing is hidden from the aesthetic view, that was the role of the HDC to make sure it was acceptable. That was what the HDC was charged with and had a set of standards to review it by. As a planner, he wanted to emphasize he did not want to see the opportunity lost. There is no viable pedestrian

connection between the District and the high school now, and while the opportunity is there, he thought it would be a shame to miss it by digging their heels in as a City and making a determination over what and what is not acceptable before the Commission even reviewed anything. He would hate to see anyone summarily decide something before it is looked at.

Mr. Miller asked if there was possibility of looking at whether the bridge could be repaired. Mr. Delacourt stated that was an engineering question. As far as he knew, Oakland County had looked past repair and was considering design alternatives. If there was a way for them to repair it, and the HDC decides they would like that determination made, he thought Oakland County could look into it. Whether or not they agreed with that, he was not aware and could not speak for them.

Mr. Miller thought the Road Commission should look at that alternative. He understood the Commission should not make up its mind ahead of time and should look at all the possibilities, as should the Road Commission.

Mr. Delacourt stated that non-contributing resources should be treated as any other non-contributing resource in the District has been treated in the past. If the HDC determines that the resource does not contribute to the District, there is no requirement that any applicant demonstrate it can be repaired as opposed to being replaced. If there was a reason to consider this resource differently, he had not been presented with that reason. He stated he had never seen that done before, i.e., once a determination is made that something is non-contributing, then an applicant also has to demonstrate why it cannot be repaired. If there is a reason to treat this non-contributing resource differently, or if the HDC determines it is contributing, then he would understand the reason, but he has not heard what that reason was.

Dr. Stamps asked how the Commission would find out if the bridge was repairable. He asked if the Commission could request information from the County Road Commission that stated either "yes, it is an option they should consider" or "no, we have looked at it and because of reasons x, y and z, it is not repairable".

Mr. Delacourt thought the presentation made by the Road Commission at the last meeting included their thoughts on why it was not repairable. If the HDC requested additional detail, he could pass that along to the Road Commission so they could answer that question the next time they are before the HDC.

Dr. Stamps did not think the Road Commission had considered repair when they made their presentation to the HDC. Rather, that was something the HDC asked them about.

Mr. Delacourt understood they had not considered repair, but thought they had explained why they had not considered it based on their bridge rating system. Ms. Luginski had asked them to further break down the four components of their bridge

rating system, which was provided in the survey regarding the bridge. He agreed the Road Commission had not come before the HDC considering repairing the bridge, but he thought they came with an explanation of why they thought it was substandard and in need of replacement.

Dr. Stamps stated he had looked briefly at the report, but needed someone to interpret the material for him. He requested someone interpret that data, and if the bridge is not repairable, explain to the HDC why not. He stated he understood why the decking needed to be replaced, but not as far as the foundation or the trusses.

Dr. Stamps referred to Ms. Kidorf's statement that the "bridge should be as minimal as possible" and agreed the Commission did not want it to detract from the Historic District. He wondered if the model shown in some of the pictures with the walking path off to the side and a bit lower, even if attached and dropped down a bit, reduced the mass or bulk in a creative way that would not detract from the historic district.

Ms. Kidorf stated that seemingly it would, but without seeing actual drawings, it was hard to make that generalization. She added that previously, the money could only be used for bridge replacement, not repair, which may be why the County was not looking at repair. She suggested the Commission check with the County, but noted that was the rule for many years while she was at the State, even though it made no sense to the State. That was the rule in using the bridge money.

Mr. Delacourt stated that whether the term was repair or replace, the HDC would review either by the same standards. Whatever is proposed as far as repair or replacement, once they get past the non-contributing, it is the same set of standards the Commission reviews it by. Whether they keep one embankment, or replicate that piece, it was reviewed by the exact same set of standards and requirements.

Dr. Stamps referred to the photographs shown of the Gillespie Bridge in Pontiac and the Woodward Bridge in Rochester, noting he was not sure where the Pontiac bridge was located or whether it was in the middle of a residential neighborhood. He knew that the bridge in Rochester ran through a residential area, and even though the bridges were similar, he was not sure that the situation was the same. The bridge in Rochester was a short cut to Dillman and Upton and maybe to go on to the Dairy Queen, but it was not a main thoroughfare. He thought Tienken Road was a significant two-lane thoroughfare connecting the Village with Rochester Road. He thought perhaps the bridges were the same, but the comparison may not work because of where they are located.

