

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI  
MONDAY, NOVEMBER 8, 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**      **Pack 50 Webelos:** Abhishek Kumar, Ajay Arora, Alex Moore, Arshia Salari, Brad Gamm, Joey Tesorero, Jooho Lee, Josh Krueger, Kyle Heslop, Luke Johnson, Matt Gamm, Nicholas Tu, Ryan Greenwald, Satvik Malapati  
Pack Leader: Janelle Moore

**ROLL CALL:** Mayor Landry, Mayor Pro Tem Gatt, Council Members Crawford, Fischer, Margolis, Mutch, Staudt

**ALSO PRESENT:** Clay Pearson, City Manager  
Victor Cardenas, Assistant City Manager  
Tom Schultz, City Attorney

**APPROVAL OF AGENDA**

**CM-10-11-144**      **Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:  
To approve the Agenda as presented.**

**Roll call vote on CM-10-11-144**      **Yeas: Gatt, Crawford, Fischer, Margolis,  
Mutch, Staudt, Landry**  
**Nays: None**

**PUBLIC HEARING - None**

**PRESENTATIONS**

**1. Business Recognition Awards 2010**

Mayor Landry said in 2008 the City of Novi initiated an annual recognition program to honor organizations that exemplify the Novi spirit and serve as models for other community partners. He said nominees were judged in the categories of community builder, superior business practices and customer service excellence.

**Community Builder - Play It Again Sports – Community Builder Award**

Mayor Landry said Play It Again Sports supported Novi Parks and Recreation, Novi Youth Baseball League and several Novi community functions. They partner with teams and leagues with fundraising options and had hired a team and lead coordinator to increase local sports and community outreach. He said they also hire local high school students and athletes. Mayor Landry presented the award to the representative of Play It Again Sports who said they were proud to be a part of the Novi community and hoped they could continue to grow with Novi.

### **Customer Service Excellence - Carrabba's Italian Grill**

Mayor Landry said at Carrabba's new employees were thoroughly trained by certified trainers with constant involvement of the management team in order to capture great customer service techniques. He commented they employed great hiring, training and low turnover, which had resulted in more knowledgeable and experienced employees. Mayor Landry said Carrabba's in Novi had constantly been one of the highest scoring restaurants in the chain for customer satisfaction. Mayor Landry presented the award to the representative of Carrabba's who said they had been in Novi for eight years and they were honored to received the award.

### **Superior Business Practices - Global Office Solutions**

Mayor Landry said Global Office Solutions had a strong focus on minority business partnering to grow their business over one million in sales. They focus on sustainability programs for their clients providing green solutions including product and services. He said they were able to build a reputation that supported nearly 500 schools and over 225,000 students, faculties, teachers and administration in the Wayne County School systems. He said they had supported the City of Novi in reducing the CO2 footprint by assisting with lowering energy costs, recycling and reusing products and services. Mayor Landry presented the Superior Business Practices award to the representative of Global Office Solutions who said he was honored and hoped to be in Novi for many more years.

### **Mayor's Economic Ambassador Award - Jim Mikula, Baronette Renaissance**

Mayor Landry awarded the Mayor's Economic Ambassador Award to Jim Mikula of the Baronette Renaissance. Mayor Landry said Mr. Mikula was out of town and accepting for him was Mike Wynn. Mayor Landry said the Baronette had undergone a renaissance of its own and had taken on the Renaissance flag in the Marriott chain. He said they had always been a very top notch, fine hotel but it was even finer now. Mayor Landry said what was most impressive was the fact that not only had they increased the notch of their physical facilities but Mr. Mikula had gone above and beyond. He said Mr. Mikula had constantly volunteered the hotel to serve as a location for City functions and they were very generous and were truly, truly an ambassador for the City of Novi in economic development. A representative of the Baronette accepted the award for Mr. Mikula and read a statement from Mr. Mikula, which said "he was honored and humbled by this recognition. He said he enjoyed being of service and helping other people and the reward for him was helping a community grow, creating jobs and improving the overall human condition. He said he was energized by the recognition to find more ways to be of continued service to the community."

## **REPORTS**

### **1. MANAGER/STAFF - 2011 Employee/Retiree Health Care Insurance Program - Tia Gronlund-Fox**

Ms. Gronlund-Fox said the BC/BS rates came in significantly higher than expected, as they thought they would be higher because of health care reform. She said the premium increased

between 53% and 58%, which would be a net cost to the City, based on current head counts, of approximately \$277,000 for active employees and approximately \$188,000 for retired employees. She said they expected the number for active employees would go down because some employees would move out of BC/BS and go to the lesser cost HAP plan. However, they wouldn't know that until open enrollment.

Ms. Gronlund-Fox said the HAP rates came in below the national average at 7.5% and they were happy with that. She said the national average was between 10.5% and 12%, so historically they had been below the national average. She commented that what blew them out of the water this year was BC/BS. Ms. Gronlund-Fox said, new for this year, they were offering Priority Health. She said it was a high deductible HMO plan with an attached health savings account. She said it would position the City better with not only the private sector, but a small number of other municipalities that were moving towards high deductible plans and getting employees more involved in the spending of health care dollars.

