



## CITY COUNCIL ACTION REPORT

August 5, 2008

TO: Troy City Council

FROM: Phillip L. Nelson, City Manager  
Lori Grigg Bluhm, City Attorney  
Brian Murphy, Assistant City Manager/Economic Dev. Services  
Steven J. Vandette, City Engineer

SUBJECT: Phase II Stormwater Permit – Administrative Challenge

### Background:

- On May 22, 2008, the Michigan Department of Environmental Quality unilaterally issued the new National Pollutant Discharge Elimination System Wastewater Discharge General Permit for Storm Water Discharges from Municipal Separate Storm Sewer Systems – Watershed General Permit (NPDES permit).
- The City of Troy is required to comply with a NPDES permit, since we are a municipality that discharges storm water from our owned or operated facilities (detention basins, non-county drains, creeks, ditches, enclosed ditches, etc.) to waters of the State.
- For at least the past ten years, the City of Troy has aggressively implemented planning, development and standard operations that are designed to enhance our water quality and ecological management issues. Many of these items have been done on a voluntary basis, or in connection with the now-expired NPDES permit.
- In addition to the measures that Troy has already undertaken, the new NPDES permit mandates additional activities. According to environmental experts that work for the Rouge River Watershed (of which Troy is an active member), the impact of some of these measures on the overall water quality is not justified by the anticipated cost.
- There is also some confusion with the requirements of the NPDES permit, and a contested case will allow for clarification of these issues.
- Several other communities in the region have evaluated the new mandates of the NPDES permit, and agree with City Administration that the new mandates of the NPDES permit exceed the regulatory authority of the MDEQ and/or are not the most effective methods of enhancing the water quality and ecological management issues. As such, several communities have joined together to administratively contest the new NPDES permit. In order to preserve Troy's ability to contest the new mandates of the NPDES permit, Troy joined several other communities in administratively filing a petition contesting the NPDES permit.
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- The City Attorney's Office and Engineering Department staff are working cooperatively to represent the City's best interests in this endeavor, and will continue to do so absent objections from City Council.
- Numerous other municipalities are contesting this permit, including Wayne County, Macomb county, Oakland County, the City of Rochester Hills, the City of Auburn Hills, Clinton Township, the City of Southfield, and numerous Wayne County communities. It is expected that these communities will jointly pursue these cases contesting the NPDES permit.

#### Financial Considerations:

- The contested case proceedings could allow for financial savings by removing costly mandates that only marginally improve water quality.
- The anticipated costs for this contested case proceeding are nominal.

#### Legal Considerations:

- The contested case petition was administratively filed on July 21, 2008 to preserve the City's rights.

#### Policy Considerations:

Troy has enhanced the health and safety of the community.

Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.

#### Options:

- Council can pass a resolution affirming City Administration's filing of a contested case proceeding.
- Council can pass a resolution directing City Administration to terminate the contested case proceeding.