

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, AUGUST 24, 2009 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

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

Also Present: Clay Pearson, City Manager
Pamela Antil, Assistant City Manager
Tom Schultz, City Attorney

APPROVAL OF AGENDA

CM-09-08-114 Moved by Margolis, seconded by Crawford; CARRIED UNANIMOUSLY: To approve the Agenda as presented:

**Roll call vote on CM-09-08-114 Yeas: Gatt, Burke, Crawford, Margolis, Mutch, Staudt, Landry
Nays: None**

PUBLIC HEARING - None

PRESENTATIONS - None

REPORTS

1. MANAGER/STAFF - None

2. ATTORNEY – None

Member Crawford complimented all involved with the sign in front of City Hall. She noted it was another effort to communicate with residents of the City; she thought it looked beautiful.

AUDIENCE COMMENT

Naimish Patel, representative from the 2009 Festival of Chariots, presented a commemorative plaque to Mayor Landry in appreciation for his support of their event on June 20th. He said this had been the first time they moved the Festival from Detroit to Novi and they had received a lot of remarkably positive feedback. He stated they had over 3,000 attendees, which was the largest in 15 years and their goal next year would be 4,000 attendees. He said their hope was that they would be able to bring the Festival of Chariots back to Novi year after year.

John Kuenzel, retired school administrator, 23819 Heartwood, spoke about Item 2 on the agenda regarding proposed Change Order #2 to spend \$25,000 for flagstones to go around the areas where the barns were located at Fuerst Park. He said the people who wanted to save the barns lost them, as they were taken down, and flagstones at a cost of \$25,000 would not mean a whole lot to them to commemorate where the barns were. He noted there was a beautiful sign

there that showed a picture of the Fuerst Farm as it had existed; people could look at the sign and see a beautiful picture of the farm and the location of the barns. Mr. Kuenzel asked Council not to spend the \$25,000 for the stones, as he thought it would be a waste of money. He noted that in Change Order #1 there was an expense of \$3,120 for a bike rack. He said as a retired school administrator and knowing a lot about bike racks, he knew they could get one for a lot less than \$3,120. He commented that he found them on the Internet and found brand new bike racks ranging in prices from \$80 a slot; so if they wanted a slot for 10 bikes it would cost \$800. He said he thought they could do better and was expressing concerns about Council's expenditures of money. Mr. Kuenzel said Council spent money very well on some things such as the bike paths.

Chuck Tindall, 2435 Shawood, spoke about an incident that involved his son, Chad, at 135 Pleasant Cove on July 11, 2009, which was attended by himself, his wife and son Chad. He said two officers came to the party to address a noise issue at the house. His son made a comment to the officers and without any other comment; he was thrown to the ground, handcuffed and then lodged in the police vehicle. He was later released to return to the party. The next day he went with his son to file a complaint at the Police Department. He received no return communication and then took it to the Deputy Chief on August 11th. Since they received no return call by August 14th, he then took it to the Chief of Police. He said Chief Molloy stated a letter had been sent to the homeowners and they were given a copy. Mr. Tindall felt the officer's actions were unwarranted. He asked that the City Council look into this matter.

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

Member Mutch removed Item F from the Consent Agenda.

CM-09-08-115 Moved by Margolis, seconded by Mutch; **CARRIED UNANIMOUSLY:**
To approve the Consent Agenda as amended.

Roll call vote on CM-09-08-115 Yeas: **Burke, Crawford, Margolis, Mutch, Staudt, Landry, Gatt**
Nays: **None**

- A. Approve Minutes of:
 - 1. August 10, 2009 – Regular meeting

- B. Approval of the first year renewal option to TSS Photography for youth sports photos, beginning September 2009-August 2010. (All fees incurred from purchasing photographs are the responsibility of the individual participants. There is no cost to the City to provide this service.)

- C. Approval to award the second one-year renewal option to American Silkscreen for youth and adult sports apparel, with the estimated annual cost of \$38,000.

