

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
TUESDAY, FEBRUARY 18, 2014 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt (absent excused), Council Members Casey, Fischer, Markham, Mutch, Wrobel

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

APPROVAL OF AGENDA:

CM 14-02-036 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the Agenda as amended with an addition under Mayor and Council Issues: City Manager Search Material

Roll call vote on CM 14-02-036 **Yeas: Casey, Fischer, Markham, Mutch, Wrobel, Gatt**
Nays: None
Absent: Staudt

PUBLIC HEARING - None

PRESENTATIONS

1. Proclamation in recognition of National Nutrition Month for March and March 12, 2014 as Registered Dietitian Day – Aarti Batavia, Providence Hospital

Mayor Gatt presented the proclamations to Aarti Batavia from Providence Hospital. Aarti Batavia said she is a Registered Dietitian at the Providence Park Medical Office Building. She helps those with various diseases and also focuses on those with diabetes, allergies and good health. She proposed everyone join and support her in her work. She thanked the Council members for their support.

2. Town Center Area Plan – Carlisle Wortman Associates

Barb McBeth, Deputy Community Development Director, said the Department has been working with an outside consultant team. The Planning staff and Planning Commission have been reviewing the land use, zoning, design guidelines, and recommendations for wayfinding signs in the Town Center Area. The Town Center Area is defined as properties at all four corners of the intersection of Grand River and Novi Road, both north and south of Grand River and east and west of Novi Road south of I – 96. She explained the importance and purpose of the study. Geographically, it is a significant intersection of Novi. There is a significant value in this area including more

than \$88 million in taxable value. There has been significant public and private reinvestment in that area. Sally Elmiger and Don Wortman with Carlisle Wortman Associates have been the lead contacts throughout the course of new plan. She hoped Council would provide recommendations after the presentation to incorporate into the final report. Any comments or recommendations from Council will be added into the final draft to be presented to the Planning Commission for consideration.

Ms. Elmiger explained the process they went through to create the study. She said they researched the existing data that was already in place and they collaborated with the Sidock Group. They broke up the study area up into ten different subgroups. They conducted a public input process and developed a vision. They did interviews with stakeholders of the area, had open houses, and offered an online survey. There were common themes. One theme was the strongest land use was for residential and office uses. Many thought this area was a good place for young professionals to find a dynamic city center area to live in. To accommodate them, they felt multi story or loft style type buildings with a park and green space area should be incorporated within the area. They had comments of traffic calming measures along Grand River and Novi Road. There was a lot of support for the Ring Road and the walkable concept was still viable. Many felt the City should not abandon the idea. The vision that was developed for the Town Center Area is a refinement from the vision that is already there. It is the development of the Town Center Area will create a dynamic, attractive city core that provides residents and visitors with unique opportunities to participate in active community life and meet their needs for goods, services, housing and entertainment. She explained they made land use recommendations for the ten sub areas. She said each area concentrates on a pedestrian orientation. They made recommendations regarding the preferred land uses for each sub area with form and design recommendations also. The zoning adjustments were mostly to the TC and TC-1 zoning districts because they cover most of the Town Center study area properties. They recommended permitted and special land use for the TC and TC-1. They describe building size and set back adjustments in the report. They made recommendations for shared parking and pedestrian amenities for larger projects. The design guideline updates basically are to steer the Town Center Area further towards the pedestrian amenities and to further meet the vision of providing a lot of opportunities of housing, shopping, and entertainment. She pointed out the Novi Special might be in Novi's near future. They felt it was important to better direct people to certain destinations within the Town Center using the wayfinding signs. They developed a preliminary wayfinding direction and it does build on the City's current sign design. The next step would be to work with the Road Commission for Oakland County to check if they are within their requirements.

City Manager Pearson mentioned that this is the only time that Council will see this report. The report will go back to the Planning Commission for review. He said it is a good time to ask any questions and provide some feedback on this report.

Member Fischer saw that the Town Center Area includes the northwestern part of the Trans-X area. The properties to the southeast are not included in the Area and asked if she could provide any background on why it was not included. Ms. McBeth said they

initially looked at only properties zoned TC and TC-1. They added a few properties around the perimeter of the area that could be studied. Member Fischer asked if they discussed the southeast properties off Trans-X. Ms. McBeth said they didn't look at those properties because there were established industrial businesses and thought they were viable for continuing that kind of use. He thanked them for the report and would like to see the Planning Commission move forward with it.

