

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI  
MONDAY, JUNE 7, 2010 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 Crawford, Fischer, Margolis, Mutch, Staudt

**ALSO PRESENT:** Clay Pearson, City Manager  
Beth Kudla, City Attorney

**APPROVAL OF AGENDA**

**CM-10-06-080 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:  
To approve the Agenda as presented.**

**Roll call vote on CM-10-06-080 Yeas: Gatt, Crawford, Fischer, Margolis, Mutch,  
Staudt, Landry  
Nays: None**

**PUBLIC HEARING - None**

**PRESENTATIONS**

**1. Community Connection Initiative - Oakland County Parks Commission**

Jim Dunleavy, Chief of Parks Operations, was present and displayed a video to give an update as to where the park system was at and to show survey results, accomplishments, millage information, volunteer opportunities and future plans. Member Crawford commented on the study done by Oakland County regarding senior citizens. She said the County officials were predicting Oakland County would experience the number of seniors to double by 2030 and there would be far more senior adults than there ever were children of all ages. She wondered how programming could be provided for the baby boomers and were they looking at this with new eyes. Mr. Dunleavy said he was sure they were and he knew it was one of their core areas. Mayor Landry asked how many cricket pitches the County had and Mr. Dunleavy replied there was one at Lyon Oaks, which had one pitch and two practice areas.

**INTERVIEWS FOR BOARDS AND COMMISSIONS**

**1. David Greco, Planning Commission**

Mr. Greco stated he served on the Planning Commission for a number of years. Member Crawford asked what he would like to see accomplished by the Planning Commission. Mr. Greco replied he hoped to see some new projects come before the Commission. Member Mutch asked what would be the most important task the Commission could take on in the upcoming years. Mr. Greco noted that being on the Walkable Novi subcommittee gave him the ability to inform residents about the goals for the subcommittee. Mayor Landry noted the Planning Commission had recently updated the Master Plan, and during that time Council

hoped that the Commission would review the ordinances, etc. and they had done that. Mayor Landry said all members of Council appreciated the job the present Planning Commission did and were proud of the professional manner in which the Planning Commission addressed the planning issues for residents and potential residents.

## **2. Andrew Gutman, Planning Commission**

Mr. Gutman stated he had enjoyed serving on the Planning Commission for two terms and hoped he had the opportunity to continue his service. Member Crawford asked what he would like to accomplish. Mr. Gutman replied he hoped to see the Master Plan update accomplished over the next year. Member Mutch asked what the City should be doing to attract new businesses to Novi. Mr. Gutman felt the City already did quite a bit to attract development and thought it took forward thinking and creativity to attract new development opportunities. We should continue retail overlays and suburban low rise areas, which enhanced some of the areas. Member Mutch stated Mr. Gutman's real estate and financial background had been invaluable. Member Staudt asked how he rated the Planning Commission in Novi. Mr. Gutman felt the City was a first class government including the Planning Commission. Mayor Landry echoed Member Mutch's statement about Mr. Gutman's real estate and financial background. He said the Planning Commission had dealt with re-development as well and letting developers know that the City would work with them. He felt they had done a wonderful job.

## **3. Gwen Leapheart, Public Access Promotion Commission**

Ms. Leapheart stated she had lived in Novi since 1987 and had taken all the classes at SWOCC and would like to be on the commission. Mayor Pro Tem Gatt asked how she would make SWOCC better. Ms. Leapheart stated she would like to get SWOCC out more to the public. She said a lot of people didn't even realize that there was an INFO Channel 12 and would like to see the City have its own shows. Member Margolis asked what kind of qualities and background she would bring to the commission. Ms. Leapheart said sometimes she was a bit outspoken and thought outside of the box and she had different concepts of things. She said she wanted to bring some new ideas to the commission. Member Mutch asked what her most positive experience was going through the training and how would she bring that to the Public Access Promotion commission. Ms. Leapheart responded that those who taught the class made everyone feel welcome and comfortable. Member Fischer asked about her education and work background and what made her best qualified for the commission. Ms. Leapheart responded she was certified for taking all the SWOCC classes, enjoyed talking to people, and was presently taking criminal justice photography classes so she could work with the medical examiner. Member Staudt asked what type of programming she would like to bring to the channel. Ms. Leapheart replied she would prefer to get input from people she talked with to see what they wanted. She said she liked the fact that anybody could come up with an idea and that individuals could operate in front of the camera or behind the camera. Mayor Landry asked how they were doing on diversity programming. He said the City had many faces and asked if she thought they showed all their faces on SWOCC. Ms. Leapheart said she thought so. She felt there weren't enough senior citizens and she also wanted to get the young children and start forming those minds about government and what could be done in the community. Ms. Leapheart said she wanted to deal with younger people and all the cultures and perhaps have a cultural evening.

