

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, OCTOBER 6, 2008 AT 7:00 P.M.
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
Rob Hayes, City Engineer

APPROVAL OF AGENDA

Member Margolis added to Mayor and Council Issues, discussion of the DDA.

**CM-08-10-170 Moved by Gatt, seconded by Crawford; CARRIED UNANIMOUSLY:
To approve the agenda as amended.**

**Roll call vote on CM-08-10-170 Yeas: Capello, Crawford, Gatt, Margolis, Mutch,
Staudt, Landry
Nays: None**

PRESENTATIONS

1. Hollywood Novi - Ara Topouzian and Mike Evans

Mr. Topouzian said Michigan had been getting a film incentive of 42% tax credit on expenditures and he had read an article that said there was about \$400 million in film revenue coming to Michigan this year. The Venture Team was trying to create a film friendly environment and wanted a quick turn around for processing permitting, and an appropriate fee schedule to recoup staff time and cost of public property. He said there would also be ordinance changes in order to do this. There was a movie made here in Novi called Demoted and the Film Location Manager was pleased with their experience here.

Fire Marshal Evans said they talked with the Film Location Manager who said they wanted a single point of contact to streamline the whole process. He said every movie that came to Novi could present a different challenge for each department; they needed to be flexible and keep the process moving quickly and make it a safe environment to work in. Also, reaction time for the different departments was a priority and the number one priority was public health, safety and welfare in the community.

Member Gatt asked what Council could do to help. Mr. Topouzian said they could approve the text amendments that Ms. McBeth would bring forward and continue to be supportive. Member Gatt asked what benefits citizens could expect in terms of monetary gains, etc. Mr.

Topouzian said it depended on what they got for a film. Mr. Topouzian said they were always looking for extras, restaurants, hotels, etc. and Fire Marshal Evans said they would be the biggest benefactors of the filming. Member Gatt asked who would pay for services needed such as police and fire and Mr. Topouzian said the film company would pay for those services. Member Gatt asked what could be done to entice them to come to Novi. Mr. Topouzian said promote the assets Novi had, that Novi was film friendly and create a good reputation. Member Gatt asked if they could put in a contract that a percentage of extras should be Novi residents. Mr. Topouzian said he didn't know and would look into it.

Member Crawford asked if there was a hurdle or surprise to be overcome with the film company that was just in Novi. He said there were a lot of last minute changes that they had to be prepared for.

REPORTS

1. MANAGER/STAFF

Mr. Pearson said they started a new publication which was an initiative Council had encouraged. This publication was called Enhance and targeted the older adult population and would be mailed to people 65 and older and to homes around town.

2. ATTORNEY - None

AUDIENCE COMMENT

Chuck Tindall, 2453 Shawood, was present to address the issue of the polling location changes in Novi. He said while he was at the polls there were seven people in line and four of them were rejected because they were in the wrong polling place. He said they suggested to the Clerk that a mailing be sent to those in new locations and the Clerk said new cards were sent out with the new polling location. Mr. Tindall admitted he never read the card but never had to come to this end of the City to vote in an election, as it had always been in the north end. He thought there would be a lot of confused voters and suggested a sign be put up at the entrance to check their Voter ID cards.

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

Member Gatt pointed out Item K and said there would be no fee increase for the option of an extra year with Cooper, Shifman, Gabe, Quinn and Seymour as prosecutorial legal services.

**CM-08-10-171 Moved by Margolis, seconded by Capello; CARRIED UNANIMOUSLY:
To approve the Consent Agenda as presented.**