Dr. Stamps referred to portion of the FOTRC presentation about "design, defend, redesign" and the term "listen". He expressed concern that if the HDC listened to the majority of the residents in the City of Rochester Hills, they may not get the same response they got at the meeting at the Adams High School or the meeting held at the Museum. He stated that when he is outside of this group that shared his

sense of history and preservation, friends of his that lived in the big subdivisions beyond the Village, said it was a high traffic area and they needed to move people. If the HDC was truly going to listen to everybody, and if a democracy would rule, the democracy may say "I want three lanes and I want to move people". He was not sure how that fit in, but there was an element if the HDC was truly listening, and there were road counts and traffic flows. He referred to the yard signs that originally said "no to 5 lanes, yes to 3 lanes" although some of those had been modified to "2 lanes". That was another element of the Community the HDC needed to consider and be aware of.

Chairperson Dunphy reminded the Commissioners their deliberations were guided by the Ordinance and the Secretary of the Interior's Standards. Certainly the Commission wanted to be sensitive to the feelings in the Community, whatever side of the issue they were on, but at the end of the day, the Commission was required to follow those Standards. He appreciated Dr. Stamps comments about listening and the various points of view on this matter, but the Commission had a basis with which to arrive at their decisions.

Mr. Delacourt believed that the Ordinance reflected the majority of the people in the City. It was put in place to guide the HDC and reflected the majority of the Community and its desire to protect its historic resources. It also gave the HDC a process to do just that. Regardless of the outside influences for a specific project, the Ordinance was a constant, which is why it was put in place and why the Standards were put in place. He thought the Commission could have every confidence that when they utilized those tools to make a decision, they did represent a majority of the Community.

Mr. Dziurman disagreed with Dr. Stamps' view of the Woodward Bridge. He explained he had taken that photograph and it was meant to show that there are separations for a pedestrian bridge and not getting into the issue of weight limits. It was more of an aesthetic reason.

Mr. Dziurman referred to Ms. Kidorf's comments about bulk and Section 106 reviews, and asked if a separate span would be a problem in a Section 106 review. He was aware no drawings had been presented at this point so it was difficult to determine what it might look like.

Ms. Kidorf stated if she was still doing Section 106 reviews, she would respect the views of the local historic district commission. A key part of Section 106 is public input, and unless it blatantly did not meet the Secretary of the Interior's Standards, she thought the State would go along with what the local historic district commission's viewpoint was.

Mr. Dziurman thought the issue might be that the Road Commission was going to start the Section 106 process soon, and no one has a design to review. He was concerned about what would be said and what would be presented. He thought they were getting ahead of themselves before they knew what would be there. He stated it was confusing, because the Road Commission had a meeting set up with SHPO, and the Commission had not reviewed anything.

Ms. Kidorf stated that SHPO could not conclude the Section 106 review until there is a design. Otherwise, they could not form an opinion about a new bridge or its affect on the historic district.

Mr. Dziurman asked if Section 106 reviews were done in-house. Ms. Kidorf said they were usually done in-house.

Mr. Thompson asked when the Commission would have plans to review. He noted he was having a hard time visualizing what was being discussed. He stated he had an idea of what he would like to see and what he thought should be there and what the Commission had talked about, but did not have anything to refer to. It was hard to concretely come to a conclusion unless he had something to look at.

Chairperson Dunphy stated that the letter from the Road Commission included in the HDC packet indicated some of their next steps. He understood the Road Commission would come to the July HDC Meeting. Mr. Delacourt stated he had not heard anything different.

Chairperson Dunphy stated he assumed the Road Commission would be at the July HDC meeting. Mr. Thompson asked if they would be making a formal application. Mr. Delacourt stated he did not know if the Road Commission would have a formal application or not. He understood the Road Commission was discussing how and when to make their application. He stated he hoped the plans were submitted in time to allow Staff an opportunity to review them and comment on them prior to the meeting. He noted the Road Commission was aware that was the preferred submittal process, but until they made formal application, he could not make any demands for anything. He commented the Road Commission had asked to come back at the July meeting, and it appeared they were very interested in conducting the TS&L (type, size and location) with MDOT before going any further or presenting any designs.

Mr. Delacourt stated that the Road Commission was well aware of the City's opinion regarding the HDC's approval. He referred to the comments about timing, and stated that if the Road Commission did not timely provide the HDC with a design, the HDC should never feel their backs were against the wall to make a decision.

Unless the Road Commission has a differing opinion of what the review authority is, they can come in and tell the HDC they are out of time and try to put pressure on the HDC. However, he felt the HDC had made it very clear to the Road Commission they had requested the Road Commission meet with the HDC much sooner in the process.

Chairperson Dunphy asked if the City was providing the Road Commission with the materials that the FOTRC and other interested parties had provided regarding various options on bridge design. Mr. Delacourt explained no one had provided Staff with anything. He had only received some information second-hand. He assumed it had been forwarded to the Road Commission, although no one had provided or contacted him directly with any information about design.

Chairperson Dunphy asked if the information included in the HDC packet had been forwarded. Mr. Delacourt stated the information in the packet had been forwarded to the Road Commission. He explained everything the City puts out, was sent to everyone.