Mayor Pro Tem Gatt said the net cost to the City combined would be \$465,000. He said if 25% of the people changed, they would still be talking about \$300,000 plus that they weren't planning on. He asked where that money would come from. Ms. Gronlund-Fox said her understanding, after speaking with Ms. Smith-Roy, was it was budgeted by department and the budget would be able to withstand the increase. Mayor Pro Tem Gatt understood they were only talking about six months, which would be half of the cost, but it was still \$150,000 to \$200,000 they had not planned on. He asked Ms. Smith-Roy if that money would come from some of the savings they had already realized, because of some of the personnel moves that Administration had done. Ms. Smith-Roy said the retiree portion would come out of the Retiree Health Care Fund and would not be charged directly to the General Fund. She said they did come out better than they had anticipated during the year, so that would cover part of it as well. She said they actually had built in a 14% increase for employees overall, so since HAP was lower the dental was lower and the life insurance was a little lower so it would offset and be pretty close. She commented they felt the budget would be OK and wouldn't need an amendment specific for that item. She said six months obviously helped as well.

Member Margolis said there really wasn't a lot they could do except give the Administration credit for looking into Priority Health. She thought it offered an option that was at a lower cost and yet might offer, depending on an individual employee's use of health care, a better deal in terms of what was covered. She asked if she was correct, and Ms. Gronlund-Fox said she was. Member Margolis said they would be investing and it would roll over year to year unlike a reimbursement account.

Member Mutch said the way these plans were presented was that they were more consumer based and gave employees more control over utilizing their health care funds. He said if they were more sensitive of the costs, because they were coming out of pocket initially with a reimbursement, they would use those dollars more wisely. Member Mutch asked, regarding that approach, what they would be able to do as a City on behalf of employees, or what would the employees be able to do in terms of getting more access to the cost associated with health care. He said there were two health care situations, the discretionary and emergency. He asked how employees looking at discretionary choices, would find out the cost associated with

some of these and be able to do some comparison so they would know they were getting a better deal from the market. He asked if the City could assist employees to be more educated consumers of their health care choices, because if they offered this option, he didn't want employees to be on their own. Ms. Gronlund-Fox said Human Resources was always available as a resource for employees. She said they help direct them to the right place but could not get information because of HIPPA laws and those types of regulations. She said the best thing was to be informed and ask questions of their doctor or go to the web site. Secondly, they had Gallagher Raines, benefit consultant, as a tool for employees. Member Mutch asked what ability the City or employees had to get access to some of the basic fees for the employees. Ms. Gronlund-Fox stated they could assist employees but it was really the employee's responsibility and part of being responsible for their health care. She said they would guide them but part of the goal was to get employees to be more active in making those decisions and find out about health care and the cost. Member Fischer noted that on the employee e-web there was a specific section for the benefits that was pretty thorough for employees to evaluate what their plan covered. Member Mutch thought the idea sounded good, but the biggest challenge was getting access to those kinds of things such as pricing that was competitive. He thought whatever Human Resources could do to assist employees would help determine whether this was successful or not. He thought if employees made this choice and then realized they paid a lot out of pocket, and more than they would otherwise, they might not opt for that option, even if it was less costly. He said they would want the certainty that other plans provided.

Member Fischer said for Priority Health, the 75% deductible that would be put into the HSA for the employees, where does the benchmark versus other plans in other municipalities lie. Ms. Gronlund-Fox responded that the City of Wixom funded 100% and they knew they didn't want to fund 100% because they wanted some skin in the game. She said they tried to make the deductible similar to some of the other deductibles they had with the health care plans, such as BC/BS. He noticed that they looked at Healthy Blue Living through BC/BS as well as the Health Engagement Plan through HAP. He said it appeared they were not looking to provide that option but he encouraged her to keep it on the radar and she said she would. He said what he liked about those plans was that it seemed like they provided a little more of the coverage but also required them to have some skin in the game and forced them to go to the doctor and do some preventative maintenance. He thought they were good options to keep on the table and he would continue to encourage her and City staff to consider that for next year.

Member Crawford said she and Member Fischer were present at the City of Novi retirees meeting where Ms. Gronlund-Fox presented the information about the increased cost. She said it wasn't very popular with the retirees because most people didn't like to change their insurance. She said she really appreciated the fact that she set up a meeting for employees and anyone that wanted to attend and speak with vendors one on one and receive the information on all the possibilities. She said if there was ever a time all the options had to be looked at this was the time, because the insurance rates and options are going up and people would have to do the research. She encouraged those that were eligible for Medicare to look at all the options in the Medicare book and to talk with vendors about supplemental plans.

Mayor Landry noted that no municipality can budget for a 58% increase and he commended Administration for diversifying. He said the fact that they were offering options was what was impressive.

