

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, SEPTEMBER 28, 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, Mutch, Staudt

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

APPROVAL OF AGENDA

Mayor Pro Tem Gatt added Status of Speed Limits on Meadowbrook Road to Mayor and Council Issues.

Member Margolis added Library Construction Fund to Mayor and Council Issues.

**CM-09-09-126 Moved by Burke, seconded by Staudt; CARRIED UNANIMOUSLY:
To approve the Agenda as amended.**

Roll call vote on 09-09-126 **Yeas: Gatt, Burke, Crawford, Margolis, Mutch,
Staudt, Landry**
Nays: None

PUBLIC HEARING - None

PRESENTATIONS - None

PROCLAMATION

1. October 11 – 17, 2009 - Code Enforcement Officers' Appreciation Week

Mayor Landry presented a proclamation to Novi's Code Enforcement Officer's for their dedication and outstanding service. Officer Niland thanked the Council on behalf of the Code Enforcement staff. She said they were very proud of the job they did and were glad to be recognized for it.

REPORTS

1. MANAGER/STAFF - None

2. ATTORNEY - None

AUDIENCE COMMENT

Ramesh Gudapuri, 40100 Ladene Lane, President of the India League of America, requested a street be named after their great leader Mahatma Gandhi. He said he knew there would be a new street next to the new library and requested Council approve and name the street after Mahatma Gandhi. He noted that every year on October 2nd, an observance was held for this great leader as an International Day of Peace as declared by the United Nations in 2007. He said two weeks ago a stamp had been issued to commemorate Mahatma Gandhi. Mr. Gudapuri thought that if a street were named after Gandhi, it would be the first of its kind in Michigan. He felt it would enhance the community as being culturally diverse and would bring more families and businesses to Novi.

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

CM-09-09-127 **Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve the Consent Agenda as presented.**

Roll call vote on CM-09-09-127 **Yeas: Burke, Crawford, Margolis, Mutch, Staudt,
Landry, Gatt**
Nays: None

- A. Approve Minutes of:
 - 1. September 14, 2009 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of September 28, 2009 in the Council Annex for the purpose of discussing pending litigation and privileged correspondence from legal counsel.
- C. Approval to award the Energy Efficiency Consulting Services Contract to AKT Peerless in the amount of \$60,475.00.
- D. Approval of Resolution authorizing cost participation in the Michigan Department of Transportation's M-5 Non-Motorized Pathway Project from 13 Mile Road to 14 Mile Road in the City of Novi, and approval of local cost share agreement with MDOT in the amount of \$24,400.
- E. Approval of the 2010 Suburban Mobility Authority for Regional Transportation (S.M.A.R.T.) Municipal Credit Funds Resolution and Contract in the amount of \$44,713.
- F. Approval of the final balancing change order and final payment to Envision Builders, Inc. for the construction of the Ella Mae Power Park Concession Facility in the amount of \$43,077.16.
- G. Approval to enter into three year support agreements with Bellefeuil, Szur, & Associates, Inc. aka BS&A Software, for the use of their .NET Fund Accounting and Equalizer Property-Based .NET Programs for a total annual fee of \$32,525.

- H. Approval of the first year renewal option (September 28, 2009 - September 28, 2010) with Debra Bye for Hair Salon services at Meadowbrook Commons.
- I. Approval to purchase crack sealing material from National Highway Maintenance Systems Ltd. in the amount of \$10,000.
- J. Approval to award the Fall 2009 Tree Planting contract for 250 trees to James Brothers Landscape, Inc, the low bidder, in the amount of \$53,177.08.
- K. Approval to award a contract for design engineering services for the Beck Road/Cider Mill Signal to URS Corporation (URS) for a not-to-exceed design fee of \$12,197.19.
- L. Approval of a Resolution Concerning Acquisition and Offer to Purchase in the amount of \$3,000 for a public sidewalk easement on the Licari Trust property (parcel 22-25-226-011) for the purpose of siting a pedestrian safety path on the west side of Haggerty Road south of Ten Mile Road.
- M. Approval of Change Order No. 1 for the 2009 Pathway Gap Program to Audia Concrete Construction, Inc. in the amount of \$20,828.12 for the construction of Alternate 1 (new sidewalk within the Licari Easement) and Alternate 2 (ramp improvements at Haggerty/Ten Mile intersection).
- N. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Taco Bell of America, Inc., for the Taco Bell at 21090 Haggerty Road on the east side of Haggerty Road north of Eight Mile Road in Section 36 (parcel 22-36-477-025).
- O. Approval to award a contract for design engineering services for the 2010 Pathway Gap Program to Spalding DeDecker Associates, Inc. for a not-to-exceed design fee of \$10,092.60.
- P. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Novi Hospitality, LLC, for the Holiday Inn Express located at 39675 Twelve Mile Road on the south side of Twelve Mile Road west of Haggerty Road in Section 13 (parcel 22-13-200-034).
- Q. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Basilian Fathers of Milford, for the Basilian Fathers Residence located at 26095 Taft Road on the north side of Eleven Mile Road west of Taft Road in Section 16 (parcel 22-16-451-076).
- R. Approval of a Storm Drainage Facility Maintenance Easement Agreement from the Soave Corporation, a Domestic Profit Corporation for the Pinebrook Professional Plaza located at 25000 Joseph Drive on the south side of Grand River Avenue east of Joseph Drive in Section 24 (parcel 22-24-332-001).
- S. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Sunshine Express Novi Properties, LLC, for the Sunshine Market (aka Sharrak Gas & Convenience Center) located at 42355 Thirteen Mile Road on the southeast corner Thirteen Mile Road and Novi Road in Section 11 (parcel 22-11-200-017).