#### **4. Leland Prince, Planning Commission**

Mr. Prince said he was pleased to be able to serve his first year on the Planning Commission. Member Margolis asked what he learned in his first year. Mr. Prince noted he learned quite a bit from his fellow Commissioners and he had attended some of the programs put on by the Michigan Planning Association and learned a lot about the zoning, planning and Master Plan process. Member Mutch asked what he thought the biggest challenge would be over the next few years. Mr. Prince replied he was particularly interested in seeing the development of the suburban low rise at 11 Mile and Beck Roads. He said he was a senior and an empty nester, and didn't think he needed a 4,000 sq. ft. house for two people. Mr. Prince thought the availability of that type of housing for someone like him would be an attraction to others who were senior citizens to come to Novi. He referred to the seniors as being part of the group that was growing. Member Fischer asked what type of law he was involved in and how that contributed to his role on the Planning Commission. Mr. Prince responded that he had been a lawyer for about 31 years and had seen many aspects of the law. Mr. Prince said most of his time had been spent in civil and commercial litigation. He noted he'd had some experience in real estate transaction matters but no experience in development. He thought the most relevant experience he would bring would be the interpretation of ordinances and application of facts to whatever they were looking at. Member Staudt said he looked forward to Mr. Prince serving a full three year term. Member Crawford expressed her appreciation to all the people on the Planning Commission because she knew it took a lot of their own personal time. She said it was an important job that they did and the City really could not move forward if it didn't have a good Planning Commission. Mayor Landry said the Planning Commission was doing a really fine job and he thought the old reputation of Novi being a difficult place to develop was long gone; he thought the Planning Commission was a very big part of that.

#### **5. Samuel Ray, Beautification Commission, Public Access Promotion Commission**

Mr. Ray noted he had a career in Human Resources and tutored at Oakland Community College and was a fairly recent resident of Novi. He said he applied to both commissions and noted his Public Access Promotion Commission experience was limited but he did offer management experience. However, it was not his major interest. He noted as a resident of Oak Park, he served on the ZBA, Ethnic Advisory Committee, Personnel Board, Beautification Commission and other boards for many years. Mr. Ray said he was very active in the annual award system on the Beautification Commission, annual plant sale and lawn care seminars. Member Mutch asked about his past service in Oak Park and what type of activities or tasks could Novi's Beautification Commission undertake. Mr. Ray noted it was certainly a beautiful City now, so it would mostly be maintaining some of the beautiful properties, landscaping, etc. He said he was especially impressed with the entrances of the communities and thought they were gorgeous. The one area he thought could use more attention, because of the Library construction, was the mile leading into and including the City Center. Member Mutch agreed. Member Fischer asked what his best accomplishment was while on the Oak Park Beautification Commission. Mr. Ray said he held a lawn seminar that was very well attended each year and added to the management of the Commission itself. Member Staudt noted it was great to have someone come forward who resided at Fox Run. Member Crawford asked what his vision for Novi was. Mr. Ray replied there were two main entrances to Oak Park and there were welcome signs with beautiful plantings that were paid for by businesses in the community. He believed that would be very suitable for Novi. Mayor Pro Tem Gatt assured

Mr. Ray that he would find a spot for him to serve in Novi. Mayor Landry noted he looked forward to his service to Novi.

#### **6. Charles A. Staab, Parks, Recreation and Cultural Services Commission**

Mr. Staab said he had lived in Novi for 30 years and served on the Parks and Recreation Commission since 1994 and was looking for reappointment. Member Mutch asked what he thought the biggest challenge would be for the commission and the department over the next few years. Mr. Staab replied keeping services affordable and to find ways to fund services while keeping them as a hallmark to the community and superior services to Novi's citizens. Mr. Staab said they recently introduced a program within the commission where each of the Commissioners would be reviewing a park every month and report back to the commission. He said they wanted to keep the parks top notch because they attract more citizens, people and companies to Novi. Mayor Landry asked about Community Sports Park with the baseball diamonds. Mr. Staab noted they had improved but they weren't where they wanted them, so they would keep working on them. Mayor Landry commented that they looked good when he was there and Novi Youth Baseball was pretty complimentary. Mayor Landry said this was a budgetary matter and Mr. Staab agreed. He said they had talked with Youth Baseball about different ideas and venues to work with them and funding different things.

