

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, OCTOBER 11, 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

APPROVAL OF AGENDA

Mayor Pro Tem Gatt removed Item 5, Discussion of Process to Fill Potential Council Vacancy, and postponed until November 8, 2010 City Council meeting.

**CM-10-10-134 Moved by Gatt, seconded by Fischer; CARRIED UNANIMOUSLY:
To approve the Agenda with the removal and postponement of Item
5, Discussion of Process to Fill Potential Council Vacancy until
November 8, 2010.**

**Roll call vote on CM-10-10-134 Yeas: Gatt, Crawford, Fischer, Margolis, Mutch,
Staudt, Landry
Nays: None**

INTERVIEWS FOR BOARDS AND COMMISSIONS

1. Dale Holdaway – Board of Review

Mr. Holdaway stated he had served on the Board of Review as an alternate for the past two years and was interested in serving in that same capacity. He noted he was employed at the Ford Motor Company as a finance manager. Mr. Holdaway stated he enjoyed being a part of the Board of Review Process and would have been petitioning to become a full time member of the Board of Review but he was transitioning to a different position within the Ford Motor Company and would likely be very busy over the next year.

Council Members Staudt, Crawford, Margolis, Fischer, Mayor Landry and Mayor Pro Tem Gatt said they appreciated his service and thanked Mr. Holdaway for applying.

Member Mutch asked Mr. Holdaway to tell Council what he had learned from seeing it from the perspective as a member of the Board of Review versus a resident petitioning the Board. Mr. Holdaway thought prior to serving on the Board his perception was that there were so many property owners that it was an almost overwhelming challenge before the Assessor to get everything right. He said that was true but he truly saw, participating in the Board process, that the Assessor and his team were truly interested in getting the assessments right. He said it was a pleasure to be a part of the Board of Review process to really try and make the adjustments that needed to be made. He said, in some cases, people just didn't like paying taxes yet they were assessed fairly, and in those cases the tax law was being applied appropriately. Mr. Holdaway said in the past he might have questioned whether he was

getting his fair chance to have his side of the case heard, he felt, being on the other side, that the Board did give a good, fair shake, and not to just sit and listen but to make adjustments where justified.

2. Linda Krieger – Zoning Board of Appeals

Ms. Krieger stated she worked at Providence Hospital in Southfield as a Registered Nurse in Intensive Care. She said she would like to continue her service on the ZBA and enjoyed each meeting. She said every case was different and everything was considered uniquely and she enjoyed getting to know the City.

Member Crawford said Ms. Krieger's application said she was not only active on the ZBA but had also been on the Beautification Committee, worked with the Library, Historical Commission and CERT volunteers. She said Council felt privileged to have Ms. Krieger as a volunteer and she appreciated her service. Member Crawford asked her what had been her biggest challenge so far.

Ms. Krieger stated it was coming up with facts. When a person came to the ZBA they wanted to help them as much as possible and they were presenting their case and the ZBA listened. She said it all came together at the meeting and having the facts was very important.

Mayor Pro Tem Gatt and Members Margolis, Mutch, Staudt said they appreciated her service and she had their support.

Member Fischer said he was familiar with her work and asked what Council could do to support the ZBA more. Ms. Krieger responded, as they were reviewing zoning, the legislature part, that Council would keep an eye on what they were approving and listening was very helpful.

Mayor Landry said she had served with distinction as an alternate and was appointed as a full member of the Board and George would be very proud of her.

3. Marjorie Nanian – Board of Review

Ms. Nanian was not present.

4. Siddharth "MAV" Sanghvi – Zoning Board of Appeals

Mr. Sanghvi stated he loved what he was doing, enjoyed the work and would like to continue serving the community.

Mayor Pro Tem Gatt, Members Margolis, Mutch, Staudt, thanked Dr. Sanghvi and said he had dedicated himself to the community and they appreciated his service very much.

Member Fischer said he enjoyed serving with Dr. Sanghvi and had learned so much from him. He thought that was what was great about this community and from people like Dr. Sanghvi

the younger generations could learn so much. Member Fischer asked what he thought Council could do to help the ZBA. Dr. Sanghvi thought the most important thing they could do was to have an extra alternate member on the ZBA. He said, as an alternate, he had learned a lot about the ZBA long before becoming a voting member. He said it helped him all these years to have learned from the masters who were there explaining what went on and why they did what they did. Dr. Sanghvi said the best thing he learned was to be patient and listen.

Member Crawford stated Dr. Sanghvi had been in Novi for over 35 years and most of that time he had been serving the citizens of Novi in some way or another. She said Council appreciated all he did and had done. She asked what he thought was most challenging about being a ZBA member. Dr. Sanghvi said when the general public came to the board and vented their frustrations and anger and they listen and had to tell them that there was nothing the ZBA could do about their problem. He said sometime people came with all kinds of grievances and unfortunately that was not in the scope of ZBA to address them.