**2. ATTORNEY - None**

**AUDIENCE COMMENT – None**

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

**CM-10-11-145 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:  
To approve the Consent Agenda as presented.**

**Roll call vote on CM-10-11-145 Yeas: Crawford, Fischer, Margolis, Mutch, Staudt,  
Landry, Gatt  
Nays: None**

- A. Approve Minutes of:
  - 1. October 25, 2010 – Regular meeting
- B. Acceptance of Island Lake of Novi Subdivision, Phases 4B-1 and 4B-2 (The Orchards) streets and adoption of Act 51 New Street Resolution accepting Terra Del Mar Drive, Langley Drive, Bellingham Drive, Billenca Drive, Kennebee Drive, Saybrook Court and portions of Amesburg Drive and Nepavine Drive as public, adding 8,016 linear feet or 1.52 miles of roadway to the City's street system.
- C. Approval of Zoning Ordinance Text Amendment 18.244 in order to prohibit the installation and operation of outdoor furnaces; to modify the definition of recreational equipment; to add brewpubs and microbreweries as principal permitted uses in the B-3 District and principal permitted uses subject to special conditions in the RC District and modify requirements for brewpubs and microbreweries in the TC and TC-1 District; to provide standards for an extension of a site plan utilizing a planned development option; to update standards for storing a commercial vehicle at a residence; and to amend the time limit for approval on a variance granted by the Zoning Board of Appeals. **Second Reading**
- D. Approval to award a contract for design engineering services for the Civic Center Regional Detention Basin Upgrades to Spalding DeDecker Associates, Inc. (SDA) for a not-to-exceed design fee of \$14,824.
- E. Approval to award the contract for the Novi Civic Center HVAC Upgrades to Service Control, Inc., the lowest responsive qualified bidder, in the amount of \$53,900, utilizing Energy Efficiency and Conservation Block Grant funding.
- F. Approval of Traffic Control Device Agreement with the Road Commission for Oakland County for the modernization of the existing traffic signal at Grand River Avenue and

Meadowbrook Road following completion of the Grand River Avenue Rehabilitation project (Novi Road to Haggerty Road) in 2012.

- G. Approval of Traffic Control Orders 10-49, 10-50, and 10-51 to establish a permanent three-way stop control at the intersection of South Lake Drive, Old Novi Road, and 13 Mile Road as part of the intersection improvement project , which includes removal of the existing traffic signal.
- H. Approval to transfer ownership of escrowed 2010 Class C licensed business, located at 2325 Joslyn Ct, Lake Orion, MI 48360, Orion Township, Oakland County, from Canterbury Castle Management, Inc. to Tony Sacco's Novi, LLC; and transfer location (Governmental Unit) (MCL 436.1531(1) to Novi Town Center, 43270 Grand River, Novi, MI 48375, Oakland County.
- I. Approval of Claims and Accounts – Warrant No. 831

**MATTERS FOR COUNCIL ACTION – Part I**

**1. Discussion of recommended procedure to fill City Council Vacancy.**

Mayor Landry congratulated Member Crawford for winning the County Commissioner's seat. He said the thought was presented that because goal setting and the initial budget items were coming out earlier in December, they would like to have Member Crawford's replacement hit the ground running and be able to meaningfully participate. He said Member Crawford had agreed to, in the best interests of the City, step down a little early. So, the dates were his proposals to allow Council to advertise immediately, give applicants sufficient time to apply and have a special Council meeting on November 29th for interviews. He said the appointment to Council would be made at the regular City Council meeting of December 6th and that member would be able to have a month to prepare before the goal setting sessions began.

**CM-10-11-146 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:  
To direct the administration to move forward with the proposed  
schedule and the process as outlined.**

**Roll call vote on CM-10-11-146 Yeas: Fischer, Margolis, Mutch, Staudt, Landry,  
Gatt, Crawford  
Nays: None**

Mayor Landry added a personal thank you to Member Crawford. He thought this was consistent as she had always acted in the best interests of the City. He said she didn't have to leave but her willingness to do this spoke volumes about her character and her willingness to serve the City.

**2. Approve the Program Year 2011 Community Development Block Grant Application in the approximate amount of \$104,142 and authorize the Mayor to sign the Application and Sub-recipient Agreement.**

Mr. Pearson said the Citizen's Committee had reviewed the requests and made a recommendation. He said it was, in a large part, consistent with prior years. He commented there was not a lot of money to work with and there were restrictions on how it could be used, but they had made a recommended budget for the upcoming year. Mr. Pearson thanked the committee and staff member Marina Neumaier.

Member Mutch said it looked like the amount of money they had to work with had decreased even though the need had increased. He thought one of the things they had coming in terms of Community Block Grant dollars was they were likely to see those continue to decrease with the change of the makeup of the parties in power in Washington. He said there had already been talk that CDBG funds were likely to be reduced further. He said he requested information from Administration in terms of what the current need was in relation to the funds available. Member Mutch said one of the things that jumped out at them was that the amount of need in this community had continued to increase, which was no surprise considering the economy. He said a number of low income senior households needed assistance for minor home repairs. Member Mutch said the one area they had some discretion with the funds was the senior van transportation service. This year that amount which had previously been funded at \$15,000 and the year before at \$25,000 was recommended for reduction to \$12,000. He said it was the one program they funded through the block grant money that the City had the flexibility and authority to fund elsewhere from the General Fund dollars. He said none of the other activities undertaken by the block grant funds minor home repair, support for Youth Assistance and HAVEN could be funded out of the City's General Fund dollars. So, in light of the need for households in Novi, for support for the Minor Home Repair program and the fact that they do have money in Fund Balance and Parks and Recreation and Cultural Services budget, which funded the Senior Van Transportation service and the likelihood that they would have to fund that activity from the Parks and Recreation Fund dollars, he made a motion.

