

**SPECIAL MEETING OF THE COUNCIL OF THE CITY OF NOVI  
and ECONOMIC DEVELOPMENT CORPORATION  
DRAFT – MONDAY, JUNE 4, 2007 at 6:00 P.M.  
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

[www.cityofnovi.org](http://www.cityofnovi.org)

Mayor Landry called the meeting to order at 6:00 P.M.

**PLEDGE OF ALLEGIANCE**

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

Mayor Landry said Member Paul had been detained and would be present shortly. Member Paul arrived at 6:25 P.M.

**ECONOMIC DEVELOPMENT CORPORATION:** Members Ciampa, Churella, Dostal-absent, Grubbs-absent, Kuzma, McGuire-absent, Rzepecki, Staudt, Watza

Member Nagy, Member Grubbs, Member Dostal and Member Rzepecki arrived at 6:03 p.m.

**ALSO PRESENT:** Clay Pearson, City Manager  
Ira Toupouzian, Economic Development Manager

**AUDIENCE PARTICIPATION – None**

**PURPOSE OF SPECIAL MEETING**

Mayor Landry said the purpose of the special meeting was to gather information about Brownfield Redevelopment. He said the City had seen quite a bit of development in the last few years and expected to see more development in the years to come. He noted the State of Michigan was experiencing some economic downturn but the City of Novi was seeing a lot of economic development. He said the City was marching toward build out and they wanted to be sure they made wise decisions, as the decisions made in the next ten or fifteen years would determine the landscape and character of the community for many years to come. Mayor Landry said other communities were dealing with Brownfield Redevelopment and so the purpose of the meeting was to gather information, and no decisions would be made tonight.

**1. Discussion of Brownfield Redevelopment**

Mr. Toupouzian said this would be a presentation on the basics of Brownfield Redevelopment. He said there were four experts present that represented different facets of the community that dealt with and worked with Brownfield. Also, there was a lot of information in Council packets on Brownfield and Council also received supplement packets that would include the presentations heard tonight. Mr. Toupouzian said each presenter would have about 10 minutes to allow some discussion.

**Tom Wackerman – ASTI Environmental**

Mr. Wackerman said this involved three components, which were upfront evaluation and assessment of Brownfield, back end site development and all of the issues associated with making Brownfield work for their intended use, and it involved financial incentives, public/private partnerships and working with communities. He asked Council to keep in mind that there was a lot they would not be able to get to tonight that involved assessment, use, correct use, etc.

Mr. Wackerman said the definitions in this world were Greenfields, which had never been contaminated, Grayfields that had been contaminated but were not an issue, and Brownfields were those sites that were contaminated. He said definitions differed from state to state and in the State of Michigan if a property was contaminated above what was acceptable for residential development, it was considered a Brownfield. He said the three components he mentioned started with defining a property as a Brownfield, if it was not a Brownfield they were not in the system. Mr. Wackerman said the first definition was contamination above residential criteria. He said this was important because there was a huge demand for Brownfields and about 80% of his practice was in Brownfields because that was where people wanted to live. They wanted to live in in-fill, downtown, and cluster developments and places where there were things going on and where infrastructure existed. The advantages of a Brownfield were it met the market demand and allowed increasing of the local tax base and incentivised adjacent properties by facilitating growth. It also improved and protected the environment. Mr. Wackerman said it required a lot of creative purchasing, use of financial incentives, and public/private partnerships. He said these things were a critical component of this. He noted that without the public part the private could not redevelop Brownfields, which was recognized at the local level in the legislation and on the State level in how they allowed credits to be given.

Mr. Wackerman said the options for making this work were grants, loans, loan guarantees, tax credits in terms of Tax Increment Financing (TIF) and the Single Business Tax Credit that would be sunsetting at the end of this year, which he thought would be replaced with a Brownfield tax credit and insurance components. He said there were TIF programs and if they had an existing property with a \$5 million base value, that base value would remain, taxes would be paid and would continue to be paid when a Brownfield was redeveloped. A developer would add, for example, \$10 million in additional value and it would be that \$10 million that could be accessed to pay for environmental impact, due care controls, and for things that would improve the environment and the site and make it buildable. Mr. Wackerman said more importantly the theory was that Brownfields cost more than Greenfields and something needed to be done to level the playing field.