Member Mutch echoed the comments of Member Fischer. He thought the report was very thorough and explored a lot of areas that needed to be reviewed. He noted that discussion of the current market demand for the various uses and retail demand is down. He thought this area was saturated with retail. When he looked for the land uses proposed for the sub areas, he thought there was a limited amount of residential proposed for the Main Street sub area and a lot of retail for the remainder of the areas. He asked how realistic it was for the areas to develop as expected. Deputy Community Development Director McBeth answered there was a lot of discussion about whether residential could be or should be encouraged in the Area. The preferred land uses that were included just highlighted the strengths of those Areas. She pointed out that just because there may be some preferred land uses, the underlying zoning would also continue to allow the variety of uses that are already there. It is possible the Flint street area could redevelop as a mixed use area or include a residential component as well as the preferred uses. The stakeholders groups indicated there was some benefit for additional residential uses. Ms. Elmiger said there were some recommended zoning changes that might make it easier for it to develop into residential. Member Mutch noted the present zoning wouldn't preclude a developer in some of the other areas. He thought that over time, it was concluded that the City is looking for a certain use. He said there are preferred uses, but he hopes it is presented with more flexibility and openness. He noted successful downtowns have integration to surrounding residential areas. The area does not have the natural integration, so we need to bring people living in this area. Anything we can add would help the long-term viability of this area. He thought moving to a reform based code will provide flexibility. He thought the market should be allowed to make decisions regarding parking issues and not the zoning ordinances. Overall, he liked the report and said it is a challenging area. He hoped to see this move forward.

Member Markham thought it was a well done presentation and there was a lot of great information. She appreciated the work and planning that has gone into the report. She said she was happy to see improvements and consistency among the signage. She would like additional screening as it relates to signage. She thought it could be a tool to direct eyes to the signs and minimize some features to optimize the beautification of the area. She was happy there was consideration for shared parking and people can traverse to and from businesses through the parking lots. She appreciated it was geared to be pedestrian oriented, but would like to see some sheltered benches and walkways. She thought the area was a gathering place and thought of a temporary outdoor ice rink for the winter months. She felt it would be a good location for the Farmer's Market and a specialty theatre should be near restaurants. She saw our regional specialty as entertainment, shopping, restaurants, and hotels. We are a destination for visitors to entertain themselves. She read that 20% of

the City's employment is retail which was double the average in Oakland County. The idea to make it more walkable is challenging because of the major roads. She supports the idea of the Ring Road and it is unrealistic to think this area is going to be navigated on regular basis on foot. She would like the idea of public transit for the future. If there was some internal transit to this part of town, she thought it would bring people and help bring personality to the overall area. There is a potential for partnerships between the businesses that would benefit the community. We need to be thinking about this long term and also about public transit hubs. She would like to see it within this plan. She thought the Lee Begole Road area should have plans for renewable energy installations, such as solar and wind.

REPORTS:

1. MANAGER/STAFF – Thank you and well wishes – City Manager Pearson made the following statement:

Thank you, Mayor Gatt. I would like to thank you and all your Council colleagues, current and past, for the opportunity to serve here in Novi. As you note, Mayor Gatt, proudly and sincerely on every occasion, Novi is a special community served by an outstanding local government. When I get asked about the most proud accomplishments, I always think about the physical things that come to mind, all the road work, library, Fuerst Park, Pavilion Shore Park, indoor gun range, retail, Providence Park Hospital, Suburban Collection Showplace, Villa Barr Art Park, and office developments. However, the resilient, smart, innovative, dedicated City staff members who proudly wear City identification badges are the proudest legacy in our culture. The people in this organization will create, build and adapt an even greater City of Novi into the future. Thanks for the great 13.5 years here for Jennifer and me. We are excited about joining Pearland, Texas and all the promise held there, but rest assured that after February 28 and forever, I will remain your fan.

2. ATTORNEY - None

AUDIENCE COMMENT:

Maithelee Sathe, Katie Xie, and Shaily Fozdar presented to Council their ideas about eco-detergents. They referred to the handouts presented to Council. Chemical levels increase in our waterways because of detergents. They listed the brands of eco detergents that are most popular. Controlling the detergent levels in waterways earlier was more important than installing scrubbers later. They noted almost 500 pledges have been collected to use eco detergents and questions can be emailed to detergent detectives@gmail.com.