Mr. Dziurman stated that at the last meeting he asked the Road Commission to come back with a repair option or if it that was possible. He noted the Road Commission indicated they would and he assumed they would do that.

Ms. Luginski inquired about the HDC's time frame once a formal application is made and the bridge design is presented.

Chairperson Dunphy explained the Ordinance stated that if the HDC did not act within 60 days, it was considered to be an approval. If the HDC is in the process and asking for more information, or sending them back for a re-do if it came to that, he did not think that kept the HDC to the same timeline. It was his understanding that was the only requirement in the Ordinance that he was aware of.

Attorney Staran stated there was a 60-day limit in the City's Ordinance that was carried over from State Law. He suggested an approach similar to what the MDEQ did with regard to wetland permits which had similar time lines. The HDC would work with the applicant, and if more time was needed, the HDC would offer the applicant an option. They could either be denied if the HDC was not satisfied with the proposed project and the time was running out, or the applicant and the HDC could agree to allow additional time to complete the process. He stated there were ways to deal with the situation, but the HDC would need to be mindful throughout of when the 60-day cut off was so it was not inadvertently missed or put the HDC in a position of unwittingly approving a project.

Mr. Delacourt stated he did not believe that had ever happened in the history of the HDC. He did not believe the HDC had ever put themselves in a situation to have a default approval.

Attorney Staran stated sometimes it was a matter of scheduling rather than delay. If an application is submitted and cannot be heard by the HDC until it is 30 days or 45 days old, time could become more pressing.

Mr. Delacourt stated that technically they were almost out of time to make application for the July HDC Meeting. He explained by Ordinance they had to apply three weeks prior to the scheduled HDC meeting. He noted Staff did not usually hold hard and fast to that rule because it was usually a disservice to those who live in the district. There have been times when Staff required more time to get correct information submitted as part of an application, but were usually pretty flexible.

Ms. Kidorf cautioned the Commission to get any extension of the 60 days in writing. She believed State Law required that. Attorney Staran and Mr. Delacourt agreed.

Ms. Luginski asked how the Commission got that extension in writing. Ms. Kidorf stated she used to carry a blank form that was completed, and signed by the Commission Chair and the applicant right at the meeting. She thought that was the easiest way.

Chairperson Dunphy stated it was his understanding that the letter from the Road Commission said that unless otherwise indicated by the HDC, the Road Commission would plan on attending the July HDC meeting to present additional data and information regarding the status of the project and gather additional comments. There was nothing in the letter indicating the Road Commission was going to come forward with an application at that time.

Mr. Delacourt stated he hoped the Road Commission would not make application at this point, although they had the right to. He hoped they would come back having shown they listened to the information provided by the HDC at the last meeting. He stated that if the HDC had additional information they wanted the Road Commission to provide Staff could forward that request on to the Road Commission, along with a copy of the minutes from the meeting. He hoped they would come back to show how they incorporated or tried to blend the HDC input with their standards and have a discussion about that and their absolute requirements.

Mr. Miller referred to road widening throughout the district, and asked if Ms. Kidorf would hope that would be as minimal in scope and massing as possible. Ms. Kidorf responded "yes".

Mr. Miller stated that the previous Historical Preservation Ordinance gave the HDC veto authority over City Council in certain scenarios. In terms of the HDC's duties and requirement to review construction within districts, he asked if that had

changed from one Ordinance to the other. He clarified it was only veto authority under certain situations that distinguished the old Ordinance from the new Ordinance.

Mr. Delacourt stated the only change he was aware of was that City Council used to have the authority when the Building Department was the applicant under the dangerous building ordinance, not the property owner, if the HDC denied a demolition request, that could be appealed to City Council. That was the only change made.

Attorney Staran clarified that appeal process had been removed and that was the only change. There were no other reductions of the HDC's authority in any other regard. He explained that change was in fact an expansion of the HDC's authority.

Mr. Miller stated it was not only the bridge the HDC would be reviewing. He noted the FOTRC presentation talked about widening and clarified that certainly also fell within the Commission's review authority in connection with the Secretary of the Interior's Standards. Attorney Staran indicated that was correct.

Mr. Dziurman stated the existing bridge had a weight limit associated with it, and noted the Road Commission indicated their design was now 80 tons, which was significantly different than the current limit. He noted people in the District were currently experiencing vibration problems with their historic buildings, and asked what legal right the Commission had to say no, if they had any right to do so.

Attorney Staran said there was not a simple yes or no answer as it was a more complicated question. He explained it depended on a number of things and pointed out there were a number of jurisdictional things that came into play, as well as laws that came into play, not only at the local level but at the State and Federal levels as well, when it came to regulating commercial traffic.

Attorney Staran stated the weight or load restrictions that are placed on a bridge structure are typically a function of structural integrity or what loads they are designed for, with a consideration to their present condition. They are not typically set based on other types of consideration such as land use, the environment or historic. They are generally derived from engineering considerations.