Mayor Landry said currently there was a member of the Planning Commission that also served a dual role with the ZBA. He said it was his understanding that when the Planning Commissioner sat with the ZBA, if there was an issue that also came up before the Planning Commission, that member did not participate in any discussion before the ZBA. He asked if that was correct. Dr. Sanghvi stated it was and he felt it was a paradox because the reason he was there was to act as a liaison and tell the ZBA members what went on in the previous session they had about the case. He said he questioned that and unfortunately that was how the legislators wrote it. Mayor Landry asked if there was anything they could do about that and Mr. Schultz said the interpretation was pretty technical.

5. Pamela Superfisky – Election Commission

Ms. Superfisky was not present as she was out of town.

6. Hirsch Kumar Srivastava – EDC, HCD, Election Commission, Board of Review, Planning Commission, Parks and Recreation Commission

Mr. Srivastava stated he moved to Michigan in early spring and had an internship with Congressman Hoekstra, which was one of many internships he had in the public sector. He said he had a Congressional internship with Representative Bobby Jindal immediately after hurricane Katrina, which was a great learning experience and opportunity to help the community. He stated he worked at a technology company in Wixom that his uncle owned and they have a family history of being entrepreneurs and adding jobs to Michigan. He noted his work gave him the flexibility to pursue outside interests like the public sector and public service. He noted he had a Bachelor's Degree in Economics from Washington University in St. Louis and he studied at Tulane University in New Orleans until hurricane Katrina. He also was an executive board member of Community Action Counsel of Tulane University Students, CACTUS, an elected position at Tulane University. In that position he did hundreds of hours of community service and was also the Director of the Children's Athletic Program, which was an at risk youth intervention program and it was still operating.

Mayor Landry asked if he had a committee of preference. Mr. Srivastava thought his skills would be best used on the EDC or the HCD because at Tulane he did independent economic research about the effects of Katrina on the City. He said New Orleans was a huge target for Federal grants, especially in the housing arena, so he had a lot of exposure to those issues. He thought he would be a good fit for either of the commissions.

Member Margolis stated he was a great person to add to the community and appreciated his desire to serve so quickly after arriving in the community. She asked what his thoughts were on the entrepreneurial climate in the area of Novi and southeastern Michigan. Mr. Srivastava replied that he was involved with the Detroit Chapter of TIE, which was the largest entrepreneurial organization in the world. He said he had done a lot of entrepreneurial research and execution in that arena. He said regarding the entrepreneurial climate in Novi, he had seen local businesses closing, such as Biggby Coffee and Jimmy Johns. He said compared to Missouri's St. Louis County there seemed to be a greater population in Novi and more youth that seemed to be around and not doing anything. As far as entrepreneurialism went he would broadcast and extend internships and training opportunities to get low cost labor trained, educationally speaking. He stated he noticed that when people were given an opportunity they did flourish. He said he would make students aware and offer opportunities to students at all local colleges within a 20 mile radius. He said there were so many opportunities available to students and they didn't know they existed.

Member Mutch said since he worked for Federal and State level candidates and elected officials, he had some exposure to the workings of government. He stated the one area that he thought Mr. Srivastava would have the fastest impact was the HCD Committee, as that group was focused on assisting those segments of the community that needed assistance in housing repair for seniors or people with low income backgrounds. He said he would work with non-profit organizations, churches and other community groups that did outreach to those groups of people to provide services to them and identify needs that existed in the community. He commented that the HCD Committee took advantage of Federal funds through the Community Block Grant Program as well as worked with some partner organizations to leverage that to address those needs. He thought Mr. Srivastava had experience in that area and they could always use someone with a lot of enthusiasm and experience beyond the Novi Community. Member Mutch thought coming from outside of Novi and having the experiences he had he might be able to bring more to the table than another candidate that had been in Novi longer.

Member Fischer asked what drew him to Novi when he relocated. Mr. Srivastava said he had visited Novi many times over the years. He said when he came back for his internship with Congressman Hoekstra he explored southeast Michigan county by county. He found what was best about Novi was the overall economy was good comparatively and the economy set the mood for the City, and he liked that. He stated he liked the fact that there was a concentration of similarly situated people, young professionals. Also, it was beautiful, safe and the standard of living seemed to be really high.

Member Staudt asked what he heard from the voters that stuck with him while working on Congressman Hoekstra's campaign that he would bring to a local City government. Mr. Srivastava replied that was hard to answer because when representing someone at the Federal level a lot of the issues were federally based. However, on every level of government the citizens just hate debt and not even for the tax it added but also because of the belief that the debt was out of control and the government was ineffectual and wasteful. He said in that way, it affected local governments the most viscerally, and going forward they had to make it clear that budgets were balanced, which created faith in the local government.

Member Crawford, Mayor Pro Tem Gatt, and Mayor Landry thanked Mr. Srivastava for making a conscious choice of Novi and welcomed him and thanked him for his interest and eagerness.

