

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, SEPTEMBER 8, 2008
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE RD**

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

PLEDGE OF ALLEGIANCE

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

ALSO PRESENT: Clay Pearson, City Manager
Pamela Antil, Assistant City Manager
Tom Schultz, City Attorney
Matt Pegouskie, Community Relations Coordinator
Rob Hayes, City Engineer
Sheryl Walsh, Community Relations Manager
Kathy Smith-Roy, Finance Director
Rob Petty, Director of Information Technology

APPROVAL OF AGENDA

**CM-08-09-150 Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve the agenda as presented.**

**Roll call vote on CM-08-09-150 Yeas: Capello, Crawford, Gatt, Margolis, Mutch,
Staudt, Landry
Nays: None**

PRESENTATIONS

1. Update on City of Novi and Novi Community Schools Cooperative Agreement and Future Development Rights for Signature Park – Mayor Landry

Mayor Landry said the City was pursuing the potential for a signature park as a result of a citizen survey done in 2006. He said it was also a result of focus groups, the senior survey, and the Parks and Recreation Master Plan. Mayor Landry said there was a need for a signature facility that could house additional indoor sports space, outdoor gathering, international festival space and theatre. He said the City was pursuing the possibility of obtaining approximately 70 acres of property for the construction of a signature park for these activities. Mayor Landry said one piece of property that would work very well was the property that surrounded the Bosco Farm and was owned by the Novi Community School District. He said they approached the school district about the possibility of working out an arrangement, which would involve a land swap, allowing the school district to retain the rights to build on a portion of the property because they were concerned they might need to build a future building of some nature, and an arrangement whereby if the area was developed as a signature park, the City would bring the utilities to the site, which would be a benefit to the school district should they build. He said it was not just a land swap but involved a few more added aspects. Mayor Landry said a group the Council had tasked with that function had met with the Facilities Committee and on September 4th, he, Mr. Pearson, Sheryl Walsh, Chief Molloy, Mr. Auler and Member Crawford made a presentation before the school board on the notion of a signature park. Mayor Landry said the Novi Community School District was a separate governmental

entity, and of all the governmental units he had ever dealt with, he had to say they were focused right on the best interests of the community. He said it was a pleasure to deal with a group whose goals were exactly the same as the City's goals, which was what was in the best interests of the residents and taxpayers of Novi. He said they were working through this and hoped to have a specific proposal for the school board to vote on whether to pursue this or not by the next school board meeting. He said all of this would be subject to voter approval at a special bond election. If they could work the land swap, they would then come forward with a very specific proposal and ask the residents if it was their desire to bond this out. He said all of that was proceeding.

Member Gatt commented that he had the opportunity to watch Mayor Landry on television and felt if it didn't happen, it was certainly no fault of Mayor Landry's efforts. Mayor Landry responded that it was a team effort.

2. Novi Participation in November 2008 National Citizen Survey – Matt Pegouskie

Mr. Pegouskie said just as a business conducted market research, progressive city governments conducted citizen surveys to best align city surveys with user demand. In 2006 the National Citizen Survey was mailed to selected residents within the City of Novi. The data gathered from the statistically valid survey showed the City scored very well in terms of a place to live, work, raise a family and quality of life. In addition, all of Novi's public safety scored very high led by the Novi Police Department, which ranked in the ninety first percentile over all, Novi Code Enforcement scored in the ninety fourth percentile, which earned the City the prestigious Voice of the People Award. He said the three areas that citizens placed the most emphasis on were customer service by all City employees, listening to the community's needs and what they wanted and promoting and maintaining an attractive community. Another result of the survey was that there appeared to be a difference in perception between residents who lived south of I-96 and north of I-96. Once that difference in perception was identified the City went right into action. He said Ms. Uglow and the Novi Police Department went to homeowner associations and an enhanced partnership with the Walled Lake School District was forged. The execution of the 2008 National Citizen Survey afforded the opportunity to reemphasize the City of Novi's commitment to listening to its community. Mr. Pegouskie said now they had the advantage of not only comparing Novi with cities of similar demographics but with the results of the 2006 National Citizen Survey. He said Council could use the information in goal setting sessions to establish new objectives and to reemphasize existing ones for the 2009-2010 budget process and beyond. Mr. Pegouskie said after the official survey results were collected the National Citizen Survey would be hosted on the cityofnovi.org; while not being statistically valid it would give every citizen in the City of Novi an opportunity to voice their opinion. Also, they would tweak the survey with the partnership of the Novi Chamber of Commerce and place it on investnovi.org so the business community could also weigh in. Mr. Pegouskie said they believed the 2008 National Citizen Survey provided Council and staff a valuable tool that they could implement during the budget process and to reemphasize their commitment to hearing the voice of Novi's citizens.

Member Mutch said he had looked at the 2006 survey to see what questions were posed and they were generally the same as the 2008 survey. However, there were a few that were left out. He said the one that jumped out because of the irony of it was a question about whether they promoted a city government that listened to community needs and desires. He asked for some explanation as to why certain questions were in the 2006 survey but not in the 2008

survey. Mr. Pegouskie said the 2006 Citizen Survey and 2008 Citizen Survey all had a general format in terms of the questions that were chosen. However, in terms of the standard questions, the National Research Center based in Denver Colorado opted not to put that question on the survey.

Mayor Pro Tem Capello said regarding question #2, it seemed that they would get answers more suited to what they were looking for if they broke some of them up into two questions, rather than combined questions. For example, breaking police and fire up separately, as he felt people looked at those as individual departments and they had different interests in each of them. He said in the natural areas they had always combined the open space, wetlands and woodlands and he thought people really had a different feeling towards wetlands than they did woodlands and open spaces. He said when they were combined together they were not really getting an accurate answer. Mr. Pegouskie responded they could definitely divide those and work towards a question that was all encompassing. Mayor Pro Tem Capello said they could just break them up into three separate questions. He said the last one was the recreation and cultural programs. He said he knew there was some overlap but he looked at the recreation aspect being quite a bit different in regard to the users than the cultural aspects. Mr. Pegouskie agreed.

Member Margolis said she would support splitting the questions up. She felt it made a great deal of sense and would also give Council information in comparison to the previous survey. She thanked Mr. Pegouskie and expressed her support for this. She said when this was done two years ago it was really helpful to go over the results before Council went into goal setting. It gave them an idea of where the community stood and what they were looking for. She commented the survey could tell them whether all the work they had put in during the last two years was making a difference in perception. She thought this was a wonderful tool and she thanked the staff for opening themselves up, once again, to people rating them on how they provide services and how the City did.

REPORTS

1. MANAGER/STAFF - None

2. ATTORNEY - None

AUDIENCE COMMENT

Michael Watza, 21916 Bedford, was present to address Item #5 on the Agenda. He requested that Council not approve the item or that they table it until another meeting. His concern was with the large boxes being placed in the right-of-way. He felt they treated PEG as a poor step-sister and while Brighthouse, Comcast and Charter do present these channels as needed, he felt they did this because they could get away with it. The problem with the A T & T system was that it was simple web streaming, so why pay for it twice.

