

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, FEBRUARY 8, 2010 AT 7:00 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

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

ALSO PRESENT: Clay Pearson, City Manager
Tom Schultz, City Attorney

APPROVAL OF AGENDA

**CM-10-02-012 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve the Agenda as presented.**

Voice Vote

PUBLIC HEARING - None

PRESENTATIONS

Hometown Olympians Send-Off

Mayor Landry invited David and Holly Rzepka to the podium as their daughter, Mickie Rzepka, was on the Women's Olympic Bobsled team. Mr. Rzepka said his daughter was recruited in September of 2007 and made the World Cup Team in her rookie year and had been travelling across Europe for the last three years competing against the Europeans and here in North America. He said last year she was Athlete of the Year for the United States Women's Team and this year she was the number one pusher for the United States in the 2010 Winter Olympics in Vancouver. She also held several start records across Europe and North America. He said Mickie was 26, grew up in Novi and attended Novi Schools. He said they were leaving for the Olympics on February 21st, and Mickie would be competing on the 23rd and 24th. Mayor Landry presented them with Property of Novi Michigan sweatshirts and asked that they cheer her on with pride and tell her that the entire City was very proud of her.

Mr. Rzepka said Novi would always be Mickie's home and presented Council with campaign style buttons of the event.

Mayor Landry said Novi had another Olympian, Emily Samuelson, who would be competing in figure skating in the Olympics. He said it was unusual for a town like Novi to have two Olympians and wished them the best of luck.

REPORTS

1. MANAGER/STAFF - None

2. ATTORNEY - None

AUDIENCE COMMENT - None

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

**CM-10-02-013 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve the Consent Agenda as presented.**

**Roll call vote on CM-10-02-013 Yeas: Gatt, Crawford, Fisher, Margolis, Mutch,
Staudt, Landry
Nays: None**

- A. Approve Minutes of:
 - 1. January 25, 2010 – Regular meeting
- B. Approval of the request to transfer ownership of 2008 Class C licensed business, located in escrow at 1949 W. Maple, Troy, MI 48084, Oakland County, from Motor City of Troy, Inc. to Novi Park, Inc.; transfer location (Governmental Unit) (MCL 436.1531(1) to 43155 Main, units #206 & #208, Novi, MI 48375, Oakland County; and request a new dance-entertainment permit.
- C. Approval to apply for the Michigan Council for Arts and Cultural Affairs (MCACA) Minigrant for Sizzling Summer Arts Series (SSAS), for a maximum grant award of \$4,000 which requires dollar-for-dollar matching funds.
- D. Adopt resolution to opt-out of the exemption of the alternative energy personal property from local personal property taxes acquired by A123 Systems.
- E. Approval to award a contract for design engineering services for the Nine Mile Road (Taft Road to Beck Road) Repaving Project to Orchard, Hiltz & McCliment, Inc. (OHM) for a not-to-exceed design fee of \$29,099.
- F. Acceptance of a warranty deed from Heritage Office Park, LLC and the Apex Company, LLC for the dedication of 60 feet of right-of-way along Novi Road as part of the Heritage Office Complex development located at 23623 and 23587 Novi Road (parcel 22-27-280-001) and approval to execute a Quit Claim Deed conveying the dedicated 60 foot right-of-way to Oakland County.
- G. Approval of a variance from Section 26.5-10, requiring a maintenance and guarantee bond from Toll Michigan II, Ltd. for the water and sanitary sewer improvements for Island Lake of Novi Phases 4B-1 and 5B, located north of Ten Mile Road and east of Napier Road in Section 19.
- H. Approval of the request of Hotel Baronette for Phasing Plan approval, SP 10-03. The applicant is proposing a Phasing Plan, consistent with the previously approved site plan, to allow construction of three phases of the development over a period of time. The property is located in Section 14, east of Novi Road and south of Twelve Mile Road in the RC, Regional Center District.