PUBLIC HEARING - None

PRESENTATIONS

1. Community introduction and brief overview of South University, William Bradford, President

William Bradford, President presented a community introduction and brief overview of South University. Mr. Bradford detailed the types of programs and studies they would be teaching and said they had eight campuses, and have a well known faculty.

REPORTS

1. MANAGER/STAFF

a. Introduction of Victor Cardenas, Assistant City Manager

Mr. Pearson introduced Novi's new Assistant City Manager, Mr. Cardenas. He said he was eminently qualified both academically, with a Master of Public Administration Degree from Indiana University and undergraduate from Grand Valley State. He said he served as the Manager in the Village of Brooklyn and assistant to the City Manager in Oak Park.

2. ATTORNEY - None

AUDIENCE COMMENT

Ed Leininger, spoke about the Weiss Mixed Use Development Project and relayed his concern that not many people were notified of the development. He commented he didn't think the proposal would quantify giving them an overlay district, which were very special and there should be something very redeeming about the project. Mr. Leininger said there were many deviations expected on this project as well. He asked Council to take the recommendation of the Planning Commission and deny the request.

Fred Seeley was present representing Ludwig and Seeley a Real Estate Management Company, which managed the shopping center at Ten Mile and Meadowbrook. He said his

tenants had asked them to come before Council and let them know they had a number of concerns about the proposed rezoning and building of a Kroger shopping center at Ten Mile and Novi. He said the tenants were concerned and with the economy being depressed right now and everyone had a tough time surviving when Farmer Jack was shut down for a while. The tenants didn't want to see anything happen to Busch's, the major tenant in the center. Mr. Seeley said with the proposal to have Wal-Mart coming to Novi, it added a tremendous amount of grocery and general merchandise to the neighborhood area. He said most of the area they serviced, one to three mile radius, fell within the area that Wal-Mart and Kroger would service. He noted he had come before Council over 20 years ago asking for a Target and Kroger to be built in that specific area and was denied. He said the tenants had great concerns about adding more neighborhood shopping to that region, especially when in a no growth market right now.

Tim Surma, Manager of Busch's, stated their long term goal was to expand their store and the building of a Kroger, less than a mile away caused them great concern. He felt there was already enough competition and putting in Wal-Mart, another box store, would greatly affect their business. He said another box store would not best serve the community now and in the future especially with the amount of unused retail space currently existing in Novi. He hoped that Council would deny the proposal.

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-G) – None

CM-10-10-135 Moved by Fischer, seconded by Gatt; **CARRIED UNANIMOUSLY:**
To approve the Consent Agenda as presented.

Roll call vote on CM-10-10-135 Yeas: Crawford, Fischer, Margolis, Mutch, Staudt,
Landry, Gatt
Nays: None

- A. Approve Minutes of:
 - 1. September 27, 2010 – Regular meeting
- B. Approval of Traffic Control Order 10-37 for the implementation of a 45 mph speed limit on Novi Road between 12 Mile Road and 14 Mile Road and Traffic Control Order 10-38 for the implementation of a 30 mph school speed limit on Novi Road from 300 feet north of the north driveway to Hickory Woods Elementary School to 300 feet south of the south driveway of Hickory Woods Elementary School on school days only during the periods of 8:27 AM to 8:57 AM and 3:45 PM to 4:30 PM.
- C. Approval of 1) Traffic Control Order 10-39 for the implementation of a 35 mph speed limit on Meadowbrook Road between 12 Mile Road and 13 Mile Road, 2) Traffic Control Order 10-48 to rescind existing Traffic Control Order 98-12 for a permanent 25 mph speed limit adjacent to Meadowbrook Elementary School, and 3) Traffic Control Order 10-40 for the implementation of a 25 mph school speed limit on Meadowbrook Road from 500 feet north of the Meadowbrook Elementary School driveway to 200 feet south

of the Meadowbrook Elementary School driveway on school days only during the periods of 8:27 AM to 8:57 AM and 3:45 PM to 4:30 PM.

- D. Approval to award a contract for design engineering services for the Meadowbrook Road Rehabilitation (Ten Mile Road to Cherry Hill) to URS Corporation for a not-to-exceed design fee of \$38,569.
- E. Approval of request from Diamond Jim Brady's of Novi, Inc. to transfer all stock in a 2010 resort Class C licensed business issued under MCL 436.1531(2) located at 26053 Town Center, Novi, MI 48375, Oakland County, wherein Thomas M. Brady is dropped as a deceased stockholder through transfer of 100 shares of stock to new stockholder, the Thomas M. Brady and Mary E. Brady Joint Revocable Trust.
- F. Approval to Rescind Policy Allowing the Purchase of Prior Service Credit and not allow future requests.
- G. Approval of Claims and Accounts – Warrant No. 829

MATTERS FOR COUNCIL ACTION – Part I

- 1. **Consideration of Introduction of Ordinance No. 10-23.25, an ordinance to amend Chapter 22, "Offenses", Article V of the Novi Code of Ordinances by amending Section 22-96, to modify the standards for the determination of a violation of the public peace due to loud noise. First Reading**

Mr. Pearson said this was a modernization of an ordinance that had not been a huge issue but they wanted to make sure that they were up to current standards.