Brooks Decker, 46130 West Park Drive, was concerned over the City's use of the staging property west of the Waste Water Treatment Facility. He said it had a lot of sensitive wetlands and he felt the City had been using it as a dump for dead landscape vegetation, broken concrete and asphalt grindings. He commented he had called the DEQ and the City was operating under a permit; however, he felt it was not in conformance with the permit as to the

storage of materials. Mr. Decker said the property was identified as parkland and he wanted to make sure Council was aware this was happening. He noted the site had been cleaned up but shortly after the asphalt grindings were still there and rain water was silting through all that petroleum based asphalt without erosion control and was running into the wetlands. He said he wanted to know what the City's intention was regarding the property.

CONSENT AGENDA REMOVALS AND APPROVALS

Mayor Pro Tem Capello removed Items E and G.

**CM-08-09-151 Moved by Margolis, seconded by Mutch; CARRIED UNANIMOUSLY:
To approve the Consent Agenda as amended.**

**Roll call vote on CM-08-09-151 Yeas: Crawford, Gatt, Margolis, Mutch, Staudt,
Landry, Capello
Nays: None**

- A. Approve Minutes of:
 - 1. August 25, 2008 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of September 8, 2008 in the Council Annex for the purpose of discussing pending litigation, land acquisition and privileged correspondence from legal counsel.
- C. Approval of the final payment in the amount of \$14,704.00 to Reliance Building Company for the Hudson District Sanitary Lift Station Improvement Project, located on the east side of Meadowbrook Road just north of I-96.
- D. Approval of Traffic Control Order 08-06 for the installation of No Left Turn from 8:00 a.m. to 10:00 am and 3:00 p.m. to 5:00 p.m. signage from northbound Willowbrook onto all Village Oaks School Entrances.
- F. Approval to award bid to Integrated Design Solutions, LLC, in the amount of \$35,970, for Engineering and Design Services for Ella Mae Power Park Concession Facility Replacement and Asphalt Repair.
- H. Consideration of Oakland County Drain Commissioner's Interlocal Agreement for Drain Services for the installation of Supervisory Control and Data Acquisition (SCADA) equipment at the Walled Lake Diversion Control Structure in the amount of \$19,560.00.
- I. Approval of Resolution Number 1 for Special Assessment District 174 – Wixom Road (Section 18) Sanitary Sewer Extension, authorizing the preparation of plans, specifications and cost estimates.
- J. Approval of Claims and Accounts – Warrant No. 776

MATTERS FOR COUNCIL ACTION – Part I

- 1. Consideration of the request of Titan Hotel Development, LLC, for approval of a Preliminary Site Plan, Wetland Permit, and Storm Water Management Plan for a proposed Hyatt Place Hotel at the Rock Financial Showplace. The applicant is proposing to construct a 5-story, 132-room hotel and parking lot expansion on 133.72 acres located on the north side of Grand River Avenue, west of Taft Road in the OST, Planned Office Service Technology District with an EXO, Exposition Overlay.**

Blair Bowman was present representing Titan Hotel LLC and stated the acreage, as read, was considerably larger than what the overall site was. He said it was a 55 acre site. Mr. Bowman noted there was a Planning Commission recommendation for the hotel project, which was the next step of the overall evolution of the Rock Financial Showplace project. He said the hotel they were proposing and were franchised for was a Hyatt Place and was extremely high quality in the business traveler class but along with being attached to the meeting and convention facility; it would have all the components of a full service convention/conference program. He said it would be a five story complex with 132 rooms. Mr. Bowman said they were attracted to this after looking at a number of different franchise types for this type of hotel and it was very consistent with the architectural look and feel of the existing Showplace. He said the connection point would be a visual and very attractive component. They had gone through many reiterations on the location of the hotel and how they might place it on the site with the ability to, on the eastern portion of the site as a part of the phased site plan, construct needed additional parking. Mr. Bowman said they thought that the placement of the hotel, visually out in front of the project, should be able to be seen from the expressway but provide the most convenient and direct connection without breaking up the attractive visual component from the Grand River frontage. He said it would provide the people staying in the hotel with the most attractive visual component on the site. Mr. Bowman said after the construction of the hotel, the impervious surface would be somewhat less, which was contemplated in the phasing of the site plan originally submitted.

Member Margolis stated it was a wonderful development and thought it would be a great addition to the community. She said she was pleased to see this come forward and that the staff and Planning Commission had given positive recommendations. Member Margolis said the staff had not recommended the waiver for the parking islands and there was some information in the packet regarding a compromise where it putting in small islands was discussed. She believed the small islands were to be in the new parking lot only but not as many as were required under the new ordinance. Mr. Pearson said all they were suggesting was that on the new parking to be constructed during Phase I that they not retro fit anything else. He said if they went by the strict fifteen stalls formula there would be three banks of those required and they were suggesting consideration of one bank of them across to break it up a little. Member Margolis said she understood why the ordinance was changed for large fields of parking. She said she was looking at the small section of parking in the large aspect of the parking and rationale as to what huge difference that would make in a back parking lot. Mr. Pearson said it was more parking on top of parking. He said there was parking in the front of Grand River Avenue parking, although there were some parking islands breaking that up.

He said this was closer to Taft Road and was an extension of the parking lot further to the east. He didn't know if it could be seen from I-96, but it was a field next to I-96. He said when Twelve Oaks expanded their parking lot to I-96 they did put in parking islands for the expansion area. Member Margolis said in the letters there was talk about it being compromised and she asked Mr. Bowman to comment on that. Mr. Bowman said that was one of the things that received the most discussion at the Planning Commission level. It simply set forth that there were practical as well as sound historical reasons for it. However, one of the things they were looking to accomplish with this was consistent with the east and west parking fields, which was having long uninterrupted volumes of parking that had other screening sources available to them. Mr. Bowman said they had the vegetated bank along the expressway and a large deep recess and setback from any properties along Grand River so it was very unlikely it could be seen. It was an operational parking area that would be utilized on occasion and it was something they thought they needed. He said one of the big things they hoped to accomplish with this was doing a number of ride and drives, dealer education programs and vehicle research programs. He said they do a considerable amount of that business now. However, one of the feedbacks that was consistent was that undulations in their lot provided concerns and even the light poles and anything that would break up the use of the lot provided difficulties for them. So, in this lot with the way that the grade was set was that it would be mostly sheet graded and it would provide them with a clean and clear field of parking that would allow them to open up a door to a considerable amount of delegates coming in and utilizing it for those types of extended stays. He said there were practical things too such as storage of snow and maintenance that they would hope they complied with the intent and what was a great suggestion, in hind sight now. He thought making sure the front along Grand River and what was seen when entering the project was done right, well and with additional islands but as far as practically, meeting the volume of parking at the east and west lots that they were allowed to have the larger runs of parking. He said this was consistent with that. Member Margolis said she understood why the ordinance was in place but a side lot like that with all those considerations she didn't have a problem with agreeing with the Planning Commission.

Member Crawford said one of the issues brought up was runoff and they seemed to feel that the islands would help with the runoff. She asked what he thought about that. Mr. Bowman said one thing they had to address was that in the expanded area they were now under the new ordinance and provided a basin, which would accommodate the runoff. He said it was meeting all the stormwater standards and was being held in a basin and discharged at an agricultural rate into a spill off area before it hit any of the sensitive wetland areas. He understood what the rationale was but it would be a very small amount of what would be green space area that would be dedicated to the small islands. However, it would be breaking up right in the middle of their then functional operational lot. Member Crawford said there were a lot of vendors coming in with bigger trucks and trailers and asked if the parking lot as he proposed it, meant that there was less of an issue with their vendors. Mr. Bowman said sure, and not just the vendors but on occasions there would be staging areas for the RV and camper event or boat show for example. He said just the movement of vehicles and the staging and storing of those for the move in and move out, and the logistics there would all be hampered by breaking it up with those types of islands. She said she liked the drawings, the layout and the way the building was turned and thought it would be a beautiful project and an asset to the City.