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-J):

CM 14-02-037 Moved by Wrobel, seconded by Mutch; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. February 3, 2014 – Regular meeting
- B. Approval of Pawnbroker License renewal requested by Gary Weinstein, owner of Weinstein Jewelers, 41990 Grand River Avenue.
- C. Approval of Resolution to close Napier Road between 10 Mile and 11 Mile from 7:45 a.m. to 10:30 a.m. for the Novi Half Marathon on Sunday, May 4, 2014.
- D. Approval of a Completion Agreement with Martell Developments LLC for SP03-14, the Westpark Place Condominium located north of West Road and west of West Park Drive, in accordance with the requirements of Chapter 26.5.
- E. Adoption of Act 51 New Street Resolution accepting portions of Seeley Road and 11 Mile Road as public streets, adding 0.21 miles of roadway to the City's street system.
- F. Approval of a contract for banking services with Fifth Third Bank, for a three year period ending on January 31, 2017 with two one-year renewal options, at an estimated annual cost of \$14,000.
- G. Acceptance of a warranty deed from Sun Valley, Ltd for the dedication of approximately 21 additional feet of right-of-way along the north side of Fountain Walk Drive for the 12 Mile Crossing at Fountain Walk project, located south of 12 Mile Road and west of Novi Road (parcel 50-22-15-200-110).
- H. Approval of Interlocal Agreement for Ballot Layout and Programming Services between Oakland County and City of Novi for Five-year Period (2014 - 2019).
- I. Memorandum of Understanding between Interim City Manager Victor Cardenas and City of Novi.
- J. Approval of Claims and Accounts – Warrant No. 910

Roll call vote on CM 14-02-037

**Yeas: Fischer, Markham, Mutch, Wrobel, Gatt,
Casey**
Nays: None
Absent: Staudt

MATTERS FOR COUNCIL ACTION:

- 1. Appointments to Boards and Commissions

Appointments to Boards and Commissions:

City Clerk Cornelius provided the results of balloting: Celia Todd was reappointed to the Beautification Commission and Scott Pratt was elected to the Parks, Recreation and Cultural Services Commission.

Mayor Gatt nominated John Lesko to the Library Board.

CM 14-02-038 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the nomination of John Lesko to the Library Board for a full term.

Roll call vote on CM 14-02-038 **Yeas: Markham, Mutch, Wrobel, Gatt, Casey, Fischer**
Nays: None
Absent: Staudt

Mayor Gatt nominated Willy Mena to the Library Board.

CM 14-02-039 Moved by Fischer, seconded by Mutch; CARRIED UNANIMOUSLY:

To approve the nomination of Willy Mena to the Library Board.

Roll call vote on CM 14-02-039 **Yeas: Mutch, Wrobel, Gatt, Casey, Fischer, Markham**
Nays: None
Absent: Staudt

2. Consideration of a request from Eberspaecher North America, Inc. for a variance from Section 22-100(d)(1) of the City Code prohibiting loading and unloading of any commercial vehicle between the hours of 8:00 p.m. and 7:00 a.m. within 400 feet of a residential structure. The applicant would like to conduct loading and unloading activities between the hours of 5:00 a.m. and 11:00 p.m. within 210 feet of the adjacent residential property.

City Manager Pearson explained that there is a provision in the City Code for Council to grant waivers such as this. This is a long-standing commercial industrial area and next to a residential area. Eberspaecher North America is growing and requires a certain number of trucks to come in to move components. They are asking for your consideration to find a way to make these accommodations for the additional shift.

Member Mutch cannot support the variance. He was looking for any alternatives or mitigation other than what was proposed. He didn't think what was presented to him was complete. He didn't want to subject any homeowner to the noise proposed at 5 a.m. He wants to work with them but can't overlook the impact.

Larry Wojciechowski, Plant Manager, noted they assemble automotive exhaust systems. They have looked at ways to prevent outside noise. Scrap is deposited internally as part

of noise mitigation. Truck deliveries need to be made within a window of time and have them scheduled accordingly. The noise is of an air brake on a truck that breaks the 55-decibel level. They are trying to engineer the noise reduction. They've looked at walls and additional trees. Member Mutch asked staff what else had been explored. Deputy Community Development Director McBeth said it is well treed now and there is a drop off in grade on the west side of the building. A wall was proposed but was not practical. Member Mutch asked why was the wall proposed. Ms. McBeth said the noise was hypothetical and hasn't been tested. She further explained that there could be more noise testing done or additional screening. Member Mutch explained that they don't want a situation where a problem would have to be undone and wants to avoid creating the situation. He will take the side of the residents. Mr. Wojciechowski said he didn't have the answer and didn't know if the simulation was exact. We have to see the results in order to determine whether or not there is a resolution to make the noise level acceptable. Member Mutch asked if the sound engineer could make some effort to mitigate the noise. He didn't think they were dealing with hypothetical but what generally could happen in this situation. He asked Ms. McBeth if there was an opportunity to ask what the realistic options were and impact of them to address his concerns. Ms. McBeth said there was a site plan review for the modification to the parking lot; there were meetings in the field, and various discussions. They could continue along those aspects of it but this was the request that was presented.

