

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, MARCH 23, 2009 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Landry, Mayor Pro Tem Gatt, Council Members Burke, Crawford, Margolis-absent/excused, Mutch, Staudt

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

APPROVAL OF AGENDA

**CM-09-03-042 Moved by Crawford, seconded by Gatt: CARRIED UNANIMOUSLY:
To approve the agenda as presented.**

Voice vote

PUBLIC HEARING - None

PRESENTATIONS

1. Introduction of Dennis Merlo, Novi Chamber of Commerce - Linda Daly

Ms. Daly, Executive Director of the Novi Chamber of Commerce, was originally present to introduce Dennis Merlo who would promote Novi Chamber membership in the community. However, Mr. Merlo was not present because of a family obligation. She said the Chamber was in a growth phase and had a very active membership of 550 members. Ms. Daly said the Novi Chamber appreciated the support of the City of Novi and noted over the past year the Chamber had partnered with the City in many ways. She said they had been participating in the Business Assistance Team over the last year and had held a luncheon recently at the Civic Center in conjunction with the Experience Japan exhibit. She said they were now planning, with the City, the first annual Novi Business and Taste Expo. The Expo would be on Wednesday, April 29th from 3 to 7 P.M. at the Hotel Baronette and would be open to the business community and the residents of Novi. Ms. Daly commented that they appreciated having Ara Topouzian as one of their Board of Directors and appreciated the time and attention he gave to the Chamber.

REPORTS

1. MANAGER/STAFF - None

2. ATTORNEY - None

AUDIENCE COMMENT

Kim Capello, Oakland County Commissioner, asked Council to pull Item E, a request from Flagstar Bank for a one year extension of their Preliminary Site Plan approval for Brooktown, from the Consent Agenda. Mr. Capello said the southern residential component was owned by Brooktown Village Venture. He said Flagstar Bank had foreclosed and the redemption period had run on Brooktown Village Venture and that property was now titled in Flagstar's name. He said foreclosures had been started a couple of times and had been withdrawn on the northern commercial portion and to the best of his knowledge, there was no foreclosure of the northern piece. Mr. Capello said neither he nor his clients had received any notice of it. He said Brooktown Commercial LLC owned the northern piece and he represented the two members and the managing member of Brooktown Commercial LLC. He said they did not want the site plan extended, as they wanted to try to sell the commercial piece of property without being burdened by the residential component. He said a Flagstar Bank member contacted them and asked if they wanted their property included in the extension of the site plan. He asked that Item E be pulled and Flagstar's request to extend the site plan be denied.

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

Mayor Pro Tem Gatt removed Items B and E, and Mayor Landry removed Item N from the Consent Agenda.

CM-09-03-043 **Moved by Burke, seconded by Mutch; CARRIED UNANIMOUSLY:
To approve the Consent Agenda with the removal of items B, E and
N.**

Roll call vote on CM-09-03-043 **Yeas: Gatt, Burke, Crawford, Mutch, Staudt,
Landry**
Nays: None
Absent: Margolis

- A. Approve Minutes of:
 - 1. March 9, 2009 – Regular meeting
- C. Approval of the third and last year renewal option to Meadowbrook Commons Management Agreement with KMG-Prestige (Keystone Management Group).
- D. Approval of Resolution to close Ten Mile Road from Karim Blvd to Taft Road from 9 am to 12 pm for the Memorial Day Parade on Monday, May 25, 2009.
- F. Acceptance of a Conservation Easement from Eden Gardens, LLC for the Evergreen Estates residential site condominium, located on the north side of Nine Mile Road between Garfield and Napier Roads, in Section 30. The easement covers a total of 3.66 acres of the 13.2 acre site.
- G. Acceptance of a Conservation Easement from the Basilian Fathers of Milford, Michigan for the Basilian Fathers Residence, located on the west side of Taft Road, north of Eleven Mile Road, in Section 16.