#### **7. Matthew Tecklenburg, Parks, Recreation and Cultural Services Commission**

Mr. Tecklenburg was not present.

### **REPORTS**

#### **1. MANAGER/STAFF**

Mr. Pearson mentioned the successes of Memorial Day Parade, Mayor's Exchange and the new Novi Library and thanked Council for their support. Mayor Landry noted the Library was on time and under budget. He said that was a credit to the Building Authority, Library Board, Library Administration staff and the general Administration staff. He said that was something they could be really proud of.

#### **2. ATTORNEY - None**

### **AUDIENCE COMMENT**

**Chuck Tindall**, 2345 Shawood, noted on May 10, 2010, he filed a request with the Novi Police Department under FOIA on behalf of his son. He said two employees reviewed the request and clarified what he was seeking; they agreed and accepted it and agreed to give him a signed and dated copy. Mr. Tindall said they received a response within a few days. In the request they sought copies of reports that were generated because of the complaint filed by his son against a Novi officer. In the response, they were informed that internal investigation reports on officers were exempt. He thought that was perfectly understandable, however, what they were seeking was a report by the officer who investigated the complaint, the report going to the Chief that caused him to send the letters stating that the complaint was unfounded. Mr. Tindall said he spoke before Council last year about the letter from the Chief. He said he and

his son were told on August 17th by the Chief that a letter had been mailed to them on August 11th. Mr. Tindall said when the letter was not received by August 19th his son went back to the Chief's office and was given a copy that was dated August 17th. Mr. Tindall said what they were surprised to find in response to their request were copies of the officer's allegations and the charges that were later filed against his son. He said they were well aware of all of this had already dealt with it. He commented he was sure that all staff members of the Novi Police Department were competent and qualified, so he was sure there was no mistake made. He said they requested copies of reports generated because of a complaint filed against an officer and they received copies of charges filed against the one who filed the complaint. Mr. Tindall said there was never any mention of a pending charge against his son during the more than one month time period he pursued his complaint. He said it almost seemed like intimidation; this was what he got the last time he complained, would he like to complain again. He said that was the response he received from his neighbors when the complaint was filed and he thought it couldn't happen. However, that was what he got when he requested reports about the complaint saying this was what was generated from that complaint, these charges. He said he was not making that accusation because he didn't want to run the risk of being charged with something himself. Mr. Tindall distributed copies to the Clerk and said he included his phone number, if anyone cared to respond.

**CONSENT AGENDA REMOVALS AND APPROVALS (See items A-M)**

Mayor Pro Tem Gatt removed Item G and Member Mutch removed Item C.

**CM-10-06-081 Moved by Margolis, seconded by Gatt, CARRIED UNANIMOUSLY:  
To approve the Consent Agenda with the removal of Items C and G.**

**Roll call vote on CM-10-06-081 Yeas: Crawford, Fischer, Margolis, Mutch, Staudt,  
Landry, Gatt.**

- A. Approve Minutes of:
  - 1. May 17, 2010 – Regular meeting
- B. Approval to enter into annual maintenance and service agreement (7/1/10 – 7/1/11) with Advanced Wireless Telecom (AWT) for the Next Generation E-911 system in the Novi Police Department's Communication Center for \$16,240.51.
- D. Approval of a resolution for a one-year extension of traffic engineering consulting services contract with Birchler Arroyo Associates, Inc., through June 21, 2011.
- E. Approval to award an amendment to the engineering services contract for construction engineering services related to the 2010 Sanitary Pump Station Upgrade project, to Spalding DeDecker Associates, Inc. (SDA), for a not-to-exceed fee of \$24,146.
- F. Adoption of a Resolution seeking participation in the Michigan Department of Transportation (MDOT) Local Bridge Program for a grant application for the rehabilitation of the Cranbrooke Drive Bridge over Ingersol Creek.

- H. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Brightmoor Christian Church (formerly Brightmoor Tabernacle) for the site located at 40800 Thirteen Mile Road, between Meadowbrook and Haggerty Roads, in Section 1 (parcel 22-01-300-015).
- I. Approval of a Storm Drainage Facility Maintenance Easement Agreement from D. L. Biotech, LLC for the D. L. Biotech Building located at 46430 Peary Court, in the Beck North Corporate Park in Section 4 (parcel 22-04-378-019).
- J. Approval of a variance from Section 26.5-10, requiring a Maintenance and Guarantee Bond from Fallone Brothers, LLC for the water and sanitary sewer improvements for the Fallone Brothers Building, located at 46570 Humboldt within the Beck West Corporate Park (parcels 22-09-176-011 and 22-09-176-012) in Section 9.
- K. Approval of transfer of ownership of 2009 Class C licensed business, located at 43304 Eleven Mile, Novi, MI 48375, Oakland County, from Bonefish/Michigan Limited Partnership to Bonefish Grill, LLC (A Florida Limited Liability Company) (Step 2).
- L. Approval to award a construction contract for the Salt Dome Roof Repair project, to Great Lakes Roofing, the low bidder, in the amount of \$30,060.
- M. Approval of Claims and Accounts – Warrant No. 820