Attorney Staran stated it was potentially problematic on several levels. Level one was the jurisdictional question. He stated he had not heard from any representatives from the County, the State, the Federal or the trucking industry, who may have a totally different take on what he was about to say. Applying historic regulations and the Secretary of the Interior's Standards gives the Commission a lot of review authority, but there are limits to that authority. Sometimes the lines are not as clear as to where the HDC's authority ends or where the traffic authority kicks in. There are a number of things that come into play. The HDC has the Standards to follow, but does not typically get into land use regulation, or traffic control, or

environmental regulations such as regulating water courses or wetlands. Even though all those things could be part and parcel of the historic district and the integrity of the historic district. There are a number of things that come together that the HDC is a part of, but the HDC did not have complete authority to override or supersede other State laws.

Attorney Staran stated that weight restrictions, particularly for commercial vehicles, were regulated by State Law through the Motor Vehicle Code. The Motor Vehicle Code sets out how weight restrictions are set; what the maximum vehicles weights can be, and those types of things. There is also Federal Law. He stated there have been cases that have gone all the way to the Supreme Court on this subject. He explained there was a challenge a few years ago as to whether trucks throughout the country were subject to any local regulation at all, not only weight, but speed and motor carrier safety. That case was based on a law that was administered by Federal agencies. The Supreme Court decided there is preemption of local regulation of the trucking industry, except to the extent of safety regulations. Safety regulations would be things designed to prevent trucks from plowing into cars or running over pedestrians and bicyclists. The matter of whether that was a safety regulation that was not preempted by Federal Law when the concern was for minimizing vibrations, noise and dust that may affect historic structures that are located in close proximity to a roadway or a bridge. He pointed out the City or the Commission could argue yes, but there was always someone on the other side who would argue no.

Attorney Staran stated those were the things the Commission needed to be careful about. Having said all that, he thought it was possible that to the extent the HDC may not be charged with the authority to impose weight restrictions as conditions, there may be some things the City could do through the traffic control order process involving the traffic engineering staff and ultimately City Council to create permanent regulations that might work.

Attorney Staran cautioned the HDC that when they started to get in to directly regulating traffic and load restrictions, which really were traffic regulations, he thought there was a good chance they would be challenged as overstepping their bounds.

Attorney Staran stated that on another level, the HDC needed to be careful that if they make determinations that trucks and truck traffic were creating those issues, they had to be sure it was well-grounded and they had a strong, legitimate basis for saying that. On the one sense it seems to be intuitive, but on the other sense, the State of Michigan is one of the most liberal states in terms of the maximum vehicle weight allowed. The State of Michigan also has one of the more conservative and restrictive axle weight regulations. The amount allowed per axle in Michigan is 13,000 pounds, which is fairly restrictive. He stated he understood that typically the damage that is done to the roads and the vibrations was more a function of axle weight than it was gross vehicle weight. He indicated that other material he had read suggested the more restrictive they may be in terms of gross vehicle weight,

could actually lead to more damage because they were inviting more truck traffic, albeit smaller trucks, but more of them. He stated there were a number of factors to consider. He commented he had read something else that suggested the types of damage caused by noise and vibration could be caused more from a loud, light motorcycle than a truck, depending on the design, what the trucks are carrying, the speed, etc. He reminded the Commission they would have to be careful in trying to impose a restriction like that, that it is well-grounded in some factual data and not simply intuitive that could be refuted and challenged.

Mr. Dziurman asked if that was taken into consideration during the Section 106 review and if judged to have a negative impact on the Village, how strong that would be.

Ms. Kidorf stated the Section 106 regulations allowed that a negative impact in the atmosphere or setting of a historic property would be an adverse affect. Mr. Dziurman clarified particularly since they were using Federal funds.

Ms. Kidorf stated the use of Federal funds is what triggered the Section 106 review. That would need to be mitigated. She noted she did not know all the trucking rules and whether MDOT would allow it, but it may be a way to mitigate the adverse affect by either reducing the speed or re-enforcing the road so the vibrations do not carry through to the property. She did not know if that was possible, but may provide some room for creativity.

Attorney Staran stated they would need to know the basis of that finding of adverse affect, and if it is based on certain things that are correctible in the design of the bridge itself, that would lead to a different conclusion than if it was determined that the adverse affect is just a general negative affect on the Village itself, which might lead to such things as minimizing the impacts through traffic regulations or other things.

Mr. Dziurman asked who had the legal authority to set the speed limit in that area.

Attorney Staran explained it was actually a combination of things. It was under the jurisdiction of the Road Commission; however, the City does have authority to enforce speed regulations. The City does not have that authority on State trunk lines. Typically, the City would be in the position to enforce the regulations, but generally the Road Commission sets the actual speed limits.