**CM-10-10-136 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve Introduction of Ordinance No. 10-23.25, an ordinance to amend Chapter 22, "Offenses", Article V of the Novi Code of Ordinances by amending Section 22-96, to modify the standards for the determination of a violation of the public peace due to loud noise. First Reading**

DISCUSSION

Member Mutch said he had comments about specific language in the ordinance and understood the goal of the ordinance changes was to try to provide additional definite guidelines for the ordinance enforcement and police officers. He questioned specific prohibitions on the second page, Subsection C 2 talked about "operating or permitting the operation of any loud speaker or public address system or similar device on a public road or in any public space between the hours of 9 P.M. and 8 A.M." Member Mutch asked if events, i.e. in the Main Street area, would be covered by this language and if so, would events in that area operating past 9 P.M. have to received an exemption from Council or City Administration. He said another example would be the Fire Up Festival that took place after one of the high school

football games, which would be later than 9 P.M. Member Mutch stated that Subsection 3 talked about “yelling, shouting, hooting, whistling or singing on a public street would be prohibited between the hours of 9 P.M. and 8 A.M.” He said, example, the Lions win the Super Bowl and people come out of the bars into the street, was that covered by this language. He felt the one that would be the trickiest to enforce was “use of motorized snow blowers, lawnmowers and other lawn landscaping and yard maintenance equipment between 8 A.M. and 9 P.M.” He said if there was a good snowfall in Novi, the snow blowers usually start about 5:30 A.M. So, if someone was out before 8 A.M. to snow blow the driveway, they would be in violation of the ordinance. He thought these were areas that might create problems for the City as there were residents that were aware of the ordinance language and they contact the City to have it enforced. He said that had created some issues where the language was clear but the enforcement of it became difficult within a neighborhood situation, which was where most of the language was directed at. He thought they had to be careful to not put rules in place that then the people who were asked to enforce it would have a hard time enforcing it in a fair and equitable basis. Member Mutch stated he would support this going forward on the first reading, but requested feedback from staff on addressing some of those areas. He said regarding people using snow blowers in Michigan, the idea that they could only be utilized during the hours of 8 A.M. and 9 P.M. was just not realistic.

- 2. Consideration of the request of Siegal Toumaala Associates, for tentative approval of a rezoning of property in Section 26, east of Ten Mile Road and south of Novi Road from I-1, Light Industrial District and OS-1, Office Service District to B-2, Community Business District and OS-1, Office Service District with a Planned Rezoning Overlay (PRO) and subject to approval of a PRO Agreement. The subject property is approximately 28.7 acres.**

Mr. Quinn stated he was present on behalf of Ten and Novi Associates, who were Mr. Weiss and his partners and Rick Ragsdale from the Kroger Corporation. Also, their engineers, architects and staff people were present and available for questions. Mr. Quinn said they were bringing to Council a \$20 million project and asked for a favorable vote with a PRO. Mr. Quinn discussed the details of the proposal at length.

Mr. Pearson stated Ms. McBeth and staff were present and there were significant staff concerns about this project and their recommendation was negative. He said there were three main areas that started on page 198 of the packet on why Council should entertain rejection of the request. He noted it was not in conformance with the existing Master Plan for Land Use, there were concerns about future phases and the ordinance deviations that were outlined. They were requesting a PRO, which was one of the most discretionary items that Council had for consideration and it had to be something that was more favorable to the City than could otherwise be constructed.

Member Staudt said he lived in that area and shopped at Busch’s and didn’t go anywhere else to shop for groceries. He said they needed a lot of help and improvements but he would be extremely disappointed to see that center fall apart as a result of that tenant leaving. He felt it was a core part of that neighborhood and caused him great concern especially in light of other very large grocery operations opening in Novi in the near future. He stated he didn’t want to

see that center sitting empty because that would affect property values. He indicated that he was looking forward to hearing the thoughts of other Council members.