**Roll call vote on CM-08-10-171 Yeas: Crawford, Gatt, Margolis, Mutch, Staudt,
Landry, Capello
Nays: None**

- A. Approve Minutes of:
1. September 22, 2008 – Regular meeting

- B. Enter Executive Session immediately following the regular meeting of October 6, 2008 in the Council Annex for the purpose of discussing pending litigation, labor negotiations, property acquisition and privileged correspondence from legal counsel.
- C. Approval to set a Public Hearing on October 20, 2008 for the 2009 Community Development Block Grant Program.
- D. Approval of the First Amendment to the Consulting Engineering Agreement with Orchard Hiltz & McCliment, Inc. for the Regional Basin Retrofit/Water Quality Improvement Project for the Taft and Bishop regional stormwater detention basins (no change in fee proposed).
- E. Approval to award a contract for design engineering services for the Twelve Mile Road Paving project (east of Napier Road across Knightsbridge Gate frontage) to Spalding DeDecker Associates, Inc. for a not-to-exceed design fee of \$8,918.
- F. Acceptance of Brookhaven Condominium Subdivision street and adoption of Act 51 New Street Resolution accepting Myrtle Drive as public, adding 576 linear feet or 0.11 miles of roadway to the City's street system.
- G. Approval of additional payment to Cadillac Asphalt in the amount of \$18,000 for the 2007-2008 asphalt paving program.
- H. Approval to award youth sports photography bid to TSS Photography, the low bidder, for one (1) year with the option for two (2) annual renewals. All fees incurred from purchasing photographs are the responsibility of the individual participants. (There is no cost to the City to provide this service).
- I. Approval to purchase two (2) Jeep Liberty vehicles from Signature Ford, in the amount of \$40,724.60 (\$20,362.30 each) based on State Contract pricing.
- J. Approval of Michigan Uniform Video Service Local Franchise Agreement with Comcast and adoption of a Resolution to provide video service for the areas within the City of Novi as set forth on the attached map.
- K. The Consultant Review Committee recommends the approval of a one-year extension of the Memorandum of Understanding agreement with Cooper, Shifman, Gabe, Quinn & Seymour for prosecutorial legal services.
- L. Approval of resolution recognizing Bridgepointe, Inc. as a non-profit organization for purposes of fundraising.
- M. Approval of Claims and Accounts – Warrant No. 778

MATTERS FOR COUNCIL ACTION – Part I

- 1. **Approval to award a construction contract for the Relocation and Reconstruction of the Novi Township Hall project to Biondo Design & Build, LLC, the lowest qualified bidder, in the amount of \$143,806.**

Mr. Pearson said this was another element to the Fuerst property improvements, which would relocate the Township Hall in keeping with the concept plan. He said they would have \$135,000 after this was done for the next phase of improvements.

Member Gatt said they had budgeted \$347,250 for this service and were spending \$143,806. They were saving approximately \$200,000 and they were getting much more than expected. He said bravo to the staff for engineering this.

**CM-08-10-172 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve to award a construction contract for the Relocation and
Reconstruction of the Novi Township Hall project to Biondo Design
& Build, LLC, the lowest qualified bidder, in the amount of \$143,806.**

DISCUSSION

Mayor Pro Tem Capello asked if this would be done in stages, because they only had the concept plan for the park and where the hall was located would be important with the final design of the park. Mr. Pearson said this would put in new foundations where the concept plan depicted it, would move it onto the foundation and make the improvements. Mayor Pro Tem Capello asked if they should wait until the concept plan was approved. Mr. Pearson said this was where the first plan recommended it should be, Hamilton took it further, laid it out and talked with more people. He said they recommended angling it and a slightly closer location than it was now. Whatever happened with the rest of the concept when finalized, it wouldn't matter anymore where the Township Hall was located. Mayor Pro Tem Capello thought the park plan would come back to Council before putting in foundations, utilities, water and sewer and before spending \$143,000. If the plan came back to Council, they could say this was the direction they wanted to go before spending the money. He thought it was premature.

Member Margolis stated she understood the concerns but didn't think moving the structure twice made sense. She said there was no concern expressed by Council about that location for the Township Hall, and she understood it had to be moved for the library. She said she was comfortable to go ahead with this and thought it was a great plan to put restrooms and air conditioning in the Hall and use it for weddings, events, etc.

Member Mutch believed the restrooms would be accessible from inside and outside of the building and assumed there would be handicapped access to the restroom. Mr. Pearson said the plan was basically a stage and leveler tied into the sidewalks and it would be accessible. Member Mutch asked if internet access would be extended to the building. Mr. Pearson said it had been suggested and they were pursuing a solution to have WI-FI access for the entire property, which would accomplish the same thing. Member Mutch asked where the chairs and tables would be stored, if needed for events. Mr. Pearson replied that the current space was not accessible from first floor of the building. He said they would make do with bringing materials over when needed. Member Mutch thought they should be thinking about storage as they finalize the plans.