**MATTERS FOR COUNCIL ACTION – Part I**

- 1. **Approval to award a construction contract for the 2010 Sanitary Pump Station Upgrade project, to Matzak, Inc., the low bidder, in the amount of \$164,519.**

**CM-10-06-082 Moved by Gatt, seconded by Fischer; CARRIED UNANIMOUSLY:  
To approve award of a construction contract for the 2010 Sanitary Pump Station Upgrade project, to Matzak, Inc., the low bidder, in the amount of \$164,519.**

**Roll call vote on 10-06-082 Yeas: Fischer, Margolis, Mutch, Staudt, Landry,  
Gatt, Crawford  
Nays: None**

- 2. **Acceptance of a Highway & Utility Easement along an existing segment of Fountain Walk Drive between Donelson Drive and Cabaret Drive from International Transmission Company (ITC), including an area for potential future extension of Fountain Walk Drive west of Cabaret Drive.**

**CM-10-06-083 Moved by Gatt, seconded by Crawford; CARRIED UNANIMOUSLY:  
To accept Highway & Utility Easement along an existing segment of Fountain Walk Drive between Donelson Drive and Cabaret Drive from International Transmission Company (ITC), including an area for potential future extension of Fountain Walk Drive west of Cabaret Drive.**

Roll call vote on CM-10-06-083

Yeas: Margolis, Mutch, Staudt, Landry,  
Gatt, Crawford, Fischer  
Nays: None

**AUDIENCE COMMENT - None**

**MATTERS FOR COUNCIL ACTION – Part II - None**

**COMMITTEE REPORTS**

Mayor Pro Tem Gatt remembered John Zimmer, a former Police Officer who passed away recently. He will be missed for his great service to the City.

**MAYOR AND COUNCIL ISSUES - None**

**CONSENT AGENDA REMOVALS FOR COUNCIL ACTION**

- G. **Approval of Facility Encroachment Agreement with CSX Transportation, Inc., to use and maintain a City-owned water main within railroad right-of-way near Novi Road.**

**CM-10-06-084 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY: To approve the Facility Encroachment Agreement with CSX Transportation, Inc., to construct, use and maintain a City owned Water main within the railroad R.O.W. subject to CSX Transportation Inc. accepting the City's available insurance coverage and authorizing the City staff to work with CSX Transportation, Inc. to modify the insurance requirements within the agreement accordingly.**

Roll call vote on CM-10-06-084

Yeas: Mutch, Staudt, Landry, Gatt, Crawford,  
Fischer, Margolis  
Nays: None

- C. **Approval of Zoning Ordinance Text Amendment 18.241, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 3, Residential Acreage District and at Article 25, General Provisions, Section 2503, Accessory Uses in order to provide standards for the construction, use, installation and operation of outdoor furnaces. Second Reading - Mutch**

Member Mutch said this was an amendment to the Zoning Ordinance to allow the use, installation and operation of outdoor furnaces, brought forward by the Community Development Department, to address people who might want to use outdoor furnaces to heat their homes. He said it utilized corn or bio-fuels as an alternative fuel source. He stated he pulled this item from the Consent Agenda because with the direction of the Zoning Text Amendment it would actually permit the use of these facilities, with some limitations outlined in the ordinance. He said he wasn't going to support that but appreciated the effort to look at allowing some alternative ways to heat ones home but had concerns. He said he was

concerned with the impact of the furnaces on surrounding properties primarily from the air pollution that could result from the burning of these materials within the furnaces. He said one of the areas that SEMCOG had been working on was reducing the amount of particulate pollution within the air regionally, and trying to reduce pollution from a variety of sources. He said they had been making headway with that but this kind of pollution had a real impact on sensitive populations, such as people with asthma or underlying medical conditions that made them much more susceptible to particulate air pollution. He said this use had the potential to increase that kind of pollution within the community. Member Mutch said another concern was the enforcement of the ordinance as it was discussed at the previous meeting. He noted there were provisions in the ordinance that attempted to limit the fuels used to try to reduce the potential for the pollution that would result from the furnaces. However, short of Ordinance Enforcement Officers seeing somebody burning the wrong kind of materials, it seemed like it would be very difficult to enforce. Member Mutch said he didn't feel it would be the right direction to go when staff was being reduced and they were trying to deal with budget reductions that could potentially result in additional calls to the Ordinance Enforcement Officers. He said if Council wanted to approve this, he would be voting against it. Otherwise, he would be looking for Council's support to send this back to the City Attorneys to redraft the language to prohibit this kind of use within the community based on the reasons he outlined.