- H. Approval to award one contractor the 2009 landscape lawn care, and the 2009/2010 snow removal contract to Great Oaks Maintenance in the amount of \$37,169. All services will be completed at Meadowbrook Commons as recommended by KMG Prestige.
- I. Approval to award a contract for design engineering services for three federally funded major road projects: Meadowbrook Road (Eight Mile to Nine Mile), Nine Mile Road (Haggerty Road to Meadowbrook Road) and Nine Mile Road (Novi Road to Taft Road) to Orchard, Hiltz & McCliment for a total not-to-exceed design fee of \$56,900.
- J. Adoption of Resolution appointing Brian Coburn as Traffic Engineer in accordance with Section 33-141 of the Code of Ordinances.
- K. Adoption of Resolution appointing Matt Wiktorowski, Field Operations Senior Manager, as Street Administrator as required by Public Act 51 of 1951.
- L. Approval of the final payment to Metropolitan Power & Lighting, Inc. for the 2007 Signal Upgrade program in the amount of \$13,112.86 for Thirteen Mile Road at Meadowbrook and \$9,022.10 for Fourteen Mile Road at Novi/Decker.
- M. Approval of an Agreement for Completion and Maintenance Improvements for Taft Knolls II (SP 05-34), single-family residential site condominium, in accordance with the requirements of Chapter 26.5.
- O. Approval of Agreements and Closing Documents for 2005 Michigan Natural Resources Trust Fund (MNRTF) Grant, TF 05-165, for approximately 54 acres of land along Meadowbrook Road near Nine Mile Road (Village Wood Lake/Orchard Hills West).
- P. Approval of Amendment to Property Exchange Agreement between the City of Novi and the Novi Community School District, dated November 10, 2008, Recognizing Charter Amendment for financing.
- Q. Approval of Zoning Ordinance Text Amendment 18.235, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 11, OS-1 Office Service District, Subsection 1101 and Subsection 1102, Article 12, OSC, Office Service Commercial District, Subsection 1201 and Subsection 1202, Article 15, B-3, General Business District, Subsection 1501 and Subsection 1502, Article 19, I-1, Light Industrial District, Subsection 1901 and Subsection 1902, Article 23, OS-2, Planned Office Service District, Subsection 2301 and Subsection 2302; in order to provide for health and fitness facilities equal to or less than 2,000 square feet as principal permitted uses.
First Reading
- R. Approval of First Amendment to Consent Judgment of May 14, 2003, *Adams Outdoor Advertising v City of Novi*, Oakland County Circuit Court Case No. 98-008771-CZ.
- S. Approval of Claims and Accounts – Warrant No. 789

MATTERS FOR COUNCIL ACTION – Part I

- 1. Consideration of recommendation from Consultant Review Committee to award a contract for Civil Engineering Field Services to Spalding DeDecker Associates, Inc. (for a two year term and one year renewal option) and adoption of associated fees and charges effective May 1, 2009.**

Mr. Pearson said there was a positive recommendation from the Consultant Review Committee and staff.

**CM-09-03-044 Moved by Gatt, seconded by Burke; CARRIED UNANIMOUSLY:
To approve recommendation from Consultant Review Committee to award a contract for Civil Engineering Field Services to Spalding DeDecker Associates, Inc. (for a two year term and one year renewal option) and adoption of associated fees and charges effective May 1, 2009.**

**Roll call vote on CM-09-03-044 Yeas: Burke, Crawford, Mutch, Staudt, Landry, Gatt
Nays: None
Absent: Margolis**

- 2. Consideration of Resolution approving provision of liaison services and staff support for the Novi Historical Commission through the Novi Public Library.**

Mr. Pearson stated they had a recommendation to shift how the Historical Commission was staffed, which was part of their continuing review of operations. He said it had been staffed out of the Parks, Recreation and Forestry Commission. He said there was a natural synergy with the Library operations and he was suggesting that the lead liaison be moved over to the Library. He said the staff at the library had discussed this, agreed and had brought this before their board. Mr. Pearson said because the Library was working so well with City staff, they would continue to coordinate from the City side of things whenever they needed to. He noted it would also continue to be budgeted out of the City's budget, which was more of a formality and how they would get things done to shift that emphasis to a Library lead.

**CM-09-03-045 Moved by Crawford, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve Resolution approving provision of liaison services and staff support for the Novi Historical Commission through the Novi Public Library.**

DISCUSSION

Member Staudt asked if there would be a historical room in the new Library. Mr. Pearson said there would be space designated on the second floor. It would be multi-purpose but would also have room for historical collections, etc.

Roll call vote on CM-09-03-045

**Yeas: Crawford, Mutch, Staudt, Landry, Gatt,
Burke
Nays: None
Absent: Margolis**

AUDIENCE COMMENT - None

MATTERS FOR COUNCIL ACTION – Part II - None

COMMITTEE REPORTS

Member Crawford stated she attended the Energy and Technology Committee meeting in Lansing last week. She said there were a number of items discussed and some of them were the broadband funding, the Federal Stimulus Package, Cable Alternative Dispute and Tax Credits for buildings that were LEED certified. Member Crawford commented there was a lot of discussion about the Cable Bill, which passed in the Senate. She said there was a lot of discussion about it because of the Loser Pays provision and that was a problem for many municipalities. She said Senator Cassis had voted no. She commented that discussed at great length were the rate increases by Consumers Energy and a number of other things that had to do with energy rate increases. Member Crawford said she brought back the information for the Administration and was delighted that the Administration was already on top of it and were looking well into the future and had locked in a greatly reduced rate several months ago. She said Novi was already doing a variety of things that were mentioned. Member Crawford said they had been able to achieve a 30% savings by upgrading the Civic Center and replacing recessed lighting. She said they had done the energy evaluation and were able to do a great number of energy efficient savings things. She was happy to report that this was not news to the staff because they were already on it. Member Crawford said this week she would attend the SEMCOG meeting at the Rock Financial Showplace.