I. Approval of Claims and Accounts – Warrant No. 812

MATTERS FOR COUNCIL ACTION – Part I

1. **Discussion of "Landings" property located at Thirteen Mile Road and Old Novi Road:**
 - a) **Approval of initial park development components to include in a Michigan Natural Resources Trust Fund (MNRTF) development grant application; and**
 - b) **Consideration to adopt a Resolution to set a public hearing to consider vacating roadways in Chapman Walled Lake Subdivision, Pratt Subdivision, and Walled Lake Road Shores Subdivision, and to vacate certain other unplatted roads, all in the area of the City-owned property in the "Landings" area near Old Novi Road and Thirteen Mile Road in the City of Novi.**

Mr. Pearson said part b of this item was straight forward procedural to begin the process of vacating some old unplatted roads to assemble the property and clean it up for everyone's records. He said regarding part a, they brought it forward for Council to consider a grant application for park improvements to the Landing property based upon a Council discussion on how they saw that property coming into a more public use over time. He said they wanted to check in on some components of the grant they thought made sense in terms of infrastructure and modest beginnings for shoreline improvements.

Member Margolis thought the improvements staff had identified went along with what Council identified during their discussion. She appreciated their work on the considerations that were done regarding points by the Trust Fund for grants. She thought if they could get this it meant they would have to put some money towards it, but the grant would be the majority portion. It would be a wonderful way to get this location ready. She liked the idea of the walkways, seawall and infrastructure.

CM-10-02-014

Moved by Margolis, seconded by Staudt; CARRIED UNANIMOUSLY: To support the Landings phasing and initial park development to include a Michigan Natural Resources Trust Fund (MNRTF) development grant application as identified by staff.

DISCUSSION

Member Staudt said in addition to the grant and the cost of the grant and the matching funds, he thought there would be ample opportunities in the next year or two to raise those funds through non-tax means. He said at the point they would actually get the grant, there would probably be \$300,000 or \$400,000 of naming rights money set aside specifically for this property. He said it would be great to tell the taxpayers that this was done without having to spend any tax dollars. He was excited to see this move forward.

Member Mutch said he knew some people would look at the proposal and wonder about expenditure of City funds for the local match. He said the actual budget impact of this would

probably be in the Fall of 2011 at the earliest, which meant it would be two years before they had to fund it. However, as Member Staudt noted, that would be an opportunity to secure some additional dollars. He said he had asked about using some of the Tree Fund dollars for planting the trees that would be going on the site and that was a possibility because it was consistent with how they could be expended. Member Mutch agreed with Member Margolis regarding the improvements shown. He noted a point that Member Crawford made regarding the concept plans in earlier discussions, which was access to the property for seniors and those who had limited mobility. He commented he knew that was important to the DNRE when they looked at the grant proposal and asked if there was a specific location they would want to identify for that access to insure that people of all ages would be able to enjoy the site. Member Mutch said one partnership he would like to explore further while putting the grant together and thinking about the future development of the site was the residents of Fox Run. He said they were located less than a mile from the property, and he had talked with a couple of them recently who expressed excitement that the City would be doing something with the site. He thought talking to them about how their residents might be able to take advantage of the site and participate in helping out with the site development was something Council should explore further. Member Mutch stated he supported the motion.

Roll call vote on CM-10-02-014 **Yeas: Crawford, Fischer, Margolis, Mutch, Staudt, Landry, Gatt**
Nays: None

CM-10-02-015 **Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:
To adopt a Resolution to set a public hearing for February 22, 2010.**

Roll call vote on CM-01-02-015 **Yeas: Fischer, Margolis, Mutch, Staudt, Landry, Gatt Crawford**
Nays: None

2. **Consideration of financial participation in the Walled Lake Improvement Board project in the amount of \$45,000 for the estimated portion of the total five-year cost of the project attributable to the Landings, Lakeshore Park and 15 other parcels that are either owned by the City of Novi or that have unknown ownership.**

CM-10-02-016 **Moved by Gatt, seconded by Staudt; CARRIED UNANIMOUSLY:
To approve financial participation in the Walled Lake Improvement Board project in the amount of \$45,000 for the estimated portion of the total five-year cost of the project attributable to the Landings, Lakeshore Park and 15 other parcels that are either owned by the City of Novi or that have unknown ownership.**

DISCUSSION

Member Crawford asked if Walled Lake had agreed to participate. Mr. Pearson said as of last week it was forthcoming but he didn't know if they had met yet. Mr. Coburn said it would be on Walled Lake's agenda February 16th.