T. Approval of Claims and Accounts – Warrant No. 803

MATTERS FOR COUNCIL ACTION – Part I

- 1. Adoption of a resolution authorizing the participation in the signing of a Military Community Covenant with Oakland County and several local government officials on Sunday, October 11, 2009 in support of community members and their families who serve in the United States Armed Forces.**

Captain Goodwin, recruiter for the Novi area, asked for a public show of support for military families, the military and everything they do. Captain Goodwin introduced Jake Joy who would offer more information about the Community Covenant on Sunday, October 11th, which would be a partnership with the City of Novi, the U.S. Army as well as other cities and Councils from around the State of Michigan.

Jake Joy thanked the Council and said they hoped that someone representing the City of Novi would be present on October 11th along with the County Executive and leaders from other cities throughout Oakland County. He said they would make a positive, public show of support for military families and encourage members of their own communities to be looking out for these people who are asked to deploy repeatedly and who sacrifice on our behalf everyday. Mr. Joy said there would be free flu shots available for military ID holders and their dependents, which would be provided by Oakland County. Mr. Joy said it would be an opportunity for the City of Novi, if there were any particular programs or services it offered that they thought would be of any special significance or importance to those families, they would welcome that information as well, and would be sure to get it out to them.

Mr. Pearson said he had heard about this at a Manager's luncheon and knew Council would want to participate and they were kind enough to come and talk with Council about this.

Member Burke thanked Captain Goodwin for everything he did and hoped that his recruitment efforts in this area were successful. He said, being ex-military, he couldn't think of anything better they could do as a community than to show the families support.

**CM-09-09-128 Moved by Burke, seconded by Staudt; CARRIED UNANIMOUSLY:
To adopt resolution authorizing the participation in the signing of a
Military Community Covenant with Oakland County and several local
government officials on Sunday, October 11, 2009 in support of
community members and their families who serve in the United
States Armed Forces.**

DISCUSSION

Member Mutch said he looked at the web site that the Army had about the Community Covenant Program, and one request he would have for the Administration was to touch base with the people with the program to identify areas that the City could contribute. He said one thing the City did with the employees was an Employee Contribution Program and this seemed like one that would be very worthy. Member Mutch said there might be other ways that, as a community, they could help. He knew some communities did a military unit sponsorship and

outreach to military families who were in need when their family members were overseas. He said these events were always good, but he knew what they were really looking for was that day to day support for the families. He asked them to help Council identify how they could help out best and that would allow them to make a contribution 365 days a year.

Roll call vote on CM-09-09-128

**Yeas: Crawford, Margolis, Mutch, Staudt, Landry,
Gatt, Burke**

Nays: None

- 2. Consideration of Zoning Map Amendment 18.682 with Planned Rezoning Overlay (PRO)SP08-09C from the applicant, J.S. Evangelista, LLC, to rezone property located at the southwest corner of Fourteen Mile and Novi Roads from RA, Residential Acreage with a Planned Unit Development (PUD) to RM-1, Low-Density, Low Rise, Multiple-Family Residential, final approval of the revised PRO Concept Plan, approval of the PRO Agreement and revocation of the right to develop under the existing Maples of Novi PUD. The subject property is 3.88 net acres.**