Member Wrobel noticed that there were 16 letters sent out to property owners within 300 feet of this property and asked about the responses. Ms. McBeth said they were a courtesy because this wasn't a public hearing. The three responses were generally regarding children sleeping during certain hours and concern about the noise in the morning and late evening. Member Wrobel was surprised no one spoke about any concerns at this meeting. He didn't think there was a great concern about this.

Member Markham echoed the concerns of Member Mutch. She drove to the site and noted that it is possible to see the homes through the screening. She would like to see more effort to evaluate the landscaping. She would be supportive if there was more information from a sound engineer that the test has been done and they can assure the noise would be mitigated.

Mayor Gatt agreed with what has been said and noted again that only three people responded to the notice. He suggested it be approved on a temporary basis for 6-9 months.

Member Fischer asked City Attorney Schultz for his opinion about an approval on a temporary basis. Mr. Schultz said this is a variance process in the City Code and not using the variance process under the Zoning statute, therefore, he thought they have greater ability to design a temporary variance if the proponents were willing to accept it and move forward. Another reason they have given the advice about a temporary variance in the Zoning Ordinance context is that they are usually building something that is permanent. He didn't think they are doing that in this case. The third point in terms of potentially designing something would be that the noise level has not been established. He quoted Ms. McBeth by saying they have to start somewhere. He

thought it would be permissible and it would have to be crafted fairly by knowing what they (Eberspaecher) have to do at the end period, then wait for a response. Member Fischer asked the applicant to respond to approval on a temporary nature. Mr. Wojciechowski felt that it would be acceptable and wants to see if the noise is intrusive. He felt it would be the best way to try to find out. He would also look at additional trees in the 6-9 months in the meantime to prevent something occurring. Member Fischer asked what will happen if they go to three shifts and add 200 people but nine months from now find it doesn't work. Mr. Wojciechowski said the 3 shifts was a potential, but they can do it in two shifts right now. The shipping hours will stay the same but more frequency during the business hours. Member Fischer said he appreciates the investment made in the City of Novi, but his position was similar to Member Mutch's position. He was in a similar situation. He doesn't see how they can approve it even temporarily. There would have to be no complaints after the trial period to allow a permanent waiver.

Member Casey agrees with the other members and cannot support this if there was a potential to disturb someone's sleep. She supports a temporary period for a shorter term. She noted that the Council meeting date was not mentioned in the letter to residents.

Member Wrobel prefers a longer, temporary period because of the change of the seasons for a good set of data.

Mayor Gatt suggested the longer term because of the different climates and when the trees are in bloom. He is on the side of the homeowner's.

Member Markham expects noise measurements taken with documentation of the data over the time to see the impact. Mr. Wojciechowski agreed with her.

CM 14-02-040 Moved by Fischer, seconded by Wrobel; MOTION CARRIED: 4-2

To approve on a temporary basis of nine months a request from Eberspaecher North America, Inc. for a variance from Section 22-100(d)(1) of the City Code prohibiting loading and unloading of any commercial vehicle between the hours of 8:00 p.m. and 7:00 a.m. within 400 feet of a residential structure. The applicant would like to conduct loading and unloading activities between the hours of 5:00 a.m. and 11:00 p.m. within 210 feet of the adjacent residential property given that the discussion found that application of the substantive requirement would result in an exceptional practical difficulty to the applicant and the alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be attained by strict enforcement of the standard. The temporary period of nine months will help the City Council evaluate criteria and that the granting of the variance will not be detrimental to the public health

safety, welfare or injurious to adjoining or neighboring properties not contrary to the overall purpose and goals of the chapter or article containing the regulation in question. The temporary period will assist Council in determining that criteria also. There is a restriction to the applicant is requested to take additional data on the noise levels impacted during the allowed times beyond the 8 p.m. – 7a.m. time frame and report that back to Council also. Applicant will investigate alternative sound reduction ideas and concepts to mitigating the noise pollution to the neighboring and adjoining properties with the following conditions:

- 1. The findings were based on the temporary nature with it not being a permanent variance.**
- 2. The temporary variance is without prejudice to final determination at the end of the temporary period.**
- 3. It is not a final decision.**
- 4. It is based on part on the representations of the applicant's representative at this meeting.**
- 5. This temporary time period will help determine the applicability of the criteria that is necessary to decide the variance requested.**
- 6. Council can review this at any time during the nine months at the recommendation of Council's or staff's request based on resident feedback of the adjoining properties.**

Member Mutch would not support the motion. His concern was letting the applicant move forward then possibly denying them at the end of the temporary period. Also, if within the first week we get residents complaining. It can't be changed until the nine months are up. He felt he didn't have enough information. He felt it would be unfair to those residents with the noise. The best approach would have the applicant and staff look for alternatives with the sound engineers.