Mr. Wackerman explained how they were obtained. He said the first thing was that the local unit of government must participate. It was required for TIF and for going to the State level to get any kind of Single Business Tax Credit. The property must be a Brownfield, it must be in a Brownfield Redevelopment Authority (BRA) and Oakland County was a BRA. He said the local unit of government must participate substantively in the financial incentives. He noted it helped if it was in a core community, if it was creating jobs, etc. and the best deals put together a lot of different things. They use grants, renaissance zones, Brownfield tax credits, creative financing and development, and creative clean up methods. He said these were best used and mostly focused on mixed use projects, traditional downtown projects, they look to primarily residential or residential and retail, and they stay away from purely retail and big box when it came to incentives. The Single Business Tax, or the surviving tax next year, would be used only after the

local TIF was put together. Mr. Wackerman said it took about 6 months to get through the process which was designed to level the playing field. He said take the cost of a Brownfield development which might be remediation, removal of infrastructure, demolition, asbestos or lead paint abatements, and make it the same cost as developing on a Greenfield to incentivize it to level the playing field. He gave an example of an orchard that exceeded what was acceptable for residential development and consequently it was a Brownfield, and could be dealt with by remediating the soil but for the residential development that was required even the incentives available by the State of Michigan and the local government were insufficient to develop it. So there were Brownfields that could not be incentivized sufficiently to develop. He showed the Campus Village complex in East Lansing that was an old Honda dealership on 1.24 acres, which was built and leased out. It was a \$9 million investment with 47 apartment units, 5,300 sq. ft. of commercial and a great in-fill development including a parking tower with 210 spaces. They were able to incentivize it by getting \$1.4 million in local taxes using a base value of \$434,000, and the base value taxes continue to be paid to the local government. The final value was \$6.9 million, they received \$700,000 in Single Business Tax, which sold for \$546,000, and there were side agreements to improve the neighborhood. He said this was a real success. He commented that during the 21 year period the local government got \$4.1 million in taxes, and they could also collect administrative fees up to \$75,000 per year for all sites to cover the cost of running the program. In this case the local government was able to put \$90,000 into it. This legislation also allowed the local government to capture the funds on a revolving loan fund on the back end to invest in other Brownfields in the community. Mr. Wackerman said this project in addition to rebuilding a vacant Honda dealership was projected to generate \$5.6 million in taxes over 21 years.

### **Brad Hansen – Oakland County**

Brad Hansen said he was the Environmental Program Coordinator for the Oakland Brownfield Initiative. He said the Oakland Brownfield Initiative was the umbrella for all of their Brownfield programs. He said they had USCTA Assessment Grants, USEPA Brownfield Clean Up Revolving Loan Fund, and the Oakland County Brownfield Redevelopment Authority, which was established in November 2001. He was present to offer the County services with OCBRA Assessment Grants and BCRLF to the City. He said the Brownfield Redevelopment Authority was the governing body needed to approve a Brownfield plan to get incentives such as TIF and SBT credits. He said according to Public Act 381 of 1996 "a County can operate an authority on behalf of the municipality as long as the local unit concurs with the provisions of the Brownfield plan". He noted for the City of Novi it would be just the remediation. He said some of their successful projects were Orion Township, Wixom, and Pleasant Ridge. In 2001 they were awarded \$250,000 from the EPA and \$175,000 was used to do Phase I and II environment studies, which were the projects that Mr. Wackerman and environmental consultants performed for Oakland County. In 2005 Oakland County was awarded \$400,000 of which \$210,000 had been spent with an additional \$90,000 to spend in the next four or five months. He said since 2001 there were over 40 projects and over \$385,000 that the County had helped private developers and/or local units of government. Mr. Hansen said with their assessment grants they had to qualify vendors through the USEPA in order to do these works, and Mr. Wackerman was one of the vendors. He said BCRLF awarded Oakland County a \$1 million grant of which \$700,000 went to a landfill which was in Orion Township and Auburn Hills. In 2004 the County was awarded \$395,000 in supplemental money because they had made the initial loan of

\$700,000. He said, combined with the first grant, they now had \$440,000 in a low interest developer friendly loans to be given out.