Member Staudt said he would like to see their colleagues in Walled Lake take similar action to what Council was taking. He said when they set up the Lake Board they made this commitment and they were following through right now.

Mayor Landry echoed the comments of Member Staudt.

Roll call vote on CM-10-02-016 **Yeas: Margolis, Mutch, Staudt, Landry, Gatt, Crawford, Fischer**
Nays: None

3. **Approval to award a one year renewal option of the Pavement Striping contract with R.S. Contracting, Inc. based on the terms, conditions and pricing of the existing contract for an estimated annual cost of \$191,958.42 and an effective date of May 18, 2010.**

CM-10-02-017 **Moved by Margolis, seconded by Crawford; CARRIED UNANIMOUSLY: To approve award of a one year renewal option of the Pavement Striping contract with R.S. Contracting, Inc. based on the terms, conditions and pricing of the existing contract for an estimated annual cost of \$191,958.42 and an effective date of May 18, 2010.**

Roll call vote on CM-10-02-017 **Yeas: Mutch, Staudt, Landry, Gatt, Crawford, Fischer, Margolis**
Nays: None

4. **Consideration of the request of Novi Town Center Investors for Zoning Map Amendment 18.692 to rezone properties in Section 14, at Town Center Drive and Crescent Boulevard and also at Town Center Drive between Grand River Avenue and Eleven Mile Road, from OS-1, Office Service District and OSC, Office Service Commercial District, to TC, Town Center District. The subject properties total approximately 10.85 acres.**

Matthew Quinn stated he was present representing Novi Town Center Investors, and the owner of the Town Center Mall. He said they were constantly updating what was happening at the Novi Town Center and had an Alta Survey done. The survey showed there were some old zoning lines and districts that divided buildings in half and divided parking areas and other structures. He said as part of the clean up of the center they were requesting that the 10.85 acres all be the same zoning district, Town Center (TC). Mr. Quinn said then as they developed the Town Center it wouldn't be complicated by different setbacks, zoning districts and parking requirements. The Planning Commission sent Council a unanimous, positive recommendation and the staff was making a positive recommendation. Mr. Quinn asked that the rezoning be approved as requested.

delay, delay, they heard all the time. She said this wasn't the kind of climate where they wanted to delay candidates bringing business into the City.

Mayor Pro Tem Gatt stated he was ready to vote for this item without a PRO. He said it had a positive recommendation by the Planning Commission. He said if Mr. Bowman agreed to a PRO, he would commend him for that and ask the City to expedite this and not be greedy in their demands. He said hopefully they could get it back in a couple of weeks and it made perfect sense to him to rezone this freeway.

Member Margolis said she was happy to move for the PRO because she was not in favor of the rezoning, as it was not consistent with the Master Plan. She thought staff's major concern was with traffic patterns and roadways in the area that could be addressed in a PRO versus a strict rezoning.

**CM-10-02-019 Moved by Margolis, seconded by Fischer; MOTION CARRIED:
To postpone action on the rezoning request to allow time to submit a revised application with a PRO primarily because it was contrary to the recommendations of the current Master Plan; because of the size and influence of the freeway they needed to provide access to and from the parcel in an appropriate location; look at mutually beneficial conditions that could be included in the PRO; and in light of the application that had already been made, there would be no other fee, unless to pay consultants, and it would be considered that they were converting to a PRO process.**

DISCUSSION

Member Mutch asked if the City had any communication with MDOT, or was there any potential impact because of the location on the interchange with things related to site plan in terms of road improvements for the site.