Member Staudt asked about the huge discrepancy between the site work quote of the winning bid and the other bids. He assumed it was how they structured their bid but they were less than 50% of everyone else. Mr. Hayes said this bidder spent a lot of time on site and asked a ton of questions and he could only guess that they really did their homework. He said it was in line with their estimate for that portion of the work. Member Staudt said then the rest of the

estimates were well above what was anticipated and Mr. Hayes said they were. Member Staudt said the restoration bid was also half of the other bids and asked if it was for the same reason. He said he was concerned that they perceived the job differently than the other bidders. Mr. Hayes said it was a legitimate concern but when it was compared to their estimate and the line items, with the exception of restoration because he couldn't recall how that lined up, everything else seemed to be square. Member Staudt asked if it included the whole list that they had; Mr. Hayes said it did.

Mayor Pro Tem Capello said for all the reasons Member Margolis stated that this would be the main covered structure on the site with the air conditioning, water and sewer, he would prefer to get a little further along with the plan to be sure that was what they wanted to do and where they wanted to put it. He thought they would still have the storage on the underground area because he thought there was a need to have storage in that location as opposed to having to haul it.

Mayor Landry said he would support the motion. He thought the location was the logical place to put the building for purposes of parking and incorporation into an amphitheatre with the hill side that would be used as the back drop. He said it was the only location it could be in. He said it was an historical structure and the more they tinkered with it the more it became non-historical. He thought if loud speaker systems were needed, it would be brought in by whoever was using it; he didn't foresee banquet tables and chairs being stored in it as it was really small.

Member Crawford said she didn't see a problem moving tables and chairs to the Township Hall because only 40 people were allowed in at any one time. She said a rectangle table would hold 8 to 10 people, so they were talking about four tables and some chairs. She said she would see a problem storing amplifiers, etc. on site because of the possibility of something happening to them would be great.

Roll call vote on CM-08-10-172

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

Nays: None

- 2. Consideration of (a) An Ordinance to amend Chapter 24, "Outdoor Gatherings" of the City of Novi Code 08-42.3, to provide new substantive regulations concerning requirements for filming permits within and throughout the city, and related fee resolution. First Reading; and (b) Zoning Ordinance Text Amendment 18.231, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 19, I-1, Light Industrial District and Article 23A, OST, Planned Office Service Technology District, to add provisions for motion picture, television, radio and photographic production facilities. First Reading**

Member Margolis said she was very comfortable with the proposed changes in terms of facilitating this process.

CM-08-10-173

**Moved by Margolis, seconded by Gatt: CARRIED UNANIMOUSLY:
To approve (a) An Ordinance to amend Chapter 24, "Outdoor
Gatherings" of the City of Novi Code 08-42.3, to provide new
substantive regulations concerning requirements for filming permits**

within and throughout the city, and related fee resolution. First Reading; and (b) Zoning Ordinance Text Amendment 18.231, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 19, I-1, Light Industrial District and Article 23A, OST, Planned Office Service Technology District, to add provisions for motion picture, television, radio and photographic production facilities. First Reading

DISCUSSION

Member Gatt thought it would be an added attraction to the ordinance to ask that a certain percentage of extras be Novi residents. He believed even starting with a small number would get the interest in the community generated that he thought would be needed.

Member Mutch said in terms of the definition that had been added for motion picture, television, radio and photographic production, his concern was the breadth of that definition. He said he wanted better clarification regarding commercial photography and that they were talking about Hollywood and not commercial photography of their wedding, family, etc. Member Mutch thought the idea of having film or television production in the City was exciting until it interfered with evening activities or they couldn't get out of their driveway in the morning. He wanted to make sure residents were notified and wanted to define what the notification would be. He stated he would like more feedback on how this past week went. He said they wanted to be welcoming but didn't want a situation where the residents or businesses got turned off of this concept because they had a negative experience. Regarding Member Gatt's comments, he said he appreciated the sentiment but thought the more obstacles the film production had getting through the process quickly the less likely they would come to Novi. He said he couldn't support that kind of language.

Mr. Pearson said rather than a mandate, which would bring all kinds of extra hurdles, he thought they could develop some kind of clearing house, so if there was a production that needed extras, there would be a pool of local people to draw from.

Member Staudt asked how the new permit would handle an X rated movie. Mr. Pearson said he didn't know if they could mandate content and legitimate film companies would ask for a permit and those types of films would not. Member Staudt asked if someone was producing an X rated movie in a residence, could it be shut down because they didn't get a permit.