Mr. Hansen said the landfill mentioned was 140 acres and a \$10 million clean up was needed to clean up debris and a methane collection system. The \$700,000 OBI/BCRLF loan was given to the developer plus \$6,000 in assessment grant money. Mr. Hansen said it was a \$150 million to \$200 million investment when everything was built out. The Township of Orion just passed the initial stages of a four story hotel, two restaurants and a bank on their part of the property. He said then there was the downtown Wixom retail that received \$15,000 from their assessment grants to help fund the project. He said a 17,000 sq. ft. multi tenant came into place, a \$2.2 million overall investment. Pleasant Ridge Condominiums were done by Talent Homes and they received \$230,000 of the SBT credit and it resulted in a \$2 million overall investment with 12 attached brownstone condominiums selling from \$225,000 to \$245,000.

Mr. Hansen explained the flow chart that they followed, if the City of Novi decided to go forward with the Brownfield program and wanted to use the Oakland County BRA. He said there would be input from the City level and there needed to be a concurrent resolution from the City. He said first the Council would release the project to Oakland County's BRA. This would basically outline what the County would be entitled to get with the administrative fees up to \$75,000 a year, but it never came close to that, and that was for all projects together and the RLF capture at the end of the five years. He said a host committee would be developed with at least one member of the Oakland County BRA and at least one elected official or his designee, which would meet once or twice to go over the project and make sure there was input from them and from citizens. He said they would send a letter to the City Council and to the BRA saying they had met and approved the project. Mr. Hansen said it would then go to Oakland County's OCBRA for approval and back to the City on a concurrent resolution of the Brownfield Plan. Then it would go to Oakland County's Planning, Building and Finance Committees and the Board of Commissioners. A public hearing would be held.

#### **Ron Smedley – Michigan Department of Environmental Quality**

Mr. Smedley stated he was the DEQ's Brownfield Coordinator. He said the MDEQ had a Brownfield Grant and Loan program, which had gone through about \$30 million in grants and a little less in loans over the last several years. Most of the funding the DEQ received for grant loan projects came from the Clean Michigan Initiative, which was a bond passed in 1998 and that money was about used up now. He said technically speaking, Novi would be eligible for up to a \$1 million grant or loan for a specific project every year. In actuality, there would probably not be any new grant or loan projects this fiscal year and they weren't sure about the next fiscal year. He said the other major source of funding for local units of government was Federal funding, which came from the Environmental Protection Agency. He said they have a competitive grant program and every year they send out an announcement for proposals to communities, counties, cities, non-profits, and state governments who can all apply for these competitive grants. He noted they have had these similar grants since 2003 under their Brownfield program. Last year there were 53 communities who requested funds from the EPA and of that 16 of the proposals were funded. Michigan received about \$5.6 million, which was the second highest dollar amount of communities that were funded in the United States. He thought Michigan had done very well in applying for these EPA grants. Mr. Smedley said unfortunately the EPA was changing their requirements and were going for more cooperative type grant proposals where there was

partnering with another community, county, or someone else. He noted out of the communities that received funding 12 out of 28 counties received funding but only 4 out of 24 cities received funding, and of those 4 cities 3 had already received EPA grants.

Mr. Smedley said the EPA expected to make changes. The proposal announcement would be made in October 2007 and normally they give about two months to finish that and get a proposal turned into them. He said the House and the Committee passed a budget for just over \$100 million to be used nationwide for those grants. He thought Michigan had received more than its fair share in the past but they had also been very aggressive with their proposals. Mr. Smedley said there were a couple of bills in the House and the Senate right now. Senate Bill 534 through 539 and House Bills 4711 through 4713, and they amend certain sections of the Brownfield Redevelopment Financing Act 381 of 1996 as amended. He said both of those bills make potentially significant changes. He commented currently non-core communities could not do certain activities at blighted or functionally obsolete properties. The new legislation would allow for demolition and asbestos and lead paint removal at facilities in non-core communities, which potentially benefit Novi as a non-core community. He said this would allow Novi to expand the types of projects it took on; they wouldn't just have to be site clean up related.