Member Margolis said she appreciated the extensive packet and the background work Council was given by staff and the applicant to make these kinds of decisions. She said she appreciated investment in Novi and believed in economic development. Member Margolis said she was not one to pick winners or losers or to limit competition. She thought the business community made those decisions and lived or died by those decisions. She said she would address the multiple issues she saw in this proposal, which would not allow her to support the proposal. She said first it did not comply with the Master Plan and didn't comply with an implementation strategy, which talked specifically about limiting commercial development to current uses and zoning. Member Margolis said currently there was a surplus of land in Novi zoned retail. She said that was the piece in terms of the zoning. She said this was a PRO application, which was a tool to consider proposals that didn't fit specifically within the zoning. However, it was clear that PRO's had to be approved when the "benefits" which would reasonably be expected to accrue from the proposal shall be balanced against and be found to be clearly outweigh the reasonable foreseeable detriments". She said while looking through the packet, she did her pro and con on is that the case. She said there were multiple detriments to the proposal and the impacts on the City were clearly delineated in terms of the infrastructure needs. She noted that one of the things in the proposal from the applicant was about "this was a great increase to the tax base for the City". She said that was true but what they had to look at was compared to the use that was listed for the property what were the expenses associated with and what were the detriments. She said the infrastructure needs were much higher for this development versus the Master Plan uses for the property. They talked about double utility demands, issues about sewer capacity, which was currently something that the City was in negotiations to try and increase limits just based on the current zoning. She said there would also be significant traffic and woodland impacts and the applicant was asking for a lot of variances from current standards. She said when looking at the benefits it was clear that this would not be an enhancement over the current zoning. One recommendation from the Planning Commission was the idea of five lanes of 10 Mile to the railroad track and that was not included. There was also talk about a playing field but it didn't meet the needs the City had and adding 20 spots of parking to an already crowded parking lot wasn't a huge benefit. She said the pocket park wasn't something she thought was needed in the City. She said one of the real needs for recreation was walking trails and biking paths and those were not included. She said the planning review said that many of the benefits listed in the packet would be required of the project in any case. Member Margolis said that was not a benefit. She noted this proposal required less favorable variances in the area of landscaping, there was no landscaping plan and no specific plan for the entire PRO.

**CM-10-10-137 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:
To deny Weiss Mixed Use Development, SP09-26A with Zoning Map
Amendment 18.690 to rezone the subject property from I-1 (Light
Industrial) and OS-1 (Office Service) to B-2 (Community Business)
and OS-1 (Office Service) with a Planned Rezoning Overlay, for the
following reasons:**

- The proposed rezoning would be contrary to the recommendations of the Future Land Use Map and Master Plan for Land Use;
- The proposed rezoning would be contrary to an Implementation Strategy listed in the Master Plan, which states: "Limit the commercial uses to current locations, current zoning, or areas identified for commercial zoning in the Master Plan for Land Use";
- Approval of the application would not accomplish integration of the proposed land development with the characteristics of the project area because the proposed concept plan is deficient in a number of landscaping standards listed in the Zoning Ordinance and extensive removal of regulated woodlands is proposed without adequate mitigation;
- Recently completed retail studies indicated the City currently has a surplus of land zoned or planned for retail activities to meet the highest predicted retail demand through 2018;
- The City presently has a retail vacancy rate for existing development near 10%;
- The proposed PRO concept plan contains a number of ordinance deviations, including deviations from the ordinance for accessory structure and loading zone locations as well as a significant amount of waivers from the ordinance landscape standards. The applicant has not established that these deviations, if not granted, would prohibit an enhancement of the development that would be in the public interest. Such deviations are not consistent with the Master Plan and are not compatible with the surrounding area because of the deficiencies in the amount of greenspace and landscaping proposed in the concept plan and the adverse impacts of the requested deviations may be seen to outweigh the enhancement of the public benefit offered to date;
- The application proposes to rezone the frontage along Ten Mile Road to the B-2 District, but proposes no conditions or limitations that would result in an enhancement of the development that would be in the public interest. For example, the application does not propose any limitation on undesirable or inappropriate uses and does not propose additional amenities or features for the public benefit.
- The existing I-1 and OS-1 zoning is consistent with the existing zoning in the area and the proposed project does not result in an enhancement of the area as compared to development under the current I-1 and OS-1 zoning, because new developments under the current zoning would be expected to meet landscaping standards and adequately address (and if necessary), mitigate woodland impacts; and
- Woodland impacts are likely to be substantial.

DISCUSSION

Mayor Pro Tem Gatt said he would support the motion for the reasons brought forth. He said a PRO had to be something that had such a benefit to the City that they couldn't turn it down. However, what was offered just didn't equal something this Council could embrace as a PRO. He said what he saw was more of a zoning request. He said Mr. Quinn talked about competition and he agreed competition was good and what had made this country and City great; but it had to be fair. Mayor Pro Tem Gatt commented that the people at Busch's, Walgreens, etc. that spent money on their projects did not expect Council to change that zoning. He thought to change it was not fair to the competition. He noted there was another big retail firm coming in in an area zoned for that use that would lend a lot of competition to other retailers in the City. He said he would support the motion to deny. He said a \$20 million project was very difficult to turn down but he believed it was best for the citizens of Novi.