Mayor Pro Tem Capello said he had seen the staging area and would like to see some of the parking area during the week used for something other than parking. He recalled the waiver for the existing east and west parking lots and thought it made sense to extend that waiver out to the east. He said from Grand River Avenue there were three properties that were owned by others and there were existing buildings on them and soon two of those buildings would be down and new buildings built. He said to the north of those buildings there were wetlands and there was no way the parking area would be visible from Grand River. He commented that he was confident that the parking area would be shielded enough from the expressway that a couple of trees in the middle of the lot wouldn't make any difference. The functionality of it made a lot of sense and the application of the ordinance in this situation didn't make sense to him. Mayor Pro Tem Capello commented that he was a little remiss with Administration in this situation. He said they had the Planning Commission recommendation for approval and waiver of the landscape island standards. Then in the report Administration was not supporting the Planning Commission's decision but arguing against the recommendation before Council. He said he didn't think that was Administration's position but thought when it got to this point the Administration should be supporting the Planning Commission, especially since they weren't present to represent themselves. He stated he was very surprised that the recommendations from Administration were contrary to what the Planning Commission recommended and noted he was not happy with the Administrations position.

**CM-08-09-152 Moved by Capello, seconded by Margolis; MOTION CARRIED:
To approve request of Titan Hotel Development, LLC, for approval of
a Preliminary Site Plan, Wetland Permit, and Storm Water
Management Plan for a proposed Hyatt Place Hotel at the Rock
Financial Showplace granting a waiver of all the parking lot
landscape island requirements on the eastern to be constructed
parking lot, granting the Section 9 waiver to permit the percentage
of EISS on all four sides to exceed the zoning ordinance maximum
for the reasons set forth in the consultants recommendations, and to
accept the interpretation that given the location of the new hotel, not
having a rear entrance for the loading zone to accept the loading
zone in its present location on the plans as being in compliance with
the ordinance subject to the other conditions as set forth in the
consultant review letter.**

DISCUSSION

Member Gatt said these were devastating economic times and the project would be a wonderful addition to Novi and he would fully support the motion. He said, on behalf of the Administration, he believed it was their responsibility to go over all plans that come before them and the Planning Commission and make recommended changes. He thought that was their job but the Planning Commission had it right in this case and he would support it. He said he would always support the Administration 1000%. Member Gatt thanked Mr. Bowman for his efforts and said the hotel was a welcome addition.

Member Mutch stated he was willing to support the motion because he thought Mr. Bowman's issues with the needs he had for that area offset the requirements in this case. He said the Rock Financial Showplace was a unique facility in the City and there would never be ordinance standards that fit exactly for every project. In this case, Member Mutch said he was willing to

go along with it given the explanation. Member Mutch said he did have a concern about pedestrian traffic in terms of those who got stuck out in the central land of parking ensuring people could get from that parking area to one of the entrances. He said going from the far parking lot to the side entrances would be close to walking from Grand River to the front entrance. He thought that was quite a stretch and he would be like the applicant to work with the staff to do whatever they could by final approval to get pedestrian traffic from those parking areas to the entrance area. He thought that was the glaring omission from the design and especially in their case because that location was on the access drive that probably got limited use now but over time as the area developed, it would become more intensely used. He thought whatever steps could be taken to improve safety would be well warranted.

Member Staudt said these were extremely challenging economic times and to make investment in the toughest times really showed a business partner with the City that was looking to the future. He said he would strongly support this and thought it was the next logical step at this facility; he was very happy it was moving forward.

Mayor Landry said he would not be voting yes on this solely because of the parking end islands. He said he fully supported the hotel and was very happy to see it come. He stated he had no problem with the façade or loading zone waiver. However, how could he tell Twelve Oaks Mall they had to build end islands but not tell Rock Financial Showplace they had to build them. Mayor Landry thought the applicant had set forth reasons, the Administration had worked with the applicant and come up with a compromise to request less end islands but some end islands. He said Providence Hospital was about to build out and there would be a lot of people coming forward and they would be asked to put end islands in. Mayor Landry said he had a problem with the inconsistency and thought the Administration's compromise was the right way to go.

Mr. Bowman said he would echo Member Gatt's position on this too and thanked Mayor Pro Tem Capello for his comments. Mr. Bowman said he had no problem with constructive discourse about this and examining alternatives and offering up compromises. He said he and Mr. Pearson had conversations about that so it wasn't a surprise to them and he understood completely. Mr. Bowman said there were end islands and perimeter landscaping in this but it was not in total what was required by the ordinance; he commented that they were different than the typical shopping complex or office building. He said they conducted activities in their lots; they were not just limited to vehicular parking. Mayor Landry said the ordinance required an end island every 15 parking spaces, correct. Mr. Pearson said not end islands but landscaped islands. Mayor Landry said that was what the ordinance required and his understanding was that the Administration recommended they move from the every 15 spaces and go with total end islands and one right down the middle of the parking lot. Mr. Bowman said it ended up being one end island every 24 parking spaces. He said it was not an all or nothing proposal as they were actually repositioning currently existing ones, putting some in and doing perimeter landscaping. He said they were simply not breaking up the runs of parking in the center of the lot with any additional center islands. Mayor Landry said then there would be no center islands under his proposal and Mr. Bowman said he was correct. Mayor Landry said under the Administrations proposal there would be center islands. Mayor Landry said Mr. Bowman had always been willing to talk and compromise and it appeared he had the votes to put no center islands in. However, his problem was consistency and it was his only problem. Mayor Landry said he wanted to echo Member Gatt's comments as he too thought it

was the Administrations obligation to give Council their opinions and he was happy to have them at any time.

Roll call vote on CM-08-09-152

**Yeas: Gatt, Margolis, Mutch, Staudt, Capello,
Crawford**

Nays: Landry

- 2. Consideration of Zoning Ordinance Text Amendment 18.229, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 12, OCS, Office Service Commercial District, Subsection 1202 "Principal Uses Permitted Subject to Special Conditions" and Subsection 1203, "Required Conditions", and at Article 24, Schedule of Regulations, Subsection 2400 "Schedule limiting height, bulk, density and area by zoning district" in order to expand uses permitted subject to special conditions in a planned shopping center and to provide greater flexibility in the design of planned shopping centers in the OSC District. First Reading**

Mr. Pearson said this came as a result primarily of the Providence Hospital build out. He said it was a multi use, multi purpose property and obviously the hospital was the main event there. However, the fact was the property was zoned office, service and commercial and the commercial component had always been planned as part of it to take advantage of what had been in the ordinance. He said because of the size and uniqueness of the project they had a good deal more of commercial opportunity there, which gave rise to some suggestions to look at the OSC Ordinance and improve upon it to allow the commercial to be high quality and still meet the intent of the overall district. Mr. Pearson said Gary Jonna, a developer of that property had made suggestions and Administration had made suggestions and brought them to the Planning Commission and received their input. He said they have an overall package with a positive recommendation for Council's consideration.