Mr. Dziurman asked if the City could ask to have the speed limits changed. Attorney Staran stated he would have to look in to that. He noted there were other County roads in the City and pointed out when it was a township, they were all County roads. Certainly there was input and feedback provided by the municipality.

Mr. Dziurman noted that Washington Road was a gravel road, which the State set the speed limit at 50 mph, and asked if that could be regulated down.

Attorney Staran stated that was something that had been looked into. He explained the City Council spent some time discussing that matter. The State Law was changed about three years ago, and there were efforts spearheaded by Senator Bishop to get that law changed. It was his understanding it was felt to be a local, Oakland County problem, and the rest of the State did not share the same concern, so the law remained in place. He explained that was a function of where State Law dictated, and the City did not have the ability as a local measure to alter that.

Ms. Luginski stated the Historic District was suffering some ill effects from the speed limits as the trucks do not follow the 40 mph. She stated that was too fast and the trucks could not come to a stop in a neighborhood, such as if someone slipped and fell in the road, or a dog ran out, or if someone stopped to turn. She noted it was a very bad place at 40 mph, and commented people would feel better if traffic actually traveled 40 mph, but most went faster. She indicated a question was asked at the forum at Rochester High School about whether the City and Road Commission would work to get the speed limit lowered. She thought that was an alternative to removing trucks from the road. Lowering the speed limit specifically for trucks in such a narrow area because it was a safety issue was advisable. She noted it was stated at that time that the State Police had the jurisdiction to do that.

Attorney Staran stated he would look in to that matter, noting he was not at the meeting Ms. Luginski referred to and had not talked to the City Engineer about it.

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Mr. Delacourt stated that whether or not the bridge was used as a tool to limit speed or weight restrictions, those were valid concerns of the HDC. He reminded the HDC they had the ability to make a resolution or a motion to request City Council look into any factor that goes through the District. He noted it carried an enormous amount of weight when it came as a motion or resolution for investigation from the Commission. Even if the truck traffic or the weight limits are not within the purview of the HDC, that is not say they were not a valid issue and something the HDC could not asked to be investigated through one mechanism or another. He stated he had been out there, and it was a strange feel standing on the side of the road having that traffic go through. He wanted to point out there were other tools available to the HDC other than the review of one application. The Commission had the ability to make a request to look into these concerns. The Commission had been appointed and charged with doing exactly that.

Mr. Delacourt stated he wanted to make one point of clarification, about something Mr. Dziurman had mentioned. He stated he had not received an answer and did not

know how all the pools of money worked. The Road Commission indicated in their letter that they feel they are not using any Federal funds for the Bridge and were not required to go through a Section 106 review. Obviously, if they are not and the pools of money are separate, that was also his understanding of the requirements. If they were not required to, and the Road Commission indicated in their letter that they were still willing to participate with SHPO, he was grateful for that. He understood the HDC would like some clarification as to where the funding was coming from and why that statement was included in the letter.

Attorney Staran stated he noticed that in the letter as well. Which bucket of money the funds come from always gets confusing. It was his understanding that originally it was going to be funded out of the critical bridge program.

Paul Davis, City Engineer, explained it was now the Local Bridge Program, but that previously it was referred to as the Critical Bridge Program, and that was where the funding was requested by the Road Commission. He thought some of the confusion came about because of the focus on the Tienken Road Bridge by Stoney Creek replacement, but the Road Commission actually had two bridges. They are planning on doing these bridges during the same period over the summer months, but one would be done and then the other would be worked on. The other bridge is the Parkdale Bridge in the City of Rochester.

Mr. Davis stated in looking at the Critical Bridge Funding Program information, noting he had an older book dated 2002, it had an Appendix B which basically contains a listing of bridges that are eligible on the Federal aid system and some that were not eligible on the Federal aid system. The Parkdale Bridge is on the eligible Federal aid system, which means Federal funds are used for that bridge. The Tienken Road Bridge by Stoney Creek is on the non-eligible, which is why State funds are being use to replace that bridge. He knew it was confusing, as it was the same program, yet there seems to be a distinction between bridges that are used with Federal aid and bridges that are used with State aid.

Mr. Delacourt asked Mr. Davis to describe the Federal aid system, noting the Federal aid road roadways were actually a designated road system. It was a qualification for Federal funding to be used. In order for Federal money to be used on bridges like this, they had to be adopted as part of that Federal aid system. From his experience with transportation funding programs, the Federal Government would not allow the money to be used on a bridge that was not on the Federal aid system. He was not sure if that rule had been changed. He believed there was a map that could be referenced.

Mr. Davis stated the map might be able to be searched through SEMCOG (the Southeast Michigan Council of Governments) that shows all the roads in Southeast Michigan that are designated as Federal aid eligible roads.