Mr. Pearson said there had been discussions about adjacencies to that and about drainage to tie those together. He said those would be site plan specific issues. Member Mutch asked if they anticipated any level of review by MDOT, because if MDOT said they didn't want that kind of access at the location they were discussing, it would trump anything Council was interested in putting in there. Mr. Pearson said there was a permit because it was within 200 feet of their freeway right-of-way. Mr. Bowman said typically they would look for whose jurisdiction controlled that area and then there might be some other requirements. He said they had checked with MDOT and this was not in a limited service or restricted access area. He said it was a County road for that section between Grand River and Twelve Mile. He said they would be in discussions with the State anyway but those had been ongoing. Member Mutch said the proposal was not consistent with the Master Plan and generally he would not support something that was not consistent with that. He said the other concern he had was the proposed use at this location. There was existing B-3 zoned property to the south, which would accommodate a gas station, fast food use or whatever use would be allowed under the freeway zoning. Member Mutch said they were now creating a situation where they could have that at two corners at the intersection of Grand River and Beck Road. The other concern was considering the multi million dollar investment the City made to the Beck Road Interchange, he was hoping to see the area develop with some higher and better uses.

Member Mutch said for a gateway to the City, he was not looking for a gas station and that was what was proposed. He said the biggest concern he had with the proposal was the traffic impact. He thought for those people not familiar with the intersection, it was a very confusing setup because it was not a continuous left turn lane. He said the prospect of introducing a lot of traffic access at that point seemed like a really bad idea to him and a real potential for a lot of unnecessary congestion. He said he would have a hard time supporting any development contemplating putting an access point where it was currently located. He said now it was very low volume traffic, so it didn't cause a problem, but putting a high volume traffic generator would create an issue there. Member Mutch said that was why he asked if MDOT would be supportive of that; he thought long-term they would be looking at a traffic light and other improvements that would cause a problem in that stretch. Member Mutch said the PRO had the potential to bring some of those improvements in. However, with a single use, he didn't think they would see the level of improvements that would be needed for the long-term build out of that area. He said he questioned how effective that would be. Member Mutch said he would not support the general direction this was going for reasons stated, so he would not support the motion.

Mayor Pro Tem Gatt asked if the maker of the motion would accept a friendly amendment to put a time limit on this to be brought back within a couple of weeks. Member Margolis asked if it would be appropriate. Mr. Schultz said they had to set up a public hearing at the Planning Commission. They would have to see what days were available and publication dates with Ms. McBeth and the Clerk, so it would probably be more than a couple of weeks. However, they got the direction that it had to come back at the very first available meeting as soon as they could get the matter noticed and properly back in front of the Council.

Mayor Landry said he would not support the straight out rezoning because it was inconsistent with the Master Plan and he wanted to be careful to preserve it for future zoning decisions. He said he would be in support of a PRO. He thought they had proven they could work with developers and could work swiftly and make things happen in the best interest of the public and everyone. Mayor Landry said he was confident they could work these issues out. He thought a gas station at this location was fine and he didn't think it would be just an ordinary gas station. He thought it would be much bigger and akin to what's at Thirteen Mile and Novi Roads. He stated he would support the motion.

Mr. Bowman said they had made application before for a smaller parcel and then had a meeting with the City representatives where there was some discussion about roads and a larger road bed leading into Beck Road. This was something that the City was interested in. In doing that, the site had to get elongated a bit so they resubmitted it and had to pay another rezoning fee. He asked, having paid two rezoning fees, would they be subject to the PRO fees as well to move this forward or would those fees apply. Mr. Schultz thought he wouldn't call it a re-application. He said the ordinance actually used the word "convert" to a PRO process and he didn't know that they would have to impose another fee. So, subject to somebody suggesting they needed the money to pay consultants or whatever, there would be no obligation for him to impose that. It was suggested that the maker of the motion could include that in light of the application that had already been made, there would be no other fee and it would be considered that they were doing this in lieu of. Member Margolis agreed.