Member Margolis said she had no problem approving the first reading of this and thought it made sense in terms of the Providence Development. However, before it came back for second reading, she wanted more information on the other areas this would affect. She said she would like more specifics on this from Administration in the off week packet because as a zoning text amendment it wouldn't just affect this property.

CM-08-09-153

**Moved by Margolis, seconded by Staudt; CARRIED UNANIMOUSLY:
To approve Zoning Ordinance Text Amendment 18.229, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 12, OCS, Office Service Commercial District, Subsection 1202 "Principal Uses Permitted Subject to Special Conditions" and Subsection 1203, "Required Conditions", and at Article 24, Schedule of Regulations, Subsection 2400 "Schedule limiting height, bulk, density and area by zoning district" in order to expand uses permitted subject to special conditions in a planned shopping center and to provide greater flexibility in the design of planned shopping centers in the OSC District. First Reading**

DISCUSSION

Member Mutch said he would echo Member Margolis' request. He said he understood the desire of Providence Hospital to be able to develop the particular commercial design that they had in mind. However, this illustrated some of the challenges of when changes were made to address the needs of one applicant because it potentially opened the door to development in a way he didn't think they wanted to see happen. He said the areas of concern he had were 8 Mile and Haggerty Roads where there was an already large retail complex that was allowed under the OSC zoning. He said presently it only had two restaurant sites because of the ordinance requirements. Member Mutch said by allowing multiple restaurant locations including drive through restaurants, he was concerned it would open up that area for additional restaurant development. He said staff indicated that there were only certain sites that weren't developed but locations like that would be prime locations for redevelopment so he could see additional restaurant uses coming there. In addition, opening up the area north of that along Haggerty Road for potential locations including fast food restaurants would also be a concern for him. Member Mutch said there was also property in the Town Center area at the north east corner of 11 Mile Road that Singh had owned and he thought was currently selling. Again, he could see potential development there of commercial and restaurant uses beyond what they had contemplated. Member Mutch said the intent of the OSC was to be predominantly an office park development zoning district with some associated commercial development. He thought what Providence Hospital did was probably closer to the intent of the OSC development than what they had at 8 Mile and Haggerty Roads. He was concerned that opening the door for Providence Hospital would open the door for a lot of other uses they didn't want. Member Mutch said the other question he wanted addressed before second reading was the issue of the setbacks in the Providence Hospital campus, specifically along the private road and along the green space. He said he would be interested in an explanation from staff as to why they would want to reduce setbacks in those areas and whether the green space in the hospital complex was protected from future development, or if they could see development along there. He said he would support the first reading.

Mayor Pro Tem Capello said he would like Administration to see if these types of amendments would fit within the OST Ordinance also, particularly looking at the Northern Equities Developments going in north between 12 and 13 Mile Roads along M-5. He said for him this created a campus environment where there's the hospital and office buildings and people working there would not have to go out onto Grand River, 12 Mile Road or M-5 when they wanted to go out on their lunch hour. He said if they could keep that traffic off of the major roads and within a confined complex, it would help the entire infrastructure, it would help traffic and benefit both the developments and the people who worked there. He thought this was a win win for the City. He said he did have a problem with not allowing the rear and side yard setback waivers. He thought if it was part of a development, the City would make up for that land in the surrounding development of the hospital and office buildings but that could be addressed at a later time. Mayor Pro Tem Capello commented he looked at this as being a benefit for the City and the workers that were there and wholeheartedly embraced it.

Mr. Pearson said in reference to the OST, he didn't think they could include that. Mayor Pro Tem Capello said no, it was not to be included in the second reading.

Roll call vote on CM-08-09-153

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

Nays: None

DISCUSSION

Member Mutch asked why there couldn't be rear yard parking. Ms. McBeth said the rear property was developed with other land uses. She said there was a large spruce tree located adjacent to the proposed new parking lot and there was very limited space there for additional parking. Member Mutch said, looking at the aerial map provided, he could see there were other uses on the property. He asked if there were sheds on the back of the property. Ms. McBeth said there were a variety of uses there; she said there was a garage and some rental homes on the property. Member Mutch thought the property was large enough to accommodate the parking without having to go into the right-of-way especially since half of the building wasn't on the property but was in the City right-of-way. He said the applicant had choices that needed to be made. If they wanted to utilize the building as an existing business, they might have to remove some of those other structures. He said it's in the City right-of way and allowing a use that he would have a hard time justifying when the property owner had additional property they could utilize, if they chose to. He said he would not be able to support the variance request based on that. He said he had asked Mr. Hayes about the ability to move the parking closer to Novi Road and Mr. Hayes had indicated that having a traditional 90 degree angle parking there simply wasn't enough room between the existing roadway and the building to accommodate either of those. Mr. Hayes said he was correct as the road wasn't wide enough to accommodate a vehicle backing out to exit the stall. Member Mutch asked if it would be possible to have parallel parking similar to Main Street or was Old Novi Road too busy to accommodate that kind of parking. Mr. Hayes said he was not aware of anything in the Ordinance that would preclude that but he thought it was a larger issue that would need to be discussed. Member Mutch said it was an alternative that he would have liked to have seen explored, if Council was willing to look at that. He thought having parallel parking there would give them more room and eliminate all or most of the variances other than the fact that the parking was being provided in the right-of-way. He thought they needed to, as a City, figure what character they wanted to have on Old Novi Road; would it be more of a residential street with some limited businesses and then look at accommodating that kind of design. Or, were they more interested in getting traffic through there as fast as possible. He thought it needed more review and that the City needed to make a decision as far as a policy for that area because hopefully more proposals would come in for redevelopment of some of the business parcels in that area. He thought they would want to have a consistent approach along there.

Roll call vote on CM-08-09-155

**Yeas: Staudt, Landry, Capello, Crawford, Gatt,
Margolis**

Nays: Mutch

- 5. Approval of an agreement with AT & T subject to review and approval of standard form of agreement by City Manager and City Attorney to purchase two encoders and two T1 lines for approximately \$17,212 for the first year and approximately \$14,154 for each of the two subsequent years for the purpose of providing City of Novi PEG programming to AT & T U-verse subscribers.**

Mr. Pearson said this was something they were asking the City to consider; it was not an AT&T request. He said it was something that they wanted to bring forward to enable City programming to be available for AT&T U-verse subscribers just as it has been in Brighthouse. The City had collected fees over and above what came to the City from Brighthouse because

of the way the law had changed. He thought that the amount of U-verse subscribers had grown enough that this should be considered. It would take some up front investment and some ongoing maintenance of the lines to get this done. He said they needed to do this so a U-verse subscriber could see it on their TV not just on the computer. He said Novi would be the first to make it available but it would need Council's strong consideration to make that leap.

Member Gatt said Mr. Watza spoke regarding this during public comment and he couldn't disagree with him more. He said today the U-verse people in Novi, about 1,500 or more, were growing and they were denied the opportunity to see Council meetings unless they were on a small screen on the computer. He said the money they were talking about was not taxpayer dollars but was money collected by subscribers to be used for this very purpose. He said franchise and PEG fees were used to provide programming and delivery as well as the opportunity for "public broadcasts" through educational classes and equipment. He said Brighthouse paid the City a 5% franchise fee and a 1% PEG fee and of that funding 3% was paid directly to the City and that revenue went into the General Fund. It was then used to fund the audio/visual staff, video streaming on the web, equipment, enhancements in the Council Chambers, etc. He said U-verse subscribers were paying the franchise and PEG fees and did not receive the same programming as Brighthouse customers. He said he was in full support of this item because it would help the citizens who had chosen AT&T U-verse. Member Gatt said earlier on this year a Council member subscribed to U-verse and opened up his home for members of the SWOCC Commission to come and observe the PEG channel. It was easy to get it and only took seconds.