Chairperson Dunphy asked who made that determination and who decided which bucket the bridge went into.

Mr. Davis believed when the Road Commission made the initial application, they did. He explained the Tienken Road Bridge over Stoney Creek was applied for critical bridge funding back in 1994.

Mr. Delacourt asked who adopted the Federal aid map. Mr. Davis stated it was a program that had been retitled but was a carryover from the original critical bridge program. That was his understanding of why one of the two bridges was with Federal funding and the other was with State funding.

Mr. Delacourt clarified the Federal aid system was an adopted road system as it was acknowledged by the Federal Government. Mr. Davis agreed it was, and noted the City also had the ability to submit roads to the Federal Aid system. Some roads that could be under consideration for the City to submit would be Old Perch or Brewster, although he thought both those roads were on the system. That was about as low of a volume road the City can apply for Federal Aid funding. Other roads like Hamlin or John R that are within the City's control, he believed were also on the Federal Aid system. That would require the City to make the request for the road to be included in the system.

Mr. Delacourt stated Staff would look into the matter, noting this was a change from the last HDC meeting to this meeting. Staff had already relayed to the Road Commission that some explanation of the funding would have to be made, particularly why at one meeting there was discussion about the Section 106 review being conducted, and why the Road Commission now feels that is not a requirement. He certainly understood there was difference between incorporating the SHPO's concerns, and actually having to conduct a Section 106 review. Staff would make sure the Road Commission came with a full clarification of how the money is distributed, and that is a great concern to the HDC and the residents.

Mr. Davis stated he could add some further detail on the speed limit, or that could be brought back with input from the Road Commission and the City Attorney at a subsequent meeting. Chairperson Dunphy asked Mr. Davis to provide the information he had at this point.

Mr. Davis stated he and Mr. McEntee from the Road Commission had referenced the Michigan State Police at the meeting held at Rochester High School. For setting speed limits throughout the State, the State Police has a process that is typically referred to as the 85th Percentile. It is a consistent process and is one that the Road

Commission and the City have also adopted. He explained that it requires that an engineering speed study be done, and periodically the City sets out traffic counters. Sometimes that was just to determine the volume on the roads, but the other data collected is an account of what the speeds are. Those traffic counts can be used to determine what the 85th percentile speed is.

Mr. Davis explained the reason the 85th percentile is key is because it is believed that most drivers want to be safe drivers. They are not reckless; do not want to be in an accident, and are not trying to cause trouble on the roadways. There will always be some drivers that do cause problems, and speed limits cannot be set to accommodate those drivers. The 85th percentile has been what is determined to be a realistic goal of what the speed limit should be set at.

Mr. Davis stated that the Road Commission does traffic control orders on their roads and the City did traffic control orders on City roads. Tienken Road is Road Commission road, so he would expect the Road Commission would have the final say in determining what the speed limit on Tienken Road is. He commented that the City could certainly provide an opinion, referred to as a P-Warrant, which is a political decision to do something differently. He stated it was not impossible to do something different from what the 85th Percentile did, and was probably the avenue the City would pursue to try to provide some influence in to what he believed would ultimately be the Road Commission's decision on setting the speed limit.

Mr. Davis stated that also during that meeting at Rochester High School, he and Mr. McEntee offered to bring in the Traffic Improvement Association (TIA). The TIA is an organization that has spent decades trying to improve safety in the region. The City often uses their recommendations, as they are unbiased, and have a very selfish goal of improving traffic safety. He stated they could bring someone in from that organization to discuss in detail about how speed limits are set or other items related to traffic safety.

Ms. Luginski commented that there was another side to the 85th Percentile rule. She stated she had been working on road issues for a year and a half, and other residents in the Village had been working on them for thirty years. They were very familiar with the 85th Percentile. She noted that the 85th Percentile assumed two things - one that the road is completely unobstructed and is flat. She stated the 85th Percentile rule could not be used an historic district that is on a hill and has obstructed views, which the Village did. In addition to that, it is a high-traffic area and a high-accident/incident area. She thought it was fair for them to disregard the 85th Percentile in this stretch of the road. She stated that was clearly stated in the definition of the 85th Percentile.

Ms. Luginski wanted to make the Commissioners aware that she thought they would be reviewing the pedestrian path and bike path elements of the plan for bridge, noting that probably the pedestrian path and bike path through the District

would come after the bridge. She referenced the 40 mph truck issue through the Village, and stated that through the pedestrian path and bike path development, they were encouraging pedestrians, Community residents and visitors to tour the Village and be on the paths. The assumption was they would be on the road and people would be walking that area. She agreed it was an interesting feel to stand along that road having the cars going by at the speeds they were. She wanted the Commissioners to understand that as they were discussing the walk-ability element of the project as it came before the HDC, the speed limit did become an issue. She commented if they were encouraging pedestrian and bike traffic to come to that area and to the road, there was a responsibility in terms of safety. Not just to put in the infrastructure, but to also include the safety elements that make that a safe and well-rounded solution.