Member Crawford said months ago she started asking residents in the area what they thought about this project and other future projects and a number of people were excited about having another grocery store in the City. She agreed Novi was underserved as far as groceries go. She said she asked those affiliated with Kroger if the Kroger on Beck Road would be kept open, and was given the verbal assurance that it would be. Member Crawford said four days ago Council had received the new Master Plan for Land Use that had been worked on for two years and she knew they had made informed recommendations. Also four days ago, was when the request was received for the development that required a zoning change that was not compatible with the new Master Plan. She noted she was surprised that the Planning Commission, on a vote of 5 to 3, despite the number of concerns they had with the concept, approved the rezoning with the PRO. Member Crawford said the Planning Commission studied and endorsed the new Master Plan but she felt the development just didn't fit. She commented Ten Mile was a traffic problem moving through Novi's borders and it didn't appear there would be any funding help from the county, so widening the road might not be the answer to moving traffic. She agreed with the staff's recommendations based on the nine comprehensive reasons they stated for denial and would vote in favor of the motion.

Member Mutch noted first and foremost the Master Plan process was just completed. He said staff and Planning Commissioners had input from residents, staff and the applicant along the way. He said they were well aware of the plans of this applicant and other plans discussed tonight and approved the Master Plan for the long range vision for the City. He said when they talked about the vacancy rates and the excess capacity of space in the City the thing he wanted to remind people of was that they planned for the long term. If decisions were made on the short term benefit without looking at the long term cost, the City would pay over the long term. He thought what Council had to do and what he thought the Planning Commission did in adopting the Master Plan was look at what made the most sense long term for that location and move forward accordingly. He said many of the public benefits were benefits that would come as a course of the development and were not particularly beneficial to the City as they would have been required to do the improvements in any case. Member Mutch said some of the variances were not variances Council would hold up a project for. However, when they

have the number of variances that were listed beyond the ones he thought could be appropriately addressed, it said to him that they were overbuilding the site with the amount of square footage of buildings in relation to what the site and constraints of the site would support. He said in that situation it was the applicant's responsibility to address those appropriately in their site development process and come to Council with a clean plan with as few variances as possible. He said when there are the number of variances as seen in the staff review it screamed out that too much was trying to be done on the site. Member Mutch thought those key areas supported the case for not approving the rezoning as proposed, the PRO agreement and for those reasons he would support the motion.

Mayor Landry stated he would support the motion and didn't support the project for the following reasons. He said first was the rezoning because it was not compatible with the Master Plan. He stated he couldn't explain away the fact that about 18 months ago Council denied a rezoning at Ten Mile and Beck for retail and Council said no because there was too much retail already. He asked how could they now, two miles down the road, approve more retail. He thought one of the best pieces of evidence was this proposal. He said the proposal was in three phases. He commented that phase one was the Kroger, phase two was the neighborhood shopping, which they found out wasn't going to be built because they didn't have tenants and there wasn't the market for the additional retail. He said what was being proposed immediately was a grocery store but there was another project in the City that was going to build a grocery store and it was a principal permitted use. He said the City had looked at its boundaries and decided where they wanted the uses so with respect to grocery there was a project for grocery in a principal permitted use. So, why would they want to change the zoning and add it to an area where they had already said they didn't need this particular retail area. He said there had been talk of competition, but pure form competition was incompatible with the essence of zoning. He said zoning by its very nature was saying yes here and no here. It's about looking at the City and saying they were going to limit these uses and when they said limit it was not compatible with pure form competition. The reason was pure form competition was short term and zoning was long term of the City. It was also said that their number one obligation was to look at the long term health. He said they had set various areas of the City as commercial retail, people had moved in and invested significant amounts of money and Council had an obligation for the long term health of the City. He noted the proposed Kroger would have a drive through pharmacy and asked what affect it would have on Walgreens next door, which apparently someone invested a lot of money for a drive through pharmacy looking at the adjacent zoning and thinking it would not allow a drive through pharmacy. He said Council had an obligation to maintain the integrity of the zoning process and he understood the applicant had a piece of property and wanted to maximize and had no problem with that. However, Council had a different role to play and it was for the long term viability of the economy of the City, and the essence of zoning was saying yes here and limit these uses here. Mayor Landry said with respect to the PRO it just didn't look like a PRO. He said there were no certainties, the benefit was not there. He said a PRO was entered to get rid of uncertainty and that wasn't here. In phase 3 there were no limits on the uses and no conceptual layouts. He said the only certainty was a grocery store and Council had already decided a grocery store would not be in this area of the City. He said for those reasons he could not support the project and would support the motion.

Roll call vote on CM-10-10-137

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

Nays: None

3. Approval of Labor contract with full-time Fire Union (Novi Professional Firefighters Union, Local 3232) for agreement July 1, 2009 - June 30, 2012.

Mr. Pearson said this represented a lot of hard work over a long time on the part of City staff, Ms. Gronlund-Fox, the negotiating team and the members of the full time firefighters union that served on their negotiating team. He thought it represented a step forward with the fire service operations and it opened the door towards one of the strategic goals of providing an integrated fire delivery service system. He said with this agreement they would be able to schedule the fulltime firefighters seven days a week and 24 hours a day. He commented there was more work to be done on the part time side of things and he was looking forward to that discussion. He said it also represented a new day in terms of finances. Mr. Pearson said the full time union, the police command group, had stepped up and met Administration's request to look at their contract and see where they might be able to provide some cost savings. He said they had done that and this agreement represented a package of that on both sides of the equation.