- D. Approval of an engineering contract amendment to URS Michigan, Inc. to provide additional construction engineering services for the 2008 Neighborhood Road Program for the reconstruction of discrete segments of Fordway Drive, Midway Drive and Cranbrooke Drive in the amount of \$14,000.

- E. Award bid to administer the 2009 Program Year Community Development Block Grant Minor Home Repair Program to Oakland Livingston Human Service Agency, in the amount of \$21,351.
- G. Approval of Claims and Accounts – Warrant No. 801
- H. Enter Executive Session immediately following the regular meeting of August 24, 2009 in the Council Annex for the purpose of discussing privileged correspondence from legal counsel.

MATTERS FOR COUNCIL ACTION – Part I

1. Discussion on the 2010 Council Calendar.

Mr. Pearson advised Council that they had asked the Boards and Commissions for their schedule of meetings. He said if Council was comfortable enough to approve their schedule of meetings for 2010, it would help everyone and their planning ahead. He noted there were a couple of discussion items, if Council was comfortable talking about budget early input and the budget discussions in March and April.

Member Margolis said there were two options in terms of the budget meetings and she was fine with both of them. She said she was fine with the original proposed dates and suggested if there were no objections, they go with them.

Member Mutch said the Parks and Recreation Commission was the only commission that still met at 7:30 P.M., as all the others met at 7:00 P.M. He asked if Council could request they consider moving their meeting time to 7:00 P.M. to be consistent with the other City boards and commissions. Mr. Pearson said they could certainly try and there would be no objection on the part of Administration.

Mayor Landry said as he looked at the calendar there were two things that struck him. First, there was a goal setting or early budget input meeting in December and they had historically met for the goal setting in January. He thought it worked well to meet on a Saturday in January after the holidays but would do what the majority of Council wanted. However, he would prefer to deal with goal setting after December. Mayor Landry said the first true budget session was shown on a Monday or Tuesday and they had historically met on a Saturday and felt that procedure had been working well. He stated he would do what Council thought should be done but personally preferred doing what they had done historically.

Mayor Pro Tem Gatt agreed with Mayor Landry and also preferred to wait until after the holidays for goal setting or early budget input. He thought the first budget session on a Saturday was a good way to start it off and afforded them more time for discussion.

Mayor Landry asked if anyone disagreed with those changes and no one did. Mr. Pearson asked if January 9th would be preferable, as it would give them a better head start. Mayor Landry said that was fine with him. Mr. Pearson suggested Saturday, April 10th for the budget. Council agreed with the dates offered by Mr. Pearson.

2. Consideration of Change Order No. 1 to WCI Contractors, Inc. for the Fuerst Park project in the amount of \$66,625.24.

Mr. Pearson said the project budget was an overall project and they needed to keep in mind that there were several elements within that. He said there was the relocation of the Township Hall, improvements to the park, barn take downs and the house demolition. He said when they went through the project they also took on some maintenance items, such as painting the Township Hall and adding signage around the property. So there were things that had been included, although they could have been included in a maintenance line somewhere, in the total project. He said they were at \$674,000 spent on the project, which was just over 4.5% over the original budget; they were \$29,000 over committed to date but thought in light of those other elements, he thought it was reasonable stewardship on the project. Mr. Pearson said the question before Council was whether they wanted to proceed with the option for Change Order No. 2, which was to complete the fieldstones around the outlines of two of the barns. He said they had given Council the original estimate and when they got into the pricing it came out more. If they wanted to move forward with the original concept to outline the barns, it would be an additional \$25,000 and change. He said they had an option to just do the corners or do one barn just to keep the idea and that could be done for roughly half of that. However, that was entirely optional and had not been spent or obligated.

Mayor Landry asked if two separate votes were needed and Mr. Pearson said yes.