Ms. Luginski referred to the Federal versus State dollars being used for the Bridge. The residents got their first hint of that from Mr. McEntee at the meeting at Rochester High School. She stated they had gone back and forth for over a year on whether the bridge was funded locally or Federally. It continued to change, and the Road Commission had stated as recently as April of this year that it was a Federally funded project in the Historic District, and because of that they were forced to do a Section 106 review.

Ms. Franey stated that counters were out on the Tienken Road Bridge a couple weeks ago and asked if they were there for the County or the City. Mr. Davis believed that was a part of the Tienken Needs Study the Road Commission was conducting. He explained the Road Commission was trying to obtain traffic counts between Sheldon and Dequindre and along Washington Road. They wanted to get revised data to use for better projections for future traffic.

Ms. Franey asked if those results would be brought to the HDC at their next meeting. She noted the Commission had asked to ensure whether the previous numbers were valid. Mr. Davis stated he did not know if that information would be available by the next HDC meeting. He explained the Road Commission wanted to finish up the needs study by the end of June so they could hold a public information meeting in July. If the public information meeting was held before the next HDC Meeting, that information would probably be available.

Ms. Franey stated the Commission would like to make that request because they were questioning the traffic volume. Mr. Delacourt stated Staff would request any numbers that have been updated or that any data collected be provided either prior to or at the next meeting.

Ms. Franey referred to the Section 106 review, and that the Commission could potentially envelope the idea of weight limits or speed limits, and asked if Ms. Kidorf had any prior experience with that situation. Ms. Kidorf stated she did not recall anything quite like this situation.

Dr. Stamps clarified that when the Road Commission came back before the HDC, they would provide a repair versus replace discussion; funding source; conceptual renderings or design, and the road count. He asked if there were other items the Commission wanted to request of the Road Commission. Mr. Delacourt added an explanation of funding as it related to Section 106 reviews. He understood the Commission would also like an explanation of how speed limits are set including the Road Commission's considerations in the process. Dr. Stamps suggested the Road Commission be reminded these were the topics the HDC anticipated discussing.

Dr. Stamps referred to the workshop held at the Museum at the invitation of the Mayor, coordinated by the Oakland County Planning & Economic Development Department, and asked if that information had been provided to the Road Commission. Mr. Delacourt believed it had been forwarded to David Evancoe who was part of the Committee, but he did not know if a finalized format had been prepared. He would check with the Oakland County Planning & Economic Development staff.

Dr. Stamps thought that would be key information for the Road Commission to consider and include in anything they bring forward to the HDC.

Mr. Miller referred to the discussion about trucks, and asked if his understanding was correct neighboring communities that posted signs stating "no trucks" on certain streets, was not also something the City could do. Attorney Staran stated it depended on where those signs were. Typically those types of signs are posted at the entrances of residential zones. Tienken Road is considered one of the City's main thoroughfares even though it went through the District, and is not a residential street. Ms. Luginski interjected it was a residential neighborhood because there were 25 homes. Attorney Staran clarified Tienken Road went through a residential neighborhood, but was not a residential street.

Mr. Miller knew there had been some interest in cases involving property rights law, and asked if there anything in the doctrine of lateral support that would tie into this situation. In other words, these homes were being affected in a negative way economically, whether there was any past or current case law for a similar situation.

Attorney Staran stated there were always land use cases or takings cases, but he could not recall something just like what the Commission was discussing, although he could look into that further. There are issues involving homes built near a right-of-way and the use of the road became more intensive, such as Telegraph Road, which was once a fairly sleepy road and was now a busy super-highway. He noted the courts had consistently held that if the right-of-way was there, the fact that the

use of it intensified, does not constitute a taking. It only becomes a taking when it starts expanding physically into the adjoining property.

Mr. Miller asked about a scenario of when an airport expands and things were done in the surrounding neighborhoods to mitigate that. He did not recall specifically what the doctrine was, but it related to "your right to use your property ended at the point where it could adversely impact the neighboring property".

Attorney Staran stated that was more of a nuisance theory rather than a lateral support. He commented that much of those changes with airplanes and traffic resulted from tremendous political pressures as opposed to any common law doctrine.

Chairperson Dunphy asked if the Commissioners had any further questions or comments.

Mr. Dziurman stated that the Tienken Road Corridor was part of Act 10959 of August 10, 2005, which said in the part where it identifies the Tienken Road portion this particular project "widen and reconstruct Tienken Road in Rochester Hills from Livernois to Sheldon - \$10.8 Million Dollars". It does not say how many lanes it is supposed to be, all it says is "widen and reconstruct". He commented that people are assuming that the Act requires this, and he wanted to be sure that was understood.