Sheryl Walsh said the City of Novi expressed interest in providing the PEG channels on U-verse early this year. She said it was not approved in SWOCC's budget and the City met with AT&T to look at ways they could provide this service to Novi community members. She said they didn't have an actual count but their estimate was 1,500 subscribers by doing a simple equation of the \$30,000 plus they had provided to the City with the roughly \$100 U-verse fee, the 5% franchise fee, etc. She said the PEG and franchise fees had grown over each quarter since last May when AT&T began offering their product in Novi. She said they paid franchise and PEG fees and by Public Act 480 those fees were determined to come directly to the municipality and do not go to SWOCC.

Member Margolis said the purpose of this was to provide the full programming that was on Novi's channel 13 for cable subscribers to the AT&T subscribers. She said it was not just to provide the Council meetings, which was the only thing presently streamed on the City web site. Ms. Walsh agreed and said Mr. Watza was correct in that the signal sent to Brighthouse was a television analog signal, which was very different than the signal that would be sent to AT&T. She said there would actually be two signals; one from SWOCC, which would have all of Novi's regular programming plus the bulletin board, which would be out there 24 hours a day and 7 days a week. She said there would also be a feed that would come to the Civic Center so all meetings that were cablecast or video cast from Council Chambers would be available.

Member Staudt said the amount of disinformation he had heard over the last two months regarding this was astounding. He said as an AT&T subscriber for U-verse, it took about 15 seconds to get onto the PEG channel and the video quality was not nearly as poor as it was through other services he had previously. Member Staudt said for many years he had satellite service and the local cable channel and this had been a vast improvement in the availability of

programming and on line accessibility. He said he also had internet services for cable and it was up far more often and he couldn't be a happier customer of AT&T U-verse. He said to hear some of the contentions about the quality of service or to read it on the internet was just an organized effort to smear AT&T for some reason he didn't understand. Member Staudt said his bill had two line items, one for franchise fees and one for PEG fees. He commented he had been paying the fees since the day he received the service and as a user he expected to have PEG programming. He said he wanted the ability to watch it on his TV and have it available whenever he wanted. Member Staudt said there were also some tremendous benefits for having the opportunity to have a second channel being broadcast directly out of the Civic Center and that was that they could play and replay all of the board and commission meetings going forward in the future. He thought this would be a big benefit and it would give the opportunity to have another outlet for community based video and bulletin board. He said they would then have the opportunity to use it for promotional things and could put on some of the videos that had been put out on economic development for the whole region to see. He said he hoped people came to the PEG channel to see them because the City had a lot to offer. He hoped, as a Council, they had reached the point where they would fulfill their obligation to those subscribers who were paying the fees to receive this service. He asked that they show SWOCC and the other communities involved that this was something residents wanted, would watch and it was the right thing to do. He commented that this was what government was expected to do, take in funds, pay back and be transparent. He stated he would strongly support this item. Member Staudt said they would have two particular transmissions between SWOCC and AT&T and the Civic Center and AT&T, which was the exact arrangement the City had now with Brighthouse, correct. Ms. Walsh agreed. He said the only difference was that Brighthouse had the ability to rollover the existing one channel that Novi had on their system to a live feed when necessary. Ms. Walsh agreed.

Member Crawford reminded everyone that there were a lot of people in the City who didn't know what streaming was and were not into streaming Council meetings or anything else. She said there were also a lot of people in Novi who didn't have computers and it was not possible to watch things nor did they desire to. She said she was in favor of offering this as an option but she wanted Council to be aware that there were a number of people in this community who were not as high tech as others who live and die by their computers. She commented she was very much in support of this, had seen how it worked and thought it was wonderful to offer it as an option and would like to see it available.

Mayor Pro Tem Capello asked if five votes were needed because this was a budget amendment. Mr. Schultz said yes, if not appropriated. Mayor Pro Tem Capello said it said \$589.75 per month for two lines but when he multiplied that out it came out to twice that amount. Ms. Walsh said it was \$589.75 per line not for 2 lines.

**CM-08-09-156 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve a form of agreement with AT & T subject to review and approval City Manager and City Attorney to purchase two encoders and two T1 lines for approximately \$17,212 for the first year and approximately \$14,154 for each of the two subsequent years for the purpose of providing City of Novi PEG programming to AT & T U-verse subscribers.**

DISCUSSION

Mr. Schultz asked that the word "standard" be changed to the word "A", "A form of agreement" rather than the "standard form". He said they had a chance to look at it and there would probably be some changes. Members Gatt and Margolis accepted the change.

Member Mutch said one aspect of this proposal he wasn't clear on was the need to have the content stream from the Civic Center as well as from SWOCC. He said he had assumed that all of the City's content went out over channel 13 and was potentially available to be captured at that point and then made available in whatever format. Ms. Walsh said a transmission cable line ran from SWOCC directly to Brighthouse and a line that ran from the Civic Center directly to Brighthouse. The signal from the Civic Center was the main signal and went directly to Brighthouse and when the switch was flipped at the Civic Center that door closed and the signal that was going from SWOCC filled that gap and overrode that signal.

Member Mutch said one of the questions he had was how this was being sent out via the internet to the AT&T U-verse network. He said the City already had an existing internet connection going out of City Hall over Brighthouse, which was being purchased for \$1,000 a month for a 5 mega bit connection. He asked Mr. Petty if, in terms of that connection, he had looked at the possibility of utilizing Brighthouse or switching over to AT&T and upgrading that connection to be able to take out both the streaming video as well as the current internet traffic from City Hall. Mr. Petty said they did. Mr. Petty said in July they entered into a 3 year agreement with Brighthouse for that internet service, so they were locked in. However, in doing so they looked at a package that allowed them to dial up or dial down their requirements. He said if they were to take the next increment up, and they were in 5 meg increments, and jumped the existing level of service up one notch what would it cost, and the cost would be \$400 more a month to make that jump. So, if they subtract that off of the \$589.75, it would be about \$190, if they ran that through 36 months it would be roughly \$7,000, which was below the equipment signing bonus they were getting. He said they did just what Member Mutch just described and financially it made better sense to choose the AT&T scenario. Mr. Petty said it was a package scenario and they were holding AT&T's feet to the fire to produce the quality service that Member Staudt described. He said they don't allow them, in this scenario, to do any of this and say it was because they had chosen a different carrier. He said down the road that would certainly be an option towards the end of this agreement but that was another piece of that decision besides the financials. Member Mutch said in terms of the contracts they would be entering into for these T-1's what was the upgrade path in terms of locally; would there be an expectation that additional band width would be needed coming out of City Hall in the future. Mr. Petty said on the non AT&T U-verse side? Member Mutch said no, just in terms of this T-1 taking the video out of City Hall. Mr. Petty said based on AT&T U-verse was telling him this was all they needed to maintain that constant stream of data up to the service. Member Mutch said in terms of the discussion Ms. Walsh had with SWOCC, obviously there would be a separate connection at SWOCC and there was some discussion about not being in this year's budget for the other communities to get on board but if they decided to get on board, they would want to piggyback on Novi's connection. He asked if the contract allowed that connection, if the other communities wanted to come on board, to expand to allow their services to share those costs or would each community have to buy their own line. Ms. Walsh said there was the option of a dual encoder. She said there were actually four channels cablecast out of SWOCC, Farmington, Farmington Hills, a public channel and Novi's channel. She said there were dual encoders and Novi could look to possibly upgrade the single encoder if Farmington or Farmington Hills decided to come on board, if they wanted to split the cost.