Member Staudt asked for clarification on the signage, as he believed they funded the signage in the annual budget but didn't know if it was delegated for anything. He said he would rather they take the \$7,500 they had previously budgeted for signs out of that fund, if it was available. He commented this was something that was added after the fact and they should have added it at the beginning of the process; he didn't think signs were a part of the original proposal. Mr. Pearson said he was correct and they did have savings there and if they wanted to allocate that, it wouldn't be a problem. Member Staudt said that would reduce their shortfall on the project by \$7,500. Mr. Pearson said on that project, correct. Member Staudt asked, regarding the cornerstones, if there was money in the first budget amendment that included those cornerstones for some portion of the project and how much money was it. Mr. Pearson said he didn't believe they had formally made the budget amendment when they had come before Council with the estimate. Member Staudt said the way he read this was that the project came in at \$45,000 as opposed to the original estimate of \$15,000. Mr. Pearson said they had an estimate that was \$45,000 but the question before Council was for a \$28,000 Change Order to be able to outline the two barns. He said there was an original \$15,000 estimate and then they priced out the entirety at \$45,000 but they had worked with that and done some value engineering and brought that down to \$28,000. Member Staudt said then this would be for the totality of that area and Mr. Pearson said yes. Member Staudt stated he would not support that.

Member Mutch said there was a question raised regarding the cost of the bike racks. He said it was something that had not been originally included in the plan and discussed in the Walkable Novi Committee and they recommended that bike racks be included. He said he was surprised at the cost of the bike racks and asked if there was any detail on why it would be that costly, compared to other numbers that were suggested. Mr. Pearson said he would have that information for Council on Thursday. He said it sounded like there was an effort to quote

out something that was comparable but he didn't think they would go over the top. Mr. Pearson said they would get Council something that explained how the procurement on that went.

Member Mutch said he had two concerns with this coming forward. He said one was they did go over the budget and the various reasons why had been explained through the memos provided to Council. He said the other problem he had was how it had been communicated back to Council. He said Member Staudt asked about the signage and where it fit into the overall budget; he wanted to point out that in April when the initial contract was awarded to WCI, Member Staudt raised the issue of signage and painting the Township Hall. Member Mutch said at that time, Council was told that those would be covered. He said it wasn't clear from the response that it was in the particular contract but that there would be funds available for that. Then, at the July 6th meeting, Council had discussed the issue of the foundation and the estimated amount for that was \$15,000 and now it was a couple of times that amount. The estimate had been as high as \$45,000 but now they were looking at \$28,000. He said on July 6th the items in a memo to Council that explained the cost overruns pretty much should have all been identified, at that point. He said that should have been communicated to Council before they took on this additional cost, which there was Council support to consider, that they were at or over their budget. He said with the amount of work that was done and the items they were talking about such as the Township Hall painting and the signage, some of the other costs for the site balancing and getting the top soil on the site were all things Council should have known or anticipated. He said that should have been communicated to Council because they had approved additional expenditure regarding designs for that concept, and if they had known they had reached their budget limit, they might have reconsidered. He said he had a concern that Council didn't receive a timely update regarding the expenditure, and he didn't know whether that would have prevented them from going over budget, but now they were being asked to approve these. At this point, they couldn't say they didn't want to go over their budget so cut out X, Y or Z from the project, as all the things they had gone over and spent was done. He said at this point they didn't have much of a choice, they had to approve this. Member Mutch said, going forward, that would have to be addressed by the City Administration regarding future projects. He said if they had gone over the budget with this expenditure, where were they making that up. He knew there would be a budget amendment at a future meeting but there was nothing that told them where the funds would come from. Member Mutch said he understood that with a project of this scope there were times they couldn't anticipate the costs that came forward. However, the ones that they did anticipate or should have known should have been communicated in a more timely fashion to the Council.

Mayor Pro Tem Gatt said the Fuerst Park was one of the most beautiful additions to the City in a long while. He thanked the Administration and the people who put a lot of time into the park and invited the public to come out and see what their tax dollars had done. He thought what they were seeing tonight was just a reflection of the fact that the Administration very rarely went over a budget and the reaction was what happened. He agreed with his colleagues, it was a surprise and they couldn't say no because it was already there. Mayor Pro Tem Gatt said he would also like to be given a heads up so they could talk about it before hand. However, he didn't think the money was so great that it would cause any major concerns with the budget and he was sure the money would be found for Change Order No. 1. He said as far as Change Order No. 2, he agreed with the audience comments and he would not be in favor of spending any additional money in marking where the foundations of the barns were. He agreed the picture would tell the story and should suffice.