Ms. Antil said in the permit that came through they asked for a description of the activities to make sure that it matched with the actual activities they were conducting. They were using public property and they used it as an assessment of what type of staff would be assigned. She said Police and Fire looked at it when they filmed at Biggby Coffee to make sure they didn't exceed the capacity limits; they would do the same thing at a residence to make sure they weren't doing anything outside the permit. She didn't believe that type of filming activity would come to Council for a film permit. She said they also looked at the activity to see what impact it would have. The City as well as residents adjacent to Power Park were notified of the hours of activity. She said they asked Mr. Schultz to look into that for a First Amendment, etc. and decided not to add that.

Mr. Schultz said the first comments were in regard to the Zoning Ordinance Amendment, which allowed this kind of film production. In particular districts it was all in a totally enclosed building. He said part of that was because they were to be content neutral when looking at whether or not they would allow this stuff, which was basic First Amendment law. He said the permit application process allowed an inquiry about whether or not there would be undue interference with governmental operations and adjacent properties. Those are the kinds of places that if you get the hint that something unusual was going to happen in the movie, you ask more questions. He said they would do regulations through the permit applying those kinds of content neutral standards. He said it would be difficult to craft that specifically and directly about movie rating, etc. Mr. Schultz said they tried to make sure that everything they knew they could put in there was in there.

Mayor Landry said with respect to anything that occurred outside of an enclosed building, indecent exposure laws, etc. would take care of that aspect of it. He said his understanding was that it had to be content neutral or they would run into real First Amendment problems.

Member Crawford referred to Member Gatt's comment about extras and liked Mr. Pearson's idea about looking creatively at forming a group and have a ready made audience for that. However, she would be against putting language in the ordinance regarding this because it might present an obstacle that would make Novi ineligible for the event.

Member Gatt agreed and felt that Mr. Pearson's idea far exceeded his idea. He thought it was something the staff could work on to build a portfolio of actors in Novi that they could hand to the movie producer and let them choose.

Member Mutch said looking at the State law that governed the whole filming on location process for local governments and local government property, specifically excluded obscene matter, obscene performance or any production that required people to create records under 18, US Code 2257, which was any pornographic film. Member Mutch said on property the City owned or controlled they had the ability under State law to exclude that. He asked if filming within a residential neighborhood was permitted. Mr. Schultz thought that was an issue and a very good argument could be made that it was not a customary incidental use of a home for commercial kind of activity like that. He thought building a pool of extras was an excellent idea but he thought they should extend that and develop public/private partnership. He said not only extras but also caterers, florists, etc. that have a natural connection to the film industry. He suggested working with local businesses to get them identified up front.

Member Staudt said he wanted to make sure he understood that this wouldn't validate someone who wanted to do this in a commercial building because they wouldn't be precluded from getting a permit. He said he would support it at this point.

Roll call vote on CM-08-10-173

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

Nays: None

- 3. Consideration of the request of Thompson-Brown Realtors for a two-year extension to the termination date provided in the PRO Agreement for Oberlin Single Family Condominium, a 58-unit residential condominium development,**

proposed to be located on a 38.86 acre parcel of land located on the south side of Eleven Mile Road, west of Beck Road.

Mr. Pearson said he was asking that they be given a one year extension and look at it again at that time, if needed.

**CM-08-10-174 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve request of Thompson-Brown Realtors for a one-year extension to the termination date provided in the PRO Agreement for Oberlin Single Family Condominium, a 58-unit residential condominium development, proposed to be located on a 38.86 acre parcel of land located on the south side of Eleven Mile Road, west of Beck Road.**

**Roll call vote on CM-08-10-174 Yeas: Mutch, Staudt, Landry, Capello, Crawford, Gatt, Margolis
Nays: None**

AUDIENCE COMMENT – None

MATTERS FOR COUNCIL ACTION – Part II - None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES

1. Discussion of DDA - Margolis

Member Margolis said the DDA discussion was planned to take place on October 20th. She said she would be out of town at that time and asked if Council would move the discussion to the following meeting, so she could be a part of the discussion.

Mayor Pro Tem Capello thought it would be a good idea and the business community might also want to get involved.

Mayor Landry asked if anyone was opposed to having the discussion two meetings from now; no one was opposed.

COMMUNICATIONS - None

AUDIENCE COMMENT – None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 7:56 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene Mc Lean

Date approved: October 20, 2008