Marcus Evangelista, General Counsel for Evangelista Development, was present with Mr. Ostrowski their engineer from Nowak & Faus and Mr. Tosch their architect from Progressive Associates who would answer any detailed questions Council might have. He said he believed the project description on the Internet was accurate and complete. Mr. Evangelista said back in 2008 Council granted tentative approval for the concept plan and rezoning petition for this project. However, since that time they decided to redesign the building to make it smaller in size, more efficient and attractive and the new design would result in less intensity and lower impact on the property. He said they were still proposing a nursing home, which was still a three story building but they had reduced the number of units from 93 to 76 and the square footage from 61,000 to 56,000. In addition, they had changed the shape of the building. He said previously it was rectangular but they wanted to curve the shape to make it less institutional, which would provide more greenscape and landscaping in the front of the building. This would make it a more attractive and inviting atmosphere entering the building. He said they completely removed the driveway on Fourteen Mile Road and replaced it with a berm and landscaping, which reduced the impact and traffic congestion in that intersection and alleviated the concern of headlights shining to the neighbors across Fourteen Mile Road. He said the dumpster was still in the same location but turned inward so that it was no longer facing the road, which made it a little more attractive when driving by.

Mr. Evangelista said Maple Manor was a family owned and operated business and was not a big chain. He said his mother and father were the owners and were practicing physicians for the last 30 years. He commented he was very hands on with the business as well. He said they had a very strong track record with the State and currently owned and operated a facility in the City of Wayne, which was ranked as one of the number one facilities in Michigan rated by Medicare last year. He said they received a five star rating and in 2008 they received a perfect State survey with zero citations and were one of the few homes that were JACO accredited. JACO was required for hospitals but was voluntary for nursing homes and they wanted to be JACO accredited to demonstrate their commitment to the highest quality of health care. They took a lot of pride in the business and wanted to bring the same value to the City of Novi. Mr. Evangelista said they respectfully asked for Council's final approval for the

plan and the PRO and hoped they would follow the Planning Commission's recommendation. He said they would also improve the tax base and thought the use was compatible with the surrounding areas, which were commercial and multi family. He said they expected to add over 100 new jobs for the City and serve a growing need for long term care services in Novi.

Mr. Pearson said the corner itself was very visible but long vacant and he thought a good proposal before had gotten a little better and there were positive recommendations all the way around.

Member Burke said he was on the Planning Commission when this was approved and there were some residents from Walled Lake that bordered on Fourteen Mile and had voiced concern about the project. Member Burke said they had changed things, they had made it even better with more open space and less square footage. He asked how tall the berms on the north end would be and was advised they would be three feet with landscaping on top. He asked if they were able to alleviate their concern about the light spillage from the parking lot. Mr. Evangelista said yes, because the concern was if there was a curb cut on Fourteen Mile Road, when they drove out the headlights would shine on their building. He said without that curb cut that completely eliminated that shining and there were trees right in front of it. He felt that concern had been rectified. Member Burke said to the west was the Boardwalk Apartment complex and he read they were putting up a six foot wall and 200 foot evergreens. Mr. Ostrowski stated they were proposing 200 evergreens, not 200 foot evergreens, on the residential side of the property. Member Burke asked if the delivery area was in the back of the building and whether they had specific delivery times during the day. Mr. Evangelista said yes, the delivery was in the back and delivery of food was done once a day and there might be medical supplies during business hours.

Mayor Pro Tem Gatt asked if this was a nursing facility, as opposed to an independent care senior citizen community. Mr. Evangelista said it was a skilled nursing facility. He said it was a step down from the hospital and for people who just had surgery such as knee replacement, hip replacement, etc. and needed somewhere to go because they were not ready to go home. They would be in their facility for 30 to 100 days and then would be discharged home.

**CM-09-09-129 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve Zoning Map Amendment 18.682 with Planned Rezoning
Overlay (PRO)SP08-09C from the applicant, J.S. Evangelista, LLC, to
rezone property located at the southwest corner of Fourteen Mile and
Novi Roads from RA, Residential Acreage with a Planned Unit
Development (PUD) to RM-1, Low-Density, Low Rise, Multiple-Family
Residential, final approval of the revised PRO Concept Plan,
approval of the PRO Agreement and revocation of the right to
develop under the existing Maples of Novi PUD. Approval is
subject to the following: 1) Waiver of the Traffic Impact Assessment
for the revised petition because the proposed convalescent nursing
home use would generate less traffic than the previously approved
senior housing apartment building 2) Imposition of the proposed
six PRO conditions in the table provided above that were proposed
in the PRO plan as appropriate limitations on the use of the property
in consideration of adjacent or other area uses 3) Acceptance of the**