Mayor Pro Tem Gatt thanked everyone for making the contract a reality. He said they had met the challenge and agreed to a contract with concessions. He hoped that soon the economic times would get better and when that day comes everyone at the Council table should remember the sacrifices that were made and hopefully the City could make it right in the future.

CM-10-10-138

Moved by Gatt, seconded by Staudt; MOTION CARRIED:

To approve the Labor contract with full-time Fire Union (Novi Professional Firefighters Union, Local 3232) for agreement July 1, 2009 - June 30, 2012.

DISCUSSION

Member Fischer said, in his view that the purpose of the concessions was to insure that employee's wages and benefits were in line with the realities in the work force, and to insure that the City could contain the costs in an environment of declining revenue. He said this contract appeared to make headway with that and they saw that with the elimination of the overtime, increased health care contributions, increased co-pays, increased pension contributions but he had to ask himself at what cost. Member Fischer stated he was very concerned with the ramifications that the letter of agreement that the City would sign. He said he couldn't think of another industry or profession with a guaranteed employment clause that stated "the City will not lay off full time non-probationary bargaining unit members until 11 P.M. June 30, 2012 and then tied it to taxable value declines seen in the fiscal analysis of the City. He commented he understood that there was supposed safeguards tied to taxable value, however Council was elected and the Administration was hired to constantly review and monitor the needs and wants of the citizens. This agreement tied the Administrations and

Council's hands. He said if and when, the taxable values fall 9% or 6.9% in 2010 or 2011, which was under threshold, the Council couldn't make the tough decisions in a fair manner because there was a protected union group within the City. He said too many uncertainties such as health care costs, revenue sharing, etc. and a financial analysis and budget, tying things to a taxable value they left all else out of the equation. He felt that was too risky. Member Fischer said the Police Command Officers contract that did not include a clause with guaranteed employment even though it included wage cuts and a contract 2013, which were even greater benefits to the City. He said he was scared for the future negotiations with this union and others putting such a clause in. Member Fischer felt the clause was too risky and a step backwards. He said taxable value was one side of a budget equation and there was no protection against costs escalating. He thought it was unfair to other labor groups and a bad precedent that he was unwilling to accept at this time and these terms.

Member Mutch stated he understood the concerns of Member Fischer and thought several of the points were worth noting. However, he would point out that the kind of contract negotiations they had with the firefighters union and a couple of the other labor union groups were not like other contract negotiations. He said those groups had access to legal provisions and options that they could extend out the negotiating process that even if those contracts were settled in the City's favor it could result in extended periods of negotiation, mediation and arbitration. He said all which could lead to uncertainty in terms of being able to establish labor costs and additional cost to the City in terms of staff resources and legal fees that go into that process. He thought agreeing to this contract as presented, the Council was trying to create a balance in terms of locking in some significant savings from this union group. Member Mutch said these were significant savings but they weren't within the range that was set out for that group when they started the process of trying to secure concessions from all labor groups. He said the full time firefighters fell within the target they wanted to reach and gave Council some certainty in terms of cost that they otherwise wouldn't have. He agreed that it created some restrictions and if necessary, they would have to make them up elsewhere but he thought this was the right balance for those two competing factors. He said he would support the contract as proposed.

Member Margolis stated she would also be supporting the contract. She said they had addressed the cost savings that would give and appreciated their partnership in dealing with this issue. She commented that public safety and personal services was a huge part of the City's budget. She said the fact that this group would do that she thought that they, as a Council, had to be willing to give something back, which was this contract that said for an additional year past this budget year they would agree there would be no layoffs. The reality was there was a budget now that was balanced for this year and had been passed and would take them through next May. She said this was an additional year and as long as the projections were correct, they were pledging. She noted the firefighters dealt with "bosses" who got elected every couple of years, so when having these kinds of negotiating sessions a handshake was only so good when changes could be made in this group as they went forward. Member Margolis said in her opinion what this also did was give great increases in service to this community, while holding costs in check. She noted the idea that the full time firefighters were agreeing to the twelve hour shifts to cover the City, so that some of the recommendations

from the ICMA study could be followed to provide fire service that fit with the demand was huge for her.

Member Staudt stated he shared some of the concerns that Member Fischer had. He said he would rather the letter of agreement not be a part of the final settlement. However, it was and he thought that the fundamental restructuring of the Fire Department that came out of the agreement had much longer term effects. He believed this was time to move forward and there were other contracts to work on and they could move their attention from this one, which could have gone to arbitration and cost a significant amount of money. He said he would support the motion and thought long term this would be a very important contract in the direction they would go with the Fire Department.