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION

- B. Approval of Ordinance 09-138.02 to amend the City of Novi Code of Ordinances, as Amended, Chapter 34, “Utilities”, Article II, “Water Supply System”, Division 1, in order to amend the alternate day lawn watering section to include a requirement to operate underground irrigation systems during non-peak hours of 11:00 p.m. and 5:00 a.m., and to amend amount of fines for violation of Subsection (a). Second Reading - Gatt**

Mayor Pro Tem Gatt said he received a phone call from a resident last week. He said there were a lot of people in the community who had put thousands of dollars into their landscaping and lawns. The resident said his landscaper told him that the 5 A.M. cutoff time would cause the grass to grow fungus and become diseased. Mayor Pro Tem Gatt said he researched this and found that the best time to water the lawn was very early in the morning but it should not be watered while it was still dark. He stated he wanted to pull this item and do a little research. Mr. Pearson thought it would be best if they came back to Council with something in writing, as

timing was not critical. Mayor Pro Tem Gatt said he would appreciate it if they could come back with something that would confirm or deny the landscapers report.

CM-09-03-046 **Moved by Gatt, seconded by Burke; CARRIED UNANIMOUSLY:**
To postpone the Second Reading of Ordinance 09-138.02 to amend the City of Novi Code of Ordinances, as Amended, Chapter 34, "Utilities", Article II, "Water Supply System", Division 1, in order to amend the alternate day lawn watering section to include a requirement to operate underground irrigation systems during non-peak hours of 11:00 p.m. and 5:00 a.m., and to amend amount of fines for violation of Subsection (a) until Council receives information in response to a citizen's concern related to possible lawn issues caused by watering at night.

Voice vote

E. Approval of a request from Flagstar Bank (successor to ADCO, Group, LLC) for a one year extension of Preliminary Site Plan approval for SP05-24, Brooktown, a mixed use condominium project located on the south side of Grand River Avenue between Market Street and Meadowbrook Road in Section 23, in the Gateway East District with a Special Development Option. - Gatt

Mayor Pro Tem Gatt said he pulled this item at the request of Commissioner Capello. He said he would like to hear from the Administration the pros and cons of this and the ramification to the City, if Council either approved or denied it.

Mr. Schultz said there was a letter in Council packets that indicated that Flagstar Bank seemed to think they had an interest in the front parcel. He said they did some brief research but the Ordinance was a bit fuzzy; it talked about an owner requesting a site plan but didn't say all. He thought this was one of those at Council's pleasure as well. He said they timely submitted a request for an extension. Mr. Schultz said if they wanted to look into the dispute, he thought they could table it and not infringe upon anyone's rights, or from the staff perspective it was recommended for extension. Mayor Pro Tem Gatt asked what he meant by look into the dispute. Mr. Schultz said look into the issue of whether Mr. Capello's client had the ability to decline to approve an extension of the site plan. Mr. Schultz said it was not an issue they had really gone into.

Mayor Landry suggested that since this was brought to Council's attention, they table it until the next City Council meeting and notify the applicant. He said this would allow the ADCO Group to submit something in writing formally objecting to the extension and it would also notify Flagstar that there had been an objection. He said then Mr. Schultz could state his opinion of the pros and cons in an off week packet. Mayor Landry said it could then return to Council as a Consent item or an action item, which ever they wanted to do.

CM-09-03-047 **Moved by Gatt, seconded by Burke; CARRIED UNANIMOUSLY:**
To table Item E until the next City Council meeting on April 6th and notify the applicant.

Voice Vote

N. Approval of Petition Objecting to Sanitary Sewer Improvements (SAD 174) from the majority property owner and approval to cease and stop the special assessment process in connection with SAD 174--Wixom Road Sanitary Sewer Extension in accordance with Section 30-14 of the Novi Code of Ordinances. Landry

Mayor Landry stated he pulled this item because this was exactly what they had passed a resolution to avoid. He thought it was a year or so ago that Council addressed the issue of people petitioning Council for an SAD. Mayor Landry said if there were 51% of the property owners in favor of an SAD, they could formally petition and Council could act on it. He said Council was finding that residents would ask for the SAD and then the City would spend thousands of dollars doing the engineering work and then some of the residents, on occasion, would decide they didn't want to spend the money now. He believed the procedure was that the Council now had the option to say they couldn't cancel it once they submitted the petition to start the process. Mr. Schultz said Mayor Landry was correct; Council had the option to do that with 2/3rds super majority of the Council to continue the process. Mayor Landry said he was not suggesting they do that tonight with the economic times what they were. However, he was suggesting that this would come up again in a couple of years and when it did, he wanted whoever was on Council then to understand that the City spent \$14,000 and change and this was exactly what they said they didn't want to happen. Mayor Landry said when this came up again, he expected the property owner to make good on the money the City had put out in the past.

**CM-09-03-048 Moved by Gatt, seconded by Burke; CARRIED UNANIMOUSLY:
To approve Petition Objecting to Sanitary Sewer Improvements (SAD 174) from the majority property owner and approval to cease and stop the special assessment process in connection with SAD 174—
Wixom Road Sanitary Sewer Extension in accordance with Section 30-14 of the Novi Code of Ordinances.**

Voice Vote

COMMUNICATIONS

AUDIENCE COMMENT

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 7:16 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Date approved: April 6, 2009

Transcribed by Charlene Mc Lean