Roll call vote on CM-10-02-019

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

AUDIENCE COMMENT - None

MATTERS FOR COUNCIL ACTION – Part II

6. **Consideration of Zoning Ordinance Text Amendment 18.238, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 15, B-3, General Business District, Section 1502, Principal Permitted Uses Permitted Subject to Special Conditions, at Article 25, General Provisions, Section 2505, Off-street Parking Requirements, and at Section 2506, Off-street Stacking Space, Layout Standards, Construction and Maintenance in order to include drive-through uses in the B-3 District and clarify the requirements for fast food parking standards and stacking space requirements. First Reading**

Member Mutch stated he looked at this ordinance amendment change in two parts. He said one was the housekeeping portion of the amendment, which dealt with standards for parking, etc. He said he didn't have a problem with that as they had been updated to make them consistent. The problem he had was the amendment to the B-3 District, which increased the number of locations throughout the City where those were permitted. He said currently they were limited to the Freeway Service District, RC District and some applications. He stated he was concerned with a proliferation of additional fast food restaurants and he didn't see a compelling need for those in the locations that were currently in B-3 zoning. In addition, putting those in locations where they could potentially go would create problems with traffic and adjoining land uses. He said he didn't see a need to amend the B-3 Ordinance. He thought they could take care of the housekeeping side of this without expanding into additional areas where it would cause conflict. He stated he would be willing to support the second half of the Ordinance changes but would not support the addition of the B-3 District for additional fast food restaurants.

Member Margolis said she would support the First Reading and thought they had received extensive information from staff about locations where this would apply. She thought it wasn't a huge proliferation of locations. Member Margolis said the bottom line was they were becoming a society that liked this kind of convenience and she didn't see these creating more traffic but would really expedite the traffic that was in the area. She said it would add to a small number of areas and the areas identified were not areas that she would see as impacted negatively by this type of change. She thought this was an idea whose time had come.

CM-10-02-020

**Moved by Margolis, seconded by Gatt; MOTION CARRIED:
To approve Zoning Ordinance Text Amendment 18.238, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 15, B-3, General Business District, Section 1502, Principal Permitted Uses Permitted Subject to Special Conditions, at Article 25, General Provisions, Section 2505, Off-street Parking Requirements, and at Section 2506, Off-street Stacking Space, Layout Standards, Construction and Maintenance in order to include**

drive-through uses in the B-3 District and clarify the requirements for fast food parking standards and stacking space requirements. First Reading

Roll call vote on CM-10-02-020

Yeas: Gatt, Crawford, Fischer, Margolis, Landry

Nays: Mutch, Staudt

- 7. Consideration of Zoning Ordinance Text Amendment 18.239, to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance at Article 2, "Construction of Language and Definitions, Zoning Districts Map, Section 201, "Definitions," to amend the definition of gasoline service stations to specify permitted accessory uses with a limited prohibition on the sale of alcohol; and Article 25, "General Provisions," Section 2505, "Off-Street Parking Requirements" to revise the parking requirements for self-service gas stations. First Reading**

Mr. Pearson said this grew out of a specific project that had the addition of liquor sales as part of a gas station. He said they had not seen that in the past, so they started looking at what the State regulated and what they did or didn't do, what was on the books and what they actually followed through and regulated. He said they started off with the Planning Commission with a text amendment as a starter, in terms of prohibition that evolved, and came up with some restrictions that it could be sold under conditions. He said they looked at some of the actual places in town and tried to be cognizant of that as to not create too many non-conforming land uses. Mr. Pearson thought they had a modified compromised alternate for the actual language that they felt provided some guidance without everywhere and anywhere sales at gas stations, but recognized it might fit in under certain circumstances.

Member Crawford said she liked the Option 4 proposal, which went along with what the State recommended. She said rather than the Planning Commission's recommended 15,000 sq. ft., she wanted to be consistent with what already existed in the City, which was 5,000 sq. ft.