She said they had not received any indication of that from either community. Member Mutch asked Mr. Petty if the T-1 circuit at SWOCC could be upgraded, and if additional band could be purchased. Mr. Petty said absolutely, and more than likely they would have to and there would be some type of sharing agreement in place to do that. Member Mutch said he was open to providing this service because people were paying that fee and should receive the service. He said he had concerns about the cost because one of the things that service providers like AT&T loved to do was get customers hooked into 3 year contracts. He said at the end of 3 years they're paying a lot and not getting as much as they could if they purchased, at the time. However, the trade off here was the equipment costs. The other concern he had was the City was creating another service that it would have to support here at City Hall, which was the T-1 video line in addition to the internet traffic. He said the library had its own separate connection out to the internet that was twice the size of the City, so he would have hoped they could have taken advantage of those possible partnerships instead of having 1, 2 or 3 different lines. He thought everyone was locked into contracts, at least on the City side, so there wasn't any opportunity there but thought it was something they should look at down the road. Member Mutch said he would be willing to support this service.

Member Staudt said, for clarification, these were point to point T-1's. They were not internet T-1's, therefore there were no options with them, which was what AT&T told him today. Mr. Petty thought the salesperson misinformed him. He said he researched it this morning with David Clark from AT&T and it was a point to point but what they added onto it was an internet port so they were getting internet service out to the internet over this circuit. Mr. Petty said it provided him with a disaster recovery, if the Brighthouse connection died, he could move the City's over there. He said it wouldn't be as fast but it would provide co-workers with access out to the internet. Member Staudt said then this was actually an addition to the point to point and they were giving us some internet connectivity. Mr. Petty agreed.

Roll call vote on CM-08-09-156

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

Nays: None

6. Adoption of revisions of existing PA 198 Property Tax Abatement Policy.

Mr. Pearson said as part of the Council's adopted development goals for the year, Administration promised to look at the existing Property Tax Abatement Policy that had been in effect since 2001, and they had done that. He said Mr. Topouzian suggested some clean ups but basically keeping the essence of the existing policy in place. He said they thought it was important to have some policy both for Council's evaluation and also for potential applicants, so they know what the expectations were.

Member Mutch said under the previous policy there was more of a focus on the potential for rehabilitation projects; that policy had some different objectives in terms of the value investment recognizing that the cost of redevelopment might be smaller than a new building project. He said he didn't see any distinction in the chart provided and asked if that was intentional. Mr. Topouzian said no, and that they really had not changed a lot of this and didn't believe that area had changed. Member Mutch said under the previous criteria the new capital investment ran from \$10 million to \$40 million and higher and rehabilitation was \$5 million to \$9 million and then \$10 million and higher. He said he was looking for feedback on whether the chart Council had reflected that reality or was the chart focused on new construction. If it

was, did they need something that recognized that projects might come in that were different because they were redevelopment. Mr. Topouzian said the focus of the new chart was for new development. He said they looked at this to clean up areas, and based on current economic times, what criteria would they be looking for as far as giving out a PA 198. He thought they were leaning toward new investment as opposed to older rehabilitation. He said there were certain communities in need of that but Novi was not in that category, if comparing Novi to Southfield, etc. that did a lot of rehabilitation. Member Mutch agreed but he was thinking of sites like the Expo Center, and ideally someone would come in and do a completely new development but he could see that being a redevelopment opportunity. He said as a Council and Administration they wanted to give themselves as many tools as possible if they were going to address that up front, so there would be no questions for people looking at Novi as a potential location. Member Mutch said, regarding the chart, that he was still not clear on the footnote that said "the City of Novi abatement policy is a maximum of 8 years and all abatements with a minimum investment of 101 full time positions and \$10 million in investment." He asked what the intent of that was. Mr. Topouzian stated it seemed to be a typo. He said he wanted to point out that the current policy was a maximum of 8 years. The chart was a little simpler more streamlined approach of when you're looking at tax abatements. Member Mutch said 8 was on the chart as the maximum and he believed it was in the policy as the maximum, and suggested they take that out to avoid the confusion. Mr. Topouzian agreed. Member Mutch stated he had been consistent that he didn't support tax abatements as an economic development policy. He thought the studies that had been done had consistently shown that they were not effective. He said they created a situation where there are business taxpayers who weren't paying their fair share and then asking everyone else to shoulder that burden. He would rather focus on everyone paying an equal amount and then invest that back into the community. However, if they were going to have a policy, he thought the direction they had taken made sense. He thought it was simpler and focused on where the Council had said they wanted to go with it and he would support the changes.

Mayor Pro Tem Capello thought Mr. Topouzian had come up with a lot of good ideas for the City of Novi. However, he couldn't support the changes tonight because there were a lot of changes that were more restrictive; he didn't feel it was the time to send that message to the County or the State. He thought the message should be that Council had reviewed the policy and it was less restrictive and Novi was more open to new ideas. He didn't see that in the revisions. He hoped the following motion would send a message out that Novi was willing to look at businesses, not that they would all be granted. He said Council would still be very restrictive about what they granted.

**CM-08-09-157 Moved by Capello, seconded by Mutch; MOTION CARRIED:
To retain the existing Tax Abatement Policy with the exception
of extending the period of time from 8 to 12 years.**

DISCUSSION

Member Gatt agreed with Mayor Pro Tem Capello. He believed tax abatements were a necessary tool, especially in today's economy and with today's global competition. He said tax abatement could sometimes be perceived as an unfair advantage or policy practice but he knew that this Council would use it very judiciously. He thanked Mr. Topouzian for his work and said he would support the motion.

Member Crawford stated she would support the motion. She commented she liked the idea of 12 years because she liked the flexibility it would give unique projects and because it was in line with the State Statute.

Member Margolis stated she could not support the motion. She thought by extending to 12 years they changed not just the written policy on abatements but the policy that the Council had expressed, which was that the main tool for economic development was infrastructure improvements to encourage projects. She believed that the best economic development tool was investing money in infrastructure in the City, which would stay in the City no matter what happened to a particular project. She said they had been very successful using infrastructure improvements to attract development to the community. Member Margolis commented that she had a lot of access at Wayne State to academic and business journals and everything she read said tax abatements were not the best tool to use for economic development, and that the thinking was infrastructure. Member Margolis said she was comfortable with agreeing to continue the policy as it exists and was even comfortable with this revision as suggested by staff. She thought it didn't make it more restrictive and cleared it up. She would support the current policy or an adoption of the staff revision.