Mr. Dziurman stated the other interesting thing in going through the Act, there is section called "Community Enhancement Study" which he has been trying to obtain. There was actually a Million Dollar study undertaken to, as stated by the Secretary of Transportation: ". . . the role of a well-designed transportation project in promoting economic development, protecting public health, safety and the environment, and enhancing the architectural design and planning of communities and the positive economic, cultural, aesthetic, scenic, architectural and environmental benefits of such projects for communities". He thought the Federal Government appears to have more sensitivity about these projects than the Road Commission. He thought that was an important part of this, and the Commission should continue to stress what they had been stressing.

Mr. Thompson asked if a condition of any approval could be included to limit the scope or size of the width of the bridge to two-lanes, with the understanding that if any future changes were made, they would have to come back to the HDC for review and approval.

Mr. Delacourt stated that any approval by the HDC, not only can be conditioned, but could include the number of lanes; the width of lanes the HDC feels appropriate based on the Standards; the width of the shoulders; the width of the pedestrian path, or what they can be utilized for in the future. If approved as a pedestrian path,

regardless of its structural integrity, it remain a pedestrian path and cannot be converted to anything else without approval from the HDC. He thought any range of those options could be included. He noted some example motions had been included in the packet materials because that concern had been expressed to him after the last HDC meeting. Particularly, if the bridge holds "x" amount of weight, it can just be converted to a road deck later. It was his opinion, if the Ordinance holds true, and the conditions are such that it be utilized as a pedestrian path, without some revised approval from the HDC, it could not be converted to something else. Attorney Staran stated he agreed.

Mr. Thompson asked for purposes of clarification, if either Tienken Road or Washington Road were to be widened or expanded, if that would have to be reviewed and approved by the HDC. Mr. Delacourt asked if Mr. Thompson was referring to Tienken Road from Livernois to Sheldon or Tienken Road within the boundaries of the Historic District. Mr. Thompson clarified within the boundaries of the District.

Mr. Delacourt stated any project within the boundaries of the District was reviewed by the HDC. Attorney Staran agreed that was correct.

Chairperson Dunphy called for any additional discussion. Mr. Delacourt stated that if any additional information was required from the Road Commission, to pass that request along to Staff.

Chairperson Dunphy thanked Attorney Staran and Ms. Kidorf for attending the meeting.

This matter was Discussed

9. ANY OTHER BUSINESS

Chairperson Dunphy reminded the Commissioners that the next regular meeting of the Commission was July 9, 2009 at 7:00 PM. He noted that was the meeting that the representatives of the Road Commission expected to return. He asked if there was any other business.

Ms. Luginski stated that the Commissioners had received an email from John Dziurman earlier in the week including a document created by Oakland County regarding "Highland Station" which was an example of a context sensitive design and development project. She commented it was a very interesting write-up and thanked Mr. Dziurman for providing it to the Commissioners. She felt it was a nice primer for the Commission to go forward with the Tienken project.

Chairperson Dunphy asked if that report had been forwarded to the Road Commission. Mr. Dziurman stated he had sent copies to the engineers, including Jeff O'Brien. Mr. Delacourt stated he had also forwarded a copy along to Bret Rasegan as a member of the Mayor's Advisory Committee.

2006-0105 1841 Crooks Road

- Update regarding Demolition by Neglect

Mr. Thompson asked for an update on 1841 Crooks Road, noting the Commission had updated their Demolition by Neglect motion at the last meeting.

Mr. Delacourt stated a meeting was scheduled with Mr. Dunn, the property owner. Mr. Dunn has requested that he and the Building Department Deputy Director meet at the property and walk through the interior of the house. Mr. Dunn admitted he had not done anything to the exterior, but had started some work on the interior, including gutting the walls down to the studs. The house is in terrible condition. The more that was taken off, the more structural damage became visible. He stated the Building Department Deputy Director was quite taken aback by the amount of cutting and other things that had been covered up structurally. Mr. Dunn will be meeting with City Staff tomorrow afternoon. He commented that while he was inside the residence, he had seen headers shimmed by drywall, and things that were readily apparent and visible. Mr. Dunn explained the reason he had not moved forward was because the more they took down on the interior, the tougher the renovation job became until they reached the point they could not even start. He thought Mr. Dunn should have come to the HDC earlier and provided an update. However, the Building Department Deputy Director had some strong opinions about what was and was not possible, so this matter may be coming back to the HDC in the future for discussion.

This matter was Discussed

10. ADJOURNMENT

Upon motion duly made and seconded, Chairperson Dunphy adjourned the meeting at 9:25 PM.

Brian Dunphy, Chairperson
City of Rochester Hills
Historic Districts Commission

Judy A. Bialk, Recording Secretary

[Approved as _____ at the _____, 2009 Regular Historic Districts Commission Meeting]

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