**CM-10-11-147      Moved by Mutch, seconded by Fischer; MOTION CARRIED:  
To approve the Program Year 2011 Community Development Block  
Grant Application with a change increasing the amount for the minor  
home repair from \$76,978 to \$88,978, reducing the transportation  
services from \$12,000 to zero dollars maintaining a total of \$104,142.  
Also, to direct the City Administration in an upcoming budget  
amendment to allocate an additional \$12,000 to the Senior Van  
Transportation Service from the Fund Balance of the Parks and  
Recreation and Cultural Services budget to insure that the Senior  
Van Transportation Services were fully funded.**

## **DISCUSSION**

Member Crawford commented all the organizations listed needing funding or getting the CDBG funding were certainly worthy of funding, and she didn't like Council pitting one organization against another. Member Crawford said in economic times such as these, the programs for battered and abused spouses would be growing larger as well as emergency services, safety and home repair and all of those kinds of things. However, the Senior Van Service was also

growing as people aged and the senior population grew at an enormous rate, she wanted Council to think at budget time when in goal sessions that Novi had increasing numbers of seniors and people living longer who could no longer drive. Member Crawford said there were very few neighborhoods in Novi where someone was able to walk to a store or drugstore. She noted the cab company didn't seek to have a contract with them, so they expanded the service to include the hours that the cab would have picked up for medical appointments only. She said they were reducing the budget by \$3,000 in the CDBG and expanding the service. She said many people had told her how important and critical the van service was. Member Crawford said she would like Council to think long and hard about that because there were lots of places that people had to go that was just as much a necessity as medical appointments. It was just as important for people to go to the grocery store, drugstore or church as it was to have a job, etc. She said she didn't like putting people in a box as to where they could go and thought that was really wrong. If people were trying to maintain their independence, then she thought they should let them be transported wherever they wanted to go rather than saying they could only go for medical appointments. She asked Council to keep an open mind and look at how they could fund it out of the General Fund.

Member Staudt assured Member Crawford that he would certainly support a fully funded Senior Transportation Program at budget time. He agreed with the modification that had been made and was happy to see the money go to a program that they couldn't fund from any other mechanism. He stated he was in support of the motion.

Mayor Pro Tem Gatt said he would be in support and would insure that the Senior Van would be funded during budget. He said he agreed with Member Crawford that people should be able to go wherever they wanted to go to. He asked if there was any difference between OLSHA, public services, safety and repair services for \$2,500 and what they had just increased to the Residential Repair Program. Ms. Smith-Roy said OLSHA was for the manager and for the service contract the City had with OLSHA for the minor home repair. Mayor Pro Tem Gatt asked what OLSHA Safety and Repair Services was. She responded it was for the services under the Minor Home Repair Program and the City had a contract with OLSHA to service Novi. Mayor Pro Tem Gatt asked if they did the same thing as the Residential Repair Program, and she said they did and that was the contract that the City had with them. He asked what would happen if they took \$500 from OLSHA and put it somewhere else; would that negate the contract. Ms. Smith-Roy said yes, it would negate the contract because it was a part of the whole package that the City signed with them on the contract. She said there was an OLSHA manager that they were not funding anymore and were doing it out of the Parks Fund.

Mayor Landry stated he respectfully disagreed. He said not only would he not support it, he would not support the committee's recommendation of taking \$3,000 from the Senior Van Program. He said he didn't know why they would want to foist on themselves a hole to dig out of at budget time before they even got to the budget table. Mayor Landry said they were cutting this source of funding to Senior Vans and foisting it over on the General Fund and he didn't know why they would want to do that. He said Minor Home Repair was important right now but last year it was three quarters of all of this money. He said everybody couldn't get everything and Council was trying to move this around a little bit and trying to take care of



HAVEN, Novi Youth Assistance and the Minor Home Repair Program. However, they just couldn't give everybody everything and he didn't know why they would want to take this \$12,000 or \$15,000 away from the Senior Van Program and say they had to find it in the General Fund. He stated he was ready to deal with it now. He said he would not support the committee's recommendation but would support keeping exactly what it was last year and not take one dime from the Senior Van. Mayor Landry said he didn't think it was wise to say "they would just have to find it at budget time." He said they just looked at a 58% increase that no one expected from last year. He asked why they were digging a hole before the budget even started. He stated he would not support the motion.

Member Staudt said Mayor Landry mentioned it was coming from the General Fund and said he thought it was coming from the Parks and Recreation Fund balance. He asked if that was what was previously proposed. Member Mutch said yes, and the direction to the City Administration would be to fund the Senior Van Transportation Service the \$12,000 out of the Parks, Recreation and Cultural Fund Balance. He said they currently allocated approximately \$60,000 out of that fund. He said the City Administration was already going to allocate the \$3,000 short fall from the fund and to be consistent with that they would utilize that fund to fund the Senior Transport Service.

Mayor Landry said he didn't know why they would want to take away from the Parks and Recreation Fund and even Fund Balance; it was still coming out of what was General Fund dollars. He said they fund the Parks and Recreation program and he wouldn't support it. He said it was a very worthy cause but he just didn't think it was wise and they were giving three fourths of the money they had already to this. He said from three quarters to 85% and then nothing was given to the van program and they would just have to find the dollars. He said he would be more in favor of spreading it out.

Member Mutch stated he understood the budget impact and there were a couple of things they had to keep in mind when talking about the block grant dollars. First, the pool of money that could be allocated for van services, Youth Assistance or HAVEN was already limited by the County. He said they didn't allow them to spend more than 30% of their dollars on those activities. He said they were talking about \$3,000 or \$4,000 and whether it was \$15,000 or \$12,000 they couldn't go much beyond what they were already funding. He said the other thing was to look at the need in the community. He said there were 70 households waiting for assistance and out of the current years dollars they would be able to assist 17 of them. He noted there were 20 households for next year and that assumed that none were added between now and next July when they could start accessing the funds. Member Mutch said in all likelihood that need would increase. He said a lot of these households were not households that could work with private organizations where they could come in because they were in some of the manufactured home communities. He said this limited the people who could work on those homes because there was a special skill set involved with that. So, this truly was the only source of funding. He said what he comes back to was what he had heard from this Council consistently at goal setting and here tonight, was that Senior Transportation Services were a critical service to this community. He said they met a need for not only seniors but people who had no other way to get around town. Member Mutch said for a critical service that met an important need, he thought as a Council, they could prioritize those dollars and

they would find the additional \$12,000 in the Parks, Recreational and Cultural Services Fund to meet that need. It might mean making choices about other priorities and not funding those but if they were going to say it was a priority for Council, then they should fund it as if it was a priority.