Member Staudt stated he would support the motion but was not a big fan of the abatement policy. He thought Council should make it known that Novi would consider everything, and that the policy shouldn't be so restrictive that staff only had a few opportunities to talk about abatements, etc. He said it didn't mean he would support abatements for a simple project; it meant that he wanted to put the message out that Novi would consider everything. He said the tax abatement policy was written in 2000 and things were completely different then. Member Staudt said it wasn't just good enough to be location, location, location; they had to compete with other communities who were aggressively pursuing projects. He thought it was more important to have an attitude out in the economic development community that Novi was one of the players. He commented that after sitting on a number of different groups, Novi was not perceived that way and it hurt Novi. He stated he would support this policy because he thought it was important to extend the term but would like to revisit this entire policy at some point. He said he wanted to make it a far more aggressive and leading policy so Council could develop the last 25% or 30% available with all the tools available and bringing in the best opportunities possible.

Mayor Landry agreed with the comments made by Member Margolis. He said he was not a fan of tax abatements and they had given out very few but he thought they were well used when given out. He thought they should be used very sparingly. Mayor Landry said the first question everyone asked was whether they could have a tax abatement; he told them they could as long as they met the City's policy. He commented he was in favor of a strong tax abatement policy and definitely felt there should be one because there were instances when they could be used wisely. Mayor Landry thought the policy was fine the way it was, had no problem tweaking it but agreed with Member Margolis.

Member Mutch said if the Tax Abatement Policy was going to be extended to 12 years they would need to address that in the current policy, and he was even more strongly opposed to it. The fact of the matter was that no matter what was offered as incentives from a Tax Abatement or Brownfield remediation or a similar policy to perspective businesses, there would always be a community that could offer a more attractive package. He said Council could never win a race to the bottom and his concern was that by extending tax abatements they

were saying “we, as Novi, can’t compete as we are”. He thought the strongest tools and incentives they had to offer the community were those things that they highlight all the time. He said Novi had good schools, great location, good City services, good residential housing options, a lot of commercial, parks and amenities. He said to the degree that tax abatements were adopted, they undercut the ability to finance every single one of those amenities. Member Mutch said when they start cutting themselves off like that, they got into a situation where the City was no longer #1 in those areas and fell down the list. As they fall down the list, they become less attractive to the development community and those people who want to move to Novi. He thought this was not an approach they wanted to take, and thought the current policy had been used judiciously when necessary. Member Mutch commented he was very concerned that they were sending a signal to those small businesses and developments that wanted to come in and take advantage of a tax abatement policy. He said if they weren’t going to make them available to those businesses, why were they dangling that carrot out there. He stated he would rather highlight the things that were great in the City instead of trying to chase businesses that were only concerned about their bottom line, and not concerned about the bottom line of the City of Novi.

Roll call vote on CM-08-09-157

Yeas: Capello, Crawford, Gatt, Staudt

Nays: Landry, Margolis, Mutch

AUDIENCE COMMENT – None

MATTERS FOR COUNCIL ACTION – Part II

- 7. Approval to agree to allocate funds up to \$20,000 of City and/or other funds for public infrastructure improvements such as drive approach, road curb-cuts, pervious asphalt, traffic signage and/or bioswale/rain garden, to be determined upon submission of final site plan as part of required local contribution for a high tech MEGA credit recently granted to MANDO American Corporation.**

Mr. Pearson said this was a very positive project by a South Korean Auto Parts supplier that had a big manufacturing base in Alabama. He said they were looking to expand and they had a lot of engineering talent in the area. He said they were following Council’s adopted high tech MEGA guidelines in that they were providing the keys to open the doors so that the company could access the State program. He said they were suggesting that the keys consist of \$20,000 of City/local contribution, which was minimal in the scheme of things and what Novi would receive as a return and that would be focused towards infrastructure.

Member Staudt asked if the \$20,000 was considered part of the \$100,000 Council discussed at the last meeting. Mr. Pearson said yes.

CM-08-09-158

**Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve to agree to allocate funds up to \$20,000 of City and/or other funds for public infrastructure improvements such as drive approach, road curb-cuts, pervious asphalt, traffic signage and/or bioswale/rain garden, to be determined upon submission of final site plan as part of required local contribution for a high tech MEGA credit recently granted to MANDO American Corporation.**

Roll call vote on CM-08-09-158 **Yeas: Crawford, Gatt, Margolis, Mutch, Staudt, Landry, Capello**
Nays: None

8. Approval of Resolution to amend certain Articles and Sections within the Administrative Personnel Policy.

CM-08-09-159 **Moved by Margolis, seconded by Mutch; CARRIED UNANIMOUSLY: To approve Resolution to amend certain Articles and Sections within the Administrative Personnel Policy.**

Mr. Pearson said this was reflecting several changes Council had already adopted in this budget and in previous years. He said there were some things that Council should formally adopt but by and large it was Administrative things that were being updated.

Roll call vote on CM-08-09-159 **Yeas: Gatt, Margolis, Mutch, Staudt, Landry, Capello, Crawford**
Nays: None

9. Approval of resolution to authorize first quarter Budget Amendment #2009-01.

CM-08-09-160 **Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY: To approve resolution to authorize first quarter Budget Amendment #2009-01.**

Roll call vote on CM-08-09-160 **Yeas: Margolis, Mutch, Staudt, Landry, Capello, Crawford, Gatt**
Nays: None

10. Approval of Resolution for Authorization of a one-time Cost of Living Payment in amount of \$1,000 to each of the Retirees as of December 31, 2007 (per attached list), in two installments.

Member Gatt stated that as a retiree of the City of Novi who would benefit from this proposal, he was requesting to be recused. Member Crawford also asked to be recused.

Mayor Pro Tem Capello asked if the money had been budgeted to pay this out. Mr. Pearson said it was as part of the global budget process. He said \$80,000 was allocated based upon a list they had received of direct beneficiaries. He said in order to be consistent with what was done two years ago, whereby the direct beneficiaries and their dependents received that benefit, they needed an extra allocation of \$3,000 because they didn't have the full amount in the budget to stay consistent.

Mayor Pro Tem Capello said four votes were needed for the \$80,000 and 5 votes for the extra \$3,000. He suggested before they were recused, if needed they could vote on everyone but themselves and then recuse themselves for their vote if extra votes were needed for the \$3,000.

**CM-08-09-161 Moved by Capello, seconded by Staudt; CARRIED UNANIMOUSLY:
To recuse Members Gatt and Crawford for the reasons stated.**

DISCUSSION

Member Mutch commented that he didn't plan on voting for those so they might want to split that now.

Mayor Landry said an elected official was required to vote unless excused by their colleagues. He said his understanding was that a valid reason for a Council member to be recused was if they had a direct financial interest in the matter. Mr. Schultz said he was correct and as the item stood, he thought the motion to recuse was appropriate. Mayor Landry asked what happened if a Council member had a direct financial interest and Council voted not to recuse them. Mr. Schultz said under the Charter and rules the motion to recuse had to be unanimous. Theoretically, if not unanimous, a Council member could say "I can't recuse myself, the Charter says without a unanimous vote, I have to vote". Mr. Schultz noted another school of thought and said the Constitution and other rules of due process trump the Charter and if they have a direct financial interest in the question, regardless of what the Charter said, they shouldn't be voting on the issue. He said different Council people vote different ways.

Roll call vote on CM-08-09-161 **Yeas: Mutch, Staudt, Landry, Capello,
Margolis**
Nays: None
Abstain: Gatt, Crawford

Mayor Landry asked Members Gatt and Crawford to absent themselves from the Council Chambers.