Mr. Smedley said on the Single Business Tax Credit side should the legislature put together a new tax under the new Michigan Business Tax Proposal there was a House Bill to provide for an extension of those 10% Single Business Tax Credits. He noted that House Bill was 4170 and would continue the 10% credit into the future for new projects that came into the State. Mr. Smedley said any private entity doing remediation work at their own properties the Federal Government allowed for a Federal Brownfield Tax incentive. They could fill out a form on the DEQ web site and those clean up expenses could be deducted from their Federal taxes until the end of this year and then it would sunset. However, he felt it would be extended for several years.

Mr. Smedley said most of the redevelopment done in Michigan was done by private parties that went in and did their due diligence in regard to the property, and did baseline environmental assessments. He noted that Michigan had over 10,000 baseline environmental assessments submitted for over 7,000 different properties across the state. He said most of the redevelopment occurring was done on the private side.

Mr. Smedley said regarding leaking underground storage tanks there were about 9,000 open releases across Michigan, and the funding for that was very limited. He said recently out of their Refined Petroleum Fund they had funded over 500 sites to do remediation up to \$50,000, and had allocated about \$23 million for those properties. He said the State was finding that it was very short on funding and the little funding they did have they were using to balance the budget.

Sonny Kracovik, Project Manager for Cooperative Agreement with EPA and the State of Michigan said they were required to do 11 Brownfields per year and it was free to the local units of government. She said they would do a Brownfield assessment, a Baseline Environmental Assessment (BEA) Phase I and II, which was free to the local government or non-profit, provided they were not the liable party. She noted it had to meet the requirements of a Brownfield Redevelopment potential, and perceived contamination. She said all they had to do was provide an application form and they provided the local government with a free BEA. She said this was provided by the EPA and the State of Michigan to jump start old abandoned properties that the

local government got through tax reversion or other means. She said she would leave the application forms.

**Patrick F. McGow – Miller, Canfield, Paddack and Stone, P.L.C.**

Mr. McGow, Attorney with Miller Canfield, said he had worked with the City on financing and bond projects for a number of years, and did a lot of work in the area of Brownfield. Mr. McGow said the Brownfield legislation came about in 1996 after the environmental laws were changed in Michigan to allow for redevelopment of contaminated properties and not hold the new developers liable for the contamination. It was designed to provide a combination of financing from the private sector, to encourage them to invest in Brownfields and get tax credits, and from the local units like the cities they were looking for tax increment financing as a means of reimbursing those costs. The Brownfield Redevelopment Authorities were corporations created by cities, townships, villages or counties to capture tax increment revenues to pay for environmental clean up. They don't have taxing powers but did have the ability to capture taxes levied from all taxing units on that property. He said it was important to keep in mind that the original version of the legislation dealt with environmental clean up. In 2000 there were amendments to broaden the use of Brownfield to pay for other things including demolition, infrastructure and other types of site prep activities. However, it wasn't done across the board. He said in 2000 a two tier structure was created. The core communities or qualified units of government were able to use Brownfield funds for things much beyond what non-core communities could do; this was a distinction that was important to keep in mind. Mr. McGow said the City of Novi was not a core community under current law. He said there were about 104 of those, 97 were cities, 1 village and 6 townships.

Mr. McGow said a Brownfield Authority could pay for activities at facilities, and facilities were things that had contamination above residential standards. In addition, if it's one of the core communities, it could be used on property that was not contaminated but was functionally obsolete or blighted. He said that didn't apply in Novi under current law but could be done in other communities. In addition, adjacent parcels could be combined so there would be a project with a contaminated site and maybe the ones surrounding it in order to get the funds for the redevelopment. He said environmental activities could be paid for by all Brownfield Authorities, and the three categories were baseline environmental assessments, due care activities and other response activities. Non-environmental activities could be done by core communities, which included infrastructure improvements, demolition, lead and asbestos abatement, site prep and relocation of some public buildings. Mr. McGow said there was also an ability to pay for administrative and operating expenses. He commented there was legislation that would expand the use of tax increment revenues in non-core communities to pay for demolition and other costs that currently couldn't be done. There were other bills pending that would allow for the use of Brownfield Tax Increment Revenues from State funds to be paid for environmental assessment without getting prior State approval. He said this was an area that had changed from its original legislation and there were a lot of bills in the legislation now, and it was likely something would change this year since they have to address the sunset on the Single Business Tax.