Member Burke said relative to option 2 he wasn't a big fan of the fieldstone or flagstone that they were putting down. He said he would like to see an estimate on what it would cost to put some plants or bushes in that would give a more three dimensional look of where the barns used to be. He said he didn't think, if standing 50 feet away from the barn, they wouldn't be able to see the stones lying in the ground. Member Burke noted there would also be just as much work edging the stones and keeping them neat as there would be if there were shrubs there. He said he would like to see an estimate on plants, shrubs or bushes instead of the stones.

Member Crawford said as far as Change Order No. 1, she understood the maintenance and the additional work that was completed as a result of going over budget. Member Crawford said regarding Change Order No. 2, she thought when originally talking about the barn foundations it seemed like a good idea to preserve something of the original foundations of the barns but it was no longer feasible because of the crumbling foundations. Member Crawford said she didn't want to support the additional amount of money; if they had this money set aside she thought they should use it for Change Order No. 1 to try to supplement the overage.

Member Margolis said the comment about it being so surprising to see something go over budget was really true and they needed to keep that in mind. She said they don't comment a lot on all of the projects that come to Council that were under budget. However, there were things that came to Council over budget and it was usually because it was something that was unforeseen or something was added. She said that was exactly what happened with this. She said the procedure of staff on all Change Orders had been to keep them apprised and then to give them the information. She said it was nice to be kept apprised but the reality was these were some very clear reasons why they ran over on this project. She said she didn't have a problem with Change Order No. 1. Member Margolis said regarding Change Order No. 2, she thought the history of that whole process was they could keep the foundations and now they couldn't keep those foundations because there were unforeseen things that could happen. She said then it could it be done with flagstones and Council thought that would be a good idea with the approximate cost they were given and now it was this amount. She agreed she didn't know that it was worth it and they could look at some other way to commemorate it. However, since the project came in at this amount it was probably not something she would support.

**CM-09-08-116 Moved by Margolis, seconded by Gatt; MOTION CARRIED:
To approve Change Order No. 1 less \$7,500 and that money to be
taken out of what was already in the budget allocated for General
Signage in the City, which would take Change Order No. 1 down to
\$22,081.**

DISCUSSION

Mayor Landry said regarding Change Order No. 1, these expenditures amounted to a 4.6% overage and 10% was assumed either way on most contracts; so, this was certainly not shocking, 4.6%, when one was unforeseen earth balancing. He believed the Administration got the topsoil donated by Northern Equities, which cut that unforeseen contingency down further. Also, painting the Township Hall and tree removal that was necessitated by weather conditions and that had to be contracted out. He stated he was not concerned about that 4.6%

when looking at almost a \$650,000 operation. He said he was intrigued with Member Staudt's suggestion to take the \$7,500 of that 4.6% out of the signage allocations. He said he would be in favor of that and if they did that, the overage would be down from \$29,500 to \$22,000, which would make it 3.4% over budget. Mayor Landry said he would be in favor of doing that, it would lower Change Order No. 1 and he could support that. He said he would not support Change Order No. 2 because it was too much money for all the reasons stated.

Member Staudt asked for a friendly amendment to the motion reflecting these comments and the maker and seconder agreed.

Mayor Landry said the motion was to approve Change Order No. 1 less \$7,500 and that money to be taken out of what was already in the budget allocated for General Signage in the City, which would take Change Order No. 1 down to \$22,081.

Member Mutch asked if they were going to make an effort to look at Naming Rights opportunities on the site, he commented he wasn't thinking for the site as a whole because it was named and was historical. However, in terms of bike racks, park benches and some of the other elements on the site, those could be opportunities for a family or business, which might bring some additional dollars to the project, if they looked at that. He said he had not seen any discussion of naming rights, so if there had been he asked that they communicate that to Council and if there had been no discussion to share their thoughts on why or why not.

Roll call vote on CM-09-08-116

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

Mayor Landry called for a motion or discussion for Change Order No. 2 and there was none so it died for lack of a motion.