Mayor Landry said there were a lot of things that were critical services to the City and they would ultimately have to find the money to fund these critical services. He said the more they could use external funds, the better they would be than to have to keep saying they had to find the money from the General Fund. He said last year they had a discussion about lifeguards and there was a recommendation to take the lifeguards out and they said it was a critical service and let's find the money to do that. He said a lot of people needed home repair and a lot of seniors needed a ride. He thought that built into this formula was the requirement that 50% or 60% had to go to the Senior Home Repair Service and he thought that requirement was an internal requirement that protected that need. He said he didn't feel the need to go above and beyond that and thought that internal stop gap measure protected the minor home repair need. He stated he was suggesting that three quarters of the money went to home repair, as he didn't see cutting out senior vans from this source of funding.

**Roll call vote on CM-10-11-147**

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

- 3. Consideration of Ordinance Amendments to provide updates to cost recovery of extraordinary or avoidable public safety expenses:**
  - a) Consideration of adoption of an ordinance to amend, No. 10-176, the City of Novi Code of Ordinances to amend Chapter 2, entitled "Administration" to add Article VIII regarding cost recovery for emergency response. First Reading**
  - b) Consideration of adoption of an ordinance to amend, No. 10-99.15, the City of Novi Code of Ordinances to amend Chapter 15, Article II, entitled "Fire Prevention Code" to amend Sec. 15-16 to specify penalty for violation, to amend Sec 15-17 regarding hazardous materials discharge recovery action, and to amend Sec 15-20 to refer to Chapter 2, Article VIII for cost recovery. First Reading**
  - c) Consideration of a resolution establishing the fee schedule for cost recovery for the determination of the cost of a response under Chapter 2, Article VIII of the City Code.**
  - d) Consideration of an ordinance to amend, No. 10-23.25, Chapter 22, "Offenses," Article II, "Offenses Against Public Administration," Sections 22-96 to amend the standards for the regulation of alarm systems to include fees for responses to false alarms from fire alarm systems. First Reading**

Mr. Pearson said these were amendments to the existing ordinance that the City Attorney had requested the Council consider updating and tweaking. He said while doing that they were asking for consideration for additional clauses. He said the intent was not to charge for the run

of the mill emergency responses and believed the language of the first reading could be narrowed a bit. He requested Council's thoughts and direction.

Mayor Pro Tem Gatt thought they were on the verge of a slippery slope and wanted to be cautious before approving amendments to these ordinances. He said he would not, as a Council person, agree to start charging citizens and business owners for normal public safety delivery; they already paid for that. He said when he read the intent of the ordinance it said "this article is for the purpose of insuring that the City shall to the extent permitted by law recover the costs of an emergency response from the responsibly party." Mr. Pearson said they were not intending to charge normal citizens for normal public service delivery, but that was not what it said. He said if Mr. Pearson left the City, they didn't know what the next Administration would say. So, he could not vote in favor of these ordinances as written and thought they needed to be tweaked. He said, for example, he had been on domestic violence calls where there were two, three or four police cars, police officers and money being spent and they were there for hours. He asked if the City would then bill the residents for that, and Mr. Pearson replied no, but that was not what it said in the ordinance. He asked that the City tweak this so the normal people would not be charged for a normal emergency response service.

Member Staudt said he had spent considerable time on the web looking at this issue and it seemed to be an issue that had come up all over the country. He said he found the reviews to be very mixed. He said there were three or four companies who made an extreme profit on pursuing these types of claims. He said frequently, around the country, what was known as the Emergency Response Cost Recovery Fee, was also known accurately as the Crash Accident Fee. In some states it had gotten to the point where these organizations, that did collections very aggressively, had been outlawed. Member Staudt asked Chief Molloy what prompted him to bring this forward at this point. Chief Molloy said it was something that the Fire Department had been looking at for a couple of years but it had never come to fruition. He said early this year this Council and Administration brought forward several agreements from MEMAC, Michigan Emergency Mutual Aid Compact to the MABAS, Mutual Aid Box Alarm System, to the Hazmat Agreement with western Wayne County. He said they brought those agreements forward to make sure that the City was protected in the event that other resources had to be called into the community because of a man made or natural disaster, train derailment or hazardous material response. He said part of the pacts and mutual aid agreements they had was that they had an updated cost recovery ordinance on the books. He said that was the only intent. He said the intent was not to generate revenue, not to go after residents, not to bill people for ordinary run of the mill traffic crashes or normal complaints. Chief Molloy said the intent was to be able to have the resources and tools available that if they had to expend a significant amount of resources on a train derailment clean up, or if they had residential criminal activity like a meth lab. They needed the ability to bill back these people to recover the cost. Member Staudt asked what adjoining communities had similar arrangements. Chief Molloy responded Farmington Hills, Bloomfield Township, West Bloomfield and Livonia; the number was countless. Member Staudt said as a public safety officer, Chief Molloy was aware that this was a national issue and that a lot of other communities and states viewed it very differently than Chief Molloy was explaining it. They viewed it as a source of revenue and something that they were going to aggressively pursue.