Mr. McGow said basically the Brownfield Authority was looking at capturing the incremental growth on those various millages levied on the property. He said a Brownfield was different from other types of tax increment entities that Council might have looked at in the past, such as DDA's. It was really project by project. The idea was to capture from a project to pay for the activities on

that site or that were related to that project. So, they would have to calculate these tax increment revenues for the different projects and parcels and keep track of the splits, etc. He said administratively there would be a lot of work in the Assessing and Finance Departments in order to keep track of those. In addition, the rules on what the money could be spent on were different for the taxes captured from the State and local school district millages versus all the other locals. Therefore, there were different approvals that had to be received ahead of time in order to spend those monies on those activities. The school taxes could not be used unless there was a work plan approved by the State through DEQ or MEGA, which was all coordinated through the MEDC. He said basically under current law State money couldn't be spent without State approval, but that might change based on the bills in the legislature now that would allow for spending some of the State taxes on environmental assessment activities and BEA's without getting State approval. Mr. McGow said local taxes, the capture from the City, County, community college, ISD and Huron Clinton Metropolitan Authority, could be used by a Brownfield Authority without State approval. They could also be used to pay for some activities before the plan was approved and there was the ability to capture up to \$75,000 a year to pay for administrative activities related to the authority out of these local taxes.

Mr. McGow said they could only pay for the activities for a specific project that generated those revenues. The exception to that was that a Brownfield Authority could create a Local Site Remediation Revolving Fund. The idea was if there was a project and the funds had been captured, to pay back those eligible activities the Authority would be allowed to capture for up to an additional 5 years, put that into a revolving fund and use it as seed money for other projects within the community. He said if it was a City authority, it was the City's remediation fund and if a County authority it was the County's.

Mr. McGow said the financing options for Brownfield were basically flexible based on the needs of the project. The developer could pay for the entire cost. The Brownfield Authority could capture tax increment revenues and use those to pay for the improvements up front or reimburse the developer for those activities as those costs are incurred and the tax increment revenues were available. There were also other State funds, grants and loans that were available, and Brownfields could issue bonds with or without the City's full faith and credit pledge. Another feature was that there was a Single Business Tax Credit which would be irrelevant after this year but they expected that whatever the new business tax was it would have the same feature, which would allow for the developer to get a credit based on their investment. However, that credit would only be available if there was a Brownfield plan in place.

Mr. McGow said there were bills that would allow for increased ability to pay for demolition and site improvements by non-core communities. Last year there was a bill that would have eliminated that distinction to allow even non-core communities to pay for infrastructure and the legislature needed to address what to do about the SBT credits before the end of this year.

Mayor Landry asked if the key aspect of a Brownfield was tax increment financing? Mr. McGow said the way it worked was if there was a piece of contaminated property, and a developer had an option on it and wanted to build, if he had to pay \$1 million to clean it up, which the State of Michigan would require him to do, there would be no way to make enough money to pay for it. Mayor Landry said then the developer would come to the City and ask for Brownfield Tax Increment Financing, and on that property, as is, if there was \$10,000 a year tax generated on that vacant property but if developed there would be \$100,000 in taxes a year, and the increment

would be \$90,000. The developer would ask to keep that \$90,000 increment, and the City would still keep the \$10,000, but for 9 years let them up front remediate the property, take the loan out and put the \$1 million up, and clean the property up. Then after 9 years of the developer keeping the \$90,000 the City would keep the \$100,000. He asked if that was how it worked and Mr. McGow said it was. Mayor Landry asked if it was possible for a municipality to say they would only let them keep half of the increment. Mr. McGow said yes, they pay the taxes and then it was up to the Authority to reimburse them. He said the City was allowed to pay all or nothing of the clean up costs on a case by case basis. Mayor Landry said revolving funds, etc. were all additional options an Authority might have and there might also be grant money available from the State of Michigan or the Federal government to assist in these activities. Mr. McGow said he was correct.