Mayor Pro Tem Gatt asked how big the Sunshine Market gas station was at Novi and Thirteen Mile Roads. Mr. Pearson responded it was 5,500 sq. ft. He asked if there had been any problems with people buying alcohol and drinking it, because it was sold at that location. Mr. Pearson said, to be fair, it opened a few months ago so they didn't have a track record there yet. He didn't think there had been anything yet but it hadn't been very long. Mayor Pro Tem Gatt said, in the packet, there had been concerns that alcohol sold at a gas station would create more of a propensity to purchase alcohol, open it and drive. He said he didn't agree with that and believed that anyone who wanted to buy alcohol and open it and drive could purchase it anywhere it was sold. He stated he was not concerned with that and agreed with Member Crawford. He thought that if they had already established a location in Novi that sold gasoline and alcohol, and it was over 5,000 sq. ft. and it had a large inventory of supplies other than gasoline and alcohol and if it was working there, that was the standard that Council should set.

CM-10-02-021

Moved by Gatt, seconded by Crawford; MOTION CARRIED:

To approve the First Reading of Zoning Ordinance Text Amendment 18.239 with Option 4 that would allow a business that sold gasoline to sell alcohol as long as the building was 5,000 sq. ft. or larger.

DISCUSSION

Member Margolis agreed that alcohol was not the issue as it was just as convenient to pull into a party store as it was a gas station. She thought what they were adopting was a business large enough to have the staff, training and control of who they were selling alcohol to. She thought that had more to do with size and was probably what the State was trying to get to with their prohibition that there had to be \$250,000 of inventory other than gas and liquor. Member Margolis thought what Council was doing was trying to find an operational way to say they wanted to follow those same kinds of standards. She agreed that the 5,000 sq. ft. made a lot of sense, especially since there was one market, just over that size, that had already been granted a liquor license. She stated she would support the first reading and the motion.

Member Staudt said he would not support it because he didn't see any point in having to do this now. He said there were just too many prohibitions and regulations put on businesses, and this wasn't something that was necessary to impose, at this time. He said there were plenty of enforcement measures in place to deal with this, so he would not be supporting any of the options.

Member Mutch stated he wouldn't support the motion. He understood there was an existing use that had secured a permit from the State for the sale of alcoholic beverages from a gas station, but he thought it was a bad idea. Member Mutch said while there were other locations in the City that sold alcohol in a convenience style location, most of those closed at midnight. He said gas stations were, presumably 24 hour operations where there would be alcohol sales past that hour, which from the enforcement viewpoint of the Police Department opened up a number of new locations where there was the potential for liquor sales. Member Mutch said these were different from restaurants and bars that sold alcohol, as those businesses were highly dependent upon their licenses. They have occasional problems and realize the penalties involved in violating those license requirements. He said with these locations, he thought there was really a potential for problems with sales of alcohol beyond midnight up until 2 AM when they were required to stop selling. Member Mutch said it didn't make sense to have a potential proliferation of these uses and if this was the direction that these kinds of uses were going, then it would be likely that while they started with a couple the trend would be more of these locations throughout the City. He didn't think it was good for the public or helpful for the Police Department; so he would not support an ordinance change that facilitated that.

Member Fischer stated he would be in favor of Option 4 not only from a consistency standpoint but also because 5,000 sq. ft. was a good line to draw as far as someone making a significant investment within the City. He thought 5,000 sq. ft. met kind of a threshold there. Member Fischer stated he didn't buy the argument that purchasing alcohol at a gas station influenced people to open it there.

Mayor Landry said gas stations were really different than they were years ago. He said they were commercial establishments where food, coffee etc. was sold and they were changing. He said he would support the motion and thought it was a good compromise. He agreed with Member Margolis that when it came to alcohol, the key was could they always responsibly sell alcohol. Mayor Landry said if talking about a large enough establishment that did enough business, they would be able to hire consistent employees and would be able to make sure they dispensed alcohol properly. He thought that was where the size came from. He said in

Novi they were encouraging quality development and a development of this size was really not a gas station; it was a commercial development. He said he would support the motion.

Roll call vote on CM-10-02-021

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

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

AUDIENCE COMMENT – None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 7:48 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene McLean

Date approved: February 22, 2010