He asked if they were considering an outside agency to collect the fees like other states. Chief Molloy said their intent was to do it like they were doing it now, through the Public Safety Administration. He said they had a contract with a cost recovery agency for OWI. Chief Molloy said there was no intention of utilizing an outside agency to collect these costs. Member Staudt asked if he was aware of the problems that occur with some of these agencies, and he responded he was. Member Staudt said then they were not considering that at all and Chief Molloy said they were not. Member Staudt asked if there was any projection on what the revenue would be on this. Chief Molloy said he couldn't make a projection because these were not things that could be projected. He said it was not uncommon for them to respond to other communities once or twice a month, and those communities had these ordinances and cost recovery in place. He said it was difficult for him to put a number or dollar figure on what they would receive in terms of reimbursement for not only cost recovery but also for personnel and resources, apparatus and equipment used to mitigate these situations. Member Staudt said one of the arguments made frequently was for communities that had interstates running through them. He said the vast majority of those people were non residents. If, for example, there was an accident with hazardous materials involved, those were the kinds of accidents they would pursue. Chief Molloy said if the driver of the vehicle was culpable and at fault. If the driver was not at fault they would have to take a long hard look at whether they would go after that individual, if there was no negligence, but they needed to have that option if necessary. Member Staudt asked what the precedent was for who would pay the fees; were they insurances, individuals, etc. Chief Molloy said he couldn't answer that. He thought it was a mixture of the two and sometimes if it was a small enough bill the initial companies would pay, but if it was in the tens of thousands of dollars they would rely on their insurance carriers. Member Staudt asked if there was a train derailment, would the City be responsible for the clean up. Chief Molloy said the City would be responsible for the initial response and could be responsible for the clean up depending on how quickly CSX could get their resources to the scene. He said the City would have a very protracted and prolonged presence at the scene determining who was actually responsible for the clean up, which would be mitigated by Administration, incident commanders and officials from the railroad. Member Staudt said so in that type of situation, in the past without this legislation, the City wouldn't be able to recover those costs. Chief Molloy said they could recover some of the costs. However, what they were trying to do now was align the ordinance with the recent case law, as well as with some of the other emergency compacts they had entered into in the last six to eight months under the Public Safety Administration. Member Staudt said he thought the fees would set a dangerous precedent that the City must assuredly follow by proposing and enacting additional layers of fees. He said he did not support the additional fees and felt they would be passing the burden onto taxpayers and other organizations. He thought they needed to set priorities and not add levels of fees. He stated he was not in support of the motion.

Member Margolis asked if she was correct that there had been a Cost Recovery Ordinance in place for quite some time. Mr. Pearson said she was correct, and it was for those kinds of major, extended incidences. She said then this was an update and Mr. Pearson agreed. She thought there would be room on second reading to come back with more restrictions to make sure that a future Administration or Council who decided this would be a great way to get money, would be restricted to certain times. She said she saw this as protecting the taxpayers. She thought what these ordinances would do was in an unusual circumstance

where a large disaster or something criminal happened, they would have a way to protect the taxpayers from having to pay for that kind of damage. She asked if that was what they were talking about.

Mr. Schultz said two things really; the first was a case that came out of the Court of Appeals that invalidated an ordinance that tried to get cost recovery on a hazardous material spill. The Court said they had their own ordinance but it was preempted by local ordinance, so this would take advantage of that by updating the City's ordinance.

The genesis of this was as much Oakland County's as anybody else. He said the Chief the meetings at western Wayne County for mutual aid agreements. A couple of years ago the County started talking about an intergovernmental mutual aid agreement with a bunch of southeastern Oakland County municipalities. He said two of the main issues that he thought were being discussed tonight, just sort of a general anybody responsible for an incident had to pay for it and a motor vehicle involved in an incident had to pay for it really came a little from this work group ordinance that came out of the County. He said since that came out, they had kicked around whether to accept it or not accept it and a number of communities had done similar ordinances and some had been way more restrictive. Mr. Schultz said they would only charge the mutual aid what someone charged the City because of some of the mutual aid agreements they had entered into recently. He said what they did was make the language as broad as possible in the event of a worst case scenario. Member Margolis asked how this could be made more restrictive. She said what he said was they wanted to leave the discretion in there because they were required to because of these mutual aid agreements. However, if because of extreme negligence the same restaurant was having a kitchen fire everyday or every week and it was causing the City major expense and major time, it was a way to say the taxpayers would not pay for someone else's negligence. She asked if there was a way to write the ordinance so that a negligence issue was addressed. She said, for her, it would be unusual circumstances so those unusual costs from someone's negligence wouldn't be passed along. She would like to see changes on second reading.