**CM-08-09-162 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve Resolution for Authorization of a one- time Cost of Living
Payment in amount of \$1,000 to each of the Retirees as of December
31, 2007 (per attached list), in two Installments including the three
EDRO's retirees for a total of \$83,000, which would include a budget
Amendment of approximately \$3,000.**

Mayor Landry said, as he understood the motion, it was to approve the allocation of \$80,000 to the City of Novi retirees but the motion did not state how it would be allocated. He assumed that a subsequent motion would be made as to how it would be divided. Mayor Pro Tem Capello replied no, his motion was that it was to be divided equally amongst the retirees with the exception of the three EDRO retirees. Mayor Landry asked who the three EDRO retirees were and Mayor Pro Tem Capello responded they were Lee Gatt, Cheryl Ruby and Joan Kriewall.

Mr. Schultz said as he understood the motion, it would be for the retirees to whom those three were attached there would be a sharing of . . .

Mayor Pro Tem Capello said no, it was not that complicated. He said those three EDRO's would not get their \$1,000 with this motion. Mr. Schultz said but that would happen automatically. He said the sharing would occur under the motion just by operation of the order.

Mayor Pro Tem Capello asked that he be allowed to finish this and then if it was wrong, they could go through it. He thought Mr. Schultz was assuming that it was on some type of percentage basis and it wasn't. He said this was just a \$1,000 per retiree. He said he was going to make two motions.

Mayor Landry asked if they could do that. Mr. Schultz thought it was a question that the Finance Director should answer about the way that the distribution of the benefit would operate. He said as a matter of law, regardless of what the motion said, there would be an operation as a result.

Mayor Pro Tem Capello said that was fine but to just let him finish with his motions and then Ms. Smith-Roy could give her opinion.

Mayor Landry said he wasn't comfortable voting on something, if it wasn't legal. He stated he wasn't suggesting that Mayor Pro Tem Capello was suggesting anything illegal. He asked if there was any reason it couldn't be made in one motion. Mayor Pro Tem Capello said yes, because five votes were needed and this would take 4 votes and the other two members come back out and Member Gatt would recuse himself again and then come back with six Council members and vote on the last three and that included the budget amendment. Mayor Landry said then what he had effectively done was taken out the financial interest because these two members weren't getting any of the other \$3,000, so there was no reason for them to recuse themselves and there's the other votes. Mayor Pro Tem Capello said yes.

Mr. Schultz said if the import of the first motion was X number of dollars to the initial \$80,000, and the three EDRO's were excluded in the motion, they might say that in the motion. However, he was not sure that there wouldn't be automatically, regardless of what the second motion was, it might confer additional benefit on the three but he wasn't sure it would undue an operation of law that was going to share the first motion.

Ms. Smith-Roy said one of the reasons they were going through this process was because they were not a legal pension plan. However, she believed they would be subject to the discrimination rules and therefore, she didn't see how they could not prorate it. She said currently how they receive the benefits was on a prorata share, non discriminatory. She said she would really find it difficult that they wouldn't be subject to that same thing.

Member Mutch said they ran into this situation two years ago and believed the way they handled it was to exclude Member Gatt the last time around in terms of how that was allocated. He said he was not clear.

Ms. Smith-Roy said when they gave the list the last time they presented the list to Council during the budget process and there were 61 people on the list. At that time, when they received the list from MERS, EDRO's were not identified and some didn't have the same last name. At that time, they didn't know and they put in \$61,000 in the budget and every one of them got \$1,000. This time they asked MERS for a list of retirees of record and they gave them a list of 80 people that were actual retirees, which was where they got the budget number. She said this time the difference was that they knew that these individuals were getting a prorata share of the pension plan of the individual that they were formerly related to.

Mayor Landry said they were talking about three former spouses who were technically retirees or on the list of retirees, such that when Council gave every retiree \$1,000 they were included.

Ms. Smith-Roy said they were on the list that was presented to Council tonight and were collecting a prorata share.

Member Mutch said it was important that he go on record that he didn't support these pension payouts. He said he couldn't see any public benefit in giving \$1,000 to these individuals and he realized that for some of these people they had significant needs and every dollar they received was important. He said that was also true of a lot of residents in the community; so he had a hard time approving this especially in this day and age when cities didn't do this any more. However, he didn't want to belabor this and felt there was a way to get this done and allow him to put his objection in a vote, but apparently that was not possible. He said there was a majority of Council support for this, it was approved as part of the budget and he didn't want to drag this out. He said he would reluctantly support this; his objections were on the record so they could move forward.

Mayor Pro Tem Capello amended his motion and Member Margolis accepted the amendment.

Roll call vote on 08-09-162

Yeas: Staudt, Landry, Capello, Margolis, Mutch

Nays: None

Abstain: Gatt, Crawford

Members Gatt and Crawford returned to Council Chambers.

COMMITTEE REPORTS

Member Crawford said there was something very unique happening in this community starting on Thursday, September 18th. She said it was the Game Show of the Century, a production by the Novi Senior Theatre in Novi's Theatre of the Performing Arts. She said she wasn't sure that people understood or knew how unusual it was for a senior theatre production to actually even take place. She said they were very rare in the State of Michigan and here right in the heart of Novi we have our very own senior theatre production. She said it was resplendent with dancing girls and guys and a senior chorus, of which she was a part of. Member Crawford said it was a wonderful production and was very, very unique and she encouraged everyone in the City to come and see something that was really historic and proportion to what other cities were doing. She said people would be amazed and proud of what was taking place here and many of the community members were a part of the cast. She said they had a chorus of almost 50 people over the age of 50. She said there were luncheon performances for \$20.00 on Thursdays and Fridays and matinee performances for \$15.00 on Sundays beginning this Sunday and next.

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION:

- E. Approval of Traffic Control Order 08-07 for the installation of a No Thru Traffic sign on southbound West Park Drive at 12 Mile Road – Capello**

Mayor Pro Tem Capello asked if the sign would help at all because people knew what they were doing. Chief Molloy said they knew what they were doing but it would also give the police the leverage and authority with the back up of the Traffic Control Order for not only individuals cutting through the private property to avoid the traffic control device, but also to issue them for disobeying the traffic device.

**CM-08-09-163 Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve Traffic Control Order 08-07 for the installation of a No
Thru Traffic sign on southbound West Park Drive at 12 Mile Road.**

**Roll call vote on CM-08-09-163 Yeas: Landry, Capello, Crawford, Gatt, Margolis,
Mutch, Staudt
Nays: None**

**G. Approval to grant an easement to Michigan Bell Telephone (d.b.a. AT & T) for the
use of city property at Fire Station No. 3 (Parcel ID No. 22-35-127-001) – Capello**

Mayor Pro Tem Capello said looking at the plans he couldn't tell if there was an above ground structure or landscape. Mr. Hayes said as far as an existing structure no, and all the work would be underground within not only the existing easement the City had, but the one they proposed. Mayor Pro Tem Capello said there was no new structure above ground and Mr. Hayes said not as far as he knew. Mayor Pro Tem Capello said what they were approving was everything underground and nothing above ground. Mr. Hayes said he was correct.

**CM-08-09-164 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve to grant an easement to Michigan Bell Telephone (d.b.a.
AT & T) for the use of city property at Fire Station No. 3 (Parcel ID No.
22-35-127-001).**

**Roll call vote on CM-08-09-164 Yeas: Capello, Crawford, Gatt, Margolis, Mutch,
Staudt, Landry
Nays: None**

AUDIENCE COMMENT – None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 9:14 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene Mc Lean

Date approved: September 22, 2008