applicants offer for public benefits 4) Approval of the revised PRO Concept Plan subject to the Planning Commission's conditions of approval of the Preliminary Site Plan, SP08-09C and 5) Approval of the PRO Agreement between the applicant and the City Council including provisions required to revoke the PUD approval for this site and withdraw this property from that development. The motion was made for the following reasons: The petition is consistent with the Master Plan for Land Use 2004, which depicts this area for multiple family uses and in accordance with the previously approved PUD, the nursing home and other uses described in the PRO Agreement are compatible with the surrounding land uses. Adequate infrastructure exists to support the nursing home and other multiple family uses. The proposed PRO concept plan meets the intent of the Zoning Ordinance by providing a transition between multiple family and commercial development by protecting and conserving the character of the area and by providing adequate access and utilities. The ordinance deviations associated with the proposed concept plan are acceptable since the deviations proposed permit an enhancement of the development that would not occur if not granted, are consistent with the Master Plan and are compatible with the surrounding areas. Finally, the applicant's proposal to donate, install and maintain a City of Novi entrance sign and sign easement, as approved by the City, is a public benefit. Similarly constructing the proposed convalescent facility provides additional public benefit by increasing the City's tax base, providing an additional long term care facility and providing new jobs and expanding service to the City's elderly population is a public benefit.

DISCUSSION

Member Margolis said she appreciated their coming to Novi and that the background that they had, providing these services in other places, would be very much welcomed here. She said she appreciated the work done to revise the plan, even though they really didn't have to, and it showed her that they would be a really good corporate business citizen of the community and they really welcomed them. She said she would be happy to support the motion.

Roll call vote on CM-09-09-129

**Yeas: Margolis, Mutch, Staudt, Landry,
Gatt, Burke, Crawford**

Nays: None

3. Approval of resolution to authorize Budget Amendment #2010-2.

Mr. Pearson said the majority of these were roll over items from the previous budget year that they needed to re-budget for because they were not wrapped up for one reason or another. There was also a series of other items they had dealt with in the last two months of the fiscal year and were just doing the bookkeeping to recognize.

Member Margolis commended the staff for their hard work during the previous budget year. She said this was kind of a final balancing for last year on the budget and they were now \$1.4

million last year to the good, over the amount that they were going to put in Fund Balance last year. She said this showed them they were looking at \$400,000 over what was estimated for revenues for last year and \$1 million less spending than they expected to do last year. The changes in the attached budget amendment were rollovers, which meant they were moving forward for projects that weren't completed, money that was allocated for last year as well as those expenses. She said the \$1.4 million surplus was actually after those rollovers. She asked if that was correct. Mr. Pearson said yes. Member Margolis said they appreciated the staff's careful use of tax dollars, and this was while still getting done all of those things they were supposed to get done in the budget.

Member Mutch asked if the reduction in staff, under Neighborhood and Business Services, was the Neighborhood Services Coordinator position that was eliminated and was that where they were seeing that attrition. Mr. Pearson said it was the Small Business Manager. Member Mutch said they had talked about how the staff in that area were picking up the slack and covering those responsibilities. He said obviously, despite the savings in the past year, there were still some challenges with State Revenue Sharing and some other areas. However, Small Business Services, and the work that department did for Neighborhood Services, was critically important for the long term health of the City. He said he would be looking at that down the road to see if that was an area where that reduction should be made permanent, or something they needed to put more resources into. Member Mutch said the work they did helping local businesses and working in the neighborhoods were key to keeping the long term tax base up. So, he recognized that attrition now, but it was something he hoped Council discussed in the future when they discussed how they would be utilizing tax dollars in the future.

**CM-09-09-130 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve resolution to authorize Budget Amendment #2010-2.**

Mayor Landry said he also wanted to commend the Administration. He said it was amazing; they trusted the Administration, they gave Council numbers, and this was exactly what justified that trust. He said the revenue was greater than they anticipated by \$400,000 and the expenses were \$1 million dollars less than Council authorized to be spent in the budget. He said they oftentimes see something come across their desk and it might be \$1,000 or \$2,000 more than the budget. He said what never got any discussion or press, were all of the projects that came in under budget. He said tonight, on the Consent Agenda, one of the items was Power Park, which, with all those renovations, came in under budget. He said when they stacked all those together they came in \$1 million less than they anticipated spending. Mayor Landry said that was not just one person; it was everyone doing their job. He said in this economic time that was something to truly be proud of.