- 3. Approval of the request of Novi Town Center Investors, LLC of a Section 9 Façade Waiver. The subject property is located east of Novi Road, north of Grand River Avenue, in the TC, Town Center District. The applicant is proposing to redesign a portion of the facade of Building B in the Town Center Development, commonly referred to as the Borders building at 43075 Crescent Boulevard.**

CM-09-08-117

**Moved by Margolis, seconded by Burke; CARRIED UNANIMOUSLY:
To approve request of Novi Town Center Investors, LLC of a Section
9 Façade Waiver. The subject property is located east of Novi Road,
north of Grand River Avenue, in the TC, Town Center District. The
applicant is proposing to redesign a portion of the facade of Building
B in the Town Center Development, commonly referred to as the
Borders building at 43075 Crescent Boulevard.**

Roll call vote on CM-09-08-117

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

AUDIENCE COMMENT - None

MATTERS FOR COUNCIL ACTION – Part II - None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION:

- F. Approval to award the Human Resources and Payroll Consulting Services contract to Rehmann Robson, the low bidder in the not-to-exceed amount of \$15,125.**

Member Mutch said he had questions for the Administration in terms of the timing of this request. He said they were less than two months into the budget year and according to the information provided to Council this was not budgeted in the current year's budget. He said he was looking for an explanation of why this wasn't included in the budget they approved and why it had to be done now. He said he noticed in the letter from the selected firm there was a September 30th deadline for getting this completed.

Mr. Pearson said the budget year might have started July 1st but the process started in January. He said Council had received the budget itself and recommendations in April and since then a lot of things continued to move on. He said the bottom line was the payroll systems were moving head long into digitizing and making more and more of those records and that process electronic. He said they were moving some of the assignments around to recognize that and it was now an opportune time to work with someone to document how they were doing things now and how they should be doing them differently with the electronic system. Mr. Pearson said they needed some expertise and someone who was familiar with how things should be done versus how they were doing them now, and documenting all of that so there was a record. He said the timing was perfect with the implementation of BS&A software and the .Net modules they were working on now.

Member Mutch said the question for him was not the value in terms of doing this. It was the question of the elements that were driving the digitization and BS&A software that were all known at budget time and should have been budgeted for. He said being two months into the budget year, it was a surprise to him that this popped up and he found that difficult to think that they didn't anticipate this earlier in the year. The other problem he had with it was they were being asked to expend \$15,000, which wasn't a huge amount, but in light of challenges they all knew they were facing with the budget this was not only unallocated in the current budget but with no indication to Council where those funds would come from. He said he would not support the motion, as he would be looking for more information when the budget amendment came forward regarding where the money would come from to pay for this, and a better understanding of not anticipating this as a cost even though these were ongoing activities as a City.

Mr. Pearson said the activity they were discussing was not ongoing. It was implementation of new software, moving assignments around of people who were involved in this process, which was new as they got into the implementation. He said that was why the decision was made to recommend this and why it was coming up now.

Member Margolis said she had no problem supporting this. She noted the reality was that anytime you did an enterprise software system there were issues that would come up about processes that weren't foreseen. She said what they were doing was making sure the internal controls were in place so that this was appropriately handled. She thought it was a good investment of money when thinking about the risk that it would control on the other side.

CM-09-08-118 **Moved by Margolis, seconded by Burke; CARRIED UNANIMOUSLY:
To approve to award the Human Resources and Payroll Consulting
Services contract to Rehmann Robson, the low bidder in the not-to-
exceed amount of \$15,125.**

Roll call vote on CM-09-08-118 **Yeas: Landry, Gatt, Burke, Crawford, Margolis
Nays: Mutch, Staudt**

COMMUNICATIONS - None

AUDIENCE COMMENT

Ron Boron, 21307 E. Glen Haven Cir., noted the new speed limit on Meadowbrook Road was 35 MPH and he felt it was a good idea. He noted there were temporary signs placed on Meadowbrook Road and asked what happened at the end of the temporary period.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 7:45 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene McLean

Date approved: September 14, 2009