Member Fischer asked the City Attorney if language could be included in the motion for Council to have the opportunity to bring this back at any point based upon complaints from neighboring property owners. City Attorney Schultz agreed. Mayor Gatt asked if it could be a temporary waiver up to 9 months and allow Council to review it at any time. City Attorney Schultz said the motion needs to say it would be based upon a staff recommendation and to come back at Council's request.

Roll call vote on CM 14-02-040

Yeas: Wrobel, Gatt, Fischer, Markham
Nays: Casey, Mutch
Absent: Staudt

3. Approval to revise the concept of design for the 11 Mile Road (Town Center to Meadowbrook) Reconstruction project and to defer the Town Center Reconstruction project and 2014 Capital Preventative Road Maintenance

(Meadowbrook Road between Eight Mile and Nine Mile) project until FY14-15 to expedite and fund the reconstruction of 11 Mile Road beginning in spring 2014.

City Manager Pearson explained 11 Mile Road was anticipated in our Capital Improvements program and funded for FY 14-15. The original design has pathway improvements and will require a year's right-of-way acquisition. Since the road has declined to a bad state, it has been brought forward for Council's consideration to allow construction to be done sooner. The right-of way acquisitions would be done at a later date.

Rob Hayes, Director of Public Services, said they would like this section of 11 Mile reconstructed sooner. The way they have it sequenced, Town Center's rehabilitation and Capital Preventative maintenance could be deferred. 11 Mile Road has significant deterioration.

Member Casey said she felt this is critical because it is challenging for the employees who use this road on a daily basis and there is increased traffic for the recycling center.

CM 14-02-041 Moved by Casey, seconded by Wrobel; CARRIED UNANIMOUSLY:

Approve to revise the concept of design for the 11 Mile Road (Town Center to Meadowbrook) Reconstruction project and to defer the Town Center Reconstruction project and 2014 Capital Preventative Road Maintenance (Meadowbrook Road between Eight Mile and Nine Mile) project until FY14-15 to expedite and fund the reconstruction of 11 Mile Road beginning in spring 2014.

Member Mutch said he was comfortable with the sequencing of the pathways as part of this project. It will be a significant savings for the taxpayers which will allow us to do more projects in the future. He congratulated staff for initiating this and was looking forward to 11 mile being done.

Roll call vote on CM 14-02-041

**Yeas: Gatt, Casey, Fischer, Markham, Mutch,
Wrobel
Nays: None
Absent: Staudt**

4. Approval of Resolution authorizing participation in the Road Commission for Oakland County's 2014 Tri-Party Program for Road Improvements dedicating Novi's 2014 allotment of \$159,089 to the Haggerty Road Widening Project (south of Ten Mile Road).

City Manager Pearson gave some background on this project. They worked with the Road Commission for Oakland County to make consistent the road profile from 8 Mile to 9 Mile several years ago.

Public Services Director Hayes said Farmington Hills was unable to participate on a cost basis in previous years when the work was done between 8 Mile and 9 Mile. Farmington Hills agreed to participate this time. This is the last lane drop south of 10 Mile Road for a safety improvement. It will be completed this year.

CM 14-02-042 Moved by Fischer, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve a Resolution authorizing participation in the Road Commission for Oakland County's 2014 Tri-Party Program for Road Improvements dedicating Novi's 2014 allotment of \$159,089 to the Haggerty Road Widening Project (south of Ten Mile Road).

Roll call vote on CM 14-02-042 Yeas: Casey, Fischer, Markham, Mutch,
Wrobel, Gatt
Nays: None
Absent: Staudt

AUDIENCE COMMENT – None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES:

1. City Manager Search Material – Mayor Gatt reviewed the schedule and plans for interviewing search firms. He noted the special meeting set for March 22, 2014. At the March 24, 2014 Regular Council Meeting, a formal adoption of a contract with a preferred firm will take place.

Mayor Gatt complimented City Manager Pearson and thanked him for all the great work he has done for the City. He said it will be difficult task to find someone to replace him, but they have to move forward. He wished Mr. Pearson the best.

COMMUNICATIONS – None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 8:53 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: March 10, 2014