**CM-10-11-148 Moved by Margolis, seconded by Fischer; MOTION CARRIED:  
To consider Ordinance Amendments to provide updates to cost recovery of extraordinary or avoidable public safety expenses with ordinance changes on second reading.**

**a) Consideration of adoption of an ordinance to amend, No. 10-176, the City of Novi Code of Ordinances to amend Chapter 2, entitled "Administration" to add Article VIII regarding cost recovery for emergency response. First Reading**

**b) Consideration of adoption of an ordinance to amend, No. 10-99.15, the City of Novi Code of Ordinances to amend Chapter 15, Article II, entitled "Fire Prevention Code" to amend Sec. 15-16 to specify penalty for violation, to amend Sec 15-17 regarding hazardous materials discharge recovery action, and to amend Sec 15-20 to refer to Chapter 2, Article VIII for cost recovery. First Reading**

**c) Consideration of a resolution establishing the fee schedule for cost recovery for the determination of the cost of a response under Chapter 2, Article VIII of the City Code.**

**d) Consideration of an ordinance to amend, No. 10-23.25, Chapter 22, "Offenses," Article II, "Offenses Against Public Administration," Sections 22-96 to amend the standards for the regulation of alarm systems to include fees for responses to false alarms from fire alarm systems. First Reading**

## **DISCUSSION**

Member Mutch said one of the points Mr. Schultz addressed in the e-mail to the City Manager was the way the language was currently written. In the section that was being added to the ordinance it talked about liability and the presumption of liability on people involved in various activities, which were spelled out within the ordinance language. He said the one that he flagged was that if someone was driving a car and got in an accident, there was a presumption that they would be liable for the cost of the emergency response. He said that would be anyone who was involved in the accident that owned or leased a vehicle. He said in the response to the e-mail the language read that way but then there would be an opportunity for someone to rebut that presumption of liability. Member Mutch asked if that was covered somewhere else in the Ordinance and in a situation where the City felt there was a presumption of liability, how did they go about challenging that. He asked what the process would be. Mr. Schultz thought it could be addressed by City Administration. Member Mutch thought his response and the language in that section was where he was having his concerns with the additional language they were proposing. He thought there were situations where it made sense for the City to have some mechanism in place to address costs. A perfect example would be, on the west side of the State, there was an oil pipeline that ruptured and some indication that the owner of the pipeline didn't properly maintain it, and the spill affected multiple communities. Also, a hazardous waste situation where there was criminal negligence resulting in significant cost passed along to the City or a mutual aid situation. He said he was comfortable with those situations, but the problem he had was in the interest of writing the language as broad as possible to cover every possible scenario. Member Mutch said not only did it cover almost everything, other than a residential house fire, there was a presumption that they were in the wrong until they showed them otherwise. He understood Administration wasn't looking to create a cost recovery program to generate revenue or even apply this broadly. However, this kind of language and process had turned into that kind of program in a number of communities across the Country. He said they don't want to absorb the cost of accidents on the interstate and look at it as the insurance companies would pay the cost associated with the City sending out a fire truck or ambulance, etc. He said he was not comfortable including language that was that broad. He said he wanted narrowly tailor the language to address the significant situation he had outlined and then make clear that it was only to be applied under those kinds of situations. Also, address the issue of liability and make the process clear for challenging the presumption of liability upon someone who it might be imposed upon. He said he would not support a change to the Ordinance that laid the path for a broad cost recovery

program down the road. He commented a future Council might decide that was the route to take but he would not support putting that framework in place now because he didn't think it was needed beyond those limited situations. He stated he would support the first reading but would be looking for changes before he would support the final vote on this.

Member Fischer stated he was also concerned with the broad language and the discussion that in certain situations the City might or might not send a bill. He asked Mr. Schultz if that could cause the City issues in the sense that, for example, there were two kitchen fires, one a bill was sent to and that person tries to compare their fire to the second fire. He asked Mr. Schultz if he could see the City tied up in litigation trying to compare one person's negligence versus the next persons. He asked if that would even be part of a litigation or case. Mr. Schultz said it could be scaled back to mutual aid. Member Fischer said he would like to see the language scaled down. He thought they all agreed that they didn't want to see this as a revenue enhancement but that doesn't appear to be the direction of the Administration. Member Fischer stated he would look for any language or suggestions Mr. Schultz could include in the second reading. He said that went for residents and non residents travelling on the interstate, etc. He stated, applied correctly, he saw this as a taxpayer protection and it would help a lot to enter into mutual aid agreements. Member Fischer said he would support this to see a second reading with the comments of Council incorporated.

Mayor Pro Tem Gatt said if they started charging people for negligence, they would be charging a lot of people a lot of money to have the police and fire respond to the same residents time after time. He said if they craft an ordinance where it's mutual aid and there were large costs involved, that was something he could live with. He said if they craft an ordinance where bills were sent to residents for police and fire service because someone started a kitchen fire five days out of twenty, shame on them; however, the City's job was to respond to that; their insurance company would take care of the rest. He said if there was a house fire and mutual aid had to be called, through no fault of the homeowner, they had to be conscious of the fact that the homeowner's come to Novi because of the services. He said to start charging them money to serve them more was not something he could support. Mayor Pro Tem Gatt said he would support the first reading but the second reading had to be something that was very cleverly crafted and would not charge the residents anything unless mutual aid was brought in. However, mutual aid meant that the City would be charged, so then the City would have to recover that cost.

Mayor Landry said he didn't think there was that much disagreement among members of Council. He said he was not in favor of charging the common place taxpayer for public safety services, and didn't think anybody was. On the other hand, he felt this type of ordinance was a necessary ordinance to have on the books. Mayor Landry said everyone wanted to cut money to cities, and the legislature had certainly done that with the statutory State Shared Revenue. He commented that 50% of every municipality's budget was public safety. He said they saw their neighboring communities struggling to provide police and fire services with fewer dollars. He thought they had to get creative and efficient to lower costs and to plan and provide for major disasters or needs with mutual aid agreements. However, with mutual aid there had to be a stop gap and he looked at this type of ordinance almost like a stop loss insurance policy. He said they knew they were going to pay a certain amount but a stop loss policy was

purchased so that one big hit didn't kill them. Mayor Landry said, to Mr. Schultz, if there was language that could be put in to soften the intent; he didn't know if the intent language had to be broad to enforce this type of statute or not. He said he didn't know about the appeal process and whether there was a board that could be created; whereas if there was an attempt by the City to apply this, there would be an appeal board they could go to. Mr. Schultz said there was a Construction Board of Appeals. Mayor Landry said he thought Council would be more inclined if they knew there was an avenue for anyone who was to be the target of such an ordinance, to explain their side. He thought this type of ordinance was necessary, would support it and was confident that Mr. Schultz would give Council some options. Mayor Landry said he didn't know how Council felt about the Construction Board of Appeals serving that function and suggested looking at other communities to see what served as that function. He said perhaps there was a special AD HOC Committee that was put together to serve as an AD HOC Board of Appeals.