Mayor Landry said not long ago they were at the budget session staring at the numbers and it was inescapable that they had to cut somewhere. He said they decided, as a group, that they would partner with the labor unions and offer them an opportunity to be part of the decision and it was really rather simple. He said they could either agree on concessions, and the labor unions could have a say about where the concessions would be, or they would lay people off or they outsource. At the time there were people telling Council they would never agree to concessions. However, Council said they wanted to give them the opportunity and they did. He said Police Command agreed on concessions and now full time fire had agreed. Mayor Landry said they needed concessions and wanted everyone involved in the discussions because if there were not concessions, they would have to start laying people off. He stated he was very proud of the full time fire union and they had done it without decreasing people and response times had decreased over the last six months. He stated he would fully support the motion.

Roll call vote on CM-10-10-138

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

Nays: None

- 4. Approval to award a service contract for forestry services to Asplundh Tree Expert Company (for a one-year term with three one-year renewal options) for an estimated annual price of \$183,479.**

Mr. Pearson stated he had asked Mr. Hayes, Director of Public Services, to look at options towards outsourcing some of the forestry work. He said the City had been able to provide a very high level of service with in house staff that was highly qualified and dedicated. However, this was one of the areas they came down to as they were making cuts since they were not able to realize the full wage and benefit savings that they wanted to see that could be outsourced. He said they developed an RFP, interviewed firms and received some very competitive proposals and they were recommending Asplundh Tree Expert Company who would provide tree trimming, needed ongoing services as well as provisions for emergency services. Mr. Pearson noted Asplundh was a national company, it was vetted out very well and it would take a high amount of work from the City's management team to manage the contract but it would provide the flexibility and ability to complete this work.

**CM-10-10-139 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:
To approve award of service contract for forestry services to
Asplundh Tree Expert Company (for a one-year term with three one-
year renewal options) for an estimated annual price of \$183,479.**

Member Mutch said one of the items in the outsourcing memo was that they were going to eliminate two full time staff and two part time staff employees because there wouldn't be people in house to monitor the work done by the contractor and that that would require increased staff time. Member Mutch asked who would have the responsibility to oversee the work or at least what position. Mr. Pearson said the position would be the Parks and Forestry Manager, which was the Steve Printz position. He said they were very happy with the recruitment process and that individual, John Thompson, accepted a position and was now a member of the City team. He said they were able to eliminate one of the MAPE positions and move him into the open, already budgeted, Administrative position. Member Mutch asked what other responsibilities Mr. Thompson would have. Mr. Pearson said he would work along side Mr. Hayes, Mr. Wiktorowski and Mr. Tremblay regarding any number of things with roads, parks maintenance and forestry. Member Mutch stated the one concern he had was, while they had spelled out what the labor costs were associated with the two contracts, he didn't see any cost associated with that. He said if that was an existing position, then it would not be an additional cost. He said, if looking at future proposals such as this one, something he would like to see was the fact that they were eliminating some skilled people who had skills the City would likely have to pay to have somebody do, or were they cross trained to fill in some other areas. He said he didn't see any cost associated with that and obviously they could see the \$232,000 compared to the \$183,000 but there was some value to having those particular skills in house. He asked for a fuller picture on what that impact would be. He said he knew it would be snow removal and some of the other activities and said they didn't need people on staff full time to do some of those activities. He commented that the fact that they do have people cross trained and able to fill in does generate a benefit for the City. If they had to contract out those responsibilities, or pay overtime, that would be the downside of losing those in house employees. Member Mutch said for future proposals he would like to see those spelled out in more detail. He thought when talking about trying to balance those costs, it was not just that bottom line labor cost but some of the other benefits and disadvantages. He noted the staff did a good job outlining in the memo that a fuller picture of what that was going to be was needed. Member Mutch said he would support this, as proposed, although he really had concerns about this particular area because once they outsourced it, if they didn't have a good experience with the contract, he thought they would have a difficult time re-establishing it and particularly if they sold off equipment the City had. Member Mutch said he had talked to residents about budget concerns and had told them that up until now they had relatively run through solutions that they didn't see or feel on a regular basis. He thought they were starting to run into those areas because of the economy and they would have to start hitting areas that residents would feel the impact.

Member Staudt said he had sat on the Park Commission and one of the biggest issues was the stump grinder. He said it turned out that buying the stump grinder and using internal staff to do a lot of the work saved a tremendous amount of money during the Emerald Ash borer problem. He said having looked at many proposals for forestry work at that time because of the large amount of work that was done it turned out that using internal staff and available times was a very efficient way to deal with the problem. He noted he would support the motion but thought it was something they needed to watch carefully. Member Staudt commented he wasn't sure he would want to get rid of all the equipment because at some point there would be some use to having it available.

Roll call vote on CM-10-10-139

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

Nays: None

5. Discussion of Process to Fill Potential Council Vacancy

This item was removed from the agenda by Mayor Pro Tem Gatt and postponed until November 8, 2010.

AUDIENCE COMMENT – None

MATTERS FOR COUNCIL ACTION – Part II - None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES - None

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 9:26 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene McLean

Date approved: October 25, 2010