Mayor Pro Tem Gatt agreed with Member Mutch enforcement would be an issue.

**CM-10-06- Moved by Gatt, seconded by Margolis; MOTION WITHDRAWN:  
To send this issue of Zoning Ordinance Text Amendment 18.241, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 3, Residential Acreage District and at Article 25, General Provisions, Section 2503, Accessory Uses in order to provide standards for the construction, use, installation and operation of outdoor furnaces back to the Attorneys for further work to return with answers to the question of the impact of the furnaces on surrounding property primarily from the air pollution that could result from the burning of materials within the furnaces, and the affect on sensitive populations such as people with asthma or underlying medical conditions.**

## **DISCUSSION**

Mayor Landry asked if they were looking to direct the Administration to draft an ordinance that prohibited these uses, or were they looking to the Administration to come back and tweak the ordinance. Mayor Pro Tem Gatt replied to tweak it to the point that it could be enforced properly. He asked how the ordinance team would be able to enforce the burning of prohibited items unless they were present and watching. He thought it would be a very difficult thing to do and didn't know if they could tweak it enough to make it acceptable. Mayor Landry said he could understand that view and didn't think it could be policed. He thought that once it was a closed furnace or little building, who would know what was being burned. However, it was an alternative energy source and he would be willing to try it to see how much interest there was. Mayor Landry said through the licensing and permitting process the City would know where they were and they could try to keep an eye on them. If there was any suspicion that there



were adjacency problems, it could be addressed at that time. He thought they should allow outdoor furnaces and review this in a year.

Mayor Pro Tem Gatt asked if the attorneys could review it and tweak it to a point where maybe the penalties would be harsher, if something prohibited was being done. He said this would satisfy them that all due diligence was being done.

Ms. Kudla, City Attorney, said the penalty would be limited and a misdemeanor would be the worst they could make it, a \$500 fine/ninety days in jail. She said right now there was a provision that if it was found to be a nuisance, the City could have the owner remove it or operate it in a way that it was not a nuisance. Mayor Pro Tem Gatt said he understood they couldn't go beyond Michigan Statutes but he wanted something more than there was now. He wanted the ordinance tweaked so they were assured they wouldn't have people burning items that would poison their neighbors. Ms. Kudla asked if he was looking for more of a specification, like a recording of what was being burned. Mayor Pro Tem Gatt asked her to tweak it any way she could.

Mr. Pearson thought Member Mutch's comments were geared toward not wanting to do this, which was fine. However, he suggested that rather than spending more time and money, if they didn't want to do this they should just say that. He said this was just in the RA District, which had residential acre lots. He said the only other suggestion he had would be to make it a license requirement, which would give the City a better access for inspections. He said this was an ordinance where they were trying to be a little proactive by looking ahead before there was a problem but if they didn't want to venture into it, they would move on.

Member Margolis said, as it stood now, were they prohibitive or just not addressed in the ordinance. Ms. Kudla said it was not currently addressed. Member Margolis said then this was trying to give some sense of guidance. Mr. Pearson said Mr. Schultz said without mentioning it and not having an area for it, then they were opening it up to being in other places. Member Margolis said she would lean towards prohibiting. She said it would not affect that many parcels if it was left RA, the policing and the licensing made her nervous the last time this was discussed. Member Staudt said he would support prohibiting. Member Fischer said he would agree with prohibiting. Mayor Pro Tem Gatt withdrew his motion and Member Margolis, the seconder of the motion, agreed.

**CM-10-06-085      Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:  
To prohibit the construction, use, installation and operation of  
outdoor furnaces.**

**Roll call vote on CM-10-06-085**

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

**AUDIENCE COMMENT - None**

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 8:17 P.M.

\_\_\_\_\_  
David Landry, Mayor

\_\_\_\_\_  
Maryanne Cornelius, City Clerk

\_\_\_\_\_  
Transcribed by Charlene McLean

Date approved: June 21, 2010