**Roll call vote on CM-10-11-148**

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

**Nays: Staudt**

- 4. Introduction of Ordinance No. 10-103.11, an ordinance to amend Chapter 12, "Drainage and Flood Damage Prevention", Article II, "Drainage in connection with the construction of buildings and improvement of property", in order to amend the title of the Article; to add a new subsection (f) to Section 12-24, "Prohibited acts", making it unlawful to cause or permit temporary or periodic drainage of water onto adjacent property without consent; and to add a new Section 12-28, "Discharge of swimming pool water, specifically regulating with the discharge of swimming pool water. First Reading**

Mr. Pearson said a resident brought this to their attention to look at these kinds of provisions.

Mayor Pro Tem Gatt asked if the ordinance would prohibit opening the drain to drain a pool and letting it flow in its natural course, which might lead to a neighbor's yard. He asked if he would have to get his neighbors permission. Mr. Schultz said yes and there were other ways to do it.

Member Mutch said he was concerned with the "Miscellaneous Discharge", which read "It shall be unlawful to cause or permit the temporary or periodic discharge of any water onto any adjacent property without the consent of the owner of the adjacent property." Member Mutch said the concern he had was there would be people who would look at that and as soon as their neighbor's sprinkler crossed the property line they would be on the phone to City Hall. He said then the City would have to go over there and try to address a neighborhood dispute. Member Mutch said what he liked about the second section was that it was very specific, clear and addressed the specific issue they had. He said the intent of the first language was correct and he didn't think that anyone wanted to be inundated with water from their neighbor's property. He said the alternative to the City addressing this was going to court and suing their neighbor over it, and they didn't want that either. Member Mutch said the way the Ordinance was written covered any situation where water was coming across the property line. He



thought the City's concern would be a significant amount of water, like a pool, or someone was constantly causing water to run off on adjacent properties. He commented he didn't want City staff brought into neighborhood disputes because the ordinance had language that could apply to any of these situations.

Member Fischer said his concern was the second section because it seemed very prohibitive of draining pools in general. He said it seemed like they were requiring residents to put it on their own lawns and allow it to drain in a very slow fashion. He said sometimes that would not be possible because the backyard was made up of the pool and backyard and his neighbor had someone come and drain it out onto the driveway and then it went into the storm water. He asked if that wasn't allowed beforehand. Mr. Schultz noted pool water should be neutralized seven to ten days before draining. Member Fisher said he was confused by the reading because Section 12-28 (a) seemed very clear about draining into a stream or other water body or storm sewer. So, he thought they could review that language and make the intent clear there, because residents should be able to use that as a mechanism to take care of their pool maintenance.

Member Margolis said she agreed with that and it said "you may only discharge it onto grassy areas even if it was de-chlorinated. She thought they should loosen that up because if someone didn't have grassy areas, they were stuck with their water all season.

**CM-10-11-149 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY: To introduce Ordinance No. 10-103.11, an ordinance to amend Chapter 12, "Drainage and Flood Damage Prevention", Article II, "Drainage in connection with the construction of buildings and improvement of property", in order to amend the title of the Article; to add a new subsection (f) to Section 12-24, "Prohibited acts", making it unlawful to cause or permit temporary or periodic drainage of water onto adjacent property without consent; and to add a new Section 12-28, "Discharge of swimming pool water, specifically regulating with the discharge of swimming pool water. First Reading**

**Roll call vote on CM-10-11-149 Yeas: Staudt, Landry, Gatt, Crawford, Fischer, Margolis, Mutch  
Nays: None**

**AUDIENCE COMMENT – None**

**MATTERS FOR COUNCIL ACTION – Part II**

- 5. Approval to award a contract for multi-function office copy equipment to Ricoh Business Systems (RBS) through the US Communities Purchasing Alliance in the amount of \$178,012 (four year lease cost); plus an estimated \$37,000 for annual service agreement costs.**

**CM-10-11-150 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:**

**To approve award of a contract for multi-function office copy equipment to Ricoh Business Systems (RBS) through the US Communities Purchasing Alliance in the amount of \$178,012 (four year lease cost); plus an estimated \$37,000 for annual service agreement costs.**

Mr. Pearson noted a staff team reviewed the current contract and future needs. He said it didn't automatically pass on what was done in the past and as a result they estimated a \$50,000 savings over the life of the contract.

Member Staudt stated he tested copiers for a living and thought this was a very good decision. He said Ricoh was a very good company, had excellent service in this area and the cost per click was very good. He congratulated them on a job well done.

**Roll call vote on CM-10-11-150**

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

**Nays: 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 8:38 P.M.

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David Landry, Mayor

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Maryanne Cornelius, City Clerk

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Transcribed by Charlene McLean

Date approved: November 22, 2010