Member Nagy asked what happened if the City participated in the Brownfield, and the developer went bankrupt. Mr. McGow replied it depended on what the nature of the agreement was. If it was a reimbursement agreement, where the developer paid for the clean up up front and the agreement was to reimburse him from the taxes, then the bankruptcy didn't have an adverse affect on the City because it was only reimbursing as they were paid. If the City or the Brownfield fronts the money, there would be a concern about getting repayment, which was why these were generally done with reimbursement agreements. Member Nagy asked if there was a standard agreement used. Mr. McGow replied if it was a county Brownfield Authority, it would be the county Brownfield Authority that would be entering into an agreement related to that. He said there was a distinction as to who was negotiating the agreement based on whose Brownfield Authority it was. He said there were various standard agreements used throughout the State and most of them dealt with this on a reimbursement basis, and under current law a Brownfield plan couldn't go out longer than 30 years of reimbursement. However, the agreement could make it shorter than that.

Mr. Wackerman noted the Brownfield plan and the incentives would still be attached to the land, and would be used by the municipalities for the next developer to come and look at the property.

Member Dostal thanked all the presenters and felt they had gained a nice cross section of information for the EDC.

Member Staudt asked what their position was on agricultural property contaminated with arsenic and lead. Mr. Smedley responded that currently there was some disagreement over the definition of a facility, and whether agricultural property could be considered a facility. He said currently qualified agricultural property was exempt. However, technically a contaminated property that had levels of arsenic or lead could be above their criteria, which would potentially make it a facility. Mr. Smedley said there was new legislation in the Senate to extend that and make it clear that contaminated agricultural property was eligible for Tax Increment Financing, but their policy right now was not to allow for school tax capture for environmental activities related to agricultural property.

Member Margolis noted that the City of Rochester Hills didn't clean up Brownfield sites without a corresponding development or redevelopment project. She asked why that was called out specifically in the material, and how that differed from what they were talking about. Mr. Pearson noted that was common and the vast majority of cleanup projects were done privately. He said

each City was unique too regarding the value of the land and types of projects. He thought this would be in future decision making, if they wanted to go forward with this.

Member Kuzma asked if developers were motivated by the incentives because sometimes it would have to be a valuable piece of property to make it worth the extra effort. Mr. Wackerman said his experience was yes, most developers found that the incentives made the difference in many cases. It was a question for the developer that they had extraordinary costs associated with the Brownfield and they had to somehow offset those costs and the only way they could do it was to use the incentives. He said they do projects all over the State and in all cases the developers were more than willing to make the effort because, in some cases, without it, it wouldn't work. Member Kuzma said his point was that it would be easier to start another project somewhere else without a Brownfield. Mr. Wackerman said the incentive was the same thing in every real estate, location, location, location.

Member Gatt asked what was the incentive for the City not to embrace a Brownfield project. Mr. Wackerman said he didn't know why they wouldn't; it made a lot of sense to him from a community development point of view. He said a development would be brought to property that was not developed and probably wouldn't be for a long time, and it not only developed that property but would incentivize all the property around it. Member Gatt said he couldn't agree more.

Member Ciampa asked if the property being developed would be less expensive, because it was a Brownfield. Mr. Smedley answered sometimes yes, and it would be a consideration in the development. He said in Novi there had been 31 properties where new developers had submitted BEA's to the DEQ. In some cases they get such a good deal on it that it was very easy to go in and do the assessment. He said in some cases they didn't have to do any clean up at all and their due care responsibilities might be to just leave it alone, or that they needed to pave over that area but they were going to pave over it anyway. So, the incremental cost was not there and there would be no reason to seek additional incentives. Member Ciampa asked if they should help them then. Mr. Smedley said it was up to Council. Mr. Wackerman said when it was taken up to the State level one of the questions the State asked in terms of whether they were going to incentivize it for school taxes or Single Business Tax was what the price of the property was, and if it was fair market value. He said if they had already been incentivized, why should the State also incentivize them. Therefore, a lot of communities look at it that way. He said they would look at the whole site and ask what they needed, not what they wanted, to make this site work.

**AUDIENCE PARTICIPATION – None**

## **ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 7:00 P.M.

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David Landry, Mayor

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Maryanne Cornelius, City Clerk

Date approved:

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Transcribed by Charlene Mc Lean