Roll call vote on CM-09-09-130

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

AUDIENCE COMMENT - None

MATTERS FOR COUNCIL ACTION – Part II - None

COMMITTEE REPORTS

Member Crawford said she and Mr. Pearson attended the Michigan Municipal League Conference as a member of the Energy and Technology Committee and noted other communities' programs, such as Lathrup Village's time bank where people shared their time and donated it to other community projects. She stated one of the things that resonated with her was if you design your city around cars, you got more cars and it really made her stop and think. She said they absorbed a lot and would be incorporating a number of things they had learned. Member Crawford said Ms. Antil was already at the conference when they arrived, as she was making a presentation.

Member Mutch said the Walkable Novi Committee had a meeting and the committee reviewed the draft for the prioritization plan for the upcoming year. He said the plan would be approved by the committee and then sent to Council for their approval. He said it set the framework for deciding which sidewalks and bike paths would be funded through the Capitol Improvement Project. He said it had been an ongoing process for a couple years and it helped give a more scientific method to the selection process for those different pathway segments. Member Mutch noted that they found that it worked well. He said the committee was still looking for citizen input on that and it was something that the committee would be taking care of shortly. Member Mutch said he was recently appointed to SEMCOG'S Infrastructure Task Force and the first meeting was September 30th. He noted they were charged with looking at infrastructure issues pertaining to roads, water and sewer, sidewalks and bike paths. He said he was fortunate to have some help from Mr. Hayes and staff providing input in terms of issues as they affect Novi, and they would be taking that to the Task Force meeting.

MAYOR AND COUNCIL ISSUES

1. Status of speed limits on Meadowbrook Road

Mayor Pro Tem Gatt noted that citizens who spoke at the last meeting convinced him that to keep the speed limit on Meadowbrook between Nine Mile and Ten Mile at 30 m.p.h. was probably a wise move. Mr. Pearson said it would be another three to four weeks before the final report would be back. Mayor Pro Tem Gatt asked if Council would decide what direction they would take and Mr. Pearson said it would take the form of a Traffic Control Order that they would have to adopt.

2. Status of Library Construction Fund

Member Margolis thanked the Building Authority in charge of this entire building process. Because construction bids were so low, they were able to add some technology to the library in making staff more efficient. She said they were still coming in very much under budget. Member Margolis said Finance asked them to consider taking between \$800,000 and \$1.2 million and putting it into the Library Construction Fund to pay off some of the debt from the bonds, which would lower the amount of money that had to be raised through a millage. She wanted to thank the volunteers that served on this board.

Member Mutch asked if how the money would be allocated was a Council policy decision. Mr. Pearson said he didn't believe it was. He said at the end of a project if money was left over, it was required by State law to go back into that fund to pay for that debt service. If it was to the bad, they'd have to come up with additional monies. He said the wrinkle was the timing. He said they were at a position where construction was well underway and looking very good. The major elements and steel was up. He said they were able to look ahead and felt comfortable enough where they had obligated monies that they had made the recommendation to look at this now, so it could be built into the planning for next year's budget. Member Mutch said having followed some of the Building Authority's discussion as they went through the project certain items were changed, scaled back or cut out for budget reasons. He asked if those eliminated or down sized items had been reviewed, and would it be their decision, if there were things they wanted to add back in like some of the technology components, to utilize those out of whatever money was left over from the Construction Fund. Mr. Pearson said yes, and it had already been done. He said there were a lot of alternates when it was bid so when the base construction came in, they were able to add some alternates. Then as they got to the next phases with the technology, they went back and looked at some of the things that had been on the possibilities list. He said they were already into the RFP's for the technology for the sorting system was out now and had already been made, and they were close to the final bidding for that. Member Mutch said as far as this project was concerned, it had been determined where the money would be spent and as far as the funds being allocated, this was it. Mr. Pearson said the building itself was decided, the guts and furniture was still going through the process of specing that out, which would be the next big thing. The technology was pretty well set. He said there were some open things like the landscaping and site work that was coming but that had been bid. Member Mutch said once those funds were moved, they had allocated them to pay off that debt, that's done. So, if they come back and say they need a little bit extra, it wouldn't be there. Mr. Pearson said he could say confidently that they had not gotten to the final discussion on this item but the idea was that there was an \$800,000 reserve that had been set aside, plus the interest earnings. He said there would still be a contingency held back for unforeseen circumstances but the need and amount of that would diminish as they got deeper and deeper into the project. Mr. Pearson said it had not been suggested to drain it down to nothing.

Mayor Landry said it sounded to him that the project was coming in under budget and the Building Authority wanted to turn that money back over so the taxpayers paid less than they had anticipated. Mr. Pearson said they were delivering a very high quality project and were coming in where they could turn back money early.

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

AUDIENCE COMMENT - None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 7:42 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene McLean

Date approved: October 12, 2009